



Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects

Written Summary of the Applicant's Oral Submissions at
Compulsory Acquisition Hearing 2

Revision A

Deadline 7

July 2023

Document Reference: 21.4

Title:	
Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects Examination submission Written Summary of the Applicant's Oral Submissions at Compulsory Acquisition Hearing 2	
PINS document no.: 21.4	
Document no.: C282-BS-Z-GA-00032	
Date:	Classification
July 2023	Final
Prepared by:	
Burges Salmon	
Approved by:	Date:
Ebru Tatlidil Gee, Equinor	July 2023

Table of Contents

1 Introduction4

Table of Tables

Table 1 Written summary of the Applicant's oral submissions at CAH2 5

1 Introduction

1. This document presents a written summary of Equinor New Energy Limited's (the Applicant) oral case at Compulsory Acquisition Hearing 2 (CAH2) (**Table 1**). CAH2 on the Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP) Development Consent Order (DCO) application took place on 22nd June 2023 at 10:00am at The Kings Centre, 63-75 King Street, Norwich, NR1 1PH.

Table 1 Written summary of the Applicant's oral submissions at CAH2

I.D.	Stakeholder Comment	Applicant Response
Development Scenarios		
3.i	Having regard to the trip generation figures in the Transport Assessment and its annexes, whether the Environmental Statement has robustly assessed the scenario where there is an overlap of construction of SEP and DEP being built in isolation.	<p>A. The Applicant noted that the highways authorities have not raised any concerns in relation to the assessment of traffic numbers assessed where the projects are built separately but with overlapping construction.</p> <p>B. The Applicant confirmed that reference to 'tandem' in Annex 10 of the Environmental Statement Appendix 24.1.1 - Transport Assessment Annexes [APP-269] is the description used by the Contractor – Murphys – who have provided the traffic data which is why that term is used in Annex 10. The Applicant confirmed that the term 'tandem' is interchangeable/the same as a concurrent scenario / scenario 1(d).</p> <p>C. The Applicant confirmed that the assessment in Annex 10 is based on the concurrent scenario 1(d).</p> <p>D. In response to the Examining Authorities' comments on Table 5 of Environmental Statement Appendix 24.1 - Transport Assessment [APP-268] ("Transport Assessment") which sets out peak day vehicle trips and the recognition that for installation of ducting and cables, the figures are the same for the isolation (scenario 1(a) or 1(b)) and the concurrent scenario, the Applicant confirmed that the assessment considered both the in isolation scenario and concurrent scenario and the Applicant is confident those numbers are correct. Murphys' traffic data was used for the assessment and this reflects how they would actually build the project (as contractors). The total number of vehicle movements is highest in the concurrent scenario which is confirmed through a comparison of Annex 9 and Annex 10 of the Transport Assessment (around 21% higher in that concurrent scenario). The Applicant clarified that the Transport Assessment is based on peak daily movements rather than total traffic movements over the construction period. To go from total traffic movements to peak traffic movements (as outlined in Table 5) requires the application of a construction</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>programme. For example, section 5 requires approximately 248 more HGVs to construct that section in a concurrent scenario than an isolation scenario. The daily traffic movements for section 5 are however the same for both of those scenarios. This reflects construction taking place over a longer duration.</p> <p>E. The Applicant confirmed that traffic numbers are controlled through the Construction Traffic Management Plan (“CTMP”). [Post-hearing note: Requirement 15 of the draft Development Consent Order (Revision J) [document reference 3.1] (“dDCO”) secures the approval of the CTMP in accordance with the outline Construction Traffic Management Plan [REP5-027].]</p> <p>F. The Applicant reiterated the points made above (E) that the [construction traffic figures in Table 5] reflect the peak number of workers to undertake an activity but for scenario 1d workers may stay on site for longer. The figures in Table 5 are a snapshot and more detailed figures are provided in Annex 8 and 9 [Post-hearing note: Environmental Statement Appendix 24.1.1 - Transport Assessment Annexes [APP-269]].</p> <p>G. The Applicant confirmed that Annexes 8 to 11 [APP-269] provide the detail of how the traffic numbers are derived. The Applicant has sought to disaggregate the numbers of vehicle movements for the concurrent and isolation scenarios further in preparation for CAH2. These figures demonstrate that the concurrent scenario results in higher total vehicle movements than the isolation scenario. [Post hearing note: see Appendix A of Supporting Documents for the Applicant's Responses to the Examining Authority's Fourth Written Questions [document 21.5.1] where the Applicant has presented further data in response to Q4.6.1].</p> <p>H. The Applicant confirmed it has modelled the in-isolation scenario and the concurrent scenarios. It has not modelled the scenario in which the projects are built separately but there is an overlap of the construction specifically as the Applicant is confident that scenario</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>results in lower overall traffic numbers than the concurrent scenario and the concurrent scenario is therefore the worst-case scenario.</p> <ul style="list-style-type: none"> I. In response to the question of whether it is feasible to control traffic numbers in the area (140 links) through the CTMP, the Applicant confirmed that there are a number of different ways in which these controls can be achieved and the details of those will be agreed with the highways authorities prior to construction. The outline Construction Traffic Management Plan [REP5-027] (“oCTMP”) does contain some proposals for managing this, including through the appointment of a construction traffic management plan coordinator who will use a delivery management system to plan how many deliveries can go to each access. When those numbers are considered together across all the links, the total numbers are known and can therefore be controlled. J. In response to the question of whether there would need to be two coordinators in a scenario in which the projects are built separately, the Applicant confirmed that there would likely be two coordinators. Where there is concurrent construction, there will be one coordinator due to the number of shared accesses. Where there is an in-isolation construction Requirement 33 of the dDCO (Revision J) [document reference 3.1] requires coordination between the projects and in practice will require the CTMP to be submitted by the first project to the second project prior to submitting this for approval to the local highways authority and there would be a requirement for the projects to coordinate deliveries on that basis. This process would be collaborative rather than an arbitrary splitting of targets. There would likely be two CTMPs each with their own coordinator and they would be required to coordinate to ensure those targets are biting on both projects. K. The Applicant confirmed the Transport Assessment [APP-268] is based on the peak number of traffic movements, not averages. The concurrent scenario results in the worst case in terms of the peak traffic movements.

I.D.	Stakeholder Comment	Applicant Response
		<p>L. The Applicant confirmed in relation to a question about whether maximum traffic numbers should be secured as a requirement in the DCO that this would not be necessary as the numbers in the CTMP are maximum figures and cannot be exceeded. The oCTMP sets out how that will be monitored and enforced and this is secured as a Requirement. [Post-hearing note: See Requirement 15 of the draft Development Consent Order (Revision J) [document reference 3.1] (“dDCO”).]</p> <p>M. The Applicant confirmed it is confident that the traffic numbers are robust, that the concurrent scenario is the worst case with a suitably detailed audit trail and that the controls on numbers in the CTMP will effectively control the impacts of construction traffic.</p>
3.ii	Whether the adverse effect of construction works that could be undertaken on the same section(s) of the cable corridor by separate crews, constructing SEP and DEP projects under scenarios 1c and 1d, has been robustly assessed in the Environmental Statement.	No further questions.
3.iii	Further to the Examining Authority’s proposed changes to the DCO, whether an additional paragraph to R1 that secures a restriction that working crews cannot work on the same or adjacent section(s) of onshore cable corridor when they are being constructed under scenarios 1c and 1d is necessary.	No further questions.
Access ACC46 and the A47 Tuddenham Improvement Scheme		
4.i	What are the implications of the misalignment between the access ACC46 and the A47 Tuddenham Improvement Scheme	<p>A. In response to the question of what degree of delay might arise from the misalignment of access ACC46, the Applicant confirmed it is not envisaging any delay. Currently the programme is being reviewed and updated to accommodate any additional consents that need to be sought for ACC46.</p> <p>B. The Applicant reiterated that any issue with the misalignment only arises in the event the A47 North Tuddenham to Easton scheme (the “A47 Scheme”) has been constructed or there is a period of construction overlap. It is currently not absolutely certainty what will happen as the A47 Tuddenham Scheme is subject to a judicial review claim. [Post hearing note: The Applicant confirms that the</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>judicial review of the A47 Scheme has now been refused and so ongoing discussions between the Applicant and National Highways will be informed by that recent decision going forwards.] Based on the existing layout of the A47 there is no issue with using access ACC47 so there would be no need for any additional consents if current status quo is maintained and no impact on programme.</p> <p>C. The Applicant confirmed if ACC46 needs to be relied on, then there is a misalignment and the Applicant is confident that this will be resolved post consent. It is not unusual for design variations such as these to come forward in a DCO context. For example, this is a common occurrence where works associated with development may need to be altered to accommodate another scheme or specific landowner requirement. This can either be taken forward through a Town and Country Planning Act 1990 application or through a variation to the DCO.</p> <p>D. The Applicant confirmed that it is doing everything it can now to actively manage that process and the potential risks through discussions with National Highways and Orsted including providing additional reassurances and commitments within the co-operation agreements being negotiated with both parties. Heads of terms are being discussed which involve seeking their views on the redesign. This discussion also provides for an opportunity to work with National Highways on other concerns they have raised regarding ACC46, for example the fence line on southern boundary of field within which ACC46 is located which can be resolved through these post consent variations. The Applicant confirmed it has agreed heads of terms with the relevant landowner and anticipate voluntary land rights will be secured as required.</p> <p>E. The Applicant confirmed that once the redesign process is complete it will consider the best option for taking forward a variation and will liaise with National Highways in relation to this.</p> <p>F. The Applicant confirmed there is sufficient flexibility in the programme to allow the variations to be confirmed post-consent such that delay is not anticipated. The variations are not</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>controversial in planning terms so the Applicant expects the process of consenting the variations will be straightforward.</p> <p>G. The Applicant referred to its Deadline 6 submissions in relation to comments made by National Highways at Deadline 5: The Applicant's comments on National Highways Deadline 5 Submission [REP6-016] and the updated Protective Provisions which were included for the benefit of National Highways in Part 14 of Schedule 14 to the draft DCO (Revision 1) [REP6-002]. A key part of the updates in those two documents is that the Protective Provisions now provide significant protection for both the existing strategic road network ("SRN") and the A47 Scheme. In summary, the Protective Provisions include:</p> <ul style="list-style-type: none"> a. various approval processes for "specified works", that are works in over or under SRN or A47 Scheme order land; b. a requirement for the undertaker to share designs and information; c. a requirement to comply with the Design Manual for Roads and Bridges; d. restrictions in relation to the exercise of compulsory acquisition powers, including temporary possession; <p>all of which provide adequate protections.</p> <p>H. The Applicant confirmed the purpose of the cooperation agreement is to manage ongoing relationship with National Highways. It is there to supplement the Protective Provisions only and explicitly provide for cooperation and provide further detail, in commercial terms, of what is in the Protective Provisions. For example, the cooperation agreement includes detail of how the parties will work together on the redesign of ACC46. The Protective Provisions are where the protections will lie.</p> <p>I. The Applicant confirmed that at Deadline 5, the CTMP was amended to include wording around the monitoring group. Further, the Draft Statement of Common Ground with National Highways</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>(Revision C) [REP5-034] confirms at ID19 that the parties are agreed there is no residual safety risk from our project. [Post-hearing note: ID19 of Draft Statement of Common Ground with National Highways (Revision D) [document reference 12.22] confirms 'National Highways agree residual road safety impacts as presented in Section 24.6 of ES Chapter 24 Traffic and Transport [APP-110] during construction are not-significant in EIA terms with the inclusion of the proposed mitigation'.]</p>
4.ii	<p>Update on Applicant's engagement with affected landowner(s) and Orsted to maximise use of the same construction haul route to minimise environmental and land use impacts.</p>	<p>A. The Applicant confirmed that heads of terms with the landowner of land in which ACC46 is located have been agreed. [Post hearing note: see further explanation in response to WQ4.8.2.1(g) which states "The Applicant has agreed Heads of Terms for the current design of ACC46. The Applicant therefore anticipates and is confident that a new agreement can be secured voluntarily to reflect <u>the</u> future design of ACC46's post Examination."</p> <p>B. The Applicant confirmed it is in regular discussions with both Orsted and National Highways and as part of those discussions the potential option to use the haul road is being considered. The discussions are in an early stage but this option is being considered as part of the ongoing redesign. Shared management of this access could form part of the cooperation agreement. It is unlikely that there would be a conflict between the development and Orsted's use of the haul route as Orsted are likely to have completed construction by that point.</p> <p>C. The Applicant confirmed that as with National Highways, there are already Protective Provisions for the benefit of Hornsea Project Three in the draft DCO (Revision J) [document reference 3.1] which offer significant protection. [Post-hearing note: these can be located in Part 10 of Schedule 14 to the draft DCO (Revision J) [document reference 3.1].]</p>
4.iii	<p>Whether discussion has taken place with National Grid about the need to maintain and protect Orsted's existing right to legal access along this corridor through the approved A47 DCO.</p>	<p>No submissions were made by the Applicant in relation to this question, but the Applicant agrees with National Highways' submissions that the reference to National Grid was erroneous.</p>

I.D.	Stakeholder Comment	Applicant Response
4.iv	<p>Would the Applicant need to include more lands in the Order limits to enable access ACC46? And in that regard is any land currently included in the Order limits not required for the Proposed Development.</p>	<p>A. The Applicant confirmed that additional land is likely to be required as a result of the re-design of ACC46 misalignment. We have acknowledged in previous written submissions the need to negotiate any additional land rights that may be required but the Applicant is confident in its position, especially given that there are already signed heads of terms with the existing landowner for the current design.</p> <p>B. The Applicant recognises that part of plot 27-006 would no longer be required for access due to the misalignment.</p>
4.v	<p>Explain with reasons that the Applicant's strategic case for Compulsory Acquisition is still robust, given there could be need for additional land to deliver the Proposed Development, and/ or the land that is currently within Order limits is not needed for the Proposed Development.</p>	<p>A. The Applicant noted that plot 27-006 only requires temporary possession powers.</p> <p>B. The Applicant recognises that part of plot 27-006 would no longer be required for access due to the misalignment. As such the Applicant will amend the land plans to remove the part of plot 27-006 where that land is no longer considered to be required for ACC46. That land plan update will be provided at Deadline 7 to remove those relevant parts from plot 27-006 [Post-hearing note: see Land Plans (Revision E) [document reference 2.3]]. The Applicant is confident that part of the plot is still required for the access where the access comes off the cable corridor and travels south towards the field boundary.</p> <p>C. The Applicant confirmed that the Compulsory Acquisition Guidance, at paragraph 19, states that an applicant is required to demonstrate that any potential risks or impediments to implementation have been properly managed. It further recognises that there may be some risks or impediments that exist but provided they are properly managed consent can still be granted. The Applicant's position is that these risks are being properly managed and the Examining Authority can have comfort that it is still within their gift to recommend consent. [Post-hearing note: The Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (September 2013)]</p>

I.D.	Stakeholder Comment	Applicant Response
4.vi	What are the implications of the need to change the Compulsory Acquisition on this Examination? If timing allowed would the Applicant have submitted a change request?	<p>A. The Applicant confirmed various factors would feed into a decision of whether a material change request could be made in relation to the misalignment, not least time left in the Examination. The Applicant has decided not to make a material change in this regard given timing of the Examination would not allow that.</p> <p>B. The Applicant proposes to remove a section of plot 27-006 from the Land plans but will not change the Order limits. This will mean that part of plot 27-006 will be 'white land' where the undertaker will not have powers of temporary possession (or any other compulsory acquisition powers). This is on the basis that the Applicant considers the justification for seeking compulsory acquisition powers over this land is no longer made out. For the avoidance of doubt, the other part of the plot will stand unaltered as this forms part of the temporary construction access.</p> <p>C. The Applicant confirmed there is no other 'white land' within the Order limits.</p> <p>D. The Applicant confirmed that this approach is precedented. [Post-hearing note: The Application refers to its response to its Q4.8.2.1 response in The Applicant's Responses to the Examining Authority's Fourth Written Questions [document reference 21.5]].</p> <p>E. The Applicant confirmed that other relevant documents, including the Book of Reference and Statement of Reasons will be updated to reflect this position as appropriate. [Post-hearing note: Book of Reference (Revision G) (Clean) [document reference 4.1] and Statement of Reasons (Revision E) (Clean Version) [document reference 4.3]]</p>
4.vii	What would be required post Examination to enable access ACC46? What further would be needed for the SoS to consider in decision-making?	The Applicant noted that this has been covered in the Applicant's response to the Examining Authority's Third Written Questions [REP5-049] w and during the hearing as set out above.
Representations from Affected Persons and Statutory Undertakers		

I.D.	Stakeholder Comment	Applicant Response
5.i	Updates in relation to National Highways	<p>A. The Applicant confirmed that although the issues between the Applicant and National Highways are narrowing there are still some disagreements with regards to a number of obligations in National Highways preferred version of the Protective Provisions [Post-hearing note: see Appendix 1 of National Highways Deadline 3 Submission [REP3-139]] The Applicant is endeavouring to progress these as soon as possible. The Applicant confirmed that it does not see the outcome of the A47 Tuddenham Scheme judicial review as relevant to the discussions and is keen to continue progressing these irrespective of the progress of that case. The Applicant's main concern currently is the time left available in the Examination to make progress. National Highways have yet to come back with comments on the Applicant's last version of the Protective Provisions and progress overall is not as quick as the Applicant would have hoped for. Until the point at which National Highways provides their comments it is not possible to say what is outstanding between the parties. The Applicant confirmed it does not think agreement will be reached with National Highways prior to the close of Examination but will continue to endeavour to achieve this.</p> <p>B. The Applicant reiterated that National Highways will have significant protections in relation to the SRN by virtue of the PPs which are already included in the draft DCO (Revision I) [REP6-002] and that those should provide sufficient comfort to National Highways, even if some drafting remains not agreed. For example, there is drafting in National Highways' preferred version of protective provisions which substantially overlap with what would already be covered by the section 278 Highways Act 1980 provisions. There is a disagreement currently over whether those should be included in the protective provisions. National Highways will still retain approvals processes and necessary restrictions on works will still apply.</p> <p>C. The Applicant confirmed that in circumstances where agreement cannot be reached, the Applicant will provide details of what the differences between the parties are and what the reasons for those are from the Applicant's perspective. The Examining Authority will</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>then consider the submissions. The Applicant has already included more detailed protections in the draft DCO which go beyond what the Applicant was originally negotiating with National Highways before a more onerous set of provisions was submitted to the Examination [Post-hearing note: As previously set out in The Applicant's response to National Highways Deadline 3 Submission [REP4-035]. It is also open to the Examining Authority to recommend, and the Secretary of State to include, a blended set of protective provisions which has happened on a number of occasions. The Applicant also confirmed that, where agreement is not reached within the examination, it would continue discussions with National Highways in the three months following the close of Examination and update the Secretary of State of any progress. With regard to the cooperation agreement, the Applicant confirmed that does not need to be agreed within the Examination as the cooperation agreement sets out how the Applicant will work with stakeholders to deliver the respective projects rather than specific controls.</p> <p>D. The Applicant confirmed, in relation to points which were raised as outstanding, that regarding article 20 and permanent acquisition of rights the updated Protective Provisions submitted in the draft DCO (Revision I) [REP6-002] at Deadline 6, does include a restriction on exercising compulsory acquisition powers so that point has been addressed. National Highways advised that it is considering the Applicants' response to its submissions regarding the New Roads and Street Works Act 1993 point made in National Highways representations at Deadline 3 and at Deadline 5 [Post hearing note – see REP3-139 and REP5-086]. This is not necessarily a point which will be addressed in protective provisions and the Applicant is confident that agreement can be reached on that point. The Protective Provisions now include reference to the A47 Tuddenham Scheme so that scheme will be appropriately protected by the draft DCO. Further, there were concerns raised about HDD and as part of the approvals process in the Protective Provisions, the undertaker must carry out works in accordance with the specifications and</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>requirements of National Highways including the Design Manual for Roads and Bridges (“DMRB”) and undertake road safety audits. There is also specific reference to HDD works in the DMRB – CD622 Managing Geotechnical Risk – which will also apply to works being undertaken pursuant to the Protective Provisions. These offer suitable protections for National Highways.</p> <p>E. The Applicant confirmed that in response to the list of items in ID3.1 of National Highways’ Deadline 3 submissions [Post-hearing note: Responses to the Examining Authority’s Second Written Questions (WQ2) [REP3-139]], the Applicant is still discussing financial protections with National Highways including raising questions about the inclusion of collateral warranties. Some of the points relate to the section 278 drafting which the Applicant discussed earlier [Post-hearing note: see agenda item 5.i, paragraph B.] There are still some differences in relation to the precise drafting which relates to the points listed, although most points are generally agreed and will be covered in the Protective Provisions. The parties are agreed on the dispute resolution provisions with regards to including expert determination.</p> <p>F. The Applicant confirmed in relation to the clarifications on highways junction modelling that these can be provided to the Examining Authority. The Applicant notes that in summary, the conclusions of the highway junction modelling note does not change the conclusions of the assessment. AECOM (consultants working on behalf of National Highways) have confirmed to the Applicant that they will provide any comments on the junction modelling to the Applicant as soon as possible and not wait until the next Deadline to make representations. [Post hearing note: The Applicant has submitted at Deadline 7 a copy of the Junction Modelling Clarifications Technical Note [document reference 21.21].</p>
5.ii	Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited represented by Ardent Management	<p>A. The Applicant confirmed that responses have been provided to the Examining Authority in relation to statutory blight. [Post-hearing note: The Applicant refers to its Q3.8.2.2 response in The Applicant’s response to the Examining Authority’s Third</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>Written Questions [REP5-049]. The Applicant has set out the statutory position in relation to the ability to serve blight notices where land is under the threat of compulsion, but the powers have not been exercised, so there is not yet a notice to treat or general vesting declaration. In those cases where there are powers of compulsory purchase and powers not exercised, there is statutory blight. That crystallises at the point the powers are exercised, and the landowner then has a right to a compensation claim. The point about general blight relates to having to deal more generally with the project coming forward and implications of that.</p> <p>B. The Applicant confirmed that they had addressed a number of points raised by Clive Hay-Smith and Mark Warnett in previous oral and written submissions already. [Post-hearing note: The Applicant refers to The Applicant's Comments to Relevant Representations – Part 2 [REP1-034], The Applicant's Comments on Written Representations [REP2-017], The Applicant's comments on Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited Deadline 4 Submission [REP5-052] and The Applicant's comments on Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited's Deadline 5 Submission [REP6-019]] The intention is to build the projects in the most integrated way but as discussed in written submissions there are reasons why that cannot be committed to at this stage and why flexibility needs to be maintained.</p> <p>C. The Applicant noted that it is not possible to comment on other schemes. The Applicant has undertaken a robust assessment and the requirements in the draft DCO which place controls over how the projects will be constructed, and it is the intention that construction will take place within those limits.</p> <p>D. The Applicant noted there are elements within the draft DCO which will give reassurance as to how the projects will collaborate including the new collaboration requirement [Post-hearing note: see Requirement 33 of the draft DCO (Revision J) [document ref 3.1] and there will be a stakeholder communication plan within the code</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>of construction practice relating to ongoing engagement with landowners which will be adhered to. The Applicant also reiterated what has already been included in written submissions around the use of alternative dispute resolution and the Applicant being open to that [Post-hearing note: see further The Applicant's Comments on Clive Hay-Smith, Paul Middleton and Priory Holdings Limited Deadline 6 Submission [document ref 21.9].</p> <p>E. The Applicant confirmed that Mark Warnett had recently provided an updated position on behalf of Mr Clive Hay-Smith. Some of the concerns raised sit outside what would typically be covered in a voluntary agreement. With regards to Spring Beck and Clive Hay-Smith's concerns around the Horizontal Direction Drill works, the Applicant considers there is a route forward but needs to confirm the position internally. With regards to ACC05 the Applicant considers the access suitable. The Applicant is not seeking to use the access for parking as Clive Hay-Smith suggested might be done but as a temporary construction access. With regards to professional fees, the Applicant has requested a detailed breakdown of costs with timesheets from Clive Hay-Smith and is awaiting that.</p> <p>F. The Applicant confirmed that it considers progress is being made resolving concerns raised by Clive Hay-Smith.</p>
	<p>Comments raised by Jane Kenny</p>	<p>A. The Applicant confirmed there is no legal requirement to cover the costs in relation to an objection made, including professional fees. Legal obligations to pay professional fees do exist but these only arise at the point compulsory acquisition powers are exercised. The Applicant has been paying fees on a voluntary basis and the question is largely around what is considered to be a reasonable voluntary payment. The Applicant has therefore gone above what is legally required.</p> <p>B. The Applicant confirmed with regards to points raised on the level of engagement that the details of this are set out in the Consultation Report [APP-029] and the Statement of Reasons (Revision E) (Clean Version) [document reference 4.3.]. The Statement of</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>Reasons sets out the details of the negotiations that have taken place with the Land Interest Group (“LIG”) and the Applicant is not aware of concerns having been raised on that to date. [Post-hearing note: The Applicant notes that the position with negotiations has been updated during examination through the Compulsory Acquisition Schedule (Revision C) (Clean) [REP5-041]. The final version of the Compulsory Acquisition Schedule will be submitted at Deadline 8.]</p> <p>C. The Applicant confirmed with regards to engagement with tenants that as per the response to second written questions it has sent out a fact sheet to tenants explaining what the implications of the voluntary agreements is to them and the Applicant has not received any responses to those fact sheets from tenants or land agents acting for tenants. [Post hearing note: see response to WQ2.8.2.2 in The Applicant’s Responses to the Examining Authority’s Second Written Questions [REP3-101]]. Throughout the Examination, the status of negotiations have been set out in the Compulsory Acquisition Schedule. [Post-hearing note: see the Compulsory Acquisition Schedule (Revision B) (Clean) [REP3-075].</p> <p>D. The Applicant has confirmed with regards to fees that the Applicant is not aware of any timesheets where issues are outstanding.</p> <p>E. The Applicant confirmed it has meaningfully engaged with landowners over a four-year period and believe the record of engagement demonstrates a good record. The Applicant has promoted this project in a responsible manner and in good faith.</p>
<p>Updates on all other negotiations, including for all Special Category Land</p>		
6	National Trust	<p>A. The Applicant referred to its response to Q3.8.3.2 in The Applicant’s Response to the Examining Authority’s Third Written Questions [REP5-050]. [Post-hearing note: See also The Applicant’s response to the Examining Authority’s on Responses to the Examining Authority’s Third Written Questions [REP6-013].</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>B. The Applicant confirmed it was hoping to respond to National Trust shortly and that the Applicant is keen to reach a voluntary agreement with the National Trust.</p>
	<p>Other section 135 consents</p>	<p>A. The Applicant confirmed in relation to the Forestry Commission land, agreement has been reached. This is noted in Appendix B.4 – Supporting Documents for the Applicant’s Responses to the Examining Authority’s First Written Questions [REP1-039].</p> <p>B. The Applicant confirmed in relation to the Crown Estate that good progress is being made in agreeing the required documents. The Applicant was awaiting a response from the Crown Estate’s lawyers. The Applicant sees no reason why agreement will not be reached with the Crown Estate before the end of Examination.</p> <p>C. The Applicant confirmed with regards to the Ministry of Defence (“MOD”) that the Applicant received correspondence from the MOD stating that until the outstanding objection in relation to the Trimmingham radar is resolved, the section 135 consent would not be given. The Applicant understands that objection has now been resolved, although the Applicant noted there has been a request to amend Requirement 27 of the draft DCO which the Applicant does not see as a barrier to the section 135 consent being given. [Post-hearing note: MOD -Deadline 5 (D5) Submission [REP5-082]. There have been further discussions with the MOD since the hearing and the Applicant has now included the form of wording for Requirement 27 in the draft DCO (Revision J) [document reference 3.1] which the Applicant understand the MOD has submitted to the Examining Authority for Deadline 7.</p> <p>D. The Applicant confirmed in relation to the Department for Transport, who have delegated the section 135 consent to National Highways, that responsibility for progressing the section 135 consent has now been allocated to an individual at National Highways and the Applicant is continuing to chase for updates having not received any to date. The Applicant is working hard to secure agreement by Deadline 7 but cannot say for certain whether this will be the case.</p>

I.D.	Stakeholder Comment	Applicant Response
	Open space land	The Applicant confirmed in relation to the two Marriotts Way crossings that terms are agreed with both Norfolk County Council and Broadland District Council and legal representation has been instructed by both Councils.
	Unregistered land	The Applicant confirmed there is no update as to the ownership position of the unregistered parcels 01-009 and 01-010. The process of making the public aware of the hearings, including erection of site notices, has not led to any new information being shared in relation to ownership. If the owner is not identified then compulsory acquisition powers can still be relied on to take rights as necessary.
	Statutory undertakers	<p>A. The Applicant referred to previous discussions regarding the position with National Highways. [Post-hearing note: see agenda item 4 above]</p> <p>B. The Applicant confirmed there is a complex relationship with Orsted Hornsea Project Three and National Grid Electricity Transmission. Given the interactions with these statutory undertakers, those discussions are more complex. The Applicant is working with these entities to move matters forward. The Applicant remains hopeful that an agreed position will be reached but acknowledges there is a risk that will not be the case.</p>
	Landowner negotiations	<p>A. The Applicant confirmed in relation to negotiations for permanent rights with LIG that the Applicant is in the process of negotiating the draft option agreement which would then be rolled out to all LIG clients. The first draft of the option agreement was sent in November 2022 with the first response received from LIG on 1st March 2023. As discussed at Compulsory Acquisition Hearing 1 [Post-hearing note: see Written Summary of the Applicant's Oral Submissions at Compulsory Acquisition Hearing 1[REP3-113]], the Applicant had been encouraged by the response received and as a measure of this, the Applicant's response to LIG on 25th March 2023 asked only for clarification of their intentions for amendments made in respect of occupiers (something which the Applicant provided an explanation of their position on in the Q2.8.2.2 response in The Applicant's Responses to the Examining Authority's Second</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>Written Questions [REP3-101]), and aligned some amendments that had been made which conflicted with the signed heads of terms.</p> <p>B. The Applicant confirmed a further response was received from LIG on 20th June 2023 but given the timescales it had not yet been possible to review the drafting in detail and provide comments ahead of Compulsory Acquisition Hearing 2. The Applicant's initial review indicated that there are significantly more changes proposed in this second iteration that were not considered an issue in LIG's first response, some of which conflict with the signed heads of terms on items that were not included in any caveats accompanying signed heads of terms. The Applicant confirmed it will consider this and respond as soon as possible.</p> <p>C. The Applicant confirmed that in relation to certain LIG landowners, comments in written representations have been noted regarding caveats that accompanied signed heads of terms. These are acknowledged and the intention is that those caveats be discussed further and where agreeable implemented during the course of the option agreement negotiations. Some are relevant to the base option agreement whereas others can only be addressed within the documentation when the generic draft option agreement has been settled and Landowner specific option agreements are to be issued to the individual landowners.</p> <p>D. The Applicant confirmed in relation to some landowners which have not signed heads of terms, the Applicant continue to make contact with these landowners to see if anything has changed. The Applicant confirmed there is no change to the permanent rights which are being sought and which will form the substance of the voluntary agreements.</p> <p>E. The Applicant confirmed heads of terms have not been agreed with the Food Enterprise Park because given the width of the corridor it is not attractive to Food Enterprise Park to enter into an option over this wider area. Instead the parties are looking to formalise a working relationship going forward to ensure the sharing of latest designs and maintaining dialogue so that once FEP are comfortable with the</p>

I.D.	Stakeholder Comment	Applicant Response
		<p>SEP and DEP proposals, the parties can begin progress a voluntary agreement.</p> <p>F. The Applicant confirmed in relation to temporary working areas, the parties are a way apart in terms of the commercial expectations. The Applicant is looking to return comments shortly. The Applicant has been looking to amend the terms so that they can form part of the same option agreement as the deed of easement which will ensure consistent terminology throughout and expedite matters when it comes to solicitors being instructed.</p> <p>G. The Applicant reported that there is some positive news that agreement has been reached with the landowners in respect of the freehold acquisition of land for the substation on the heads of terms. Whilst the Applicant is currently awaiting a copy of signed heads of terms and the landowners' professional representative agreed that this news could be reported to the Examining Authority as follows: <i>"The Heads of Terms for the purchase of the substation site are in agreed form and I am instructed to sign them on behalf of 3 of the 4 landowners and the single party occupier. I am awaiting instruction from the 4th landowner who is currently away on holiday at this time, anticipated return is next week. My clients also wish to express their thanks to the Project Team for their approach to the negotiations, particularly in terms of area of land over which rights and reservations are taken, in order to make the deal work for the landowners and the occupier."</i></p> <p>H. The Applicant noted that whilst it did not appear to be the case that voluntary agreements will be concluded prior to the end of Examination it is the Applicant's intention to continue negotiations with a view to agreeing voluntary agreement and avoid the need to rely on compulsory acquisition powers. The Applicant confirmed the intention is that the draft option agreements once agreed will be rolled out to all land interests who have signed HOTs. The advantage of this is that it will hopefully lead to a high number of landowners signing up to voluntary agreements within a fairly short period of time.</p>

I.D.	Stakeholder Comment	Applicant Response
		<ul style="list-style-type: none"> I. The Applicant confirmed it is not normal for the Secretary of State to request an update on negotiations of voluntary agreements for applications like this. As such whatever progress has been made at the end of Examination is the basis on which the Examining Authority are expected to make their recommendation. The vast majority of developers would rather work under voluntary agreement rather than using compulsory acquisition powers and this is the Applicant's position. The Secretary of State normally makes a decision by considering the case for compulsory acquisition. J. In relation to a question regarding how signed statements of common ground will be submitted to the Examining Authority, the Applicant confirmed that in relation to statutory undertakers the normal process is for the agreed set of protective provisions to be included in the DCO and the relevant statutory undertaker will write into the Examination to confirm those are agreed. With regards to other parties, the form of statement of common ground is likely to be what in whatever form is considered the most appropriate by the relevant party and the Applicant will seek this confirmation on a case by case basis. The Applicant confirmed it would request the other parties write into the Examination attaching a copy of the signed statement of common ground with confirmation of agreement. K. In relation to a point raised by Jane Kenny in relation to landowner-specific matters to be covered in voluntary agreements, the Applicant confirmed it had understood that these matters would be agreed once the generic draft option had been distributed to all landowners. The Applicant confirmed it would consider whether this approach could be brought forward with discussions on landowner-specific point beginning prior to agreement on the draft option.