

The Environmental Permitting (England and Wales) Regulations 2016

7000 Acres believes that the Environmental Permitting (England and Wales) Regulations 2016 (EPR) Rule 17 is relevant to the Gate Burton Application. EPR Rule 8 defines a “regulated facility”:

“8.—(1) In these Regulations, “regulated facility” means any of the following—

- (a) an installation;
- (b) mobile plant;
- (c) a waste operation;
- (d) a mining waste operation;
- (e) a radioactive substances activity;
- (f) a water discharge activity;
- (g) a groundwater activity;
- (h) a small waste incineration plant;
- (i) a solvent emission activity;
- (j) a flood risk activity.”

Rule 17 is valid because the Gate Burton dDCO is for a generating station, whilst the BESS is an energy arbitrage facility. Both elements of the scheme can be classed as an installation. The solar PV element of the scheme has the potential to increase the flood risk, or adversely affect land drainage: the Applicant’s Environmental Statement Volume 3 Appendix 9-D: Flood Risk Assessment 6.3.7 identifies the need for an environmental permit associated with ground water flow. Following the Energy Bill 3rd Reading on 5 September 2023, a BESS will require an Industrial Installation Permit, this requirement will not apply to the solar generating facility. The BESS has the potential to discharge polluted firewater, or poisonous gasses, following a thermal runaway or fire. The solar generating facility, i.e. the “generating station” and the BESS are effectively separately “regulated facilities” with different permit requirements caused by dissimilar hazards to the environment.