



Response to the Environment Agency's consultation on the draft guidance for developments requiring planning permission and environmental permits

## 1 Introduction

- 1.1 The Association for Organics Recycling (AfOR) is the United Kingdom's membership organisation committed to the sustainable management of biodegradable resources. It promotes the benefits of composting, digestion, and other biological treatment techniques and the use of biologically treated materials for the enhancement of the environment, business and society. See [www.organics-recycling.org.uk](http://www.organics-recycling.org.uk) for more information.
- 1.2 AfOR currently has approximately 400 members including composting, anaerobic digestion, thermophilic aerobic digestion and mechanical biological treatment operators, local authorities, consultants, technology suppliers, compost users, academics, other membership organisations and individuals.
- 1.3 AfOR has consulted with its members with regard to this consultation and would welcome the opportunity to discuss with Environment Agency any of the points raised in this response.

## 2 Consultation questions

### 2.1 Feedback form from the [Association for Organics Recycling](http://www.organics-recycling.org.uk)

Qu 1: (Section 2, p 3 - 5)

Do the guidelines clearly define our role in the planning and permitting process?

If not, what is unclear / what information is missing?

**Answer:**

Yes the document is clear in defining the EA's role. It would however be beneficial if you are able to show how the EA and planners interact. Understanding this process will in turn provide guidance to businesses who are deciding on whom to inform when and in what order, currently this is unclear.

It would be useful if the EA was to develop an easy to follow flow chart for use by

planning officers and applicants alike to assist them with the process, clarity of understanding in the process is of utmost importance if applicants and regulators are to work in harmony.

Having spoken to a number of members who have been through this process there continues to be a failure on many occasions for joined communication between the two parties (planners and permitting) this invariably leads to confusion and delays.

Section 2.1 – Liaison with other bodies (e.g. NE/CCW). It is not clear how the liaison with other agencies will be carried out. Will the Environment Agency always take the lead in contacting the other agencies to establish discussions or this the responsibility of the applicant?

Section 2.2 – Pre-application discussions early in the process. It needs to be recognised that detailed designs may not be complete this early in the process. The level of detail required for a planning application is quite different to the detailed technical requirements of a permit application. It is assumed that the amount of pre-application time allocated will remain the same (i.e. up to 15hours for the most complex applications). AfOR requests that additional time needs to be allocated for these early discussions as currently the time allocated is often not sufficient.

Qu 2:

Do you feel your organisation has a good enough understanding of planning and permitting processes to deal with issues that relate to planning and permitting processes?

If not, what do you feel you need to understand more, and how can we help build your understanding?

**Answer:**

As a trade body, we have an understanding of this area, however the complexity of the subject means that often we need to speak to one of our consultant members who specialises in planning to fully understand the implications. In particular we are keen to understand better how planning and permitting interface and that that guidance is produced which minimises duplication of effort for both the planning and permitting stages of any development.

Qu 3 (Section 3, p. 6 – 8):

Do you agree with the broad principles of our approach in Table 1 and what we say we will and won't do in Tables 2 and 3?

If you don't agree with any of these principles, please identify which ones and explain why.

**Answer:**

When describing 'show stoppers' in Table 1, these need to be flagged at an early stage and should be discussed with the applicant in order that a suitable resolution can be found, too often this happens late into the progress when time and money has been unnecessarily expended.

The use of '*informatives*' is very helpful as long as the view taken by the planning authority in respect to mitigation matches the view of the permitting authority as they may take a different view in respect to this aspect which leads to further confusion downstream.

In Table 3 there is reference to '*significant*' risk to the environment, there needs to be greater clarity in respect to the interpretation of '*significant*', if not it will be left to personal interpretation by individual officers which will lead to lack of consistency.

Qu 4 (Appendix 1):

Does the sector facing guidance help you to understand the key locational risks for activities requiring an environmental permit?

If not, what other information would you like to see?

**Answer:**

The sector facing guidance assists with providing information on the issues associated with locational risks, however the devil will always be in the detail and given that each case will be very specific I am not convinced that these offer any more than a very broad brush approach.

In the case of organics recycling facilities such as anaerobic digestion plants and composting sites, odour and bioaerosol emissions will be by far the most significant issue to be managed on a site and it is noted that the phrase '*appropriate abatement*

*systems'* is quoted in the text. AfOR believes that there are many different workable solutions for odour abatement and are pleased that no specific abatement technology is recommended.

In respect to the '*informative*' on the impact of sensitive developments located close to existing AD operations, there is a presumption that if operators are able to take all reasonable precautions to mitigate odour impacts from the site even if some residual impacts do occur the facility and the local community should manage to co-exist.

AfOR's experience is that community tolerance is very low as is that of the regulator in respect to odour from biological treatment facilities and currently H4 guidance is the recognised information used by industry. AfOR welcomes continued guidance in respect to odour emissions and their interpretation by the regulator.

#### **Additional comment on planning process**

Currently proximity checks are carried out by planning authorities and separately by the Environment Agency who also then review the planning consent to ensure it meets environmental requirements. These checks should only be carried out once and if the EA were to make their comments as consultee in an appropriate manner we assume that the resulting planning application would be satisfactory.

In the present arrangement there is potentially an expensive and time consuming iteration process involving the applicant obtaining a planning consent, then seeking a permit to discover issues then addressing those with a revised planning application prior to making a successful application for a Permit. It must be made possible for a comprehensive set of pre-application checks and requirements to be established, these could be set out in a template for applicants to use.

Qu 5 (Appendix 1)

Which other sectors would you like to be represented in this guidance?

#### **Answer:**

Often our members are made scapegoats for odours which are found to be emanating from Waste water treatment plants (sewage works), AfOR requests that guidance for these sites is also provided given the number of these which are operational in the UK?

Qu 6 (Appendix 2):

Do you think the level of detail provided in the example response letter is enough to identify permitting issues for developments we identify as 'serious concerns'?

If not, what other information would you like to see in our response?

**Answer:**

The letter appears to cover some of the issues of significance, although there is reference to ammonia emissions in this example, I do not see any reference to odour mitigation, the latter can be a significant issue with poultry production units and I would have expected some reference to this in the letter given its high profile.

Qu 7 (Appendix 2):

Would you find it useful if we provided example letters covering other types of response such as for 'standard response' or 'showstoppers'. If so, for which type of response?

**Answer:** This would most certainly be beneficial, although it is understood that it is not possible to demonstrate all the different scenarios, an example would assist in demonstrating what kind of issue is deemed to be classed as a 'show stopper'.

Do you have any other comments?

**Ref 3.4: Development near existing permitted activities**

- The approach proposed for the EA to comment on applications for development near existing permitted activities is to be welcomed, but needs to go further than is proposed. The EA needs to be given the formal role of being consulted on all applications that might have impacts on permitted operations. Some criteria would need to be set in agreement with the representatives of the Local Planning Authorities or through DEFRA e.g. within 250m of composting sites, and this consultation is the opportunity to carry this out. Too often inappropriate development takes place which will affect the operation of an existing facility which

may have been in operation for a number of years (similar to the example given in Box 4 (**page 10**))

- On a more specific issue, at the top of **Page 5** (under 2.3) it states that the EA is unable to undertake a Habitats Regulations Assessment until it has received a formal permit application. It would be much more helpful if you could find a way of undertaking this work without the full application (and full fee) as it is possible that this Assessment could mean that a permit would not be issued.

The EA will check for proximity to Great Crested Newt, Wildlife sites etc some of which information we understand only the EA have access to. Failure of such proximity checks can render the Planning consent useless and the time and money invested to date is wasted. The EA needs to provide the applicant more information with respect to species and habitats in pre-application discussions (eg. newts etc or various designated sites xxx m away) and then the applicant can assess the risk and whether it is possible to have the activity permitted in that particular location. Any checks carried out during pre-application discussions or at the planning stage should not have to be done again during the permit applications, the applicant should be able to refer to those as already discussed/agreed.

AfOR suggests that a new scale of fees is introduced, dependent upon the scale of the proposed development and amount of work required to undertake an Assessment and that a separate application be made to address this matter BEFORE the applicant has to make the full application and pay the associated fees.

- **Page 20** Treatment of Waste by Composting: It is stated here that if the EA consider that the operations would result in the uncontrolled release of high levels of bioaerosols they will not issue a Permit within 250m of a sensitive receptor where the quantity is over 500t at any one time and it involves open windrow composting. This appears to be a new interpretation as currently a Bespoke Permit can presently be obtained. In addition statements such as “**high level**” are unhelpful and need more precision. *Sensitive receptors* are poorly defined in existing guidance particularly in reference to “**present for prolonged and frequent periods**”.
- Appointing an account Manager for each permit application would be beneficial to ensure consistency and continuance of understanding of each application. Failure to do this may result in wasted time and duplication of information requested.
- Clear guidance in respect to interpretation of the words/phrases highlighted above is important if consistency is to be achieved across the country.

- To assist with Planning and Permit applications and to assist enforcement, the SR2008\_No14 and SR2011\_No1 Permits should have a maximum annual tonnage limit calculated from 500t at any one time and a minimum composting cycle.

E.g. 500t at any one time on a 9 week cycle assuming no storage of compost not produced to PAS 100 & QP is no longer classified as a waste = 2,888t annual input tonnage (other assumptions are required). More complex calculations involving loss of weight etc can be carried out. Alternatively the Permits could be capped at 5,000 tpa to tie in with SR2008\_No16 Permits. There have been instances of operations under Para 12 composting up to 20,000tpa, a 9 to 15 day cycle if the 500t at any one time limit is to be met under the new SRP.

### 5.1 Parallel tracking

There is still continued reference to parallel-tracking planning and permit applications, albeit this document is proposing a narrow range of projects where this will be necessary.

The message that AfOR has been trying to get across for many years now is that until the applicant is certain that Planning Permission is going to be granted, most of the waste industry and especially the composting and AD industry, cannot afford the very large permit fee required by the Bespoke Permit for treatment of biodegradable waste. This fee can be as high as £8,000, plus the cost of preparing all of the technical documents. There needs to be a **higher degree of certainty** for the operator before they proceed with the permit application, if not this will continue to stifle growth through lack of certainty.

There may be some instances where it is understood that planning will be contentious and take time to be approved (months or even years in the worst cases), in these cases twin tracking would not be an advisable option. Without exception some form of consultation with the EA regarding a proposed permit in advance of discussions on planning should be carried out.

Pre-application discussions should be encouraged wherever possible (even made mandatory) as these will ensure that all concerns are raised at an early stage and not flagged up later which may result as a future show stopper.

-----End of AfOR's response-----