

# Review of an Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2010 (“EPR”)

## Decision document recording our decision-making process

We have decided to vary the Permit for S. Norton and Co Limited operated by S. Norton and Co Limited, as a result of an application made by the Operator.

The Permit number is EPR/XP3492CL

The Variation notice number is EPR/ XP3492CL/V002

## What this document is about

This is a decision document, which accompanies a variation notice.

This decision document:

- explains how the application has been determined
- provides a record of the decision-making process
- shows how all relevant factors have been taken into account
- justifies the specific conditions in the permit other than those in our generic permit template.

## Preliminary information and use of terms

We refer to the Permit (both existing and as varied) as “the **Permit**” in this document; and to the variation of the Permit as “the **Variation**”.

The Operator of the Installation is S. Norton and Co Limited: we call S. Norton and Co Limited “the **Operator**” in this document. We refer to S. Norton and Co Limited’s S. Norton and Co Limited as “the **Installation**”.

The Application was duly made on 30/09/2014.

## How this document is structured

- Our decision
- The legal framework
- How we took our decision
- Key issues in the determination
- Annex 1 – the decision checklist

# 1 Our decision

We have issued a Variation, which will allow the Operator to operate their facility as an Installation, subject to the conditions in the varied Permit.

This Variation does several different things:

- **First**, it gives effect to our decisions following the identification of the Operator as undertaking a “newly prescribed activity” (NPA) under the Industrial Emissions Directive (IED);
- **Second**, it takes the opportunity to bring earlier variations into an up-to-date, consolidated Permit. The consolidated Permit should be easier to understand and use; and
- **Third**, it modernises the entire Permit to reflect our current template. The template reflects our modern regulatory permitting philosophy and was introduced because of a change in the governing legislation. This took place when the Pollution Prevention and Control (England and Wales) Regulations 2000 (“PPC”) were replaced in 2008 by a new statutory regime under the Environmental Permitting Regulations 2007 (now the 2010 version).

The introduction of new template conditions makes the Permit consistent with our current general approach and philosophy. Although the wording of some conditions has changed, while others have disappeared because of the new regulatory approach, it does not affect the level of environmental protection achieved by the Permit in any way.

We consider that, in reaching our decision, we have taken into account all relevant considerations and legal requirements and that the Permit will continue to ensure that a high level of protection is provided for the environment and human health.

The original Permit, issued on 05 June 1988, ensured that the facility, would be operated in a manner which would ensure the protection of the environment specified in the existing Guidance at the time. To the extent that we have substantively altered the Permit as a result of this variation, the new requirements will deliver a higher level of protection to that which was previously achieved.

As we explained above, we do not address changes to the Permit in this document, to the extent that they give effect to either the consolidation of earlier variations, or introduce new template conditions.

## 2 The legal framework

The original Permit was granted on 05 June 1988 as a Waste Disposal License under the Control of Pollution Act 1974, which was superseded by the Environmental Protection Act 1990.

The Installation will be subject to the requirements of the Industrial Emissions Directive (IED) 2010/75/EU and regulated under the Environmental Permitting (England and Wales) Regulations 2010 (SI 2010 No 675). The IED was transposed in England and Wales by the Environmental Permitting (England and Wales)(Amendment) Regulations 2013 on 27 February 2013.

The IED seeks to achieve a high level of protection for the environment taken as a whole from harmful effects of industrial activities. It does so by requiring each of the industrial installations to have a permit from the competent authority (in England, the Environment Agency, or for smaller Installations, the relevant Local Authority). The IED has increased the number of activities that require an Installations permit. These are predominantly regulated as “waste operations” and include (when exceeding specific thresholds described in IED):

- hazardous waste treatment for recovery;
- hazardous waste storage;
- biowaste treatment – recovery and/or disposal;
- treatment of slags and ashes
- metals shredding;
- pre-treatment of waste for incineration/co-incineration;
- biological production of chemicals; and
- independently operated wastewater treatment works serving only industrial activities subject to the Directive

Article 11 of the IED requires the relevant authority (the Environment Agency in this case) to ensure that the Installation is operated in such a way that all the appropriate preventative measures are taken against pollution, in particular through the application of Best Available Techniques (BAT). Under Article 15(2), the Permit must contain emission limit values (ELVs) (or equivalent parameters or technical measures) for any pollutants likely to be emitted from the Installation in significant quantities. These ELVs are to be based on BAT, but also on local factors and EU Environmental Quality Standards. The overarching requirement is to ensure a high level of protection for the environment and human health.

We are required by Article 13 of the IED to keep abreast of developments in BAT. In addition, Article 13 requires us to carry out a periodic review of the permit’s conditions, and to update them if necessary.

The IED also requires the European Commission to organise an exchange of information between EU Member States so that what are known as BAT reference documents (or BREF notes) can be published, creating a level playing field across the EU, providing a consistent set of standards for new

plant, to which regulatory authorities in the Member States can then have reference. These BREF notes are the basis for our own national sector technical guidance. The Commission is also required to update BREF notes on a regular basis. The waste treatment BREF notes are currently being reviewed and a final issue date is anticipated in 2016. Under the IED, all permits will be subject to review within four years of the publication of revised BREF notes. This means that we will need to do a further review against any new standards in the BREF notes at some time in the future.

The IED is to be implemented over several years commencing from 7 January 2013. For existing installations operating “newly prescribed activities”, the relevant date for implementation is 7 July 2015.

### 3 How we reached our decision

It is the Operators responsibility to ensure they are correctly regulated for the activities they are carrying out. Following adoption of the IED, the Environment Agency has engaged in a range of briefings and communications with the waste industry sector to raise awareness of the implications of the Directive and the need to ensure their facilities are correctly regulated (particularly after the implementation date of 7 July 2015 for newly prescribed activities).

Early in 2014, the Environment Agency provided further briefings to industry trade bodies and wrote to operators we believed may be implicated by these changes. We provided detailed information sheets that described the implications and the process operators should follow if they decided to have their activities permitted as Installations.

We confirmed that most facilities fell into one of two groups:

- Facilities permitted from April 2007  
When these facilities were permitted, a thorough assessment would have been carried out to confirm whether the proposed activities were using “appropriate measures” as a standard to protect the environment.

This standard of protection is the same standards that would have been assessed against had the facilities applied as an Installation activity (i.e. BAT). The permit would have also been issued with modern conditions that ensured protection of the environment.

We consider that these facilities are effectively ‘IED-compliant’ in terms of the technical standard of the facility with the exception of the “newly prescribed activity”. For these facilities, we consider that, in general, no further technical assessment is required, so administrative variations are an appropriate mechanism to show the activities as Installation activities. The administrative variation is a necessary route for the Operator to formally ask for this activity to be included in their permit and for us to advertise that request on our Public Register.

It is understood that the Environment Agency granted permits for new waste activities under the Waste Management Licensing Regulations 1994 beyond April 2007. Where a facility falls into this group, the Environment Agency shall determine whether or not the application was assessed using “appropriate measures”. Where it is determined that the application was assessed using “appropriate measures”, the application will be designated as an “administrative variation”.

- Facilities permitted before April 2007

For these facilities, a “normal” variation is appropriate because a detailed technical assessment is required on aspects of the Application for example: ecological impact assessment, waste types, secondary containment and compliance with Best Available Technique in addition to the administrative changes.

Substantial variations will only be relevant where the newly prescribed activity is being added to an existing installation permit.

The original Permit was granted on 05 June 1988 and subsequently varied on 04 June 1999 and 07 November 2008 as detailed in the status log on the permit. We have reviewed the documentation submitted in support of the original permit and subsequent variation applications in this determination. We are not satisfied that the standard of protection was assessed using appropriate measures. We have determined this Application as a normal variation. As the Variation will not have any negative effects on the environment, it is not a substantial variation and so does not require consulting on.

## 4 Key issues in the determination

### 1. Operating techniques

The following operating techniques provided in this application are in line with relevant **Technical IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste** and **British Metals Recycling Association (BRMA)**;

- pre-acceptance of waste
- acceptance of waste
- storage and handling of waste
- waste containment
- process (treatment) description
- fugitive emissions to air
- point source emissions to air
- point sources emissions to surface water and sewer
- management
- raw materials
- energy
- accidents

Operating techniques which currently deviate from the standards set out in **Technical IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste** and **British Metals Recycling Association (BRMA) BREF Style Report Metal Fragmentising Operations Industrial Emissions Directive January 2013** are as follows;

- storage and handling of waste
- noise
- surface water monitoring
- point source air emission monitoring

### 2. Storage and handling of waste

*BAT Recommendation: Operators should produce and follow a detailed baled material inspection and acceptance procedure before bales may be accepted for processing.*

*BAT Recommendation: Operators should undertake risk based assessments for baled and other infeed materials to base their inspection and pre-processing procedures before fragmentising.*

Improvement condition **IC1** has been added to the permit to ensure that the operator submits detailed monitoring and management of bale suppliers and processing, of flame / audible events associated with processing, or concealed items/materials, such as dirt, or other non-metallic materials,

undepolluted ELVs, cylinders/sealed containers or heavy non-shreddable items.

### 3. Noise

*BAT Recommendation: Operators should reduce noise and vibration from relevant sources in the installation.*

*BAT Recommendation: Operators should undertake a detailed noise and vibration assessment of their installation.*

*BAT Recommendation: Operators should produce a detailed noise and vibration management plan, with annual reporting on improvement targets and on noise and vibration mitigation.*

It is recognised that noise emissions are one of the main pollution sources from metal recycling sites due to the nature of activities and treatments which take place.

We have addressed noise monitoring via improvement condition **IC6** in the permit which will require the Operator to develop and written noise and vibration management plan in line with our H3 guidance.

### 4. Surface water monitoring

*BAT Recommendation: Operators should use routine analysis to demonstrate compliance and improvement in discharged water quality.*

The site currently has a consent to discharge surface water to sewer via a United Utilities consent to Liverpool WWTW. The site currently undertakes monitoring in line with the requirements of the sewerage consent, however they have not demonstrated compliance with BAT in their application. In order to comply with BAT the site must undertake improvement condition **IC2** (provide proposals to undertake representative monitoring of the surface water discharged to sewer including the parameters to be monitored, frequencies of monitoring and methods in line with our guidance on monitoring surface water from hazardous pollutants to sewer <https://www.gov.uk/guidance/surface-water-pollution-risk-assessment-for-your-environmental-permit>).

Following this monitoring the operator must then undertake improvement condition **IC3** which is a series of steps to assess if the surface water emissions from the site identified in **IC2** are below the Environmental Quality Standards (EQS) limits. If the pollutant is more than the EQS limits further testing/ modelling will be required

### 5. Point source air emission monitoring

*BAT Recommendation: Operators should undertake regular air emission and stack emission monitoring on their installations.*

The principal releases to the environment are point source particulate emissions from two stacks (A1 and A2) associated with the sites metal fragmentiser and fugitive particulate emissions from waste stockpiles. The operator currently does not undertake any representative monitoring for these two point sources emissions. Improvement condition **IC4** has been added to the permit to ensure that proposals for representative monitoring of air discharged from point A1 and A2 is undertaken alongside proposals for representative ambient air monitoring. Once the proposals have been agreed by the Environment Agency the operator will submit an assessment with the results of the point sources and fugitive air emission monitoring using the Environment Agency's 'H1 Environmental Risk Assessment' tool (or equivalent as agreed with the Environment Agency). This assessment will provide proposals for appropriate measures to mitigate the impact of the emission where the assessment determines they cannot be screened out as insignificant.

Improvement condition **IC5** has also been added to the permit which requires the Operator to submit a written proposal to the Environment Agency to carry out tests to determine the size distribution of the particulate matter in the exhaust gas emissions to air from emission points A1 and A2, identifying the fractions within the PM<sub>10</sub>, and PM<sub>2.5</sub> ranges. PM<sub>10</sub> is particulate matter 10 micrometers or less in diameter, PM<sub>2.5</sub> is particulate matter 2.5 micrometers or less in diameter.

- **Annex 1 – decision checklist**

This document should be read in conjunction with the Duly Making checklist, the application and supporting information and notice.

Aspect considered	Justification / Detail	Criteria met Yes
<b>Operator</b>		
Control of the facility	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 EPR RGN 1 Understanding the meaning of operator.	✓
<b>The facility</b>		
The regulated facility	<p>The extent/nature of the facilities taking place at the site required clarification.</p> <p>The decision on the facility was taken in accordance with RGN 2, Appendix 2 - interpretation of installation, RGN 2 Appendix 1 - Interpretation of Schedule 1, RGN 2 - Meaning of waste.</p> <p>The regulated facility is an installation which comprises the following activities listed in Part 2 of Schedule 1 to the Environmental Permitting Regulations and the following directly associated activities:</p> <p><u>Metal recycling facilities</u></p> <p><b>Schedule 1 activities</b></p> <ul style="list-style-type: none"> <li>• S5.4 Part A(1)(b)(iv) – Metal fragmentiser for shredding metal waste</li> <li>• S5.3 Part A(1)(a)(ii) – Lead acid battery repackaging</li> <li>• S5.3 Part A(1)(a)(ii) – Metal fragmentiser for shredding small mixed WEEE</li> <li>• S5.6 Part A(1)(a) – Temporary storage of hazardous wastes</li> </ul> <p><b>DAAs</b></p> <ul style="list-style-type: none"> <li>• Storage of waste (in-feed material)</li> <li>• Physical treatment for the purposes of recycling (from receipt of waste to dispatch off site for recovery which includes pre-treatment and post-treatment)</li> </ul>	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	<ul style="list-style-type: none"> <li>Storage of ferrous metal, non-ferrous metal and shredder residue waste (waste output material)</li> <li>Raw material storage.</li> <li>Collection and discharge of contaminated site surface water to sewer.</li> </ul> <p><b>Waste activities</b></p> <ul style="list-style-type: none"> <li>Treatment of End of life vehicles (which includes storage pending treatment)</li> </ul>	
<b>European Directives</b>		
Applicable Directives	All applicable European Directives have been considered in the determination of the application.	✓
<b>The site</b>		
Extent of the site of the facility	The operator has provided a plan which we consider is satisfactory, showing the extent of the site of the facility. A plan is included in the permit and the operator is required to carry on the permitted activities within the site boundary.	✓
Biodiversity, Heritage, Landscape and Nature Conservation	<p>The application is within the relevant distance criteria of a site of heritage, landscape or nature conservation, and/or protected species or habitat.</p> <p>The site was within the 10 km screening distance for the following habitat directive sites:</p> <ul style="list-style-type: none"> <li>Medway Estuary &amp; Marshes Ramsar Ramsar</li> <li>Ribble &amp; Alt Estuaries Ramsar Ramsar</li> <li>Sefton Coast SAC SAC</li> <li>Mersey Narrows and North Wirral Foreshore Ramsar Ramsar (Proposed)</li> <li>Mersey Narrows and North Wirral Forshore pSPA SPA (or proposed SPA)</li> <li>Dee Estuary/Aber Dyfrdwy SAC SAC</li> <li>Mersey Estuary SPA SPA (or proposed SPA)</li> <li>Liverpool Bay/Bae Lerpwl SPA SPA (or proposed SPA)</li> <li>Ribble &amp; Alt Estuaries SPA SPA (or proposed SPA)</li> </ul>	✓

Aspect considered	Justification / Detail	Criteria met Yes
	A full assessment of the application and its potential to affect the habitats has been carried out as part of the permitting process. We concluded that this application will have no likely significant effect. We have sent an Appendix 11 to Natural England for information only.	
<b>Environmental Risk Assessment and operating techniques</b>		
Environmental risk	<p>We have reviewed the operator's assessment of the environmental risk from the facility.</p> <p>The operator's risk assessment is unsatisfactory and required additional Environment Agency assessment to make up the shortfall.</p> <p>See Key issues section for further information. Improvement conditions IC1, IC2, IC3, IC4, IC5 and IC6 address the shortfall in operators assessment of the environmental risk from the facility.</p>	✓
Operating techniques	<p>We have reviewed the techniques used by the operator and compared these with the relevant guidance notes –</p> <ul style="list-style-type: none"> <li>• IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste;</li> <li>• BRMA BAT recommendation document;</li> <li>• H3 – Noise assessment and control;</li> </ul> <p>The following operating techniques provided in this application are in line with relevant <b>Technical IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste</b> and <b>British Metals Recycling Association (BRMA)</b>;</p> <ul style="list-style-type: none"> <li>• pre-acceptance of waste</li> <li>• acceptance of waste</li> <li>• storage and handling of waste</li> <li>• waste containment</li> <li>• process (treatment) description</li> <li>• fugitive emissions to air</li> <li>• point source emissions to air</li> <li>• point sources emissions to surface water and sewer</li> <li>• management</li> <li>• raw materials</li> <li>• energy</li> </ul>	✓

Aspect considered	Justification / Detail	Criteria met Yes
	<ul style="list-style-type: none"> <li>• accidents</li> </ul> <p>Operating techniques which currently deviate from the standards set out in <b>Technical IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste</b> and <b>British Metals Recycling Association (BRMA) BREF Style Report Metal Fragmentising Operations Industrial Emissions Directive January 2013</b> are as follows;</p> <ul style="list-style-type: none"> <li>• storage and handling of waste</li> <li>• noise</li> <li>• surface water monitoring</li> <li>• point source air emission monitoring</li> </ul> <p>We consider that the above operating techniques do not meet the technical standards. We consider that there are omissions in the supporting documents. We have therefore included improvement conditions in the notice which requires a review of the site’s operating techniques. See Key issues section for further information and improvement conditions IC1, IC2, IC3, IC4, IC5 and IC6 which address the shortfall in operators assessment of the environmental risk from the facility.</p>	
<b>The permit conditions</b>		
Updating permit conditions during consolidation	We have updated previous permit conditions to those in the new generic permit template as part of permit consolidation. The new conditions have the same meaning as those in the previous permit(s).	✓
Raw materials	We have specified limits and controls on the use of raw materials and fuels.	✓
Waste types	<p>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 because they have the necessary infrastructure, operating systems and technical capability to manage these wastes in an appropriate manner.</p> <p>We made these decisions with respect to waste types in accordance with our Technical Guidance Note WM2 – <i>Hazardous Waste</i> or other relevant guidance.</p>	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
Improvement conditions	<p>Based on the information on the application, we consider that we need to impose improvement conditions.</p> <p>We have imposed improvement conditions IC1, IC2, IC3, IC4, IC5 and IC6 to ensure that the site's operating techniques/management system/plans are reviewed and updated against the standards specified in the technical guidance note(s):</p> <ul style="list-style-type: none"> <li>• IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste;</li> <li>• BRMA BAT recommendation document;</li> <li>• H3 – Noise assessment and control;</li> </ul> <ul style="list-style-type: none"> <li>➤ The appropriate measures are in place to trace and inspect baled wastes delivered to site</li> <li>➤ the appropriate measures are in place to prevent pollution from surface water emissions.</li> <li>➤ the appropriate measures are in place to prevent point source and fugitive air emissions.</li> <li>➤ the appropriate measures are in place to prevent annoyance from noise and vibration.</li> </ul> <p>See Key Issues section of the decision document for details of each improvement condition.</p>	✓
Incorporating the application	<p>We have specified that the operator must operate the permit in accordance with descriptions in the application, including all additional information received as part of the determination process. These descriptions are specified in the Operating Techniques table in the permit.</p>	✓
Emission limits	<p>We have decided that emission limits should be set for the parameters listed in the permit.</p> <p>The following substances have been identified as being emitted in significant quantities and ELVs and equivalent parameters or technical measures [based on BAT] have been set for those substances as follows:</p> <ul style="list-style-type: none"> <li>• Point sources emissions to air – total suspended particulates</li> </ul> <p>Please also see key issues section for improvement conditions which have been applied to point source emissions to air and emissions to sewer.</p>	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
Monitoring	<p>We have decided that monitoring should be carried out for the parameters listed in the permit, using the methods detailed and to the frequencies specified.</p> <p>Based on the information in the application we are not fully satisfied that the operator's techniques, personnel and equipment have either MCERTS certification or MCERTS accreditation as appropriate.</p> <p>Please see key issues section for improvement conditions which have been applied to point source emissions to air and sewer, ambient monitoring requirements for air and noise monitoring requirements.</p> <p>Monitoring equipment, techniques, personnel and organisations employed for the emissions monitoring programme and the environmental or other monitoring specified in condition 3.5.1 shall have either MCERTS certification or MCERTS accreditation (as appropriate), where available, unless otherwise agreed in writing by the Environment Agency.</p>	✓
Reporting	<p>We have specified reporting in the permit.</p> <p>Reporting frequencies have been specified as per the requirements of <b>Technical IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste</b> and <b>British Metals Recycling Association (BRMA) BREF Style Report Metal Fragmentising Operations Industrial Emissions Directive January 2013</b>.</p>	✓
<b>Operator Competence</b>		
Environment Management System	<p>There is no known reason to consider that the operator will not have the management systems to enable it to comply with the permit conditions. The decision was taken in accordance with RGN 5 on Operator Competence.</p>	✓
Technical competence	<p>Technical competency is required for activities permitted.</p> <p>David Mathews has met the relevant requirements for continuing competence for the following awards:</p> <ul style="list-style-type: none"> <li>• End-of-life Vehicles</li> </ul>	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	<ul style="list-style-type: none"> <li>• Metal Recycling Sites</li> <li>• Waste Electrical and Electronic Equipment</li> </ul> <p>This award will be valid until 24/02/2018.</p> <p>The operator is a member of an agreed scheme.</p>	
Relevant Convictions	<p>The National Enforcement Database has been checked to ensure that all relevant convictions have been declared.</p> <p>No relevant convictions were found.</p> <p>The operator satisfies the criteria in RGN 5 on Operator Competence.</p>	✓
Financial provision	<p>There is no known reason to consider that the operator will not be financially able to comply with the permit conditions. The decision was taken in accordance with RGN 5 on Operator Competence.</p>	✓
<b>Growth Duty</b>		
Section 108 Deregulation Act 2015 – Growth duty	<p>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.</p> <p>Paragraph 1.3 of the guidance says:</p> <p>“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.”</p> <p>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.</p>	

Aspect considered	Justification / Detail	Criteria met
		Yes
	<p>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.</p>	