



Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects

The Applicant's Comments on Clive Hay-Smith and
Priory Holdings Limited's Deadline 7 Submission

Revision A

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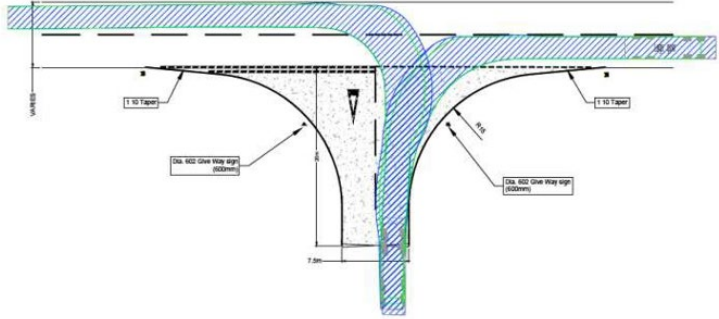
1 The Applicant's Comments on Clive Hay-Smith and Priory Holdings Limited's Deadline 7 Submission

1. This document presents the Applicant's comments on the submissions made on behalf of Mr Clive Hay-Smith and Priory Holdings Limited [refs: 20033312 and 20033311].

Table 1 The Applicant's Comments on Clive Hay-Smith and Priory Holdings Limited's Deadline 7 Submission [ref 20033312] and [ref 20033311]

ID	Clive Hay-Smith and Priory Holdings Limited's Comment	Applicant Response
1. STATEMENT ON NEGOTIATIONS (REQUESTED BY ExA)		
1	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.	No response required.
2	On 21st 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 7th July 2023. The latter email expanded on the issue relating to hedgerow protection at ACC05 (see 2.1 below).	The Applicant has provided a response to the Respondent via email on the 13th July 2023 to address these points.
3	To date the Applicant's agent has not responded substantively on these points.	
4	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.	<p>The Applicant confirms it has meaningfully engaged with landowners and occupiers over a four-year period and believes the record of engagement demonstrates the project has been promoted in good faith and a responsible manner.</p> <p>With regard to professional fees the Applicant confirmed at Compulsory Acquisition Hearing 2 (as set out within Written Summary of the Applicant's Oral Submissions at Compulsory Acquisition Hearing 2 [document reference 21.4]) 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 reasonable land agent fees on a voluntary basis both for landowners and tenants. The Applicant has therefore gone above what is legally required.</p> <p>The Applicant has already reimbursed in full the Respondent's previously appointed land agent costs up to the end of 2022. In respect of costs</p>

ID	Clive Hay-Smith and Priory Holdings Limited's Comment	Applicant Response
		<p>incurred by the Respondent's solicitor during the same period and all professional costs in 2023, the Applicant has not been made aware of the extent of professional costs incurred. The Applicant has requested a detailed breakdown with timesheets and is awaiting a response.</p> <p>With regard to consultation with the Respondent, Heads of Terms were first issued in May 2022.</p> <p>The Respondent appointed a new land agent on 12th January 2023 and since this date had maintained regular contact and engagement on Heads of Terms for a voluntary agreement.</p> <p>With regards to legal agreements with wider affected parties, the Applicant refers to The Applicant's Compulsory Acquisition Schedule (Revision D) [document reference 12.5] for the status of agreements to date.</p>
<p>2. COMMENTS ON ANY OTHER INFORMATION AND SUBMISSIONS RECEIVED AT DEADLINE 7</p>		
<p>2.1 Hedgerow Protection at AC055</p>		
5	<p>Mr Hay-Smith's concerns about damage to 350 meters 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:</p> <p>"The Applicant...is willing to progress discussions surrounding the access route with the Respondent."</p>	<p>As mentioned by the Respondent, the Applicant was unaware of the Respondent's concerns relating to impacts on hedgerows at this access until Deadline 4. Notwithstanding, as set out within The Applicant's comments on Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited Deadline 4 Submission [REP5-052] the route was selected on the basis that it is already used as an access. Further information on the mitigation and management of use of the access on the hedgerows is set out within both Mr Clive Hay-Smith, Mr Paul Middleton and Priory Holdings Limited Deadline 4 Submission [REP5-052] and The Applicant's Comments on Clive Hay-Smith, Paul Middleton and Priory Holdings Limited Deadline 6 Submission [document reference 21.9].</p> <p>The Applicant also responded to the Respondent on 13th July 2023 with regards to the access at AC055.</p> <p>The Applicant would like to clarify that 'outline' access designs are provided within Annex 30 of the Transport Assessment [APP-269]. These plans are outline access design concepts and it has been agreed with Norfolk County Council (as the local highway authority) that these designs will be developed</p>

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	<p>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.</p>  <p>Figure 1 - Outline Design 'Type A' Accesses. Outline Construction Management Plan, Annex B</p>	<p>further prior to the commencement of construction (secured by Requirement 16 of the draft DCO (Revision K) [document reference 3.1]). The Applicant acknowledges that the plan in Annex 30 shows the access concept terminating at a width of 7.5m. However, the Applicant would like to clarify that this is not a rigid design and would need to be developed with regard to the local context/environment. With specific regard to ACC005, to the south of the A149, the access design would be developed to ensure that the width of the access narrows to stay within the bounds of the existing access track (i.e. between the hedges) and conflicting traffic movements along the access track managed with appropriate traffic management measures.</p> <p>It is not currently proposed to amend the application to accommodate any alternative access proposed. However, as mentioned in previous responses, the Applicant is willing to progress discussions surrounding the access route with the Respondent.</p>
6	<p>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</p> <p>"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".</p>	<p>The Applicant will continue to engage and maintains ACC05 is suitable for the proposed use as mentioned under agenda item 5.ii at Compulsory Acquisition Hearing 2 and as outlined in the Written Summary of the Applicant's Oral Submissions at Compulsory Acquisition Hearing 2 [document reference 21.4] at I.D. 5.ii.E.</p>

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	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		
7	<ul style="list-style-type: none"> 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. 	<p>As stated above, the Applicant continues to request further information on the extent of professional legal costs incurred.</p> <p>The Applicant confirms that land agent costs incurred by the Respondent have been reimbursed in full up to the end of 2022. In January 2023 the Applicant was informed that the Respondent had instructed a new land agent, whose details of costs to date have been requested by the Applicant.</p>
3.1 Mark Warnett on behalf of Clive Hay-Smith and Priory Holdings Ltd		
8	<p>Blight</p> <ul style="list-style-type: none"> 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. 	<p>The Applicant responded directly on the point of statutory and general blight at Compulsory Acquisition Hearing 2, a summary of which is provided at ID 5.ii.A of the Written Summary of the Applicant's Oral Submissions at Compulsory Acquisition Hearing 2 [document reference 21.4].</p> <p>The Applicant also refers to The Applicant's Comments on Clive Hay-Smith and Priory Holdings Deadline 6 Submission [document reference 21.9].</p>
9	<p>Concurrent Working (Scenario 1d)</p> <ul style="list-style-type: none"> 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. 	<p>The Applicant refers to ID 5.ii.B and C of the Written Summary of the Applicant's Oral Submissions at Compulsory Acquisition Hearing 2 [document reference 21.4] and to The Applicant's Comments on Clive Hay-Smith and Priory Holdings Deadline 6 Submission [document reference 21.9] which respond to these points and clearly set out the Applicant's position.</p>

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	<ul style="list-style-type: none"> 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. 	
10	<p>Alternative Dispute Resolution (ADR)</p> <ul style="list-style-type: none"> 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'. 	<p>The Applicant notes that paragraph 27 of the 'Planning Act 2008: Guidance related to the procedures for the compulsory acquisition of land' does not stipulate that Applicants must use ADR and put in place formal ADR policies etc rather it urges Applicants to consider using ADR and the Applicant has confirmed its willingness to do so. The Applicant refers to ID 5.ii.D of the Written Summary of the Applicant's Oral Submissions at Compulsory Acquisition Hearing 2 [document reference 21.4] and to The Applicant's Comments on Clive Hay-Smith and Priory Holdings Deadline 6 Submission [document reference 21.9].</p>