The Jackdaw gasfield passed the legal test for North Sea drilling – Rosebank will find it much harder

A landmark 2024 Supreme Court ruling forced ministers to account for emissions from burning fossil fuels.

Robert Hargreaves, Lecturer in Law, York St John University
Published in The Conversation (UK), 23 October 2026
DOI https://doi.org/10.64628/AB.k9nrnfnfe
Original article
https://theconversation.com/the-jackdaw-gasfield-passed-the-legal-test-for-north-sea-drilling-rosebank-will-find-it-much-harder-295029

For the first time, UK ministers have had to weigh the emissions from burning gas extracted from a North Sea field before approving its development. The way they did so for Jackdaw says a good deal about how the far larger Rosebank oil field is likely to fare.

Coverage of the decision to approve the Jackdaw gas field [1] has focused on energy security and household bills. But the decision also marks an important test of the legal rules governing new fossil fuel projects. Jackdaw, about 150 miles, or 250km, east of Aberdeen, could send gas ashore from as early as the end of October. Yet the project was first approved in 2022, only for a court to strike that approval down. What happened in between explains why the much larger Rosebank oil field will find the same test far harder.

How a government elected on a promise of no new oil and gas licences can approve new drilling turns on a distinction that rarely makes the headlines. A licence gives a company exclusive rights over an area of seabed [2], but it does not, on its own, allow anything to be built or any oil or gas to be produced. The regulator must also consent to the project, with the energy secretary's agreement following an environmental impact assessment. Jackdaw had its licence, but lacked a consent that could survive in court.

The case that changed the rules

That process was transformed by a dispute over a modest oil site at Horse Hill in Surrey, where campaigner Sarah Finch argued that the environmental assessment should have counted not only the emissions from drilling but also those released once the oil was refined and burned as fuel. In June 2024 the Supreme Court agreed [3] by a majority of three to two, reasoning that since the whole purpose of extracting oil is to burn it, those emissions are an effect of the project itself. As The Conversation reported at the time [4], the ruling's effects were always likely to reach well beyond Surrey.

Jackdaw and Rosebank had both been approved without any such calculation, and in January 2025 the Court of Session in Edinburgh, hearing challenges brought by the campaign groups Greenpeace and Uplift, quashed both approvals [5]. Construction continued, but neither field could produce anything until ministers decided again [6]. After the government published new guidance [7] in June 2025, the developer, Adura, went back to the regulator with fresh information.

What the minister weighed

The decision document [8] shows those rules at work for the first time. Jackdaw's total emissions, including those from burning its gas and the liquids produced alongside it, are put at up to 36.6 million

tonnes of carbon dioxide equivalent over the field's life, with only about 2% coming from production itself. The energy secretary, Miatta Fahnbulleh, accepted that those emissions are likely to have a significant effect on the environment, and then approved the field anyway.

That is exactly what the Finch ruling allows, since it requires decision makers to face the climate cost openly rather than refuse every project that carries one. Fahnbulleh set what her decision calls "moderate adverse weight" on the emissions against "significant positive weight" for energy security. Because most of Jackdaw's gas will be burned in the UK, she measured its emissions against the country's legally binding carbon budgets, of which they would make up no more than 1.32% in any single period, and concluded that they would not stop the UK reaching net zero by 2050.

It is worth stressing, though, that Jackdaw's approval does not set a precedent that ministers can simply apply to every new field. Each project must still be assessed on its own merits, with its emissions weighed against its claimed benefits. That balance could look very different for Rosebank, an oil field whose output is far less likely to be used in the UK than Jackdaw's gas.

Greenpeace says the approval shows [9] the "grip fossil fuel lobbyists still hold over energy policy", although it has not so far announced a fresh legal challenge. Any challenge would most likely return to the Court of Session, where applications for judicial review normally must be made within three months [10]. Judicial review asks whether a decision was taken lawfully rather than whether it was the right one, so campaigners would need to show that the minister misread the law or left something important out.

Why Rosebank is a harder test

Rosebank, about 80 miles (130km) north west of Shetland, is the UK's largest undeveloped oil field. Its operator's own assessment puts the emissions from burning its oil and gas at up to 249 million tonnes [11] over the life of the field, nearly seven times Jackdaw's total. Fahnbulleh has already called it a different proposition [12], because its oil would be exported while Jackdaw's gas flows straight into the UK system, and with only four refineries [13] left in the country, much of it is expected to be refined in Europe [14].

This goes to the heart of the legal reasoning, because the Jackdaw decision leaned heavily on its gas being burned at home, within carbon budgets the government is bound to meet. That story is much harder to tell about oil sold on world markets, especially as the government's guidance expects effects to be judged globally. A report by UCL researchers published last year [15] argued that more UK oil means more global emissions, and any minister minded to approve Rosebank will need a persuasive answer.

The courts have not shut down the North Sea, then, but they have forced ministers to set out their climate reasoning in public before they say yes. Rosebank will reveal whether that reasoning still holds once the oil is shipped abroad.

References

1. The Conversation, Jackdaw gas field (topic page). https://theconversation.com/topics/jackdaw-gas-field-194769

2. GOV.UK, Jackdaw gas field gets green light (press release). https://www.gov.uk/government/news/jackdaw-gas-field-gets-green-light

3. R (Finch) v Surrey County Council [2024] UKSC 20, press summary, The National Archives. https://caselaw.nationalarchives.gov.uk/uksc/2024/20/press-summary/1

4. The Conversation, Landmark court ruling will have huge implications for new fossil fuel projects in UK.

https://theconversation.com/landmark-court-ruling-will-have-huge-implications-for-new-fossil-fuel-projects-in-uk-233018

5. Petitions by Greenpeace Limited and Uplift for judicial review [2025] CSOH 10, Court of Session. https://www.scotcourts.gov.uk/media/v0zkbsxy/2025csoh10-petitions-by-greenpeace-limited-and-uplift-for-judicial-review.pdf

6. Argus Media, Scottish court rules Rosebank, Jackdaw consent unlawful. https://www.argusmedia.com/de/news-and-insights/latest-market-news/2652609-scottish-court-rules-rosebank-jackdaw-consent-unlawful

7. GOV.UK, New guidance issued for environmental impact assessments (press release). https://www.gov.uk/government/news/new-guidance-issued-for-environmental-impact-assessments

8. UK Government, Jackdaw decision document (14 October 2026). https://assets.publishing.service.gov.uk/media/6ad77f4e13c9ff4fd08ed632/20261014_Jackdaw_decision_doc.pdf

9. The Scotsman, report on the Jackdaw gas field approval. https://www.scotsman.com/news/politics/jackdaw-gas-field-north-sea-andy-burnham-uk-labour-government-9300243

10. Courts Reform (Scotland) Act 2014, section 89, explanatory notes, legislation.gov.uk. https://www.legislation.gov.uk/asp/2014/18/section/89/notes/data.xht

11. Argus Media, Equinor puts Rosebank scope 3 emissions at 249mn t. https://www.argusmedia.com/en/news-and-insights/latest-market-news/2742587-equinor-puts-rosebank-scope-3-emissions-at-249mn-t

12. Shetland News (21 October 2026), Rosebank a different proposition to Jackdaw. https://www.shetnews.co.uk/2026/10/21/rosebank-different-proposition-jackdaw-gas/

13. Tank Terminals, Britain's golden refining era ends. https://tankterminals.com/news/britains-golden-refining-era-ends

14. S&P Global, Rosebank field, the UK's largest undeveloped oil and gas field. https://www.spglobal.com/energy/en/research-analytics/rosebank-field-the-uks-largest-undeveloped-oil-and-gas-field-r

15. The Conversation, Rosebank oilfield: why more UK oil means more global emissions. https://theconversation.com/rosebank-oilfield-why-more-uk-oil-means-more-global-emissions-253055

Disclosure statement

Robert Hargreaves does not work for, consult, own shares in or receive funding from any company or organisation that would benefit from this article, and has disclosed no relevant affiliations beyond their academic appointment.

This article is republished from The Conversation under a Creative Commons licence (CC BY ND 4.0). Original article https://theconversation.com/the-jackdaw-gasfield-passed-the-legal-test-for-north-sea-drilling-rosebank-will-find-it-much-harder-295029 . The numbered references list the sources hyperlinked in the online version.