

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

The Permit number is EPR/BP3790CG.

The Variation notice number is EPR/BP3790CG/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 Sims Group UK Limited: we call Sims Group UK Limited “the **Operator**” in this document. We refer to Sims Group UK Limited’s Harrimans Lane site as “the **Installation**”.

The Application was duly made on 12th 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 2016+6 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 22nd February 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 22nd February 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 2016. 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. 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 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 was 7 July 2015.

3 How we reached our decision

It is the Operator's 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 22nd February 1993 and subsequently transferred on 9th August 1996, transferred again on 2nd January 2002, varied on 31st March 2003, 15th March 2006, 7th November 2008, 28th October 2013 and 8th September 2015. 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 activity. 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. A number of Improvement Conditions (see Improvement Conditions Section below) have been added to ensure that ensure that the site’s operating techniques are reviewed and updated against the standards specified in the required technical guidance notes and according to Best Available Techniques.

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
Consultation		
Responses to consultation.	No public responses were received in response to the web publicising of the application.	✓
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.</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 of the following activities listed in Part 2 of Schedule 1 to the Environmental Permitting Regulations and the following directly associated activities:</p> <ul style="list-style-type: none"> • The metals shredding activity is covered by IED as the installed shredder has capacity which falls 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. • S5.3 A(1)(a)(ii) Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving physico-chemical treatment • S5.6 A(1) (a) Temporary storage of hazardous waste in a facility with a total capacity exceeding 50 tonnes <p>The following activities undertaken at the site are considered to form Directly Associated Activities:</p> <ul style="list-style-type: none"> • In-feed storage of waste • Pre-treatment, physical treatment for the purpose of recycling • Post-treatment for the purpose of recycling • Treatment for the purpose of recycling • Storage of processed materials. 	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	<ul style="list-style-type: none"> • Raw materials storage • Process and surface water discharge <p>The following site operations are not captured by IED, and are not deemed to be Directly Associated Activities and therefore remain permitted as Waste Operations:</p> <ul style="list-style-type: none"> • Metal Recycling • Vehicle storage, depollution and dismantling (authorised treatment) facility. • WEEE treatment 	
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	<p>We have reviewed the techniques used by the operator and compared these with the relevant guidance notes, including –</p> <ul style="list-style-type: none"> • 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" <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>	✓
The permit conditions		

Aspect considered	Justification / Detail	Criteria met
		Yes
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	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.	✓
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"> ➤ the site's operating techniques/management system/plans are reviewed and updated against the standards specified in the technical guidance note(s) - including: <ul style="list-style-type: none"> • IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste; • BRMA BAT recommendation document; • H3 – Noise assessment and control; • H4 – Odour Management ➤ 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. ➤ appropriate measures are in place to ensure that accidents that may cause pollution are minimised. ➤ the appropriate measures are in place to prevent fugitive emissions. ➤ the appropriate measures are in place to prevent pollution from odour. ➤ the appropriate measures are in place to prevent annoyance from noise and vibration. <p>The improvement conditions (IC's) 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</p>	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	<p>IC4 – Proposals for undertaking representative monitoring of discharged surface water</p> <p>IC5 – Submission of a written report which includes the results of the assessment of the impact of the emissions of surface water and proposals for appropriate measures to mitigate the impact of any significant emissions</p> <p>IC6 - Proposals for undertaking sampling of stack emissions from shredder and H1 assessment</p> <p>IC7 – Proposals for testing of stack emissions.</p> <p>IC8 – Submission of a Fire Prevention Plan</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.	✓
Emission limits	<p>We have decided that emission limits should be set for the parameters listed in the permit.</p> <p>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.</p> <p>Point source emissions to air:</p> <p>Emissions from shredder – Total Suspended Particulates - 20 mg/m³ or other level agreed in writing with the Environment Agency.</p>	✓
Monitoring	<p>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.</p> <p>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.</p>	✓
Reporting	We have specified reporting in the permit for the emissions to air from the shredder and for ambient air monitoring.	✓
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 RGN 5 on Operator Competence.	✓
Growth Duty		

Aspect considered	Justification / Detail	Criteria met
		Yes
Section 108 Deregulation Act 2015 – Growth duty	<p>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.</p> <p>Paragraph 1.3 of the guidance says:</p> <p>“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.”</p> <p>We have addressed the legislative requirements and environmental standards to be set for this operation in the body of the decision document 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>	✓