

Permitting decisions

Bespoke permit

We have decided to grant the permit for the Land South of Firtree Farm operated by Mr Kenneth Storr.

The permit number is EPR/KP3036QJ.

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

Purpose of this document

This decision document provides a record of the decision making process. It:

- highlights [key issues](#) in the determination;
- summarises the decision making process in the [decision checklist](#) to show how all relevant factors have been taken into account; and
- shows how we have considered the [consultation responses](#).

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

Read the permitting decisions in conjunction with the environmental permit. The introductory note summarises what the permit covers.

Key issues of the decision

New Intensive Rearing of Poultry or Pigs BAT Conclusions document

The new Best Available Techniques (BAT) Reference document (BREF) for the Intensive Rearing of Poultry or Pigs (IRPP) was published on the 21st February 2017. There is now a separate BAT Conclusions document which sets out the standards that permitted farms will have to meet.

The BAT Conclusions document is as per the following link:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D0302&from=EN>

Now the BAT Conclusions are published, all new installation farming permits issued after the 21st February 2017 must be compliant in full from the first day of operation.

There are some new requirements for permit holders. The Conclusions include BAT-Associated Emission Levels (BAT-AELs) for ammonia emissions, which will apply to the majority of permits, as well as BAT-AELs for nitrogen and phosphorous excretion. A BAT Associated Emission Level (AEL) provides us with a performance benchmark to determine whether an activity is BAT.

For some types of rearing practices, stricter standards will apply to farms and housing permitted after the new BAT Conclusions were published.

New BAT Conclusions review

There are 34 BAT conclusion measures in total within the BAT conclusion document dated 21st February 2017.

We sent out a schedule 5 notice requiring the Applicant to confirm that the new installation complies in full with all the BAT Conclusion measures.

The Applicant has confirmed their compliance with all BAT conditions for the new installation in their document entitled 'Additional information', submitted on 05/08/2019 as part of the response to the Schedule 5 Notice, which has been referenced in Table S1.2 referencing Operating Techniques of the permit.

The following is a more specific review of the measures the Applicant has applied to ensure compliance with the above key BAT measures:

BAT measure	Applicant compliance measure
BAT 3 Nutritional management - Nitrogen excretion	The Applicant has confirmed it will demonstrate that the installation achieves levels of Nitrogen excretion below the required BAT-AEL of 0.6 kg N/animal place/year by estimation using manure analysis for total Nitrogen content.
BAT 4 Nutritional management - Phosphorous excretion	The Applicant has confirmed it will demonstrate that the installation achieves levels of Phosphorous excretion below the required BAT-AEL of 0.25 kg P ₂ O ₅ animal place/year by estimation using manure analysis for total Phosphorous content.
BAT 24 Monitoring of emissions and process parameters - Total nitrogen and phosphorous excretion	Table S3.3 of the permit concerning process monitoring requires the Operator to undertake relevant monitoring that complies with these BAT Conclusions.
BAT 25 Monitoring of emissions and process parameters - Ammonia emissions	Table S3.3 of the permit concerning process monitoring requires the Operator to undertake relevant monitoring that complies with these BAT Conclusions.
BAT 27 Monitoring of	Table S3.3 concerning process monitoring requires the Operator to undertake

BAT measure	Applicant compliance measure
emissions and process parameters - Dust emissions	relevant monitoring that complies with these BAT Conclusions. The Applicant has confirmed they will report the dust emissions to the Environment Agency annually by measuring the dust concentration and the ventilation rate using EN Standard methods or other methods ensuring data of an equivalent scientific quality.
BAT 32 Ammonia emissions from poultry houses - Broilers	The BAT-AEL to be complied with is 0.08 kg NH ₃ /animal place/year. The Applicant will meet this as the emission factor for broilers is 0.034 kg NH ₃ /animal place/year. The installation does not include an air abatement treatment facility, hence the standard emission factor complies with the BAT-AEL.

Industrial Emissions Directive (IED)

The Environmental Permitting (England and Wales) (Amendment) Regulations 2013 were made on the 20 February and came into force on 27 February 2013. These Regulations transpose the requirements of the IED.

This permit implements the requirements of the European Union Directive on Industrial Emissions.

Groundwater and soil monitoring

As a result of the requirements of the Industrial Emissions Directive, all permits are now required to contain a condition relating to protection of soil, groundwater and groundwater monitoring. However, the Environment Agency's H5 Guidance states **that it is only necessary for the operator to take samples** of soil or groundwater and measure levels of contamination where there is evidence that there is, or could be existing contamination and:

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

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

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

The site condition report (SCR) for the Land South of Firtree Farm (dated 04/09/2019) demonstrates that there are no hazards or likely pathway to land or groundwater and no historic contamination on site that may present a hazard from the same contaminants. **Therefore, on the basis of the risk assessment presented in the SCR, we accept that they have not provided base line reference data for the soil and groundwater at the site at this stage.**

Ammonia

An initial ammonia screening assessment has considered any Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Ramsar sites within 5km; any Sites of Special Scientific Interest (SSSI) within 5km and also any National Nature Reserves (NNR), Local Nature Reserves (LNR), ancient woodlands and local wildlife sites (LWS) within 2km of the farm.

The screening identified 2 SACs, 2 SPAs, 1 Ramsar site and 4 SSSIs within 5km of the installation boundary.

Where any of the underlisted criteria is met, we would require the applicant to carry out detailed ammonia modelling:

- emissions of ammonia or ammonia deposition (nutrient nitrogen or acid) are in excess of Z% of the relevant Critical Level (ammonia) or Critical Load (nutrient nitrogen or acid) at any particular designated site;
- there is the potential for an in-combination effect with existing farms at a SAC, SPA, Ramsar and/or SSSI if emissions are > Y% of the critical level or critical load;
- the original permit for the installation required an Improvement Condition to reduce ammonia emissions; or
- a proposal is within 250m of a nature conservation site.

Based on the results of the screening, the operator was not required to carry out detailed modelling.

Table 1 – Screening thresholds

Designation	Y%	Z%
SAC, SPA, Ramsar	4	20
SSSI	20	50
NNR, LNR, LWS, ancient woodland	100	100

Ammonia assessment – SAC/SPA/Ramsar

The following trigger thresholds have been designated for the assessment of European and Ramsar sites:

- If the process contribution (PC) is below 4% of the relevant critical level (CLe) or critical load (CLo) then the farm can be permitted with no further assessment.
- Where this threshold is exceeded an assessment alone and in combination is required.
- An in-combination assessment will be completed to establish the combined PC for all existing farms identified within 5 km of the SAC.

Initial screening using ammonia screening tool version 4.5 has indicated that emissions from Land South of Firtree Farm will only have a potential impact on a SAC, SPA or Ramsar site with a precautionary CLe of 1µg/m³ if they are within 2,271 metres of the emission source.

Beyond 2,271m the PC is less than 0.04µg/m³ (i.e. less than 4% of the precautionary 1µg/m³ CLe) and therefore beyond this distance the PC is insignificant. In this case the South Solway Mosses SAC is beyond this distance (see table 2 below) and therefore it screens out of any further assessment.

Where the precautionary level of 1µg/m³ is used and the PC is assessed to be less than 4%, the site automatically screens out as insignificant and no further assessment of CLo is necessary. In this case the 1µg/m³ level used has not been confirmed by Natural England, but it is precautionary. It is therefore possible to conclude no likely significant effect.

Table 2 – South Solway Mosses SAC Assessment

Name of SAC	Distance from site (m)
South Solway Mosses	3,864

No further assessment of this site is necessary.

Screening using the ammonia screening tool version 4.5 has determined that the PC on the remaining SAC, SPA and Ramsar sites for acid deposition from the application site are under the 4% significance threshold and can be screened out as having no likely significant effect. See results in table 3 below.

Table 3 – Acid deposition

Site	Critical load keq/ha/yr. [1]	Predicted PC keq/ha/yr.	PC % of critical load
Solway Firth SAC and PSPA	5.071	0.049	1.0
Upper Solway Flats & Marshes SPA and Ramsar	5.071	0.049	1.0

Note [1] Critical load values taken from APIS website (www.apis.ac.uk) – 13/06/2019

Screening using the ammonia screening tool version 4.5 has determined that the process contributions of ammonia and nitrogen deposition from the application site is over the 4% significance threshold for the remaining SAC, SPA and Ramsar sites. As such, it is not possible to conclude no adverse effect alone. Where the PC falls between 4% and 20%, Environment Agency guidance indicates that an in-combination assessment should be undertaken.

There are no other farms acting in combination with this application. The PC is predicted to be less than 20% of the CLe / load significance threshold. It is possible to conclude no adverse effect to the sites in tables 3, 4 and 5 from the installation and therefore no further assessment is required for these sites. See results below.

Table 4 – Ammonia emissions

Site	Critical level ammonia µg/m ³	Predicted process contribution µg/m ³	% of critical level
Solway Firth SAC and PSPA	3 ^[2]	0.131	4.4
Upper Solway Flats & Marshes SPA and Ramsar	3	0.131	4.4

Note [2] Natural England advised that a CLe of 3 for ammonia should be applied for the Solway Firth SAC and PSPA, and Upper Solway Flats & Marshes SPA and Ramsar (13/11/18).

Table 5 – Nitrogen deposition

Site	Critical load kg N/ha/yr. [1]	Predicted PC kg N/ha/yr.	PC % of critical load
Solway Firth SAC and PSPA	10	0.682	6.8
Upper Solway Flats & Marshes SPA and Ramsar	10	0.682	6.8

Note [1] Critical load values taken from APIS website (www.apis.ac.uk) – 13/06/2019

Ammonia assessment – SSSI

The following trigger thresholds have been applied for assessment of SSSIs:

- If the process contribution (PC) is below 20% of the relevant critical level (CLe) or critical load (CLo) then the farm can be permitted with no further assessment.
- Where this threshold is exceeded an assessment alone and in combination is required. An in-combination assessment will be completed to establish the combined PC for all existing farms identified within 5 km of the SSSI.

Initial screening using the ammonia screening tool version 4.5 has indicated that emissions from Firtree Farm will only have a potential impact on SSSI with a precautionary CLe of 1µg/m³ if they are within 796 metres of the emission source.

Beyond 796m the PC is less than $0.2\mu\text{g}/\text{m}^3$ (i.e. less than 20% of the precautionary $1\mu\text{g}/\text{m}^3$ CLe) and therefore beyond this distance the PC is insignificant. In this case all SSSIs are beyond this distance (see table 6 below) and therefore screen out of any further assessment.

Where the precautionary level of $1\mu\text{g}/\text{m}^3$ is used and the PC is assessed to be less than 20%, the site automatically screens out as insignificant and no further assessment of CLo is necessary. In this case the $1\mu\text{g}/\text{m}^3$ level used has not been confirmed by Natural England, but it is precautionary. It is therefore possible to conclude no likely damage to these sites.

Table 6 – SSSI Assessment

Name of SSSI	Distance from site (m)
Upper Solway Flats and Marshes	1,024
Thornhill Moss and Meadows	4,074
Wedholme Flow	3,864
Silothe Dunes and Mawbray Bank	5,000

Decision checklist

Aspect considered	Decision
Receipt of application	
Confidential information	A claim for commercial or industrial confidentiality has not been made.
Identifying confidential information	We have not identified information provided as part of the application that we consider to be confidential.
Consultation	
Consultation	<p>The consultation requirements were identified in accordance with the Environmental Permitting Regulations and our public participation statement.</p> <p>The application was publicised on the GOV.UK website.</p> <p>We consulted the following organisations:</p> <ul style="list-style-type: none"> • Health and Safety Executive • Allerdale Local Authority – Planning • Allerdale Local Authority – Environmental Health • Director of Public Health • Public Health England <p>The comments and our responses are summarised in the consultation section.</p>
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 our guidance on legal operator for environmental permits.
The facility	
The regulated facility	<p>We considered the extent and nature of the facility at the site in accordance with RGN2 'Understanding the meaning of regulated facility' and Appendix 2 of RGN 2 'Defining the scope of the installation'.</p> <p>The extent of the facility is defined in the site plan and in the permit. The activities are defined in table S1.1 of the permit.</p>
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. The plan is included in the permit.
Site condition report	The Operator has provided a description of the condition of the site, which we consider is satisfactory. The decision was taken in accordance with our guidance on site condition reports and baseline reporting under the Industrial Emissions Directive.
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>We have assessed the application and its potential to affect all known sites of nature conservation, landscape and heritage and/or protected species or habitats identified in</p>

Aspect considered	Decision
	<p>the nature conservation screening report as part of the permitting process.</p> <p>We consider that the application will not affect any sites of nature conservation, landscape and heritage, and/or protected species or habitats identified.</p> <p>We have consulted Natural England on our Habitats Regulations assessment, and taken their comments into account in the permitting decision.</p>
Environmental risk assessment	
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	
General operating techniques	<p>We have reviewed the techniques used by the Operator and compared these with the relevant guidance notes and we consider them to represent appropriate techniques for the facility.</p> <p>The operating techniques that the Applicant must use are specified in table S1.2 in the environmental permit.</p> <p>The operating techniques are as follows:</p> <ul style="list-style-type: none"> • Use of nipple drinkers fitted with cups to reduce spills. • No on-site milling and mixing of feed. • Use of high velocity roof extraction fans to ensure greater dispersion. <p>The proposed techniques for priorities for control are in line with the benchmark levels contained in the Sector Guidance Note EPR 6.09 and we consider them to represent appropriate techniques for the facility. The permit conditions ensure compliance with relevant BREFs.</p>
Permit conditions	
Use of conditions other than those from the template	Based on the information in the application, we consider that we do not need to impose conditions other than those in our permit template.
Raw materials	We have not specified limits and controls on the use of raw materials and fuels.
Emission limits	<p>We have decided that emission limits are required in the permit in accordance with the 2017 IRPP BAT Conclusions.</p> <p>ELVs based on BAT have been set for the following substances:</p> <ul style="list-style-type: none"> - Ammonia; - Nitrogen; and - Phosphorous.
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>These monitoring requirements have been imposed in order to meet the requirements of the 2017 IRPP BAT Conclusions.</p>

Aspect considered	Decision
	See Key Issues.
Reporting	<p>We have specified process monitoring reporting in the permit.</p> <p>We made these decisions in accordance with the 2017 IRPP BAT Conclusions.</p>
Operator competence	
Management system	<p>There is no known reason to consider that the Operator will not have the management system to enable it to comply with the permit conditions.</p> <p>The decision was taken in accordance with the guidance on operator competence and how to develop a management system for environmental permits.</p>
Relevant convictions	<p>The Case Management System has been checked to ensure that all relevant convictions have been declared.</p> <p>No relevant convictions were found. The Operator satisfies the criteria in our guidance on operator competence.</p>
Financial competence	There is no known reason to consider that the operator will not be financially able to comply with the permit conditions.
Growth Duty	
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 vary 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>

Consultation

The following summarises the responses to consultation with other organisations, our notice on GOV.UK for the public and the way in which we have considered these in the determination process.

Responses from organisations listed in the consultation section

Response received from
Public Health England
Brief summary of issues raised
Public Health England (PHE) advised that there are sensitive receptors within 200m of the facility. In line with our guidance, this would have required the operator to submit an Odour Management Plan and Noise Management Plan for us to consider as part of the application.
Summary of actions taken or show how this has been covered
We queried this with the operator through a request for further information dated 08/08/2019. With the aid of a map, the operator advised that the closest sensitive receptor is beyond 400m of the installation boundary. This information was communicated to PHE. PHE had no further comments.