

**Paul Naylor**

**E-mail:** [REDACTED]

**22 October 2020**

By E-mail to: Kevin Gordon, Environmental Appeals Administration  
The Planning Inspectorate, 3A Eagle Wing, Temple Quay House  
2 The Square, Bristol, BS1 6PN

**Permit application number EPR/HP3228XT/V004**

**Dear Secretary of State, c/o Mr Gordon**

I am writing to make a representation on the appeal by NNB GenCo against the Environment Agency's deemed refusal to vary its permit conditions requiring an Acoustic Fish Deterrent (AFD) at Hinkley Point C.

My representation is to:

- A. Strongly object to the appeal by NNB GenCo.**
- B. Strongly support the Environment Agency's position that removal of the AFD, without additional mitigation measures, is unlikely to meet the requirements of the Habitats Regulations.**

The reasons for this are as follows:

1. The original Appropriate Assessment under the Habitats Regulations for the Environment Agency's Hinkley Point C permit concluded there was reliance on the 3 proposed mitigation methods of a low velocity intake design, AFD and a fish recovery and return (FRR) system to ensure the power station did not cause significant damage to Severn Estuary habitats.
2. Publicly available technical documents show that the proposed 3 mitigation methods were designed to work together. Those documents make it clear that the low velocity intake, intended to allow fish to swim away, would only function in that way if there were a behavioural cue (such as AFD) to prompt fish to avoid the intake.
3. NNB GenCo's revised prediction that the low velocity intake will protect fish without AFD is based on very weak evidence, runs against reasonable scientific expectation and is not precautionary.
4. The third mitigation method, FRR, will offer no protection (by NNB GenCo's own assessment) to the vast majority of many millions of fish that will encounter the Hinkley Point C intakes.
5. Removal of AFD would therefore fatally undermine the mitigation taken into account by the Appropriate Assessment. NNB GenCo's claim that adequate fish protection measures will remain in the absence of AFD (the 'two out of three ain't bad' argument) is very misleading.
6. NNB GenCo's underlying argument for their permit application, although not for this appeal, is that an AFD would be impractical and unduly hazardous to install and maintain at Hinkley Point C. That argument is based on out of date information and unreasonable assumptions on AFD technology development.

7. The modelling of fish populations relied on by NNB GenCo is not an appropriate way of assessing an impact such as Hinkley Point C on the Severn Estuary environment. This includes, but is not limited to, the use of International Council for the Exploration of the Sea (ICES) stock units that, for many important species, are demonstrably unsuitable for site-specific assessments. Independent fisheries scientists with detailed knowledge of the Severn Estuary conclude that the assessments used by NNB GenCo do not properly reflect current knowledge on the relevant fish assemblage.
8. International research, including by ICES scientists, has shown how localised fish populations need to be properly considered to ensure environmental resilience and the protection of important habitats.
9. A precautionary approach must be followed for decisions on the Hinkley Point C intake, particularly given the difficulty in monitoring and assessing fish populations, potential changes to the Severn Estuary due to climate change and other factors, and the 70 year duration of the Hinkley Point C operation. In terms of longevity and permanence, the impact of Hinkley Point C will be unlike other environmental impacts such as fishing, which can be adjusted in response to ongoing monitoring. Methods used for assessing significance of fishing losses to fish populations over a wide area are not appropriate for a power station intake that will have a concentrated impact and cannot be 'switched off'.
10. The Appropriate Assessment for the EA permit made it clear that AFD was an important protection against the inherent uncertainties in assessing Hinkley Point C's impact and the numerous factors influencing fish impingement within the Severn estuary and Bristol Channel. Removal of AFD would destroy that protection.
11. Failure to use an appropriately precautionary approach in assessing Hinkley Point C's impact conflicts with Government policy, including its 25-year plan to improve the environment. This states that we must do more to protect the seas around us and marine wildlife.
12. The Environment Agency is rightly respected as an independent regulator. It does not use an excessively protective and cautious approach but simply uses the best available scientific evidence to arrive at its conclusions.

### **Summary**

- **NNB GenCo's claim that adequate fish protection measures will remain at Hinkley Point C in the absence of an acoustic fish deterrent is very misleading.**
- **The information and methods used by NNB GenCo to justify its proposal and this appeal are not an appropriate basis for making decisions on an operation that will kill many millions of fish (even by NNB GenCo's own estimation) and significantly affect the Severn Estuary environment over a 70-year period.**
- **The Environment Agency is an independent regulator and has used the best available evidence to reach its position.**

Yours sincerely,  
Dr Paul Naylor