



**Planning Act 2008 The Infrastructure Planning (Examination Procedure) Rules 2010
Application by Fosse Green Energy Limited for an Order granting Development
Consent for the Fosse Green Energy Project Planning Inspectorate Reference
Number: EN010154**

**Deadline 1: Written Representation and Summary submitted on behalf of National
Highways Limited**

1. INTRODUCTION

- 1.1 This written representation is made on behalf of National Highways ("NH") in respect of an application by Fosse Green Energy Limited ("**Applicant**") for an order granting development consent for the Fosse Green Energy Project ("**DCO**"). The Applicant seeks development consent for proposed authorised development described in Schedule 1 of the draft DCO ("**Authorised Development**").
- 1.2 As set out in detail at paragraphs 2 and 3 of NH's Relevant Representation (RR-201) NH has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network ("**SRN**"). The SRN is a critical national asset and as such National Highways work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs, as well as in providing effective stewardship of its long-term operation and integrity.
- 1.3 The Authorised Development is situated to the south-west of Lincoln. Bisecting the north of the site is the A46 trunk road, which is a dual carriageway subject to the national speed limit that forms part of the SRN maintained by NH. We note there will be interaction with the A46, at Work Numbers 6 and 9 which involves the laying of electrical cables under the SRN and environmental mitigation on land NH has an interest in.

2. SUMMARY OF NH'S WRITTEN REPRESENTATION AND OUTSTANDING MATTERS FROM THE RELEVANT REPRESENTATION

- 2.1 NH does not object to the principle of the authorised development subject to the concerns within section 2 of this written representation being resolved and the inclusion of our protective provisions. The following outstanding concerns were set out in detail within NH's Relevant Representation (RR-201). NH do not propose to repeat the detail of those concerns here and continue to rely on the submissions made as part of that representation. However, set out within this section is a summary of the outstanding issues and the steps required to address NH's concerns.

Works number 6

- 2.2 Full details of NH's concerns with regard to works number 6 are set out within paragraphs 4.3- 4.6 of NH's Relevant Representation (RR-201). We summarise the concerns as follows:
- a) The Indicative Trenchless Crossing Locations document (APP-059) show two trenchless cable crossings are proposed across the A46 trunk road. **NH**

would like to understand if consideration has been given to a single crossing, as this option would reduce technical and construction risk on the SRN.

- b) **NH require further engagement from the Applicant** to understand the details of the cable crossing, how the cable route will interact with National Highways' assets and to determine if the cable crossing is feasible.
- c) The cross-section information provided on ES Figure 3-13 Typical Trenchless Crossings Cross Sections (APP-060) is insufficient to determine the geotechnical risks on the A46 trunk road and its assets, including drainage. Any proposed directional drilling under the SRN will require compliance with The Design Manual for Roads and Bridges (DMRB) Chapter CD622 (Managing Geotechnical Risk). **This requirement can be addressed in the protective provisions.**
- d) All Cable Works will require monitoring and assurance, with safety risks assessed for monitoring and survey works within the proximity of the A46 live carriageway. **This requirement can be addressed in the protective provisions.**

Works number 9

2.3 Full details of NH's concerns in this regard are set out within paragraphs 4.7-4.14 of NH's Relevant Representation (RR-201). We summarise the concerns as follows:

- a) Drainage- It is currently unclear from the Applicant's drainage proposals if the proposed swales within the application site outfall into the highway drainage system. If so, this would be a clear breach of Government policy. As set out within paragraph 4.9 of NH's Relevant Representation (RR-201), Paragraph 59 of DfT Circular 01/2022, provides NH cannot accept any additional water run-off arising from any change of use into the highway drainage systems, or any new connections into those systems from third party development drainage systems. **To address NH's concern, NH seeks to be consulted on the written details of the surface water drainage scheme (please see comments at paragraph 2.10(c) below) and a condition within its protective provisions that article 17 may not be exercised in relation to the SRN or land NH has an interest in without NH's consent.**
- b) Drainage- if the swales do not outfall into the NH drainage system, NH still expect to be consulted on the surface water drainage scheme and (if any) foul water drainage system for the Application site given the swales close proximity

to the SRN and the flood risk involved. **To address National Highways concerns, we would expect to be consulted on the written details of the surface water drainage scheme and (if any) foul water drainage system (please see comments at paragraph 2.10(c) below).**

- c) Hedgerows- The Hedgerow Plan (APP-015) shows the existing hedgerows along the A46 will be unaffected by the authorised development except for hedge no. 265 along the A46 (see Fig 2.9 (sheet 4 of 16) Rev 02). Hedge no. 265 requires up to 7m of removal. However, it's unclear on the reasons why a section of Hedge no. 265 is required. **NH seeks further details for review**

2.4 Landscape mitigation for Glint and Glare- Some of the receptor points assessed next to the A46 were noted as high without mitigation but lowered to none with mitigation. In terms of the proposed mitigation, NH raised in its Relevant Representation (RR-201) at paragraphs 5.3-5.8 a number of queries on the proposed mitigation and current Landscape and Ecological Management Plan (LEMP). **To address NH's concerns NH seek consultation on the LEMP (please see comments at paragraph 2.10(b) below)**

2.5 As set out in paragraph 5.13-5.16 of NH's Relevant Representation (RR-201) NH have been unable to locate any reference to proposed signage on the SRN for the routing of construction vehicles. NH would expect such signage to be proposed to assist vehicles in utilising the A46 trunk road to access the Local Road Network (LRN) to ensure the safe and efficient operation of the SRN and protecting all road users. **To address NH's concern in this regard NH would expect to be consulted and provide approval to the construction traffic management plan.** Please see our comments at paragraph 2.10(f) below. Any temporary traffic management signs installed on the A46, require NH approval, a Road Safety Audit (RSA) and a Walking, Cycling, and Horse-Riding Assessment and Review (WCHAR)/ exception certificate. **These requirements can be addressed in NH's protective provisions**

2.6 As set out at paragraphs 5.17 of NH's Relevant Representation (RR-201) it is stated within the Construction Traffic Management Plan (CTMP) (APP-199) that the proposed A46 North Hykeham Relief roundabout and A46 Newark Bypass are anticipated to be constructed in advance of the Authorised Development peak construction phase year of 2032, and therefore will form part of the future highway network. These network upgrade schemes are not expected to overlap with the proposed construction phase of the Authorised Development which is anticipated to start at its earliest in 2031. However, A46 Newark Bypass has now been consented and timescales for delivery will not be available until March

2026. To address NH's concern, NH would seek to be consulted and provide approval to the CTMP. Please see our comments below at paragraph 2.10(f)

2.7 The book of reference as submitted by the Applicant identifies 10 plots of land owned or occupied by NH for the purposes of its undertaking (“**Plots**”) in respect of which compulsory acquisition powers to permanently acquire new rights is sought. As set out in paragraph 6 of NH’s Relevant Representation (RR-201) six of the ten plots namely, plots 2/7, 4/3, 4/5, 4/10, 4/11 and 4.13, are the A46 trunk road forming part of the SRN. We understand Works no 6 affects these plots. The nature and proposed scope of works remains unclear. **To safeguard NH’s interests and the safety and integrity of the SRN NH seeks further information from the Applicant to understand how the new rights will interact with National Highways’ assets and additional information on the works proposed.**

2.8 NH understand the project will require abnormal loads for specific equipment and materials (elements such as transformers) to the site on the SRN. NH have set out the detail of its requirements and discussions so far with the Applicant in this regard at paragraphs 5.18-5.22 of its Relevant Representation (RR-201).

2.9 Article 8- This article provides the Applicant with the power to enter on so much of any of the streets specified in Schedule 4 of the dDCO to carry out any street works. It is however noted that the works proposed to be carried out beneath the A46 trunk road shown on the Indicative Trenchless Crossing Locations document (APP-059) are not included within that schedule. NH have set out its concerns in this regard in detail within its Relevant Representation (RR-201) within the table at paragraph 7.2. **To ensure that the applicant can carry out their works without committing an offence pursuant to section 51 of the New Roads and Street Works Act 1991 we would request the Applicant updates Schedule 4 to include the crossing points on the A46 to ensure they have the statutory authority to do so.**

2.10 NH raised comments within its Relevant Representation (RR-201) at paragraph 7.2 about the requirements at schedule 2 of the dDCO, the following remain outstanding:

- a) Requirement 4- **NH seek to be consulted and provide approval** to any amendments to the approved documents, plans details and schemes to any requirement that may affect the SRN or land NH has an interest in. Full justification is provided within the Relevant Representation (RR-201).

- b) Requirement 8- **NH seek to be consulted** on the landscape and ecological management plan for reasons set out in NH's Relevant Representation (RR-201) and paragraph 2.4 of this representation.
- c) Requirement 10- **NH seek to be consulted** on the written details of the surface water drainage scheme and foul water drainage system for reasons set out in NH's Relevant Representation (RR-201) and paragraph 2.3 of this representation
- d) Requirement 12- **NH seek to be consulted** on the construction environmental management plan for reasons set out in NH's Relevant Representation (RR-201)
- e) Requirement 13- **NH seek to be consulted** on the operational environmental management plan for reasons set out within NH's Relevant Representation (RR-201)
- f) Requirement 14- **NH seek to be consulted and provide approval** to the CTMP for reasons set out within NH's Relevant Representation (RR-201) and paragraph 2.6 of this representation
- g) Requirement 20- **NH seek to be consulted** on the decommissioning environmental management plan for reasons set out within NH's Relevant Representation (RR-201)

3 MATTERS TO UPDATE THE ExA ON FOLLOWING THE RELEVANT REPRESENTATION

3.1 Despite the submissions within paragraph 7.2 of NH's Relevant Representation (RR-201), as set out in our submissions at Issue Specific Hearing 2, NH are no longer seeking to be consulted on Requirement 7 of Schedule 2 of the dDCO.

3.2 In relation to its request to be consulted on requirement 9, NH requires further information from the Applicant and clear proposals demonstrating adequate set-back distances from the edge of the carriageway to ensure compliance with policy (DfT Circular 01/2022, paragraph 57) before it can withdraw its concern in this. In general terms, structures should be located sufficiently far from the SRN boundary so that they cannot topple onto the SRN or undermine its geotechnical integrity. In addition, sufficient space must be retained to allow NH to undertake all routine and emergency maintenance activities for the A46 trunk road. At present, no plans have been submitted that clearly show the distance from the SRN, including foundation design and parameters.

3.3 Discussions with the Applicant on the matters raised in NH's Relevant Representation (RR-201) and summarised within paragraph 2 of this representation are progressing well. NH and the Applicant are negotiating a statement of common ground and the Applicant is considering the concerns NH

has raised above. We hope to be in a position to report some of the matters raised above are resolved at the next deadline.

3.4 Discussions with the Applicant on the protective provisions are also progressing well. Therefore, NH do not propose to detail the articles of concern in the Applicant's draft DCO in this representation as it is likely from the drafting that has been agreed so far, those concerns will be addressed in the protective provisions that NH expects the Applicant to introduce when it next updates the draft DCO. NH hope to deliver positive news at the next deadline in relation to the protective provisions however if we cannot finalise negotiations we reserve the right to provide a full response on the articles of concern at the next deadline, and introduce a set of protective provisions that National Highways would ask the ExA to include in its recommended DCO.

NATIONAL HIGHWAYS LIMITED

20 January 2026