

Permitting Decisions- Environment Agency Initiated Variation

We have decided to issue an Environment Agency initiated variation for Daneshill Landfill operated by FCC Recycling (UK) Limited.

The variation number is EPR/NP3538MF/V010.

This variation is undertaken in response to an appeal by the operator against refusal of the asbestos treatment process applied for in their variation application number EPR/NP3538MF/V009, which was to introduce a soil treatment facility (“STF”) at the site. Part of the STF application relating to bioremediation of waste was issued.

This variation is to include an asbestos treatment installation activity under Sections 5.3 Part A(1)(a)(vi) and 5.6 Part A(1)(a). Soils contaminated with bonded asbestos will be mechanically screened and handpicked to remove the bonded asbestos fragments. The removed asbestos will then be disposed of to landfill. The recovered soil fractions will be used on the landfill as restoration material if suitable, or if also impacted hydrocarbons, undergo further treatment via bioremediation in the existing STF. Screened non-hazardous oversize material will be used for site infrastructure (roads etc). The screening and handpicking activities are permitted (subject to approval via a pre-operational condition) to demonstrate appropriate measures are being applied, including:

- Adequate enclosure
- Abatement of the screening operation emissions
- monitoring of the processes

to prevent and minimise emissions of asbestos fibres. There is no increase in waste throughput at the STF as a result of this application.

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 engagement carried out because this is an application of high public interest.

Read the permitting decisions in conjunction with the environmental permit and the variation notice.

Key issues of the decision

We previously refused part of the operator's EPR/NP3538MF/V009 variation application relating to adding asbestos waste treatment at the site as part of the STF. The reasons are set out in the separate decision document for that determination and are not repeated here.

The operator has appealed that partial refusal decision. In preparation for the appeal, the Environment Agency ("the Agency") reviewed the initial decision determination to refuse the asbestos treatment process. After reviewing the initial determination, the Agency initiated a variation under Regulation 20(1) of the Environmental Permitting (England and Wales) 2016 ("EPR 2016") otherwise known as an Agency Initiated Variation ("AIV").

In the operator's proposals for asbestos treatment under EPR/NP3538MF/V009, waste soils contaminated with bonded asbestos fragments were firstly to be screened in a mechanical 3-way screener to separate:

- i) oversize material,
- ii) the soil fraction large enough to include bonded asbestos fragments, and
- iii) fine soil, containing minimal asbestos fragments.

The waste from i) and iii) was to be reused onsite or submitted to further treatment. The waste from ii) would be suitable for handpicking of the bonded asbestos fragments and would pass to that operation via conveyor system.

The mechanical screening process proposed by the operator may agitate the asbestos containing waste and result in the generation of asbestos fibres. We consider that to carry out this process effectively without endangering human health or without harming the environment, the screener must be fully enclosed and the air within the enclosure (potentially contaminated with asbestos fibres) must be treated via an abatement system prior to release. It is also a requirement of the Agency's Chemical Waste appropriate measures guidance (Nov 2020) to minimise fugitive emissions to air. Treatment of the air to remove particulates and asbestos fibres is typically done using filtration. High Efficiency Particulate Air ("HEPA") filters are a commonly available technique to control asbestos fibre emissions and are used at other sites as part of Best Available Techniques ("BAT") for emissions control. We have therefore included a pre-operational condition on the screening operation (PO7 in table S1.4) for the operator to demonstrate they have fully enclosed the mechanical screener and that all air is being suitably treated prior to operation of the screener.

In addition, we have included an improvement condition (IC12 in table S1.3). This requires the operator to provide a report on the monitoring undertaken as part of the sampling of the incoming waste and the separated wastes streams, from the operation of the asbestos screening process over the first 4 months of operation. The intention is to require the operator to demonstrate that:

- the mechanical screening process is working as intended in separating the bonded asbestos waste fraction in the hand-pickable stream,
- the asbestos screening itself is not creating additional asbestos fibre contamination, and
- the residual waste streams are suitably low in asbestos contamination to allow reuse without endangering human health or without harming the environment.

We have also included a restriction in the permit table S1.1 such that soils impacted with asbestos are stored inside a building in a way that minimises emissions (such as using water sprays to dampen waste and sheeting of stockpiles) to prevent fugitive emissions.

The operator's original proposals for handpicking included an enclosed picking station where operatives in personal protective equipment handpick bonded asbestos fragments from the segregated soil fraction described above. Spray rails for damping down will be used on the input conveyers to the picking station to suppress dust and asbestos fibres. This process is considered to meet the Agency's appropriate measures.

The handpicked bonded asbestos fragments are then double bagged and transferred to sealed, lockable containers (generally a skip) for onward disposal to landfill. This is in accordance with the Agency's appropriate measures for handling asbestos waste for transfer and disposal.

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.

Engagement

We consider this application to be of high public interest.

There was a public consultation undertaken before the partial refusal decision for EPR/NP3538MF/V009 was made. All interested parties (respondents to the initial consultation) have been written to notifying them of the appeal, as per correct process.

We have considered the previous public consultation comments under EPR/NP3538MF/V009 as part of this AIV. We have ensured that appropriate controls are in place under the varied permit to minimise the risks to human health and the environment from the asbestos treatment activity.

Please refer to the decision document for variation EPR/NP3538MF/V009 for further detail on the previous comments raised under that application.

The regulated facility

We considered the extent and nature of the facilities at the site in accordance with:

- RGN2 'Understanding the meaning of regulated facility',
- Appendix 2 of RGN2 'Defining the scope of the installation.'

The existing site comprises a landfill for non-hazardous waste, waste installation storage and treatment activities, and waste operations. This variation includes a new activity as follows.

- Section 5.3 Part A(1)(a)(vi): Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving physico-chemical treatment. (Recovery of soils impacted with identifiable pieces of bonded asbestos by separation, R5).

It also varies the existing Section 5.6 Part A(1)(a) activity (Storage of hazardous waste prior to on-site treatment for the purpose of recovery) to include storage of asbestos impacted wastes.

The extent of the facilities are 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 and the facility.

The plan is included in the permit.

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:

- Mattersley Hill Marsh Site of Special Scientific Importance (SSSI) approximately 500 m northwest of the STF location.
- A number of Local Wildlife Sites (LWSs), the nearest being Daneshill Lakes and Woodland approximately 400 m west and southwest of the STF location.

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 not consulted Natural England.

The decision was taken in accordance with our guidance.

Operating techniques

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

Changes to the permit conditions

We have varied the permit as stated in the variation notice.

This is to allow the treatment of asbestos impacted soils via pre-screening and hand picking, in accordance with Chemical Waste Appropriate Measures Guidance as set out in the key issues section. As well as the conditions/requirements set out in the sections below, the variation includes the necessary changes to make the permit enforceable, such as including European Waste Catalogue (“EWC”) waste codes for the asbestos wastes, monitoring, reporting and other consequential amendments. A full list of added or amended conditions is set out in the variation notice.

Improvement programme

We have included an improvement programme. This is covered in the Key Issues section.

Emission limits

Emission Limit Values (“ELV’s”) based on BAT, have been added for the following substances in table S3.2 for the air abatement system for the mechanical screener:

- Particulate matter (dust) = 5 mg/m³ (BAT-AEL requirement)
- Asbestos fibres = 0.1 f/ml (Environment Agency requirement)

We made these decisions in accordance with Chemical Waste Appropriate Measures and the Waste Treatment Best Available Techniques Conclusions (“BATCs”).

Monitoring

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

- Particulate matter (dust) = 6 monthly (BAT-AEL requirement).
- Asbestos fibres = monthly, with the possibility to fall to quarterly with our written agreement (Environment Agency requirement).

Methods as specified in table S3.2 of the permit.

These monitoring requirements have been included in order to check compliance with the emission limits stated above.

We have also included ambient air monitoring for asbestos fibres in table S3.11A.

We made these decisions in accordance with Chemical Waste Appropriate Measures and the Waste Treatment BATCs.

Based on the information in the application we are not fully satisfied that the operator’s techniques, personnel and equipment have either Monitoring Certification Scheme (“MCERTS”) certification or MCERTS accreditation as appropriate.

We have applied the requirements and expect the operator to meet MCERTS standards as appropriate.

Reporting

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

- Particulate matter (dust)

- Asbestos fibres

These are included under the requirement to report the requirements of the monitoring under tables S3.2 and S3.11A.

We made these decisions in accordance with Chemical Waste Appropriate Measures and the Waste Treatment BATCs.

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 100 of that Act in deciding whether to grant the variation of this permit.

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.