

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 Lount Composting Facility operated by SITA UK Limited, as a result of an application made by the Operator.

The Permit number is EPR/XP3193CQ.

The Variation notice number is EPR/XP3193CQ/V005.

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 SITA UK Limited: we call SITA UK Limited “the **Operator**” in this document. We refer to SITA UK Limited’s SITA UK Limited as “the **Installation**”.

The Application was duly made on 26th August 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 31/03/99, 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 31/03/99 as a Waste Disposal License under the Control of Pollution Act 1974, which was superceded by the Environmental Protection Act 1990.

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 the 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 is currently being reviewed and a final issue date is anticipated in 2016. Under the Industrial Emissions Directive, all permits will be subject to review within four years of the publication of a revised BREF. This means that we will need to do a further review against any new standards in the BREF 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 the adoption of the Industrial Emissions Directive by the EU in November 2010 and over subsequent years, the Environment Agency has engaged in a range of briefing and communications with the Waste Industry Sector to raise awareness of the implications of IED and the need to ensure their facilities are correctly regulated, particularly after the implementation date for 7 July 2015 for newly prescribed activities.

Early in 2014, the Environment Agency provided further briefing to Industry trade bodies and wrote to operators we believed may be implicated by these changes, providing detailed information sheets that described the implications and the process operators should follow if they decide 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 [such as ecological impact assessment, waste types, secondary containment] 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 31/03/99 and subsequently varied on 11/12/03 and transferred on 01/06/07 and varied on 01/06/07 and 29/03/11. We have reviewed the documentation submitted in support of the original permit and subsequent variation applications in this determination. We are not satisfied that the standard of protection is adequate. We have determined this Variation as an administrative variation but added improvement conditions to ensure the updating of operating techniques are carried out within 3 months of issue.

4 Key issues in the determination

Operating techniques

The operating techniques contained within the original permit are not IED compliant. The current risk assessments (noise, bioaerosol) and odour management plan all need revising. Therefore, the following five improvement conditions have been added to the permit:

IC1	The operator shall submit revised written procedures for approval to meet all the relevant BAT requirements for the S5.4 A(1) (b) (i) activity detailed in Sector Guidance Note IPPC S5.06 – Guidance for the Treatment of Hazardous and Non Hazardous Waste. The procedures must contain dates for implementation of individual measures.
IC2	The operator shall submit a revised Odour Management Plan to the Environment Agency for written approval. The plan shall take into account the appropriate measures for odour control specified in section 2.2.6 of Sector Guidance Note IPPC S5.06 – Guidance for the Treatment of Hazardous and Non Hazardous Waste. The plan shall also incorporate all the required detailed information as specified in the Environment Agency’s Horizontal Guidance H4 – <i>Odour Management</i> . The plan must contain dates for implementation of individual measures.
IC3	The operator shall submit a revised Bioaerosol Risk Assessment to the Environment Agency for written approval. Sector Guidance Note IPPC S5.06 – Guidance for the Treatment of Hazardous and Non Hazardous Waste. The plan shall also incorporate all the required detailed information as specified in the Environment Agency’s Horizontal Guidance H4 – <i>Odour Management</i> . The plan must contain dates for implementation of individual measures.
IC4	The operator shall submit a revised Noise Risk Assessment to the Environment Agency for written approval. The plan shall take into account the appropriate measures for noise control specified in section 2.9 of Sector Guidance Note IPPC S5.06 – Guidance for the Treatment of Hazardous and Non Hazardous Waste. The plan shall also incorporate all the required detailed information as specified in the Environment Agency’s Horizontal Guidance H3 – <i>Noise</i> . The plan must contain dates for implementation of individual measures.
IC5	The operator shall submit a revised Drainage and Lagoon Management Plan to the Environment Agency for written approval. The plan shall take into account the appropriate measures specified in Sector Guidance Note IPPC S5.06 – Guidance for the Treatment of Hazardous and Non Hazardous Waste. The plan must contain dates for implementation of individual measures.

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 web publicising	The were no responses to web publicising. The decision was taken in accordance with our guidance.	✓
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	The extent/nature of the activities 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: Listed activity: S5.4 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 <u>Directly associated activities:</u> Storage of wastes 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	The operator has provided a plan which we consider is	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
site of the facility	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 with the updating of operating techniques to be BAT compliant.	✓
Operating techniques	We have reviewed the techniques used by the operator and compared these with the relevant guidance notes including – <ul style="list-style-type: none"> • <i>Sector Guidance Note IPPC S5.06 – Guidance for the Recovery and Disposal of Hazardous and Non-Hazardous Waste; and</i> • <i>How to Comply with Your Environmental Permit</i> • <i>H3 – Noise assessment and control;</i> • <i>H4 – Odour Management</i> <p>All operating techniques are to be updated within 3 months of the permit issue date.</p> <p>We consider that the emission limits included in the permit reflect BAT for the installation.</p>	✓
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).	✓
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.	✓
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"> ➤ appropriate management systems and management structures are in place and that sufficient financial, technical and manpower 	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	<p>resources are available to the operator to ensure compliance with all the permit conditions.</p> <ul style="list-style-type: none"> ➤ appropriate measures are in place to ensure that accidents that may cause pollution are minimised. ➤ the appropriate measures are in place to prevent fugitive emissions. ➤ the appropriate measures are in place to prevent pollution from odour. ➤ the appropriate measures are in place to prevent annoyance from noise and vibration. <p>See Key Issues section of the decision document.</p>	
Incorporating the application	We have specified that the applicant 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.	✓
Emission limits	We have decided that emission limits should be set for the parameters listed in the permit: Bioaerosol limits were implemented in 2011, EPR/XP3193CQ/V004.	✓
Monitoring	<p>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.</p> <p>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.</p>	✓
Reporting	<p>We have specified reporting in the permit.</p> <p>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>.</p>	✓