

Private & Confidential

██████████
Area Director – Yorkshire
Environment Agency
Lateral,
8 City Walk,
Leeds,
LS11 9AT
(by email)

12th December 2018

Dear ██████████

WITHOUT PREJUDICE

Re: Grange Landfill – Permit No. EPR/DB3803MN

I write in relation to the above site following our meeting of 30th November 2018. At our meeting I agreed to summarise the legal issues arising from the implementation of the Landfill Directive so that you could seek your own advice. In summary, the Council's understanding of the legal position on that issue is as follows:

- (a) *The Environment Agency has an express legal power to commence closure procedures pursuant to Schedule 10, Para 10 EPR 2016 and Art 13 of the Landfill Directive.*
- (b) *The Environment Agency has a legal duty to exercise that power in accordance with the obligations imposed by the Landfill Directive, including the duty to ensure that all existing landfill sites were in full compliance with the Directive by 2007 and the duty to close down sites which did not fully comply by the cut-off date.*
- (c) *The Environment Agency has already conceded that it acted unlawfully in that it failed to initiate the closure procedure for this site in 2006.*
- (d) *The environment and human health were not protected, in that no attempt was made to commence closure procedures. No assessment was made of the site and no after-care procedures were put in place.*
- (e) *The operator gained an unfair commercial advantage by being allowed to 'mothball' a non-compliant Landfill site without having to initiate the closure procedure.*
- (f) *Having varied the permit so as to allow the site to operate, the operator has been permitted to leave it dormant without either taking the necessary steps to progress to lawful operation or closing it down. This compounds the previous failure.*

(g) Even now, it remains the case that the operator has not fully complied with the requirements of the permit and therefore the Directive. In particular, even now the financial provision has not been put in place.

(h) Risks to the environment remain (albeit slightly mitigated by the fact that there is at least some requirement for monitoring) but again the operator is allowed an unfair commercial advantage in allowing a partially-filled site to be left in limbo, to be dealt with at when it is commercially desirable to them to implement the permission.

Clearly this is a matter of some urgency, given the ongoing concern from local residents and Elected Members about the site.

I would therefore appreciate an urgent reply to the issues raised in this letter. I look forward to receiving your response.

I will write to you under separate cover about the other concerns that we discussed when we met including a number of further legal issues and queries relating to the site.

Yours sincerely



Tom Smith
Assistant Director, Community Safety and Street Scene
Regeneration and Environment Directorate

Copy to: Paul Woodcock, Strategic Director