



Offshore Petroleum Regulator for Environment & Decommissioning

Statement on the implications of the recent Supreme Court judgment (the Finch case)

The case

On 20 June 2024 the Supreme Court issued its judgment in relation to the appeal case R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents) ('the Finch case') for an onshore oil development project (Horse Hill Development). The Supreme Court upheld the appeal, concluding that the Council's decision to grant planning permission for the oil development was unlawful because the end use atmospheric emissions from burning the extracted oil were not assessed as part of the Environmental Impact Assessment (EIA). The relevant legislation was the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 - one of a number of statutory instruments designed to implement the EIA Directive in relation to the UK.

Implications of the judgment for offshore oil and gas projects

Whilst the facts of the Finch case related to an application for planning permission for an onshore oil extraction facility, the judgment has implications for the application of The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020, which implement the EIA Directive in relation to certain offshore projects. It means that end use emissions from the burning of extracted hydrocarbons need to be assessed as part of EIAs undertaken in relation to offshore oil and gas extraction and storage activities. In light of the judgment, the Government will inform the Court of Session that it will not be defending its position on judicial reviews brought in relation to the Jackdaw and Rosebank offshore oil and gas fields. This decision is an inevitable consequence of the Supreme Court's findings. The Government will also be developing some new EIA guidance, which we aim to have consulted on and implemented by spring 2025.

It would not be appropriate to continue to assess environmental statements affected by the judgment while new EIA guidance is being prepared. Doing so could lead to operators wasting time and money submitting environmental statements that do not contain the required elements. We are therefore deferring the assessment of any environmental statements we receive relating to oil and gas extraction and storage activities until the new guidance is in place. This also applies to oil and gas environmental statements that are already being assessed by OPRED. Over the coming weeks, we will work with operators to help them understand what this change means for individual developments.