

Submission ID: S941233F7

The uploaded response constitutes the Environment Agency's Deadline 1 response in relation to the following matters:

1. Written Representations
2. Post-hearing submissions including written submissions of oral cases and responses to any hearing action points arising from Issue Specific Hearing 2 (ISH2) Development Consent Order Matters (Thursday, 8 January 2026)
3. Comments on any additional submissions received

Planning Inspectorate

[via PINS portal]

Our ref: XA/2026/100516/01-L01

Your ref: EN010154

Date: 20 January 2026

Dear Sir/Madam

Fosse Green Energy – Development Consent Order Application

Land approximately 9km south and south west of Lincoln

Deadline 1 (20 January 2026)

This response constitutes the Environment Agency's Deadline 1 response in relation to the following matters:

1. Written Representations
2. Post-hearing submissions including written submissions of oral cases and responses to any hearing action points arising from Issue Specific Hearing 2 (ISH2) Development Consent Order Matters (Thursday, 8 January 2026)
3. Comments on any additional submissions received

1. Written Representations (WR)

We have no further issues to add to those raised in our Relevant Representations (RR) [RR-089]. As such, our WR comprises an update on progress made with the Applicant in resolving our RR issues.

The Applicant has satisfactorily engaged with us in relation to the RR issues we raised, through the first draft Statement of Common Ground (SOCG) and separately on matters relating to the disapplication of the requirement or Flood Risk Activity Permits (FRAPs) and other draft Development Consent Order (dDCO) matters, and the water resources assessment.

Please refer to Appendix 1 for a summary of our position and what we expect following the submission of revised/additional documents from the Applicant at Deadline 1.

2. ISH2 post-hearing summary comments and response to action point 1

2.1 Summary of comments made in ISH2

Agenda item and topic	Environment Agency comments
3.1 Discussion of the draft Development Consent Order (dDCO), involving the applicant and other interested parties (IPs)	<p>The Environment Agency provided a brief comment that we were satisfied with progress being made on resolving the dDCO-related issues we raised in our RR [RR-089]. Of the five issues we raised only one remained where we had not had a response from the Applicant, which was regarding the disapplication of the Water Resources Act 1991 byelaws.</p>
3.2 Battery energy storage system (BESS) safety management	<p>The Environment Agency commented in relation to those made by the Applicant on the penstock valves to ensure the capture of contaminated firewater. We highlighted that we had requested further details from the Applicant on this matter (which relates to our RR [RR-089] issue EA16).</p> <p>We are still in discussion with the following provision of additional detail in the draft SOCG. Some details are missing from that. We restated our position in ISH2 that the trigger for the penstock valve closing automatically needs to be confirmed, that we requested that there should be a manual closing option if required, and we request to see a maintenance plan for the penstock valve to ensure it can continue to be used at all times.</p> <p>Regarding the testing, we commented that progress had been made with the Applicant. In the draft SOCG, we are aware that our recommendations on the testing and methodology are going to be added into the Framework Battery Safety Management Plan (BSMP) and we understand the revised version will be submitted into the examination at the next deadline (i.e. Deadline 1). As it stands, we haven't reviewed any updated Framework BSMP.</p> <p>In response to the ExA's question about how the discussions are progressing and whether the Environment Agency consider an agreed position can be reached, we comment that regarding testing, we consider this can be resolved during the examination period. We mentioned that we have not had further discussion about the penstock. For other drainage aspects, such as the lining of the swales, we are largely satisfied with progress on that and note there is a related question [WE.1.03] in the ExA's first written questions.</p> <p>We also commented on waste batteries in relation to how they are going to be swapped out and where they are going to be stored prior to removal to permitted sites</p>

	<p>for treatment and onward recycling. Our understanding is that the original proposal was for the batteries will be swapped out and removed from site on the day of the removal, but the position has now changed, and there is going to be a banded area where waste batteries will be stored and collected, presumably by the waste company, in the fullness of time, and this area will be monitored for fire detection purposes, either by CCTV or some sort of automatic system. We then queried how far away the response team would be in the event of a waste battery fire.</p> <p>We mentioned that the regulation of BESS sites is being considered, and whether the Applicant was considering any measures to future proof the site. We also mentioned Environment Agency fire prevention guidance, and a requirement for 4 metre gaps between containers and a four-hour water supply. The comment was made in the context of distributed BESS, but we were referring to waste batteries. We advised that we would follow up on this point with the Applicant and provide further clarification. Please refer to our comments in response to ISH2 action point 1 in 2.2 below.</p>
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2.2 Response to action point 1 from ISH2

Action point 1 – Environment Agency: *Submit a note of the standards/policies relating to regulated waste facilities that the agency considers should be applied to the proposed development.*

Environment Agency comments:

We wish to clarify the comments we made in ISH2 in relation to agenda item 3.2 concerning the BESS.

While we recognise that potential permitting requirements cannot be imposed pre-emptively, and that planning decisions cannot assume the BESS will be regulated, the developer would be advised to follow the latest guidance to avoid potential issues in the future. Regarding the distances between BESS units, we would defer to the National Fire Chiefs Council (NFCC) guidance and Lincolnshire Fire and Rescue Service (LFRS).

In relation to waste battery storage, while we recognise that a separate waste permit would not be required, as this is waste stored at the site of production, requirements for temporary storage where waste is produced applies (NWFD 2 exemption): [Temporary storage where waste is produced \(NWFD 2 exemption\) - GOV.UK](#)

In line with '11.1 Separation distances' in [Fire prevention plans: environmental permits - GOV.UK](#) guidance, we request 6 metre separation between other development, to minimise the spread of fire within the site and to neighbouring sites, and that the battery storage area is on an impermeable lining and how the batteries are stored should have measures in place to prevent contaminated run-off water/fire

water impacting surface and ground waters, which could otherwise have Water Framework Directive (WFD) implications (for example, covered storage or bunded storage). This should also be included in the fire safety protocols for the site, including a fire watch.

Our comment made during ISH2 in relation to the BESS safety management referring to 4 metre separation was in error and should have been 6 metres, as mentioned above. Regarding the four-hour water supply comment, this was in reference to the guidance stating that fire suppression systems must enable a fire to be extinguished within four hours.

We have followed this up with the Applicant through our comments on first draft SOCG.

3. Comments on additional submissions

9.1 Statement of Common Ground Position Statement [AS-124]

We wish to comment that this document did not necessarily align with our position on the resolution of the issues we raised in our RR [RR-089] at the time. Due to time constraints, the Applicant did not consult us on this document before submission to the ExA. However, since the submission of that document, the Applicant has engaged with us further on resolving our RR issues, mainly through the first draft SOCG. Furthermore, our latest position is reflected in our update as provided in Appendix 1 of this letter. Overall, we are satisfied that most of the issues are progressing well toward a timely resolution.

We trust this advice is useful.

Yours faithfully


Planning Specialist - National Infrastructure Team

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Appendix 1 – Summary of Environment Agency (EA) position on issues raised in Relevant Representation [RR-089]

Appendix 2 – Summary of overall Environment Agency position

Appendix 1 – Summary of Environment Agency (EA) position on issues raised in Relevant Representation [RR-089]

EA RR ID	Issue	Topic(s)	EA position at D1
EA01	Requirement 10 (Surface and foul water drainage)	Surface water quality; groundwater and contaminated land; dDCO	<p>‘Agreed’ in principle.</p> <p>The Applicant has informed us (via email and in the first draft SOCG) that the dDCO will be updated to include the Environment Agency as consultee on the discharge of Requirement 10. We welcome this inclusion. Subject to a satisfactorily updated dDCO being submitted into the examination, we will be able to confirm this issue ‘Agreed’ at the next relevant deadline.</p>
EA02	Permitted Preliminary Works	Groundwater and contaminated land; dDCO	<p>‘Agreed’ in principle.</p> <p>The Applicant has proposed (via email in the first draft SOCG) to update the dDCO wording of Requirement 12 to ensure that remedial works are undertaken in line with an approved Construction Environmental Management Plan (CEMP). Subject to a satisfactorily updated dDCO being submitted into the examination, we will be able to confirm this issue ‘Agreed’ at the next relevant deadline.</p>
EA03	Discharge of Requirements procedure	dDCO	<p>‘Agreed’ in principle.</p> <p>The Applicant has provided a satisfactory response to us on this issue (via email). We are satisfied with the proposed wording to include a suitable provision to allow sufficient time for us to respond to the discharging authority on consultations for discharge of DCO Requirements. Subject to a satisfactorily updated dDCO being submitted into the examination, we will be able to confirm this issue ‘Agreed’ at the next relevant deadline.</p>
EA04	Disapplication of flood risk activity permits (FRAPs)	Flood risk; dDCO	<p>‘Agreed’ in principle.</p> <p>The Applicant has informed us that they are no longer seeking the disapplication of the FRAPs, and</p>

			<p>that Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016 in respect of a flood risk activity (Article 6(1)(e)) will be removed from the dDCO.</p> <p>Subject to a satisfactorily updated dDCO being submitted into the examination, we will be able to confirm this issue 'Agreed' at the next relevant deadline.</p>
EA05	Disapplication of Water Resources Act 1991	dDCO	<p>Remains 'Under Discussion'.</p> <p>The Applicant has not yet provided a response to us on this issue, but they have mentioned it is still under consideration. This was acknowledged by the Applicant's representatives in Issue Specific Hearing (ISH) 2 on 8 January 2026.</p> <p>However, given that the Applicant has stated that the disapplication of the requirement for FRAPs is no longer being pursued and that Article 6(1)(e) is being removed from the dDCO, we request that Article 6(1)(d) is now be removed. This because we do not agree to disapply the Water Resources Act 1991 in relation to byelaws without also agreeing to disapply the requirement for FRAPs and therefore the inclusion in the dDCO of our protective provisions.</p>
EA06	Environment Agency land interests	Land interests	<p>'Agreed'.</p> <p>The Applicant has acknowledged our comments concerning our land interests and we are satisfied they will engage with our relevant Estates team as appropriate.</p>
EA07	Witham Washlands (Lincoln) Flood Storage Area – HDD construction compound	Flood risk	<p>Remains 'Under Discussion'.</p> <p>The Applicant has provided a response to this issue in the first draft SOCG. We are still reviewing the response internally at this time and will respond to the Applicant at the earliest opportunity. We will provide an update to the</p>

			Examining Authority (ExA) at the next relevant deadline.
EA08	Flow direction of main rivers	Fisheries	Remains 'Under Discussion'. The Applicant has not yet responded to us on this issue and has not been included in the first draft SOCG. We assume this to be an oversight. We also note there is a question in the ExA's First Written Questions (ExQ1) on this matter (question ENC.1.06).
EA09	Protection of fish during spawning	Fisheries	'Agreed' in principle. The Applicant has provided a satisfactory response to us on this issue in the draft SOCG. Subject to a satisfactorily updated Framework CEMP being submitted into the examination, we will be able to confirm this issue 'Agreed' at the next relevant deadline.
EA10	Invasive species – Signal Crayfish	Biodiversity	'Agreed' in principle. The Applicant has provided a satisfactory response to us on this issue in the draft SOCG. Subject to a satisfactorily updated Framework CEMP being submitted into the examination, we will be able to confirm this issue 'Agreed' at the next relevant deadline.
EA11	Stopping works where potentially contaminated land is encountered	Groundwater and contaminated land	Remains 'Under Discussion'. The Applicant has responded to us on this issue in the first draft SOCG. However, we are not currently satisfied with the Applicant's response. We will continue to engage with the Applicant to resolve the issue and provide an update to the ExA at the next relevant deadline.
EA12	Assessment of impacts on groundwater quality	Groundwater and contaminated land	Remains 'Under Discussion'. The Applicant has responded to us on this issue in the first draft SOCG. However, we are not currently satisfied with the Applicant's response. We will continue to engage with the Applicant to resolve the issue and

			provide an update to the ExA at the next relevant deadline.
EA13	Horizontal directional drilling (HDD) – drilling fluid breakout (groundwater)	Groundwater and contaminated land	‘Agreed’ in principle. The Applicant has provided a satisfactory response to us on this issue in the first draft SOCG. Subject to satisfactorily updated documents being submitted into the examination, we will be able to confirm this issue ‘Agreed’ at the next relevant deadline.
EA14	HDD – drilling fluid breakout (surface water)	Surface water quality	‘Agreed’ in principle. The Applicant has provided a satisfactory response to us on this issue in the first draft SOCG. Subject to satisfactorily updated documents (Framework CEMP and ES Chapter 9) being submitted into the examination, we will be able to confirm this issue ‘Agreed’ at the next relevant deadline.
EA15	Swales around Battery Energy Storage System (BESS) – treatment of surface water	Surface water quality	‘Agreed’. The Applicant has provided a satisfactory response to us in the first draft SOCG. On this basis, we are satisfied that the issue has been resolved, and no documents are expected to require an update.
EA16	BESS – penstock valves and swales	Surface water quality; groundwater and contaminated land	Remains ‘Under Discussion’. No direct response received from the Applicant on this issue. The first draft SOCG does not include this as a separate item. We are not currently satisfied with the Applicant’s comments on this issue.
EA17	Use of gravel in drainage systems around BESS and substation	Surface water quality; groundwater and contaminated land	Remains ‘Under Discussion’. The Applicant has provided a satisfactory response to us on this issue in the first draft SOCG. However, we are not currently satisfied with the Applicant’s response. We will continue to engage with the Applicant to resolve the issue and will provide an update at the next relevant deadline.

EA18	BESS – firewater containment and disposal	Surface water quality	<p>‘Agreed’ in principle.</p> <p>The Applicant has provided a satisfactory response to us on this issue in the first draft SOCG. Subject to a satisfactorily updated Framework BSMP being submitted into the examination, we will be able to confirm this issue ‘Agreed’ at the next relevant deadline.</p> <p>However, it should be noted that the Applicant has not responded to us specifically on our RR issue EA16 (above).</p>
EA19	Foul water strategy	Surface water quality	<p>‘Agreed’ in principle.</p> <p>The Applicant has provided a satisfactory response to us on this issue in the first draft SOCG. Subject to satisfactorily updated documents being submitted into the examination, we will be able to confirm this issue ‘Agreed’ at the next relevant deadline.</p>
EA20	Wheel wash water	Surface water quality	<p>‘Agreed’ in principle.</p> <p>The Applicant has provided a satisfactory response to us on this issue in the draft SOCG. Subject to a satisfactorily updated Framework CEMP being submitted into the examination, we will be able to confirm this issue ‘Agreed’ at the next relevant deadline.</p>
EA21	PFAS in PV cells	Surface water quality	<p>‘Agreed’ in principle.</p> <p>The Applicant has provided a satisfactory response to us on this issue in the draft SOCG. Subject to a satisfactorily updated Design Approach Document (and any other relevant documents) being submitted into the examination, we will be able to confirm this issue ‘Agreed’ at the next relevant deadline.</p>
EA22	Storage of waste batteries	Surface water quality; groundwater and	<p>Remains ‘Under Discussion’.</p> <p>Progress has been made on this issue, but it remains unresolved at this time.</p>

		contaminated land; waste	<p>The Applicant has provided a response to us on this issue in the first draft SOCG, and it was discussed in Issue Specific Hearing 2 in relation to the BESS. Please refer to our comments in response to the Environment Agency action point from this hearing. We have provided the Applicant with the relevant guidance and further comments in response to the Applicant's response in the draft SOCG.</p> <p>We will continue to engage with the Applicant on this issue and provide an update at the next relevant deadline.</p>
EA23	Water supply assessment and strategy	Water resources	<p>'Agreed' in principle.</p> <p>The Applicant has engaged us on this issue. We have reviewed the Water Resources Assessment and additional information (Anglian Water Services confirmation regarding water supply for HDD purposes) provided to us by the Applicant's project team in relation to this issue. Subject to satisfactory documents being submitted into the examination, we will be able to confirm this issue 'Agreed' at the next relevant deadline.</p>
EA24	Waste classification and soil reuse	Waste	<p>'Agreed' in principle.</p> <p>The Applicant has provided a satisfactory response to us on this issue in the draft SOCG. Subject to a satisfactorily updated Framework CEMP being submitted into the examination, we will be able to confirm this issue 'Agreed' at the next relevant deadline.</p>

Appendix 2 – Summary of overall Environment Agency position

	Agreed / resolved
	Working on a solution / under discussion
	Not agreed

Environmental topics

Subject	Work package / topic / document	Scope	Method and Assumptions	Results of Assessment (i.e. Impact)	Mitigation / Enhancements	Requirement	Related RR ID
Ecology	Biodiversity Net Gain Strategy						
	Ecological Assessment & Landscape Ecological Management Plan (LEMP)					8	EA08, EA09, EA10
	Framework Construction Environmental Management Plan					12	EA09, EA10
	Framework Operational Environmental Management Plan					13	
	Framework Decommissioning Environmental Management Plan					20	
	Water Environment Report/ WFD						
Water Resources	Water Supply Assessment & Strategy						EA23
Flood Risk	Flood Risk Assessment						EA07
	Flood Modelling						

	Framework Construction Environmental Management Plan						EA07
Water Quality	Framework Construction Environmental Management Plan					12	EA14, EA20
	Framework Operational Environmental Management Plan					13	EA16
	Framework Decommissioning Environmental Management Plan					20	EA21
	Framework Battery Safety Management Plan					7	EA16, EA17, EA18, EA22
	Surface and foul water drainage					10	EA01, EA15, EA16, EA17, EA18, EA19
	Water Environment Regulations Compliance/WFD						
Groundwater Protection	Framework Construction Environmental Management Plan					12	EA02, EA11, EA13
	Framework Operational Environmental Management Plan					13	EA11, EA16
	Framework Decommissioning Environmental Management Plan					20	EA11
	Groundwater Protection						EA02, EA12, EA13, EA16, EA17
	Framework Battery Safety Management Plan					7	EA16, EA17, EA22
	Contaminated Land Assessment						EA02, EA11
	Water Environment Regulations Compliance/WFD						

Waste	Waste Management Strategy						EA22, EA24
	Framework Battery Safety Management Plan					7	EA22
Geomorphology	Water Environment Regulations Compliance/WFD						

Development Consent Order

DCO topic	Topic	Agreed Status	Related RR ID	Notes
Articles	Preliminary permitted works – Article 2 'Interpretation' – (d) remedial work in respect of any contamination or other adverse ground conditions		EA02	See below - Requirement 12 wording to be updated to ensure remedial works are undertaken in line with an approved Construction Environmental Management Plan (CEMP).
Disapplication of legislation	Disapplication of requirement for flood risk activity permits (FRAPs) - Article 6(1)(e)		EA04	Article 6(1)(e) needs to be removed from the dDCO. Awaiting submission of updated dDCO.
	Disapplication of Water Resources Act 1991 byelaws - Article 6(1)(d)		EA05	Article 6(1)(d) needs to be removed from the dDCO. Awaiting submission of updated dDCO.
Protective provisions	Disapplication of FRAPs and Water Resources Act 1991 byelaws		EA04 & EA05	Not required as disapplication of the requirement for FRAPs is no longer sought. The EA would not agree to disapplication of the Water Resources Act 1991 byelaws without protective provisions for the disapplication of the requirement for FRAPs.
Requirements	Requirement 10 (Surface and foul water drainage)		EA01	Awaiting submission of updated dDCO.
	Requirement 12 (Construction Environmental Management Plan)		EA02	Awaiting submission of updated dDCO.
	Discharge of requirements procedure – timescales for consultee responses to discharge authority – Schedule 15		EA03	Awaiting submission of updated dDCO.

END