

# BANKSIDE COMMERCIAL solicitors

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6 April 2020

By Email: [john.mcclean@environment-agency.gov.uk](mailto:john.mcclean@environment-agency.gov.uk)

Dear Sirs,

**Re: Application number: EPR/EB3207LH/V005**

We are instructed by Eco Power Environmental Limited ("EPEL") in relation to their application to vary the environmental permit numbered above and specifically in relation to your requests for more information. You have previously been corresponding Environmental Compliance Ltd who have been representing our client on this matter.

We are aware that you issued a Schedule 5 notice dated the 15/03/2019 containing no fewer than 89 requests for more information and that EPEL responded answering all those requests with a 52-page document plus Appendices dated October 2019.

Your Senior Permitting Officer Mr John McClean has indicated by email that he is intending to issue a further notice containing even more questions than the original notice and that considerable further costs are being incurred. We are aware that a planned site meeting has had to be postponed because of the Coronavirus emergency but we are writing now in advance of the rescheduled meeting to express our considerable concern as to the extent of the further information required and the additional costs and delays in determining this application that have resulted. EPEL are so concerned that we have instructed Mr Rhodri Price Lewis QC of Landmark Chambers who has very considerable experience and expertise in environmental law and procedure to advise on these matters. He has done so, and his views are reflected in the content of this letter.

Firstly we would like to respectfully remind you that the Agency's powers to require new information under Paragraph 4 of Part 1 of Schedule 5 of the 2016 Permitting Regulations have to be exercised lawfully and therefore reasonably and proportionately for the purpose of determining the application before it.

This application is limited in its scope. It seeks only:

1. To add waste drying to the list of treatment operations that are already permitted under the existing permit;
2. To increase the waste throughput from 200,000tpa to 400,000tpa
3. To enlarge the permit boundary to enable the increased throughput to be processed.

The application included a commitment to limit the quantity of waste processed externally to the 200,000 already permitted to be treated externally and to process the additional 200,000 tpa inside a new, purpose designed building and processing plant.

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Even the potential for any increased risks to the environment arising from the proposed variations would therefore be limited to any effects of processing waste of classifications that are already permitted to be treated outside but now inside a new purpose-built building. EPEL consider that their application has thoroughly assessed all such potential risks.

Furthermore, the existing permit permits 203 waste types to be accepted on the site. These waste types can all be processed externally. The Agency in granting the permit were clearly satisfied that these 203 types of waste could be processed, stored and treated externally with no unacceptable risks to the environment. The application to vary the permit now seeks to limit the waste types to five of the 203 already permitted, namely waste codes 17 05 04, 17 09 04, 19 12 10 and 19 12 12. These are the five main waste types currently accepted.

Further, the existing permit contains no conditions, restrictions or limits relating to the management or separate storage of any of the 203 permitted waste types. This proposed change to 5 waste types can only reduce any environmental risks and simplify any reasonable procedure for determining this application to vary the permit. We are concerned that EA officers are failing to appreciate these points in their requests for more information and are therefore using their powers unreasonably and not for their statutory purpose of helping in the determination of the application that is before the Agency.

Further reducing the numbers of types of waste that can be accepted from 203 to 5 cannot reasonably be seen to be a fundamental change to the variation application that has any further environmental consequences beyond what is already permitted at this facility.

Finally it would only be reasonable if we and our clients were provided with a copy of any further intended request for yet more information well in advance of the rescheduled meeting so that we and Mr Price Lewis QC can advise on the reasonableness and therefore the lawfulness of any such further requests.

Yours faithfully,



**BANKSIDE COMMERCIAL**