

# Permitting decisions

## Part surrender

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We have decided to accept the surrender of part of the permit for Brocklesby FAME Plant operated by Brocklesby Limited.

The permit number is EPR/JP3931SG.

We are satisfied that the necessary measures have been taken to avoid any pollution risk and to return the site to a satisfactory state. We consider in reaching that decision we have taken into account all relevant considerations and legal requirements.

## 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 surrender notice. The introductory note summarises what the notice covers.

## Key issues of the decision

Brocklesby Limited applied to surrender part of the land within the installation boundary of the permit for their North Cave FAME (Fatty Acid Methyl Ester) Plant. The land in question will become part of the installation boundary for environmental permit, EPR/JP3435DN. This will help facilitate Advantage Biogas Limited to operate a new anaerobic digestion (AD) plant (Brocklesby Biogas AD Facility) - some of whose area will now be within the former boundary of the Brocklesby Limited permit boundary. This includes the land on the North Cave FAME Plant site on where one of the combined heat and power (CHP) engines, CHP5, will provide utilities for the FAME Plant.

The bulk of the feedstock for this new AD plant is expected to be delivered by underground pipeline from the North Cave FAME Plant.

Previous land uses for the areas that will now constitute the permit boundaries for Brocklesby FAME Plant and Brocklesby Biogas Limited include a smelting works, landfill site (that commenced operation in 1990 and is now closed) and a coach/truck building facility.

In order to partially surrender the permit for the works, Brocklesby Limited demonstrated that the necessary measures have been taken:

- (a) To avoid a pollution risk resulting from the operation of the regulated installation;
- (b) To return the site of the regulated installation to a satisfactory state, having regard to the state of the site before the installation was put into operation.

The Surrender Site Condition Report submitted by Brocklesby Limited has demonstrated through a review of previous land use, photographic records, monitoring/maintenance records during the lifetime of the permit and a site visit that the land to be surrendered is in a satisfactory state. These records indicate that the condition of the land has not altered since the environmental permit was issued.

The majority of the area for surrender lies to the north of the site and it has previously been used by Brocklesby FAME Plant for only storage of clean, redundant plant, equipment and vehicles from which liquids and other potential contaminants had been removed. Photographic evidence has been provided to demonstrate that only storage activities took place on this area of land. This is confirmed by site inspection visits by the Environment Agency. There are no recorded pollution incidents relating to this area of land to be surrendered since issue of the environmental permit and no visual evidence of contamination has been identified during site inspections.

Intrusive sampling and testing carried out in this northern area in 2015 indicated potential ground contamination from asbestos fibres [chrysotile] (at levels <0.001 – 0.002%) and hydrocarbons such as total petroleum hydrocarbons (TPH) and polycyclic aromatic hydrocarbons (PAH). The elevated concentrations of hydrocarbons and the presence of asbestos fibres are below the threshold at which, if they were present in waste, it would be regarded as hazardous and are most probably associated with operation of the former landfill facility on the land in question. The operation of the Brocklesby FAME Plant would not necessarily use or generate species such as these and they were detected on the area of site where no Brocklesby FAME Plant activities, other than equipment storage, were carried out.

The smaller area to be surrendered incorporates the land for CHP5 and the underground pipeline to it. There was previously a fuel tank within a concrete bund situated close to the area of CHP5. It has now been replaced by a plastic, double-skinned tank which is now located slightly beyond the footprint of CHP5. There was one historic incident raised in relation to this land when vehicle damage was caused to the concrete bund. This was repaired and no contamination was identified from this incident. During the construction of CHP5, no contamination was identified.

Intrusive sampling and testing was carried out on the Brocklesby FAME Plant site in 2006 for first phase reporting of the Site Protection and Monitoring Programme (SPMP). Samples taken in areas that will be surrendered in this partial surrender (in the vicinity of the location of CHP5 and along the underground route from the Brocklesby Biogas AD Site to CHP5) indicated elevated levels of leachable metals such as copper, lead, zinc, nickel and iron. Operation of the Brocklesby FAME Plant would not necessitate the use of raw materials, intermediates, final products or maintenance/cleaning materials which would be capable of generating leachable metals.

It is considered that the presence of these metals in the ground on the Brocklesby FAME Plant site is most probably as a result of historic activities of smelting and/or coach and truck building. There is also the possibility that there may have been some seepage of groundwater from the area of the former landfill site to the north of the site that may have raised concentrations of leachable metals.

The records where available of maintenance/inspection of containment and infrastructure (including kerbs, bunds and concrete) within the areas to be surrendered demonstrate that these have been adequately maintained during operation.

The conclusions of the Surrender Site Condition Report are that the land in question has not deteriorated from the baseline condition since the original permit application was submitted. We agree with this conclusion and are satisfied that the permit can be partially surrendered.

## Decision checklist

Aspect considered	Decision
<b>Receipt of application</b>	
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.
<b>The facility</b>	
The regulated facility	The permitted regulated facilities have changed as a result of the partial surrender. There is no change to permitted activities.  An area within the installation boundary has been surrendered.
<b>The site</b>	
Extent of the surrender application	The operator has provided a plan showing the extent of the site of the facility that is to be surrendered.  We consider this plan to be satisfactory.
Pollution risk	We are satisfied that the necessary measures have been taken to avoid a pollution risk resulting from the operation of the regulated facility.
Satisfactory state	We are satisfied that the necessary measures have been taken to return the site of the regulated facility to a satisfactory state.  In coming to this decision we have had regard to the state of the site before the facility was put into operation.
<b>Growth Duty</b>	
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 surrender.  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.