

About this appeal

TA5 1UD, NNB Generation Company (HPC) Limited: environmental permit appeal

Introduction

- We have been determining an application from NNB Generation Company (HPC) Limited (NNB GenCo) to vary an environmental permit, issued in 2013, for the discharge of turbine condenser cooling and process waters from the Hinkley Point C site.
- NNB GenCo's application to vary its permit seeks to remove one of the measures, which is required by the existing permit. This is for an acoustic fish deterrent (AFD) at the cooling water intake pipes in the Bristol Channel. The AFD, together with other measures, reduce the number of fish drawn into and killed within the cooling water system.
- In August 2020, NNB GenCo served notice on us as it considered its application to vary the permit had been refused because we had not yet completed our determination.
- In September 2020, NNB GenCo appealed to the Secretary of State (SoS) against the Environment Agency's deemed refusal of the application to vary its permit conditions at HPC.
- The Planning Inspectorate (PINS) will, on behalf of the SoS, conduct a Public Inquiry to hear evidence in order to make a decision on the appeal.

Latest update

- The Public Inquiry will take place virtually using MS Teams, starting at 10.00am on 8 June and ending on 24 June 2021.
- The Inquiry is open to the public. Anybody wishing to take part should contact the Case Officer at PINS, Kevin Gordon, by email at kevin.gordon@planninginspectorate.gov.uk
- Once registered to take part we understand that PINS will send you the joining instructions for the virtual Inquiry nearer the time.
- All documents relating to the Public Inquiry are freely available on the Environment Agency's ShareFile system at <https://ea.sharefile.com/d-s98fa7883bbc849d582e2a58355717715>

What has happened so far?

On 4 August 2020, NNB GenCo served notice on us as it considered its application to vary the permit had been refused because we had not yet completed our determination. This came after we shared our provisional results of assessments carried out under the Habitats Regulations. NNB GenCo's notice stopped the permitting process from that date.

The Habitats Regulations ensure protection of the environment by requiring decision makers, such as the Environment Agency, to assess the impacts of their proposed decisions on designated habitats and species. While we had not made a final decision on the application to remove the AFD, our provisional conclusion was that its removal, without additional mitigation measures, is unlikely to meet the requirements of the Habitats Regulations.

On 24 September 2020 NNB GenCo told us that it had appealed to the Secretary of State against the Environment Agency's deemed refusal of the application to vary its permit conditions at HPC. The appeal to the Secretary of State will be heard by the Planning Inspectorate (PINS) which has powers delegated by the Secretary of State to deal with environmental permit appeals. As an independent regulator the Environment Agency takes a proportionate approach but must be robust and confident in the assessments and decisions it makes. We will carefully consider the grounds that NNB GenCo has set out and we will respond to the appeal accordingly.

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03708 506 506

incident hotline
0800 80 70 60

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0345 988 1188

What happens at a Public Inquiry?

The Planning Inspectorate is responsible for running the appeal process. One of their Inspectors will oversee the Public Inquiry, review the evidence from all parties concerned and decide the outcome.

The main parties are NNBGenCo, the Environment Agency and the Severn Estuary Interests (SEI) has been confirmed as a 'Rule 6' party for the Inquiry. With this status they will be sent copies of the documents by the other main parties, will be entitled to appear at the Inquiry and to cross-examine other parties. SEI will be representing the following bodies in this case: the Blue Marine Foundation; the Somerset Wildlife Trust; the Wildfowl and Wetlands Trust; the Severn Rivers Trust; the Burnham Boats, and Bristol Channel Federation of Sea Anglers.

Please note that this is no longer an Environment Agency-led process. Our role is now to provide evidence to the Inspector and to respond to any questions that might be raised.

Whilst the Public Inquiry is a formal procedure it is not a court of law. The aim is for the Inspector to thoroughly test the evidence presented by all parties, so that they can make a decision. Witnesses are allowed to appear, present evidence and can then be cross-examined by the legal representatives of other parties. There are no statutory rules covering appeals against environmental permits, so instead they are heard in the 'spirit' of the rules that do exist for planning appeals.

Who can attend the Public Inquiry?

The Planning Inspectorate has decided that the hearing will be held publicly, which means anyone is welcome to attend. It will be held online, but details of the platform to be used, the timings of sessions or how to dial in are not available yet. We will provide you with further details when we have them from the Planning Inspectorate.

You can find out more about Public Inquiries and the appeals process on the Planning Inspectorate's website at <https://www.gov.uk/government/organisations/planning-inspectorate>

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What happens after the Public Inquiry?

The case has been recovered by the Secretary of State (SoS) for the Department for Environment Food and Rural Affairs (Defra). Following the Inquiry, this means that the Inspector will produce a comprehensive report presenting recommendations for final determination by the SoS.

This is a complex case and there is a large amount of evidence to consider so this decision could take several weeks. The SoS will either uphold or dismiss the appeal brought by NNB GenCo. If the appeal is upheld then the SoS will direct us to issue a permit and will confirm what conditions we must include. If the SoS dismisses the appeal, the current permit and conditions will continue to stand. Including the requirement to install, operate and maintain an AFD system. The SoS's decision is final and once made the SoS can't consider any further comments on the case.

Where can I find more information?

All documents relating to the Public Inquiry are freely available on the Environment Agency's ShareFile system via: <https://ea.sharefile.com/d-s98fa7883bbc849d582e2a58355717715>.

You can request an electronic copy of the Appeal document from our National Customer Contact Centre by calling 03708 506506 or via:

<https://www.gov.uk/guidance/access-the-public-register-for-environmental-information#viewing-public-registers-in-environment-agency-offices>

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Please quote the permit number in your request EPR/HP3228XT/V004.

Unfortunately, we are unable to provide hard-copy documents during the current circumstances.

For more information about our environmental permitting process, please see www.gov.uk/topic/environmental-management/environmental-permits

For more information about appeals against environmental permits please see www.gov.uk/government/publications/environmental-permit-appeal-form

If you have any queries or complaints about the way we have notified you about this appeal, please contact:

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