

# 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 Isfield Composting Site operated by KPS Composting Services Limited, as a result of an application made by the Operator.

The Permit number is EPR/EP3595HY

The Variation notice number is EPR/EP3595HYV005

## 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 KPS Composting Services Limited: we call KPS Composting Services Limited “the **Operator**” in this document. We refer to KPS Composting Services Limited’s Isfield Composting Site as “the **Installation**”.

The Application was duly made on 19 March 2015.

## 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 05/12/01, 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 05/12/01 under the Environmental Protection Act 1990 and regulated under the Waste Management Licensing Regulations 1994.

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 Best Available Techniques (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 BAT. 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 notes are currently being reviewed and a final issue date is anticipated in 2016. Under the IED, all permits will be subject to review within four years of the publication of revised BREF notes. This means that we will need to do a further review against any new standards in the BREF notes 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 adoption of the IED, the Environment Agency has engaged in a range of briefings and communications with the waste industry sector to raise awareness of the implications of the Directive and the need to ensure their facilities are correctly regulated (particularly after the implementation date of 7 July 2015 for newly prescribed activities).

Early in 2014, the Environment Agency provided further briefings to industry trade bodies and wrote to operators we believed may be implicated by these changes. We provided detailed information sheets that described the implications and the process operators should follow if they decided 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 of the facility with the exception of the "newly prescribed 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 for the Operator to formally 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 [ecological impact assessment, waste types, secondary containment etc.] 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 05/12/01 and subsequently varied on 30/01/04, 08/01/08 and 09/02/10. We have reviewed the documentation submitted in support of the original permit and subsequent variation application(s) in this determination. We are not satisfied that the standard of protection was assessed using appropriate measures. We have determined this Application as a normal variation. As the Variation will not have any negative effects on the environment, it is not a substantial variation and so does not require consulting on.

## 4 Key issues in the determination

This variation implements the changes brought about by the IED for “existing facilities operating newly prescribed activities” and completes the transition of this facility from a waste operation to an IED Installation.

The operator provided a risk assessment and BAT assessment for the operation of the Etwall composting facility as part of a supporting statement and associated appendices.

This included an assessment of operations against the following Technical Guidance Notes:

- IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste;
- H3 – Noise assessment and control;
- H4 – Odour Management

The assessment included consideration of the following:

- pre-acceptance of waste
- acceptance of waste
- storage and handling of waste
- process (treatment) description
- fugitive emissions to air
- fugitive emissions to surface and groundwater (secondary containment, site drainage plan)
- odour management
- point source emissions to air, water or land (where relevant)
- monitoring
- accidents

Whilst the assessment provides evidence that BAT is applied to the operation of the facility, it is not considered that this is currently reflected in written procedures for operation of the facility. Therefore an Improvement Condition has been specified in the Variation for the operator to review and amend written procedures in accordance with relevant BAT standards. The procedures must contain dates for implementation of individual measures. In addition, all biowaste treatment sites are required to have an approved Odour Management Plan in place for the facility. Therefore an Improvement Condition has been included for the operator to produce and submit for approval an Odour Management Plan.

## 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
<b>Consultation</b>		
Responses to web publicising	No public responses were received in response to the web publicising of the application.	✓
<b>Operator</b>		
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.	✓
<b>The facility</b>		
The regulated facility	<p>The extent/nature of the facilities taking place at the site required clarification.</p> <p>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:</p> <p><u>Listed activity:</u></p> <ul style="list-style-type: none"> <li>• 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.</li> </ul> <p><u>Directly associated activities:</u></p> <ul style="list-style-type: none"> <li>• Storage of waste pending recovery or disposal</li> <li>• Physical treatment for the purpose of recycling</li> <li>• Raw material storage</li> <li>• Compost storage</li> <li>• Process water collection and storage</li> <li>• Surface water collection and storage</li> </ul> <p>There are no remaining waste activities forming part of this facility</p>	✓
<b>European Directives</b>		
Applicable Directives	All applicable European Directives have been considered in the determination of the application.	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
<b>The site</b>		
Extent of the site of the facility	The operator has provided a plan which we consider is 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.	✓
Biodiversity, Heritage, Landscape and Nature Conservation	<p>The application is within the relevant distance criteria of a site of heritage, landscape or nature conservation, and/or protected species or habitat .</p> <p>A full assessment of the potential to affect the sites has been previously conducted as part of the permitting process. The assessment concluded that site operations would not adversely affect the SSSI. No changes to site operations are proposed as part of this variation, therefore we consider that the application will not affect the features of the SSSI.</p> <p>We have not formally consulted on the application. The decision was taken in accordance with our guidance.</p>	✓
<b>Environmental Risk Assessment and operating techniques</b>		
Environmental risk	<p>We have reviewed the operator's assessment of the environmental risk from the facility.</p> <p>The operator's risk assessment is satisfactory.</p>	✓
Operating techniques	<p>We have reviewed the techniques used by the operator and compared these with the relevant guidance notes –</p> <ul style="list-style-type: none"> <li>• IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste;</li> <li>• H3 – Noise assessment and control;</li> <li>• H4 – Odour Management</li> </ul> <p>The proposed techniques/emission levels for priorities for control are in line with the benchmark levels contained in the above technical guidance notes and we consider them to represent appropriate techniques for the facility.</p> <p>We consider that the operating techniques do not meet the technical standards specified in IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste. We consider that there are omissions in the supporting documents. We have therefore included an improvement condition in the notice which requires a review of the site's operating techniques within 6 months.</p> <p>In addition, an Improvement Condition has been including requiring the operator to provide and submit for approval an Odour Management Plan produced in accordance with IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste and H4 – Odour Management.</p>	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
<b>The permit conditions</b>		
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).	✓
Raw materials	We have specified limits and controls on the use of raw materials and fuels.	✓
Waste types	No changes to Waste types	✓
Improvement conditions	<p>Based on the information on the application, we consider that we need to impose improvement conditions.</p> <p>We have imposed improvement conditions to ensure that:</p> <ul style="list-style-type: none"> <li>➤ the site's operating techniques/management system/plans are reviewed and updated against the standards specified in the technical guidance note(s): <ul style="list-style-type: none"> <li>• IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste;</li> <li>• H4 – Odour Management</li> </ul> </li> <li>➤ the appropriate measures are in place to prevent pollution from odour.</li> </ul> <p>See Key Issues section of the decision document.</p>	✓
Incorporating the application	We have specified that the operator 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	<p>We have decided that emission limits should be set for the parameters listed in the permit.</p> <p>The following bioaerosols (Total bacteria and <i>Aspergillus Fumigatus</i>) have been identified as being emitted in significant quantities and ELVs and/or equivalent parameters or technical measures based on BAT have been set for these substances and others.</p>	✓
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></p>	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	which is considered the most appropriate TGN for this activity.	
Reporting	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> .	✓
<b>Operator Competence</b>		
Environment Management System	There is no known reason to consider that the operator will not have the management systems to enable it to comply with the permit conditions. The decision was taken in accordance with RGN 5 on Operator Competence.	✓
Technical competence	Technical competency is required for activities permitted. The operator is a member of an agreed scheme.	✓
Relevant Convictions	The National Enforcement Database has been checked to ensure that all relevant convictions have been declared. No relevant convictions were found. The operator satisfies the criteria in RGN 5 on Operator Competence.	✓
Financial provision	There is no known reason to consider that the operator will not be financially able to comply with the permit conditions. The decision was taken in accordance with RGN 5 on Operator Competence.	✓