

**Case Name:** *Clientearth, R (on the application of) v Secretary of State for Business, Energy and Industrial Strategy & Anor* [2020] EWHC 1303 (Admin) (22 May 2020)

**Full case:** [Click Here](#)

**Commentary:** The claimant applied under section 118 of the Planning Act 2008 for judicial review of the Secretary of State's decision to grant development consent for the construction and operation of two gas-fired units at Drax Power Station. The claimant advanced nine grounds of challenge, including that the Overarching National Policy Statement for Energy (EN-1) required an assessment of need for the proposed development in particular and that the Secretary of State failed fully to consider the net zero target for greenhouse gas emissions under the Climate Change Act 2008.

The judge rejected all nine grounds of challenge. The need for gas-fired power generation was, the judge found, established by the relevant policy in EN-1 itself. Had the policy required need for gas-fired generation to be reassessed from time to time, this would have amounted to a review of the policy itself.

In terms of the lack of consideration of the net zero target by the Secretary of State, the judge found that it was entirely for the Secretary of State to determine, as a matter of judgement, the extent to rely on it. This judgement is only challengeable on grounds of rationality.

The claim for judicial review was dismissed.

*Case summary prepared by Ricardo Gama*