

# 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 Canford Mechanical Biological Treatment (MBT) Facility operated by New Earth Solutions (Canford) Limited, as a result of an application made by the Operator.

The Permit number is EPR/FP3393SB

The Variation notice number is EPR/FP3393SB/V006

## 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 New Earth Solutions (Canford) Limited: we call New Earth Solutions (Canford) Limited “the **Operator**” in this document. We refer to New Earth Solutions (Canford) Limited’s Canford MBT Facility as “the **Installation**”.

The Application was duly made on 01 September 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
- Annex 2 – web publication

# 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 gives effect to our decision following the identification of the Operator as undertaking a “newly prescribed activity” (NPA) under the Industrial Emissions Directive (IED);

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 29 April 2003, 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.

# 2 The legal framework

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 Best Available Techniques. 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 sometime 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 the facility is able to meet with the exception of showing the “newly prescribed activity” as an Installation 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 to provide a formal route to the operator to 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” or “substantial” variation is appropriate because a detailed technical assessment is required on aspects of the Application 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.

#### This Variation

The original Permit was granted on 29 April 2003 and subsequently varied on the following dates: 28 May 2010, 28 June 2012, 14 December 2012 and 02 March 2015. We are satisfied that the standard of protection was assessed using appropriate measures available at the time of the consolidation application. More information is provided in section 4 below. We have determined this Variation as an administrative variation.

## 4 Key issues in the determination

### 1. Operating techniques

The original permit was issued prior to April 2007 and therefore under the rules outlined above would require technical assessment. However, on 02 April 2012 the permit was varied and consolidated to modern conditions and assessed against appropriate measures. Therefore the operators application for an administrative variation was appropriate as the facility had already been assessed against appropriate technical standards.

The operating techniques contained within the original permit were revisited when the consolidated permit took place. The consolidated permit has a revised operating techniques document. An improvement condition within this variation has been added. While we consider that the operations were previously assessed against appropriate measures available at the time of the consolidation application, we need to be certain that measures meet the requirements of BAT while operating as an installation. We have implemented an improvement programme to ensure that current operating measures are in line with up-to-date BAT as part of the movement of a waste operation to an installation.

### 2. Improvement Programme requirements

A second improvement condition was added (other than the one above) relating to an odour management plan (OMP). The previous permit did not have an official OMP, and receives odour complaints. We have therefore implemented an improvement programme to ensure the formalisation of an OMP.

### 3. Point source emissions to water

Uncontaminated surface water has been discharging to a point on the site, but was not acknowledged in the previous permit. Therefore the condition relating to emissions (3.1) was amended and the table in Schedule 3 listing the emission points has been added to reflect the emission point in the site plan.

## 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>Consultation</b>		
Responses to web publicising	The web publicising responses (Annex 2) were taken into account in the decision.  No responses were received from the web publication.	✓
<b>The facility</b>		
The regulated facility	The extent/nature of the facilities taking place at the site required clarification.  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:  <b>Relevant Activity</b> Section 5.4Part A (1)b)(i) – recovery or mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day by biological treatment. <b>Directly Associated Activities</b> <ul style="list-style-type: none"> <li>• Storage of waste pending recovery</li> <li>• Physical treatment for the purpose of recycling</li> <li>• Surface water collection and storage</li> <li>• Raw material storage</li> <li>• Process water storage</li> <li>• Compost like output storage (prior to dispatch from site for recovery elsewhere).</li> </ul>	✓
<b>European Directives</b>		
Applicable	All applicable European Directives have been considered	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
Directives	in the determination of the application.  The Industrial Emissions Directive	
<b>The site</b>		
Operating techniques	<p>The techniques used by the operator were implemented post April 2007 and we consider that the techniques were assessed against 'appropriate measures' at the time of the consolidation application under the Environmental Permitting Regulations.</p> <p>However, we have implemented an improvement programme to ensure that current operating measures are in line with up-to-date BAT as part of the movement of a waste operation to an installation. A transitional period of 6 months has been given to allow the operator to ensure that their operating techniques meet the relevant BAT standards.</p> <p>The Operating Techniques contained within this permit replicate those in EPR/FP3393SB/V003.</p>	✓
<b>The permit conditions</b>		
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 to ensure that:</p> <ul style="list-style-type: none"> <li>➤ the site's operating techniques/management system/plans are reviewed and updated against the standards specified in the technical guidance note(s): <ul style="list-style-type: none"> <li>• IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste;</li> </ul> </li> <li>➤ the appropriate measures are in place to prevent pollution from odour.</li> </ul> <p>See Key Issues section of the decision document.</p>	✓
Reporting	<p>We have specified reporting in the permit. Reporting forms have been prepared to facilitate reporting of data in a consistent format. These reporting requirements are deemed sufficient and proportional for the Installation.</p> <p>We made these decisions in accordance with our guidance <i>How to Comply with your Environmental Permit</i> and Regulatory Guidance Note 4 – Setting standards for environmental protection</p>	✓

## **Annex 2 – Web publicising**

No responses were received in response to the web publication.