

Permitting decisions

Variation

We have decided to grant the variation for Fletcher Bank Quarry Landfill Site operated by Churchill Enviro Limited.

The variation number is [EPR/GP3733FE/V002](#)

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.

This Environment Agency has a duty, under the Environmental Permitting (England and Wales) Regulations 2016, regulation 34(1), to periodically review permits. As a result of that review we have identified a number of necessary changes we must make to the permit to reflect current legislation and best practice. These changes principally relate to:

- The addition of a standard condition for landfill gas management at landfills;
- A change to the hydrogeological risk assessment condition so that reviews are undertaken every 6 years rather than every 4 years;
- Standard leachate and groundwater quality monitoring tables (schedule 3); and
- A standard reporting table (schedule 4)

We also aim:

- Consolidate permits - all variations to your permit will be brought together in to one permit so the requirements will be clearer.
- We will formalise changes to monitoring requirements and compliance limits where we have agreed them in writing, for example as the result of a hydrogeological risk assessment review.
- Waste acceptance rules will reflect the Landfill Directive and governments' waste strategies.
- We will implement the Industrial Emissions Directive (IED) and other regulatory changes.
- We will include permit conditions to implement the statutory requirements of the Waste Framework Directive, for example to reflect the requirements of the waste hierarchy.

Site specific issues which result in a change to the current template will also be addressed, for example incorporating completed improvement conditions into the permit and removing inconsistencies.

Other changes may relate to a specific permit or amendments to monitoring requirements or emission limits which have been agreed with the Environment Agency but not incorporated into the permit.

Purpose of this document

This decision document:

- explains how the Environment Agency initiated variation has been determined
- provides a record of the decision-making process
- shows how all relevant factors have been taken into account

Structure of this document

- Annex 1 the decision checklist

Annex 1: decision checklist

This document should be read in conjunction with the agreed Environment Agency variation request form and permit/ notice.

Decision checklist

Aspect considered	Decision
Receipt of application	
Confidential information	A claim for commercial or industrial confidentiality has been made.
Identifying confidential information	We have identified information provided as part of the application that we consider to be confidential.
The facility	
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 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 as the landfill sector permit review is a minor variation and there is no change to emissions from the site.</p> <p>The sites and protected species which are within the screening distance of the landfill are:</p> <p>Lower Red Lees pasture SSSI (1584m)</p> <p>Harden Moor and Cross Bank Brook LWS (100m)</p> <p>Deciduous woodland - protected species (156m and 221m)</p> <p>Fens – protected species (264m)</p> <p>We have not consulted Natural England on the Environment Agency initiated variation. The decision was taken in accordance with our guidance.</p>

Aspect considered	Decision
Operating techniques	
General operating techniques	The operating techniques that the applicant must use are specified in table S1.2 in the environmental permit. These have been transferred across from the previous variation as part of the landfill permit review and updated to include operating techniques agreed since the previous variation.
Permit conditions	
Updating permit conditions during consolidation	<p>We have updated permit conditions to those in the current generic permit template as part of permit consolidation. The conditions will provide the same level of protection as those in the previous permit(s).</p> <p>As part of the landfill sector permit review, we have updated permit conditions to those in the current generic permit template as part of permit consolidation. The conditions will provide the same level of protection as those in the previous permit(s).</p> <p>The operator has agreed that the new conditions are acceptable.</p> <p>As part of the landfill sector permit review - certain template conditions have been amended to reflect current best practice. These changes have been developed in consultation with industry having regard to the relevant legislation as follows:</p> <p>Condition 1.5 Generic condition added to reflect the requirements of the Waste Framework Directive</p> <p>2.7.1(a). We have added reference to a specific table to clarify what wastes are permitted at which permitted activity.</p> <p>2.10. Revised gas management condition imposed for all landfills that accept biodegradable to ensure compliance with the relevant requirements of the Landfill Directive.</p> <p>3.1.1. Generic condition imposed on all activities to simplify the sub-conditions. This avoids the need for additional sub-conditions that refer to compliance limits in individual tables in schedule 3</p> <p>3.1.4 – 3.1.5. Revised conditions to reflect the terminology used by the Groundwater Directive and to require hydrogeological risk assessment reviews every 6 years rather than every 4 years.</p> <p>Two sub-conditions that referred to limits in specific tables in schedule 3 deleted as they are now covered by 3.1.1.</p> <p>3.6 Revised generic pests condition imposed on all activities.</p> <p>4.2.2. Amended to ensure that information on 'annual production/ treatment' (Schedule 4, Table S4.2) is provided in February each year where annual reports may be submitted at other times of the year. This includes data on landfill gas collection that must be reported to government by April each year.</p> <p>4.2.2(a) Text expanded to clarify the details we require in an annual report.</p> <p>4.2.2(h) New condition requiring annual submission of a plan of monitoring and extraction locations with reference to monitoring tables in Schedule 3.</p>

Aspect considered	Decision
	<p>Schedule 1, table S1.1. Amended description to the landfill activity to clarify that this includes restoration. Activity references amended to reflect changes introduced by Industrial Emissions Directive (2010/75/EU).</p> <p>Leachate storage moved from a specified activity to a Directly Associated Activity.</p> <p>Table S1.5. Amended to clarify that restoration is a separate part of the landfill activity unrelated to landfill cover.</p> <p>Schedule 2. Template list of appropriate waste added for landfills for hazardous and non-hazardous waste. Waste types prohibited by the Landfill Directive have been removed for clarity.</p> <p>Schedule 3. Monitoring and compliance tables have been re-ordered so that those with compliance limits appear first. Standard monitoring frequency and parameters have been included for certain routine monitoring requirements.</p> <p>Schedule 4, table S4.1. Amended to only require regular reports of information that relate to compliance limits.</p> <p>Table S4.2 Additional details of landfill gas extracted required to improve climate change data quality.</p> <p>Table S4.3. Amended to include natural gas as an energy source for consistency with other sectors.</p> <p>Schedule 6. Definitions added to clarify meaning of:</p> <ul style="list-style-type: none"> • Inert waste • Exceeded • Hazardous substance • Medicinal product • Previous year • Waste acceptance criteria • Waste acceptance procedure <p>See also Schedule 1 in the revised permit.</p>
Waste types	<p>We have specified the permitted waste types, descriptions and quantities, which can be accepted at the regulated facility.</p> <p>We are satisfied that the operator can accept these wastes for the following reasons:</p> <ul style="list-style-type: none"> • they are suitable for the proposed activities • the proposed infrastructure is appropriate; and • the environmental risk assessment is acceptable. <p>We have included the wastes which were agreed as part of an Environment Agency agreement detailed in table S1.2 for operating techniques (dated 23/09/14).</p> <p>We have excluded the following wastes for the following reasons:</p> <p>01 04 wastes from physical and chemical processing of non-metalliferous minerals</p>

Aspect considered	Decision
	<p>01 04 99 wastes not otherwise specified</p> <p>We no longer accept EWC '99' codes as these wastes can be listed under the appropriate waste code. (This is with the exception of EWC 20 01 99 – which can be accepted if more detailed descriptions of the wastes are provided with some further limits in the permitted waste table in the permit).</p>
Pre-operational conditions	<p>As part of the landfill sector permit review - pre-operational condition 1 has been transferred across from the current permit as it has not yet been completed or justification provided as to why it is no longer necessary. Also the 2 associated leachate sumps have not been installed.</p>
Improvement programme	<p>As part of the landfill sector permit review - Improvement conditions 1, 2, 3 and 5 have been transferred across from the current permit. Improvement condition 4 which related to the requirement for a litter management plan has been removed from the permit as it is no longer considered to be necessary due to the change in waste types as detailed above.</p> <p>Furthermore any pollution caused by litter will be regulated in accordance with permit condition 3.2.</p>
Emission limits	<p>As part of the landfill sector permit review all emission limits were transferred across from the current permit.</p> <p>Regarding table S3.2 - an emission to soakaway to the north east of the site has been added as this is an emission to groundwater - therefore the limits for the other groundwater compliance monitoring points will apply to the soakaway.</p> <p>The groundwater compliance points BEL1, BEL2 and SLR3 have been amended to FBE-11/01, FBE -11/02, FBE -11/02A and SLR2 as agreed through previous CQA reports and are identified on drawing 1772/3/013 Environmental Monitoring Plan.</p> <p>Boreholes BH803 and FB104R are not down gradient groundwater compliance points and so are not included in table S3.2.</p> <p>Regarding table S3.3 – 'Landfill gas in external monitoring boreholes – limits and monitoring requirements' the operator also requested that combined groundwater and landfill gas monitoring boreholes (external compliance points) BEL1, BEL2 and SLR2 and SLR3 are amended to FBE-11/01, FBE-11/02, FBE-11/02A, SLR2, BH803 and FB104R. However on checking the suitability of the new gas monitoring boreholes (from the information provided in previous CQA reports) they were not considered to be appropriate for landfill gas monitoring, as installed. Therefore the existing monitoring points BEL 1, BEL 2, SLR2 and SLR3 will remain in the permit in table S3.3.</p> <p>Therefore if the operator wants to include new landfill gas monitoring boreholes for inclusion in table S3.3 this will need to be carried out in accordance with a variation application.</p> <p>There are no emission limits for landfill gas in the current permit as the requirement for limits is linked to table S1.3, improvement condition 2. However as improvement condition 2 has not been complied with the standard emission limits of 1%v/v for methane and 1.5%v/v for carbon</p>

Aspect considered	Decision
	dioxide have been included in table S3.5 as interim limits until actual limits are agreed in accordance with table S1.3, improvement condition 2.
Monitoring	As part of the landfill sector permit review standard monitoring requirements tables were included in the permit for groundwater, leachate and surface water monitoring.
Reporting	We have amended the reporting requirements in line with the latest permit template as part of the landfill sector permit review.
Operator competence	
Management system	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.
Financial competence	The financial provision arrangements have not been amended as part of the landfill sector permit review.
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 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>

