

Permitting Decisions- Variation

We have decided to issue an Environment Agency initiated variation for The Midlands Urban Mine operated by Johnsons Aggregates and Recycling Limited following a review of the permit in accordance with Environmental Permitting (England and Wales) Regulations 2016, regulation 34(1).

The variation number is EPR/MP3430AM/V007

The variation is an EA led variation which has been initiated as it was identified in the non-hazardous waste permit review that the operator was carrying out a blending activity with 6F5 aggregate which is classified as a waste.

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 summarises the decision-making process to show how the main relevant factors have been taken into account. We have assessed the aspects that are changing as part of this variation, we have not revisited any other sections of the permit.

Key issues of the decision

Environment Agency led variation

An overview of the permit variation

The EA led variation is to allow Johnsons Aggregates and Recycling Limited to operate the following waste activity on their installations permit

- Treatment of waste by blending of waste aggregates with IBAA

We have carried out an Environment Agency initiated minor variation to the permit following the identification of a blending activity. This activity has been classified as a waste activity during the non-hazardous waste permit review. As required by legislation we have made the change to ensure that permit conditions deliver compliance with relevant legislative requirements and appropriate standards to protect the environment and human health.

The operator is using a 6F5 aggregate material that would otherwise meet the end of waste quality protocol specification if used directly in either unbound or

bound applications in construction/civil engineering. The Quality protocol aggregate however must be used in the manner laid out within the QP. As the operator is adding a step by undertaking a blending process with 6F5 and IBAA the use of material that otherwise meets the protocol specification in a further blending process (as is the case with IBAA) means the aggregate is still waste and the blending is a waste treatment process.

Waste Storage

The operator has requested that the annual throughput of 6F5 shall not exceed 121,500 tonnes. At anyone time there will be no more than 3750 tonnes on site. The 6F5 waste aggregate will be stored on hardstanding.

The Environment Agency has assessed and considered the environmental risk of storing this waste and concluded that it is an inert waste that can be stored on hardstanding. The risk of dust from storing this waste is also low as it is very unlikely that it will be stored at a height that allows it to be impacted by wind whipping. The operator also has an approved Environment Agency Dust and Emissions Management Plan in use.

Changes to the permit conditions

The following conditions and tables have been deleted/varied/added as a result of the Environment Agency Initiated Variation:

Conditions	Amendment
Table S1.1	Rewording of activity AR8 and addition of AR9 activity -Waste Operation-Treatment of waste by blending of waste aggregates with IBAA
2.3.4	Added table S2.4 to condition
Table S2.4	Addition of waste table for blending of 6F5
Table S4.2	Addition of 6F5 to annual production/treatment table

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.

Operator

We are satisfied that the applicant (now the operator) is the person who will have control over the operation of the facility after the grant of the permit. The decision was taken in accordance with our guidance on legal operator for environmental permits.

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', Appendix 1 of RGN 2 'Interpretation of Schedule 1', guidance on waste recovery plans and permits.

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.

Changes to the permit conditions due to an Environment Agency initiated variation

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

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.

Emission limits

No emission limits have been added, amended or deleted as a result of this variation.

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.

Previous performance

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

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.