

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 Heathfield In-Vessel Composting (IVC) Facility (referred to as Heathfield IVC) operated by Viridor Waste Management Limited, as a result of an application made by the Operator.

The Permit number is EPR/PP3397HK

The Variation notice number is EPR/PP3397HK/V003

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 Viridor Waste Management Limited: we call Viridor Waste Management Limited “the **Operator**” in this document. We refer to Viridor Waste Management Limited’s Heathfield IVC as “the **Installation**”.

The Application was duly made on 29 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

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 does several different things:

- **First**, it gives effect to our decisions following the identification of the Operator as undertaking a “newly prescribed activity” (NPA) under the Industrial Emissions Directive (IED);
- **Second**, it takes the opportunity to bring earlier variations into an up-to-date, consolidated Permit. The consolidated Permit should be easier to understand and use; and
- **Third**, it modernises the entire Permit to reflect our current template. The template reflects our modern regulatory permitting philosophy and was introduced because of a change in the governing legislation. This took place when the Pollution Prevention and Control (England and Wales) Regulations 2000 (“PPC”) were replaced in 2008 by a new statutory regime under the Environmental Permitting Regulations 2007 (now the 2010 version).

The introduction of new template conditions makes the Permit consistent with our current general approach and philosophy. Although the wording of some conditions has changed, while others have disappeared because of the new regulatory approach, it does not affect the level of environmental protection achieved by the Permit in any way.

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 27 October 2004, 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.

As we explained above, we do not address changes to the Permit in this document, to the extent that they give effect to either the consolidation of earlier variations, or introduce new template conditions.

2 The legal framework

The original Permit was granted on 27 October 2004 under the Environmental Protection Act 1990 and regulated under the Waste Management Licensing Regulations 1994.

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 BAT. 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 of the facility with the exception of the “newly prescribed 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 for the Operator to formally 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 [ecological impact assessment, waste types, secondary containment etc.] 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 27 October 2004 and subsequently varied on 10 June 2011. We have reviewed the documentation submitted in support of the original permit and subsequent variation application(s) in this determination. We are not satisfied that the standard of protection was assessed using appropriate measures. We have determined this Application as a minor technical variation. As the Variation will not have any negative effects on the environment, it is not a substantial variation and so does not require consulting on.

4 Key issues in the determination

The In-Vessel Composting Activity (IVC) at the site qualifies as a “newly prescribed activity” under the following:

Section 5.4 Part A(1)(b)(i) – Recovery or a mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day involving biological treatment.

1. Operating techniques

The operating techniques of this facility will comply with the following as per the permit application that was submitted:

- Environment Agency guidance – How to comply with your Environmental Permit.
- IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste;
- Environment Agency approved Working Plan for the site; and
- Environment Agency approved Odour Management Plan for the site.

Improvement conditions have been included within the variation, in order to ensure that the operating techniques also comply with:

- Horizontal Guidance Note 3 – Noise assessment and control;
- Horizontal Guidance Note 4 – Odour management; and
- Undertake best practise measures with regards to process monitoring.

2. Waste types

The waste types included in this permit variation have not been altered from the original permit.

3. Ecological impact assessment

The following features are within 2 km of the site:

- Chudleigh Caves and Woods Site of Special Scientific Interest (SSSI);
- Ugbrooke Park SSSI;
- Chudleigh Knighton Heath SSSI;
- Southacre Clay Pits SSSI;
- Stover Park SSSI;
- Brocks Farm SSSI; and
- South Hams Special Conservation Area (SAC).

However these nearby ecological features were considered as part of earlier permitting decisions.

The decision document for the original waste management licence stated that the site falls within 2 km of the South Hams SAC and was considered to meet the Stage 1 criteria for relevance. However, English Nature agreed that there

were no obvious hazards or risks that would require further assessment of likely significant effects in Stage 2 and therefore there was no need to formally consult them via an appendix 11 assessment.

It was considered as part of this determination that the ecological impact assessment undertaken as part of the earlier permitting determination still stands. Therefore no further ecological assessment was undertaken as part of this determination.

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
Consultation		
Responses to consultation, web publicising	<p>The web publicising responses were taken into account in the decision.</p> <p>No web publicising comments were received.</p> <p>The decision was taken in accordance with our guidance.</p>	✓
Operator		
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.	✓
The facility		
The regulated facility	<p>The extent/nature of the facilities taking place at the site required clarification.</p> <p>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:</p> <p>Section 5.4 Part A(1)(b)(i)</p> <ul style="list-style-type: none"> Recovery or mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day (or 100 tonnes per day if the only waste treatment activity is anaerobic digestion) involving treatment of non-hazardous waste by biological treatment (excluding activities covered by Council Directive 91/271/EEC). <p>Directly Associated Activities:</p> <ul style="list-style-type: none"> Storage of waste pending recovery or disposal; Physical treatment for the purpose of recycling; Raw material storage; Compost storage; Process water collection and storage; and Surface water collection and storage. 	✓
The site		

Aspect considered	Justification / Detail	Criteria met
		Yes
Extent of the site of the facility	The operator has provided a plan which we consider is satisfactory, showing the extent of the site of the facility. A plan is included in the permit and the operator is required to carry on the permitted activities within the site boundary.	✓
Environmental Risk Assessment and operating techniques		
Environmental risk	We have reviewed the operator's assessment of the environmental risk from the facility. The operator's risk assessment is satisfactory. A revised risk assessment was not considered necessary as part of this application.	✓
Operating techniques	We have reviewed the techniques used by the operator and compared these with the relevant guidance notes – <ul style="list-style-type: none"> • Environment Agency guidance – How to comply with your Environmental Permit; • IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste; • H3 – Noise assessment and control; • H4 – Odour Management We consider that the operating techniques stated in the Operators application do not meet the technical standards specified H3 noise assessment and control and H4 odour management. We consider that there are omissions in the supporting documents. We have therefore included an improvement condition in the notice which requires a review of the site's operating techniques within 6 months.	✓
The permit conditions		
Updating permit conditions during consolidation	We have updated previous permit conditions to those in the new generic permit template as part of permit consolidation. The new conditions have the same meaning as those in the previous permit(s).	✓
Raw materials	We have specified limits and controls on the use of raw materials and fuels.	✓
Waste types	We have specified the permitted waste types, descriptions and quantities, which can be accepted at the regulated facility. We are satisfied that the operator can accept these wastes because they have the necessary infrastructure, operating systems and technical capability to manage these wastes in an appropriate manner.	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	The waste types permitted are replicated from the original waste management licence.	
Improvement conditions	Based on the information on the application, we consider that we need to impose improvement conditions. We have imposed improvement conditions to ensure that: <ul style="list-style-type: none"> ➤ the site's Working Plan meets BAT requirements. 	✓
Incorporating the application	We have specified that the operator must operate the permit in accordance with descriptions in the application, including all additional information received as part of the determination process. These descriptions are specified in the Operating Techniques table in the permit.	✓
Monitoring	We have decided that monitoring should be carried out for the parameters listed in the permit, using the methods detailed and to the frequencies specified. These monitoring requirements have been imposed in order to demonstrate compliance with the conditions of the permit for operations requiring the management of bioaerosols emissions. We made these decisions in accordance with <i>Industry Standard Protocol for the monitoring of bioaerosols</i> which is considered the most appropriate TGN for this activity.	✓