

Permitting decisions

Variation

We have decided to grant the variation for Unit C, Kingmoor Park operated by Cubby Construction Limited.

The variation number is EPR/CB3200TS/V002

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 decision making process in the [decision checklist](#) to show how all 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 environmental permit and the variation notice. The introductory note summarises what the variation covers.

Key issues of the decision

The operator originally applied under this variation application to add five additional waste codes to the permit (waste codes 17 03 01*, 17 03 03*, 17 05 03*, 17 06 05* and 17 09 04), to change the facility type from A16 - Non-hazardous waste physical treatment facility to A16a - Hazardous waste physical treatment facility, to add the D15 code to the waste operations and to increase the maximum quantity of waste accepted at the site from 75,000 tonnes to 78,650 tonnes.

Bituminous mixtures containing coal tar (waste code 17 03 01*) and coal tar and tarred products (waste code 17 03 03*), predominantly from roadwork operations, were intended to be imported to site for physical treatment. These wastes also referred to as Asphalt Waste Containing Coal Tar (AWCCT) were intended to be crushed and then dry screened to produce a graded waste that will be re-used in suitable road works projects in accordance with Environment Agency Regulatory position statement 075: The movement and use of treated asphalt waste containing coal tar.

Soil and stones containing hazardous substances (waste code 17 05 03*) and construction materials containing asbestos (waste code 17 06 05*) were intended to be stored on site pending onward transfer. There was no intention to treat these two waste types at the site.

In response to the Schedule 5 notice the operator decided to withdraw the addition of waste codes 17 03 01*, 17 03 03* and 17 05 03* and the associated transfer and treatment activities for these wastes. The operator requested that the application continued to be determined for the addition of construction materials containing asbestos (waste code 17 06 05*), the addition of waste code 17 09 04 mixed construction and demolition wastes other than those mentioned in 17 09 01, 17 09 02 and 17 09 03, the addition of the D15 code and to increase the maximum quantity of waste accepted at the site from 75,000 tonnes to 78,650 tonnes (no more than 3650t of hazardous waste shall be accepted at the site per annum). The asbestos waste shall be stored in one dedicated sealed and lockable skip of 8 cubic yard capacity. Once full the skip will be transferred to a permitted facility that can accept this waste type. Only bonded asbestos shall be accepted and there will be no treatment of asbestos waste.

Following this variation this permit will become a tier 3 bespoke permit and will be charged as such.

Decision checklist

Aspect considered	Decision
Receipt of application	
Confidential information	A claim for commercial or industrial confidentiality has not been made.
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.
The facility	
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 RGN 2 'Defining the scope of the installation' and Appendix 1 of RGN 2 'Interpretation of Schedule 1'. 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. There is no change to the permitted area as a result of this variation.
The site	
Biodiversity, heritage, landscape and nature conservation	The application is within the relevant distance criteria of a site of heritage, landscape or nature conservation, and/or protected species or habitat. We have assessed the application and its potential to affect all known sites of nature conservation, landscape and heritage and/or protected species or habitats identified in the nature conservation screening report as part of the permitting process. We consider that the application will not affect any sites of nature conservation, landscape and heritage, and/or protected species or habitats identified. We have not consulted Natural England on the application. The decision was taken in accordance with our guidance.
Environmental risk assessment	
Environmental risk	We have reviewed the operator's assessment of the environmental risk from the facility. The operator's risk assessment is satisfactory. The assessment shows that, applying the conservative criteria in our guidance on environmental risk assessment, all emissions may be categorised as environmentally insignificant.
Operating techniques	
General operating techniques	We have reviewed the techniques used by the operator and compared these with the relevant guidance notes and we consider them to represent appropriate techniques for the facility.

Aspect considered	Decision
	The operating techniques that the applicant must use are specified in table S1.2 in the environmental permit.
Permit conditions	
Use of conditions other than those from the template	Based on the information in the application, we consider that we do not need to impose conditions other than those in our permit template.
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. We have restricted the following wastes for the following reasons: 17 06 05* construction materials containing asbestos (bonded asbestos only) We have restricted this waste type to ensure only bonded asbestos is accepted at the site in order to control any potential risks from asbestos fibres.
Emission limits	No emission limits have been added, amended or deleted as a result of this variation.
Operator competence	
Management system	There is no known reason to consider that the operator will not have the management system to enable it to comply with the permit conditions.
Growth Duty	
Section 108 Deregulation Act 2015 – 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. 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

Aspect considered	Decision
	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.