



JUDGMENT SUMMARIES

Summaries of opinions (judgments) provide a short explanation of judicial decisions in order to assist understanding and may be published in cases where there is wider public interest. They provide the main findings, but do not form part of the reasons for the decision.

The judgment published on the **Scottish Courts and Tribunals website** (<http://www.scotcourts.gov.uk/search-judgments/about-judgments>) is the only authoritative document.

Petitions of Greenpeace Ltd and Uplift for judicial review

Jan 30, 2025

Lord Ericht ruled that the decisions of the Secretary of State and OGA be reduced (quashed). This means that they can be considered afresh, this time taking into account of the downstream emissions.

There were three petitions relating to oil or gas projects in the North Sea and North Atlantic. Two non-governmental organisations, Greenpeace and Uplift, seek to challenge (a) the decision of the Secretary of State to allow the development of and production from the oil and gas fields, and (b) the Oil and Gas Authority's (OGA) decision to consent to the same.

All parties agree that both decisions were unlawful as the Environmental Impact Assessments did not consider the effect of downstream emissions, i.e. the effect on climate of the combustion of the oil and gas to be produced.

The question in this case was whether the decisions should be quashed and considered afresh on a lawful basis or the projects should be allowed to proceed despite the decisions being unlawful.

Lord Ericht ruled that decisions should be quashed (reduced) and taken again, this time taking the effect of downstream emissions into account. However, the reduction will be suspended until the fresh decision is reached. No oil or gas can be extracted from the sites during the suspension period.

Background

Jackdaw

The developer of the Jackdaw project is BG International Ltd, part of the Shell Group. The site is an ultra-high pressure / high temperature gas condensate field in the Central North Sea. Production at the field was due to begin next year and expected to last around 8 years. At its peak, Shell predicts that it will be capable of producing around 6.5% of the UK's gas production.

Rosebank

The developer of the Rosebank project is Equinor Uk Ltd, with Ithaca also holding a 20% interest. The site is estimated to be the largest undeveloped oil and gas field in the UK continental shelf, with recoverable resources said to include over 300 million barrels of oil equivalent and the site having a production life of around 25 years. Drilling at Rosebank was due to begin in the first / second quarter of this year.

Appeal

Various grounds of appeal were pled, but only three were insisted upon by the petitioners. These were:

- That the decisions were unlawful as they did not take account of downstream emissions. (This ground was relied on by each petitioner in each of the three petitions)
- That the Scottish National Marine Plan was not taken into consideration. (This ground was relied upon only by Uplift in the Rosebank petition)
- That the Oil and Gas Authority failed to give reasons for the decision. (Again, relied upon only by Uplift in the Rosebank petition)

On the first ground, in respect of both projects, it was accepted that decisions by the Secretary of State and the OGA were unlawful because the environmental assessments failed to assess the effect on climate of the combustion of the oil or gas to be produced.

Lord Ericht found that Uplift's argument on the Scottish National Marine Plan was unfounded and ruled that the OGA was under no duty to give reasons for granting consent. Both of these grounds of appeal failed.

Greenpeace and Uplift sought a reduction (quashing) of the decisions, while Shell, Equinor and Ithaca sought a declarator which would have allowed them to continue with the projects.

Decision

Lord Ericht ruled that the decisions of the Secretary of State and OGA be reduced (quashed). This means that they can be considered afresh, this time taking into account of the downstream emissions.

The opinion states: "Having considered all the circumstances of the case and the various public and private interests, I have reached the conclusion that the balance lies in favour of granting reduction. The public interest in authorities acting lawfully and the private interest of members of the public in climate change outweigh the private interest of the developers. The factors advanced by Shell, Equinor and Ithaca in respect of their private interest do not justify the departure on equitable grounds from the normal remedy of reduction of an unlawful decision."

Lord Ericht added that the reduction should be suspended until a fresh decision is reached, however no oil or gas can be extracted from the sites during the suspension period.

The full Opinion, which is published on the Scottish Courts and Tribunals Service website (<https://www.scotcourts.gov.uk/judgments/#/>) is the only authoritative document



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