

Rt Hon Clare Coutinho MP
Secretary of State for Energy Security and Net Zero

By email only:

@parliament.uk


14th November 2023

Dear Secretary of State

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

Letter of behalf of Priory Holdings Ltd and Mr Clive Hay-Smith

You are currently considering whether to authorise development consent for the above Application. The Application is to extend two off-shore wind farms, with associated on-shore electricity connections (the 'Developments').

My client, Priory Holdings Ltd and its sole owner Mr Hay-Smith are occupier-owner of , an all-arable, family farm of approximately 600 acres located in the North Norfolk Coast Area of Outstanding Natural Beauty (AONB). As with the original on-shore cable routing undertaken by the same Applicant some 12 years ago, my client's farmland would be significantly affected by the Developments. The proposed on-shore cable route bisects the farm, with key areas of productive farmland subject to compulsory and temporary acquisition. The affected farmland also includes sensitive environmental receptors, including a chalk stream (a globally rare habitat) and mature trees/hedgerows.

Although my client supports the principle of the Application and the development of off-shore wind power to deliver low carbon electricity, he has serious, and unresolved, concerns about the associated environmental and property impacts as follows:

- i. Development Scenarios: the uncertainty and adverse effects created by multiple 'Development Scenarios' sought in the Application. In particular 'Scenario 1', where the Developments would be constructed independently of each other, for either
 - a. Sequential construction of separate Developments; meaning land would be affected by temporary possession (or the threat of this) following the DCO being consented.
 - b. Concurrent construction of the Developments, as wholly separate projects i.e. with two sets of different contractors working independently, on the same land at the same time.

This creates obvious uncertainty for any affected landowners, and either case is likely to be associated with significant adverse financial and operational impacts on rural businesses.

- ii. Chalk Stream: potential impact of the Developments on a chalk stream (Spring Beck), a globally rare habitat and 'ark' site for a project to reintroduce native crayfish, a species at high risk of extinction. The crayfish were released just last week and more information is available on the following link: [Banham Zoo release endangered crayfish into North Norfolk stream - BBC News](#)

- iii. Hedgerows; risk to loss of established hedgerow for a main construction access (which is avoidable by use of land immediately adjacent, available and offered by my clients)

The purpose of writing to you is to provide an update on the status of unresolved negotiations with the Applicant in the context of my client's concerns about these environmental and property impacts. These points were raised during my client's personal attendance at, and written submissions to, the Planning Inspectorate during the DCO Examination.

It should also be noted that, as a non-statutory consultee, and in order to protect his interests, my client has been obliged to instruct and fund years of professional advice, both prior and subsequent to the DCO process without any reimbursement of fees or recourse to the Applicant.

Use of Compulsory Acquisition as a last resort

Relevant to your decision as the confirming authority, is the question as to whether or not there is a compelling case in the public interest to approve the draft Order, including consideration of whether or not the Applicant has taken reasonable steps to acquire all of the land and rights by agreement, using compulsory acquisition only as a last resort.

My client considers it particularly important for this DCO that the Applicant reaches agreements that mitigate property specific environmental impacts which may be exasperated by the Development Scenarios, as described above. This issue may have been addressed in the Planning Inspectorate's report.

At the conclusion of the DCO Examination, agreement had not been reached with my clients nor with over 100 other affected landowners/tenants (according to the Applicant's 'Compulsory Acquisition Schedule' submitted 17th July 2023). Nearly four months later, agreement has still not been reached with my client and I understand this remains the same for the other landowners/tenants.

This is unusual for a DCO application of this type, where typically much of the land and rights are acquired by agreement. It speaks, in my client's experience, to the Applicant's unwillingness to negotiate changes to their standard terms, in order to mitigate property-specific adverse impacts. For example the Applicant has recently declined invitations to meet to inform detailed design and discuss my client's offer of alternative access land that would avoid the risk of mature hedgerows needing to be removed. The Applicant has also declined to have regard to my client's reasonable representations relating to their on-shore cabling designs for crossing the environmentally sensitive Spring Beck chalk stream. My client believes this reflects the Applicant's absolute confidence that the DCO will be approved without the need for any compromise or further engagement with affected stakeholders.

My client asks that you consider this issue in reaching your decision. If you are minded to authorise the Application, he requests that you include in your decision an expectation that the Applicant continues to negotiate and uses all reasonable endeavours to reach agreement with landowners regards measures to mitigate environmental and business impacts of the Developments.

Use of Alternative Dispute Resolution (ADR)

Also relevant to whether or not the Applicant has made reasonable endeavours to use compulsory acquisition as a last resort, is the availability of ADR. Government guidance states (my emphasis):

*"In the interests of speed and fostering good will, applicants are urged to consider offering full access to alternative dispute resolution techniques for those with concerns about the compulsory acquisition of their land. These should involve a suitably qualified independent third party and **should be available throughout the whole of the compulsory acquisition process, from the planning and preparation stage to agreeing the compensation***

payable for the acquired properties. For example, mediation might help to clarify concerns relating to the principle of compulsorily acquiring the land”

In this case, ADR has not been made available during the planning and preparation stage; if it had, the issues of concern noted above may have been resolved. The Applicant has also not committed to adopting ADR in any compensation dispute, saying instead that they would ‘consider’ it.

In the context of the Scenarios described above, it is likely the Developments will have complex impacts on rural businesses over a period of several years, potentially with different contractors on-site at the same time. In my experience, ADR is an effective and cost efficient way of resolving disputes which had appeared intractable. My client considers that there is a particular need for ADR to be available for this scheme, so that any disputed compensation claims arising from the complexity of the different Development Scenarios, can be settled affordably and fairly in the interests of all parties.

My client is therefore encouraged by the recent enactment of the Electricity Transmission (Compensation) Act 2023 (the ‘Act’) which will ensure that Alternative Dispute Resolution (ADR) processes for determining compensation, are available to landowners without undue difficulty or expense. I understand and assume that the Act will apply to the Application if the Order is confirmed, as it would be an Order made under S.114 of the Planning Act 2008, authorising the acquisition of land for a purpose connected with the transmission of electricity.

Mr Hay-Smith would therefore be grateful for you to confirm:

- a. That the Act will apply to the Application if the draft Order is authorised (being an application for an off-shore wind generating station and connecting electricity transmission systems)
- b. That the ADR procedures, when introduced, will be binding, and not a discretionary process, or one limited to ‘guidance’ only.

Spring Beck Chalk Stream

Mr Hay-Smith is working in partnership with the Norfolk Rivers Trust, the Environment Agency and the Coca Cola Foundation for the ‘Spring Beck Water Framework Directive Local Catchment Plan’, including a programme of ecological improvement and ark site for the release of native crayfish. Spring Beck is a chalk stream, a globally rare habitat, forming part of a wider connecting network of watercourses and a wildlife corridor for many migratory bird and bat species. The stream already provides habitat for water voles and European eel, both of which are protected and endangered species.

I understand that the development will require multiple HDD crossings under Spring Beck (and other affected chalk streams and watercourses). The Applicant has proposed to undertake a site specific risk assessment as part of the *post-consent* design process to address the risk of bentonite breakout causing ecological damage in the HDD crossing. My client considers greater safeguards are appropriate, addressing all potential risks, given the ecological significance of Spring Beck as one of only 200 such chalk stream habitats globally.

‘The Norfolk Vanguard Offshore Wind Farm Order 2022’ contains a requirement that design for crossing affected watercourses must be consulted with a wider group of relevant stakeholders:

Watercourse crossings 25.—(1) No stage of the onshore transmission works involving the crossing, diversion and subsequent reinstatement of any designated main river or ordinary watercourse may commence until a scheme and programme for any such crossing, diversion and reinstatement in that stage has been submitted to and, approved by the relevant planning authority in consultation with Norfolk County Council, the Environment Agency, relevant drainage authorities and Natural England.

My client requests that if you are minded to authorise the Order, a reasonable and proportionate mitigation to protect rare and sensitive chalk stream is a modification to the draft order to include a requirement replicating Requirement 25 of the Norfolk Vanguard Order, and such other protections as required to ensure the environmental integrity of such globally rare habitat.

Conclusion

Please would you give your consideration of the matters above, and specifically:

- a. To consider whether compulsory purchase is being used as a last resort, and if you are minded to authorize the draft Order, to include a firm expectation that the Applicant continues to negotiate and uses all reasonable endeavours to agree property specific mitigation measures.
- b. To confirm that, if the Application is authorised, the ADR measures in the Electricity Transmission (Compensation) Act 2023 will apply to the Order and that any ADR procedures will be binding and not just advisory
- c. To include in the Order additional measures appropriate to ensure the protection of chalk streams and rivers, including an equivalent to Requirement 25 from the 'The Norfolk Vanguard Offshore Wind Farm Order 2022'; in order to protect globally rare chalk stream habitats such as Spring Beck.

I look forward to your full and careful consideration of these points during your ongoing deliberation and thank you for attention.

Yours sincerely



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Director

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Cc Clive Hay-Smith
Rt Hon Duncan Baker MP for North Norfolk