

Written Representations by Network Rail Infrastructure Limited in relation to The Fosse Green Energy Project 202[*] (DCO)

Planning Inspectorate Reference Number: EN010154

Registration Identification Number: F647EE97F

Applicant: Fosse Green Energy Limited

Application: Fosse Green Energy Project 202[*]

Introduction

We write further to Network Rail Infrastructure Limited's (**Network Rail/NR**) Section 56 Representation (submitted on 27 October 2025) which confirmed that Network Rail requires its standard protective provisions to be included in the draft Development Consent Order (**Order**).

As currently drafted, the Draft Order (document reference number 3.1) does not afford any protective provisions for the protection of the railway, not least in a form that is considered by NR to sufficiently protect its Rights (as defined below) and to ensure the safe and efficient operation of the railway (**Protective Provisions**).

As set out in the Relevant Representation dated 27 October 2025, the draft DCO submitted with the Application includes provisions which would, if granted, authorise the Applicant to exercise powers to:

- a) permanently acquire rights over land in which Network Rail is an occupier in respect of rights; and
- b) proposed to extinguish, suspend or otherwise interfere with Network Rail's rights;

as summarised in respect of the plots and rights below:

1. Rights in respect of restrictive covenants and easements contained in a Conveyance dated 22 November 1977 (Plot 13/3); and
2. Rights in respect of rights to access contained in a Conveyance dated 24 November 1977 (Plot 13/6).

(Together the **Rights**)

Network Rail is in discussions with the Applicant as to the preservation of the Rights above. In order to be in a position to withdraw its objection, Network Rail will require:

- suitable protective provisions to be included within the DCO to ensure that the Applicant is obliged to preserve the Rights and is restricted from exercising compulsory acquisition powers under the DCO which would have the effect of extinguishing the Rights, as set out in Appendix 1 of our Relevant Representations; and
- a private agreement to be entered into with the Applicant obliging the Applicant to preserve the Rights and ensure that the new rights sought are exercised in a regulated manner to prevent adverse impacts to Network Rail's ability to comply with its liabilities and obligations.

Network Rail and the Applicant are in discussions as to the requirements set out above and hope to reach agreement in order to facilitate the withdrawal of Network Rail's objection.

As the current draft DCO does not contain any restriction on the Applicant from extinguishing the Rights as at the date of this Written Representation Network Rail continues to object to the making of the Order on the grounds that the extinguishment of the Rights may compromise Network Rail's ability to ensure

Network Rail can comply with its obligations to third parties to maintain specific works and may interfere with the safe and efficient operation of the railway network.

Network Rail also continue to review whether there are any currently unidentified property rights, and/or any indirect impacts on Network Rail assets, which may be affected by the Scheme. They reserve their position on any such property rights and will provide fuller comment should any conflicts with railway property and/or rights be identified.