

Permitting decisions - variation

We have decided to grant the variation for Phoenix Green Solutions operated by Mr Simon Mitchell.

The variation number is EPR/KB3031AV/V005.

The site is currently permitted under EPR/KB3031AV to accept 26,000 tonnes per annum of biodegradable waste for composting within an in-vessel composting system known as the AgBag system. The purpose of this permit variation is to increase the total quantity of waste accepted at site to 60,000 tonnes per annum.

The composting facility currently meets the description of a waste operation as defined by the Environmental Permitting Regulations. As a result of the increase in waste treated on site, the site will meet the definition of an installation as defined by 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 one or more of the following activities, and excluding activities covered by Council Directive 91/271/EEC— (i) biological treatment.....”

The application is therefore for an installation permit.

We consider in reaching that decision we have taken into account all relevant considerations and legal requirements and that the permit will ensure that the appropriate level of environmental protection is provided.

Purpose of this document

This decision document provides a record of the decision-making process. It:

- summarises the decision making process in the [decision considerations](#) section to show how the main relevant factors have been taken into account
- highlights [key issues](#) in the determination
- shows how we have considered the [consultation responses](#)

Unless the decision document specifies otherwise we have accepted the applicant’s proposals.

Read the permitting decisions in conjunction with the environmental permit.

Decision considerations

Confidential information

A claim for commercial or industrial confidentiality has not been made.

Identifying confidential information

We have not identified information provided as part of the application that we consider to be confidential.

The decision was taken in accordance with our guidance on confidentiality.

Consultation

The consultation requirements were identified in accordance with the Environmental Permitting (England and Wales) Regulations (2016) and our public participation statement.

The application was publicised on the GOV.UK website.

We consulted the following organisations:

Local Authority

Environmental Health

Director of Public Health

Public Health England

Health & Safety Executive

The comments and our responses are summarised in the [consultation responses](#) section.

Operator

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 our guidance on legal operator for environmental permits.

The regulated facility

We considered the extent and nature of the facility at the site in accordance with RGN2 'Understanding the meaning of regulated facility', Appendix 2 of RGN 2 'Defining the scope of the installation', Appendix 1 of RGN 2 'Interpretation of Schedule 1', guidance on waste recovery plans and permits.

The extent of the facility is defined in the site plan and in the permit. The activities are defined in table S1.1 of the permit.

The site

The operator has provided a plan which we consider to be satisfactory.

The plan shows the extent of the site of the facility.

The plan is included in the permit.

Site condition report

The operator provided a site condition report in 2012 (In vessel green waste composting< Mays Hill Industrial Site, July 2012, version 1) with the original application. The operator has provided an updated description of the condition of the site, which we consider is satisfactory (document reference: EP Application Site Condition Report, SOL2005PGS01 July 2020; Annex A - Figures, Annex B - Groundsure Report, Annex C - Conceptual Model and Annex D - Ground Investigation Report) further updated to Site Condition Report, ref SOL2005PGS01, v2, dated 20/10/2020. This was further revised to include a small increase in the installation boundary – SCR,v3 dated 26/02/2021.

The decision was taken in accordance with our guidance on site condition reports and baseline reporting under the Industrial Emissions Directive.

Nature conservation, landscape, heritage and protected species and habitat designations

We have checked the location of the application to assess if it is within the screening distances we consider relevant for impacts on nature conservation, landscape, heritage and protected species and habitat designations. The application is not within our screening distances for these designations.

Environmental risk

We have reviewed the operator's assessment of the environmental risk from the facility.

We do not consider the operators risk assessment to be adequate with regard site containment, following the updated site condition report provided. We have therefore included an improvement condition (IC1) requiring the following:

“The operator shall submit a written ‘site containment plan’ and shall obtain the Environment Agency’s written approval to it. The report shall contain the results of a review conducted by a competent person (i.e. qualified civil or structural engineer).

The review shall be undertaken in accordance with the risk assessment methodology detailed within CIRIA C736 – “*Containment Systems for the Prevention of Pollution – secondary, tertiary and other measures for industrial and commercial premises*” (2014) guidance or other relevant industry standard, of the design, construction method, extent and integrity of containment systems where all polluting liquids and solids are being stored, treated, and/or handled. The review shall consider, but not limited to storage vessels (including AgBags), bunds, loading and unloading areas, transfer pipework/pumps, temporary storage areas, and liners underlying the site. The plan must contain completion dates for the implementation of individual improvement measures necessary for the containment systems to adhere to the standards detailed/referenced within CIRIA C736 (2014) guidance, or equivalent and to meet the BAT Conclusions for Waste Treatment 19 c and 10 g compliance date of 17th August 2022.

The review shall include:

- physical condition of on-site containment methods i.e. compost leachate storage lagoon, Ag-bags
- any work required to ensure compliance with the standards detailed in CIRIA C736 or other relevant industry standard;
- address compliance with BAT Conclusions for Waste Treatment BAT conclusion 19, with regard to:
 - i) BAT 19(c) impermeable surface - depending on the risks posed by the waste in terms of soil and/or water contamination, the surface of the whole waste treatment area (e.g. waste reception, handling, storage, treatment and dispatch areas) is made impermeable to the liquids concerned; and ii) BAT 19(g) adequate drainage infrastructure – the waste treatment area is connected to an adequate drainage infrastructure”
- a maintenance and inspection regime.

A written report of the review shall be submitted to the Environment Agency detailing the review’s findings and recommendations. Remedial action shall be taken to ensure that the on-site containment meets the CIRIA C736 standards and BAT requirements and the operator must implement the maintenance and inspection regime.

No site operations shall commence or waste accepted at the facility unless the Environment Agency has given prior written permission”.

General operating techniques

We have reviewed the techniques used by the operator and compared these with the relevant guidance notes below:

- How to comply – additional technical guidance for composting
- BREF Waste Treatment BAT conclusions
- Appropriate measures for the biological treatment of waste (draft)
- H4 – odour management
- Fire Prevent Plans guidance
- H5 – site condition report
- M9 - environmental monitoring of bioaerosols at regulated facilities

We do not consider that the operator has demonstrated compliance with appropriate standards for site drainage. We have therefore included an improvement condition IC1 (see above).

The operating techniques that the applicant must use are specified in table S1.2 in the environmental permit.

Odour Management

We have reviewed the odour management plan in accordance with our guidance on odour management.

We consider that the odour management plan is satisfactory and we approve this plan.

We have approved the odour management plan as we consider it to be appropriate measures based on the information available to us at the current time. The applicant should not take our approval of this plan to mean that the measures in the plan are considered to cover every circumstance throughout the life of the permit.

The applicant should keep the plans under constant review and revise them annually or if necessary sooner if there have been complaints arising from operations on site or if circumstances change. This is in accordance with our guidance 'Control and monitor emissions for your environmental permit.'

The plan has been incorporated into the operating techniques S1.2.

Fire Prevention Plan

We have assessed the fire prevention plan and are satisfied that it meets the measures and objectives set out in the Fire Prevention Plan guidance.

We have approved the fire prevention plan as we consider it to be appropriate measures based on information available to us at the current time. The applicant should not take our approval of this plan to mean that the measures in the plan are considered to cover every circumstance throughout the life of the permit.

The plan has been incorporated into the operating techniques S1.2.

Dust management

We have reviewed the dust and emission management plan in accordance with our guidance on emissions management plans for dust.

We consider that the dust and emission management plan is satisfactory and we approve this plan.

We have approved the dust and emission management plan as we consider it to be appropriate measures based on information available to us at the current time. The applicant should not take our approval of this plan to mean that the measures in the plan are considered to cover every circumstance throughout the life of the permit.

The applicant should keep the plans under constant review and revise them annually or if necessary sooner if there have been complaints arising from operations on site or if circumstances change. This is in accordance with our guidance 'Control and monitor emissions for your environmental permit.

The plan has been incorporated into the operating techniques S1.2.

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 for the following reasons:

- they are suitable for the proposed activities
- the proposed infrastructure is appropriate; and
- the environmental risk assessment is acceptable.

Emission Limits

We have decided that emission limits are not required in the permit as there are no channelled emissions to air or water.

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 included in order to ensure appropriate bioaerosol and process monitoring takes place.

We made these decisions in accordance with BREF Waste Treatment BAT conclusions, How to comply - composting, and M9 – monitoring of bioaerosols.

Reporting

We have specified reporting in the permit.

We made these decisions in accordance with BREF Waste Treatment BAT conclusions, How to comply - composting, and M9 – monitoring of bioaerosols.

Management System

We are not aware of any reason to consider that the operator will not have the management system to enable it to comply with the permit conditions.

The decision was taken in accordance with the guidance on operator competence and how to develop a management system for environmental permits.

The applicant submitted their full management system (reference: SOL2006PGS01, Annex E EMS Manual, version 1, dated 01/07/2020). We reviewed the EMS against the best available techniques (BAT) conclusion 1 for waste treatment.

Condition 1.1 of the permit stipulates the activities shall be run in accordance with a written management system by sufficiently competent person/s.

We consider the EMS complies with the appropriate technical guidance.

Technical Competence

Technical competence is required for activities permitted.

The operator is a member of the CIWM/WAMITAB scheme.

We are satisfied that the operator is technically competent.

We have assessed operator competence. There is no known reason to consider the applicant will not comply with the permit conditions.

No relevant convictions were found. The operator satisfies the criteria in our guidance on operator competence.

Financial competence

There is no known reason to consider that the operator will not be financially able to comply with the permit conditions.

Growth duty

We have considered our duty to have regard to the desirability of promoting economic growth set out in section 108(1) of the Deregulation Act 2015 and the guidance issued under section 110 of that Act in deciding whether to grant this permit.

Paragraph 1.3 of the guidance says:

“The primary role of regulators, in delivering regulation, is to achieve the regulatory outcomes for which they are responsible. For a number of regulators, these regulatory outcomes include an explicit reference to development or growth. The growth duty establishes economic growth as a factor that all specified regulators should have regard to, alongside the delivery of the protections set out in the relevant legislation.”

We have addressed the legislative requirements and environmental standards to be set for this operation in the body of the decision document above. The guidance is clear at paragraph 1.5 that the growth duty does not legitimise non-compliance and its purpose is not to achieve or pursue economic growth at the expense of necessary protections.

We consider the requirements and standards we have set in this permit are reasonable and necessary to avoid a risk of an unacceptable level of pollution. This also promotes growth amongst legitimate operators because the standards applied to the operator are consistent across businesses in this sector and have been set to achieve the required legislative standards.

Consultation Responses

The following summarises the responses to consultation with other organisations, and our notice on GOV.UK for the public, and the way in which we have considered these in the determination process.

Responses from organisations listed in the consultation section:

Response received from Public Health England.

Brief summary of issues raised:

“Thank you for forwarding a copy of this application to the Centre for Radiation, Chemical and Environmental Hazards (CRCE) at Public Health England on 28/10/2020.

It is understood that the existing environmental permit for the site covers the importation of 26,000 tonnes of green waste per annum for ‘in-vessel composting’. The purpose of this permit variation is to increase the total quantity of waste accepted at the site to 60,000 tonnes per annum.

The nearest residential receptor is approximately 125 metres to the north-east of the site.

The main emission of concern which may arise from this installation is the potential for odour nuisance. However, it is noted that the application includes proposed measures for the control and mitigation of odours at the installation. Therefore, based on the information contained in the application supplied to us, Public Health England has no significant concerns regarding the risk to the health of the local population from the installation.

This consultation response is based on the assumption that the permit holder shall take all appropriate measures to prevent or control pollution, in accordance with the relevant sector guidance and industry best practice.”

Summary of actions taken: The site has to operate to an Odour Management Plan and apply BAT.

Response received from Environmental Health.

Brief summary of issues raised:

“No knowledge of complaints to this council; note relatively contained and sealed operation and so no formal comment anticipated.

FYI I deal with LA permitting and have no comment;

I will consult with our AQ and Con Land specialists but anticipate no formal comment.”

Summary of action taken: None

No responses were received from the public.