Permitting Decisions- Variation

We have decided to grant the variation for Powburn Depot operated by Northumberland County Council.

The variation number is EPR/PP3898EW/V002

This variation is for the addition of a hazardous waste treatment installation activity to the current non-hazardous aggregate waste treatment permit. The hazardous treatment activity will consist of encapsulating asphalt waste containing coal tar to meet quality standards for re-use. The site will process 20,000 tonnes of hazardous waste per annum and will only accept one waste type- Asphalt waste containing coal tar (AWCCT) which is derived from maintenance of road surfaces. The site will store a maximum of 4000 tonnes of AWCCT on site in bays served by impermeable surfacing and a sealed drainage system. Emissions to air include a 52KW generator to power the treatment plant. The treatment plant itself is fully enclosed and will combine cement, water and pulverised fly ash to create cold recycled bound material for use as a product in the construction industry.

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 considerations section to show how the main relevant factors have been taken into account
- 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 and the variation notice.

Key issues of the decision

Secondary containment and drainage

In line with the Waste Treatment BREF/BAT Conclusions 2018 underground bulk liquid containers and pipework, including those for site run off are required to have secondary containment or leak detection to ensure there are no unseen fugitive emissions taking place. The applicant proposes a 10,000 litre underground holding tank for the run off from the hazardous Asphalt Waste Containing Coal Tar (AWCCT) storage and treatment area. This tank has neither secondary containment or leak detection. However the applicant has proposed additional measures which, considering the nature of the operations, provide equivalent protection. This includes the following:

- Stockpiles will be covered with high density plastic sheeting to minimise leaching of contaminants (when not in use).
- The drainage network is easily accessible consisting of surface gullies or with suitable manholes to allow inspection and sampling.
- Weekly inspections will include all gullies to ensure they are free of cracks or other damage.
- The sump will be checked daily to confirm when it requires emptying and the manhole will be lifted, allowing a visual inspection of the sump to be made, whenever it is emptied.

We have also inserted a pre-operational condition (PO2) within the permit which requires the operator to undertake an integrity test on the storage tank prior to accepting hazardous waste on site and prior to use of the AWCCT treatment plant. This condition also specifies that the operator must propose a suitable frequency to carry out regular integrity tests to be approved by the Environment Agency.

Our assessment

We accept the applicant's justification that the measures proposed for containment of the underground storage tank which stores run off from the hazardous waste storage and treatment area represent the equivalent of BAT. The nature of the waste and measures to cover waste piles will ensure minimal contamination of run off occurs. This combined with the integrity tests and other waste control procedures observed in line with BAT should result in a low risk of pollution.

Soak Away

The new installation activity is being added to a waste site previously permitted in 2008 for the treatment of non-hazardous aggregate waste. Surface water from the operation, including surface run off from the storage and treatment area is discharged via an interceptor to a soak away. This soak away is in hydraulic continuity with the River Tweed. As the variation is concerning the addition of a hazardous AWCCT encapsulation treatment activity which is hydraulically isolated from the rest of the site with sealed drainage (the run off from here is instead being tanked off the site) we have included provision for assessment of this emission to soakaway in an improvement condition (IC1). IC1 requires the applicant to provide a report on the current containment measures in line with our 'Control and monitor emissions for your environmental permit' and 'Non-Hazardous and inert waste: appropriate measures for permitting facilities' online guidance. The report should include details of discharge quality, compliance with the above mentioned guidance, details of any deficiencies identified in the site containment or surfacing, the improvements proposed and the time scale for implementation. IC1 should therefore ensure the site does not pose a risk to ground and surface water.

Decision considerations

Confidential information

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

We have not accepted the claim for confidentiality.

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.

Consultation

The consultation requirements were identified in accordance with the Environmental Permitting (England and Wales) Regulations (2016) and our public participation statement.

The application was publicised on the GOV.UK website.

We consulted the following organisations:

Director of Public Health

Environmental Health

Public Health England (UKHSA)

Health and Safety Executive

The comments and our responses are summarised in the consultation responses section.

The regulated facility

We considered the extent and nature of the facility at the site in accordance with RGN2 ‘Understanding the meaning of regulated facility’, Appendix 2 of RGN2 ‘Defining the scope of the installation’ and Appendix 1 of RGN 2 ‘Interpretation of Schedule 1’.

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.

The site

The operator has provided a plan which we consider to be satisfactory.

These show the extent of the site of the facility including the discharge points.

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 not satisfactory. The decision was taken in accordance with our guidance on site condition reports and baseline reporting under the Industrial Emissions Directive.

We have advised the operator what measures they need to take to improve the site condition report and included these as a pre-operational condition (PO1).

Nature conservation, landscape, heritage and protected species and habitat designations

We have checked the location of the application to assess if it is within the screening distances we consider relevant for impacts on nature conservation,

landscape, heritage and protected species and habitat designations. The application is within our screening distances for these designations.

We have assessed the application and its potential to affect sites of nature conservation, landscape, heritage and protected species and habitat designations identified in the nature conservation screening report as part of the permitting process.

We consider that the application will not affect any site of nature conservation, landscape and heritage, and/or protected species or habitats identified.

We have consulted Natural England on our Habitats Regulations assessment and taken their comments into account in the permitting decision.

The decision was taken in accordance with our guidance.

Environmental risk

We have reviewed the operator's assessment of the environmental risk from the facility.

The operator’s risk assessment is satisfactory.

General operating techniques

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.

The operating techniques that the applicant must use are specified in table S1.2 in the environmental permit.

Operating techniques for emissions that screen out as insignificant

Emissions of Nitrogen oxides have been screened out as insignificant, and so we agree that the applicant’s proposed techniques are Best Available Techniques (BAT) for the installation.

We consider that the emission limits included in the installation permit reflect the BAT for the sector.

National Air Pollution Control Programme

We have considered the National Air Pollution Control Programme as required by the National Emissions Ceilings Regulations 2018. By setting emission limit values in line with technical guidance we are minimising emissions to air. This will

aid the delivery of national air quality targets. We do not consider that we need to include any additional conditions in this permit.

Odour management

We have reviewed the odour management plan in accordance with our guidance on odour management.

We consider that the odour management plan is satisfactory and we approve this plan.

We have approved the odour management plan as we consider it to be appropriate measures based on information available to us at the current time. The applicant should not take our approval of this plan to mean that the measures in the plan are considered to cover every circumstance throughout the life of the permit.

The applicant should keep the plans under constant review and revise them annually or if necessary sooner if there have been complaints arising from operations on site or if circumstances change. This is in accordance with our guidance ‘Control and monitor emissions for your environmental permit’.

The plan has been incorporated into the operating techniques S1.2.

Dust management

We have reviewed the dust and emission management plan in accordance with our guidance on emissions management plans for dust.

We consider that the dust and emission management plan is satisfactory and we approve this plan.

We have approved the dust and emission management plan as we consider it to be appropriate measures based on information available to us at the current time. The applicant should not take our approval of this plan to mean that the measures in the plan are considered to cover every circumstance throughout the life of the permit.

The applicant should keep the plans under constant review and revise them annually or if necessary sooner if there have been complaints arising from operations on site or if circumstances change. This is in accordance with our guidance ‘Control and monitor emissions for your environmental permit.

The plan has been incorporated into the operating techniques S1.2.

Updating permit conditions during consolidation

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.

Raw materials

We have specified limits and controls on the use of raw materials and fuels.

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 for the following reasons:

- they are suitable for the proposed activities
- the proposed infrastructure is appropriate; and
- the environmental risk assessment is acceptable.

We made these decisions with respect to waste types in accordance with:

- Technical Guidance WM3: Waste Classification - Guidance on the classification and assessment of waste
- Sector Guidance Note S5.06: recovery and disposal of hazardous and non-hazardous waste.
- Our regulatory position statement 075: The movement and use of treated asphalt waste containing coal tar.

Pre-operational conditions

Based on the information in the application, we consider that we need to include pre-operational conditions.

Pre-operational condition 1 (PO1) for future development requires the operator to provide ground, surface water and soil environmental baselines prior to undertaking acceptance and treatment of hazardous waste associated with this variation. If any contamination is found to have been caused by the site this condition, (under section PO1 h) requires the operator to submit a written report detailing the timescales and measures to suitably remediate the pollution and prevent it occurring further.

Pre-operational condition 2 (PO2) for future development requires the operator to submit a report demonstrating an integrity test has been carried out on the 10,000 litre run-off storage tank in the hazardous AWCCT treatment area at least 4 weeks before the start of operations. This must be undertaken prior to the acceptance and treatment of hazardous AWCCT waste associated with this variation. It also requires the operator to propose a suitable frequency for repeat integrity test on this tank for approval by the Environment Agency.

Improvement programme

Based on the information on the application, we consider that we need to include an improvement programme.

Improvement condition 1 (IC1) requires that the operator produces a report to review the drainage arrangements for the non-hazardous storage and treatment area in line with 'Control and monitor emissions for your environmental permit' and 'Non-Hazardous and inert waste: appropriate measures for permitting facilities' online guidance. This report will highlight any discrepancies between the operation and our guidance and detail measures to address this. As this area of the operation is already permitted and no changes are being proposed we are allowing the operator 6 months from permit issue to complete the report. See 'key issues' section above for more information.

Improvement condition 2 (IC2) requires the operator to develop a standalone energy efficiency plan, the applicant has supplied the relevant energy efficiency information as part of their application however no stand-alone plan was provided. We have allowed the applicant to develop this within 6 months of permit issue.

Emission limits

Emission Limit Values (ELVs) based on Best Available Techniques (BAT) have been added for the following substances:

Vent to air on cement silo and pulverised fuel ash silo:

- Particulate matter- No visible dust emissions.

Emissions limits have been added as a result of this variation. It is considered that the descriptive limits described below will prevent significant deterioration of receiving waters.

Emissions of site run off to soak away:

- Oils or grease – No visible trace.

We consider the discharge to surface water from the facility to be low risk but we have set these limits to ensure the Environmental Quality Standards are not breached.

Monitoring

We have decided that monitoring should be added for the following parameters, using the methods detailed and to the frequencies specified:

Monitoring of emission to air:

- Daily visual monitoring of vent from cement silo.
- Daily visual monitoring of vent from pulverised fuel ash silo.

Monitoring of emissions to water:

- Monthly visual monitoring of oil or grease in discharge to soak away.
- Spot sample monitoring of suspended solids in surface run off prior to discharge to soak away.

These monitoring requirements have been included in order to demonstrate compliance with the relevant permit conditions and ensure emissions to air and water do not have a significant impact.

We made these decisions in accordance with our ‘Control and monitor emissions for your environmental permit’ online guidance and BAT conclusions for waste treatment.

Reporting

We have added reporting in the permit for the following parameters:

Emissions to soak away:

- Suspended solids.
- Visual Oil and grease inspection records.

We made these decisions in accordance with the BAT conclusions for waste treatment 2018 and Sector Guidance Note S5.06: recovery and disposal of hazardous and non-hazardous waste.

Management system

We are not aware of any reason to consider that the operator will not have the management system to enable it to comply with the permit conditions.

The decision was taken in accordance with the guidance on operator competence and how to develop a management system for environmental permits.

Technical competence

Technical competence is required for activities permitted.

The operator is a member of the CIWM/WAMITAB scheme

We are satisfied that the operator is technically competent.

Previous performance

We have assessed operator competence. There is no known reason to consider the applicant will not comply with the permit conditions.

We have checked our systems to ensure that all relevant convictions have been declared.

No relevant convictions were found. The operator satisfies the criteria in our guidance on operator competence.

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

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 variation.

Paragraph 1.3 of the guidance says:

“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.”

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.

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.

Consultation Responses

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 (now UKHSA).

Brief summary of issues raised:

We request that the Environment Agency takes account of the following concerns when considering appropriate permit conditions:

- Clarification is sought regarding where the derived PEC and PC of the applicants H1 assessment apply to, as this is not clear in the applicants' H1 assessment document.
- Will the EA need notifying if/when a new generator is used on site to ensure that the emissions comply with stage V emission limits of the NRMM regulations?
- The applicant wishes to store ACCWT on site for up to eight months, which is longer than the guidance for hazardous waste storage of one month. The main emission of concern from this is dust. The operator has dust mitigation measures in place and the material (road surface planings) has a low chance of wind suspension. Will there be permitting conditions in place for dust emissions to account for the longer AWCCT storage when the processing plant is not in operation?

Summary of actions taken:

- During determination it became apparent from attempts to screen aerial emissions that detailed modelling was required. The emissions screened out within modelling provided by the applicant, which was audited and

confirmed by our Air Quality Modelling and Assessment Unit (AQMAU). The emissions do not therefore pose any risk of significant adverse effect to local human or ecological receptors.

- If the applicant changes the generator and it has the potential to increase the risk of emissions to air the applicant will be required to submit a variation application. The emissions will then be assessed in line with our guidance on Air emissions risk assessment for your environmental permit - GOV.UK (www.gov.uk) and emission limits imposed as necessary.
- Maximum storage times for hazardous waste depend upon the nature of the waste and infrastructure on site. The absolute maximum is 6 months in line with BAT for waste treatment. Over the course of the determination the applicant has confirmed that only 4000 tonnes of hazardous AWCCT waste will be stored at one time (down from 8000), this waste will be covered when not being moved/treated and it will be in place for a maximum of 6 months. This poses a lower risk in terms of dust than the initial proposals and provides additional measures to manage dust emissions during the periods when AWCCT is not actively being treated. Satisfactory dust monitoring and control measures have also been proposed in line with our 'Control and monitor emissions for your environmental permit' online guidance. We have therefore approved a dust management plan for this site. Considering the nature of the waste, the measures to control dust as well as our permit conditions which specifically prohibit significant emissions we have assessed the risk as low.

UKHSA (new iteration of PHE) have been consulted regarding these responses and find them satisfactory to address their concerns- No further action required.

No other consultation responses were received.