

Your reference EN010154

Our reference CLARMA/43283-5123

12 May 2026

BY EMAIL TO:

FosseGreenEnergy@planninginspectorate.gov.uk

National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
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Dear Sirs

DCO Scheme: Fosse Green Energy

Our client: Network Rail Infrastructure Limited

Applicant: Fosse Green Energy Limited

Subject: Network Rail Infrastructure Limited's Response to Third Written Questions dated 23 April 2026

This Firm is instructed by Network Rail Infrastructure Limited (**NR**) in relation to the DCO Scheme and we write in response to the Third Written Questions dated 23 April 2026.

1) Network Rail - Land plots for which Network Rail has an interest

The ExA notes: the response provided by Network Rail to ExQ2 DCO.2.29 in [REP3-066]; Network Rail's relevant representation [RR-205]; and the contents of the signed SoCG between Network Rail and the applicant [REP3A-018] which refer to Network Rail possessing rights in respect of Land Plots 13/3 and 13/6 as shown on the Land Plans [AS-104].

The ExA further notes that the Book of Reference [REP4-004] records that for Land Plots 13/3 and 13/6 there are Category 1 owners and/or occupiers.

- a) *With respect to Land Plots 13/3 and 13/6, which appear to relate to a stretch of overgrown disused railway track in a cutting, identify what accommodation rights owed to unknown third party beneficiaries would be affected by the proposed development and explain how "...any*

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extinguishment, interference and/or suspension of these rights could negative[ly] impact Network Rail's ability to comply with such obligations to maintain the accommodation works" and "... may interfere with the safe and efficient operation of the Railway and could cause a serious detriment to the carrying on of Network Rail's statutory undertaking." as referred to in [RR-205].

NR Response:

The Rights described in our previous representations, appear to relate to accommodation rights owed to unknown third-party beneficiaries. Accommodation rights are rights owed to third party beneficiaries arising out of works which were required to accommodate neighbouring land severed when the railway was originally constructed and which Network Rail may still owe to neighbouring owners.

Any extinguishment, interference and/or suspension of the Rights could negatively impact NR's ability to comply with such obligations to maintain the accommodation works, should the Applicant's proposed rights to lay cables interfere (e.g. if while laying the cables NR cannot access the Property to conduct works on accommodation works) as the benefit of the Rights subsists.

Should NR's Rights not be protected adequately, it could result in NR breaching these obligations and incurring unnecessary costs as a result of claims for failing to meet its obligations, which they could not easily recover.

While the Applicant has indicated they do not intend to extinguish the rights identified and proposes they are to co-exist with any rights to be acquired, the draft Order does not include any explicit protection for Network Rail's Rights, nor does it preclude any extinguishment or interference.

- b) *Explain how the conveyance of Land Plots 13/3 and 13/6 in 1977 to the extant Category 1 owners and/or occupiers might be prejudiced by the implementation of the proposed development and why the inclusion of protective provisions in favour of Network Rail in any made DCO for the proposed development would more appropriately protect Network Rail's interests as an alternative to any rights that could be exercised by the Category 1 owners and/or occupiers for Plots 13/3 and 13/6?*

NR Response:

The rights in the conveyance, are ones which NR has the burden of compliance with and satisfying their obligations in respect of the accommodation works.

Should these be interfered with, extinguished or otherwise suspended in a manner which prevents NR from complying, as a consequence of the proposed development, Network Rail could be in breach of their obligations under the conveyance.

It should be noted that these obligations may be owed to neighbouring owners and persons unknown, who may not be identified at present. As such these unknown beneficiaries may be prevented from exercising their rights despite nominally having the benefit of them. Further, it is not appropriate for NR's to be entirely reliant upon other parties electing to exercise such rights, as they may ultimately choose not to do so, leaving NR vulnerable to claims for breach of obligation.

At present, in the absence of any protective provisions, should the examining authority be minded to grant the Order, there are no provisions in the draft DCO which prevent such interference, suspension or extinguishment.

NR would propose at a minimum, sufficient provisions which prevent the interference, suspension or extinguishment with their rights without consent are included.

c) With respect to the response to ExQ2 DCO.2.29 included in [REP3-066] explain what is meant by "Given that the scheme is located within a railway corridor comprising operational railway and Network Rail land, Network Rail's standard form Protective Provisions must be included in the Order to ensure Network Rail's assets are properly protected during the construction and operation of the project as the Scheme ...", given that none of the land within the proposed Order Limits, as shown on the Land Plan [AS-104], appears to be within a railway corridor comprising operational railway land.

NR Response:

Although the Order Limits do not contain railway infrastructure, the scheme is surrounded by various railway lines adjacent to the boundaries.

As such, construction traffic for the scheme may need to cross railway infrastructure such as a level crossing or bridge, which are owned by NR.

If abnormal loads, or heavy goods vehicles are transversing railway assets this can cause damage to these assets, and/or may require further strengthening or reinforcement works to ensure safety of the railway underneath.

However, as set out in the statement of common ground at 3.1.4, NR appreciate that the Applicant will have to engage with National Highways for transporting abnormal loads. NR's abnormal loads team has previously advised that developments involving Abnormal Indivisible Loads, will engage with National Highways and they will consult on bridges/level crossings.

In light of this, and with regard to the specifics of this scheme, NR is content to close out its comments on this aspect of the matter.

Side Agreement

We would like to take this opportunity to provide an update in respect of discussions with the Applicant.

Discussions are ongoing in respect of an appropriate side agreement to ensure the protection of network rail's rights as described in the book of reference. However, in the absence of such an appropriate agreement, Network Rail will require it's preferred protective provisions to ensure adequate protection of the rights.

Should you have any queries, please don't hesitate to contact us on the details below.

Yours faithfully



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