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Appeal Ref

The Environmental Permitting (England and Wales) Regulations 2016

Environmental Permitting Appeal Form

If you need this document in large print, on audio tape, in Braille or in another language please call 0303 444 5584.

WARNING: The appeal must reach the Inspectorate with the statutory appeal deadlines as laid out in Schedule 6 of the above mentioned regulations.

PLEASE PRINT CLEARLY IN CAPITALS USING BLACK INK

A. APPELLANT DETAILS

Name

Organisation Name (if applicable)

Contact reference Number

Address
 Postcode

Daytime Tel Fax

Email

I prefer to be contacted by: Email Post

B. AGENT DETAILS (if applicable)

Name

Organisation Name (if applicable)

Contact reference Number

Address
 Postcode

Daytime Tel Fax

Email

I prefer to be contacted by: Email Post

C. REGULATOR DETAILS – ENVIRONMENT AGENCY/LOCAL AUTHORITY

Name E N V I R O N M E N T A G E N C Y

Contact reference Number J A C K S M I T H

Date of Application (DDMMYY) 2 7 0 1 2 3

Date of Decision (DDMMYY) 1 8 1 2 2 3

D. APPEAL SITE ADDRESS

Site Address R A B O N E L A N E , S M E T H W I C K , W A R L E Y

Postcode (if known) B 6 6 2 L F

E. GROUNDS OF APPEAL

Please indicate the grounds for appeal by ticking whichever box applies and then set out your reasons in section F of this form.

- | | | |
|--|----|-------------------------------------|
| 1. Refusal to grant a Permit; | 1. | <input type="checkbox"/> |
| 2. Refusal to grant a variation of the conditions of an existing Permit; | 2. | <input type="checkbox"/> |
| 3. Conditions attached to a Permit following an application for a Permit or variation; | 3. | <input checked="" type="checkbox"/> |
| 4. Refusal of application to transfer or conditions attached to Permit to take account of transfer; | 4. | <input type="checkbox"/> |
| 5. Refusal of application to surrender the Permit or conditions attached to Permit to take account of surrender; | 5. | <input type="checkbox"/> |
| 6. Variation, Enforcement, Revocation, Prohibition or Suspension Notice; | 6. | <input type="checkbox"/> |
| 7. Refusal of approval to initiate closure procedures or is served with closure notice; | 7. | <input type="checkbox"/> |
| 8. Failure by regulator to give notice of determination of application for Permit, variation, transfer or surrender within statutory time-period - 'deemed refusal'; | 8. | <input type="checkbox"/> |
| 9. Deemed withdrawal of application following failure to provide required information. | 9. | <input type="checkbox"/> |

F. REASONS FOR APPEAL

1. Sims Group UK Limited ("Sims") seeks to appeal against condition 3.1.1 of environmental permit EPR/ZP3691ET (the "Permit") and the following emission limit values ("ELVs") specified in Schedule 3 of the Permit:
- the ELV for dust for exhaust stack 1 (5 mg/m³) in Schedule 3, table S3.1;
 - the ELV for lead (0.1 mg/l) in relation to the discharge of process water and site surface water to the sewer at discharge point S2 in Schedule 3, table S3.2; and

- the ELV for zinc (1 mg/l) in relation to the discharge of process water and site surface water to the sewer at discharge point S2 in Schedule 3, table S3.2.

2. A summary of the grounds of this appeal are set out below. Further information can be provided if requested.

ELV for dust

3. The Environment Agency (“EA”) has erred in its interpretation of BAT when setting the ELV for dust for exhaust stack 1.
4. The Permit sets an ELV for dust of:
 - 5 mg/m³ for exhaust stack 1 (“A1”);
 - 10 mg/m³ for exhaust stack 2 (“A2”).
5. Prior to the Permit variation the ELVs for dust for A1 and A2 were set at 20 mg/m³.
6. In its decision document, the EA has stated that:
 - it has set a BAT AEL limit of 5mg/m³ for A1 on the basis that the emission point is not directly located over the shredder and that, as such, a bag filter can easily be used for emissions control without the risk of deflagration;
 - it has set a limit of 10 mg/m³ for A2 on the basis that the emission point is located directly over the shredder mill, therefore it is impracticable to use a bag filter without the risk of deflagration.
7. BAT 25 of the BAT conclusions for Waste Treatment (“**WT BATc**”) which are applicable to the Site states that: *“in order to reduce emissions to air of dust, and of particulate-bound metals, PCDD/F and dioxin-like PCBs, BAT is to apply BAT 14d and to use one or a combination of the techniques given below:”*

Technique	Applicability
Cyclone	Generally applicable
Fabric filter	May not be applicable to exhaust air ducts directly connected to the shredder when the effects of deflagration on the fabric filter cannot be mitigated (e.g. by using pressure relief valves).
Wet scrubbing	Generally applicable
Water injection into the shredder	Only applicable within the constraints associated with local conditions (e.g. low temperature, drought)

8. Article 15 of Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) (the “**IED Directive**”) provides that ELVs must be based on BAT, without prescribing the use of any technique or specific technology.
9. The Site currently uses three of the four techniques set out in BAT 25 to reduce dust emissions to air: cyclone, wet scrubbing and water injection into the shredder. Therefore the Site uses a combination of techniques to reduce dust emissions to air as mandated by BAT 25.
10. Table 6.3 provides that the BAT-associated emissions levels (“**BAT-AELs**”) for dust emissions to air from the mechanical treatment of waste are 2-5 mg/Nm³.
11. A footnote at the end of table 6.3 states that *“When a fabric filter is not applicable, the upper end of the range is 10 mg/Nm³”*.
12. Sims’ view is that a fabric filter bag is not applicable to A1 on the basis that the suppression system on the shredder and downstream are damp systems. A fabric filter cannot be used in conjunction with damp techniques as the filter would become clogged by damp particulates and would become ineffective.

13. The WT BATc state that other BAT conclusions and reference documents which could be relevant to the activities covered by it include the Common waste water and waste gas treatment/management systems in the chemical sector ("**CWW BATc**").
14. The CWW BATc provides a list of advantages and disadvantages associated with fabric filters in table 3.244 in page 451. The CWW BATc states that one of the disadvantages of fabric filters is that they are "*not suitable for wet or sticky dusts because of the risk of filter clogging*".
15. In setting the ELV for dust on A1 at 5 mg/m³ on the basis that the emission point is not directly located over the shredder and that a bag filter can easily be used for emissions control without the risk of deflagration, the EA has:
- imposed an unreasonable requirement on Sims;
 - disregarded the fact that BAT 25 requires operators to use "*one or a combination of techniques*" to reduce emissions of air to dust and the fact that Sims currently uses 3 of the 4 techniques set out in BAT 25 to reduce dust emissions to air;
 - failed to appreciate that fabric filters may not be applicable for reasons other than those set out in BAT 25 and failed to take into account the comment made in CWW BATc that fabric filters are not suitable for wet or sticky dusts because of the risk of filter clogging;
 - prescribed the use of a specific technique/technology in breach of Article 15 of the IED Directive and Schedule 7, paragraph 5 of the Environmental Permitting (England and Wales) Regulations 2016.
16. The ELV for dust for A1 should be amended to 10 mg/m³ to reflect the fact that under BAT 25 the upper end of the BAT-AELs for dust emissions to air is 10 mg/Nm³ when a fabric filter is not applicable.

ELVs for lead and zinc

17. The Permit sets ELVs for lead and zinc in the trade effluent that is discharged from the Site to the public sewer at discharge point S2 at respectively 0.1 mg/l and 1 mg/l.
18. Sims holds a trade effluent discharge consent from Severn Trent (ref. 008675V) (the "**TEC**"). The TEC contains a concentration limit of 4 mg/l for lead and a concentration limit of 10 mg/l for zinc in the trade effluent.
19. Prior to the Permit variation the Permit did not contain ELVs for lead and zinc.
20. In its decision document, the EA stated that: "*Representative monitoring of the surface water discharged from point S2 have been undertaken together with a report of the H1 Screening tool. Sewage treatment reduction factors were applied, and all parameters measured against Maximum Allowable Concentration (MAC) passed test 2. However, Zinc was close to the upper limit of the waste BAT AEL for indirect discharges (BAT 20). The waste BAT AELs and monitoring requirements for indirect discharges to a receiving water body have been added to the permit under table 3.2. We have concluded that because the shredder on site will be processing both metal waste and hazardous waste, we cannot include the higher BAT AEL limits in the permit for lead and zinc because the higher limits are applicable to mechanical treatment in shredders of metal waste. The limits of lead and zinc are set as 0.1mg/l and 1 mg/l respectively*".
21. BAT 20 of the WT BATc sets out in table 6.2 the BAT-AELs for indirect discharges to a receiving water body.

Substance/parameter	BAT-AEL	Waste treatment process to which the BAT-AEL applies
Lead	0.05 – 0.1 mg/l	- mechanical treatment in shredders of metal waste

Zinc	0.1 - 1 mg/l	<ul style="list-style-type: none"> - treatment of WEEE containing VFCs and/or VHCs - mechanical biological treatment of waste - refining of waste oil - physico-chemical treatment of waste with calorific value - physico-treatment of solid and/or pasty waste - regeneration of spent solvents - water washing of excavated contaminated soil
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22. Footnotes at the bottom of table 6.2 state that:

- the BAT-AELs may not apply if the downstream waste water treatment plant abates the pollutants concerned, provided this does not lead to a higher level of pollution in the environment;
- the upper end of the range for lead is 0.3 mg/l for mechanical treatment in shredders of metal waste;
- the upper end of the range for zinc is 2 mg/l for mechanical treatment in shredders of metal waste.

23. Article 15 of the IED Directive provides that:

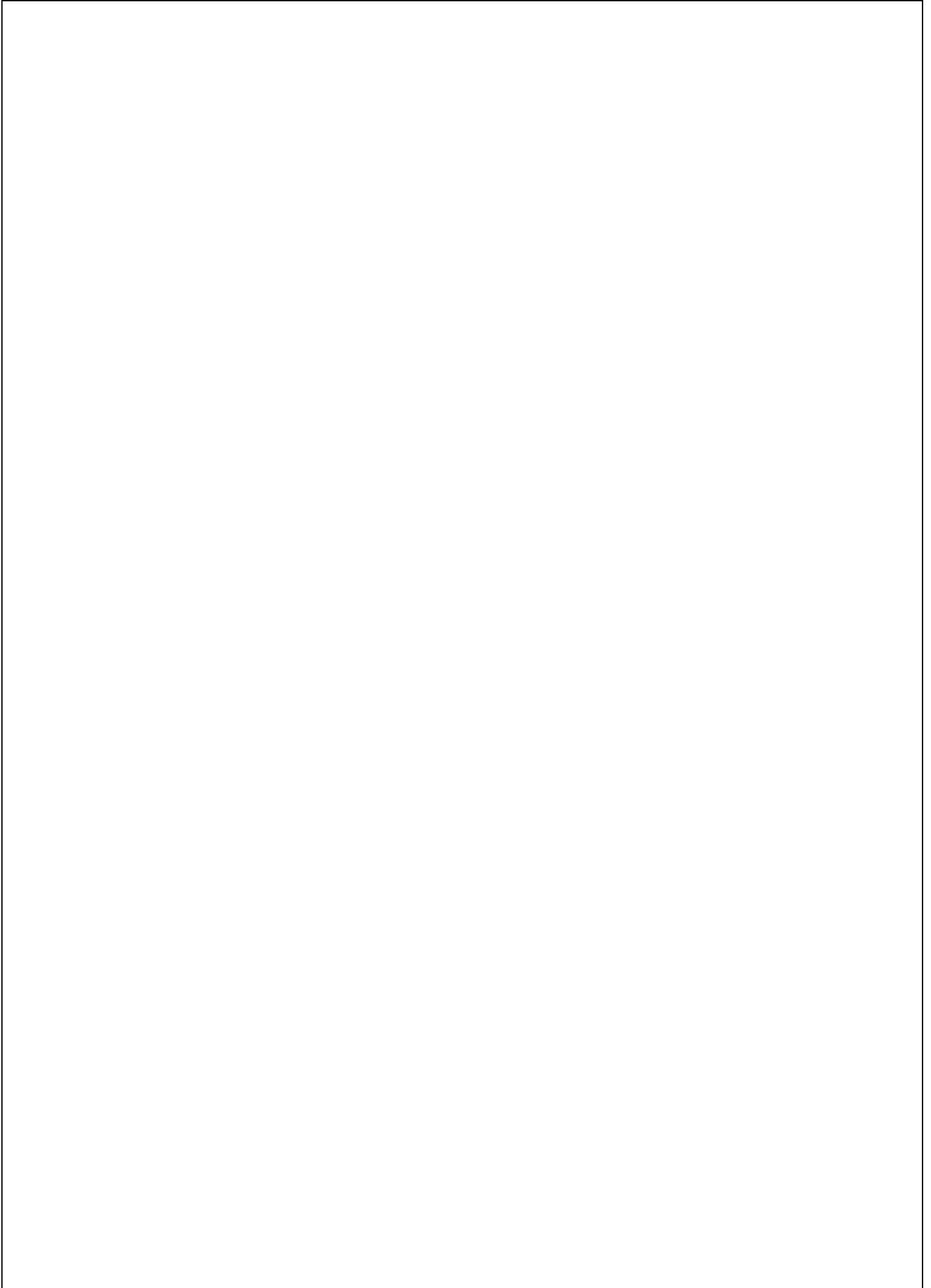
- with regard to indirect releases of polluting substances into water, the effect of a water treatment plant may be taken into account when determining the ELVs of the installation concerned provided that an equivalent level of protection of the environment as a whole is guaranteed and provided this does not lead to higher levels of pollution in the environment;
- competent authorities are allowed, by way of derogation, to set less strict ELVs, if an assessment shows that the achievement of BAT-AELs would lead to disproportionately higher costs compared to the environmental benefits due to: the geographical location of the installation, the local environmental conditions of the installation or the technical characteristics of the installation.

24. As mentioned in the EA's decision document, the H1 Environmental Risk Assessment undertaken in relation to the discharge to sewer showed that all contaminants of concern (including zinc and lead) passed Test 2, meaning that the environmental effect of the discharge is considered insignificant.

25. In setting ELVs for lead and zinc in the Permit, the EA has therefore failed to take into account the outcome of the H1 assessment which shows that the effect of the discharge on the environment is insignificant and therefore failed to use its discretion to disapply (or at the very least increase) the BAT-AELs to reflect the fact that the discharge is subject to treatment at a downstream waste water treatment plant prior to being released to surface waters.

26. The Permit should be amended such that the ELVs for lead and zinc in the trade effluent discharged from the Site are as follows:

- the ELV for lead set at 4.0 mg/l in relation to the discharge of process water and site surface water to the sewer at discharge point S2 in Schedule 3, table S3.2; and
- the ELV for zinc set at 10 mg/l in relation to the discharge of process water and site surface water to the sewer at discharge point S2 in Schedule 3, table S3.2.



H. ESSENTIAL SUPPORTING DOCUMENTS

The documents listed below, **must** be sent with your appeal form. If we do not receive all your appeal documents within the statutory appeal period we may not be able to accept it.

Please tick the boxes to show the documents you are enclosing.

- | | |
|--|--|
| 1. Copy of relevant application (if applicable); | 1. <input type="checkbox"/> |
| 2. Copy of relevant Environmental Permit (if applicable); | 2. <input checked="" type="checkbox"/> |
| 3. Copy of the Decision or Notice (the subject of the appeal); | 3. <input checked="" type="checkbox"/> |
| 4. Copies of any relevant correspondence, plans etc between you and the regulator. | 4. <input checked="" type="checkbox"/> |

I. CONFIRMATION

DECLARATION

I understand that:

- The Planning Inspectorate may use the information I have given for official purposes in connection with the processing of my appeal;
- Details from this form, including my name, the site description and my grounds of appeal may appear on the Planning Portal.

By signing this form I am agreeing to the above use of the information I have provided.

I have completed all sections of the appeal form and confirm that the details are correct to the best of my knowledge. (Please Note: signature is not necessary for electronic submissions)

Signature

Victoria Jones

Date (DDMMYY)

1 7 0 6 2 4

Name (in capitals)

V I C T O R I A J O N E S

On behalf of (if applicable)

S I M S G R O U P U K L I M I T E D

For more information about how we process your personal information please see "Environmental Permitting (England and Wales) Regulations 2016 – The appeal procedure guidance."

Please now send this form and all the necessary supporting documents to:

Environment Team, The Planning Inspectorate, 3A Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN

Or e-mail it to: ETC@planninginspectorate.gov.uk

You also need to send a copy of it to the regulator that issued the Notice.

When we receive your appeal form, we will:

- Check that the appeal is valid and everything is in order;
- If everything is in order, we will give you an appeal timetable and **start date**;
- Inform the regulator of the start date of the appeal (if applicable).

If you submit information or representations late we may be unable to consider them, the Inspector may not see them, and they may be returned to you.

At the end of the appeal process you will receive the Inspector's decision, in writing (including details of the Inspector's reasoning).

