

# **Environment Agency permitting decisions**

## **Bespoke permit**

We have decided to grant the permit for Snippery Site operated by Mr Jonathan Hay.

The permit number is EPR/CP3536NY.

We consider in reaching that decision we have taken into account all relevant considerations and legal requirements and that the permit will ensure that the appropriate level of environmental protection is provided.

## **Purpose of this document**

This decision document:

- explains how the application has been determined
- provides a record of the decision-making process
- shows how all relevant factors have been taken into account
- justifies the specific conditions in the permit other than those in our generic permit template.

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

## **Structure of this document**

- Key issues
- Annex 1 the decision checklist
- Annex 2 the consultation, web publicising responses

## Key Issues

### 1) Ammonia Impacts

There is one Site of Special Scientific Interest (SSSI) within 3.4km and two Local Wildlife Sites (LWS) within 2.1km of the facility.

#### Assessment of SSSI

If the PC is below 20% of the relevant CLe or CLo then the farm can be permitted with no further assessment. Initial screening using Ammonia Screening Tool v4.3 has indicated that the PC for Botcheston Bog SSSI is predicted to be less than 20% Critical Level for ammonia, therefore it is possible to conclude no damage and consultation with Natural England is not required. Therefore, no further assessment is necessary.

**Table 1: Assessment of ammonia emissions (SSSI)**

Name of SSSI	Ammonia CLe	PC ( $\mu\text{g}/\text{m}^3$ )	PC as % of Critical level
Botcheston Bog	$1\mu\text{g}/\text{m}^3$ *	0.18	18

\* A precautionary level of  $1\mu\text{g}/\text{m}^3$  has been used during the screen. Where the precautionary level of  $1\mu\text{g}/\text{m}^3$  is used, and the process contribution is assessed to be less than the 20% insignificance threshold in this circumstance it is not necessary to further consider Nitrogen Deposition or Acidification Critical Load values. In these cases the  $1\mu\text{g}/\text{m}^3$  level used has not been confirmed, but it is precautionary.

No further assessment is necessary.

#### Assessment of LWS

The following trigger thresholds have been applied for the assessment of non-statutory LWS:

- If PC is <100% of relevant Critical Level or Load then the farm can be permitted (H1 or ammonia screening tool)
- If PEC < Critical Level or Load then the farm can be permitted
- If further modelling shows PC <100%, then the farm can be permitted.

The Critical Levels and Loads used in this assessment are given in Table 2. For the following sites this farm has been screened out as set out above using results of the Ammonia Screening Tool version 4.3.

**Table 2: Assessment of ammonia emissions (LWS)**

Name of LWS	Ammonia Cle	PC ( $\mu\text{g}/\text{m}^3$ )	PC as % of Critical level
Manor Farm Grassland	$1\mu\text{g}/\text{m}^3$ *	0.451	45.1

\* Where the precautionary level of  $1\mu\text{g}/\text{m}^3$  is used and the process contribution is assessed to be <100% the site automatically screens out as insignificant and no further assessment of critical load is necessary. In these cases the  $1\mu\text{g}/\text{m}^3$  level used has not been confirmed but it is precautionary.

For the following LWS site no CLe has been specified and therefore no screening assessment undertaken or results determined.

#### **Mature single ash tree, The Swallows, Merry Lees:**

Fraxinus excelsior with a girth of 3.45m and evidence of heart rot, hollows and dead branches. This tree meets the primary criteria for a Wildlife Site in its own right. A single ash tree has been designated purely on the basis that it is a veteran tree. There is no

other species information for the tree. There are no lichens or bryophytes at the site (checked on 22/07/2013) and it is adjudged that there are no sensitive receptors at the site.

No further assessment or action is required.

## **2) Industrial Emissions Directive (IED)**

The Environmental Permitting (England and Wales) (Amendment) Regulations 2013 were made on the 20 February and came into force on 27 February. These Regulations transpose the requirements of IED. This permit implements the requirements of the EU Directive on Industrial Emissions.

### Groundwater Monitoring

As a result of the IED requirements all permits must now have condition 3.2.4 relating to groundwater monitoring. However, the Environment Agency's H5 Guidance states that it is only necessary for the operator to take samples of soil or groundwater and measure levels of contamination where the evidence that there is or could be existing contamination and:

- The environmental risk assessment has identified that the same contaminants are a particular hazard; or
- The environmental risk assessment has identified that the same contaminants are a hazard and your risk assessment has identified a possible pathway to land or groundwater.

H5 Guidance further states that it is not essential for the Operator to take samples of soil or groundwater and measure levels of contamination where:

- The environmental risk assessment identifies no hazards to land or groundwater; or
- Where the environmental risk assessment identifies only limited hazards to land and groundwater and there is no reason to believe that there could be historic contamination by those substances that present the hazard; or
- Where the environmental risk assessment identifies hazards to land and groundwater but there is evidence that there is no historic contamination by those substances that pose the hazard.

The site condition report for Snippery Site (Site Condition Report – Application Part Only, V1, 14 November 2013) demonstrates that there is no historic contamination on site that may present a hazard. Therefore, although this condition is included in the permit, no groundwater monitoring will be required at this installation as a result.

### Point Source Emissions Monitoring

As a result of the IED requirements all permits must now have condition 3.5.1 relating to point source emissions and will only be enforced if there is a risk to groundwater or soil from the activities taking place on the installation.

## Annex 1: decision checklist

This document should be read in conjunction with the Duly Making checklist, the application and supporting information and permit/notice.

Aspect considered	Justification / Detail	Criteria met
		Yes
<b>Consultation</b>		
Scope of consultation	The consultation requirements were identified and implemented. The decision was taken in accordance with RGN 6 High Profile Sites, our Public Participation Statement and our Working Together Agreements.	✓
Responses to consultation, web publicising	The consultation and web publicising responses (Annex 2) were taken into account in the decision. The decision was taken in accordance with our guidance.	✓
<b>Operator</b>		
Control of the facility	We are satisfied that the applicant (now the operator) is the person who will have control over the operation of the facility after the grant of the permit. The decision was taken in accordance with EPR RGN 1 Understanding the meaning of operator.	✓
<b>European Directives</b>		
Applicable directives	All applicable European directives have been considered in the determination of the application. This permit has implemented the requirements of the Industrial Emissions Directive (IED). Please refer to the key issues section for more details.	✓
<b>The site</b>		
Extent of the site of the facility	The operator has provided a plan which we consider is satisfactory, showing the extent of the site of the facility. A plan is included in the permit and the operator is required to carry on the permitted activities within the site boundary.	✓
Site condition report	<p>The operator has provided a description of the condition of the site.</p> <p>The area overlies Coal Measures that lie beneath the Mercia Mudstone and associated beds of Triassic sandstone. Watercourses in the area drain into the Anker and Soar catchments. The site is not within a groundwater source protection zone and lies upon a 'Secondary B' aquifer but not designated as vulnerable.</p> <p>According to maps on the Environment Agency website, the site is within a drinking water protected area (not at risk) and a NVZ for surface waters. The site is not at risk from</p>	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	<p>flooding. There is an un-named ditch to the west of the site which flows in a southerly/south-westerly direction.</p> <p>We consider this description is satisfactory. The decision was taken in accordance with our guidance on site condition reports and baseline reporting under IED – guidance and templates (H5).</p>	
Biodiversity, Heritage, Landscape and Nature Conservation	<p>The application is within the relevant distance criteria of a site of heritage, landscape or nature conservation, and/or protected species or habitat.</p> <p>A full assessment of the application and its potential to affect the sites has been carried out as part of the permitting process. We consider that the application will not affect the features of the sites for the reasons outlined in the Key Issues section.</p> <p>In accordance with our guidance as there are statutory sites within 10km of the installation, we are required to complete an Appendix 4 CRoW Act Assessment for the SSSI for auditing purposes only. This was done on 03/03/2014. A 'record of other conservation sites assessment' proforma was also completed on 03/03/2014 and both documents saved onto EDRM.</p> <p>We have not formally consulted on the application. The decision was taken in accordance with our guidance.</p>	✓
<b>Environmental Risk Assessment and operating techniques</b>		
Environmental risk	<p>We have reviewed the operator's assessment of the environmental risk from the facility. The operator's risk assessment is satisfactory.</p> <p>The assessment shows that applying the conservative criteria in our guidance on Environmental Risk Assessment all emissions may be categorised as environmentally insignificant.</p>	✓
Operating techniques	<p>We have reviewed the techniques used by the operator and compared these with the relevant guidance notes. The proposed techniques are in line with the SGN 'EPR 6.09' for Intensive Farming and we consider them to represent appropriate techniques for the facility.</p> <p><u>Management and Information:</u> SGN Chapter 1 defines management requirements for the good operation and maintenance of the installation as well as raw material and energy use efficiencies.</p>	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	<p>Appendix 3 of the supporting document provides details of the operators EMS in place at the installation in order to meet these requirements, Appendix 7 delivers key energy efficiency measures for the installation and Appendix 8 details the facility's raw material use. The site has a site accident management plan (refer to EMS in Appendix 3).</p> <p>We consider these to be satisfactory.</p> <p><u>Operations:</u> SGN Chapter 2 defines the required operating techniques and infrastructure design for meeting BAT.</p> <p>Appendices 4 and 5 of the supporting document provides details of the operating techniques and standards in place at the installation. Where manure or slurry is applied to land in an NVZ, the NVZ Rules will apply.</p> <p>We consider these to be satisfactory.</p> <p><u>Emissions and Monitoring:</u> SGN Chapter 3 defines the control and monitoring of emissions under BAT.</p> <p>There are no sensitive receptors within 400m of the installation. The potential impact of odours and noise arising from the new site have been considered within the site H1 risk assessment submitted with the application supporting document.</p> <p>We consider these to be satisfactory.</p> <p>The permit conditions ensure compliance with relevant BREFs and BAT Conclusions.</p>	
<b>The permit conditions</b>		
Incorporating the application	We have specified that the applicant must operate the permit in accordance with descriptions in the application, including all additional information received as part of the determination process. These descriptions are specified in the Operating Techniques table in the permit.	✓
<b>Operator Competence</b>		
Environment management system	There is no known reason to consider that the operator will not have the management systems to enable it to comply with the permit conditions. The decision was taken in accordance with RGN 5 on Operator Competence.	✓

<b>Aspect considered</b>	<b>Justification / Detail</b>	<b>Criteria met</b>
		<b>Yes</b>
Relevant convictions	The National Enforcement Database has been checked to ensure that all relevant convictions have been declared. No relevant convictions were found. The operator satisfies the criteria in RGN 5 on Operator Competence.	✓
Financial provision	There is no known reason to consider that the operator will not be financially able to comply with the permit conditions. The decision was taken in accordance with RGN 5 on Operator Competence.	✓

## Annex 2: Consultation, web publicising responses

Summary of responses to consultation, web publication and the way in which we have taken these into account in the determination process.

<b>Response received from</b>
Local authority planning department, Hinckley and Bosworth Borough Council dated 21 February 2014.
<b>Brief summary of issues raised</b>
Planning permission was originally obtained by virtue of an appeal decision in 1999 and that permission was required to be implemented within 5 years. This has not occurred and a new planning application needs to be submitted to proceed with the proposed development.  Hinckley and Bosworth Borough Council objects to the granting of an environmental permit by the Environment Agency for the proposed operation on this site until permission under the Town and Country Planning Act 1990 has been obtained.
<b>Summary of actions taken or show how this has been covered</b>
Telecon with Simon Atha, Area Planning Officer, Hinckley and Bosworth Borough Council: Explained to the Councils Area Planning Officer that unless the Council has an 'environmental' reason for objecting to the permit being issued, having no planning permission is a reason to prevent the Environment Agency from issuing a permit. The Councils planning officer accepted this and confirmed that the Council planning department had no 'environmental' reasons with which to object to the granting of a permit.

<b>Response received from</b>
Local authority environmental health officer, Hinckley and Bosworth Borough Council dated 14 February 2014.
<b>Brief summary of issues raised</b>
None. No planning conditions, enforcement action or complaints taken by the Council in relation to the operator/current site.
<b>Summary of actions taken or show how this has been covered</b>
None.

### **Reponses not received**

The Health and Safety Executive (HSE) were also consulted. However, a consultation response from them was not received.

This application was publicised on the Environment Agency website between 17 February and 17 March 2014. However, no responses were received from the public during this period.