

# 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 Rabone Lane operated by Sims Group UK Limited, as a result of an application made by the Operator.

The Permit number is EPR/ ZP3691ET

The Variation notice number is EPR/ZP3691ET/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 Sims Group UK Limited: we call Sims Group UK Limited “the **Operator**” in this document. We refer to Sims Group UK Limited’s Rabone Lane as “the **Installation**”.

The Application was duly made on 12<sup>th</sup> September 2014.

## **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

# 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 15<sup>th</sup> January 1993, 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 15th January 1993 as a Waste Disposal License under the Control of Pollution Act 1974, which was superseded by the Environmental Protection Act 1990.

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 ecological impact assessment, waste types and operational procedures 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.

The original Permit was granted on 15th January 1993 and subsequently varied on 1<sup>st</sup> November 1996, 1<sup>st</sup> May 1998, 7<sup>th</sup> November 2008, 10<sup>th</sup> of May 2010 and 12<sup>th</sup> July 2011 (Transfer to current operator). 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

This variation implements the changes brought about by the IED for “existing facilities operating newly prescribed activities” and provides the transition of some of the site activities from a waste operation to an IED Listed activities. Some of the operations carried out at the site are not captured by the changes from the Industrial Emissions Directive and therefore remain as Waste Operations. Therefore, the permit becomes a multi regime permit.

The metals shredding activity is covered by IED as the installed shredder has capacity which fall under S5.4 A(1) (b) (iv) Recovery or a mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day involving treatment in shredders of metal waste. The following activities undertaken at the site are consider to form Directly Associated Activities to this listed activity:

- In-feed storage of waste.
- Pre-treatment, physical treatment for the purpose of recycling
- Physical treatment for the purpose of recycling
- Post-treatment for the purpose of recycling
- Storage of processed materials, excluding temporary storage of hazardous waste.
- Site drainage discharge

The following site operations are not capture by IED, and are not deemed to be Directly Associated Activities to the metal shredding and therefore remain permitted as Waste Operations:

- Metal Recycling
- Vehicle storage, depollution and dismantling (authorised treatment) facility.
- Hazardous Waste Storage
- Metals washing

The operator had applied for a S5.6 activity for Hazardous Waste storage, However, the scope of Hazardous Waste storage for the required operations is adequately covered under a Waste Operation limited to 50 tonnes storage to remain below the IED threshold, as the storage is only in relation to batteries.

Metals washing was determined to be permitted as a Waste Operation as prior to this activity the wastes are transported to another permitted facility for treatment prior to being accepted back to the site. The washing process also potentially accepts wastes/products from other facilities from the waste streams received from this other facility.



## 1. Operating techniques

The operator's application states compliance with the following relevant guidance:

Guidance on the Best Available Treatment Recovery and Recycling Techniques (BATRRT) and treatment of Waste Electrical and Electronic Equipment Directive, DEFRA 2006

- Environmental Permitting Guidance Waste Electrical and Electronic Equipment Directive, DEFRA 2008
- Environmental Permitting Guidance, the Waste Framework Directive, DEFRA 2008
- Sector Guidance Note EPR5.06: Guidance on the Recovery and Disposal of Hazardous and Non-hazardous Waste, Environment Agency 2013
- Environment Agency Guidance: "How to Comply with your Environmental Permit"

In support of the application the operator provided:

- The relevant completed application forms.
- A non-technical summary
- An Environment, Fugitive Emissions and Accidents Risk Assessment and Management Plan
- Evidence of staff WAMITAB accreditation, and ISO14001 certification
- Operating Techniques document and site plans.
- OPRA profiles for the Installation Activities and Waste Operations

The Operating Techniques and other information provided detail on the operators approach to:

- 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
- point source emissions to air, water or land (where relevant)
- monitoring
- accidents

On determination of the information provided a number of Improvement Conditions have been set within the permit for the operator to address to demonstrate continued BAT compliance. The permit also contains a number

of new conditions which relate to the implementation of BAT in the metals sector. These Improvement Conditions, and new permit conditions are being rolled out to the metals sector as a whole during the IED permitting process to ensure the metal sector is operating to BAT standards.

## 2. Waste types

An EWC waste list was provided with the application. This included the following waste codes for acceptance through the waste operations, however, as these waste types were not previously permitted, and no operational techniques have been provided for these wastes they have not been added to the permit draft. They would need to form a future variation of the permit.

16 02 11*	discarded equipment containing chlorofluorocarbons, HCFC, HFC
16 02 13*	Discarded equipment containing hazardous components other than those mentioned in 16 02 09 to 16 02 12
16 02 15*	hazardous components removed from discarded equipment
20 01 21*	fluorescent tubes and other mercury-containing waste
20 01 23*	Discarded equipment containing chlorofluorocarbons
20 01 35*	discarded electrical and electronic equipment other than those mentioned in 20 01 21 and 20 01 23 containing hazardous components

The following waste codes were also applied for in the variation, however it is deemed that these are not included as the required waste types are covered by the permitted EWC waste code 16 01 22 – ELVs components not otherwise specified.

16 08 01	Spent catalysts containing Au, Ag, Re, Rh, Pd, Ir, Pt
16 08 03	Spent catalysts containing transition metals/compounds not specified

The following waste codes were added to the permit to cover the metals washing operations at the site. This is considered to be a separate activity as the metals waste streams go to an alternative facility prior to returning for washing:

19 10 04	fluff-light fraction and dust other than those mentioned in 19 10 03
19 10 06	other fractions other than those mentioned in 19 10 05

The following waste code was requested during the operator review stage of determination, and accepted as suitable for the permit as it is in the standard permit template:

20 01 33*	batteries and accumulators included in 16 06 01, 16 06 02 or 16 06 03 and unsorted batteries and accumulators containing these batteries
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3. Ecological impact assessment (where relevant)

The site is within close proximity to canal systems which are a habitat for migrating European eel (*Anguilla Anguilla*) which is a protected species. However, as the variation is purely regulatory and does not impact on the habitat in any way, an App 11 consultation has not been sought.

## 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
<b>Consultation</b>		
Responses to consultation.	No public responses were received in response to the web publicising of the application.	✓
<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>The facility</b>		
The regulated facility	<p>The extent/nature of the facilities taking place at the site required clarification.</p> <p>The decision on the facility was taken in accordance with RGN interpretation of installation.</p> <p>The regulated facility is an installation which comprises the following activities listed in Part 2 of Schedule 1 to the Environmental Permitting Regulations and the following directly associated activities:</p> <p>The metals shredding activity is covered by IED as the installed shredder has capacity which fall under S5.4 A(1) (b) (iv) Recovery or a mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day involving treatment in shredders of metal waste. The following activities undertaken at the site are consider to form Directly Associated Activities to this listed activity:</p> <ul style="list-style-type: none"> <li>• Post-treatment for the purpose of recycling</li> <li>• Treatment for the purpose of recycling</li> <li>• Pre-treatment, physical treatment for the purpose of recycling</li> <li>• In-feed storage of waste</li> <li>• Site drainage discharge</li> <li>• Storage of processed materials.</li> </ul> <p>The following site operations are not capture by IED, and are not deemed to be Directly Associated Activities to the metal shredding and therefore remain permitted as Waste</p>	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	<p>Operations:</p> <ul style="list-style-type: none"> <li>• Metal Recycling</li> <li>• Vehicle storage, depollution and dismantling (authorised treatment) facility.</li> <li>• Hazardous Waste Storage</li> <li>• Metals washing</li> </ul>	
<b>European Directives</b>		
Applicable Directives	All applicable European Directives have been considered in the determination of the application.	✓
<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.	✓
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>The site is within close proximity to canal systems which are a habitat for migrating European eel (<i>Anguilla Anguilla</i>) which is a protected species. However, as the variation is purely regulatory and does not impact on the habitat in any way or increase the risk to the species, the permit changes will provide enhancement of the permit controls of any potential releases. Therefore, App 11 consultation has not been sought.</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.</p> <p>The operator's risk assessment is satisfactory.</p>	✓
Operating techniques	<p>We have reviewed the techniques used by the operator and compared these with the relevant guidance notes –</p> <ul style="list-style-type: none"> <li>• Environmental Permitting Guidance Waste Electrical and Electronic Equipment Directive, DEFRA 2008</li> <li>• Environmental Permitting Guidance, the Waste Framework Directive, DEFRA 2008</li> <li>• Sector Guidance Note EPR5.06: Guidance on the Recovery and Disposal of Hazardous and Non-hazardous Waste, Environment Agency 2013</li> </ul>	✓

Aspect considered	Justification / Detail	Criteria met Yes								
	<ul style="list-style-type: none"> <li>Environment Agency Guidance: "How to Comply with your Environmental Permit"</li> </ul> <p>We consider that the operating techniques do not meet the technical standards specified. We consider that there are omissions in the supporting documents. We have therefore included an improvement condition in the notice which requires a review of the site's operating techniques within 3 months.</p>									
<b>The permit conditions</b>										
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(s). New conditions have been added to the permit in relation to enforcement of BAT for metal shredding activities.	✓								
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>An EWC waste list was provided with the application. This included the following waste codes for acceptance through the waste operations, however, as these waste types were not previously permitted, and no operational techniques have been provided for these wastes they have not been added to the permit draft. They would need to form a future variation of the permit.</p> <table border="1" data-bbox="521 1402 1195 1852"> <tbody> <tr> <td data-bbox="521 1402 699 1503">16 02 11*</td> <td data-bbox="699 1402 1195 1503">discarded equipment containing chlorofluorocarbons, HCFC, HFC</td> </tr> <tr> <td data-bbox="521 1503 699 1671">16 02 13*</td> <td data-bbox="699 1503 1195 1671">Discarded equipment containing hazardous components other than those mentioned in 16 02 09 to 16 02 12</td> </tr> <tr> <td data-bbox="521 1671 699 1772">16 02 15*</td> <td data-bbox="699 1671 1195 1772">hazardous components removed from discarded equipment</td> </tr> <tr> <td data-bbox="521 1772 699 1852">20 01 21*</td> <td data-bbox="699 1772 1195 1852">fluorescent tubes and other mercury-containing waste</td> </tr> </tbody> </table>	16 02 11*	discarded equipment containing chlorofluorocarbons, HCFC, HFC	16 02 13*	Discarded equipment containing hazardous components other than those mentioned in 16 02 09 to 16 02 12	16 02 15*	hazardous components removed from discarded equipment	20 01 21*	fluorescent tubes and other mercury-containing waste	✓
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Aspect considered	Justification / Detail	Criteria met Yes
Improvement conditions	<p>Based on the information on the application, we consider that we need to impose improvement conditions.</p> <p>We have imposed improvement conditions to ensure that:</p> <ul style="list-style-type: none"> <li>➤ the site's operating techniques/management system/plans are reviewed and updated against the standards specified in the technical guidance note(s): <ul style="list-style-type: none"> <li>• IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste;</li> <li>• EPR 5.07 – Clinical Waste;</li> <li>• BRMA BAT recommendation document;</li> <li>• Quick guide 384_12 – Storing and treating incinerator bottom ash;</li> <li>• H3 – Noise assessment and control;</li> <li>• H4 – Odour Management</li> </ul> </li> <li>➤ appropriate management systems and management structures are in place and that sufficient financial, technical and manpower resources are available to the operator to ensure compliance with all the permit conditions.</li> <li>➤ appropriate measures are in place to ensure that accidents that may cause pollution are minimised.</li> <li>➤ the appropriate measures are in place to prevent fugitive emissions.</li> <li>➤ the appropriate measures are in place to prevent pollution from odour.</li> <li>➤ the appropriate measures are in place to prevent annoyance from noise and vibration.</li> </ul> <p>The ICs are being rolled out to the industry as whole to improve the operational standards at these types of facilities. In brief the ICs imposed are:</p> <p>IC1 – BAT assessment for baled wastes  IC2 – Provision of BAT operating procedures for the metal shredding activity and DAAs  IC3 – Provision for minimising dust and particulates from conveyors  IC4 - Proposals for undertaking sampling of stack emissions from shredder and H1 assessment  IC5 – Proposals for testing of stack emissions.  IC6 – Monitoring of surface water discharge  IC7 – drainage discharge H1 assessment and mitigation measures as required</p>	✓



Aspect considered	Justification / Detail	Criteria met
		Yes
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.	✓
Emission limits	We have decided that emission limits should be set for the parameters listed in the permit. The following substances have been identified as being emitted in significant quantities and ELVs [and/or] equivalent parameters or technical measures have been set for those substances. Point source emissions to air: Emissions from shredder - 20 mg/m <sup>3</sup> or other level agreed in writing with the Environment Agency	✓
Monitoring	We have decided that monitoring should be carried out for the parameters listed in the permit, using the methods detailed and to the frequencies specified.  Monitoring of the shredder emissions has been defined, as has monitoring of surface water according to the site trade effluent discharge parameters, and ambient monitoring although no limits are set.	✓
Reporting	We have specified reporting in the permit for the emissions from the shredder and emissions to sewer and for ambient air and noise, as required by condition 3.7.1.	✓
<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.	✓
Technical competence	Technical competency is required for activities permitted. The operator is a member of an agreed scheme.	✓