

Permitting decisions- Surrender

We have decided to accept the surrender of the permit for Dow Birch Vale operated by Dow Chemical Company Limited.

The permit number is EPR/JP3032RN.

We are satisfied that the necessary measures have been taken to avoid any pollution risk and to return the site to a satisfactory state. We consider in reaching this decision that we have taken into account all relevant considerations and legal requirements.

Purpose of this document

This decision document provides a record of the decision making process. It summarises the decision-making process to show how the main relevant factors have been taken into account.

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 decisions considerations section to show how all relevant factors have been taken into account

Key issues of the decision

The Compliance Assessment Report (CAR) dated 14/02/2014 confirms that all manufacturing associated with the permitted activities had ceased at the site during summer 2013. A comprehensive decommissioning programme was undertaken. All manufacturing and storage vessels and associated pipe work were emptied and washed. Wash water was removed from the site by an external contractor. At this point demolition was planned for some vessels and infrastructure, some equipment remained on the site in a mothballed state. It is subsequently confirmed in the CAR report dated 15/10/2019 that all plant and equipment relating to the permit activities had been removed.

As part of this determination, the area officer has confirmed that there have been no operations associated with the permitted activities since the date that manufacturing activities ceased and that there is no evidence of any additional contamination from residual (non-permitted) activities since that date. The current area officer undertook a site visit on 06/07/2022 and confirmed that there is no activity on the site and that no issues were observed.

Full details of the decommissioning of the site are set out in the final version of the Site Condition Report (SCR), which is published with this Decision Document.

'Site Condition Report, Dow Birch Vale Site, Dow Chemical Company Ltd, Project number: 60602784, 60602784-ACM-RP-EN-001-3, Aecom, 27/05/2022'.

A comprehensive review has been undertaken of the SCR, which has been updated as a result of a series of requests for information, resulting in the final version as detailed above. The purpose of the review was to ascertain whether the site was in a satisfactory state for surrender. An outline of the review is set out below.

Following an assessment of the application a Schedule 5 Notice was sent on 25/02/2021. The notice requested further detail relating to the Site Protection and Monitoring Programme (SPMP); data from borehole logs to establish baseline reference surrender data; submission of site assessment reports; submission of a plan and details regarding the drainage network; submission of details regarding pollution prevention measures; provision of details of historic maps to indicate potential sources of pollution; revised drawings to show sources of pollution, waste product storage areas and boreholes; and further details on infrastructure including bunding arrangements.

A follow up Schedule 5 notice was sent on 03/06/2021 which requested further detailed information to clarify and supplement what had been provided in the first Schedule 5.

The response to the second Schedule 5 notice resolved the majority of issues. The only remaining issue to resolve was with regards to historic breaks within the drainage network.

A request for information was sent on 26/08/2021 asking for further information to demonstrate that the historic leakage from historic breaks in the trade effluent drains had not resulted in the deterioration of soil and groundwater during the life of the permit. The request asked for findings and actions taken from site management plans, a drainage plan showing where the defects were in the drains following completion of a CCTV survey and a demonstration that the soil and groundwater had not deteriorated as a result of the leakage.

A second request for information was sent on 02/03/2022 requesting further information with regards to the historic broken drains. It was also requested that the operator undertook soil sampling around the locations of the breaks in the drains to ensure that the leakage had been remediated and that no contaminants remained within the soil. The operator wished to take an alternative approach to sampling directly around the drains and presented further data and information, seeking to demonstrate that the soils around the drains were in a suitable condition.

We reviewed their submission and were able to conclude that the historic breaks in the drains presented a minimal risk of soil contamination to the surrounding soils, based upon the following evidence:

- The laboratory building and activities are outside the EPR permit boundary and therefore any loss from drains in this area is not relevant to the permit surrender.
- Additional scrutiny of the drainage survey for the Filled Systems building found only 1 crack which was the full circumference of the drain, therefore loss of effluent in the drain is likely to have been very limited.
- Soil data from WS101 and WS101A has been presented from close proximity to the Filled Systems drainage run which has not shown any mercury impact below the depth of the drainage system.
- Scrutiny of groundwater quality and elevation data showed that during the 2008 detection of mercury in groundwater in BH202 and in the effluent discharge, that groundwater levels were above the level of the adjacent drain, suggesting that groundwater ingress to the effluent drain was more likely to have been occurring rather than effluent egress, due to the positive pressure of the groundwater head outside the drains.

Based on this additional evidence, when considered with the information contained in the Surrender Site Condition Report 30th November 2021, it has been demonstrated that the site is in a Satisfactory State for surrender of the permit.

Decision considerations

Confidential information

A claim for commercial or industrial confidentiality has not been made.

The decision was taken in accordance with our guidance on confidentiality.

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.

Pollution risk

We are satisfied that the necessary measures have been taken to avoid a pollution risk resulting from the operation of the regulated facility.

Satisfactory state

We are satisfied that the necessary measures have been taken to return the site of the regulated facility to a satisfactory state, having regard to the state of the site before the facility was put into operation.

Growth duty

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 accept this permit surrender.