Cyfoeth Naturiol Cymru
Natural Resources Wales

Compliance Assessment Report CAR_NRW0040977

Permit being assessed: ZP3899FX.
For: Merthyr Borough Recycling Centre Ltd-transfer Station, held by Merthyr Borough Recycling Centre Ltd
At: Merthyr Borough Recycling, Dowlais, Merthyr Tydfil, Glamorgan, CF48 2TA.

Type of assessment carried out: Site Inspection, Reason: Routine.
On 18/11/2022 between 10:30 and 11:30.
Parts of permit assessed: Site infrastructure and management

NRW Lead Officer: Laoni Tye, accompanied by Gareth Morris.
Report sent to: Nick Brannan, Director on 23/01/2023.

1. Summary of our findings (full details in section 4)

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
B3 - Infrastructure - Site drainage engineering (clean and foul)	C2 Significant	2.1.1
C1 - General Management - Staff competency/training	C3 Minor	1.1.4
C2 - General Management - Management system and operating procedures	C3 Minor	1.1.1
D2 - Incident Management - Accidents, emergency and incident planning	C3 Minor	2.5.1 and 3.5.1

Result types are explained in more detail in the 'Important Information' section below.

Total number of non-compliances recorded	Total non-compliance score
4	43

How we use the non-compliance score to calculate your annual fee is explained in the 'Important Information' section below.

2. What action is required?

Criteria	Action needed	Complete by
B3	See comments in body of CAR - notice to be served following next visit	03/02/2023
C1	To comply with your permit the operator must urgently engage a TCM who is qualified to the correct level and provide copies of competency certificates	10/02/2023
C2	See actions in body of CAR	31/03/2023
D2	See actions in body of CAR - notice to be served following next visit	03/02/2023

Action criteria codes are listed in the 'Important information' section below.

3. What will happen next?

Any non-compliance we have identified and recorded on this form is an offence. It can result in criminal prosecution and/or suspension or revocation of your permit.

You are non-compliant with your permit.

We are currently considering taking enforcement action against you for the non-compliance recorded above. We will contact you in due course.

4. Details of our assessment

Environment officers Laoni Tye and Gareth Morris attended Merthyr Borough Recycling Ltd on the 18th November 2022, the purpose of the visit was to check on actions from the previous CAR form which included infrastructure improvements. Nick Brannan the site manager and director was not available or on site at the time of the inspection. We met with members of staff in the office who advised us that access to the site had been prohibited by the HSE and that visitors could not walk around site without Mr Brannan. Mr Brannan then confirmed this over the phone. We agreed to drive around site in a car and got out at intervals to view the site and take photographs. For this reason, it was difficult to conduct a full inspection but we focused on areas of the infrastructure. There were numerous breaches recorded during the visit, these were discussed with Mr Brannan over the phone on the 24th November 2022 where we raised significant concerns with the site infrastructure and potential for run off from site.

Please note, any actions to bring the site back into compliance are to be agreed at a site meeting with deadlines set. These deadlines will be formalised into a compliance notice.

Breaches recorded

B3 – site drainage and infrastructure. Category 2 breach.

Permit condition 2.1.1 table S1.1 states that 'All hazardous and non-hazardous waste must be stored and treated on an impermeable surface with sealed drainage.

Following treatment, specified wastes – non-hazardous wood (treated and untreated) and hard plastics may be stored on hardstanding.

All inert waste may be stored and treated on either hardstanding or on an impermeable surface with sealed drainage.'

The infrastructure across significant areas of the site was in a poor state, with large areas of silt and deep 'slurry' making areas of the site inaccessible. There were large pools and no impermeable surface in areas. There was an open drain to the south of the site which, during the call to Mr Brannan following the visit, were advised was the silt trap and interceptor for the drainage system. The drain was blocked with sediment making it potentially ineffective to hold and contain run-off from the site. Officers noted, that there did not appear to be drainage channels or bunding around the boundary of the site with potential for run off. The drainage channel at the entrance appeared to have been filled in with concrete. This does not meet the definition of impermeable surface and sealed drainage system and is a breach of the infrastructure requirements. It is reasonably foreseeable that the silt and waste from areas of the site could run off site, by passing any drainage systems.

There were piles of waste fines stored in these areas, which were leaching black liquid with a strong odour. The infrastructure did not meet the requirements of the permit and there is a risk of pollution to groundwater, as well as off-site receptors.

We also noted that the area of hardstanding which runs along the right hand side of the site, for storage of inert, was heavily compacted in places and water was running off the area into a drain. We were not clear on where this drain was running to at the time of the inspection as drainage plans do not cover this area. You could also see that some of the run off was by passing the drain and going off site. This does not meet the definition of hardstanding, which should allow water to percolate through the ground and should not be allowing water to run off the surface. This area of the site was being used to store asphalt, some of which contained bitumen – an action has been included below.

You are being scored a category 2 significant breach, due to the scale of the issue and the fact that this has now been ongoing for some time without rectification. There is a significant likelihood of silt and site drainage leaving site and entering surface water drains outside of the site boundary, especially in times of heavy rainfall. There is a risk to groundwater from waste and leachate being stored on hardstanding and unmade ground

Action: Actions are to be discussed and timeframes agreed during a site meeting. These will be formalised into a regulation 36 compliance notice.

C1 – staff competency and training. Cat 3 breach.

Permit condition 1.1.4 states that 'the operator shall comply with the requirements of an approved competence scheme'

The last CAR in March 2022 advised that the TCM qualification provided to NRW was not sufficient to cover the sites activities and that this area of the permit was therefore not being complied with. We have not received confirmation of who the TCM is for the site and you are therefore being scored a category 3 breach against this condition. As the site has numerous breaches which can be attributed to management failures, this needs to be addressed urgently.

Action: To comply with your permit the operator must urgently engage a TCM who is qualified to the correct level and provide copies of competency certificates no later than the 10th February 2023.

C2 – Management systems. Cat 3 breach.

Permit condition 1.1.1 states that 'the operator shall manage and operate the activities: (a) in accordance with a written management system that identifies and minimises risks of pollution, including those arising from operations, maintenance, accidents, incidents, non-conformances, closure and those drawn to the attention of the operator as a result of complaints;' and (b) using sufficient competent persons and resources.

The site is not currently being managed in a way that prevents and minimises risks to the environment. This is evident with the state of the infrastructure across site, details of which are included above under B3 – site infrastructure. Drains are filled in or full of sediment, rendering them ineffective. Management checks are not being made and actions to bring the site back into compliance with the permit conditions detailed on previous visits are not being implemented. We understand there was concrete laid down in some areas of the site as confirmed in photographs sent to NRW on the 18th September 2022. This did not cover all areas used for storing non-hazardous waste. We are unsure as to how this is connected to the drainage system currently as it was not visible during the visit, but there are areas where any run off can by pass the silt traps and flow onto unmade ground.

There are piles of waste fines leaching and without containment, signifying that the waste has been stored for long amounts of time. There did not appear to be effective measures in place to prevent the leachate from escaping site or contaminating ground water via the hardstanding. This should have been identified by the site and rectified during a daily check.

The management of the site is being considered as a root cause breach of the issues witnessed during the inspection.

Action: The waste fines will need to be sampled in line with WM3 and sent off site for disposal. Paperwork from the analysis and waste classification may be requested at a later date.

Action: Please can you provide NRW with the sites full up to date management system, which includes all site activities. We may also request to see this during the next inspection.

D2 – Accident and emergency planning.

Improvement condition 2.5.1 Table S1.3 states:

Table S1.3 Improvement programme requirements		
Reference	**Requirement**	**Date**
IPC1	The operator shall submit a written Fire prevention and mitigation plan to Natural Resources Wales. The Fire prevention and mitigation plan must be produced in line with the standards set out in Fire prevention and mitigation plan guidance – Waste. To address all parts not assessed and incorporated as part of variation application EPR/ZP3899FX/V005.	3 months after permit issue of EPR/ZP3899FX/V005 or otherwise agreed in writing with Natural Resources Wales

The deadline for submission of the sites fire prevention and mitigation plan (FPMP) was due by the 5th August 2022 and has not been submitted to NRW.

This is also a breach of permit condition 3.5.1 which states that 'the operator shall manage and operate the activities in accordance with a written fire prevention and mitigation plan using the current, relevant fire prevention and mitigation plan guidance'

The issues with the infrastructure already outlined within this permit, increases the risk of impact should a fire occur on site. There would currently be no way of containing fire water. Fire prevention and mitigation plans are essential to reduce the likelihood of a fire occurring but also to reduce any impact a fire would have on the operator, fire service and sensitive environmental receptors.

Please see guidance: [Guidance No. 16 Fire prevention and mitigation plan - waste management (naturalresources.wales)]

Action: Actions are to be discussed and timeframes agreed during a site meeting. These will be formalised into a regulation 36 compliance notice.

Photographs

Photo's above showing infrastructure and leachate

Photo above taken on hardstanding area showing run off entering drain and by passing off site

Photo above showing drainage with unmade ground around it, run off able to by pass.

Photo above showing silt trap and interceptor blocked

Photo above showing drains at site entrance have been filled in with concrete

Actions only – no breach – advice and guidance

There was asphalt containing bitumen which is a mirror hazard entry and would need to have been classified by the producer in line with WM3:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1021051/Waste_classification_technical_guidance_WM3.pdf

There should therefore be appropriate paperwork in place demonstrating that analysis was completed and that the bitumen is non- hazardous prior to being accepted onto site and store in an area of hardstanding. The analysis would also need to determine it was inert otherwise it would need to be stored on an impermeable surface with sealed drainage system. Please ensure all checks are being made and that you are complying with duty of care requirements. We may wish to see this paperwork during future visits.

Photo's above showing inert storage area with asphalt containing bitumen

If you have any queries about this report, or to discuss completion of any actions, please contact the NRW Officer named above.

Important information

Legal status of this report
Your permit is issued to you under the Environmental Permitting Regulations. You have a responsibility to comply with the conditions of your permit and prevent pollution/harm of the environment. You must also ensure that you comply with any other relevant legislation that may apply to your site's operations.

This report explains the findings of our assessment and any action you are required to take. We categorise non-compliance using our guidance for assessing non-compliance at regulated sites.

When we find potential non-compliance/s we will normally give you advice on how to maintain compliance.

To correct non-compliance, we may:
- require you to take specific actions
- issue a notice
- review the conditions of your permit.

Any advice and guidance we give will be without prejudice to any other enforcement response that we consider may be required.

Assessment results and non-compliance categories (used in section 1):

Assessment result	Description
Assessed (A)	Assessed or assessed in part, no evidence of non-compliance found
Action only (X)	Action only relating to the activity assessment
Ongoing (O)	Ongoing non-compliance, not scored

Non-compliance category	Description	Score
C1 Major	Potential to have a major, serious, persistent and/or extensive impact or effect on the environment, people and/or property	60
C2 Significant	Potential to have a significant impact or effect on the environment, people and/or property	31
C3 Minor	Potential to have a minor or minimal impact or effect on the environment, people and/or property	4
C4 No environmental impact	Non-compliance at a regulated site that cannot foreseeably have any impact on the environment, people and/or property	0.1

How we use assessment scores
The number and severity of non-compliances recorded in a year will affect your annual subsistence fee the following year. A non-compliance factor is added to your site's Operator

Performance Risk Appraisal (OPRA) score when we calculate your fee to reflect the additional resource we use to assess permit compliance.

What are suspended scores?
In line with our guidance, we may suspend scores for up to six months to allow time for remedial action to be taken. Suspended scores will be re-instated if the action is not completed.

Full list of Industry and Waste action criteria (used in section 1 and 2):

A: Permitted activities
- A1 Specified by permit

B: Infrastructure
- B1 Infrastructure – Engineering for prevention and control of emissions
- B2 Infrastructure – Closure and decommissioning
- B3 Infrastructure – Site drainage engineering (clean and foul)
- B4 Infrastructure – Containment of stored materials
- B5 Infrastructure – Plant and equipment

C: General management
- C1 General management – Staff competency/training
- C2 General management – Management system and operating procedures
- C3 General management – Materials acceptance
- C4 General management – Storage, handling, labelling and segregation

D: Incident management
- D1 Incident management – Site security
- D2 Incident management – Accidents, emergency and incident planning

E: Emissions
- E1 Emissions – Air
- E2 Emissions – Land and groundwater
- E3 Emissions – Surface water
- E4 Emissions – Sewer
- E5 Emissions – Waste

F: Amenity
- F1 Amenity – Odour
- F2 Amenity – Noise
- F3 Amenity – Dust/fibres/particulates and litter
- F4 Amenity – Pests/birds and scavengers
- F5 Amenity – Deposits on road

G: Monitoring and records, maintenance and reporting
- G1 Monitoring and records, maintenance and reporting – Monitoring of emissions and environment
- G2 Monitoring and records, maintenance and reporting – Records of activity, site diary/journal/events
- G3 Monitoring and records, maintenance and reporting – Maintenance records
- G4 Monitoring and records, maintenance and reporting – Reporting and notification to Natural Resources Wales

H: Resources efficiency
- H1 Resource efficiency – Efficient use of raw materials
- H2 Resource efficiency – Energy efficiency

Enforcement response
Any permit condition non-compliance is an offence and we may take legal action against you. Action we take can include prosecution, serving a notice on you and/or suspension or revocation of your permit. See our Enforcement and Sanctions Guidance for further information.

Data protection notice
You should make sure that anyone named in this report knows that the information it contains will be processed by Natural Resources Wales to fulfil its regulatory and monitoring functions and to maintain the relevant public register(s).

We may also use and/or disclose the report in connection with:

- offering or providing you with our literature or services relating to environmental matters
- consulting with the public, public bodies and other organisations (e.g. Health and Safety Executive, local authorities) on environmental issues
- carrying out statistical analysis, research and development on environmental issues
- providing public register information to enquirers
- investigating possible breaches of environmental law
- assessing customer service satisfaction and improving our service
- Freedom of Information Act or Environmental Information Regulations requests.

We may also pass it on to our agents or representatives to do these things on our behalf.

Disclosure of information – this report will be available to view on-line
If you think this report contains commercially confidential information that should not be placed on our public register, you must contact your local Natural Resources Wales office within **fifteen working days** of receiving this report, using the contact details in the accompanying email or letter. You must give a full explanation of why it should not be added to our public register, including specifying which information is commercially confidential. We will assess your request and respond to you within 20 working days to let you know if we agree to your request.

What do I do if I disagree with the report or have a complaint?
If you disagree with this compliance assessment report, you should contact the lead officer without delay to discuss your concerns.

If you are unable to resolve the issue with the lead officer or their line manager you should contact our Customer Contact team on 0300 065 3000 (Monday to Friday 08:00 – 18:00), or email enquiries@naturalresourceswales.gov.uk for details of how to raise your dispute further through our Complaints and Commendations procedure.

If you are dissatisfied with our response, you can contact the Public Services Ombudsman for Wales by phone on 0300 7900203 or by email at ask@ombudsman.wales

Welsh Language Standards
We are committed to establishing Natural Resources Wales as a naturally bilingual organisation. We will provide compliance reports in your preferred language.