Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects

The Applicant's comments on Mr Clive-Hay Smith, Mr Paul Middleton and Priory Holdings Limited's Deadline 4 Submission

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Title:	
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Table of Contents

Table of Tables

1 The Applicant's comments on Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited Deadline 4 Submission

1. This document presents the Applicant's responses to the Deadline 4 submissions on behalf of Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited [REP4-052 and REP4-053].

Table 1 The Applicant's comments on Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited Deadline 4 Submissions

ID	Stakeholder Comment	Applicant Response
Q2.13.3: EFFECTS ON RIVERS AND RIVER-BASED WILDLIFE [REP4-052]		
Q2.13.3.2: Signal Crayfish Clarify whether the Applicant's proposed procedures for minimising risk of transmission of both crayfish plague and transmission of signal crayfish between watercourses [REP1-036, Q1.13.4.4] is agreed.		
1	In our response to the WR2 Q2.13.3.1 (Chalk Based streams) we set out details of a Partnership between the Norfolk Rivers Trust, Environment Agency and Coca-Cola Foundation for the 'Spring Beck Water Framework Directive Local Catchment Plan'.	Noted. The Applicant refers the Respondent to its reply in **The Applicant's Comments on Responses to the Examining Authority's Second Written Questions** [REP3-101] (see response to Q2.24.3.2).
2	The Plan speaks to: a. The ecological importance of Spring Beck as a globally rare chalk stream. b. Spring Beck as the 'ark' site for the re-introduction of white clawed crayfish.	
3	We also noted the absence of reference in the ES to: a. The ecological significance of Spring Beck (or other Chalk Streams), most notably characterised by the Applicant's description of this Chalk Stream as a 'Wet ditch'. b. The presence of European eel in Spring Beck; a critically endangered and protected species. c. The planned introduction of white clawed crayfish into the watercourse.	
4	We concluded that the Applicant has very seriously underestimated the ecological significance of Spring Beck, and that the baseline information and assessments in the ES in respect of Spring Beck are incomplete and cannot form a reasonable basis for examination.	In addition to the response to ID's 1, 2 and 3 above, the Applicant refers the Respondent to Section 4.5 of the **Environmental Statement Appendix 20.1 - Extended Phase 1 Habitat Survey Report** [APP-214] which acknowledges that chalk streams are very rare ecosystems. The Applicant refers the Respondent to Section 20.5.3.9 of the ES **Chapter 20 Onshore Ecology and Ornithology** [REP2-024] which confirms that: "*The Environment Agency National Fish Population Database returned records of bullhead, brook lamprey, brown trout and European eels*

ID	Stakeholder Comment	Applicant Response
		Anguilla. These species have been recorded within the watercourses within the DCO order limits". The ES chapter also acknowledges that no baseline data has been collected to identify the presence/likely absence of fish species in watercourses within the DCO order limits, however Section 20.6.1.16 states: "*Whilst no baseline fish surveys have been undertaken, fish species are known to use a number of the watercourses within the DCO order limits. However, the watercourses which fish are likely to use (such as Main Rivers) would be avoided through the implementation of trenchless crossing techniques (e.g. HDD). Therefore, no direct impacts on fish populations or their habitats will occur for watercourses. This conclusion also applies to terrestrial and/or aquatic invertebrates that may be present within Main Rivers*". Furthermore, the Applicant refers to the **Outline Code of Construction Practice (Revision E)** [document reference 9.17] to be submitted at Deadline 5, which details the Environmental Management Plans which will be prepared prior to the commencement of construction. These include Construction Method Statements and Watercourse crossing scheme which will be informed by a hydrogeological risk assessment as well as an Invasive Non-Native Species Management Plan. Of note, Section 7.1.4 refers to the Bentonite Breakout Plan which will be developed to minimise the risks of bentonite breakout on chalk streams and other surface watercourses. The Applicant is therefore of the view that the proposed trenchless crossing technique will not result in any significant adverse impacts upon geomorphology, water quality or ecology in Spring Beck and *would not jeopardise the use of the watercourse as a release site for white-clawed crayfish.*
5	The use of HDD crossing is not in itself sufficient to mitigate risk of significant adverse impacts; we note that if HDD is too deep, it will affect the underlying chalk strata, and if too shallow will affect the stream directly.	The Applicant refers to Respondent to its reply in **The Applicant's Comments on Responses to the Examining Authority's Second Written Questions** [REP3-101] which states:

ID	Stakeholder Comment	Applicant Response
		"*The Applicant recognises that trenchless crossing techniques could potentially have some impact upon groundwater-dependent surface watercourses such as chalk streams, for example by changing groundwater flow patterns or releasing drilling fluids into the water column (see Sections 18.6.1.3 and 18.6.1.4 of ES* **Chapter 18 Water Resources and Flood Risk** *[APP-104]).* *The Applicant has therefore committed to undertake a site-specific hydrogeological risk assessment at each trenchless crossing location, as stated in Section 7.1.3 of the* **Outline Code of Construction Practice (Revision C)** *[REP3-064] submitted at Deadline 3, which is secured under Requirement 19 of the* **draft Development Consent Order (Revision G)** *[document reference 3.1], also submitted at Deadline 3. The results of the hydrogeological risk assessment will allow the trenchless crossing to be designed to minimise risks to groundwater-bearing strata and the groundwater-dependent surface water features associated with them (primarily, in this instance, Spring Beck)".*
6	We note the Applicant's response to Q2.13.3.2, that in respect of white clawed crayfish, the Applicant is proposing to undertake further surveys and prepare its Non-Native Species Management Plan and specific mitigation measures targeted at managing the risk of transferring signal crayfish or spores of crayfish **post consent**.	No response required by The Applicant.
7	With reference to the Outline Code of Construction Practice (Revision C) (7.1.3, Watercourse Crossings) we further note that the Applicant proposes to undertake Ground investigations and hydrogeological risk assessments post consent. Also at 7.1.4 ('Bentonite Breakout') the Applicant proposes to prepare a 'Bentonite Breakout Plan' **post-consent.**	No response required by The Applicant.
8	In context of the serious and significant omissions in the ES described above, the deferment of detailed assessments and mitigation strategies represents a significant and unacceptable risk to the ecology of this important habitat.	The Applicant does not concur with the Respondent's statement. As stated in **The Applicant's Comments on Responses to the Examining Authority's Second Written Questions** [REP3-101]: "*The Applicant would like to note that it has undertaken extensive consultation with the Environment Agency during the development of*

ID	Stakeholder Comment	Applicant Response
		the project, which has supported the commitment to use trenchless techniques to cross Spring Beck and other chalk streams such as the River Wensum rather than alternative open trench techniques (cf. the **Draft Statement of Common Ground with Environment Agency (Revision C)** *[document reference 12.10] submitted at Deadline 4*)". In addition, through carrying out additional, pre-construction surveys, the Applicant will be made aware of further changes to the ecological baseline and be able to implement mitigation based on up-to-date information.
9	As a first step to remedy the inadequacy of the ES in assessing and mitigating risks to Spring Beck, a proportionate measure would be for the Applicant to undertake the following as a matter of urgency for introduction into the Examination, in order that relevant IP's are given the opportunity to make representations, their adequacy be properly considered by the ExA, and agreed mitigation measures can be secured in the DCO and Outline Code of Construction Management: a. Specific mitigation measures targeted at managing the risk of transferring signal crayfish or spores of crayfish at Spring Beck. b. Ground investigations, hydrogeological risk assessments and method statements for HDD the crossing under Spring Beck. c. Sediment Management and Bentonite Breakout Plan.	The Applicant refers the Respondent to its reply in **The Applicant's Comments on Responses to the Examining Authority's Second Written Questions** [REP3-101] (Q2,13,3,2 and Q2.24.3.2), which responds directly to these points.
10	We further consider it would be appropriate for independent monitoring of the works, subject to review of the above.	As per Section 2.5.10 (Trenchless Crossings) of the **Outline Code of Construction Practice (Revision E)** [document reference 9.17], the primary crossing locations will be agreed in consultation with the relevant planning authority post consent. The design of the HDD crossing will also be agreed with the Environment Agency and Lead Local Flood Authority and therefore subject to external scrutiny/verification. In addition, construction work in sensitive locations will be supervised by a suitably qualified Environmental Clerk of Works (ECoW), who will provide reports to the Applicant, the Contractor, the Environment Agency, and the Local Authority. Even though the ECoW will be

ID	Stakeholder Comment	Applicant Response
		appointed by the Applicant, they will be a registered professional and therefore obliged to provide an independent opinion. The ECW is secured in the **draft DCO (Revision H)** [document reference 3.1] via Requirement 19 Code of Construction Practice.
11	We note that Natural England have made the same request in respect of the Bentonite Breakout Plan, as set out on their response to WR2 in relation to the River Wensum: *"River Wensum SAC: provided mitigation is agreed and secured in the DCO and Outline Code of Construction Practice in the form of sediment management, pollution prevention and bentonite breakout plans. Then we are likely to reach agreement with the Applicant's conclusion that an AEoI can be ruled out in respect of all affected onshore environmental assets."*	The Applicant refers the Respondent to **The Applicant's Comments on Natural England's Deadline 2 Submission** [REP3-107] which states: "*The Applicant refers Natural England to the **Report to Inform the Appropriate Assessment (RIAA) (onshore) Technical Note** [REP2-050] which was submitted at Deadline 2 and provides further assessment of the risk of bentonite breakout to the River Wensum SAC and its features.* *The Bentonite Breakout Plan, which forms part of the OCoCP (secured by Requirement 19 of the **draft DCO (Revision F)** [document reference 3.1], would be developed prior to construction and would be informed by further detailed design and surveys including hydro-fraction survey at all drill sites. A site-specific risk assessment would then be undertaken as part of the post consent detailed design process (see paragraph 131 of the **Outline Code of Construction Practice (Revision C)** [document reference 9.17]".*
12	We request the ExA seek the Applicant's cooperation in providing these reasonable and proportionate first steps to ensuring no adverse impacts on the ecology of Spring Beck, and confirm Mr Hay-Smith and Priory Holding are ready to work constructively with the Applicant to deliver these.	The Applicant is committed to continuing to work with the Respondent constructively.
Q2.17.3 EFFECTIVENESS OF MITIGATION PROPOSALS - Removal of Existing Trees and Hedgerows, Replanting and Management [REP4-053]		
13	Our comments in relation to the ExA's WR2 and relevant responses relate to hedgerows on Mr Clive Hay-Smith's land which are in Order Limits for the purpose of Main Works Access (reference ACC05, BOR plot reference 03-002).	Noted. The Applicant refers the Respondent to its reply in **The Applicant's Comments to Relevant Representations - Part 2** [REP1-034] IDs 22.2.2.2 -22.2.2.3 & IDs 22.2.3.1 – 22.2.3.3. The route was selected on the basis that it is already used as an existing access to fields and avoids loss of agricultural land. The access was subsequently included within the PEIR.
14	ACC05 is shown at Figure 1 below. It leads south from Sheringham Road (A149) outside Weybourne, and connects to Abbey Farm's main farm buildings complex. The importance of the track as a farm access is set out in the IP's	

ID	Stakeholder Comment	Applicant Response
	Relevant and Written Representations, but in summary it is essential to Mr Hay-Smith and Mr Middleton's farm operations.  Figure 1: taken from Application Land Plans (Sheet 3)	The Applicant refers to the **Compulsory Acquisition Schedule (Revision C)** [document reference 12.5] which provides the latest information on progress of the voluntary agreement with this Land Interest. The Applicant acknowledges the Respondent's comments and continues to work with the Respondent to address the working arrangements that are required.
15	ACC05 comprises an unsurfaced single farm track. For the first 175 metres as it leads from Sheringham Road, the track is bounded on either side by a mature, mixed species hedgerow (the 'hedgerows'). A photo of part of the hedgerows is shown below at Figure 2. The width of the track between the hedgerows is four metres. The aggregate length of the hedgerows is 350 metres.	The Applicant acknowledges the Figure provided by the Respondent.
16	ACC05 will see significant construction movements during the construction period (up to four years in duration). Annex 19 and Annex 23 of the Transport Assessment ('TA') confirm that during the peak construction phase there could be up to 31 HGV trips a day equivalent to 15.5 arrivals and 15.5 departures. On average there could be 8 HGV trips a day, i.e. 4 arrivals and 4 departures. In	The Applicant acknowledges the Figures provided by the Respondent. The Applicant would however clarify that the peak HGV figure quoted by the Respondent (31 HGV trips per day) is prior to mitigation. The **Outline Construction Traffic Management Plan** [REP3-062] outlines mitigation to limit HGV movements via link 11 (Sheringham Road) to 20 HGV

ID	Stakeholder Comment	Applicant Response
	addition to the HGV trips there would also be a requirement for employee trips to site, at peak there could be up to 24 light vehicle (LV) trips a day (e.g. cars, vans, pickup etc.), equivalent to 12 arrivals in the morning and 12 departures in the evening. On average there would be approximately 10 LV trips a day, equivalent to 5 arrivals in the morning and 5 departures in the evening.  Figure 2	movements per day. The peak number of HGV trips per day that could travel to ACC05 (via link 11) would therefore be 20 HGV trips (approximately one arrival and one departure per hour). The access is anticipated to be in use for a period of approximately seven months, however access requirements are not continuous within this period.

ID	Stakeholder Comment	Applicant Response
17	The intensity of use described in the TA is significantly greater than the current agricultural use. Mr Hay-Smith and Mr Middleton are concerned that this intensity of use of ACC05 will damage the integrity of the hedgerows with consequent adverse impact on farm ecology.	Information relating to tree and hedgerow protection measures is detailed within the **Arboricultural Survey Report** [APP-228] and the **Outline Landscape Management Plan (Revision C)** [REP3-066], which is secured by Requirement 11 of the **draft DCO (Revision H)** [document reference 3.1]. Requirement 11 of the **draft DCO (Revision H)** [document reference 3.1] will facilitate the production of an Arboricultural Method Statement and Tree Protection Plans following a full tree survey which will consolidate tree and hedgerow protection measures prior to construction commencing, this would include any specific mitigation measures if deemed necessary at ACC05. The Arboricultural Method Statement and Tree Protection Plans will be submitted to the local planning authority for approval prior to construction commencement. Where trees and hedgerows support an ecological feature such as a bat roost or nesting birds, information is provided in the **Outline Ecological Management Plan (Revision C)** [REP3-068], which is secured by Requirement 13 of the **draft DCO (Revision H)** [document reference 3.1]. As per the **Outline Ecological Management Plan (Revision C)** [REP3-068], the Applicant has committed to undertake pre-construction ecological surveys of the Order Limits, this would include Extended UK Habitat Classification Surveys and protected species survey, as required. The **Outline Ecological Management Plan (Revision C)** [REP3-068, Section 2.3.2] also details mitigation measures to avoid impacts to breading birds, which may use the hedgerows. Should vegetation clearance be required, for example removing this or last year's growth by flailing the hedge, this would be undertaken outside of the main bird nesting season which typically runs between March to August but is subject to weather and temperature conditions.

ID	Stakeholder Comment	Applicant Response
18	In discussions with the Applicant on this matter they appeared unaware of the existence of the hedgerows, and it is unclear if their Phase 1 ecology reports have accounted for their existence.	The Applicant undertook a **Phase One Habitat Survey** [APP-124] covering the majority of the Order Limits. In total, approximately 90% of the area of the Order has been surveyed. Habitats within the remaining 10% have not been surveyed. However, a data search with the Norfolk Biodiversity Information Service (NBIS) obtained habitat classifications for the un-surveyed areas via the Norfolk Living Map; this data has been used to classify inaccessible and un-surveyed parts of the Order Limits. This habitat classification data does not include any details on protected or valued species signs, the suitability of habitat for such species, or on the presence of INNS. As per ID17, the **Outline Ecological Management Plan (Revision C)** [REP3-068] details the pre-construction ecological surveys of the Order Limits which will be undertaken. This would include Extended UK Habitat Classification Surveys and protected species survey, as required.
19	The width of HGVs will be greater than farm traffic, and weights will be significantly higher (we assume 30 – 40 tonnes), as the principle construction traffic will be for the delivery of bulk loads.	The Applicant would clarify that in accordance with The Road Vehicles (Construction and Use) Regulation 1986, HGVs will be a maximum width of 2.5m (excluding mirrors). Should movement of larger plant equipment be required, this will be in consultation with Highways England or the Vehicle Certification Agency, and by Special Order movement.
20	With reference to BS 5837:2012 this requires adoption of a root protection zone (RPZ) x12 stem diameter, as referenced in the Application Arboricultural Survey Report. Stem diameters are approximately 80mm, corresponding with a RPZ of 0.5 metres either side of the hedgerow. In practice this gives a maximum working width for ACC05 of three metres.	The Applicant notes the Respondent's comment and reiterates its commitment to undertaking a full Arboricultural Survey of the Order Limits pre-construction. An Arboricultural Method Statement and Tree Protection Plan will be produced, as detailed in the **Arboricultural Survey Report** [APP-228, Section 6.5], and in accordance with BS5837. Requirement 11 of the **draft DCO (Revision H)** [document reference 3.1] will facilitate the production of an Arboricultural Method Statement and Tree Protection Plans following a full tree survey which will consolidate tree and hedgerow protection measures prior to construction commencing, this would include any specific mitigation measures if deemed necessary at ACC05. The Arboricultural Method Statement and

ID	Stakeholder Comment	Applicant Response
		Tree Protection Plans will be submitted to the local planning authority for approval prior to construction commencement.
21	HGV vehicles are up to a maximum 2.9 metres in width, and it is reasonable to assume HGVs of such dimensions will be used for the development (we have been unable to find any reference in the ES). This leaves no room for error for HGV construction traffic straying off a three metre corridor in order to avoid straying into the RPZ with associated damage to the hedgerows' roots. In practice we consider it is inevitable that over the course of the construction programme that HGVs and LVs will stray into the RPZ and that cumulatively that damage will be done to the hedgerows.	See above response in ID20.
22	Moreover due to the proximity and volume of construction traffic, there is a high risk to disturbance of birds nesting in the hedgerows.	The **Outline Ecological Management Plan (Revision C)** [REP3-068, Section 2.3.2], secured by Requirement 11 of the draft DCO [document reference 3.1] also details mitigation measures to avoid impacts to breading birds, which may use the hedgerows. Should vegetation clearance be required, for example removing this or last year's growth by flailing the hedge, this would be undertaken outside of the main bird nesting season which typically runs between March to August but is subject to weather and temperature. With regards to disturbance of nesting birds from traffic movements any birds nesting in the hedgerows bordering the farm track south of Sheringham Road will be habituated to a degree of human disturbance from existing farm vehicle movements along the track, from farming activity in the surrounding fields and from the nearby Sheringham Road. The bird species that likely nest in these hedgerows will therefore do so regardless of these types of disturbance. The proposed construction works are considered to be equivalent to baseline levels of disturbance to nesting birds, and therefore the risk of disturbance (to a degree that would cause abandonment/failure of the nest) is extremely low. The main risk of disturbance to hedgerow-nesting bird species is associated with direct impacts to hedgerows, see ID17 for detail.
23	We note the Applicant's response to Q2.17.3.2 Removal of Existing Trees and Hedgerows, Replanting and Management; specifically reference to tree and	The **Arboricultural Survey Report** [APP-228] and **Outline Landscape Management Plan (Revision C)** [REP3-066] submitted are outline

ID	Stakeholder Comment	Applicant Response
	hedgerow protection measures are detailed in within the Arboricultural Survey Report [APP-228], and the Outline Landscape Management Plan (Revision C).	documents at this stage of the application and detail the broad principles which would be followed in relation to existing trees and hedgerows. As detailed in ID17, the Applicant has committed to developing an Arboricultural Method Statement and Tree Protection Plans. Requirement 11 of the **draft DCO (Revision H)** [document reference 3.1] will facilitate the production these documents following a full tree survey which will consolidate tree and hedgerow protection measures prior to construction commencing.
24	In the absence of the Applicant preparing and consulting on a full tree survey for the development, we consider it likely that site selection of AC005 was undertaken without regard to the constraints created by the hedgerows.	
25	In the circumstances described above, (specifically with reference to paragraph 8) and given the constrained width of the access track and associated RPZ, we do not consider it reasonably possible that the measures detailed in the Arboricultural Survey Report [APP-228], and the Outline Landscape Management Plan (Revision C) will prevent harm to the hedgerows, nor to realise the Applicant's policy to 'retain and protect' the hedgerows in this location.	
26	The risk of harm is nevertheless avoidable; Mr Hay-Smith has proposed to the Applicant they adopt an alternative access route, to the immediate east of west or ACC05 for the first 175 metres leading from Sheringham Road, but with sufficient separation from the hedgerow to prevent harm. There would be no operational disadvantage to adopting such a variation.	As mentioned above, in the response to ID's 13 and 14, the access route was selected on the basis that it is already used as an existing access to fields and avoids loss of agricultural land. The access was subsequently included within the PEIR. The potential impact of ACC05 on existing hedgerows was first raised by the Respondent's land agent by email on 20th April 2023. Information was requested on the types of vehicles and intensity of the proposed use of the access amid concern that the hedgerows required removal. It was proposed in the Respondent's land agent's email that a new access be created in agricultural land to the east. An email response was provided the same day that there were no proposals for removal of hedgerows in the location of ACC05, following which a teleconference between the Applicant, Dalcour Maclaren and the Respondent's land agent took place on 10th May 2023 to discuss the impact on the hedgerows further. Prior to the email dated 20th April 2023, ACC05 had only been raised in **Howes Percival LLP on behalf of Mr Clive Hay-Smith** [RR-042] when it was queried what a construction access comprised in the context of concern over shared use.

ID	Stakeholder Comment	Applicant Response
		In the teleconference 10th May 2023, the Respondent's land agent queried whether HGVs could be accommodated without removal of hedgerows and what improvements would be made to the existing track. Following the teleconference, the Respondent submitted **Comments on any other information and submissions received at D3** [REP4-052] to which the Applicant is now responding.
27	We await hearing from the Applicant in respect of this proposal, but note that rights could be negotiated by agreement, and necessary consents secured by a Non-material Amendment to the DCO, or a stand-alone planning application.	Negotiations in respect of the voluntary agreement are ongoing, however during a teleconference on 10th May 2023, the Respondent's land agent suggested agreement would be subject to the Respondent's expectations being met by the Applicant providing post-consent level detail on matters such as traffic management plans, construction design of access roads and a detailed design and risk assessment for the HDD under Spring Beck – all of which present a significant challenge in reaching an agreement.
28	We note that our concerns echo those of various Interested Parties, responding to Q2.17.3.1 Removal of Existing Trees and Hedgerows, Replanting and Management (Interested Parties): a. Are you satisfied that the Applicant's proposals for the removal, replanting and management of existing trees and hedgerows have been set out to a sufficient level of detail at this stage [REP1-036, Q1.17.1.11]? b. In particular, is the Applicant's approach to managing the likelihood of damage occurring to existing trees and hedgerows during the construction period sufficiently clear [REP1-036, Q1.17.1.11]?	The Applicant refers the Respondent to **The Applicant's Comments on Responses to the Examining Authority's Second Written Questions** [REP4-028] Tables 1, 11, 18, 22, 25 and 26 for its responses to Interested Parties.
29	We note the responses of both Broadland District Council and South Norfolk Council echo with our concerns regards protection and retention of the hedgerows: *"a) …It would be preferable for a much stronger emphasis to be placed on establishing existing trees' constraints and for the onus to be on tree retention and that removal should be a last resort…*	The Applicant refers the Respondent to **The Applicant's Comments on Responses to the Examining Authority's Second Written Questions** [REP4-028]: *The Applicant has committed to undertaking a full Arboricultural Survey of the Order Limits pre-construction. Arboricultural Method Statement and Tree Protection Plan will be produced, as detailed in the **Arboricultural Survey Report** [APP228, Section 6.5]. These would be*

ID	Stakeholder Comment	Applicant Response
	b) …To date The Council still do not have a full tree survey of the route. A full survey in accordance with BS5837 will be required in order to establish the tree constraints, and adequate protection for retained trees..."	*submitted to the local planning authority for approval prior to construction commencement.* *The aforementioned is secured under Requirement 11(e) of the **draft DCO (Revision G)** [document reference 3.1] which requires: "details of existing tress and hedges to be removed and details of existing trees and hedges to be retained with measures for their protection during the construction period where applicable and the details provided should be in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction and the Hedgerow Regulations 1997. The Applicant would like to confirm that replacement hedgerow and tree planting on a minimum 1:1 basis and details of final mitigation will be set out in the Outline Landscape Management Plan once the preconstruction surveys have concluded. The 1:1 ratio ensures no loss specifically of the number of individual trees and hedgerows. It does not account for the Applicant's commitment to secure a net gain as detailed **Outline Biodiversity Net Gain (BNG) Strategy** [APP306] and **Initial BNG Assessment** [APP-219] with the final details forming part of the Landscape Management Plan which is secured under Requirement 11.*
30	We also note the response of Natural England, echoing our concerns about the impact of use of AC005 on ecology: *"Natural England draws the ExA attention to our advice relating to the importance of maintaining supporting habitats such as trees and hedgerows for protected species"*	The Applicant refers the Respondent to **The Applicant's Comments on Responses to the Examining Authority's Second Written Questions** [REP4-028]: *The Applicant refers to the revisions made to the **Outline Landscape Management Plan (Revision C)** [REP03-066, para 33] with regard to provisions made by the Applicant to protected species in response to Natural England's comments.*
Conclusion		
31	We consider the use of AC005 is highly likely to cause avoidable damage to the hedgerows described above. Due to the constrained width of the farm access track, and proximity of the hedgerows, we do not consider it is reasonably possible to mitigate this harm through measures embedded in the draft DCO.	The Applicant refers the Respondent to its response to ID17.

ID	Stakeholder Comment	Applicant Response
32	We ask the ExA to direct the Applicant to urgent engagement with the IPs in order to agree an alternative alignment of AC005 (still on Mr Hay-Smith's land) which will mitigate harm to a significant length of hedgerow.	The Applicant refers to the responses to ID26 and ID27 above and is willing to progress discussions surrounding the access route with the Respondent.
Further Representations submitted on behalf of Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited (refs: 20033312, 20032995 and 20033311)		
33	On further review of the Applicant's response to the Examining Authority's (ExA's) Second Written Questions, we have noted additional matters which we believe justify further consideration in the Examination. We would be grateful for the ExA to accept these additional representations at their discretion.	No response required by The Applicant.
34	In Q2.6.2.2 the ExA raised questions relating to the 'Potential for Greater Impacts with an Extended Construction Period'. The ExA's questions speak to our concerns about the scenario flexibility sought by the Applicant, and the associated risk of an extended construction programme having adverse impacts on businesses and landowners (as set out in the IP's Relevant and Written Representations). We are considering the Applicant's responses to questions a, b, c and e, and may request to make additional representations on these in due course.	No response required by The Applicant.
35	In respect of Q2.6.2.2. d) in our view the Applicant's response needs further clarification and consideration in the Examination.	The Applicant refers to the responses to IDs 36 – 38 below.
Q2.6.2.2 d): Could such long delays lead to blight for affected landowners? Explain with reasons.		
36	Contrary to the Applicant's response, Article 19 of the dDCO does not restrict the exercise of compulsory purchase powers to 7 years (normally 5 years for a DCO). 7 years is rather the deadline for service of a Notice to Treat or execution of a GVD. Notices to Treat have a duration of up to a further 3 years, after which they expire. Therefore, the timeframe for exercise of compulsory powers (or not) and period of associated landowner / business uncertainty and blight is potentially up to 10 years.	The Applicant has responded to this point in **The Applicant's Responses to the Examining Authority's Third Written Questions**Q3.8.2.2 [document reference 19.2].

ID	Stakeholder Comment	Applicant Response
37	Also, while the draft DCO would require the Applicant to take temporary possession of land within 7 years, once possession is taken, those powers of temporary possession can continue indefinitely until 1 year after the relevant part of the consented development is complete. In the 'sequential' construction scenarios, we understand that the Applicant may be granted consent to complete one project, re-instate land subject to temporary possession, and then return, potentially years later, to complete the second project. By any practical definition landowners and business would be blighted by the associated uncertainty in such a scenario.	The Applicant has responded to this point in **The Applicant's Responses to the Examining Authority's Third Written Questions**Q3.8.2.2 [document reference 19.2].
38	Given the long construction period and associated compulsory acquisition powers sought, we consider holding a further Compulsory Acquisition Hearing to consider these and any other relevant matters is appropriate, and request for a further Hearing to be included in the Examination. If the ExA would prefer to deal with this point in the context of a further Issue Specific Hearing (under Onshore Environmental Matters, on the effect of the proposed construction on affected landowners) then we request that a hearing of that nature is arranged.	No response required by the Applicant.