# Court of Appeal upholds Teesside CCS project despite emission concerns



In May 2025, the Court of Appeal of England and Wales delivered a pivotal ruling concerning the controversial gas-fired electricity generating station planned for Teesside, which is designed to incorporate carbon capture and storage (CCS) technology. This case, Andrew Boswell, R (on the application of) v The Secretary of State for Energy Security and Net Zero & Anor, scrutinised the validity of the planning decision that had previously been upheld by the High Court. Central to the appeal was whether the Secretary of State had inadequately assessed the anticipated greenhouse gas (GHG) emissions resulting from the development, raising significant questions about environmental accountability within energy policy.

Andrew Boswell, a climate campaigner, contended that the approval granted to Net Zero Teesside Power Ltd and Net Zero North Sea Storage Ltd did not sufficiently consider the ecological ramifications of the GHG emissions. Earlier, in August 2024, the High Court had dismissed Boswell’s claims, asserting that the project was firmly rooted in national planning and energy policies, and that it aligned with the UK's climate commitments. This judgment followed a pattern observed in earlier cases, where courts have generally upheld developers' rights against claims alleging inadequate environmental assessments.

The Court of Appeal's deliberation focused on three pivotal grounds: the appropriateness of the guidance used for GHG emissions assessment by the Secretary of State, the adequacy of the National Policy Statement EN-1 in addressing significance assessments, and the legitimacy of the conclusions regarding the project's environmental impact. The judges—Sir Keith Lindblom, Lord Justice Stuart-Smith, and Lord Justice Holgate—emphasised that their role was not to second-guess policy decisions but to ensure legal compliance in the decision-making process. They boldly reaffirmed that environmental impact assessments must focus on legality, leaving policy direction to the government.

While the appellate judges recognised the significant emissions involved in the Teesside project, they stood by the Secretary of State's contextualisation of these emissions within the broader UK climate strategy, which aims for net-zero carbon emissions by 2050. They concluded that the project's emissions, though considerable, were necessary within the framework of national energy stability, effectively balancing environmental impacts with urgent energy needs.

This ruling sets a notable precedent for future energy project assessments in the UK, signalling a judicial inclination to contextualise emissions within national policy priorities. The decision underscores the necessity of maintaining a legal framework that allows for informed evaluations of environmental impacts while recognising the pressing demands for robust energy infrastructure.

Contrasting with recent judicial milestones, such as the Supreme Court’s ruling that emphasised the need to assess GHG emissions from oil developments, this case illustrates the ongoing tension between climate accountability and energy development in the UK. Such rulings compel regulators to consider the implications of their decisions on both local and global scales, especially when tackling the intricate interplay between fossil fuel projects and climate commitments.

As the landscape of energy policy continues to evolve, the Court of Appeal’s decision reinforces the vital role of thorough legal assessments in planning decisions. It highlights the challenge of striking a harmonious balance between environmental considerations and the necessities of the modern energy grid, reflecting the complex dynamics of meeting national energy demands in a climate-conscious era. This judgement ultimately reaffirms the intricate relationship between environmental law, energy policy, and the legal obligations of planning authorities, setting a significant benchmark for future infrastructure projects.

**Reference Map**1. Paragraphs 1, 6 2. Paragraphs 1, 4 3. Paragraphs 1, 6 4. Paragraphs 3, 5 5. Paragraph 5 6. Paragraph 6 7. Paragraph 1

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## Bibliography

1. <https://www.solicitorsjournal.com/sjarticle/court-of-appeal-clarifies-emissions-assessment--?category=none> - Please view link - unable to able to access data
2. <https://www.reuters.com/world/uk/uks-approval-new-gas-fired-power-station-was-lawful-london-court-rules-2024-08-14/> - In August 2024, London's High Court ruled that the UK's approval of a new gas-fired power station in Teesside was lawful. Climate campaigner Andrew Boswell had challenged the project, arguing that the government failed to adequately justify that the development would aid in reaching net-zero emissions. The project, a joint venture between BP and Equinor named Net Zero Teesside Power, plans to build an 860-megawatt plant equipped with carbon capture and storage. Judge Nathalie Lieven dismissed Boswell's case, stating that the development was well-supported by national planning and energy policies. BP expressed approval of the ruling, highlighting that the project would help the UK meet its net-zero targets and provide low-carbon electricity to complement renewable energy sources.
3. <https://casetracker.justice.gov.uk/getDetail.do?case_id=CA-2024-002002> - The UK Ministry of Justice's Case Tracker provides details on the appeal case 'The King on the application of Andrew Boswell v Secretary of State for Energy Security and Net Zero and others'. The case, referenced as CA-2024-002002, is scheduled for a hearing on March 4, 2025, with an estimated duration of 4.5 hours. The case is currently awaiting a hearing, and the latest update was on November 12, 2024.
4. <https://www.herbertsmithfreehills.com/notes/publiclaw/2024-posts/high-court-takes-a-dim-view-of-using-judicial-review-to-disagree-with-policy-decisions-on-the-path-to-net-zero> - In the case of R. (on the application of Boswell) v Secretary of State for Energy Security and Net Zero [2024] EWHC 2128 (Admin), the High Court dismissed an application for judicial review of the grant of development consent for the Net Zero Teesside Project. The court found that the decision that the project would help deliver the government's net-zero commitment was lawful and supported by national policy. The judgment emphasized that environmental impact assessments are intended to improve environmental decision-making and should not be an obstacle course for decision-makers.
5. <https://www.landmarkchambers.co.uk/news-and-cases/court-of-appeal-rejects-cumulative-carbon-emissions-impact-challenge> - In February 2024, the Court of Appeal dismissed an appeal in the case of R(Boswell) v Secretary of State for Transport. The claimant contended that there had been no assessment of the significance of the cumulative carbon emissions of three development consent orders for road improvements to the A47 near Norwich. The Court of Appeal concluded that the Secretary of State had not erred in law in granting the applications for the DCOs, emphasizing that carbon emissions have no geographical boundary, and their impact is felt uniformly across the globe.
6. <https://www.reuters.com/world/uk/environmental-activists-win-landmark-ruling-over-uk-oil-well-plan-2024-06-20/> - In June 2024, the UK's Supreme Court ruled that planners must consider the impact of greenhouse gas emissions on global warming before granting approval for oil wells. This decision came from a legal challenge by environmental activists against planning permission for an oil well site near London's Gatwick Airport. Supreme Court judges, in a 3-2 vote, declared the planning approval unlawful due to its failure to assess emissions from oil use. This landmark judgment is seen as a significant victory for climate activists, as it sets a precedent that could hinder future fossil fuel developments.
7. <https://www.solicitorsjournal.com/sjarticle/court-of-appeal-clarifies-emissions-assessment--?category=none> - In May 2025, the Court of Appeal of England and Wales made a substantial ruling in the case of Andrew Boswell, R (on the application of) v The Secretary of State for Energy Security and Net Zero & Anor. This influential case centred on the planning decision related to a contentious gas-fired electricity generating station at Teesside that included carbon capture and storage (CCS) technology. The crux of the judgement centred on whether the Secretary of State for Energy Security and Net Zero had made legal mistakes in evaluating the greenhouse gas (GHG) emissions anticipated from this development. The Court of Appeal recognised that emissions linked to the development were significant enough to raise concerns but supported the Secretary of State’s findings that these emissions could be contextualised within the wider scope of the UK's climate commitments.