

## **Engagement meeting**

## **Regulation of the Hinkley Point C nuclear power station**

### **Chair of meeting**

### **Representatives from local groups and councils, other attendees**

Rebecca Kirk –  
Environment Agency

- Dr James Stewart - Devon and Severn Inshore Fisheries and Conservation Authority
- Simon Hunter - Bristol Avon Rivers Trust
- Allan Jeffery - Stop Hinkley
- Sue Aubrey - Stop Hinkley
- Dr David R Lambert - Fish Guidance Systems Ltd
- Joanna Whitehead - Somerset County Council
- Katherine Attwater – Stop Hinkley
- Cllr Lesley Millard - Burnham-on-Sea & Highbridge Town Council
- Wayne Hawley - Fiddington Parish Council
- David Bunt - Institute of Fisheries Management
- Sophie Laurie - Somerset Wildlife Trust
- Lucy Atherton – Lucy Atherton PR
- John McVerry - Stockland Bristol Parish
- Sue Aubrey – Stop Hinkley
- Cllr Gwil Wren - Somerset West and Taunton Council
- John Burton – Somerset West and Taunton Council
- Chris Wilson – Together Against Sizewell C
- Jenny Kirtley - Together Against Sizewell C
- Richard Cuttell
- Jo Smoldon
- Paul Naylor
- Steve Goodchild
- Dr Andy Turnpenny
- Paul Collins
- Lewis from FGS
- There were a number of other attendees that were anonymous or who did not confirm their attendance prior to the meeting

### **Environment Agency**

- Rebecca Kirk (RK) - Wessex Area Environment Manager - Regulating Industry and Enforcement
- Caroline Richards (CR) - Senior Stakeholder Engagement and Comms Advisor
- Ben Shayler (BS) - Hinkley Point C Project Manager
- Lewis Baines (LB) - Hinkley Point C Project Environment Officer
- Sharon Goulbourne (Secretariat) – Technical Support Officer
- Ella Hughes (Secretariat) – Technical Assistant
- Andrea Hole (Secretariat) – Technical Support Officer
- Declan Roscoe (Observer) – Programme Support Officer – Delivery Lead
- Andrea Basten – Senior Officer – Nuclear New Build Habitats Regulations Assessment team
- Karen Edwards – Senior Officer – Marine Water Quality
- Rebecca Coales (RC) – Infrastructure Permitting Team Leader

<b>Location</b>	MS Teams
<b>Date</b>	Thursday 2 <sup>nd</sup> February 2023
<b>Time</b>	4:00pm till 5:00pm

### **Welcome from the Meeting Chair & Introductions**

RK welcomed attendees from the Environment Agency (EA) and representatives from local councils, NGO's and other individuals/members of the public.

### **About this consultation**

RK explained to attendees the background and purpose of this meeting today. Please refer to slide 6.

RC highlighted that this permit variation is in relation to the Water Discharge Activity Permit (WDA) which was issued in 2013. This variation is about the discharge of water taken from the Bristol Channel and the requested removal of conditions relating to an Acoustic Fish Deterrent (AFD), proposed in the original application by the company.

### **Hinkley Point C: WDA permit background**

RC provided an explanation of the WDA permit background as set out in the presentation provided to attendees in advance of the meeting. Please refer to slide 7.

RC explained that when applying for the WDA permit, the company proposed three mitigation measures and the EA determined and issued the permit on this basis. More evidence was needed on how the AFD would work in practice; therefore, the WDA permit conditions relate to information needed on the design of the proposed AFD and a requirement for its optimisation prior to HPC's operational period.

During the 2019 permit determination, the company regarded the application variation outcome as a 'deemed refusal'. RC continued to give an overview of the timescale outlined on slide 7.

### **Hinkley Point C: Autumn discussions**

BS talked through the discussion that took place in the Autumn 2022 as set out in the presentation provided to attendees in advance of the meeting. Please refer to slide 8.

BS advised that we received a pre-action protocol letter from the company- the first steps towards a judicial review (JR). There were three grounds to the judicial review. One ground was that the EA didn't have the legal right to apply permit conditions to an intake through a discharge permit. BS highlighted that an abstraction licence is not applicable due to the location of the intakes at HPC. It was concluded that it would not be beneficial to focus time and resources on a JR process. Reasons included: focussing on a solution that would protect the environment and support sustainable and economic growth, and to maintain the integrity of the SoS decision. This will enable us to mitigate against environmental damage through other processes, i.e. the Development Consent Order (DCO). If we lost a JR, mitigating against harm caused would be more difficult and principles outlined in the SoS decision could be withdrawn.

DEFRA and the EA offered the company to re-apply to vary the WDA permit, for the removal of the AFD conditions. We will assess the potential impacts of pollution, including fish as polluting matter. Our previous HRA concluded that the polluting effects of dead biomass would not trigger an adverse effect on the integrity of the designated sites. A new HRA will be completed as a part of the permit application, and it will assess polluting potential in a similar way. Similar conditions and requirements to that found in the WDA permit currently exist in the DCO and the marine licence. The impact on designated fish species that use the Severn Estuary will be investigated in the DCO process. This route provides the option of compensating for harm caused, which the company have expressed an interest in pursuing. This is done through submitting an IROPI case. Compensation measures would be assessed by Natural England. The SoS for BEIS [Department for Business, Energy and Industrial Strategy] (now the Department for Energy Security and Net Zero) would decide whether measures are suitable/sufficient. The EA would be a statutory consultee for this process.

Our position remains unchanged about the AFD providing the greatest form of protection to the environment. There are legal routes that the company can use that enables them to apply for a derogation from the requirements of the Habitats Regulations. There will be opportunities to provide comments on this during the DCO process.

### **Pollution controls**

RC talked through a diagram as set out in the presentation provided to attendees in advance of the meeting. This was to help attendees better understand what the EA's approach is going to be when the EA determine this permit variation. Please refer to slide 9.

RC advised that the application documents have been posted on Citizen Space [our consultation portal]. In the permit determination phase, we will look at the potential impact of polluting matter. An abstraction licence is not applicable in this location, as outlined in the Water Resources Act 1991. We will be looking at what is being discharged and its effect on the environment: water quality and designated habitats/species.

After sea water and entrapped biomass is drawn into the intake and the forebay, the water is sent into the plant for cooling. The fish are diverted through the Fish Recovery and Return (FRR) System back out to sea. The FRR discharge is closer to shore in comparison to the larger cooling water and effluent discharge outfall. The potential quantity of seawater and live/damaged biomass may have a negative impact on the environment. We have created a new process to assess polluting matter to ensure all potential pollutant pathways of matter being released from the discharge are investigated. This approach was applied in the recent SZC determination, which was consulted on in the summer of 2022. If a significant impact is found, we could request to have controls in the system to limit the entry of polluting matter.

### **Hinkley Point C: What's happening**

BS explained that HPC has applied to change its operational Water Discharge Activity (WDA) permit and gave details of the application reference:- Application EPR/HP3228XT/V005. This was set out in the presentation provided to attendees in advance of the meeting. Please refer to slide 10.

### **Hinkley Point C: How to see the application**

BS talked through a slide that explained how to see the application as set out in the presentation provided to attendees in advance of the meeting. Please refer to slides 11.

BS explained the following ways to see the application.

- Online: Consultation website <https://consult.environment-agency.gov.uk/psc/ta5-1ud-nnb-generation-company-hpc-limited-v005>

- At Hinkley Point Visitor Centre, Cannington Court, Church St, Cannington, Bridgwater, TA5 2HA  
Public Register, Environment Agency, Rivers House, East Quay, Bridgwater, TA6 4YS. 9.30am-4.30pm, Monday to Friday. Call the National Customer Contact Centre on 03708 506 506 to arrange an appointment. We may charge to cover copying costs.

This was set out in the presentation provided to attendees in advance of the meeting. Please refer to slide 11.

### **Hinkley Point C: How to get involved**

BS talked through a slide which detailed the ways to get involved in the consultation:-

- Closing date for comments on the application documents **2<sup>nd</sup> March 2023**
- Online: Consultation website <https://consult.environment-agency.gov.uk/psc/ta5-1ud-nnb-generation-company-hpc-limited-v005>
- Email: [psc-waterquality@environment-agency.gov.uk](mailto:psc-waterquality@environment-agency.gov.uk)
- Write to: P&SC - WQ Team, Quadrant 2, 99 Parkway Avenue, Sheffield, S9 4WF
- Comments will be posted on the public register. Please tell us if you do not want your response to be public.

This was set out in the presentation provided to attendees in advance of the meeting. Please refer to slide 12.

### **Hinkley Point C: Next steps**

BS talked through the next steps as set out in the presentation provided to attendees in advance of the meeting. Please refer to slide 13.

RK emphasised that the EA are consulting with you and the wider public to seek your views on what the Company are proposing.

Please submit your evidence and views using the routes that BS set-out in slide 12.

### **Questions received in advance**

#### **1. Questions from representative of Stop Hinkley**

- *A full explanation of what is happening with EDF and the AFD. I feel we have been left completely in the dark recently. Informed by vague announcements with no substance by both EDF and yourselves. I don't think you have been considerate of the time, energy, effort, money and concern put into supporting you on this issue over the last three years by many different individuals, interest groups and other environmental agencies.*
- *The issue of EDF proposing to change from wet to dry storage of high-level waste from HPC. The method to be used and the possible impact on the local environment as we are heading into a Climate Emergency. Your own flood maps for Somerset show HPC surrounded by the sea by 2050, 20 years into its 60 years of operation.*

#### **Answer:-**

RK advised that the first question should have been answered already with the information that had been provided in the presentation. RK thanked those involved in the PINS appeal and reiterated the importance of sharing information and evidence as a part of this consultation.

RK advised that the EA would provide a written answer to the second question as this meeting today is about the WDA permit variation application.

[POST MEETING NOTE: The Office for Nuclear Regulation considers flood risk as part of its regulation of nuclear licensed sites, which includes the storage of radioactive wastes. Flood risk and other external hazards are addressed as part of the safety case for the site developed by NNB GenCo (HPC). We will provide advice and guidance on flood risk in our consultation response relating to NNB GenCo (HPC)'s application to the planning inspectorate for a change to its Development Consent Order. Our advice on these matters is normally accepted by both the applicant and the planning authority.]

## **2. Comment from Katherine Attwater**

*Katherine Attwater highlighted the disappointment with the application variation. It appears that EDF did not have the intention to install an AFD. The company have advised that the records of fish killed from HPA and HPB proves that these stations had no impact on fish populations in the Severn Estuary. Katherine Attwater asked whether the EA have this evidence, as we weren't aware of this data being presented at the public inquiry. We do not agree with the company's response to our query of the lack of evidence and research.*

This follows on from the questions asked by Stop Hinkley later in the slide pack. This was further discussed in section/question 10-13. It was agreed that questions would be answered in the order of the slides.

## **3. Questions from representative of Institute of Fisheries Management**

- *Can we see the Environmental Impact Assessment for the original application for the WDA permit? In particular, the impacts on fish species and fisheries?*
- *What are the reasons for the requested changes to the permit?*
- *Can we see the Environmental Impact Assessment for the application for the new / changed WDA permit? In particular, the impacts on fish species and fisheries.*

### **Answer:-**

RC advised that an Environmental Impact Assessment is a requirement of the DCO planning process. It's not required for a permit application.

The original permit application contained an environmental risk assessment which covered the whole water discharge activity system. The document is still available on the EDF website to download. - <https://www.edfenergy.com/file/1675/download>

The current variation application <https://consult.environment-agency.gov.uk/psc/ta5-1ud-nnb-generation-company-hpc-limited-v005> and associated documents that we believe are relevant to the assessment are on the a non-technical summary [Citizen Space website](#). This includes are some technical reports that relate to the assessment and a non-technical summary. It's not an EIA, as that's not required as part of the permit application.

RC advised that the second question can be answered by Section 2.1 of the non-technical [summary](#) which is on the consultation page. This summary explains the reasons that the company have given for wanting to remove the AFD conditions from the permit. They are based on safety, technology and ship mooring.

BS advised that it is essential to raise these questions and any further queries via the [DCO process](#) as well as this consultation. This will ensure your queries are being heard in the right places.

**1. Question from David Bunt (Institute of Fisheries Management)**

*David Bunt asked if the abstraction is going to screen fish and be able to monitor the dead or damaged fish that are being abstracted? Will this be a requirement?*

**Answer**

RC advised that an abstraction licence isn't relevant at this location so we wouldn't have a mechanism for requiring monitoring on the intakes. That would be something that the DCO (material change) would cover through the planning process.

*David Bunt advised that he had put some questions in chat.*

RC advised that she had provided a response in the meeting chat

Please see Appendix ii (which shows the questions and answers from the Chat function)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1086976/NNB\\_Generation\\_Company\\_SZC\\_Limited\\_-\\_draft\\_permit\\_for\\_water\\_discharge\\_activities.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1086976/NNB_Generation_Company_SZC_Limited_-_draft_permit_for_water_discharge_activities.pdf)

**4. Question from David Bunt (Institute of Fisheries Management)**

*Will there be other facilities to monitor dead or dying fish on the outtake, the discharge?*

**Answer**

RC emphasised that the EA are at an early stage of this determination so it is not possible to say what monitoring requirements might be required if a variation is granted. However, we are looking to be consistent with how we've recently approached the SZC water discharge, using the assessment process RC described earlier with the diagram (slide 9). SZC has the same design of station, and the same design of fish return. The draft permit that we published last summer has several conditions listed, one of them involving the monitoring of the biomass that's coming from the FRR discharge point.

RC advised that the EA are intending to make the FRR outfall a discharge point, which it isn't currently in the permit. We may require monitoring to be a part of the conditions of the discharge point, if we deem it necessary.

**5. Question from David Bunt (Institute of Fisheries Management)**

*David Bunt highlighted that it appears HPC have requested a non-requirement to report the efficiency/ effectiveness of the AFD and therefore to monitor its optimal performance.*

*David Bunt explained that both issues [question 5 & 6], suggest that HPC are, in effect, removing the requirement for the AFD by the back door.*

**Answer**

RC advised that, as stated earlier, the original permit refers to the proposed design of the cooling system, including mitigation measures, to perform 'as applied for'. The current permit requires evidence of optimal AFD performance prior to the operation of the cooling water system. RC reiterated that the applicant is applying to remove permit conditions relating to the effectiveness of the AFD design and references to abstraction. They are also submitting information so that we can put a discharge point at the FRR outfall with a new waste stream.

**6. Question from David Bunt (Institute of Fisheries Management)**

*David Bunt commented that without monitoring the performance of the AFD, it will be unknown whether it is working appropriately. Therefore, there will be no variation to its operation and no reason to have it. Therefore, it appears that EDF are trying to remove the requirement of the AFD by the back door.*

**Answer**

RC advised that the current permit conditions have very similar wording to those used in the current DCO and the current marine licence. They require evidence that the AFD has been optimised for best performance. As it currently stands, in all three permissions, although monitoring isn't specified as a part of the conditions, we require the company to make it very clear to each of the regulators involved that the AFD is optimised and is set up ready to work to its best.

**Regarding the anticipated DCO material change application:**

BS added that the company have indicated that they don't want to fit an AFD and they will be looking to submit an overriding public interest case, as part of the DCO determination. That is a legal route that's open to some developers that have potential to cause an adverse effect. So, the company are looking at the compensation route instead of fitting the AFD, whether in the EA permit, or the DCO.

RK clarified what is meant by a compensation route.

This is about the company looking at the environmental damage that's being caused and then trying to mitigate against that environmental damage. This can be done through a series of measures and then these measures need to be negotiated and discussed, i.e what compensation may look like. This is not about the company paying a financial amount of money. This is about looking at how we protect the environment and what other Environmental Protection measures can be used to compensate for any damage that may be caused.

**7. Question from Member of the public**

*Given that, in regard to NNB GenCo's previous WDA application for HPC, the following clear conclusions were reached (as recorded in Environment Agency communications):-*

- *HRA assessment unable to conclude that removing the AFD would have no adverse effect on protected habitats and species in the Severn Estuary.*
- *Appeal decision agreed that the AFD should remain Why is the matter being moved into the Planning regime and how can stakeholders and the public be certain that those conclusions will be respected and acted on?*

**Answer**

BS advised that he had hoped that we had explained earlier in the meeting some of the reasoning behind this permit variation or that it has helped in the understanding of why we are where we are now.

BS clarified that the HRA assessment will now look only at the impact of polluting matter from the discharges, not the impact of abstraction on the designated species. The impact on the designated species will be covered in the DCO regime, and the marine licence variation. As mentioned previously, our reluctance to engage in a judicial review of our legal vires is in part to protect the integrity of the Secretary of State's decision over the appeal, and for the assessments that were presented as part of the appeal to remain in the public domain for relevance to the DCO material change examination.



It is possible for the public/stakeholders to input into the decision by raising comments in the DCO variation as well as the permit variation.

There are legal routes open to the company to apply for compensation for their impact, instead of fitting the AFD and that is beyond our control. It's a legal route that is open to developers that have the potential to cause an adverse effect on designated features of a protected habitat

**8. Question from Paul Naylor**

*Paul Naylor explained his points [question 8] further. He explained that EDF appears to be sidestepping the conclusion made by the EA's HRA was that the AFD couldn't be removed without damaging the environment. This conclusion was related to the intake. As the HRA will now be looking at the discharge only, the impact of the intake is being ruled out of the permit decision and moved into planning [DCO], where decisions made by MMO and Natural England maybe less rigorous: the planning regime isn't as good the permitting regime. It appears that EDF are sidestepping the fundamental decision that the AFD cannot be removed without damaging the environment and it appears that the Environment Agency are letting them do so. I appreciate that there are pragmatic reasons for this but this shows the position the EA are in and the large regulatory gap that there is. The intake process is not properly permitted by the Environment Agency and the most environmental damage caused by a power station is the intake process. It is the Environment Agency's duty of care to protect the environment and overall decisions on how the nuclear industry is regulated, is failing the environment.*

**Answer**

BS advised that he understood where Paul was coming from and this is what he [BS] described as the least worst option. We believe that the equivalent protections will still be within the DCO, if they were to be removed from the WDA permit. Within the DCO, to remove the AFD, there will be another consultation period. If the conditions remain within our permit, or in the DCO, the company have been indicating that they would be looking to apply for an IROPI case, for compensation, regardless. Compensation will be reviewed and assessed by Natural England, as the competent authority if applied for through the DCO. We are involved in this process as well, along with other organisations, to ensure an appropriate level of compensation would be applied for

RK advised that we have considered the comments made and we appreciate that there are limits/gaps in what we can do. The Environment Agency can only regulate based on the existing legislation. We have offered a technical fisheries resource to assist BEIS with the DCO process and to help assess any derogation packages that might be relied on. The Environment Agency resource advising BEIS will help ensure that the best possible outcome for the environment is achieved. The Environment Agency strive to reach the best possible outcomes, but outcomes can only be attained within the constraints available to us.

**Further point from Paul Naylor**

*Paul advised that he believes that the regulatory limits/gap can be addressed by the Environment Agency if there is a will to do so and it is the Environment Agency's duty of care. Paul asked if this discussion could be fully reflected in the notes as it was briefly summarised in the previous notes.*

**9. Questions from representative of Stop Hinkley**

- *Does the EA have access to the monitoring and records of the fish kill from Hinkley B & Hinkley A? The company says it proves that the power stations had no impact on the fish*



numbers in the Severn Estuary. Have you had sight of this “decades of data” from Hinkley A and B?

- Was this data presented at the Public Enquiry and shown to the SoS for Defra?
- Is there any baseline information on species and fish numbers prior to the operation of HPA or HPB?
- Has the EA done research with the fishermen of the Severn Estuary on their views on the species and fish numbers? We have heard many stories from them on the enormous impact on fish numbers since four Nuclear power stations have been using sea water cooling systems since 1962 in the Severn Estuary. That is in living memory for many of the fishermen and their fathers.

*Katherine Attwater (Stop Hinkley) clarified the person from EDF who made the statement about HPA’s and HPB’s monitoring data that showed no impact on fish populations in the Severn estuary. Katherine advised that she is local to the PowerStation, and she said that skips were used to collect dead fish to be discarded. . We believe that there was no scientific assessment of what species were being killed and how many. Katherine wanted to clarify this because it appears that EDF are using simplistic and naive arguments to support their decision not to use an AFD.*

**Answer**

RC advised that we have the monitoring data on fish impingement at HPB. We haven’t seen any monitoring data from HPA. The purpose of this consultation is for the public and other stakeholders to present information and evidence that they think the Environment Agency don't have. If you do have information, please do share that as part of our consultation.

**10. Comment from Katherine Attwater**

*Katherine advised that she wanted to reiterate her point in that the monitoring data isn’t available and therefore it is incorrect to state that this data proves there is no impact.*

**Answer**

RC advised that we have been provided with updates of the HPB data (since 2019). We will be incorporating the new data that was submitted by the applicant as part of our assessment for this new permit variation. The HPB data was presented at the Appeal public inquiry, and it forms the basis of both EDF's and the EA's assessment of the dead biomass as potential polluting matter.

RC advised that she didn’t know whether it was shown to the Secretary of State.

**11. Comment from Katherine Attwater**

*Katherine Attwater advised that after showing the data at the public inquiry and to the Secretary of State, it resulted in the decision that an AFD had to be installed at HPC.*

**Answer**

RC advised that the appeal decision concluded that the HPC permit, to discharge water, was to remain as it is currently i.e. no variation.

In terms of baseline information on species and fishing numbers prior to HPA and HPB operating, there is no baseline data from before HPB that we are aware of. If you have any relevant evidence or data that is available, please share this as a part of the consultation.

**12. Comment from Katherine Attwater**

*Katherine Attwater reiterated that EDF do not have data on fish populations prior to HPA and HPB. Therefore, the company's statement regarding that HPA and HPB had no impact on fish populations is incorrect as baseline data isn't available for comparison: no one knows what the fish populations were before.*

**Answer**

RC advised that when we do our assessment, we will use the data that has been presented to us in the permit application in addition to any data we hold. We are also undertaking a new Habitats Regulations Assessment as part of this. On Katherine's last point about local fisherman [see question 10]; we haven't explicitly researched in relation to fishermen as we don't have the resource to do that. With previous permit consultations that have been held, we have had representatives from the fishing and boating community, and we've responded to those as part of our decision documents. These consultations are advertised as broadly as possible. We use our stakeholder network to ensure information is open to everybody and it allows the opportunity for anyone with relevant data to provide this to us.

**13. Comment from Andy Turnpenny**

*Andy Turnpenny advised that he has previously worked on Hinkley Point A & B, for many years. Andy stated that he is not entirely certain that there's no information/data on fish at HPA. There is certainly very detailed information of over 40 years on HPB, including the fish species and quantities caught, and more recent information was collected pre application by the company. Andy advised that he believed that the impact of the operation of the power stations on fish populations in the Severn Estuary cannot be determined/concluded by having this information [HPA & HPB data] as the baseline of fish populations are unknown. Andy was unsure that having information on HPA would particularly enhance the case either way. The use of this information is a non-starter, because HPC will be abstracting several times the amount of water compared to the two previous stations and from a completely different location: it's like comparing apples with pears. Andy believed that The Secretary of State decision was developed after very careful consider consideration of all information provided.*

**Response**

RK advised that we had noted Andy Turnpenny's comments.

**14. Question from Representative of Somerset West & Taunton Council**

- *My interest is in the proposal to remove the acoustic fish deterrent. I would like to understand the reasoning and the likely impact on local fish populations.*

*Cllr Gwil Wren explained that on the 16th of July 2008 he led the first meeting with Natural England and EDF and that they were the first organisation that they met (that's what he was told).*

*Cllr Gwil Wren still has the meeting notes and there were two things that were highlighted in the meeting:-*

- *Potential damage of the temporary Wharf*
- *Addressing the fish mortality.*

*We were given some brutal figures about the numbers of fish that were killed by HPB*

*Cllr Gwil Wren was not sure whether he was in the position to share these figures during the meeting, but he advised that the Environment Agency should be aware of them.*

*We were aware that the dead fish were discarded, presumably what was discarded was recorded, and carcasses were not returned to the estuary. Therefore, the AFD would stop this happening: it would stop fish getting into the intake. Cllr Gwil Wren highlighted that his colleagues worked extensively to try to create a system that prevented fish being drawn into an intake.*

*Cllr Gwil Wren advised that his main concern is fish loss and total loss of biomass. He questioned whether HPB is not operating.*

**Answer**

RK advised Cllr Gwil Wren that HPB is no longer operational. It appears that this data would be very useful and RK advised Cllr Gwil Wren to check with his local authority solicitor that if it would be possible to share this data. Then this data could be submitted as part of the consultation response.

RK highlighted that this information on HPB would be helpful for the team and the national permitting service to review.

RK emphasised that if Cllr Gwil Wren has any information/evidence that he thinks is of relevance and of use for us to consider as part of this this consultation, it would be highly valuable.

**15. Questions from representative of Fish Guidance Systems Ltd**

- *When the Secretary of State has confirmed the government's decision that an AFD should be installed at Hinkley Point C, why is the EA considering an application by EDF to remove the AFD, rather than rejecting it outright?*
- *The Planning Inspector concluded that EDF had not attempted to complete the design of an AFD and had not contacted any AFD manufacturers. What has the EA done to ensure EDF complies with this basic requirement before removing the AFD?*
- *What has changed in the EAs parameters between the original planning and this consultation that has led to the EA abandoning its own Best Practice for the screening of intakes?*
- *Why is the decision at Sizewell to ignore Best Practice on the screening of intakes being used to override a public inquiry and Secretary of State decision that Best Practice should be followed at Hinkley Point C?*

**Answer:**

RC advised on the first point. We're at an early stage in this permit determination and there is a process which we follow. We must consider every application that is made to us once it's been duly made, which is a check where we make sure that we've got the information we need to start the determination. We have passed that stage. Now we're in this initial stage of consultation and we're not yet at the stage of decision. We do not reject an application or variation outright, as we must go through an impartial process that includes involving the public/stakeholders and examining the data.

RC advised on the second point: in relation to where we are at the moment with the permit from 2013 i.e. these are conditions that relate to providing further information about the AFD, that are similarly worded within the DCO and the marine licence. Each of the regulators must be satisfied that they understand the technical details relating to an AFD and that it is optimised to work the best it can. At the moment, the company have submitted an application and we need to go through the process of determining the request.

RC advised on the third point. We haven't abandoned our own best practice around the screening of intakes. The Environment Agency have produced a variety of documents over the years. For example, the [2010 cooling water guidance](#), and there are other older documents relating to screening intakes. EA (2010) is withdrawn but can still be accessed [here](#). Turnpenny, A.W.H and O'Keefe, N (2005) can be read [here](#).

We continue to adhere to these guidance/Best Practices manuals and recently also commissioned several literature reviews which have looked at some aspects of good practice in greater depth. This includes updating the 2010 Cooling Waters guidance based on new technology, as technologies are changing all the time. All can be accessed from [this page](#). RC emphasised that we're trying to maintain the advancing body of science and technological information so that we are informed to make the best decisions that we can. There are restrictions around what can be achieved, due to legislation, but it can be assured that it's not been abandoned.

RC advised on the fourth point in relation to Sizewell. We want to focus today on Hinkley. SZC was mentioned only to help increase the understanding of the process that we're intending to go through as part of our assessment on this HPC variation. Decisions relating to the Sizewell WDA are in their draft stages and a final decision is yet to be made.

**16. Question from Andy Turnpenny**

*Do you agree that compensation is a second-best measure in preventing impact in the first place, which is the intention of the AFD system? How do you decide what is appropriate and relevant compensation, considering; , is it unknown of what the impact is going to be for an intake in a different location and decades of monitoring at Hinkley Point have shown that there are long term variations in fish populations. For example, Shad have fluctuated by orders of magnitude over that period. Would you plan to have the compensation reviewed frequently and then adapted to changes in conditions? This would be necessary to cope with unknown future changes.*

**Answer:**

BS advised that he believed the AFD would provide the greatest protections. The compensation through the IROPI process is an option that is open to the company. It is the company's responsibility to present a case, in lieu of the AFD being fitted. This would need to address the impact on the designated features of the estuary and other affected areas, both to migratory and non-migratory species.

We are unable to comment further as we are still in the consultation and permit determination phase.

**Comment from Paul Naylor**

*Paul Naylor commented regarding the guidance being developed for Best Practice. The Environment Agency doesn't have the means to enforce Best Practice measures as you would with a permit. That is what needs addressing. Paul highlighted that he has made this point before.*

**Meeting Closing Comments**

RK advised that we would endeavour to answer the questions in the meeting chat. This will be added to the meeting notes.

RK urged attendees to submit their views as part of the consultation process and emphasised that we have not made any decisions at this point in time. This is why we're having a consultation process with the public and stakeholders.

## Appendix

### *Appendix i*

Links that were added in the meeting chat:-

- **CR added the following link to the meeting chat:-**

[TA5 1UD, NNB Generation Company \(HPC\) Limited, EPR/HP3228XT/V005: environmental permit consultation - Environment Agency - Citizen Space \(environment-agency.gov.uk\)](https://consult.environment-agency.gov.uk/psc/ta5-1ud-nnb-generation-company-hpc-limited-v005/)

TA5 1UD, NNB Generation Company (HPC) Limited, EPR/HP3228XT/V005: environmental permit consultation - Environment Agency - Citizen Space  
Find and participate in consultations run by the Environment Agency

<https://consult.environment-agency.gov.uk/psc/ta5-1ud-nnb-generation-company-hpc-limited-v005/>

- **CR added the following link to the meeting chat:-**

[Sizewell C: environmental permits for a new nuclear power station - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/sizewell-c-environmental-permits-for-a-new-nuclear-power-station)

Sizewell C: environmental permits for a new nuclear power station  
NNB Generation Company (SZC) Limited applied for 3 environmental permits to operate Sizewell C. We want your views on our proposed decision and draft permits.

### *Appendix ii*

**Questions that were received during the meeting in the MS Teams Chat function. Answers have been provided post meeting.**

<i>Number Ref</i>	<i>From</i>	<i>Question/Comment</i>	<i>Answer/Response</i>
1	Andy Turnpenny	The compensation route is subject to a significant flaw: there is high uncertainty about what the damage will be over the 70y abstraction life and therefore what to compensate. This was a major theme during the AFD Public Inquiry and a reason for the SoS turning down the application. Also, how can they really compensate like-for-like?	The uncertainty is factored into calculations of the impact and an adaptive management plan may be part of any requirement. A compensation package is likely to be targeted at the assemblage as a whole and migratory species.
2	David Bunt - Institute of	Questions for clarity please: (1) does this mean that the intake or discharge won't	The draft Sizewell C permit, which was published as part of our consultation in

	Fisheries Management	have any monitoring of what fish have been entrained (and therefore killed (yes or no) and (2) does it also mean that HPC don't wish the need to check and report the performance of the AFD (yes or no?). If yes to either, it suggests to me that they are seeking an alternative / back-door way to remove the need for the AFD??	summer 2022 describes a number of conditions one of which is monitoring of biomass at the discharge. We cannot say at this early stage what the outcome of this determination will be, however we intend to maintain consistency of approach with the Sizewell determination so this is the most relevant indication we can give at this stage.
3	Lewis – FGS	Is it possible to see the discussions between EA, SoS and EDF on this?	We are seeking legal advice on this and will advise in due course.
4	Lewis – FGS	Can I ask why Sizewell is being used as a benchmark when Hinkley was decided first?	This is primarily because our assessment of the pollution impact of dead and damaged fish is relatively new - developed as part of the 2019 HPC WDA permit variation assessment and after that used as part of our decision-making process at SZC. We are comparing process/approach only as the receiving environments are very different between the two locations.
5	Paul Collins - Together Against SZC	Will this determination be available before the DCO process for derogation is started/heard? The lack of having the discharge permit before the DCO process was concluded at SZC was always considered a failing. Was this was also the case at HPC DCO? Was the EA permit available for the DCO examination consideration?	In 2012 the EA draft WDA permit was available during the HPC DCO examination period. We anticipate that we'll publish our draft (if consulting) or final decision later this year. We do not know exactly when NNB GenCo intend to begin their material change process.
6	Simon Hunter – Bristol and Avon River Trust	Will there be an adaptive management plan proposed? How will they compensate for fish being lost in wider river catchments? Tidal Lagoon Power collected a baseline for fish species - is this being utilised or expanded upon?	A compensation package is likely to be targeted at the assemblage as a whole and migratory species, which will be those impacted in the wider river catchments. An adaptive management plan may form part of any package proposed. We consider the data from HPB to be the baseline.
7	Paul Collins - Together Against SZC	Applying for an IROPI case when the development is so far advanced leaves little room for refusal by the EA/SoS given the state of the development. We have similar concerns over the availability of potable water for SZC and the fact that any work on provision of this supply is going to be very late and potentially well after the project is underway and therefore difficult to refuse given the state of the development. It's a case of	Applying for an IROPI case under the legislation can still take place. This is a matter for the SoS.

		slicing and dicing the development approval.	
8	Chris Wilson - Together Against SZC	The EA's commentary appears to only be considering the discharge from the FRR but removing the AFD will increase the number of small, long-thin and juvenile fish entrained and discharged at the main outfall-will the EA be assessing the impact from entrainment as well as impingement?	The AFD was never anticipated to deter very small fish; the fish still had to be of a certain size to be able to swim away if deterred. As part of the 2019 permit determination work, we did look at changes to impingement and entrainment due to the changing mesh size on the screens and will be accounting for that potential increase in impingement in our biomass calculations for this proposed variation.
9	Simon Hunter – Bristol and Avon River Trust	Several years ago Tidal Lagoon Power Swansea was required to provide extensive modelling to provide evidence of impact. Individual Based Modelling (IBM) was used to predict encounter rates of fish and the lagoon. This method considers the movements of the fish, their response to certain marine features and for migratory fish, their ability to follow the scent (or olfactory) trail produced by their native river. It seems strange how EDF have a separate set of rules to adhere to?	We consider that the data collected at HPB is adequate.
10	Allan Jeffery – Stop Hinkley	You should be doing base line analysis of fish species now. 3 kilometres out is different from a base line just outside the power stations. Connecting the cooling water intake heads to the tunnels will take 2 to 2 and a half years, as they admitted at the community forum, time to get base line information now.	Some has recently been undertaken through the Unlocking the Severn project (for Shad only), and this data could be used for any future work in this area.
11	Andy Turnpenny	Even if HPB is not generating, is it still not necessary for it to keep drawing cooling water during decommissioning?	The station is still taking in cooling water but are currently undertaking a review of cooling water strategy to determine if they should reduce it.
12	Richard Cuttrel	The whole process from before DCO to date has been manipulated by HPC to their advantage. Mitigation should be called compensation because it generally involves extra expenditure by HPC to placate disgruntled parties. There are too many variations being allowed post DCO. Almost as if they are trying to circumvent the planning process.	Noted.



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