From: Lee.Money <Lee.Money@horsham.gov.uk>
Sent: 28 January 2025 13:02:41 UTC+00:00
To: "Amanda.Wilkes" <Amanda.Wilkes@horsham.gov.uk>
Subject: RE: Environment Agency permits DC/24/0220

Hi Amanda

Following my conversations with the EA officers I have been advised to refer the matter to the EA waste team as a U10 exemption is required to import chalk. The advice on importation of topsoil received from the EA is set out below. I would advise applicant to contact the EA regarding the importation the soils.

"Topsoil is a waste. The only time it isn't is when it's excluded from the Waste Framework Directive under;

Article 2
Exclusions from the scope
'1. The following shall be excluded from the scope of this Directive:
(c) uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in **its natural state on the site from which it was excavated**;'

Excavated natural topsoil that requires treatment prior to use and/or cannot be used at the site of production, remains 'waste' until the point at which it is fully recovered.

It is highly unlikely the soil has been sourced specifically for the purpose of this land spreading (when it could also be considered non-waste) rather its probably some form of construction demolition waste (i.e. soil and stones surplus from landscaping or footings for buildings being constructed).

They would need a permit or exemption in order to use this waste. As you know there is the U10 waste exemption: spreading waste to benefit agricultural land - GOV.UK however this does not contain 17 05 04 soil and stones and is restricted to 17 05 04 **chalk** only.

There is the SR2010 No 4: mobile plant for land-spreading - GOV.UK The mobile plant shall be for land treatment activities on notified agricultural or non-agricultural land. If an operator has this permit then they could apply for a deployment (specific to the land in question and waste types).

End of Waste Assessment

Operators claiming end of waste status is not new, but it is becoming an issue and accordingly it has been flagged. It is not possible for a definitive steer on EoW because it's the usual case by case basis with reference to all the facts. There are EoW Regs for glass, metals etc which prescribe how to meet EoW, as do the QPs and waste Frameworks but there isn't one for soils currently.

If the soil is analysed by a lab then they are probably making their assessment of suitability based on the soil guideline values (SGV). https://www.gov.uk/government/publications/contaminated-soil-assessing-risks-on-human-health They could say the waste is suitable for the different end uses however **this is not an End of Waste** assessment, and I doubt any lab would provide an EoW assessment due to the legal complexities. Labs are usually very specific about what they have provided their assessment on so it is worth checking the disclaimers. I suspect the lab would make it clear that they are only assessing against the SGV. If so the soil may be suitable for those end uses but that does not mean it meets the end of waste test which is detailed and technical.

Ultimately if someone is self-declaring that something has met end of waste and we disagree with that - it is for the courts to decide based on article 6 (see below). We have set out the EoW test etc here https://www.gov.uk/guidance/check-if-your-material-is-waste.

Article 6

End-of-waste status

[F1 1. Member States shall take appropriate measures to ensure that waste which has undergone a recycling or other recovery operation is considered to have ceased to be waste if it complies with the following conditions:

(a) the substance or object is to be used for specific purposes;]

(b) a market or demand exists for such a substance or object;

(c) the substance or object fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products; and

(d) the use of the substance or object will not lead to overall adverse environmental or human health impacts.

Regards

Lee

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