



**Cyfoeth  
Naturiol  
Cymru  
Natural  
Resources  
Wales**

Eich cyf/Your ref: APP/EPR/573

Rivers House  
St Mellons Business Park  
Fortran Road  
Cardiff  
CF3 0EY

Kevin Gordon  
Environment Appeals Administration  
The Planning Inspectorate  
3A Eagle Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Ebost/Email:  
marine.area.advice@cyfoethnaturiolcymru.gov.uk

18 February 2021

By email to: ETC@planninginspectorate.gov.uk

Annwyl Syr/Madam / Dear Sir/Madam

**APPEAL MADE UNDER THE ENVIRONMENTAL PERMITTING (ENGLAND AND WALES) REGULATIONS 2016, REG. 31 & SCH. 6**

**PINS REFERENCE: APP/EPR/573**

**ENVIRONMENTAL PERMIT APPLICATION REFERENCE: EPR/HP3228XT/V004**

**APPEAL BY: NNB GENERATION COMPANY (HPC) LIMITED**

**FACILITY: HINKLEY POINT C POWER STATION, HINKLEY POINT, SOMERSET, TA5 1UD**

**NRW ADDITIONAL REPRESENTATIONS**

The Natural Resources Body for Wales, known more generally as Natural Resources Wales ("NRW"), was given notice in writing of the above appeal (deemed refusal) by letter from the Environment Agency dated 7 October 2020.

In our representations letter of 27 October 2020, NRW confirmed to the Secretary of State its interest in the above appeal and its status as a consultation body in respect of the application to vary the environmental permit concerned subject of appeal.

NRW has been a 'relevant national consultee' for the purposes of the *Environmental Permitting (England and Wales) Regulations 2016*. NRW is also the Appropriate Nature Conservation Body ("ANCB") for Wales and the Welsh inshore region (i.e. includes coastal waters up to 12 nautical miles), as designated by regulation 5 of the *Conservation of Habitats and Species Regulations 2017* ("the Habitats Regulations 2017").

In our letter we indicated that we wished to provide advice on the Environment Agency's (EA) Statement of Case once submitted and would intend to fully assist the Secretary of State and/or appointed person, in its capacity as a relevant ANCB. At the time of writing we had seen draft EA assessment documents, including a "stage 2 HRA" document, but not the final versions, now submitted in support of EA's Statement of Case. We therefore sought to reserve our position to make further comment as necessary. We have now reviewed the EA's Statement of Case and submissions and provide the further comment below.

### **Environment Agency Statement of Case (SoC)**

The EA SoC is supported by 36 documents (EA1 - EA 36). Document EA7 provides EA's Habitats Regulations Assessment, in relation to Regulation 63 of the Habitats Regulations 2017, a matter that we now understand is for the Secretary of State or their appointed person to address.

NRW has provided advice to EA on various aspects of their assessment process, as it was developed. Document EA18 provides NRW's advice on a draft of document EA7. With respect to the final EA7 document, we can confirm that we are satisfied that the assessment has suitably taken into account the advice NRW provided on both the Appellants' application for the permit variation and the advice we have provided to EA subsequently.

The prediction of the fish impact levels that will result from the Hinkley Point C cooling water intake system is subject to inherent limitations, due to gaps in the evidence available on which to base an assessment. We consider that EA, in their assessment, have suitably sought and reviewed the literature and evidence, to consider the best evidence and approaches available. We also view that EA have suitably outlined their assessment process, documenting the limitations and uncertainties. Based on the submissions, we consider that the EA's predictions of impact are the most robust available for the purposes of HRA and we concur with the conclusions summarised in Table 29 of EA7 on the designated European site and Ramsar site features where absence of an adverse effect to the integrity of the designated site could not be concluded.

With respect to EA's in-combination assessment we do, however, have concerns over the completeness of the list of projects considered. For example, we note that the Marine Licence application for Swansea Bay Tidal Lagoon remains under consideration and is a proposal with the potential to affect fish species from the same populations affected by the Hinkley Point C cooling water intake system.

### **Further advice and assistance**

In accordance with the precautionary nature of Regulation 63 of the Habitats Regulations 2017 and case law, it will be necessary for the competent authority to be certain beyond reasonable scientific doubt about the absence of adverse effects upon the integrity of European sites. Based on the assessments available, NRW view that reasonable scientific doubt remains as to the absence of adverse effects.

Mindful of Regulations 64 and 68 of the Habitats Regulations, NRW would wish to be involved should discussions lead to the consideration of a derogation and compensatory

measures. We will also assist the Secretary of State, or their appointed person, in our capacity as an Appropriate Nature Conservation Body (ANCB), as and when necessary.

If you have further questions regarding our response to this consultation, please contact Sarah Revill, Senior Marine Advisor ( [sarah.revill@cyfoethnaturiolcymru.gov.uk](mailto:sarah.revill@cyfoethnaturiolcymru.gov.uk))

Yn gywir / Yours faithfully

SRevill

**Sarah Revill**

*Senior Marine Advisor*

**Marine Area Advice and Management Team**