

Review of an Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2010 (“EPR”)

Decision document recording our decision-making process

We have decided to vary the Permit for Kirkless Material Recycling Facility operated by FCC Waste services (UK) Limited, as a result of an application made by the Operator.

The Permit number is EPR/DB3601GP.

The Variation notice number is EPR/DB3601GP/V002.

What this document is about

This is a decision document, which accompanies a variation notice.

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.

Preliminary information and use of terms

We refer to the Permit (both existing and as varied) as “the **Permit**” in this document; and to the variation of the Permit as “the **Variation**”.

The Operator of the Installation is FCC Waste services (UK) Limited: we call FCC Waste services (UK) Limited “the **Operator**” in this document. We refer to FCC Waste services (UK) Limited’s Kirkless Material Recycling Facility as “the **Installation**”.

The Application was duly made on 05/10/2015.

How this document is structured

- Our decision
- The legal framework
- How we took our decision
- Key issues in the determination
- Annex 1 – the decision checklist
- Annex 2 –web publicising and responses

1 Our decision

We have issued a Variation, which will allow the Operator to operate their facility as an Installation, subject to the conditions in the varied Permit.

This Variation does several different things:

- **First**, it gives effect to our decisions following the identification of the Operator as undertaking a “newly prescribed activity” (NPA) under the Industrial Emissions Directive (IED);
- **Second**, it takes the opportunity to bring earlier variations into an up-to-date, consolidated Permit. The consolidated Permit should be easier to understand and use; and
- **Third**, it modernises the entire Permit to reflect our current template. The template reflects our modern regulatory permitting philosophy and was introduced because of a change in the governing legislation. This took place when the Pollution Prevention and Control (England and Wales) Regulations 2000 (“PPC”) were replaced in 2008 by a new statutory regime under the Environmental Permitting Regulations 2007 (now the 2010 version).

The introduction of new template conditions makes the Permit consistent with our current general approach and philosophy. Although the wording of some conditions has changed, while others have disappeared because of the new regulatory approach, it does not affect the level of environmental protection achieved by the Permit in any way.

We consider that, in reaching our decision, we have taken into account all relevant considerations and legal requirements and that the Permit will continue to ensure that a high level of protection is provided for the environment and human health.

The original Permit, issued on 05/11/2001, ensured that the facility, would be operated in a manner which would ensure the protection of the environment specified in the existing Guidance at the time. To the extent that we have substantively altered the Permit as a result of this variation, the new requirements will deliver a higher level of protection to that which was previously achieved.

As we explained above, we do not address changes to the Permit in this document, to the extent that they give effect to either the consolidation of earlier variations, or introduce new template conditions.

2 The legal framework

The original Permit was granted on 05/11/2001 under the Environmental Protection Act 1990 and regulated under the Waste Management Licensing Regulations 1994.

The Installation will be subject to the requirements of the Industrial Emissions Directive (IED) 2010/75/EU and regulated under the Environmental Permitting (England and Wales) Regulations 2010 (SI 2010 No 675). The IED was transposed in England and Wales by the Environmental Permitting (England and Wales)(Amendment) Regulations 2013 on 27 February 2013.

The IED seeks to achieve a high level of protection for the environment taken as a whole from harmful effects of industrial activities. It does so by requiring each of the industrial installations to have a permit from the competent authority (in England, the Environment Agency, or for smaller Installations, the relevant Local Authority). The IED has increased the number of activities that require an Installations permit. These are predominantly regulated as “waste operations” and include (when exceeding specific thresholds described in IED):

- hazardous waste treatment for recovery;
- hazardous waste storage;
- biowaste treatment – recovery and/or disposal;
- treatment of slags and ashes;
- metals shredding;
- pre-treatment of waste for incineration/co-incineration;
- biological production of chemicals; and
- independently operated wastewater treatment works serving only industrial activities subject to the Directive.

Article 11 of the IED requires the relevant authority (the Environment Agency in this case) to ensure that the Installation is operated in such a way that all the appropriate preventative measures are taken against pollution, in particular through the application of Best Available Techniques (BAT). Under Article 15(2), the Permit must contain emission limit values (ELVs) (or equivalent parameters or technical measures) for any pollutants likely to be emitted from the Installation in significant quantities. These ELVs are to be based on BAT, but also on local factors and EU Environmental Quality Standards. The overarching requirement is to ensure a high level of protection for the environment and human health.

We are required by Article 13 of the IED to keep abreast of developments in BAT. In addition, Article 13 requires us to carry out a periodic review of the permit’s conditions, and to update them if necessary.

The IED also requires the European Commission to organise an exchange of information between EU Member States so that what are known as BAT reference documents (or BREF notes) can be published, creating a level playing field across the EU, providing a consistent set of standards for new plant, to which regulatory authorities in the Member States can then have reference. These BREF notes are the basis for our own national sector technical guidance. The Commission is also required to update BREF notes

on a regular basis. The waste treatment BREF notes are currently being reviewed and a final issue date is anticipated in 2016. Under the IED, all permits will be subject to review within four years of the publication of revised BREF notes. This means that we will need to do a further review against any new standards in the BREF notes at sometime in the future.

The IED is to be implemented over several years commencing from 7 January 2013. For existing installations operating “newly prescribed activities”, the relevant date for implementation is 7 July 2015.

3 How we reached our decision

It is the Operators responsibility to ensure they are correctly regulated for the activities they are carrying out. Following adoption of the IED, the Environment Agency has engaged in a range of briefings and communications with the waste industry sector to raise awareness of the implications of the Directive and the need to ensure their facilities are correctly regulated (particularly after the implementation date of 7 July 2015 for newly prescribed activities).

Early in 2014, the Environment Agency provided further briefings to industry trade bodies and wrote to operators we believed may be implicated by these changes. We provided detailed information sheets that described the implications and the process operators should follow if they decided to have their activities permitted as Installations.

We confirmed that most facilities fell into one of two groups:

- Facilities permitted from April 2007
When these facilities were permitted, a thorough assessment would have been carried out to confirm whether the proposed activities were using “appropriate measures” as a standard to protect the environment.

This standard of protection is the same standards that would have been assessed against had the facilities applied as an Installation activity (i.e. BAT). The permit would have also been issued with modern conditions that ensured protection of the environment.

We consider that these facilities are effectively ‘IED-compliant’ in terms of the technical standard of the facility with the exception of the “newly prescribed activity”. For these facilities, we consider that, in general, no further technical assessment is required, so administrative variations are an appropriate mechanism to show the activities as Installation activities. The administrative variation is a necessary route for the Operator to formally ask for this activity to be included in their permit and for us to advertise that request on our Public Register.

It is understood that the Environment Agency granted permits for new waste activities under the Waste Management Licensing Regulations 1994 beyond April 2007. Where a facility falls into this group, the

Environment Agency shall determine whether or not the application was assessed using “appropriate measures”. Where it is determined that the application was assessed using “appropriate measures”, the application will be designated as an “administrative variation”.

- Facilities permitted before April 2007
For these facilities, a “normal” or “substantial” variation is appropriate because a detailed technical assessment is required on aspects of the Application in addition to the administrative changes.
Substantial variations will only be relevant where the newly prescribed activity is being added to an existing installation permit.

This Variation

The original Permit was granted on 05/11/2001 and subsequently varied on 11/12/2003, 03/11/2006 and 07/11/2008. We have reviewed the documentation submitted in support of the original permit and subsequent variation application(s) in this determination. We are not satisfied that the standard of protection was assessed using appropriate measures. We have determined this Application as a normal variation. As the Variation will not have any negative effects on the environment, it is not a substantial variation and so does not require consulting on.

4 Key issues in the determination

1. Operating techniques

Pre-acceptance of waste and acceptance of waste

The operator receives waste from three routes:

- Domestic waste from householders delivered to the HWRC;
- Residual municipal solid waste (MSW) from Wigan domestic waste collection delivered for the RDF process;
- Sorted (at source) recyclables from Wigan domestic waste collection for onward transfer;

Suitable pre-acceptance and acceptance procedures are in place for waste delivered to the site for the RDF process and transfer. Non-recyclable waste from the HWRC is also taken, weighed and mixed with the RDF process feedstock.

Storage and handling of waste

All off-loading, storage and quarantine areas are fitted with impermeable surfacing. All waste from the treatment process is contained within the building within bays. There are a number of external bays (used for non-putrescible recyclables from municipal collection rounds and HWRC), which are also impermeably surfaced and roofed.

Loose RDF is stored within bays in the building. The site has the capability to also bale RDF if that is required by the customer. Organic and metallic fines from the process are stored separately in a purpose built storage housing linked to the MRF building by conveyor.

Site storage times

The operator proposed an increase in storage time duration on site for biodegradable waste, from 2 days to 10 days (i.e. Up to 5 days storage prior to RDF processing, plus up to 5 days for processed RDF). There is no increase in storage quantities. The potential for odour and pests is discussed below.

Process (treatment) description

The RDF plant consists of a shredder, loading hopper, trommel, metal separators and associated conveyors. MSW is first shredded and then passed to a feedstock bay. This waste is then loaded into a hopper which feeds the trommel. The trommel and metal separators produce three separate fractions: organic-rich fines, separated metal, and RDF. Separated metal and the fines are transported via conveyor to a separate enclosed bay. RDF is stored loose in bays within the building prior to transport for off-site use. The facility has the capability to bale the RDF if required, but this is not undertaken routinely.

Fugitive emissions to air

Fugitive emissions to air from the RDF treatment process is controlled via undertaking the process within the building and by an existing water misting system, which minimises the potential for dusts and particulate arising from the process.

Fugitive emissions to surface and groundwater (secondary containment, site drainage plan)

Waste treatment occurs within the building which is fitted with an impermeable surface and sealed drainage system. The building is bunded to retain any run-off within. Internally the waste treatment building drains to a sump which pumps to foul sewer, under a discharge consent. External non-waste storage areas of the site drain to Ince Brook via an interceptor and attenuation pond fitted with shut-off valves that can be used in the event of a pollution incident such as a fire. Fuel and lubricants used within the site plant are stored in the site storage shed and are appropriately bunded. A waste oil tank used as part of the HWRC is also bunded.

Odour management Plan (OMP).

As the facility accepts biodegradable MSW there is a potential for odour. The facility has an agreed OMP, and this has been adapted for the increase in storage times proposed as part of this variation. We have reviewed the OMP and find it is still appropriate, and has therefore been agreed and listed as a technique in the operational techniques table S1.2.

Pest Management Plan (PMP)

As the facility accepts biodegradable MSW there is a potential for pests (insects, rodents, and scavenging birds) to be attracted to the site. The facility has an agreed PMP, and this has been adapted for the increase in storage times proposed as part of this variation. We have reviewed the PMP and find it is still appropriate, and has therefore been agreed and listed as a technique in the operational techniques table S1.2.

Point source emissions to air, water or land

There are no point source emissions to air. As described above, there is a discharge to sewer from the waste treatment building and uncontaminated surface water from external areas of the site drains to Ince Brook. These were described in the application but no further detail was provided. We asked for additional information via schedule 5 Notice dated 22/11/2016 regarding the surface water and sewer discharges. This was provided on 09/12/2016.

Uncontaminated surface water flows via an interceptor and attenuation pond to Ince Brook, and is fitted with containment measures (penstock valves) in case of an incident on site. The sewer discharge is used for any run-off from waste treatment areas within the building. The operator has stated that there are no hazardous pollutants in significant quantities in the discharge. The operator has a Consent to Discharge from United Utilities for this discharge.

Monitoring

No monitoring emissions is proposed, other than procedures for monitoring of pests and odours, in accordance with the agreed OMP and PMP.

Annex 1 – decision checklist

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

Aspect considered	Justification / Detail	Criteria met Yes
Receipt of submission		
Confidential information	A claim for commercial or industrial confidentiality has not been made.	✓
Identifying confidential information	We have identified information provided as part of the application that we consider to be confidential. The decision was taken in accordance with our guidance on commercial confidentiality.	✓
Consultation		
Responses to web publicising	The web publicising responses (Annex 2) were taken into account in the decision. No responses were received. The decision was taken in accordance with our guidance.	✓
Operator		
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.	✓
The facility		
The regulated facility.	<p>The extent/nature of the facilities taking place at the site required clarification. The decision on the facility was taken in accordance with RGN 2, Understanding the meaning of regulated facility.</p> <p>Under IED, the existing RDF process is now a listed activity, and along with the associated activities, comprises the installation. The operator also operates a Household Waste Recycling Centre (HWRC) and transfer operations which are unconnected to the installation, and these remain as waste operations. The regulated facilities therefore comprise the following:</p> <p>The installation, which comprises the following activities listed in Part 2 of Schedule 1 to the Environmental Permitting Regulations and the following directly associated activities (DAAs):</p> <ul style="list-style-type: none"> • Section 5.4 A1(b)(ii): Recovery or a mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day involving pre-treatment of waste for incineration and co-incineration (including storage of treated waste and RDF and despatch of waste and RDF); 	✓

Aspect considered	Justification / Detail	Criteria met Yes
	<ul style="list-style-type: none"> • Storage of waste (DAA) - storage of non-hazardous waste pending pre-treatment of waste for incineration or co-incineration; • Raw materials storage (DAA); • Surface water management (DAA); <p>The following waste operations are also undertaken:</p> <ul style="list-style-type: none"> • D15: Storage pending any of the operations numbered D1 to D14 (excluding temporary storage, pending collection, on the site where the waste is produced); • R13: Storage of waste pending any of the operations numbered R1 to R12 (excluding temporary storage, pending collection, on the site where the waste is produced); • R3: Recycling/reclamation of organic substances which are not used as solvents; • R4: Recycling/reclamation of metals and metal compounds; • R5: Recycling/reclamation of other inorganic compounds; • D9: Physico-chemical treatment not specified elsewhere which results in final compounds or mixtures which are discarded by means of any of the operations numbered D1 to D12; • D14: Repackaging prior to submission to any of the operations numbered D1 to D13. <p>Appropriate limits have been set on the remaining waste operations to ensure that installation thresholds are not breached (e.g. limiting storage of hazardous waste to not exceed 50 tonnes).</p>	
European Directives		
Applicable Directives	All applicable European Directives have been considered in the determination of the application.	✓
The site		
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.	✓
Biodiversity, Heritage, Landscape and Nature	The application is within the relevant distance criteria of a site of heritage, landscape or nature conservation, and/or protected species or habitat. The following sites were identified within the screening criteria:	✓

Aspect considered	Justification / Detail	Criteria met Yes
Conservation	<p>Local Nature Reserves: Kirkless Borsdane Wood</p> <p>Local Wildlife Sites: Borsdane Wood (East) Leeds Liverpool Canal - Adlington to Wigan - (South) Meadow near Kirkless Hall Haigh Plantations Hindley Deep Pits Kirkless Lane Woodshaw Colliery Amberswood Common Borsdane Wood (West)</p> <p>Ancient Woodland: Borsdane Wood Unnamed woodland</p> <p>A full assessment of the application and its potential to affect the site has been carried out as part of the permitting process.</p> <p>All waste treatment operations are undertaken in a closed building, provided with impermeable surfacing and sealed drainage. There are no point source emissions to air and only uncontaminated surface water is emitted to Ince Brook. This only leaves the likelihood of disturbance (noise, visual etc.) which is considered unlikely. We consider that the site will cause no significant pollution. We consider that the application will not affect the features of the sites.</p> <p>We have not formally consulted on the application. The decision was taken in accordance with our guidance.</p>	
Environmental Risk Assessment and operating techniques		
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	We have reviewed the techniques used by the operator and compared these with the relevant guidance notes –	✓

Aspect considered	Justification / Detail	Criteria met Yes
	<ul style="list-style-type: none"> • IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste; • H3 – Noise assessment and control; • H4 – Odour Management. <p>The proposed techniques/emission levels for priorities for control are in line with the benchmark levels contained in the above technical guidance notes and we consider them to represent appropriate techniques for the facility.</p> <p>We are satisfied with the BAT assessment provided by the operator which adequately addresses the following points:</p> <ul style="list-style-type: none"> • pre-acceptance of waste • acceptance of waste • storage and handling of waste • process (treatment) description • fugitive emissions to air • fugitive emissions to surface and groundwater (secondary containment, site drainage plan) • odour management • monitoring • accidents <p>See Key Issues section of the decision document.</p>	
The permit conditions		
Updating permit conditions during consolidation	We have updated previous permit conditions to those in the new generic permit template as part of permit consolidation. The new conditions have the same meaning as those in the previous permit.	✓
Waste types	<p>We have specified the permitted waste types, descriptions and quantities, which can be accepted at the regulated facility. We are satisfied that the operator can accept these wastes because they have the necessary infrastructure, operating systems and technical capability to manage these wastes in an appropriate manner.</p> <p>We requested via Schedule 5 Notice dated 22/11/2016 that the operator clarify the hazardous properties associated with the hazardous wastes accepted at the HWRC. The existing permit limited the input via reference to Hazard Codes (H codes), which are no longer used following revision of Annex III of the Waste Framework Directive (2008/98/EC, as amended). HP codes are now specified, and their definitions are different in certain</p>	✓

Aspect considered	Justification / Detail	Criteria met Yes
	<p>respects. The operator responded that there is no proposed change changes to waste types or the hazardous properties of wastes received at the site, and that any changes such as these would be part of a permit updated to modern conditions.</p> <p>Though we accept that the HWRC is not subject to this variation for IED, the existing condition needs to be updated, as it is no longer enforceable. We have therefore restricted the wastes showing the following risks from the site:</p> <ul style="list-style-type: none"> • HP1 (explosive); • HP9 (infectious). <p>These codes were not accepted previously, pose additional risks in handling, and are usually restricted to a small number of EWC codes (not accepted at this site). We have not imposed other HP code restrictions, as the facility has the capacity to accept small quantities of potentially hazardous wastes from householders, and has the ability to store them in appropriate containers.</p> <p>We have included the operator's proposed list of wastes, now set in European waste Catalogue (EWC) codes.</p> <p>We made these decisions with respect to waste types in accordance with our Technical Guidance Note WM3 – Guidance on the classification and assessment of waste.</p>	
Incorporating the application	We have specified that the operator 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.	✓
Reporting	<p>We have specified reporting in the permit.</p> <p>Reporting forms have been prepared to facilitate reporting of data in a consistent format. These reporting requirements are deemed sufficient and proportional for the Installation.</p>	✓
Operator Competence		
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 our guidance on Operator Competence.	✓
Technical competence	Technical competency is required for activities permitted. The operator is a member of an agreed scheme.	✓
Relevant	The National Enforcement Database has been checked	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
Convictions	<p>to ensure that all relevant convictions have been declared.</p> <p>No relevant convictions were found.</p> <p>The operator satisfies the criteria in our guidance on Operator Competence.</p>	
Financial provision	<p>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 our guidance on Operator Competence.</p>	✓

Annex 2 – Web publicising responses

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

Response received from
No responses received
Brief summary of issues raised
n/a
Summary of actions taken or show how this has been covered
n/a