

Determination of an Application for a variation of an Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2016

Decision document recording our decision-making process

The Permit Number is: EPR/XP3005LB
The Variation number is EPR/XP3005LB/V003
The Operator is: Viridor Energy Limited
The Installation is located at: Barlow Way Runcorn Cheshire
 WA7 4HG

What this document is about

This is a decision document, which accompanies a variation notice.

It explains how we have considered the Operator's Application, and why we have included the specific conditions in the variation notice we are issuing to the Operator. It is our record of our decision-making process, to show how we have taken into account all relevant factors in reaching our position. Unless the document explains otherwise, we have accepted the Operator's proposals.

We try to explain our decision as accurately, comprehensively and plainly as possible. Achieving all three objectives is not always easy, and we would welcome any feedback as to how we might improve our decision documents in future. A lot of technical terms and acronyms are inevitable in a document of this nature: we provide a glossary of acronyms near the front of the document, for ease of reference.

Preliminary information and use of terms

We have given the application the reference number EPR/XP3005LB/V003. We refer to the application as "the **Application**" in this document in order to be consistent.

The Application was previously given the reference number EPR/XP3005LB/V002 and this is the number that was used for the initial Consultation. The reference number given to the Application has changed to EPR/XP3005LB/V003 as a result of the permit going through the Energy from Waste Best Available Technique (BAT) permit review in the interim period between initial consultation and this decision.

The number of the variation is EPR/XP3005LB/V003. We refer to varied permit as “the **Permit**” in this document.

The Application was duly made on 11/08/2021.

The Operator is Viridor Energy Limited. We refer to Viridor Energy Limited as “the **Operator**” in this document.

The Viridor Energy Limited facility is located at Barlow Way, Runcorn, Cheshire, WA7 4HG. We refer to this as “the **Installation**” in this document.

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Glossary of acronyms used in this document

(Please note that this glossary is standard for our decision documents and therefore not all these acronyms are necessarily used in this document.)

AAD	Ambient Air Directive (2008/50/EC)
APC	Air Pollution Control
AQS	Air Quality Strategy
BAT	Best Available Technique(s)
BAT-AEL	BAT Associated Emission Level
BREF	Best Available Techniques (BAT) Reference Documents for Waste Incineration
BAT C	BAT conclusions
CROW	Countryside and rights of way Act 2000
CV	Calorific value
DAA	Directly associated activity – Additional activities necessary to be carried out to allow the principal activity to be carried out
DD	Decision document
EAL	Environmental assessment level
EIAD	Environmental Impact Assessment Directive (85/337/EEC)
ELV	Emission limit value
EMAS	EU Eco Management and Audit Scheme
EMS	Environmental Management System
EPR	Environmental Permitting (England and Wales) Regulations 2016 (SI 2016 No. 1154) as amended
ES	Environmental standard
EWC	European waste catalogue
FGC	Flue gas cleaning
FSA	Food Standards Agency
GWP	Global Warming Potential
HHRAP	Human Health Risk Assessment Protocol
HRA	Human Rights Act 1998
HW	Hazardous waste
HWI	Hazardous waste incinerator
IBA	Incinerator Bottom Ash
IED	Industrial Emissions Directive (2010/75/EU)
I-TEF	Toxic Equivalent Factors set out in Annex VI Part 2 of IED
I-TEQ	Toxic Equivalent Quotient calculated using I-TEF

LCPD	Large Combustion Plant Directive (2001/80/EC) – now superseded by IED
LCV	Lower calorific value – also termed net calorific value
LfD	Landfill Directive (1999/31/EC)
LADPH	Local Authority Director(s) of Public Health
LOI	Loss on Ignition
MBT	Mechanical biological treatment
MSW	Municipal Solid Waste
MWI	Municipal waste incinerator
NO _x	Oxides of nitrogen (NO plus NO ₂ expressed as NO ₂)
OTNOC	Other than normal operating conditions
OMP	Odour Management Plan
PAH	Polycyclic aromatic hydrocarbons
PC	Process Contribution
PCB	Polychlorinated biphenyls
PEC	Predicted Environmental Concentration
PHE	Public Health England
POP(s)	Persistent organic pollutant(s)
PPS	Public participation statement
PR	Public register
PXDD	Poly-halogenated di-benzo-p-dioxins
PXB	Poly-halogenated biphenyls
PXDF	Poly-halogenated di-benzo furans
RDF	Refuse derived fuel
RGS	Regulatory Guidance Series
SAC	Special Area of Conservation
SCR	Selective catalytic reduction
SGN	Sector guidance note
SHPI(s)	Site(s) of High Public Interest
SNCR	Selective non-catalytic reduction
SPA(s)	Special Protection Area(s)
SS	Sewage sludge
SSSI(s)	Site(s) of Special Scientific Interest
SWMA	Specified waste management activity

TDI	Tolerable daily intake
TEF	Toxic Equivalent Factors
TGN	Technical guidance note
TOC	Total Organic Carbon
UHV	Upper heating value –also termed gross calorific value
UKHSA	UK Health Security Agency (Previously Public Health England. PHE)
UN_ECE	United Nations Environmental Commission for Europe
US EPA	United States Environmental Protection Agency
WFD	Waste Framework Directive (2008/98/EC)
WHO	World Health Organisation
WID	Waste Incineration Directive (2000/76/EC) – now superseded by IED

1 Our decision

We have decided to grant the Permit to the Operator. This will allow it to operate the Installation, subject to the conditions in the Permit.

We consider that, in reaching that decision, we have taken into account all relevant considerations and legal requirements and that the permit will ensure that a high level of protection is provided for the environment and human health.

This Application is to vary an installation permit which is subject principally to the Industrial Emissions Directive (IED).

The changes contained within the Permit, when compared to EPR/XP3005LB/V002 are as follows:

1. Addition of EWC waste code 20 03 01 mixed municipal waste Table S2.2 as referred to by Condition 2.3.4 (a) of the Permit.
The amount of this waste to be received at the site would be up and limited to 110,000 tonnes per year, making-up up to 10% of the site's permitted capacity.
2. The addition of an approved Odour Management Plan (OMP) to Table S1.2 as referred to by condition 2.3.1 and 2.3.2 of the Permit.
3. Updating the site's operating techniques to bring in line with site practices, specifically:
 - a. Remove the direct discharge of digestate to the feed hopper. This was referenced as an approved Operating Technique in the permit but is not an activity undertaken on Site
 - b. Reflect that Air Pollution Control Residues (APCR) is now sent off-site for recovery. Previously, the permit approved Operating Techniques referred to APCR being disposed of off-site.

Point 3 above is not associated with any material change to the site practice and did not require any technical assessment. Our assessment, as laid out below, is therefore focussed on points 1 and 2 above.

All other conditions and requirements contained in EPR/XP3005LB/V002 remain the same and in place.

2 How we reached our decision

2.1 Receipt of Application

The Application was duly made on 11/08/2021. This means we considered it was in the correct form and contained sufficient information for us to begin our determination but not that it necessarily contained all the information we would need to complete that determination: see section 2.3 for further information requested.

The Operator made no claim for commercial confidentiality. We have not received any information in relation to the Application that appears to be confidential in relation to any party.

2.2 Consultation on the Application

We carried out consultation on the Application in accordance with the EPR, our statutory PPS and our own internal guidance RGS Note 6 for Determinations involving Sites of High Public Interest. We consider that this process satisfies, and frequently goes beyond the requirements of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, which are directly incorporated into the IED, which applies to the Installation and the Application. We have also taken into account our obligations under the Local Democracy, Economic Development and Construction Act 2009 (particularly Section 23). This requires us, where we consider it appropriate, to take such steps as we consider appropriate to secure the involvement of representatives of interested persons in the exercise of our functions, by providing them with information, consulting them or involving them in any other way. In this case, our consultation already satisfies the Act's requirements.

We advertised the Application by a notice placed on our website, which contained all the information required by the IED, including telling people where and when they could see a copy of the Application. We also placed an advertisement in the Runcorn and Widnes Weekly News and the Liverpool Echo on 23/06/2022.

We made a copy of the Application and all other documents relevant to our determination (see below) available to view from our Public Register. Anyone wishing to see these documents could arrange for copies to be made. Application documents were also available to view on our citizen space website.

We sent copies of the Application to the UK Health Security Agency (UKHSA) as part of our "Working Together Agreement" with them.

Further details along with a summary of consultation comments and our response to the representations we received can be found in Annex 2. We have taken all relevant representations into consideration in reaching our determination.

2.3 Requests for Further Information

Although we were able to consider the Application duly made, we did in fact need more information in order to determine it and issued information notices on 19/08/2022 and 11/11/2022. A copy of each information notice, and the Operator's subsequent response, was placed on our public register.

In addition to our information notices, we received additional information during the determination from the Operator in the form of a further update to

the site's proposed OMP on 19/01/2023. We made a copy of this information available to the public in the same way as the responses to our information notices.

Finally we have consulted on our draft decision from 06/04/2023 to 18/05/2023 in the same manner that we initially consulted on the Application which we describe above.

A summary of the consultation responses and how we have taken into account all relevant representations is shown in Annex 2B.

3 The legal framework

The Permit will be issued under Regulation 20 of the EPR. The Environmental Permitting regime is a legal vehicle which delivers most of the relevant legal requirements for activities falling within its scope. In particular, the regulated facility is:

- an *installation* and a *waste incineration plant* as described by the IED;
- an *operation* covered by the WFD, and
- subject to aspects of other relevant legislation which also have to be addressed.

We address some of the major legal requirements directly where relevant in the body of this document. Other requirements are covered in a section towards the end of this document.

We consider that in granting the Permit, it will ensure that the operation of the Installation complies with all relevant legal requirements and that a high level of protection will be delivered for the environment and human health.

We explain how we have addressed specific statutory requirements more fully in the rest of this document.

4 The Installation

4.1 Description of the Installation and related issues

4.1.1 The Permitted activities

The Installation is subject to the EPR because it carries out an activity listed in Part 1 of Schedule 1 to the EPR:

- Section 5.1 Part A(1)(b) – incineration of non-hazardous waste in a waste incineration plant or waste co-incineration plant with a capacity of 3 tonnes or more per hour.

4.1.2 What the Installation does

The facility consists of four incinerator lines. In total, accounting for expected losses (primarily in the form of moisture, lost from the waste whilst it is stored in the bunker prior to incineration), the four lines incinerate up to 1,040,000 tonnes per year of waste with a design average net calorific value (NCV) of approximately 11 MJ/kg.

The EfW facility has a total capacity of approximately 360 MW (thermal input) and generates approximately 74 MW of electrical power and 64 tonnes (53 MW) of steam per hour. This provides approximately 20% of the energy requirements at the adjacent Runcorn Halochemicals installation and replaces energy that was previously derived from natural gas.

Prior to this variation, waste material burned at the facility is primarily refuse derived fuel (RDF) and digestate produced from the Mechanical and Biological Treatment (MBT) of Municipal Solid Waste (MSW) but it also includes some appropriately treated commercial and industrial (C&I) waste and biomass. All waste material for processing received at the facility is non-hazardous.

The changes that this variation makes to the Permit are listed in section 1 above.

Further detail on the site's location, process and abatement is included in the introductory note within the Permit.

5 Key Issues in the Determination

The key issue of this Application is odour related and we therefore describe how we assessed this issue in most detail in this document. There were other relevant considerations which have been covered by our determination and these are presented in Decision considerations section in Section 7.

5.1 Odour

5.1.1 History of odour related risk on site and scope of our determination

The Operator provided an OMP as part of the determination (v1.0). This OMP has been assessed, with further information requested from the Operator as we have proceeded with our determination.

In our initial determination of the Permit (EPR/EP3731XL/A001 issued 17/05/2011), we accepted that the RDF that was to be received at the site was likely to present a lower odour risk than Municipal Solid Waste (MSW).

The RDF, which itself is predominantly derived from MSW waste, that is received at the site has changed in its characteristics since the original determination. This is as a result of changes to the treatment processes that these wastes are subjected to prior to being received at the site.

These changes have, over time, resulted in the RDF being received at the site being more akin to MSW wastes. These changes have meant that the odour potential of the RDF coming on to site has increased. Despite this, we have not received any substantiated odour complaints arising from the activities being carried out on site.

It is our view that the risk of odour nuisance emanating from the site is not likely to increase as a result of this variation when using the current site practice as a baseline. It is appropriate to use this Application, to add the MSW code to the Permit, as a juncture to review and add to the Permit an assessed OMP. The addition of this plan will provide us with a formal framework from which we can assess compliance and from which to identify any necessary improvements should odour issues be substantiated in the future.

The assessment of the OMP has focussed on wastes coming to site by road. MSW wastes will not come to site by rail. Only RDF will come to site by rail, which is the current site practice.

5.1.2 Odour Best Available Technique

Within the relevant BAT conclusions for the Installation, there are odour specific measures that the Operator needs to adhere to in order to be compliant. Specifically, the odour related BAT conclusion (BAT 21) is as follows:

- *Store solid and pasty wastes that are odorous and/or prone to releasing volatile substances in enclosed buildings under controlled subatmospheric pressure and use the extracted air as combustion air for incineration or send it to another suitable abatement system in the case of a risk of explosion*
- *Store liquid wastes in tanks under appropriate controlled pressure and duct the tank vents to the combustion air feed to another suitable abatement system*
- *Control the risk of odour during complete shutdown periods when no incineration capacity is available, e.g. by:*
 - *Sending the vented or extracted air to an alternative abatement system, e.g. a wet scrubber, a fixed adsorption bed;*
 - *Minimising the amount of waste in storage, e.g. by interrupting, reducing or transferring waste deliveries, as part of waste stream management (see BAT 9)*
 - *Storing waste in properly sealed bales.*

In relation paragraph 1 above, the requirement for odorous wastes to be stored in enclosed buildings under subatmospheric pressure, we determine the arrangements on site to be BAT. The installation's tipping hall will be kept under negative pressure. The OMP details the events under which the tipping hall doors will be open and the controls in place to ensure that this is no more than operationally necessary.

In relation to the second paragraphs of BAT 21, liquid wastes will not be accepted

In relation to the third paragraph of BAT 21, we consider that it is unlikely that there will be a complete shutdown period occurring as a result of the fact that the installation has 4 separate lines. However, within their OMP, the Operator has stated in the event of shutdown of incineration activities, waste deliveries will not be received at the site thus meeting the requirements of BAT 21.

In terms of wastes waiting to be transferred to the reception hall (from rail and road containers), we do not consider this to be defined as storage of waste as intended by BAT 21, therefore paragraph 1 of BAT 21 does not apply to these wastes until they have entered the tipping hall. It is therefore appropriate for us to ensure that appropriate measures are in place in order to prevent and mitigate odour risk from wastes waiting to enter the tipping hall.

5.1.3 Odour Modelling and Impact Assessment

The Operator provided odour modelling which informed the conclusions of an Odour Impact Assessment (OIA) which was submitted as part of the original application, with a revision of the OIA submitted on 26/09/2022 and a technical memorandum of the odour modelling provided in response to a change in the proposed queuing location of waste lorries waiting to access the tipping hall submitted on 25/11/2022. The odour modelling concluded that no sensitive receptors will be subject to 'unacceptable odour pollution'.

The odour modelling was reviewed by our air quality specialists. It is our view that the uncertainties inherent within the odour modelling are likely to be too high to use it as a basis to rule out significant impacts. We concluded that the modelling should not be used as the only basis of our decision making and focus should be towards preventing and minimising odour emissions rather than undertaking a quantitative impact assessment.

The assessment of the measures in place on site, in terms of effective management of odour risk, has been based on the practical onsite measures that have been presented in the OMP.

5.1.5 Development of the OMP and our decision making

The Operator submitted an OMP (v1.0) with their Application which was Duly Made on 11/08/2021.

Version v2.5 of the OMP was submitted to us on 19/01/2023. This is the version which we have used to make our decision on this Application.

5.1.4 Key measures within the OMP

The Operator has presented a number of measures within their OMP which we determine are likely to mitigate odour risk arising from the installation.

As detailed above in section 5.1.1, our assessment has focussed on wastes coming to site by road. MSW wastes will not come to site by rail. Only RDF will come to site by rail, which is the current site practice.

A summary of the key measures presented in the OMP is provided below. These measures are in addition to the BAT measures in place that are detailed in section 5.1.2 and make up the key appropriate measures that will be in place on site:

- MSW wastes will be held on site, prior to entering the tipping hall, typically for 0.5 to 1.5 hours. The maximum time that wastes coming to site by road will be held outside of the tipping hall is 6 hours. This maximum retention time will only come about during operational issues being experienced at the site. Lorries will be removed from the site prior to the 6 hour limit being reached if the affecting operational issues cannot be remedied within this time.

- The locations where lorries will queue for the tipping hall will be on the tipping hall ramp and approach (Location A in the OMP v2.5) and within what is known as the Flue Gas Treatment (FGT) area (FGT) (detailed in the OMP v2.5.). In terms of odour risk, these areas are considered by us to either mirror the current site practice (Location A) or present a lower odour risk as a result of being located further away from sensitive receptors (FGT area).
- If the number of lorries are queuing on site reaches 14, customers will be notified and the flow of traffic coming to site would be managed to ensure that a maximum of 19 lorries are present on site during normal operations (7 on the tipping hall ramp, 4 at location A and 8 in the FGT area).
- Highly odorous loads, as identified by the Fuel Reception Operators bypass the queue upon arrival. If these loads cannot enter the tipping hall immediately, they will be rejected.
- An escalation process is in place whereby if hauliers are not keeping a good standard of cleanliness of their lorries, this may result in the haulier no longer being able to tip at the site.
- Use of the vehicular access door will be minimised and remain closed, outside of delivery times, except in exceptional circumstances such as damage to the door, necessary maintenance or when need for pedestrian access as a result of the pedestrian door being broken.
- There is a complaints process in place which details the steps the Operator will go through to identify, remedy and prevent odour issues arising on site.
- The Operator laid out how they will engage with the local community.
- The operator also laid out what potential abnormal events may arise which could affect odour emissions and the recovery steps that will be put in place in order to remedy these events.

Full details of the measures that will be used to prevent odour nuisance are included in the site OMP v2.5 which is included on the public register. All commitments made within the OMP are binding and form part of the Operator's legal Permit obligations. We are satisfied that the appropriate measures will be in place to prevent odour and where that is not practicable to minimise odour and to prevent pollution from odour.

6 Operation of the Installation – general issues

6.1 Environmental 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 approved OMP will form part of the site's Environmental Management System.

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

6.2 Operating techniques

We have specified that the Operator must operate the Installation in accordance with the following documents in addition to those already specified in table S1.2 of the Permit:

Description	Parts Included	Justification
Approved version of the site's Odour Management Plan (v2.5 dated 03/01/2023, received 19/01/2023)	All parts	This plan captures the measures in place to prevent and minimise odour pollution from the installation.

The details set out above describe the techniques that will be used for the operation of the Installation that have been assessed by the Environment Agency as BAT; they form part of the Permit through Permit condition 2.3.1 and Table S1.2 in the Permit Schedules.

We are satisfied that the Operator can accept the waste code added to Table S2.2 of the Permit because:

- (i) it is categorised as municipal waste in the European Waste Catalogue;
- (ii) the waste is likely to be within the design calorific value (CV) range for the plant;
- (iii) the waste is unlikely to contain harmful components that cannot be safely processed at the Installation.

No changes to the limited capacity of the Installation have been applied for or made to the Permit. The site was, and is, permitted to process to 1,100,000 tonnes of non-hazardous waste per annum.

The Installation is designed and constructed and continues to be operated using BAT for the incineration of the permitted wastes. We are satisfied that the operating and abatement techniques are BAT for incinerating these types of waste. Our assessment of BAT, in relation to odour, is set out in section 5.1.2. All other BAT requirements remain in place and are not affected by the nature of this variation.

7 Decision considerations

The section below describes what has been considered as part of our assessment, in addition to the key issues section above.

It is important to note that we have not revisited previous decisions made at initial Permit issue or subsequent variations on matters where we have determined that the risk associated with these matters is unlikely to have increased as a result of the Application made by the Operator as we are satisfied our previous assessments remain valid.

7.2 Odour management

We have reviewed the OMP 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 information available to us at the current time. The Operator 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 Operator 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 table (S1.2) of the Permit.

Further detail on the assessment of odour risk associated with the variation is included in Section 5 of this document.

7.3 Noise and vibration management

The implementation of the measures within the OMP will mean that there is likely to be a reduction in the number of lorries queuing along the Road on the entrance to the site. This will mean that lorries queuing for the reception hall will wait within the site boundary and therefore within the regulatory control of the Environment Agency.

The waiting locations will be on the tipping hall ramp, on the approach to the tipping hall (Location A) and proximal to the FGT area (see figure 3.2 of OMP version 2.5). Current site practice is for lorries to be queuing for the tipping hall on the tipping hall ramp and in Location A. With lorries queuing in Location A there have not been any substantiated noise complaints associated with this queueing. The FGT queueing area is located within the heart of the site, with a greater distance from sensitive receptors when

compared to lorries queuing at Location A. We have decided, therefore, that it is likely that the formalisation of these queuing locations will not lead to increased noise nuisance risk. The variation application states that approximately 60% of the waste being received at the site comes by road and the rest by rail. This mix is not proposed to be changed as a result of this variation.

We determine that the noise risk profile of the site as a result of this variation is not likely to change when using current site practices as a baseline. There have been no substantiated noise complaints with the current site practices, related to on-site vehicle movements, in place.

7.4 Pest Management

A pest management plan has not been requested as part of this assessment.

We consider that there is not an increase in risk of pest nuisance as a result of the proposals made by the operator, therefore a pest management plan has not been requested.

As described in the odour key issues section above, the waste code being added to the Permit is not dis-similar to that already being received at the installation.

We have not received any substantiated complaints or made any observations through our site inspections which suggest that there is a pest problem at the site.

7.5 Fire prevention

A Fire Prevention Plan for the installation was added to the operating techniques of the Permit by variation number EPR/RP3638CG/V005.

We consider that there is not an increase in fire risk as a result of the proposals made by the operator, therefore an update to the site's fire prevention plan has not been requested.

The waste code to be added to the Permit does not present an increased risk of fire due to its properties not being dis-similar to the RDF wastes already being received at the site and there is not an increase in volume of wastes being stored within the waste bunker.

There are no other changes to how wastes come to site, are stored or handled on site proposed by this variation.

7.6 Dust management

A dust management plan has not been requested as part of this assessment.

As described in the odour key issues section above, there will not be any increase in the number of lorries coming to site. The locations of where the lorries will stand waiting for access to the tipping hall and where they will move around site are either the same as current practice (location A) or further away from sensitive receptors (FGT area).

We have not received any substantiated complaints or made any observations through our site inspections which suggest that there is a dust problem at the site.

7.7 Emission limits, Air Quality and Human Health

No emission limits have been added, amended or deleted as a result of this variation.

The air quality and human health impacts arising from the incinerator have previously been assessed as part of initial determination (EPR/EP3731XL/A001) issued on 17/05/11 and variation EPR/RP3638CG/V005 issued on 18/03/2019 and have not been re-visited by this determination.

Emission Limit Values in line with the requirements of the latest Energy from Waste sector BAT conclusions were added to the Permit by EPR/XP3005LB/V002 issued on 14/03/2023

7.8 Emissions to water

No changes to emissions to water will come about as a result of this variation.

7.9 Monitoring

No changes to the monitoring requirements previously placed on the site have been made as a result of this variation.

7.10 Reporting

No changes to the reporting requirements previously placed on the site have been made as a result of this variation.

8 Other legal requirements

In this section we explain how we have addressed other legal requirements, to the extent that they are relevant to the limited nature of the variation and we have not addressed them elsewhere in this document.

8.1 The EPR 2016 and related Directives

The EPR delivers the requirements of a number of European and national laws.

8.1.1 Schedule 9 to the EPR 2016 – Waste Framework Directive

Compliance with this schedule has been addressed and ensured through previous assessment, but in relation to this variation we have considered Article 13 and Article 21(1).

Article 13 relates to the protection of human health and the environment. These objectives are addressed elsewhere in this document.

Article 23(1) requires the Permit to specify:

- the types and quantities of waste that may be treated;
- for each type of operation permitted, the technical and any other requirements relevant to the site concerned;
- the safety and precautionary measures to be taken;
- the method to be used for each type of operation;
- such monitoring and control operations as may be necessary;
- such closure and after-care provisions as may be necessary.

These are all covered by permit conditions.

8.1.2 Directive 2003/35/EC – The Public Participation Directive

Regulation 60 of the EPR 2016 requires the Environment Agency to prepare and publish a statement of its policies for complying with its public participation duties. We have published our public participation statement.

This Application has been consulted upon in line with this statement, as well as with our guidance RGS6 on Sites of High Public Interest, which addresses specifically extended consultation arrangements for determinations where public interest is particularly high. This satisfies the requirements of the Public Participation Directive.

Our decision in this case has been reached following a programme of extended public consultation, both on the original application and later, separately, on the draft Permit and a draft decision document. The way in which this has been done is set out in Section 2.2. A summary of the

responses received to our consultations and our consideration of them is set out in Annex 2.

8.2 National primary legislation

8.2.1 **Environment Act 1995**

(i) Section 4 (Pursuit of Sustainable Development)

We are required to contribute towards achieving sustainable development, as considered appropriate by Ministers and set out in guidance issued to us. The Secretary of State for Environment, Food and Rural Affairs has issued *The Environment Agency's Objectives and Contribution to Sustainable Development: Statutory Guidance (December 2002)*. This document:

“provides guidance to the Agency on such matters as the formulation of approaches that the Agency should take to its work, decisions about priorities for the Agency and the allocation of resources. It is not directly applicable to individual regulatory decisions of the Agency”.

In respect of regulation of industrial pollution through the EPR, the Guidance refers in particular to the objective of setting permit conditions *“in a consistent and proportionate fashion based on Best Available Techniques and taking into account all relevant matters...”*. The Environment Agency considers that it has pursued the objectives set out in the Government's guidance, where relevant, and that there are no additional conditions that should be included in this Permit to take account of the Section 4 duty.

(ii) Section 5 (Preventing or Minimising Effects of Pollution of the Environment)

We are satisfied that our pollution control powers have been exercised for the purpose of preventing or minimising, remedying or mitigating the effects of pollution.

(vi) Section 39 (Costs and Benefits)

We have a duty to take into account the likely costs and benefits of our decisions on the applications ('costs' being defined as including costs to the environment as well as any person). This duty, however, does not affect our obligation to discharge any duties imposed upon us in other legislative provisions.

In so far as relevant we consider that the costs that the Permit may impose on the operator are reasonable and proportionate in terms of the benefits it provides.

8.2.2 Section 108 Deregulation Act 2015 – 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.

8.2.3 Human Rights Act 1998

We have considered potential interference with rights addressed by the European Convention on Human Rights in reaching our decision and consider that our decision is compatible with our duties under the Human Rights Act 1998. In particular, we have considered the right to life (Article 2), the right to a fair trial (Article 6), the right to respect for private and family life (Article 8) and the right to protection of property (Article 1, First Protocol). We do not believe that Convention rights are engaged in relation to this determination.

8.3 Other relevant legal requirements

8.3.1 Duty to Involve

S23 of the Local Democracy, Economic Development and Construction Act 2009 require us where we consider it appropriate to take such steps as we consider appropriate to secure the involvement of interested persons in the exercise of our functions by providing them with information, consulting them or involving them in any other way. S24 requires us to have regard to any Secretary of State guidance as to how we should do that.

The way in which the Environment Agency has consulted with the public and other interested parties is set out in section 2.2 of this document. The way in which we have taken account of the representations we have received is set out in Annex 2. Our public consultation duties are also set out in the EP Regulations, and our statutory Public Participation Statement, which

implement the requirements of the Public Participation Directive. In addition to meeting our consultation responsibilities, we have also taken account of our guidance in Environment Agency Guidance Note RGS6 and the Environment Agency's Building Trust with Communities toolkit.

ANNEX 1A: APPLICATION OF CHAPTER IV OF THE INDUSTRIAL EMISSIONS DIRECTIVE

Where specific IED articles have not been affected by the scope of this variation, they have not been added to the table below.

IED Article	Requirement	Delivered by
45(1)(a)	The Permit shall include a list of all types of waste which may be treated using at least the types of waste set out in the European Waste List established by Decision 2000/532/EC, if possible, and containing information on the quantity of each type of waste, where appropriate.	Condition 2.3.4(a) and Table S2.2 in Schedule 2 of the Permit.
52(1)	Take all necessary precautions concerning delivery and reception of Wastes, to prevent or minimise pollution.	Conditions 2.3.1, 2.3.3, 3.3, 3.4, 3.5 and 3.7.
52(2)	Determine the mass of each category of wastes, if possible according to the EWC, prior to accepting the waste.	Condition 2.3.4(a) and Table S2.2 in Schedule 2 of the Permit.
55(1)	Application, decision and Permit to be publicly available.	All documents are accessible from the Environment Agency Public Register.

ANNEX 1B: COMPLIANCE WITH BAT CONCLUSIONS

BAT 21 has been taken into consideration for this variation

No other BAT conclusions are affected by this variation. All other BAT conclusions have been recently assessed by variation EPR/XP3005LB/V002.

21	Measures to prevent or reduce diffuse emissions including odour	Measures described in the Application. Permit conditions 2.3.1, table S1.2, 3.3.1, 3.3.2, 3.4.1 Sections 5 and 7 of this decision document.
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ANNEX 2: Consultation Responses

A) Advertising and Consultation on the Application

The Application has been advertised and consulted upon in accordance with the Environment Agency's Public Participation Statement. The way in which this has been carried out along with the results of our consultation and how we have taken consultation responses into account in reaching our decision is summarised in this Annex. Copies of all consultation responses have been placed on the Environment Agency public register.

The Application was advertised on the Environment Agency website from 23/06/2022 to 04/08/2022 and in the Runcorn and Widnes Weekly News and the Liverpool Echo on 23/06/2022. The Application was made available to view from the Environment Public Register. Application documents were also available to view on our citizen space website.

We sent notification of the Application to the UK Health Security Agency (UKHSA) as part of our "Working Together Agreement" with them.

1) Consultation Responses from Statutory and Non-Statutory Bodies

Response Received from UKHSA	
Brief summary of issues raised:	Summary of action taken / how this has been covered
Based on the information contained in the application supplied, UKHSA has no significant concerns regarding the risk to the health of the local population from the installation.	No specific actions taken.

2) Consultation Responses from Members of the Public and Community Organisations

The consultation responses received were wide ranging and a number of the issues raised were outside the Environment Agency's remit in reaching its permitting decisions. Specifically questions were raised which fall within the jurisdiction of the planning system, both on the development of planning policy and the grant of planning permission.

Guidance on the interaction between planning and pollution control is given in the National Planning Policy Framework. It says that the planning and pollution control systems are separate but complementary. We are only able to take into account those issues, which fall within the scope of the Environmental Permitting Regulations.

a) Representations from Local MP

Representations were received from the MP local to the installation (Derek Twigg), who raised the following issues.

- The MP has received numerous complaints about the facility since becoming operational
- It was raised that a number of the MP's constituents had raised concerns about the addition of the MSW waste code to the Permit
- The latest application is a proposed change to the original restrictions the Secretary of State imposed on the type and volume of waste proposed by this plant and there have been a number changes over the years since it commenced operations.

Our response

Our decision focusses on only the changes applied for, rather than revisit previous decisions. See Section 7 for more on our approach regarding this. This variation does not seek to increase the volume of waste received at the site. We have assessed the Application and we are satisfied that the appropriate measures will be in place to prevent and, where that is not practicable, to minimise pollution and nuisance.

b) Representations from Community and Other Organisations

Representations were received from Warrington and Halton Green Party, a number of these issues are the same as those raised by the Local MP / Councillors/ Town Council. Of the additional issues raised,

1. Concerns that MSW waste will cause greater pollution than RDF.
2. Concerns That the application will increase the waste tonnage being received at the site
3. Concerns that road traffic will increase as a result of the variation

Our response to point 1 is covered in section 7.7 above. In response to point 2, there is no proposed increase to the amount of waste that will received at the site. Our response to point 1 is covered in section 7.3 above.

c) Representations from Individual Members of the Public

A total of 81 responses were received from individual members of the public.

Brief summary of issues raised	Summary of action taken / how this has been covered
Comments about odour	
It has been raised by members of the public that in the original application for the facility, it was stated that the RDF was low in	In the original application, the operator presented that the RDF to be received at the site offers a lower odour potential than

odour as it would have been subjected to treatment.

There is concern that the new waste code is more odorous than waste currently received at the site and that there are already odour issues associated with the site, with the addition of the new waste code likely to make these issues worse.

MSW.

This was accepted by us and informed our decision making and no OMP was required initially.

The type of waste that is classified as RDF and is permitted to be received at the site is likely to have altered in its characteristics gradually due to changes in how the RDF is now treated at the facilities supplying Runcorn ERF when compared to the first few years of operation.

This gradual change in RDF characteristics has not resulted in odour pollution being substantiated from the site by EA officers.

The RDF wastes currently received at the site are more akin to a MSW type waste.

To date there have been no substantiated odour issues arising from the site's operation, however the Environment Agency are aware of the site's sensitive location and local concerns regarding odour.

An odour management plan has been submitted as part of this determination. This plan formalises the existing site practices and develops them.

The odour management plan has been assessed by us, and the plan has been further developed by the operator as determination has progressed.

The introduction of a formal plan to be contained within the Permit, enables us to check compliance against committed-to odour control measures and provides a working document from which to work with the operator to identify where improvements could be made if issues arise.

	Further detail on odour is provided in the key issues section of this document.
Concern that the operator will not comply with the Odour Management Plan, including waste acceptance controls, and that previous OMPs have not been complied with.	<p>Based on past experience, we are satisfied that the operator is competent and consider that they will comply with the permit as varied.</p> <p>Prior to this variation, the site has not had an odour management plan in place.</p> <p>The introduction of a formal plan to be contained within the Permit, enables us to check compliance against committed-to odour control measures and provides a working document from which to work with the operator to identify where improvements could be made if issues arise.</p> <p>Regular scheduled and unscheduled site inspections will be carried out by the Environment Agency to ensure compliance to the odour management plan and all other previously committed-to controls that are in place, and to work with the operator to identify if there are any inadequacies in the plan</p> <p>Further detail on odour is provided in the key issues section of this document.</p>
Concern about how the odour modelling has been carried out	See section 5.1.3 of this decision document
Comments on changes to permitted tonnage	
Concerns that there will be impacts resulting from an increase in waste tonnage to be received by the site.	<p>This is not affected by the scope of this variation.</p> <p>There will not be an increase in waste tonnage as a result of this variation.</p>
Comments about air emissions	
Concern that air quality will be negatively affected by the addition of the new waste code, with associated health impacts	<p>This is not affected by the scope of this variation.</p> <p>The facility will have to comply with the same emission limits that are already in place in the Permit. The operator has</p>

	<p>demonstrated through ongoing compliance that the plant can meet the existing obligations. The type of waste that will be received at the site under the additional waste code is materially similar to that already received at the site.</p> <p>The technology in place at the site is appropriate for the incineration of MSW and for ensuring that emissions from the site remain within permitted limits.</p>
Concern that items such as batteries will be burned	<p>The Permit does not allow waste batteries to be received.</p> <p>Batteries are sometimes present in small quantities in household waste and so could be burned if received at the incinerator under the municipal waste code. However, they are likely to be small in number and will not affect emissions significantly. Bag filters and activated carbon will limit emissions of particulate phase metals and mercury. ELVs for metals apply as set out in table S3.1 of the Permit.</p>
Concern of the impact that the addition of the new waste will have on visible plume	<p>This is not affected by the scope of this variation.</p> <p>The type of waste that will be received at the site under the additional waste code is materially similar to that already received at the site.</p> <p>The addition of the new waste code will not have any impact on any visible plume from the site</p>
Comments about noise impacts	
Concerns that there will be noise nuisance emanating from the site as a result of the addition of the new waste code and associated vehicle movements on site.	There is not an increased noise risk as a result of the variation. See section 7.3 for further details.
Comments on pest impacts	

Concerns that there will be bird, vermin or pest impacts as a result of the variation.	There is not an increased bird, vermin or pest risk as a result of the variation. See section 7.4 for further details.
Comments on transport to site	
Concerns that road traffic attending site will cause increased traffic with associated noise and odour issues	<p>The use of the highway is not within the Environment Agency's remit.</p> <p>These considerations fall under Planning Regulations.</p> <p>We are responsible for emissions from the site, however, our understanding is that there is unlikely to be any increase in overall lorry movements as a result of the variation.</p>
Comments on the engagement process	
Concern that the consultation was not adequate.	We are satisfied that we took appropriate steps to inform people of the Application and how they could comment on it. Further details are in section 2.
Comments regarding regulation	
<p>Concerns that the site is not being regulated properly /</p> <p>Concern over number of visits/inspections that the EA will carry out</p>	<p>We are satisfied the site is being regulated appropriately and effectively and we will continue to do this by continual assessment. And in the following ways:</p> <p>The operator must monitor emissions and report the results to us.</p> <p>We will regularly inspect the Installations (both announced and unannounced at a frequency that we consider appropriate), review monitoring techniques and assess monitoring results to measure the performance of the plant.</p> <p>We will carry out on-site audits of operator monitoring.</p> <p>The operator must inform us within 24 hours of any breach of the emission limits, followed by a fuller report of the size of the release, its impact and how they propose to avoid this happening in the future.</p>

	<p>The operator's monitoring results are placed on the public register;</p> <p>Depending on the seriousness of any breach, we will take appropriate enforcement action and/or prosecute.</p>
General Comments	
Concern that not all sensitive receptors have been taken into consideration.	<p>The operator presented a list of sensitive receptors as part of their application.</p> <p>Whilst not all sensitive receptors were listed in the Odour Management Plan we consider that the receptors presented provide an appropriate geographical spread upon which to base the assessment.</p>
Comments regarding ecological receptors	
Concern that ecological receptors will be negatively affected by the variation	<p>This is not affected by the scope of this variation.</p> <p>Emissions from the site which have the potential to affect ecological receptors will not change as a result of the variation</p>
Comments on water quality	
Concerns that the addition of the waste code will have negative impacts on local water quality.	<p>There are no proposed changes to any emissions to the water environment as a result of this variation. All previously assessed Limits and Monitoring remain in place.</p>
Comments on fire hazard	
Concerns raised that there will be increased fire risk as a result of the addition of the new waste code	<p>Our view is that there will not be an increased fire risk. See section 7.5 for further details.</p>
Comments on waste hierarchy	
Waste should be recycled rather than incinerated.	<p>The obligation is on waste producers to apply the waste hierarchy and for local authorities to have their own waste strategy dealing with kerbside collections. Our role in this determination is to assess whether any residual waste that may be sent for incineration can be dealt with in</p>

	<p>an environmentally acceptable manner. In addition to this we have already set permit condition 2.3.4 (c) that does not allow separately collected fractions to be incinerated unless they are unsuitable for recycling.</p>
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B) Advertising and Consultation on the Draft Decision

This section reports on the outcome of the public consultation on our draft decision carried out between 06/04/2023 and 18/05/2023.

In some cases the issues raised in the consultation were the same as those raised previously and already reported in section A of this Annex and so have not been repeated in this section.

Also some of the consultation responses received were on matters which are outside the scope of the Environment Agency's powers under the Environmental Permitting Regulations. Our position on these matters is as described previously.

Representations from Local MP, Assembly Member (AM), Councillors and Parish / Town / Community Councils

Representations were received from *Councillor John Bradshaw*, who raised the following issues:

- The councillor did not make specific comments on the minded-to decision but asked questions which were answered directly by the Environment Agency site inspector. Specifically it was asked:
 - whether the Mixed Household Waste that may be handled will be subject to any prior sorting before Incineration? and;
 - Will there be any limits to amount/weight that would be authorised?

The MSW waste will not necessarily be sorted prior to receipt at the site. As mentioned above, we have already set permit condition 2.3.4 (c) that does not allow separately collected fractions to be incinerated unless they are unsuitable for recycling.

MSW will be limited to 10% of the total waste permitted to be received at the site i.e. 110,000 tonnes per annum

a) Representations from Individual Members of the Public

A total of 23 responses were received from individual members of the public. These raised many of the same issues as previously addressed. Only those issues additional to those already considered are listed below:

Brief summary of issues raised	Summary of action taken / how this has been covered
Comments on proximity of site to point of waste production	
<p>The site is not adhering to the 'Proximity Principle'</p>	<p>The Permit does not control where the waste comes from because that falls outside the scope of this permit determination.</p> <p>Waste types are specified in table S2.2 of the Permit. We are satisfied that these wastes are suitable for burning at the Installation, further details are in section 6.2 of this decision document. We are satisfied that the operating techniques will ensure that emission limits can be met, the emission limits apply at all times whatever wastes are being burned.</p>