



Permitting decisions

Bespoke permit

We have decided to grant the permit for the Ashford Power facility, operated by Ashford Power Limited.

The permit number is EPR/EP3703LV.

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

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

Air quality

This is a complex bespoke Medium Combustion Plant/Specified Generator application. In line with the Environment Agency's guidance (<https://www.gov.uk/guidance/specified-generators-dispersion-modelling-assessment> and <https://www.gov.uk/guidance/medium-combustion-plant-apply-for-an-environmental-permit#apply-for-a-bespoke-permit>), we require applicants to submit detailed air dispersion modelling and impact assessment to assess the predicted impacts on human receptors (for example dwellings, work places and parks) and ecological sites, as appropriate.

A methodology for risk assessment of point source emissions to air is set out in our guidance <https://www.gov.uk/guidance/air-emissions-risk-assessment-for-your-environmental-permit>.

The applicant provided an assessment of the impact of emissions to air with the application which is detailed in document titled Air Emission Risk Assessment for Ashford Power, SLR Ref: 416.08071.00003 Version No: 1 and dated July 2020.

We reviewed the air quality assessment documents and were not satisfied that the model and its inputs were appropriate, and that the assessment had been carried out in accordance with our guidance. We were not able to rule out the potential exceedances of the daily NO_x critical level for cumulative impacts at Medway Estuary and Marshes Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI). As a result, a Schedule 5 notice was issued to the operator to review the operating regime and resubmit their modelling files and assessment to demonstrate that there will be no adverse effect or likely damage to the receptor. However, we agreed with the operator's conclusion that it was unlikely that there

would be a breach of the environmental standards at the human receptors and that the impact was considered to be not significant

The operator provided revised modelling, document reference Technical Note 416.08071.00003, on 26/04/2022 in response to our schedule 5 notice.

We have reviewed the revised air emissions impact assessment. We agree with the applicant's revised assessment, on the basis that the operational hours are restricted as follows:

- The engines are permitted to operate for up to 4,000 hours per year;
- For a maximum of 24 hours per day for up to 6 days per year;
- For a maximum of 18 hours per day for up to 18 days per year; and
- For a maximum of 16 hours per day for the remaining days in a year,

that there is unlikely to be a breach of the environmental standards at the ecological receptors. Therefore, we consider that there will be no adverse effect or damage to the interest features at the ecological receptors.

Existing MCPs

Although the engines only require permitting as a specified generator as they are tranche A generators that have become tranche B as a result of entering into a new contract to supply power to the grid and are existing MCPs as they were commissioned before 20/12/2018, we have also permitted the engines as MCPs. Where an application for new plant (or plant that was tranche A but becomes tranche B) is made, we are also permitting any existing MCPs at the same time. This is to reduce the permitting burden for us and the operator as a later application for existing plant will not be required in order to include the MCP requirements. Where emission limits or monitoring do not apply until the relevant compliance date, we have specified this in the permit.

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. The decision was taken in accordance with our guidance on confidentiality.
Consultation	
Consultation	We have not identified a requirement for external consultation as part of this 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 our guidance on legal operator for environmental permits.
The facility	
The regulated facility	The operator has provided the grid reference for the emission points from the medium combustion plants and specified generator and the activities are defined in table S1.1 of the permit.
The site	
Biodiversity, heritage, landscape and nature conservation	The application is within the relevant distance criteria of a European site (SPA, Ramsar site or SSSI). We have assessed the application and its potential to affect all known sites of nature conservation or habitats identified in the nature conservation screening report as part of the permitting process. We have assessed the operator's revised air emissions impact modelling report and consider that emissions will not affect any sites of nature conservation or habitats identified – see key issues above.
Environmental risk assessment	
Environmental risk	We have reviewed the operator's assessment of the environmental risk from the facility. The operator's risk assessment is satisfactory. The assessment shows that applying the conservative criteria in our guidance on environmental risk assessment, all emissions may be categorised as environmentally not significant.

Aspect considered	Decision
	<p>The applicant's assessment of predicted impacts at sensitive receptors is based on the operating hours of 4,000 hours per annum as proposed by the applicant and included in the modelling, at the specified generator NOx ELV of 190 mg/Nm³. We have also imposed maximum daily operating hours to prevent breaches of the environmental standards, in accordance with response to the Schedule 5 submitted during permit determination.</p> <p>We have included these operating hours in the permit (table S1.1) as the modelling shows that, at these operating hours, emissions are environmentally not significant. See <u>key issues</u> section above.</p>
Operating techniques	
Operating techniques	We have specified the operating techniques and the operator must use the operating techniques specified in tables S1.2A and S1.2B of the permit.
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.
Emission limits	<p>ELVs have been set for the following substances:</p> <p>Oxides of nitrogen (NO and NO₂, expressed as NO₂). ELV's have been set at 190 mg/Nm³ at an oxygen reference condition of 15%, which are in line with the Schedule 25B (Specified Generators) of the Environmental Permitting (England and Wales) (Amendment) Regulations 2018.</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>These monitoring requirements have been imposed in order for the operator to demonstrate compliance with the emission limits specified in the permit. The operator will carry out monitoring in accordance with the relevant MCERTS methods.</p> <p>Monitoring is required three years after we have agreed the first monitoring carried out by the operator in accordance with condition 3.2.3.</p> <p>We made these decisions in accordance with MCP and SG technical guidance</p> <p>Medium Combustion Plant guidance: https://www.gov.uk/guidance/medium-combustion-plant-and-specified-generator-permits-how-to-comply</p> <p>Specified Generator Guidance https://www.gov.uk/guidance/medium-combustion-plant-and-specified-generator-permits-how-to-comply</p>
Reporting	<p>We have specified reporting in the permit.</p> <p>We made these decisions in accordance with the MCP and SG technical guidance.</p> <p>Medium Combustion Plan Guidance: https://www.gov.uk/guidance/medium-combustion-plant-and-specified-generator-permits-how-to-comply</p> <p>Specified Generator Guidance: https://www.gov.uk/guidance/medium-combustion-plant-and-specified-generator-permits-how-to-comply</p>

Aspect considered	Decision
	combustion-plant-and-specified-generator-permits-how-to-comply
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 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 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>