

Permitting decisions

Part surrender

We have decided to accept the surrender of part of the permit for Fawley Refinery Installation operated by ExxonMobil Chemical Limited.

The permit number is EPR/ZP3839MG.

We are satisfied that the necessary measures have been taken to avoid any pollution risk and to return the site to a satisfactory state. We consider in reaching that decision we have taken into account all relevant considerations and legal requirements.

Purpose of this document

This decision document provides a record of the decision making process. It summarises the decision making process in the decision checklist to show how all relevant factors have been taken in to account.

This decision document provides a record of the decision making process. It:

- highlights [key issues](#) in the determination
- summarises the decision making process in the [decision checklist](#) to show how all relevant factors have been taken into account

Unless the decision document specifies otherwise we have accepted the applicant's proposals.

Read the permitting decisions in conjunction with the environmental permit and the surrender notice. The introductory note summarises what the notice covers.

The application is to surrender part of the installation (Block 36B). This land will become part of the refinery operated by Esso Petroleum Company Limited for the development of a new process unit. The refinery have agreed to use the existing site condition report baseline for reference in the event of any future surrender.

Key issues of the decision

ExxonMobil Chemical Limited (EMCL) have applied to surrender part of the site, Block 36B. The area of land was previously used for the operation of a steam cracker. The cracker broke down large hydrocarbon molecules into smaller ones used for the manufacture of plastics and rubber. The process was shutdown in July 2010 and was subsequently decommissioned and demolished. Throughout the operation of the cracker EMCL carried out infrastructure and environmental monitoring and recorded any environmental incidents and any mitigation taken. There have been no reports of pollution incidents within Block 36B since the time of the permit issue. The area subject to surrender has not been used for any scheduled activity since 2010.

An assessment of the land and groundwater quality was produced in August 2006 as part of Application ZP3839MG. The report considered the former land uses and pollution history of the installation including Block 36B. The site condition report (SCR) identified the potentially polluting substances associated with the steam cracker process as total petroleum hydrocarbons (TPH), mercaptans, caustic soda and amine.

Following permit issue a site protection and monitoring programme (SPMP) was put in place which included Block 36B and was designed to demonstrate that contamination levels have not changed significantly during the time of the permitted operations. Baseline soil and groundwater data for Block 36B was collected as part of the first phase report of the SPMP in 2010. The baseline investigation identified elevated concentrations of benzene, toluene, ethylbenzene and xylene (BTEX) compounds in the soil and groundwater. Further investigations as part of the ongoing SPMP in 2015 found that the results were stable and there had been no deterioration when compared to the 2010 dataset, this was again confirmed with groundwater monitoring in 2017 and 2018 which showed that there was no deterioration. Soil sampling in 2018 also confirmed that there had been no deterioration.

Table 1 below shows the results for TPH for the years 2010 and 2015. The two boreholes used are those most relevant to Block 36B.

Table 1 Groundwater monitoring

Year/Location	Total Petroleum Hydrocarbons (mg/l)
2010 Borehole BH336	4.1
2015 Borehole BH336	0.2
2010 Borehole BH325	22
2015 Borehole BH325	1.6

Conclusion

The permitted activities have ceased at the relevant area of the site and all dismantling and decommissioning works are complete, thus all pollution risk is considered to have been removed. The Environment Agency agrees with the assessment that there has been no significant increase in levels of contaminants associated with the ground or groundwater underlying the site during the period of permitted activities. From the evidence supplied in the Site Surrender Condition Report, the Environment Agency has concluded that the pollution risk has been removed and that the site is in a satisfactory state compared to the condition at permit issue. The application to surrender part of the permit is accepted.

Decision checklist

Aspect considered	Decision
Receipt of application	
Confidential information	A claim for commercial or industrial confidentiality has not been made.
Identifying confidential information	We have not identified information provided as part of the application that we consider to be confidential.
The site	
Extent of the surrender application	The operator has provided a plan showing the extent of the site of the facility that is to be surrendered. We consider this plan to be satisfactory.
Pollution risk	We are satisfied that the necessary measures have been taken to avoid a pollution risk resulting from the operation of the regulated facility.
Satisfactory state	We are satisfied that the necessary measures have been taken to return the site of the regulated facility to a satisfactory state. In coming to this decision we have had regard to the state of the site before the facility was put into operation.
Permit conditions	
Changes to permit conditions as a consequence of the surrender	The permit conditions have changed as a result of the partial surrender. Condition 2.2.1 has been amended to reflect the change in the installation boundary as shown in schedule 7 of the permit.
Growth Duty	
Section 108 Deregulation Act 2015 – Growth duty	We have considered our duty to have regard to the desirability of promoting economic growth set out in section 108(1) of the Deregulation Act 2015 and the guidance issued under section 110 of that Act in deciding whether to grant this permit surrender. Paragraph 1.3 of the guidance says: “The primary role of regulators, in delivering regulation, is to achieve the regulatory outcomes for which they are responsible. For a number of regulators, these regulatory outcomes include an explicit reference to development or growth. The growth duty establishes economic growth as a factor that all specified regulators should have regard to, alongside the delivery of the protections set out in the relevant legislation.” We have addressed the legislative requirements and environmental standards to be set for this operation in the body of the decision document

Aspect considered	Decision
	<p>above. The guidance is clear at paragraph 1.5 that the growth duty does not legitimise non-compliance and its purpose is not to achieve or pursue economic growth at the expense of necessary protections.</p> <p>We consider the requirements and standards we have set in this permit are reasonable and necessary to avoid a risk of an unacceptable level of pollution. This also promotes growth amongst legitimate operators because the standards applied to the operator are consistent across businesses in this sector and have been set to achieve the required legislative standards.</p>