

Review of an Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2016 (“EPR”)

Decision document recording our decision-making process

We have decided to vary the permit for Morecambe Metals operated by Mr J Varley, as a result of an application made by the operator.

The Permit number is EPR/DP3798LH

The Variation notice number is EPR/DP3798LH/V006

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 Mr J Varley: we call Mr J Varley “the **Operator**” in this document. We refer to Mr J Varley’s Morecambe Metals as “the **Installation**”.

The application was duly made on 22/08/14.

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 2016 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 07/11/91, 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 07/11/91 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 2016 (SI 2016 No 1154). 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 the 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 Best Available Techniques (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 Best Available Techniques. 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 note 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 a revised BREF notes. This means that we will need to do a further review against any new standards in the BREF notes at some time 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 the facility is able to meet with the exception of showing the “newly prescribed activity” as an Installation 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 to provide a formal route to the operator to 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, secondary

containment etc.] 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 07/11/91 and subsequently varied on 07/11/08 and 17/07/09. We have reviewed the documentation submitted in support of the original permit and subsequent variation application(s) in this determination. We are satisfied that the standard of protection was assessed using appropriate measures. We have determined this Variation as an administrative variation.

4 Key issues in the determination

Morecambe Metals is a metal recycling facility site, including end-of-life vehicle de-pollution and fragmentiser operations. This variation is due to the facility having a 'new prescribed activity' as it falls under Section 5.4 Part A (1)b)(iv) of the Environmental Permitting (England and Wales) (Amendment) Regulation 2013 as it is the *"recovery or mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day by treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components"*.

1. Operating techniques

Due to the operating techniques not being updated since the 17/07/09 permit version there is an improvement condition to ensure these are updated in line with BAT.

2. Waste types

Due to the operations on site not changing, the waste types remain as per 17/07/09, for EPR/DP3798LH/V005.

3. Ecological impact assessment (where relevant)

Due to the operations on site not changing, and no changes to the site boundary no ecological impact assessment was required.

- **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
Consultation		
Responses to web publicising	The web publicising, did not receive any responses	✓
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 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><i>Listed Activity Installation</i></p> <ul style="list-style-type: none"> • Section 5.4 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, including waste electrical and electronic equipment and end-of-life vehicles and their components. <p><i>Directly Associated Activity</i></p> <ul style="list-style-type: none"> • Physical treatment for the purpose of recycling • Storage of waste • Storage of processed materials • Raw materials storage • Discharge of process and/or surface water 	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	<p><i>Waste Operations</i></p> <ul style="list-style-type: none"> • Eddy Current Separator (which accepts non-ferrous waste streams from both the metal shredder and external sources) • Bailing and shearing • WEEE Treatment • Vehicle de-pollution 	
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.	✓
Environmental Risk Assessment and operating techniques		
Environmental risk	We have reviewed the operator's assessment of the environmental risk from the facility. The operator's risk assessment is satisfactory.	✓
Operating techniques	We have reviewed the techniques used by the operator and compared these with the relevant guidance notes – <ul style="list-style-type: none"> • IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste; <p>We consider that the operating techniques require updating to meet the technical standards. We consider that the current operating techniques are not up to date and require supporting documents to be updated in line with BAT. We have therefore included an improvement condition in the notice which requires a review of the site's operating techniques within 6 months.</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(s).	✓
Waste types	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	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	<p>wastes because they have the necessary infrastructure, operating systems and technical capability to manage these wastes in an appropriate manner.</p> <p>Due to the operations on site not changing, the waste types remain as per 17/07/09</p>	
Improvement conditions	<p>Based on the information on the application, we consider that we need to impose improvement conditions.</p> <p>In line with all metal shredding sites that are subject to NPA, improvement conditions have been added to ensure practices on site are in accordance with BAT. To demonstrate preventing/ minimising emissions of dust and particulates. Proposals for representative monitoring of the air discharged and ambient air and written proposal to the Environment Agency to carry out tests to determine the size distribution of the particulate matter in the exhaust gas emissions to air.</p> <p>Due to the use of a new diesel generator, an improvement condition has been incorporated into the variation notice requesting for an environmental risk assessment for the emissions to air to be conducted.</p> <p>Due to the noise issues that have arisen on site, the Area team have requested for a Noise Management Plan to be submitted within 3 months of the notice being issued.</p>	✓
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.	✓
Emission limits	We have decided that emission limits should be set for the parameters listed in the permit. Emissions to air	✓
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.	✓
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	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	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.	✓
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.	✓