

Permitting decisions- Refusal

We have decided to refuse the permit for Manchester Recycling Limited operated by Manchester Recycling Limited (“the Applicant”)

The proposed facility location is Manchester Recycling Limited, Fisher Brothers Recycling Centre, Lansdowne Road, Monton, Eccles, Manchester, M30 9PJ (“The Site”)

We consider that in reaching that decision 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:

- highlights [key issues](#) in the determination
- gives reasons for refusal
- summarises the decision making process in the [decision considerations](#) section to show how the main 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 refusal notice.

Key issues of the decision

Summary of our decision

The Agency has refused an application to grant a permit to the Applicant to operate a regulated facility at the Site. The Applicant applied for a standard rules SR2015 No.6: 75kte household, commercial and industrial waste transfer station with treatment; includes assessment of fire prevention plan. (“the Standard Rules Permit”).

The Standard Rule permit authorises the receipt and treatment of waste within a building other than certain specified wastes to mitigate emissions from the operation. At the time of this application, no building was present on the site, and the appropriate and required infrastructure to operate a permitted waste activity was not in place. The required infrastructure which was absent from the site included:

- A building
- Impermeable pavement with a sealed drainage system
- Appropriate bay walls

And

- Storage areas to contain waste.

On 17 December 2021, Agency Officers attended at the site and noted that the Site area already containing an estimated 30,000m³ of historically deposited mixed waste material. To comply with the Standard Rules Permit, the waste would need to be stored within a building and due to its composition potentially be inappropriate for storage or treatment under this standard rules.

In view of the lack of infrastructure which was required under the Standard Rules Permit and the fact that Site already contains historically deposited mixed which must be stored within a building, if the Environment Agency (“the Agency”) were minded to grant the permit, this would immediately put the Applicant in breach of the permit conditions.

Due to the topography of the site and given the large deposit of waste, there was no appropriate or adequate space to safely operate a waste transfer station due to there being only a very small area at the front of the site - approx. 5m x 15m which was level. This area was not furnished with appropriate containment infrastructure, nor would conditions on the Site due the lack of space because of the historical waste, this would be an obstruction to the required infrastructure being installed and again would lead to an immediate breach of permit.

For the Site to be considered in any way suitable for a prospective permitted waste management activity, a large quantity of the existing waste would have to be removed to provide adequate space to allow for infrastructure to take place, and significant investment in appropriate infrastructure would be required.

In addition, due to the current absence of a suitable building on Site the Agency does not consider that the Applicant will be able to comply with the conditions of the Standard Rules Permit and implement the relevant controls to prevent negative amenity and environment impacts from the operations.

Under the Environmental Permitting (England and Wales) Regulations 2016 (“EPR 2016”) Schedule 5, Part 1, Paragraph 13,

‘Identity and competence of the operator

13.

- (1) Subject to sub-paragraph (3), the regulator must refuse an application for the grant of an environmental permit or for the transfer in whole or in part of an environmental permit if it considers that, if the permit is granted or transferred, the requirements in sub-paragraph (2) will not be satisfied.
- (2) The requirements are that the applicant for the grant of an environmental permit, or the proposed transferee, on the transfer of an environmental permit (in whole or in part), must—
 - (a) be the operator of the regulated facility, and
 - (b) operate the regulated facility in accordance with the environmental permit.

- (3) The requirement in sub-paragraph (2)(b) does not apply to an applicant for the grant of an environmental permit authorising the carrying on of only a stand-alone water discharge activity, stand-alone groundwater activity or stand-alone flood risk activity.

Consequently, in accordance with our duty under Schedule 5, Part 1, paragraph 13 of the EPR 2016, the Agency considers that it must refuse the application.

General description of Site location

The Site is situated near residential, commercial and industrial properties along with a school and green open space.

The Site is located on Lansdowne Road, Monton, Eccles, Manchester. There are multiple residential areas within 1km of the Site, these include the areas of Monton and areas off Monton Road (Approx. 535m North). Patricroft to the South (Approx. 737m South) with multiple areas off Liverpool Road and finally residential areas off Worsley Road to the West and surrounding roads (Approx. 900m West). With the closest residential area is Ernest Ave. and Cassidy Way, both approx. 185m West. Within these residential areas are several schools. There are multiple commercial developments which are situated off Ellesmere Road (Approx. 893m Northeast). Within 200m to the north of the site is the M602 motorway and to the south of the site is a railway line and Patricroft Station. Each area is within 1km radius and may be impacted on by any fire at the site.

The Fire Prevention Plan (“FPP”) identified that there are several areas where the Plan was inadequate namely:

1. Details are required to show how the Site has considered and mitigated for materials on site which are not covered by the Environment Agency’s Guidance but still pose a fire risk (e.g., combustible liquids or hazardous materials). This includes any gas cylinders, fuel tanks, aerosols, and chemicals on site. These materials need to be shown on a site plan with confirmation that this is adequately separated from combustible wastes.
2. The FPP needs to ensure that fire prevention measures will be put in place and used on site. The Applicant needs to provide details of the regular training exercises on site to test how well the FPP works and to ensure that staff understand all the requirements of it. This should include training in day-to-day operation (e.g., stockpile management), as well as incident response.
3. Provision of a revised site plan that includes the following information:
 - Site layout to scale
 - Any areas where the hazardous materials are stored on site (location of gas cylinders, process areas, chemicals, piles of combustible wastes, oil and fuel tanks)
 - areas of natural and unmade ground

- the location of fixed plant or where mobile plant is stored when not in use
 - drainage runs, pollution control features such as drain closure valves and fire water containment systems
 - storage areas with pile dimensions and fire walls (where applicable) - includes wastes stored in a building, bunker, or containers
 - compass rose showing the prevailing wind direction.
4. Details are required of a documented maintenance and inspection programme for static and mobile plant and equipment (e.g., what checks are conducted, who the checks are completed by, how often they will be conducted, how records are kept and what actions are taken if problems are discovered).
 5. Confirmation that on site vehicles will be fitted with fire extinguishers.
 6. Details are required of safe working practices, such as a permit to work system for hot works (such as welding and cutting), including details of any fire watch on site, that will be in place after hot works have ended (particularly at the end of a working day).
 7. Details are required of how the housekeeping measures to prevent the build-up of loose combustible waste, dust and fluff are documented), including a copy of the referenced daily checklist.
 8. Details are required of the written procedures for waste acceptance checks to prevent reactions between incompatible or unstable wastes), including use of a quarantine area where necessary.
 9. Details are required of the maximum volumes and sizes for the waste storage piles on site), including the design, access and layout of any building when storing waste to allow a fire to be extinguished easily. The details of maximum volumes and sizes must be supported by dimensions in metric units.
 10. For waste stored in containers confirmation of accessible to each container (so any fire inside it can be extinguished). Details of how containers will be managed during a fire and the procedures that will be put in place to allow a fire to be tackled.
 11. Further details are required on the dimensions of the fire walls. Fire walls must show compliance with all factors outlined in Section 11.2 of the Agency's Guidance, including keeping clear a freeboard space of 1 metre minimum at the top and sides of the walls.
 12. Details are required regarding the quarantine area(s) on site. The quarantine area(s) must be within the boundary of the site for which the permit applies and be large enough to hold at least 50% of the volume of the largest pile (or sufficient ELV's or containers to provide separation). Confirm a separation distance of at least 6 metres

around the quarantined waste will be in place. Please provide any dimensions in metric units.

13. Further details are required on the detection system on site including.
 - i) Specifics of the CCTV system that will be installed.
 - ii) How CCTV will be used to raise the alarm if a fire is detected both during working hours and when the site is closed.
 - iii) Confirmation of the time that the staff responsible for the firefighting response will be able to attend site, outside of operational hours.
14. Details of the site-specific calculations for water supply are required in accordance with the fire prevention guidance to address the worst-case scenario, which is defined as the largest waste pile catching fire.
15. Details are required of how the Site will contain fire water run-off and prevent it from entering the environment. The Applicant must demonstrate that the containment volumes are in accordance with water supply calculations. For fire water containment infrastructure that is to be constructed, details are required of the timescale for the completion of the containment infrastructure.
 - Include secondary and tertiary containment facilities for fire water run-off if applicable. If combustible wastes are to be stored on hard standing, an assessment of the potential effect of fire water on receptors is required.

The Applicant must provide all the outstanding information to the points raised above prior to the Agency issuing the permit.

The legal framework

The Waste Framework Directive 2008/98/EC – Article 13 (“Article 13 WFD”) sets out certain objectives that need to be met. Waste must be recovered or disposed of without endangering human health and without using processes or methods which could harm the environment, and in particular.

- without risk to water, air, soil, plants and animals,
- without causing a nuisance through noise or odours,
- without adversely affecting the countryside or places of special interest.

The Environment Agency exercises this function through paragraph 3 of Schedule 9 of the EPA 2016 which states:

‘Exercise of relevant functions

3.— (1) The regulator must exercise its relevant functions—

- (a) for the purposes of ensuring that—

- (i) the waste hierarchy referred to in Article 4 of the Waste Framework Directive is applied to the generation of waste by a waste operation.
 - (ii) waste generated by a waste operation is treated in accordance with Article 4 of the Waste Framework Directive.
- (b) for the purposes of implementing Article 13 of the Waste Framework Directive, but not in respect of nuisances and hazards arising from traffic beyond the site of a waste operation.
 - (c) so as to ensure that the requirements in the second paragraph of Article 23(1) of the Waste Framework Directive are met.
 - (d) so as to ensure compliance with the following Articles of the Waste Framework Directive—
 - (i) Article 18(2)(b) and (c);
 - (ii) Article 23(3);
 - (iii) Article 23(4);
 - (iv) Article 35(1).
- (2) But the following duties take effect in relation to an environmental permit which was in force on the date of coming into force of the Waste (England and Wales) Regulations 2011(1) on the first review of the permit by the regulator (under regulation 34(1)) after that date
- (a) the duty in sub-paragraph (1)(a), (d)(i) and (d)(iii);
 - (b) the duty in sub-paragraph (1)(c), to the extent that it is imposed in relation to Article 23(1)(e) and (f).’

Standard Rules Permits

There are 3 levels of complexity for regulation the simplest being Waste Exemption, then Standard Rules Permitting and rising to the most complex which is Bespoke Permitting.

The EPR 2016 Regulation 26 states:

‘Preparation and revision of standard rules
26(1)

A rule making authority may prepare standard rules for such regulated facilities as are described in those rules.’

Regulation 26 provides for the production of standard rules. Standard rules permits are less expensive and easier to apply for than a bespoke permit as they are appropriate for

activities and in locations where a generic risk assessment and standard conditions can be relied on to protect the environment.

Each type of standard rules permit is based on a set of rules (different rule sets for different permitted activities) for which generic risk assessments have been undertaken with specific mitigations to address any environmental risks associated with the particular activity.

According to the Penfold Review Progress Update 2011:

“Standard rule sets and permits allow a simplified and light-touch procedure for regulating simple activities for which the risks and means of controlling them are readily defined”.

Generic risk assessments have been devised for a number of regulated facility types that share similar characteristics where a good understanding of the hazards and risks posed by these low to medium risk activities already exists. Consequently, the operator of a standard rules permit would however require a far greater level of knowledge surrounding the relevant legislation and the hazards and risks posed by these low to medium risk activities than an operator working within the terms of a waste exempt activity.

Whereas in determining applications for bespoke permits, alternative controls may be proposed to address any site-specific risks identified, which in this instance could address the absence of a building and presence of existing waste deposits.

Environmental issues: likelihood of pollution

Approximately 30,000m³ mixed waste has been deposited unlawfully. There is the potential for hazardous waste to be buried in the unlawful deposit waste mass. As the ground is permeable below the waste mass there is a risk of ongoing ground contamination which is in part due to the absence of an impermeable pavement and sealed drainage system.

Before any permitted activity could be operate at the site, the previously deposited waste would need to be cleared from the site and suitable infrastructure would need to be installed. In addition, the quality of the ground through a site condition report will need to be established to provide a baseline for consideration at future surrender of the site and inform any future remedial works. As of March 2022, no work has been undertaken to remove the existing waste on site which will need to be cleared in order to install the necessary infrastructure. The necessary infrastructure includes a building, impermeable pavement with a sealed drainage system, appropriate bay walls, and storage areas, for containment of waste.

The removal of existing waste has the potential to cause odour emissions. The composition of the existing waste is unknown and may contain hazardous wastes which require specific handling methodologies.

The issue of a permit on these premises without the prior removal of the existing waste mass, and the installation of appropriate site infrastructure would result in immediate

suspension of the permit under Reg 37 of the Environmental Permitting Regulations (England and Wales as amended) 2016 for risk of serious pollution, and or serious non-compliance with permit conditions.

Other relevant issues

It would be impossible to operate a lawful and permitted waste management activity as applied for without first removing the existing unlawful deposits of waste and installing the appropriate waste management infrastructure required by the permit.

Allowing the permit to be issued under such circumstances could lend undue legitimacy to a business which is neither equipped, nor guaranteed to operate on a level playing field with other permitted waste businesses.

Other relevant legal issues

The Agency has received reports of entry to the site being gained from adjacent premises without lawful authority for unknown purposes. There is no evidence of recent deposits of waste.

Decision considerations

The detailed permit and compliance history above demonstrates why the Agency is not satisfied the Applicant will comply with the conditions of any permit that the Agency may grant and therefore why the Agency is refusing to grant a permit to the Applicant.

In summary the reasons for this decision are as follows:

1. Approximately 30,000m³ mixed waste has been deposited on the site. Before any permitted activity could operate at the site, the existing waste would need to be cleared from the site and suitable infrastructure would need to be installed, because there was only a very small area at the front of the site (approx. 5m x 15m) which was level and the area is not furnished with appropriate containment or infrastructure, nor would conditions on site enable the required infrastructure to be installed at this time, and again would lead to an immediate breach of permit.

With regards to the intentions for the existing waste on the site, we are not aware of any proposal to remove the waste. At present we know there is no viable space on the site to operate a waste transfer station, and the site does not have the appropriate infrastructure in place to be able to operate a waste transfer station under the Standard Rules applied for. There had been a discussion around clearing the waste once the permit had been issued, but this would cause the site to immediately be in breach of permit conditions and potentially require partial suspension of the permitted activities until the existing waste has been removed.