

In the matter of the  
FCC Recycling (UK) Limited Inquiry  
Environmental Permitting (England and Wales)  
Regulations 2016

Planning Inspector Ref: APP/EPR/636

FCC RECYCLING (UK) LIMITED  
DANESHILL LANDFILL  
DANESHILL ROAD  
RETFORD  
NOTTINGHAMSHIRE  
DN22 8RB

Appellant

And

ENVIRONMENT AGENCY

Defendant

THE ENVIRONMENT AGENCY'S RESPONSE:  
TO THE ADDITIONAL DOCUMENTATION  
SERVED BY THE APPELLANT

DATE: 17 October 2023

### General comments

A large part of the Additional Documentations content (received 1 August 2023) is new and was not presented in the original Daneshill Soil Treatment Facility ("STF") application (originally determined 9 December 2022, subject of the appeal dated 5 June 2023). The new documentation states that there are no fibre emissions from soils. This was just one element of the original refusal. The major issues with the original application were the lack of information and operating techniques around the screener and its potential to break asbestos and increase the fibre content. This was considered not to demonstrate Best Available Techniques ("BAT").

The new submission does now explain how the waste piles are ejected from the 3-way screen. Even this relatively small detail was not provided in the original application. No mention of reuse of oversize material was presented. This lack of detail was a key refusal point. The Appellant was (via Schedule 5 Notice and by phone) repeatedly asked for information as to how ejected material would be handled. Directly converse to this the Appellant was careful to explain the handpicking activity where asbestos waste would be carefully handled, double bagged, placed in skips (not dropped) and so on.

It is also clear that the Appellant also wants to present more additional information as evidence at the Inquiry, notably a significant quantity of asbestos monitoring data, which they have stated has been gathered from similar activities at Maw Green and Edwin Richards Quarry. In The Environment Agency's ("the Agency's") statement of case it was stated that:

*We do not accept monitoring data from other sites as evidence that there will not be diffuse emissions at an unrelated site. Each operation is assessed on its own merits and each site must have appropriate mitigation measures in place to capture and potential emissions.*

Notwithstanding this, any evidence should be presented well in advance of any Inquiry so that the Agency has sufficient time to fully review the monitoring methodology used and the results.

Similarly, the Appellant had stated they will also provide AERMOD air dispersion modelling for dust emissions from the site (undertaken by Isopleth Ltd). No air dispersion modelling was provided with the original application for the STF. If the Appellant is providing this in evidence, then this should be presented well in advance of any Inquiry so that the Agency has sufficient time to assess it. The Agency procedure for assessing air dispersion modelling for Sites of High Public Interest ("SHPI") is for an audit to be undertaken by the Agency's Air Quality Modelling and Assessment Unit ("AQMAU"). Any modelling report provided must be in accordance with the standards here: [Environmental permitting: air dispersion modelling reports - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/environmental-permitting-air-dispersion-modelling-reports) and the electronic model input files must be provided for audit purposes.

The Agency's main conclusion is that this is new evidence, some of it gathered since the refusal which should have been included in the Appellant's Appeal Statement so should not be considered for the appeal. This information should be submitted as part of a new permit application.

The Agency still asserts that, for a permanent site where asbestos waste could be imported year after year, BAT is measures that enclose diffuse emissions sources and capture all potential emissions, as set out in detail in the Agency's Response to Appellant's Statement dated 24 July 2023.

### **Specific paragraph comments**

#### **7.3**

The Appellant refers to acceptance of soils containing asbestos throughout the document, but further on in paragraph 8.8 they state: *"In addition, the oversized materials removed by the screening process comprising large stones, bricks and lumps of concrete are husbanded and used on site as hardcore to form the surface of haul roads and other infrastructure."* Whilst there may be stones in soil, significant quantities of brick or concrete or similar materials should not be present in a waste described as a soil. The presence of such material would make the mechanical screening more likely to damage any bound/bonded asbestos and potentially result in release of free fibres. The composition of waste is mentioned further in paragraph 8.10 where the waste *"... typically comprises mixed construction and demolition waste which includes soils mixed with Asbestos Containing Materials (ACMs)."*

#### **7.9 - 7.14**

Air monitoring for asbestos fibres is mentioned as being undertaken for Maw Green and Edwin Richards Quarry, with only a brief summary of findings presented, but mention that this will be presented as new evidence at the Inquiry. The monitoring was a single point close (within 5 m of the screen) at Maw Green, and somewhere within the process building at Edwin Richards Quarry. As stated above, the Agency will need to review this additional new data, when it is presented, which will take some time.

#### **7.16**

Refers to HSE Guidance (HSG248, 2022) that airborne fibre concentrations are unlikely to exceed 0.01 f/ml where the asbestos in soil is mostly bound/bonded and at concentrations <0.1% wt/wt. The Appellant states in paragraph 8.11 that *"The limit for soils accepted at the*

facility is <0.1% of free chrysotile fibres and <0.01% of free amphibole fibres.” There is effectively no limit on the amount of bound/bonded asbestos that could be accepted as part of the contaminated soil. Therefore, the total asbestos load (both bound/bonded and free fibres) could be higher than 0.1% in incoming waste soil, as the bound/bonded asbestos content would be in addition to any free fibres present in the soil.

#### 7.22

Refers to Dutch Institute of Public Health and the Environment (RIVM, 2003) report which indicates that disturbance of soil containing less than 1% wt/wt ‘bound’ asbestos (e.g. asbestos cement) did not create detectable concentrations of asbestos fibres in air. Referring to the response to paragraph 7.16 above, the Appellant did not propose to limit bound/bonded asbestos to 1% wt/wt in incoming waste, only “<0.1% of free chrysotile fibres and <0.01% of free amphibole fibres.”

#### 7.25 - 7.29

Discusses the impact of soil moisture and asserts risk is low when soil moisture is above 10%, and states “Laboratory moisture testing of post-processed soil at Maw Green and ERQ confirms this, with reported soil sample moisture contents typically above 10%.” It is not clear whether the Appellant proposes to confirm and control moisture levels in incoming wastes containing asbestos prior to screening to ensure this, as it is not described as a technique in their Description of the Proposed Activity set out in Section 8.

#### 7.30 - 7.40

Discusses modelling and assessment of dust using an AERMOD model, which was not part of the original STF application. The Agency would need to see the modelling and assessment report to assess the model as described above. The modelling and assessment is usually carried out as part of a permit application determination.

#### 7.37

This paragraph refers to the Appellant proposing using The Society of Brownfield Risk Assessment toolbox (“SoBRA”) health risk assessment. The Appellant asserts that this is limited to the 10-year planned timescale of the STF as “precautionary”. A permit which may be issued for the operation would not be time limited, so this does not appear a very precautionary approach.

#### 8.11 - 8.16

The above referenced paragraphs, set out the Description of the Proposed Activity. The Agency considers that the proposed hand-picking activity is typically a low energy process and therefore lower risk and have previously permitted sites which undertake this activity. The main concern was the:

- Potential impact of the mechanical screening proposal.
  - Emissions that might be created.
- And,
- Potential to create further contamination.

Despite referring in Section 7 to the moisture content of soil contaminated with asbestos and the reduction in emissions resulting, the description does not make any mention of the use of or monitoring of moisture levels or water to suppress emissions from mechanically screening the incoming asbestos contaminated soils.

The Agency still considers that BAT is measures that enclose diffuse emissions sources and capture all potential emissions as set out above.

8.14

As mentioned above, the detail relating to screened outputs was not included in the original STF application. No discussion was provided on what was ejected from the screen or how it was handled.

#### **Review of Supporting Documents**

The Agency has also reviewed the extensive supporting documents provided by the Appellant in support of their Statement of Case (as set out in Section 1, Referenced Documents, in the Daneshill Soil Treatment Facility - Index of Documents (revised version received 17 August 2023). Comments are provided. (Appended document ref: Review of Science Papers).

#### **Issue of the Agency-initiated variation for Daneshill**

The Agency has issued an Agency-initiated variation for the Daneshill permit (EPR/NP3538MF/V010), which permits the operation of the asbestos screening and handpicking operation at the Daneshill STF, subject to the conditions set out in the variation notice. A copy of the permit variation and decision document are appended.

#### **Issue of the Agency-initiated variation for Maw Green**

The Agency has issued an Agency-initiated variation for the Maw Green permit (EPR/BS7722ID/V009), which amends the operation of the asbestos screening and handpicking operation at the Maw Green STF, subject to the conditions set out in the variation notice. A copy of the permit variation and decision document are appended.