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Fosse Green Energy Limited
c/o Ms Harling-Phillips,
Womble Bond Dickinson UK LLP

Your Ref:

Our Ref: EN010154

By email

Date: 22 August 2025

Dear Ms Harling-Phillips,

Application by Fosse Green Energy Limited for an order granting development consent for the Fosse Green Energy

Planning Act 2008 – section 89(3)

Procedural decisions following the acceptance of the application for examination

Following the acceptance of the application for this proposed development for examination on 15 August 2025 [\[PD-001\]](#) and the Examining Authority's (ExA) appointment (22 August 2025), the ExA concluded that there are some matters which require resolution at the outset of this pre-examination period and other matters requiring clarification by the applicant prior to the commencement of the examination. The ExA has therefore made the following procedural decisions pursuant to section (s) 89(3) of the Planning Act 2008 (PA2008) relating to the following matters.

1. Application document updates

With respect to the revisions to be made to the documentation identified below, those documents **MUST** be submitted to the Planning Inspectorate for publication on the Find a National Infrastructure Project website **at least two weeks** prior to notice being given by the applicant under s56 of PA2008 of the application's acceptance and the starting of the period for submitting relevant representations. References to the submitted application documents use the Examination Library's references that have been allocated to those documents following the applications acceptance, for example [\[APP-001\]](#).

a) Plans in submitted Volumes 2, 6.2 and 7 – General

Plans submitted within Volume 2 or as part of either Volume 6.2 (figures forming part of the Environmental Statement [ES]) or 7 (management plans) variously include limited background mapping information relating to settlement, road/street and property names. For example the map bases for plans within the Works Plan [\[APP-008\]](#) do not have any place, road/street or property naming across the entirety of the 16 sheets within this plans document. As highlighted in the s51 advice letter

[PD-002] accompanying the decision to accept this application for examination the noise receptor and monitoring locations shown on ES Figure 11-1 [APP-099] are not readily identifiable because of the very limited contextual information included on Figure 11-1's map base and the scale this figure has been drawn at.

The limited availability of background mapping information in some instances, such as the Works Plans, makes it very difficult to contextualise the proposed Order Limits relative to their surroundings. This was a matter that was raised by the Planning Inspectorate when it issued its s51 advice on 13 June 2025 in respect of the draft application documents submitted by the applicant on 14 May 2025.

The ExA considers that revised plans and figures incorporating improved map base information **must** be submitted to aid the interpretation of the information depicted on the plans and figures included in Volumes, 2, 6.2 and 7 of the application documents.

As part of the process of revising the map base details shown on the plans included in the Volume 2 documents, the applicant is urged by the ExA to increase the number of sheets within each set of plans. That would enable the extent of the Order Limits shown per sheet to be reduced and more contextual information relating to the proposed development's surroundings to be included.

b) Format of Plans and Figures – Volumes 2 (Plans) and 7 (Management Plans and other documents)

The s51 advice included in [PD-002] draws attention to difficulties the Planning Inspectorate encountered during the acceptance period when opening and then seeking to review the content of some of the plans and figures included in Volumes 2 and 7 of the submitted application documents. That is because the affected documents have been issued with plan layer rendering. In some instances, because of the individual file sizes (between 20 and 60 megabytes), when multiple plan sets were opened there was a loss of device memory, in effect making the plan sets or management plans unusable.

The applicant **must** therefore submit new versions of the Volume 2 and 7 documents, as necessary, which avoid the rendering issues encountered during the acceptance period. The new versions of the documents to be submitted must be of a standard that will enable multiple documents to be opened on a computer and used concurrently.

c) Proposals for land rights powers (compulsory acquisition (CA) and/or the taking of temporary possession (TP)) and the depiction of those powers on the Land Plans [APP-007] and their referencing in the dDCO [APP-016], the Explanatory Memorandum (EM) [APP-019] and the Statement of Reasons (SoR) [APP-020]

The ExA notes that the applicant is seeking TP powers under Articles 29 and 30 of the dDCO, as explained in section 2 of the EM and section 5.4 of the SoR in connection with the construction and operation of the proposed development. In that regard it is stated in paragraph 5.4.1 of the SoR that “... *The Applicant is seeking temporary use powers over all land within the DCO Site in order to allow it to take temporary possession ahead of acquiring land or rights permanently ...*”. It is

further stated in paragraph 5.4.2 of the SoR that *“The reason for seeking temporary use powers over land shaded pink or blue is that it allows the Applicant to enter on to land for particular purposes (including site preparation works) in advance of any vesting of the relevant land/rights. This enables the Applicant to only compulsorily acquire the minimum amount of land and rights over land required to construct, operate and maintain the Proposed Development”*.

However, the submitted Land Plans only make reference to the CA of freeholds or leaseholds (coloured pink) or rights acquisition or extinguishment etc (coloured blue) and the Land Plans make no reference to the proposed TP of land, notwithstanding the intent under the provisions of Articles 29 and 30 of the dDCO. Appendix A (final item on page 14) of the letter accompanying the application’s submission (the covering letter) [APP-001], in responding to pre-application advice given by the Planning Inspectorate, contradicts what is stated in the SoR in stating *“There is no temporary acquisition sought, therefore temporary acquisition of land plots is not listed in the key or plans”*. Given the inclusion of Articles 29 and 30 in the dDCO and what is stated in the SoR, it appears that the applicant is seeking TP powers and that the reference made in the covering letter to no TP powers being sought is erroneous.

The applicant **must** therefore clarify whether it is or is not seeking TP powers as part of its proposals. Presuming TP powers are being sought, based on what is shown on the Land Plans [APP-007], Works Plans [APP-008], Street, Rights of Way and Access Plans [APP-009] and Traffic Regulation Measures Plans [APP-010] it is unclear to the ExA why parts of the Order Limits, most particularly some sections forming part of the public highway, have been identified for the CA of rights on the Land Plans. That is because much of the public highway that has been identified for the CA of new rights or the imposition of restrictive covenants would appear to be needed for the undertaking of works requiring the TP of the highway and may not need the exercising of CA powers.

For example, the majority of Fosse Lane, Thorpe on the Hill has been identified on the Land Plans as being subject to proposals for the CA of new rights or the imposition of covenants. However, the Street, Rights of Way and Access Plans (Sheet 2) show it is intended that a mixture of permanent and temporary street works are proposed (forming part of proposed Work Nos 8A or 8B as shown on the Works Plans). Those works would largely coincide with a section of the public highway that it is proposed would be subject to temporary signal or banksman controls (as shown on Sheet 2 of the Traffic Regulation Measures Plans).

The applicant should review its CA proposals, particularly as they relate to the public highway, and confirm whether or not all of the CA powers sought have been correctly identified on the Land Plans and within the Book of Reference (BoR) [APP-022]. Any errors relating to the identification of the proposals for the CA of land, as shown on the submitted Land Plans and within the BoR, **must** be corrected.

The applicant **must** add notations to the Land Plans indicating which parts of the Order Limits it is intended would be subject to: TP powers alone; TP powers with the compulsory acquisition of freeholds or leaseholds; or TP powers with the compulsory acquisition of rights and/or the imposition of covenants. The BoR

should also be amended, as necessary, to address any clarifications to be made with respect to the seeking of TP powers with or without the exercising of any of the compulsory acquisition powers sought.

d) Funding Statement [[APP-021](#)]

Paragraph 1.4.1 of the submitted Funding Statement asserts, rather than demonstrates, that the applicant companies have the financial standing to fund the proposed development. That is because within the Funding Statement no details of the worth of either of the companies comprising the applicant have been provided. Additionally, no estimate of the costs associated with the compulsory acquisition powers sought has been identified in the submitted Funding Statement.

Accordingly, an amended version of the Funding Statement **must** be submitted which provides information about the applicant companies financial standing, including as an appendix a copy or copies of the applicant company's or constituent companies' annual accounts. The amended version of the Funding Statement must also include an estimate of the costs for exercising the compulsory acquisition powers being sought as part of the submitted application.

e) Appendix 14-D of the ES - Glint and Glare Assessment Parts 1, 2 and 3 [[APP-171](#) [APP-172](#) and [APP-173](#)]

The Glint and Glare Assessment (GGA) is an extraordinary long appendix within the ES and it has been divided randomly into three parts of: 1,768; 2,522; and 1,182 pages (approaching 5,500 pages in total). Although contents pages have been included in Part 1 [APP-171] they provide very little assistance in locating where the numerous appendices within the GGA can be found. The contents page on electronic pages (e-page) 207 to 210 (paginated as pages 185 to 188) in [APP-171] includes no page numbering. As an example of the difficulty in negotiating the GGA, in [APP-171] Appendix BA appears to commence on e-page 211 and end on e-page 360. However, without title pages it is not readily apparent where Appendix BA ends and Appendix BB begins, not least because the header (title) at the start of Appendix BA is not the same as the title for Appendix BA cited on e-page 207. Appendix title pages have been very sparingly used amongst the GGA's appendices and the use of pagination is sporadic, with some of the appendices having been paginated, albeit that pagination is internal to the appendix in question rather than the totality of the GGA.

The ExA therefore considers that the submitted GGA has been poorly presented and is currently of limited utility. That is because the primary assessment (e-pages 1 to 188) in [APP-171] relies so heavily on making use of the GGA's appendices, with the latter being very difficult to locate.

The applicant **must** therefore resubmit a version of the GGA that is fully and accurately paginated so that the contents pages are meaningful and this document's appendices can easily be navigated. Each appendix must have its own title page and any the subdivision of the GGA into parts should be undertaken on a logical basis, avoiding individual appendices being split between parts. The resubmitted GGA should also include a list of abbreviations relating to both the main report as well as its appendices.

2. Protective Provisions (PPs) and Statements of Common Ground (SoCG)

At paragraph 9.3.6 of the SoR [APP-020] it is stated that the applicant is seeking to negotiate sets of bespoke PPs in favour of Network Rail, Cadent Gas, Anglian Water, National Grid Electricity Transmission, British Pipelines Agency, National Highways and potentially with other unnamed parties. Schedule 14 of the draft Development Consent Order (dDCO) [APP-016] currently only contains two sets of generic PPs for the protection of: electricity, gas, water and sewerage undertakers (Part 1); and the operators of electronic communications code networks (Part 2).

Noting the applicant's intention to negotiate sets of bespoke PPs with various undertakers and having regard to past experience with respect to the length of time it can take to conclude PPs negotiations, the ExA has made the procedural decision that bespoke PPs, whether agreed or partially agreed, **must** be available for inclusion in the dDCO by a deadline that will be specified in the Examination Timetable. Although the precise date for the inclusion of agreed or partially agreed PPs into the dDCO is currently unknown, the applicant and other interested parties seeking affected PPs should note that **the ExA will be expecting agreed or partially agreed bespoke PPs to be available without fail for incorporation into the dDCO no later than around what will be the MIDPOINT for the examination** (the midpoint). The midpoint's date will be determined following the holding of the preliminary meeting, pursuant to s88 of PA2008 and the ExA's confirmation of the Examination Timetable. The ExA wishes to have sight of the agreed or partially agreed PPs at the midpoint so that there is clarity about what is or is not agreed between the applicant and the other interested parties seeking PPs in their favour while there would still be sufficient examination time remaining for the ExA to further examine any remaining areas of disagreement.

With respect to the preparation and submission of SoCGs, the ExA has made the procedural decision that **final and signed SoCGs should also be available for submission at the midpoint**. The reason for this procedural decision is similar to that for the submission of PPs.

3. Clarification with respect to the assessment of the proposed development's cable corridor effects

The ExA notes from its initial reading of the submitted ES that the assessment of the proposed cable corridor, as opposed to what the applicant has described as the "principal site" has been partial. The ExA therefore requests that the applicant clarifies which of the chapters included in the ES provide an assessment of the proposed development's effects for the entirety of the Order Limits and those topics for which a partial assessment (principal site only) has been undertaken. The ExA requests that the clarification sought is provided in a tabular form. In the case of any topics for which only a partial assessment has been reported upon in the submitted ES, the applicant should explain: why that has been the case; when it is intended that any partial assessments will be concluded; and at what stage that additional assessment information would be available for consideration.

This requested clarification should be submitted by the applicant prior to the notification of the application's acceptance for examination being made under s56 of PA2008.

4. The location of the Witham Valley Country Park relative to the proposed development

Various application documents refer to the Witham Valley Country Park, however, the location of that park relative to the Order Limits is not shown on any of the submitted plans or figures. The applicant is therefore requested to submit a plan showing the location of the Witham Valley Country Park relative to the Order Limits prior to notice being given under s56 of PA2008.

5. Biodiversity Net Gain Report [[APP-194](#)]

The BNG Report, amongst other submitted documents, advises that the applicant is committed to the proposed development delivering a minimum of: 30% BNG for habitat units; 50% BNG for hedgerow units; and 10% BNG for watercourse units, notwithstanding the legislative requirement (when in force) to achieve a minimum of 10% BNG. Those commitments are intended to be secured through the provisions of Requirement 8 in Schedule 2 of the dDCO.

The application documents, most particularly the BNG Report, do not explain how the minimum commitments for the BNG habitat and hedgerow units have been derived. Given those commitments potentially have implications for the amount of land subject to the CA powers sought by the applicant, the ExA has made a procedural decision requesting the applicant to clarify how its minimum commitments to 30% BNG for habitat units and 50% BNG for hedgerow units have been derived. The requested clarification should be provided by the applicant at the earliest opportunity.

The timely receipt of the above mentioned updated documentation and clarifications is essential to ensure all persons with an interest in the application (statutory consultees, interested parties and affected persons) will have the opportunity to make relevant representations based on evidence that is readily accessible and comprehensively describes the proposed development.

Failure to submit the requested updated documentation, in particular, by the deadline stated above may have implications for the setting of a date for the preliminary meeting and the subsequent opening of the examination for the proposed development.

If you have any queries on these matters, please do not hesitate to contact our office using the contact details at the head of this letter.

Yours sincerely,

Grahame Gould

Grahame Gould
Lead panel member for the Examining Authority