

Avonmouth IBA Recycling Facility

Grounds of Appeal

Refusal of Permit Application:

EPR/TP3138DP/A001

2nd June 2017

Notice

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Contact Details:

Lesley Loane
tel: 01373 465739 07970103196
email: ll@landandmineral.co.uk
Web: www.landandmineral.co.uk

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1 Introduction

Grounds of Appeal

Day Group Ltd (“the Appellant”) Avonmouth IBA Treatment Facility

Permit Application EPR/TP3138DP/A001

- 1.1 This appeal is in respect of the decision of the Environment Agency (EA) to refuse an application for an environmental permit for an installation to recycle Incinerator Bottom Ash (IBA), falling within Section 5.4 Part A(1)(b)(iii) of Part 2 of Schedule 1 of the Environmental Permitting (England and Wales) Regulations 2016 (“EPR”).
- 1.2 The Appellant proposes to operate a new IBA Recycling Facility at the former CWS Flour Mills site at the Royal Edward Docks in Avonmouth, Bristol. In 2014, a Certificate of Lawful Proposed Development was granted under the Town and Country Planning Act 1990 by Bristol City Council for the development and its construction was completed in May 2017 pending an Environmental Permit to allow operation. (Certificate Ref 14/00824/CP dated 02-05-2014).
- 1.3 The Appellant proposes recovery or a mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day involving the treatment of slags and ashes. They propose an annual throughput of 130,000 tonnes per annum with a maximum of 10,000 tonnes of raw materials stored on site at any one time. The facility occupies approximately 1.6ha in area.
- 1.4 IBA is the material left after waste (usually household non recyclable waste) has been burnt in an incinerator to create energy. Although termed ash it is not powdery and arrives to be processed wet or damp having been quenched in water. It contains glass, brick, rubble, sand, grit, metal, stone, concrete, ceramics and fused clinker as well as combusted products such as ash and slag. IBA is not hazardous.
- 1.5 IBA would be delivered in vehicles and deposited in a storage building, enclosed on three sides and fitted with dust and odour suppression. It would be left to mature in the building, in windrows, for approximately 3 weeks.
- 1.6 The IBA would be transferred via a hopper located within the maturation building and an enclosed conveyor to the processing plant. The plant is also fully enclosed. The processing is proposed to consist of separation using magnets, eddy current separators and a picking area, crushing; and size separation using screens. The maturation building and the processing equipment building are acoustically clad and an acoustic wall has been included on the south east of the Permit area.

- 1.7 The processed material would be stored in bays within the Permit area. The bays and the wider external areas are fitted with dust suppression sprays.
- 1.8 The assessments carried out on potential emissions from the site and the Appellants experience with similar processes led to the design, layout and mitigation included in the built facility.
- 1.9 The process produces two distinct materials; metals and aggregate. The metals are sent for further recycling. The Incinerator Bottom Ash Aggregate (IBAA) has many uses including drainage, specialist bulk fill, unbound mixtures, hydraulically bound mixtures and a component of bituminous mixtures. It is subject to production under a quality protocol, testing and compliance with recognised aggregate specifications. Its use reduces the need for primary quarried aggregate, thereby conserving those finite resources.
- 1.10 The recovery of aggregate and metal from incinerator bottom ash has been developed in the UK as the move away from landfill to energy from waste for non-recyclable waste has increased. The methodology for recovering the IBAA has constantly improved and the design and management of the processing facilities also evolved.
- 1.11 There are currently at least 20 IBA processing facilities in England, some located alongside the incinerators, others, like Avonmouth independently located and with the potential to recycle IBA from several sources. Without IBA recycling and recovery facilities the aggregates and metals that could be recovered would instead end up in landfill.
- 1.12 The Appellant's Environmental Permit application was submitted to the EA on 13th June 2016, allocated a Permitting officer on 12th September 2016 and duly made on 12th October 2016. A Schedule 5 Notice was received on 1st December 2016. The Appellant responded to it on 20th December 2016.

2 Notice of Refusal

2.1 The EA issued a Notice of Refusal on 13th April 2017. It was accompanied by a Decision Document (“DD”).

2.2 The reason for refusal set out in the schedule to the Notice of Refusal stated that:

“The reason for refusal is that based on the information that has been provided to us we do not consider that the proposed method of operation would use the best available techniques and we are not satisfied that the activities can be undertaken without resulting in an unacceptable risk of significant pollution of the environment due to dust and odour which will result in offence to human senses or impair/interfere with amenity and/or legitimate uses of the environment and be harmful to the quality of the environment. In addition it has not been shown that pollution will be prevented in the event of flooding at the site.”

2.3 That reason for refusal includes three areas to be considered:

1. The use of “best available techniques”;
2. The extent of any risk of significant pollution due to dust and odour; and
3. Flood risk.

2.4 Each issue is addressed below as a separate ground of appeal. Further detail will be provided in the Appellant’s Statement of Case and Proofs of Evidence.

3 Ground of Appeal 1

The use of “best available techniques”

3.1 Best Available Techniques (“BAT”) is a concept introduced by the European Council’s Directive 96/61/EC concerning integrated pollution prevention and control (IPPC Directive) and is defined at Article 2(11):

“best available techniques shall mean the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for emission limit values designed to prevent and, where that is not practicable, generally to reduce emissions and the impact on the environment as a whole:

- ‘techniques’ shall include both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned,
- ‘available’ techniques shall mean those developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the Member State in question, as long as they are reasonably accessible to the operator,
- ‘best’ shall mean most effective in achieving a high general level of protection of the environment as a whole.”

3.2 The European Commission produces best available technique reference documents or “BREF” notes. The Appellant will explain with reference to relevant BREF(s), the IPPC legislation and other relevant information how the Avonmouth facility meets or exceeds the applicable standards.

3.3 N.B. the DD only disclosed an issue over BAT in relation to the control of odour and dust, and the Appellant is preparing its appeal on that basis.

4 Ground of Appeal 2

The extent of risk of significant pollution to the environment due to dust and odour which will result in offence to human senses or impair/interfere with amenity and/or legitimate uses of the environment and be harmful to the quality of the environment.

- 4.1 The EA is incorrect that the facility cannot be operated without an unacceptable risk of significant pollution and this forms the second Ground of Appeal.
- 4.2 The Appellant will further set out the measures it proposes to control and monitor dust and odour which are (i) robust, (ii) effective and (iii) meet and exceed the requirements of the environmental risks posed by this scheme. The Appellant will demonstrate how those measures will be implemented through the Appellant's Environmental Management Scheme ("EMS").

5 Ground of Appeal 3

Significant pollution arising in the event of the site flooding

- 5.1 The EA erred in finding that there is an unacceptable risk of significant pollution arising in the event of the site flooding. The risk of a flood occurring and the implications of a flood event were considered in the Schedule 5 submission on the request of the EA.
- 5.2 The Appellant will demonstrate that (i) there is no significant risk to the environment or amenity in the event of flooding, but (ii) notwithstanding that conclusion, to the extent it is required, adequate mitigation is available.

6 Conclusion

- 6.1 The Appellant will demonstrate through this Appeal process on the basis of the robust evidence in the application materials, the response to the EA's Schedule 5 Notice and further technical evidence that (i) the EA's refusal of the permit was unreasonable, and (ii) the Permit should be granted.
- 6.2 Additionally, the DD has noted a number of areas where the EA consider that further detail could be provided to aid them in their determination but did not request it as they were minded to refuse. To the extent required, the Appellant reserves the right to provide further information through the Appeal process.
- 6.3 The Appellant is of the view that this matter should be heard by an Inspector at an inquiry as:
- Expert evidence will be of a technical and complex nature;
 - It will need to be tested through formal questioning in order to assist the Inspector in reaching clear conclusions; and
 - The public interest in the appeal is likely to be substantial.