

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 Swanley Recycling Centre operated by TJ Composting Services Limited, as a result of an application made by the Operator.

The Permit number is EPR/ZP3995HS

The Variation notice number is EPR/ZP3995HS/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 TJ Composting Services Limited: we call TJ Composting Services Limited “the **Operator**” in this document. We refer to TJ Composting Services Limited’s Swanley Recycling Centre as “the **Installation**”.

The Application was duly made on 18th August 2015

How this document is structured

- Our decision
- The legal framework
- How we took our decision
- Key issues in the determination

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 26th July 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 26th July 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 26th July 2004 and subsequently varied on 18th May 2008 and 21st December 2010. 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 normal 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

This variation implements the changes brought about by the IED for “existing facilities operating newly prescribed activities” and completes the transition of this facility from a waste operation to an IED Installation.

The site falls under the Regulations by virtue of Schedule 1, Part 2, Section 5.4, Part A(1), (b) (i): Recovery or a mix of recovery or a 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 biological treatment.

1. Operating techniques

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

- Swanley Operating techniques and Monitoring Plan
- Swanley Odour Management Plan
- Swanley Integrated Management System procedures 3.1 to 3.7; and
- Tamar Organics Limited (TJ Composting Services Limited’s parent company) Integrated Safety, Health, Environment and Quality Management System.

Three improvements conditions have been included for a revised odour management plan, fire prevention plan and a site specific risk assessment to be submitted and agreed by the Agency..

The operator applied to increase the annual throughput from 28,500tpa to 45,000tpa and the storage capacity from 5,000 tonnes to 15,000tonnes. The increase in annual throughput was not agreed due to the operational restriction of the site (and due to the planning permission restricting the site to 28,500tonnes). The operator confirmed they would withdraw the application to increase the annual tonnage. The operator was unable to demonstrate that the site could safely store 15,000tonnes at anyone time and a storage capacity of 7,100tonnes was agreed. Pre-operational conditions have been included to ensure the operating techniques and FPP are updated before more than 5,000tonnes can be stored.

A pre-operational condition is also included to ensure the operating techniques are updated and approved prior to accepting waste for transfer under Standard Rules Permit SR2008N02_5kte.

2. Waste types

Within the application the operator requested that the waste types included in this permit variation include the full list of EWC from SR2012 No. 8 with the addition of:

- 16 03 06 – organic waste other than those mentioned in 16 03 05
- 19 05 03 – off specification compost
- 19 05 99 – waste not otherwise specified
- 19 06 05 – liquor from anaerobic treatment of animal and vegetable waste
- 19 06 06 – digestate from anaerobic treatment of animal and vegetable waste

It was agreed with the operator that 16 03 06, 19 06 05, 19 06 06 and 19 05 99 would not be permitted, 19 05 03 is permitted but restricted to 'off-specification compost (from a composting process that accepts waste input types listed in this table only)'

3. Bioaerosol Monitoring

Due to the proximity of sensitive receptors bioaerosol monitoring will be required as detailed in Table S3.2 of the permit.

• **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 | No public responses were received in response to the web publicising of the application. | ✓ |
| 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 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>Open Windrow composting site</p> <p>S5.4 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.</p> <p>The following directly associated activities apply:</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 • Surface water collection and storage | ✓ |
| European Directives | | |
| Applicable Directives | All applicable European Directives have been considered in the determination of the application. | ✓ |
| The site | | |
| 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 | We have reviewed the operator's assessment of the | ✓ |

| Aspect considered | Justification / Detail | Criteria met |
|---|--|--------------|
| | | Yes |
| risk | <p>environmental risk from the facility.</p> <p>Improvement conditions, pre-operational conditions and bioaerosol monitoring are included in the permit to ensure the environmental risk is mitigated.</p> | |
| Operating techniques | <p>We have reviewed the techniques used by the operator and compared these with the relevant guidance notes –</p> <ul style="list-style-type: none"> • IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste; • H3 – Noise assessment and control; • H4 – Odour Management <p>The proposed techniques/emission levels for priorities for control are in line with the benchmark levels contained in the above technical guidance notes and we consider them to represent appropriate techniques for the facility.</p> <p>However we have included an improvement condition to revise the odour management plan, submit a FPP and site specific bioaerosol risk assessment within 3 month of issue of the permit. Pre-operational conditions have been included for the operator to update the operating techniques prior to increasing the storage tonnage or accepting waste for transfer (under Standard Rules Permit SR2008N02_5kte).</p> | ✓ |
| The permit conditions | | |
| Updating permit conditions during consolidation | <p>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).</p> | ✓ |
| Waste types | <p>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.</p> <p>The wastes types can be treated via composting as they are included in the Composting Quality Protocol (CQP).</p> <p>We made these decisions with respect to waste types in accordance with our Technical Guidance Note – <i>Framework for assessing suitability of wastes going to anaerobic digestion, composting and biological treatment.</i></p> | ✓ |
| Improvement | <p>Based on the information on the application, we consider</p> | ✓ |

| Aspect considered | Justification / Detail | Criteria met Yes |
|--------------------------------|---|---------------------|
| and pre-operational conditions | <p>that we need to impose improvement conditions.</p> <p>We have imposed improvement conditions to ensure that:</p> <ol style="list-style-type: none"> 1. The operator shall submit a revised odour management plan to the Environment Agency for written approval. 2. The operator shall develop and submit a fire prevention plan to the Environment Agency in writing. 3. The operator shall submit a Site Specific Bioaerosol Risk Assessment (SSBRA) for approval to the Environment Agency. <p>The following pre-operational conditions are included:</p> <ol style="list-style-type: none"> 1. Prior to any increase of waste stored at the site above 5,000 tonnes at any one time (stored prior to composting, composted and stored for maturation), the operator shall submit the following documents to the Environment Agency for written approval: <ul style="list-style-type: none"> • Revised Operating Techniques that demonstrate all activities are undertaken in accordance with BAT/Best Practice; • A revised risk assessment to assess and mitigate the potential environmental impacts of the proposed operations and operational changes; • A detailed Site Specific Bioaerosol Risk Assessment; and • A revised Odour Management Plan. 2. Prior to any increase of waste stored at the site above 5,000 tonnes at any one time (stored prior to composting, composted and stored for maturation), the operator shall develop and submit a fire prevention plan to the Environment Agency in writing. 3. Prior to accepting waste for transfer under Standard Rules Permit SR2008N02_5kte, the operator shall submit the following revised documents to the Environment Agency for written approval: <ul style="list-style-type: none"> • Revised Operating Techniques and • Revised risk assessment to assess and mitigate | |

| Aspect considered | Justification / Detail | Criteria met |
|-------------------------------|--|--------------|
| | | Yes |
| | the potential environmental impacts of the proposed operations. | |
| Emission limits | We have decided that emission limits should be set for the parameters listed in the permit. The following bioaerosols (Total bacteria and <i>Aspergillus Fumigatus</i>) have been identified as being emitted in significant quantities and ELVs and/or equivalent parameters or technical measures based on BAT have been set for these substances and others. | ✓ |
| 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. | ✓ |
| Reporting | We have specified reporting in the permit. We have specified reporting in the permit. As the monitoring of point source emissions to air is required quarterly, reporting is also required quarterly. 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. We made these decisions in accordance with the <i>Industry Standard Protocol for the monitoring of bioaerosols</i> . | ✓ |
| Operator Competence | | |
| Environment Management System | There is no known reason to consider that the operator will not have the management systems to enable it to comply with the permit conditions. The decision was taken in accordance with RGN 5 on Operator Competence. | ✓ |
| Technical competence | Technical competency is required for activities permitted. | ✓ |
| Financial provision | There is no known reason to consider that the operator will not be financially able to comply with the permit conditions. The decision was taken in accordance with RGN 5 on Operator Competence. | ✓ |