

READING MAGISTRATES COURT

BETWEEN:

ENVIRONMENT AGENCY

V

CARCARC LIMITED

CASE SUMMARY

This case summary has been prepared as an outline of the Crown's case for the assistance of the Court and Defence. It should not be taken as an exhaustive statement of the evidence available to the Crown, nor of the inferences to be drawn from it, but rather as a guide to the central features of the case and how the Crown will put their case in general terms.

Introduction

1. This case concerns the operation of a regulated facility as a waste operation for the deposit of liquid digestate on land at Sutton Court Farm, Iver, Buckinghamshire and Kingsmead Quarry, Wraysbury, Berkshire ["the sites"].
2. No environmental permit is in place for the above mentioned activities on either of these sites. The defendant Carcarc Limited ["the company"] deposited liquid digestate from an accelerated aerobic composting process at these two locations. The waste was deposited with the intention of it being land spread at a later date, but the amount of waste deposited far exceeded the limits prescribed by the exemptions that had been registered by the land owner. Furthermore and an aggravating factor was that the waste caused a significant odour nuisance to nearby residents, which further contributed to non-compliance with the relevant objectives of the exemptions.

Facts

3. Between 6th January and 28th March 2011 the company transported a total of 7306 tonnes of liquid waste from Vertal Ltd in Mitcham, Surrey, and deposited it in a pit and lagoons on agricultural land at Sutton Court farm in Iver and Kingsmead Quarry in Wraysbury. The origin, quantity and dates the waste

was transported have been derived from 303 individual waste transfer notes supplied by Vertal Limited, exhibit **APS/057**.

4. The company had registered U10 exemptions at both locations, but this type of waste is not covered by this exemption. Two older paragraph 7 exemptions registered by the landowner did cover the deposit of this waste, but the amount deposited exceeded the limit of the exemptions (1250 tonnes) by a factor of 2.0 at Sutton Court Farm, and 3.8 at Kingsmead Quarry. Copies of the original exemptions registered by the landowner/occupier are included as exhibits **APS/058 and 059**. These exemptions were renewed in November (Sutton Court Farm) and December (Kingsmead Quarry) 2010 and are valid for 12 months. This paperwork makes it clear that non-compliance with the conditions and limitations of the exemption constitutes an offence.
5. After the waste was deposited South Bucks District Council, the Royal Borough of Windsor and Maidenhead and the Environment Agency received several complaints from nearby residents regarding an odour nuisance which was traced to the waste. One of the conditions of the paragraph 7 exemption is that the waste must not cause a nuisance through noise or odours. The non-compliance with this “relevant objective” and the exceedances of the storage limit mean that the activity was not exempt from permitting, and that the material was deposited without the necessary permit.
6. Statements from Olusegun Sokoya, District Environmental Control Officer at South Bucks District Council, and Feliciano Cirimele, Environmental Protection Officer at Royal Borough of Windsor and Maidenhead give details about the nature and magnitude of the odour nuisance caused by this waste. This is supported further by statements from the two Agency Officers that investigated this incident.
7. Photographs of the storage arrangements and the waste *in situ*, including photographs of measures taken by the landowner to control the odour nuisance are included as exhibits **APS/003 – 036**.
8. When interviewed under caution, the company admitted that mistakes had been made, and explained that they found themselves in a position where they had more waste to dispose of than they were expecting. The company

admitted that they had exceeded the limits of the exemptions. In their defence they claimed that they thought the waste was being land spread simultaneously, but they conceded that they had carried out no checks to ensure this was the case. A copy of the interview transcript is included as exhibit **APS/056**.

The Law

3. The summonses relate to 2 offences contrary to section 33(1) (a) of the Environmental Protection Act 1990 (EPA 1990).
4. The lawful depositing of controlled waste is regulated by the EPA 1990. The EPA 1990 provides a comprehensive system of control on the proper management of waste.
5. The EPA 1990 provide for a single, streamlined, risk-based framework for permitting and compliance covering varied activities. The essential objective of environmental permitting is the protection of human health and the environment against harmful effects caused by the collection, transport, treatment, storage and tipping of waste.
6. Section 33 of EPA 1990 creates a statutory offence in respect of waste activities conducted except under and to the extent authorised by an environmental permit or an exemption from waste management licensing.
7. Between 5th January 2011 and 27th February 2011 covers the period when liquid digestate was deposited at Sutton Court Farm and between 11th February 2011 and 29th March 2011 covers the period when liquid digestate was deposited at Kingsmead Quarry in breach of exemptions and when there was no environmental permit in place.
8. A person who breaches an exemption does not benefit from that exemption and then operates without an environmental permit commits an offence under section 33(1) (a) and section 33(6) EPA 1990 and is liable on summary conviction to a fine not exceeding £50,000 or imprisonment for a term not exceeding 6 months, or to both, or on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years, or to both.