



BARNSLEY
Metropolitan Borough Council

Permit ref: IPPC/A2/04/2018/V1

Barnsley Metropolitan Borough Council
The Environmental Permitting (England and Wales) Regulations 2016 Statutory Instrument No. 1154
Regulation 20 (and Regulation 18 *in relation to consolidated permits*)

Variation Notice

To: Michelmersh Brick UK Limited, Freshfield Lane, Danehill, Haywards Heath, RH17 7HH.

Barnsley Metropolitan Borough Council ("the Council"), in the exercise of the powers conferred upon it by regulation 20 of the Environmental Permitting (England and Wales) Regulations 2016 as amended ("the 2016 Regulations") hereby gives you notice as follows:-

The Council has decided to vary the conditions of permit reference IPPC/A2/04/2017/V1 granted under regulation 13(1) of the Environmental Permitting (England and Wales) 2016 Regulations in respect of the Installation operated at; Michelmersh Brick UK Limited, Carlton Works, Clayburn Road, Grimethorpe, Barnsley, S72 7BE.

The variation of the conditions of the permit and the date on which they are to take effect are specified in Schedule 1 to this notice. A consolidated permit as varied by this notice is attached.

Signed on behalf of Barnsley Metropolitan Borough Council

Signed.....

Date:

Carrie Abbott
Service Director Public Health
An authorised officer of the Council

Schedule 1

Variation to the conditions of the permit	Date(s) on which the variation is to take place.
<i>Delete all existing conditions permit reference IPPC/A2/04/2017/V1 and replace with new conditions detailed in consolidated permit reference IPPC/A2/04/2018/V1 attached to this notice.</i>	Immediately

Signed on behalf of Barnsley Metropolitan Borough Council

Signed.....

Date:

Carrie Abbott
Service Director Public Health
An authorised officer of the Council

Guidance for Operators receiving a Variation Notice

(This guidance does not form part of the Variation Notice, but it is for the guidance of those served with the notice.)

Dealing with a Variation Notice

This notice varies the terms of the permit specified in the Notice by amending or deleting certain existing conditions and/or adding new conditions. The Schedules attached to the notice explain which conditions have been amended, added or deleted and the dates on which these have effect.

The Council may have included a 'consolidated permit', which takes into account these and/or previous variations. In cases where a consolidated permit is not included this variation notice must be read in conjunction with your permit document.

Offences

Failure to comply with a variation Notice is an offence under regulation 38(2) of the 2016 Regulations. A person guilty of an offence under this regulation could be liable to (i) a fine of up to £50,000 or imprisonment for a term not exceeding 6 months or both; or (ii) to a fine or imprisonment for a term not exceeding 5 years or both, depending on whether the matter is dealt with in Magistrates or Crown Court.

Appeals

Under regulation 31 and schedule 6 of the 2010 Regulations operators have the right of appeal against the conditions attached to their permit by a variation notice. The right to appeal does not apply in circumstances where the notice implements a direction of the Secretary of State given under regulations 61 or 62 or a direction or when determining an appeal.

Appeals against a variation notice do not have the effect of suspending the operation of the notice. Appeals do not have the effect of suspending permit conditions, or any of the mentioned notices.

Notice of appeal against a variation notice must be given within **two months** of the date of the notice, which is the subject matter of the appeal. The Secretary of State may in a particular case allow notice of appeal to be given after the expiry of this period, but would only do so in the most compelling circumstances.

How to appeal

There are no forms or charges for appealing. However, for an appeal to be valid, appellants (the person/operator making the appeal) are legally required to provide (see paragraphs 2(1) and (2) of schedule 6 of the 2016 Regulations):

- The appropriate authority written notice of the appeal;
- a statement of the grounds of appeal;
- a copy of any relevant application;
- a copy of any relevant environmental permit;
- a copy of any relevant correspondence between the appellant and the regulator;
- a copy of any decision or notice, which is the subject matter of the appeal; and
- a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or dealt with by way of written representations.

Appellants should state whether any of the information enclosed with the appeal has been the subject of a successful application for commercial confidentiality under regulation 48 of the 2007 regulations, and provide relevant details – see below. Unless such information is provided all documents submitted will be open to inspection.

Where to send your appeal documents

Appeals should be despatched on the day they are dated, and addressed to:

The Planning Inspectorate
Environmental Team, Major and Specialist Casework
Room 4/04 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

If an appeal is made, the main parties will be kept informed about the next steps, and will also normally be provided with additional copies of each other's representations.

To withdraw an appeal – which may be done at any time – the appellant must notify the Planning Inspectorate in writing and copy the notification to the local authority who must in turn notify anyone with an interest in the appeal.

Costs

The operator and regulator will normally be expected to pay their own expenses during an appeal. Where a hearing or enquiry is held as part of the appeal process, by virtue of paragraph 5(6) of Schedule 6, either the appellant or the local authority can apply for costs. Applications for costs are normally heard towards the end of the proceedings and will only be allowed if the party claiming them can show that the other side behaved unreasonably and put them to unnecessary expense. There is no provision for costs to be awarded where appeals are dealt with by written representatives.

Confidentiality

An operator may request certain information to remain confidential i.e. not be placed on the public register. The operator must request the exclusion from the public register of commercially confidential information at the time of supply of the information requested by this notice or any other notice. The operator should provide clear justification for each item wishing to be kept from the register. The amount of information excluded from the register should be kept to the minimum necessary to safeguard the operator's commercial advantage. It may assist the local authority if the information the operator considers to be commercially confidential is submitted in a way which will allow it to be easily removed should the claim be granted, for example on separate pages, marked 'claimed confidential'. The onus is on the operator to provide a clear justification for each item to be kept from the register. It will not simply be sufficient to say that the process is a trade secret.

The test of whether information is confidential for the purposes of being withheld from the public register is complex and is explained, together with the procedures, in chapter 8 of the PPC General Guidance Manual.

National Security

Information may be excluded from the public register on the grounds of National Security. If it is considered that the inclusion of information on a public register is contrary to the interests of national security, the operator may apply to the Secretary of State, specifying the information and indicating the apparent nature of risk to national security. The operator must inform the local authority of such an application, who will not include the information on the public register until the Secretary of State has decided the matter.