

**CONSOLIDATION, VARIATION AND REVIEW OF PERMITTING AT
CHIRK PARTICLEBOARD FACTORY ('the Installation')**

1. BACKGROUND

Kronospan Ltd have been operating a board manufacturing plant in Chirk, North Wales for a number of years. The activities involved in the manufacture of the boards require several environmental permits whose prime purpose is to control the levels of harmful emissions resulting from the activities and to ensure that the techniques used are reviewed and updated in line with technical advances and industry standards. These standards are known as 'Best Available Techniques' ('BAT') which are explained more below.

The activities at the Installation that require environmental permits¹ have been the subject of various Directions from Government (explained further below). The first Direction was in 2003² which split that regulation between Wrexham County Borough Council ('WCBC') and the Environment Agency Wales (now subsumed into Natural Resources Wales). In 2014³ Welsh Ministers issued a further Direction which added activities but maintained split regulation.

In March 2018 Welsh Government issued a further Direction (the '2018 Direction') which requires Natural Resources Wales ('NRW') to consolidate the existing permits for the Installation into one and then subsequently conduct all regulatory functions in relation to that permit.⁴ From that time WCBC will no longer regulate activities at the Installation. This will essentially "normalise" the regulation of the Installation not subject to any Ministerial direction – i.e. a single environmental regulator.

In addition, Kronospan Ltd wish to add further activities to the Installation. These additions will require their permits to be varied and an application for variation has been made to NRW.

NRW is beginning the process of consolidating and varying the permits and will also be reviewing the conditions that will be necessary to ensure compliance with guidance regarding best available techniques.

NRW is mindful of the distinctiveness of this situation due to the complexity and number of modifying tasks required and the potential connections between those tasks, and the history of two separate permits and regulators.

¹ This means permits that are required by the Environmental Permitting Regulations 2016

² This Direction is available for download on request from permittingconsultations@naturalresourceswales.gov.uk

³ This is available for download on request from permittingconsultations@naturalresourceswales.gov.uk

⁴ See attached 2018 Direction

NRW will conduct a full review, however we foresee that the overall modification process of the permits is likely to involve a sequence of determinations at intervals designed to consolidate, properly assess the variation application and achieve compliance, in particular, with the 2018 Direction, the Environmental Permitting Regulations 2016 ('EPR') and the requirements of the Industrial Emissions Directive ('IED').

NRW anticipates that the sequence of determinations will run concurrently but foresees some overlap in the considerations. Accordingly, the final version of the permit will not be completed until the final determination in the envisaged phased process. However, any interim changes made during the staged modification process will take effect at the date of issue. NRW recognises that the regulatory regimes highlighted in this paper are not the only considerations to be taken into account in this process and these will be appropriately addressed in any explanatory note or decision document accompanying any modification made to the permit.

The tasks involved in achieving this are complex and technical, so this document seeks to summarise the process NRW will follow, the anticipated timetables involved, its approach to consultation and some of the technical and legal aspects involved. It is meant as an indicative 'signposting' guide for those with an interest in the Installation to assist in their participation in the consultation process. However, it is not intended as a statement of law or as a prescriptive methodology.

We will refer to a number of documents in this note and these are available for download on request from permittingconsultations@naturalresourceswales.gov.uk

2. THE CURRENT PERMITS

There are two current environmental permits for the activities at the Installation. The main activity permit is a WCBC permit. The second permit is for some additional activities. Both permits are available for download on request from permittingconsultations@naturalresourceswales.gov.uk

Wrexham Permit WCBC/IPPC/03/KR(V3) covers the following activities: particleboard and medium density fibre board production, two biomass plants, sawmill and laminated flooring line, as well as some heat generating plant. Raw material deliveries and storage and waste handling, processing and storage are directly associated activities in the permit

The current NRW permit (EPR/BW9999IG) covers the following activities: Manufacture of formaldehyde by catalytic oxidation of methanol, manufacture of urea-formaldehyde and melamine-urea-formaldehyde resin and the operation of natural gas fired combustion plant. The VITS paper impregnation process and operation of surface water lagoons 1, 2, and 3 are directly associated activities in the permit.

The current variation application is for the inclusion of the following existing activities in the NRW environmental permit for the regulated facility: particleboard and medium density fibre board production, two biomass plants, sawmill and laminated flooring line. This part of the application is required to bring the site under the regulatory control of one regulator, NRW. A proposal for a new oriented strand board production line at the site also forms part of the application.

3. THE DIRECTIONS

All three Directions are available for download on request from permittingconsultations@naturalresourceswales.gov.uk

The EPR set out the activities to be regulated and clearly states which public body is to regulate the different classes of activity. However, it also provides that the Welsh Ministers may direct those public bodies as to how to conduct their regulatory functions, including directing that the functions of one authority should be conducted instead by another.

At this Installation that has been the case since 2003, with WCBC conducting the regulatory functions of NRW for certain activities as set out in the direction. The 2018 Direction returns functions to NRW and requires NRW to conduct WCBC's remaining regulatory functions at the Installation.

In addition, the 2018 Direction requires NRW to consolidate the existing permits into one.

The consolidation process is provided for by EPR⁵. The process may also involve variations to the permit imposed by the regulator. If those variations represent 'substantial change' then public consultation provisions are engaged⁶.

There are two methods of initiating variations to a permit: 1) The regulator may decide to vary the permit, or 2) The operator may apply to vary their permit. The two types of variation are treated separately by the regulations but both types trigger public consultation requirements if they represent 'substantial change', as defined in EPR2016. At this early stage NRW is not in a position to know if there will be any substantial change variations it wishes to impose itself however it is of the view that the variation applied for by the operator will be classed as 'substantial change'. On that basis the EPR public consultation provisions will be engaged in relation to the application for variation.

⁵ Regulation 18, EPR 2016

⁶ Regulation 20 EPR 2016 and Schedule 5 EPR.

4. THE VARIATION APPLICATION

The application made by Kronospan Ltd is available for download on request from permittingconsultations@naturalresourceswales.gov.uk

As stated above, NRW is of the view that the variation applied for will represent 'substantial change' and so public consultation provision is being made, details of which are below.

Included in the consideration of the variation application will be compliance with IED⁷ which requires the application of currently applicable best available technique standards⁸ ('BAT') (see further below).

BAT standards that remain within their implementation periods may be considered in the concurrent phases of the modification process set out in this paper, however NRW will be seeking full IED compliance within the timescales provided.

5. BEST AVAILABLE TECHNIQUES ('BAT')

Recognising that certain types of pollution move freely across national boundaries, the United Kingdom, as a Member State of the European Union, agreed to apply certain common environmental standards in relation to emissions from industrial activity. In particular it agreed to the application of emission limits for certain substances and to appropriate techniques for achieving those limitations as agreed and set out in documents drafted by experts in the various industrial sectors. These documents are referred to in this paper as 'Best Available Techniques Reference Notes' ('Bref Notes') and are reviewed periodically.

The conclusions and limits set out in those notes must be applied across the applicable industrial sectors within a set timescale designed to provide sufficient time to review permits and for the operators to adapt or change their processes and machinery⁹.

IED requires that where a Bref Note is published that relates to the main activity of an installation, the permit conditions for that installation must be reviewed and any changes complied with within four years of publication of the Note.

⁷ In particular article 20, IED

⁸ Article 14, IED

⁹ See in particular article 21, IED

NRW is aware that there are three Bref Notes applicable to the various activities at this Installation. There is one relating to the main activity of the Installation and two relating to secondary activities. These are:

Main activity:

Production of Wood-based Panels – published on 24/11/15 with an applicable compliance date of 24/11/19.

Secondary activities:

Production of Large Volume Organic Chemicals - published on 7/12/17 (with a main activity compliance date 7/12/21);

Common Waste Water and Waste Gas Treatment / Management Systems in the Chemical Sector.

NB: Withdrawal from the European Union:

It is anticipated that the environmental standards contained in the current Bref Notes will form part what is termed 'retained EU law' within the EU Withdrawal Act 2018 and so will continue to apply in the event of the UK leaving the European Union. It is not known how future Bref Notes will be applied in the UK.

6. THE PHASES OF CONSIDERATION

In summary NRW has the following tasks:

- 1 Comply with the 2018 Direction by consolidating the current permits into one. We expect this to be a largely administrative exercise which should not entail changes of any significance other than the required change of regulator. Accordingly, we do not anticipate including this as part of the consultation process;
- 2 Determine the variation application made by the operator;
- 3 Review the permit conditions against the main activity Bref Note;
- 4 Take account of the secondary activity Bref Notes.

NRW considers that the tasks can be achieved in one continuous process with a series of concurrent variations to the permit.

At this point in the process we envisage two stages:

Stage 1 will involve:

- i) the consolidation of the permits into one;
- ii) consideration of the operator's variation application; and
- iii) appropriate conditions to ensure compliance with the main activity Bref Note.

We anticipate stage 1 will be complete by the end of May 2019, although this may be subject to change.

Stage 2 will involve:

- i) consideration of further variations necessary to comply with the secondary activity Bref Notes.

We anticipate this stage will be completed by the end of 2019. Again, circumstances may require the determination to be extended.

7. PUBLIC CONSULTATION

Stage 1 Consultation

Initial public consultation on the variation application will start on 5th September 2018, when a NRW website advert and newspaper advertisement will be published. There will be a public drop in event held in Chirk Parish Hall Council Chamber from 2pm to 8pm on 19th September. The initial public consultation will close on 19th October 2018. This consultation stage will include consideration of appropriate 'Best Available Techniques' as set out in the main activity Bref Note referred to above (Production of Wood-based Panels).

We will consult on our final draft decision on the variation. This will involve the publication of another NRW website advert and the public consultation period will be 28 consecutive days. After that we will issue the first consolidated and varied permit which will be issued subject to the stage 2 considerations.

Stage 2 Consultation

This stage will deal solely with any changes necessary to comply with the secondary activity Bref Notes (Production of Large Volume Organic Chemicals and Common Waste Water and Waste Gas Treatment / Management Systems in the Chemical Sector).

At this point it is not possible to state specific dates for this consultation stage. However, a period of 28 days will be allowed once a draft variation is ready. Following that we will issue a final permit which we anticipate will be by end 2019.

8. CONCLUSIONS

By conducting a process such as the one we have set out here we consider we will be able to achieve a consolidated, varied and compliant permit by the end of 2019.