

**Application by Equinor New Energy Limited for an Order granting Development Consent for the Sheringham and Dudgeon Extension Projects**

- **Statement on negotiations as requested by the ExA**
- **Post-Hearing submissions**
- **Comments on any other information and submissions received at Deadline 7**

**Submitted on behalf of Mr Clive Hay-Smith and Priory Holdings Limited (refs: 20033312 and 20033311)**

**Planning Inspectorate Reference: EN010109**

## 1. STATEMENT ON NEGOTIATIONS (REQUESTED BY ExA)

At Compulsory Acquisition Hearing 2 (CA 2), the ExA requested that Mr Hay-Smith submit a statement on the status of negotiations at Deadline 7.

On 21<sup>st</sup> June 2023, Ardent Management wrote to the Applicant's agent proposing a way forward on the three key outstanding issues (Spring Beck, hedgerow protection at ACC05 and professional fees). A follow-up email was sent by Ardent Management on 7<sup>th</sup> July 2023. The latter email expanded on the issue relating to hedgerow protection at ACC05 (see 2.1 below).

To date the Applicant's agent has not responded substantively on these points.

Mr Hay-Smith will continue negotiating in good faith, however wishes the ExA to note the lack of progress made by the Applicant, and his dissatisfaction with the Applicant's position on professional fees. This is, as we understand, consistent with the experience of other affected landowners (including tenants) and businesses in relation to the project. We understand that to date the Applicant has in fact not reached contractual agreement with any affected party.

## 2. COMMENTS ON ANY OTHER INFORMATION AND SUBMISSIONS RECEIVED AT DEADLINE 7

### 2.1 Hedgerow Protection at AC055

Mr Hay-Smith's concerns about damage to 350 metres of mature hedgerow were raised in detail at Deadline 4 [REP4-053], along with a proposal to the Applicant to mitigate this risk by providing an alternative access route, by agreement. The Applicant stated at Deadline 5 (ID 32), and repeated at Deadline 6:

*"The Applicant...is willing to progress discussions surrounding the access route with the Respondent."*

To date, we have not heard from the Applicant in response to Mr Hay-Smith's mitigation proposal. With reference to the DCO documentation, without mitigation, it is clear that a substantial part of the hedgerow will need to be removed. Outline construction access designs are included in the Outline Construction Traffic Management Plan (Annex B). This is copied below at Figure 1.

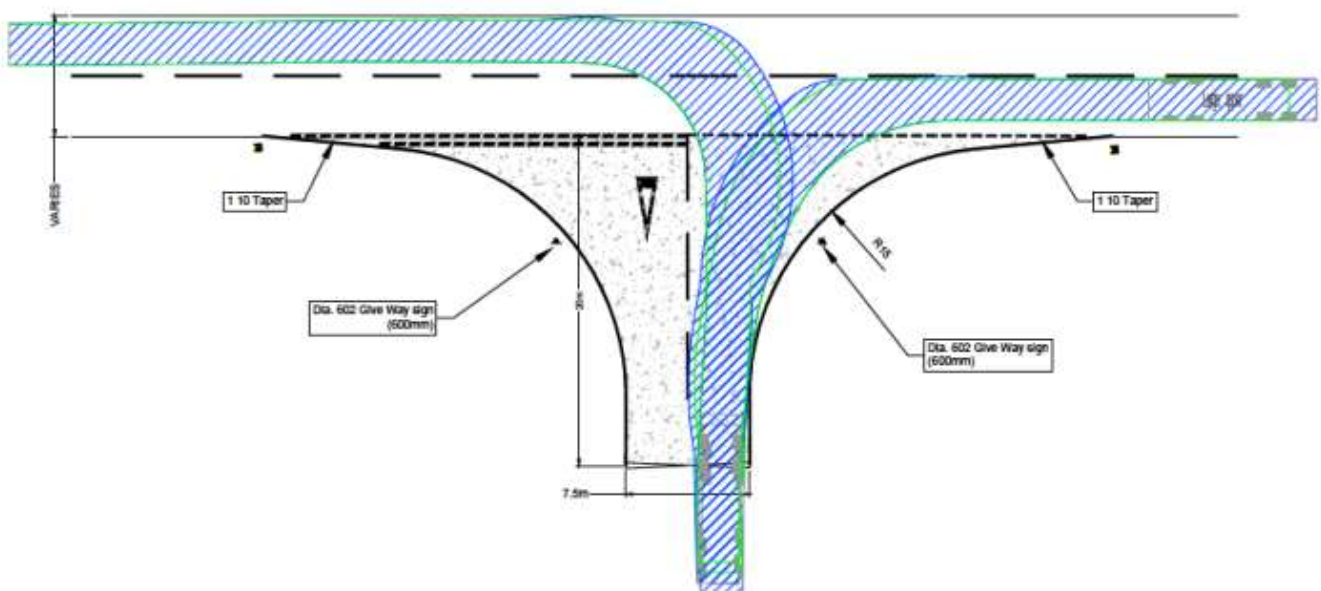


Figure 1: Outline Design 'Type A' Accesses, Outline Construction Management Plan, Annex B

Accesses onto A roads (such as AC005 which exits onto the A149) will be designed to 7.5 metres width. Plainly such an access road cannot be accommodated along the existing farm track, which is only 4 metres wide, and bounded on both sides by the hedgerow.

The inescapable conclusion is that the implementation of the DCO will result in removal of at least 175 metres of mature hedgerow for ACC05. This environmental impact has not been considered in the ES and is easily avoidable if Mr Hay-Smith's alternative proposal set out at Deadline 4 is accepted by the Applicant. The associated planning / consenting should be straightforward for the alternative proposal. As Equinor's solicitor noted at CA Hearing 2, this is the approach for another construction access on the scheme where he said

*"the other point is that this is a temporary construction access. And so in planning terms, it's obviously not controversial if we're just putting it in a slightly different place".*

That is exactly what we are proposing here.

### **3. POST-HEARING SUBMISSIONS: WRITTEN SUBMISSIONS OF ORAL CASE MADE AT COMPULSORY ACQUISITION HEARING 2**

#### **3.1 Clive Hay-Smith**

- Supports the principle of off-shore wind, subject to a satisfactory agreement which recognises and addresses his property specific issues and protects environmentally sensitive receptors.
- The parties are at an impasse on these, despite Mr Hay-Smith engaging with them and their agents for several years. The key outstanding issues relate to protection of important environmental features on the farm, however other significant issues arose from previous proposed routes.
- During that period substantial professional costs have been incurred which the Applicant has declined to re-imburse in full.

#### **3.1 Mark Warnett on behalf of Clive Hay-Smith and Priory Holdings Ltd**

##### Blight

- The Applicant's written responses to the ExA's questions about blight conflate 'statutory' and 'general' blight.
- General blight is caused by the uncertainty created by the threat of compulsory powers over an extended period of time. The Development Scenarios and extended 7 year deadline for serving Notice to Treat (plus 3 year Notice to Treat period) creates significant uncertainty and therefore general 'blight' for landowners.
- The Applicant has therefore not addressed the ExA's important and relevant questions about general blight.

##### Concurrent Working (Scenario 1d)

- Experience of the construction of linear infrastructure scheme, was that frequently things go wrong during construction. This can create major problems for affected landowners, that are not assessed in the ES.
- This risk will be compounded if two separate work-forces are constructing two separate developments, concurrently on the same land. Has this been addressed in the ES?
- The risk could be in part mitigated by an effective Alternative Dispute Resolution compensation mechanism.

##### Alternative Dispute Resolution(ADR)

- The Applicant asserts it is willing to use **consider** using ADR in disputes, however there is no detail what this means in practice and written commitment or policy.

- A formal ADR policy, setting out how, and when ADR would be adopted, is needed for the Applicant's position on this to be meaningful, and in order to satisfy government guidance 'Planning Act 2008: Guidance related to the procedures for the compulsory acquisition of land'.