

Disposal of Hinkley sediment and EIA

Y Pwyllgor Deisebau | 15 Medi 2020
Petitions Committee | 15 September 2020

Reference: RS20/13473

Petition Number: P-05-1003

Petition title: Demand an EIA now on the dumping of radioactively contaminated mud in Welsh waters

Text of petition:

We, the undersigned, call on the Welsh Government to invoke the Environment (Wales) Act 2016 in respect of uncertainties, and to ensure that a full Environmental Impact Assessment (EIA) is carried out before any further sediment from Hinkley Point nuclear power station can be dumped at Cardiff Grounds.

Don't allow the Welsh government to break their own law!



1. Background

EDF Energy intends to submit a new marine licence application to enable to enable it to dispose of dredged marine sediment from the Bristol Channel into an established designated disposal site (Cardiff Grounds) off the coast of Cardiff, South Wales. The source of the marine sediment is the Somerset foreshore in England, part of the construction site of the Hinkley Point C power station.

EDF previously dredged and disposed of sediment in 2018 and now plans further work at the site in early 2021 to dredge and dispose a further 600,000m³. Before EDF can dispose the sediment in Cardiff Grounds, it will need a sediment sampling plan and a marine licence approved by Natural Resources Wales (NRW). NRW and EDF have begun pre-application discussions, and NRW has provided EDF with its pre-application advice.

1.1. Sediment sampling

EDF will be required to undertake a chemical and radiological assessment of the sediment at the dredge locations to find out whether it's suitable for disposal at sea.

NRW will then decide whether the number, location and depth of samples taken, what is measured and how EDF will test the sediment, complies with internationally agreed guidance under the OSPAR Convention and procedure developed by the International Atomic Energy Agency (IAEA).

1.2. Marine licences

EDF will require three distinct marine licences for activities in Welsh and English waters.

Two licences are required from the Marine Management Organisation (MMO) in England. Firstly, to collect samples on the dredge sites at Hinkley Point C. These sediment samples will then be independently tested for chemical and radiological material by the Centre for Environment, Fisheries and Aquaculture Science (Cefas). The second marine licence is to conduct the dredge of the sediment if it's deemed safe for disposal at sea following testing.

EDF also require a marine licence from NRW for the disposal of the sediment in Welsh waters. The application will include the results of the sediment testing.

1.3. Timeline

The [NRW website](#) sets out the timeline for the application:

- **June 2020** – NRW provided its [pre-application advice to EDF](#) on the content of the sampling plan and its compliance with the international guidelines;
- **August 2020** – expected submission of final sampling plan for NRW approval;
- **August / September 2020** – NRW expects submission of EDF’s request for a Screening Opinion on the need for an EIA to support a future marine licence application for the disposal of marine sediment at Cardiff Grounds;
- **2020** – submission of EDF’s marine licence application to NRW;
- **2020** – public engagement and consultation on the marine licence application; and
- **Winter 2020/21** – possible date for the decision on the marine licence application by NRW.

1.4. Environmental Impact Assessment (EIA)

As part of the application process, NRW expects to receive a request from EDF to consider whether an EIA will be required. This is known as a Screening Opinion request. Once received, NRW will assess EDF’s request in line with the appropriate legislation and regulations as to whether the project is likely to have a significant effect on the environment. NRW will publish the request from EDF and its decision (the Screening Opinion) on its [public register](#). This step will inform EDF’s marine licence application.

Further information explaining the [screening process](#) is available on the NRW website.

The NRW [website states](#):

We want to reassure people that all marine licence applications, whether they are EIA or not, are thoroughly and robustly assessed to protect people and the environment, and to prevent interfering with other legitimate uses of the sea in line with the Marine and Coastal Access Act (2009).

1.5. Public engagement

The previous sediment disposal was controversial. In relation to the new proposals NRW states:

We understand that the previous disposal activity in 2018 caused great public concern, and we recognise that people are also concerned about the new disposal plan, so we are committed to inform, communicate and engage with people as we assess whether the disposal can take place. We also understand that EDF intends to undertake their own communication and engagement.

We started this engagement with a six-week public consultation (5 February 2020 - 18 March 2020) to provide the opportunity for people to comment on EDF's proposed sampling plan.

As set out in the timeline above, a further consultation on the marine licence application itself is expected later this year.

1.6. Environment (Wales) Act 2016

The petition makes reference to the Environment (Wales) Act 2016. It does this in the context of 'uncertainties'. The Environment Act makes no specific reference to EIA. The reference to uncertainties within the Act is in relation to the Sustainable Management of Natural Resources (SMNR).

Natural resources are listed in the Act as:

- (a) animals, plants and other organisms;
- (b) air, water and soil;
- (c) minerals;

(d) geological features and processes;

(e) physiographical features;

(f) climatic features and processes.

SMNR is defined in the Act as:

(a) using natural resources in a way and at a rate that promotes achievement of the objective in subsection , (b) taking other action that promotes achievement of that objective, and (c) not taking action that hinders achievement of that objective.

The Act also outlines principles for SMNR. These include taking 'account of all relevant evidence and gather evidence in respect of uncertainties'.

2. Welsh Government action

The Minister wrote to the Petitions Committee in response to the petition on 10 August 2020. The letter states:

Natural Resources Wales Marine Licensing Team (MLT) administers and determines marine licence applications, acting on behalf of the Welsh Ministers. The Marine and Coastal Access Act 2009 establishes the legal process which must be followed by any person wishing to apply for a marine licence and the matters which the MLT must consider in its assessment of any application, before making its determination, including the need to protect the marine environment and human health.

The marine licensing process is one of the key tools in ensuring the sustainable management of Welsh waters. The process is evidence led and by its nature fully supports the requirements of the Environment (Wales) Act 2016 and the Conservation of Habitats and Species Regulations 2017, protecting marine ecosystems and ensuring regulated activities do not significantly affect protected habitats and species. [...]

Supporting the marine licensing process is a suite of other legislation relevant to the marine environment which the MLT must also comply with [...] this includes the need to consider whether an Environmental

Impact Assessment (EIS) is required to support an application for a marine licence.

The requirement for an EIA is set out in legislation through the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended. [...]) It is a regulatory matter for the MLT, in consultation with its internal and external experts, and having regard to the legal requirements of the EIA Regulations, to determine whether the disposal of dredged sediment back at sea triggers the need for an EIA.

The Minister goes on to say that should the MLT determine an EIA is required for the proposed activity, the MLT will advise EDF Energy on the scope of the EIA, which must comply with the requirements as set out in the EIA Regulations. She also notes that:

...it is important to note a non-EIA approach does not mean a full and thorough assessment will not be undertaken on an application. I would like to assure you whether an EIA is required or not, robust procedures are in place to ensure all sediment deposited at sea under the terms of a marine licence is fully assessed to ensure it will not cause any harm to the environment or human health.

3. Welsh Parliament action

In 2017 and 2018 the Petitions Committee gave detailed consideration to a petition concerning the first phase of sediment disposal from the Hinkley site. The Committee published an overview of its consideration and a summary of evidence in May 2018. The report was debated in Plenary on 23 May 2018.

The Climate Change, Environment and Rural Affairs (CCERA) Committee also considered the issue. The Committee asked NRW if an EIA had been undertaken in relation to the first marine licence, and if not, why not. NRW's response indicated that an EIA had not been requested on this specific activity, though an EIA was conducted on the overall development of Hinkley Point C overall. NRW explained that this decision had been taken by the Welsh Government's Marine Consents Unit, which was responsible for administering the marine licensing system at the time the applications were received:

Significant progress had been made on both applications when they were transferred to NRW on vesting day (1 April 2013), when NRW was

delegated the Welsh Marine Licencing function on behalf of Welsh Ministers

We understand that the Welsh Government, as appropriate authority, took the decision that it was not necessary to determine this application under the Environmental Impact Assessment process. We therefore, in good faith, continued the determination of the marine licence application on that basis. When NRW issued the marine licence in July 2014 we were satisfied that a robust process had been followed to ensure that the licence fulfilled its requirements of preventing pollution of the environment, harm to human health or impact to legitimate users of the sea.

On 4 March 2020, the issue was discussed in Plenary in oral questions to the Minister for Environment, Energy and Rural Affairs.

On 10 October 2018 the Senedd debated a No Named Day Motion on disposal of dredged materials from the Bristol Channel.

In response to a question from Neil McEvoy MS on 3 October 2018, the Minister for Environment, Energy and Rural Affairs, Lesly Griffiths MS, set out the EIA process:

I'm very grateful for the opportunity to set out the EIA process again. A key point to note is that this non-EIA approach does not mean that a full and thorough environmental assessment was not undertaken. A radiological assessment was carried out and supported by experts, as well as the wider environmental and human health assessments needed for the marine licence determination. An EIA was carried out on the Hinkley Point C project overall; it was submitted as part of the supporting information supplied with the application for the marine licence and, as such, was considered in the determination process.⁶⁰

The difference between non-EIA and EIA projects is the length of time for public consultation: 28 days for non-EIA, and for EIA applications this is increased to 42 days.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that

these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.