

FAO Clare Boles  
Environmental Compliance Limited  
Unit G1, Main Avenue,  
Treforest Industrial Estate,  
Pontypridd,  
CF37 5BF

Our ref: EA/EPR/EB3207LH/V005  
Your ref:  
Date: 22/05/2020

c.boles@ecl.world

Dear Clare

On 15th April 2019, in exercise of our powers under paragraph 4 Part 1 of Schedule 5 of the Environmental Permitting (England and Wales Regulations 2016) (“EPR 2016”) we served a notice on you requiring you to provide further information to determine the application. Following our review of the information you provided in response to the Schedule 5 notice we are now minded to proceed to determination.

On 31st January 2020 we advised you that some of the responses to our Schedule 5 notice proposed significant changes to your original application and also that your response posed many further questions or concerns. In the Department for Environment Food & Rural Affairs (“DEFRA”) Environmental Permitting: Core Guidance For the Environmental Permitting (England and Wales Regulations 2016) (“Core Guidance”) at paragraph 6.8:

‘A regulator may accept changes to a duly made application where it considers it appropriate. This can include a proposed change in the operator of a new facility. Where the regulator considers the proposed change to be too significant, however, a new application will be required.’

You cannot unilaterally change your application and we do not consider the proposed changes to your application, with the information provided, as acceptable.

We had hoped to discuss these concerns with you further in a meeting on the 26th March 2020, but unfortunately this had to be postponed. Subsequent correspondence received on the 6th and 24th of April 2020 from your solicitors has helped confirm to us your position regarding the provision of further information and your concerns regarding the continuing cost of the application.

Given the length of time and number of attempts it is taking to provide the appropriate level of information to support this application, we also share your concerns around the additional costs you would incur if we were to continue with any further requests for information.

Whilst you have agreed to meet to discuss our concerns and information requirements, on reflection we have significant concerns that such a meeting would be unlikely to progress the matter any further.

Your recent letters further highlighted how you have sought to amend the application since the original submission and this reinforces our view that these changes are significant. As referred to above, a duly made application can only be amended with our agreement. Given that the initial consultation stage and information request resulting from this has taken over 15 months over 330 hours of our officers' time, we share your concerns that pursuing the application based on your proposed amendments could significantly increase the costs to the applicant.

In line with the Core Guidance we are not prepared to accept these proposed changes, unless as part of a new application and now intend to complete our determination based on the original application and the information provided thus far and we will be in touch in due course.

A summary of some of our main concerns are:

- \* We consider these changes are significant and given how much information and additional consultation will be required this should be done through a new application
- \* The applicant has not demonstrated that the proposed operations and infrastructure meet the best available techniques ("BAT"). An installation permit can only be issued where we are satisfied that the applicant is applying BAT. This is one of the key requirements and differences for a waste site moving from a 'facility' to an 'installation'. It does not figure that simply because the existing permit allows for something that the proposed installation activity would accept the same standard.
- \* We continue to have significant environmental concerns regarding the proposed application, specifically in relation to fire risk, odour management, dust and litter management. This is why we require the proposed management systems and infrastructure relating to these risks to be robust and of sufficient quality. Unlike applications for brand new facilities, these concerns are not based only on modelling data or assumptions but are supported by actual recent incidents of fires, amenity complaints and permit compliance breaches specifically relating to stockpile management and waste storage at the site. As such we have a duty to protect the environment and ensure appropriate standards and management systems are in place prior to allowing such a significant increase to the scale of the activities on site.
- \* We need to assess operator competence and will take account the applicant's management system and incidents of poor behaviour.

Given these concerns detailed above our current view is that that we are minded to refuse this application and will finalise our decision as soon as practicable. If you want to arrange a telecon to discuss our decision, or wish to withdraw your application prior to our decision being finalised, please contact me at [davidj.griffiths@environment-agency.gov.uk](mailto:davidj.griffiths@environment-agency.gov.uk)

Yours sincerely

David Griffiths  
Principal Permitting Team Leader