

# Permitting decisions

## Variation

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We have decided to grant the variation for Elstree Hill South operated by Reviva Composting Limited. The variation number is EPR/FP3699LC/V002.

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:

- highlights [key issues](#) in the determination
- summarises the decision making process in the [decision checklist](#) to show how all relevant factors have been taken into account
- 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 and the variation notice. The introductory note summarises what the variation covers.

### 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**”.

In this document, we refer to Reviva Composting Limited as “the **Operator**” and their Elstree Hill South as “the **Installation**”.

The Application was duly made on 17/10/2014.

## **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

# Key issues of the decision

## 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 02/02/2011, 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 02/02/2011 and regulated under the Environmental Permitting Regulations 2007 [now 2010].

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 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 02/02/2011. We are satisfied that the standard of protection was assessed using appropriate measures available at the time of the original application. We have determined this variation as an administrative variation.

## **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.

Operating techniques were defined in Schedule 1 Table S1.2 to the original Permit. These operating techniques have been included in the Variation.

In addition to the above, an improvement condition requiring the operator to review and update their management system/plans against the appropriate technical guidance for their activities was added.

A Fire Prevention Plan has been requested through an improvement condition in which the Operator must outline what measures have been designed to minimise the likelihood of a fire happening, minimise the length of time taken to extinguish the fire and minimise the spread of fire within the site and to neighbouring area.

An improvement condition has been included to review and submit to the Environment Agency for approval an Odour Management Plan. This plan must contain dates for the implementation of individual measures. The operator shall implement the plan as approved.

We have also set an improvement condition (IC4) to ensure that a quantitative impact assessment (dispersion modelling) of emissions of bioaerosols (total bacteria and *Aspergillus fumigatus*) from the biofilter open bed is undertaken in accordance with the Environment Agency technical guidance M9 to enable emission limits to be set (if appropriate).

## Decision checklist

Aspect considered	Decision
<b>Receipt of application</b>	
Confidential information	A claim for commercial or industrial confidentiality has not been made.
<b>Consultation</b>	
Consultation	<p>The consultation requirements were identified in accordance with the Environmental Permitting Regulations and our public participation statement.</p> <p>The application was publicised on the GOV.UK website.</p> <p>No responses were received.</p>
<b>The facility</b>	
The regulated facility	<p>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.</p> <p>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.</p>
<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 The plan is included in the permit.
<b>Operating techniques</b>	
General operating techniques	<p>We have reviewed the techniques used by the operator and compared these with the relevant guidance notes and we consider them to represent appropriate techniques for the facility.</p> <p>Include the following if there is an operating techniques table</p> <p>The operating techniques that the applicant must use are specified in table S1.2 in the environmental permit.</p>
Odour management	<p>We have reviewed the odour management plan in accordance with our guidance on odour management.</p> <p>The odour management plan is out of date as this submission was made in 17/10/2014 and so an improvement condition has been included to review the odour management plan.</p>
Fire prevention plan	We have included an improvement condition to allow the operator time to prepare and implement a fire prevention plan.

Aspect considered	Decision
<b>Permit conditions</b>	
Updating permit conditions during consolidation	We have updated permit conditions to those in the current generic permit template as part of permit consolidation. The conditions will provide the same level of protection as those in the previous permit(s).
Use of conditions other than those from the template	Based on the information in the application, we consider that we do not need to impose conditions other than those in our permit template.
Raw materials	We have specified limits and controls on the use of raw materials and fuels.
Waste types	<p>We have specified the permitted waste types, descriptions and quantities, which can be accepted at the regulated facility.</p> <p>We are satisfied that the operator can accept these wastes for the following reasons:</p> <ul style="list-style-type: none"> <li>• they are suitable for the proposed activities</li> <li>• the proposed infrastructure is appropriate; and</li> <li>• the environmental risk assessment is acceptable.</li> </ul>
Improvement programme	<p>Based on the information on the application, we consider that we need to impose an improvement programme.</p> <p>We have imposed an improvement programme which are explained in <a href="#">key issues</a>.</p>
Emission limits	No emission limits have been added, amended or deleted as a result of this variation.
Monitoring	<p>We have decided that monitoring should be added/amended/deleted for the following parameters, using the methods detailed and to the frequencies specified:</p> <ul style="list-style-type: none"> <li>• Total bacteria</li> <li>• Aspergillus Fumigatus</li> </ul> <p>For ambient monitoring and the biofilter (open bed).</p> <p>These monitoring requirements have been imposed bioaerosol risk assessment shows that monitoring is required as open windrow composting activity is within 250 metres of a sensitive receptor.</p> <p>We made these decisions in accordance with Technical Guidance Note M9 – Environmental monitoring of bioaerosols at regulated facilities.</p>
Reporting	<p>We have added reporting in the permit for the following parameters:</p> <ul style="list-style-type: none"> <li>• Bioaerosols monitoring – as above</li> <li>• Processed compost</li> <li>• Water usage</li> <li>• Energy usage</li> </ul>



Aspect considered	Decision
	<ul style="list-style-type: none"> <li>• Total raw material used</li> </ul> <p>We made these decisions in accordance with Regulatory Guidance Note 4 – Setting standards for environmental protection</p>
<b>Operator competence</b>	
Management system	There is no known reason to consider that the operator will not have the management system to enable it to comply with the permit conditions.
<b>Growth Duty</b>	
Section 108 Deregulation Act 2015 – Growth duty	<p>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.</p> <p>Paragraph 1.3 of the guidance says:</p> <p>“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.”</p> <p>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.</p> <p>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.</p>