

Compliance Assessment Report CAR_NRW0042006

Permit being assessed: CB3698ZW.

For: The Smithy, held by Towy Metals Ltd

At: Aberarth, Aberarth, Aberaeron, Ceredigion, SA46 0LD.

Type of assessment carried out: Site Inspection, Reason: Routine.

On 30/05/2023 between 11:00 and 12:40.

Parts of permit assessed: See criteria listed

NRW Lead Officer: Jeremy Goddard, accompanied by Christopher Gilbey.

Report sent to: Mr. Jamie Kinch, Site Manager on 22/06/2023.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
A1 - Specified by permit	Assessed (A)	
B1 - Infrastructure - Engineering for prevention and control of emissions	C3 Minor	2.3.1, Table 2.3 Operating Techniques
C3 - General Management - Materials acceptance	C3 Minor	2.2.1 (a) Table 2.2a and 2.2b
B3 - Infrastructure - Site drainage engineering (clean and foul)	Assessed (A)	
B4 - Infrastructure - Containment of stored materials	C3 Minor	2.3.1, Table 2.3 Operating Techniques
C1 - General Management - Staff competency/training	C3 Minor	1.1.4, 1.1.1, 3.4.1
C2 - General Management - Management system and operating procedures	Action only (X)	
F1 - Amenity - Odour	Assessed (A)	
F2 - Amenity - Noise	Assessed (A)	
F3 - Amenity - Dust/fibres/particulates and litter	Assessed (A)	
F4 - Amenity - Pests/birds and scavengers	Assessed (A)	
F5 - Amenity - Deposits on road	Assessed (A)	

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

Total number of non-compliances recorded	Total non-compliance score
4	16

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
B1	Replace damaged kerbing on the edge of the waste treatment / storage pad. Repair must be suitably robust to withstand impact / weight of machinery and waste being handled.	01/08/2023
C3	Items of WEEE are not allowed under the site's permit. These items need to be removed off site and not accepted in future. Alternatively, in the short term these items, if segregated from other waste could be stored (pending recovery elsewhere) under an S2 exemption.	01/08/2023
B4	Ensure that all ELVs are stored on impermeable surface with a sealed drainage system.	01/08/2023
C1	The site requires the appointment of a qualified TCM and that they ensure that staff have sufficient knowledge of the permit, EMS and FPMP to operate the site in line with the permit conditions.	01/08/2023
C2	Once TCM has been appointed then the EMS and FPMP need to be reviewed to ensure they reflect current site operations.	01/08/2023

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.

At this time, we are issuing you with a warning for the non-compliance recorded above. Warnings may influence future enforcement response for continued or further non-compliance.

This statement does not stop us from taking additional enforcement action if further relevant information comes to light or offences continue.

4. Details of our assessment

The Smithy site near Aberarth was visited on 30 May 2023 by Jeremy Goddard and Chris Gilbey of Natural Resources Wales (NRW). Officers met on site with Mr. Jamie Kinch who informed us that he is now working as the site manager. Since our previous visit on 1 December 2022 there has been uncertainty surrounding the site and it did close for a short period of time. Mr. Kinch informed us that the site had now reopened and he was managing the site on behalf of the permit holders Towy Metals Limited.

The weather at the time of the visit was dry and sunny.

General Site Observations:

Officers undertook a walk around the site accompanied by Mr. Kinch. Whilst there was not excessive quantities of waste on site it was evident that there had been no progress in

developing the site infrastructure since the last visit in December 2022. It was also evident that the site was not operating in accordance with some of the conditions of the permit and in-line with the processes and procedures outlined in the Environmental Management System (EMS).

The ramp to the front of the weighbridge had not been concreted. This ramp was not being used and had been blocked off meaning that vehicles have to drive on and then reverse the same way off the weighbridge.

The collection chamber at the bottom of the yard into which the drainage from the impermeable concrete areas is directed had not been enclosed with a proper lid. The chamber was open and partially covered over by sheets of plywood. There was a danger that someone could fall into the open chamber as it was not cordoned off.

The proposed End-of-Life Vehicle (ELV) depollution bay did not have any depollution equipment or roof, see Photo 1. The depollution bay was not however being used. **No vehicle depollution can take place at the site until the correct infrastructure and equipment has been installed.**



Photo 1: Unfinished ELV Depollution Bay

A small amount of scrap metal, an ELV car, a number of household waste electrical and electronic equipment items (including washing machines and other smaller kitchen electrical appliances), a skip full of tyres/wheels and drums containing waste oil were being kept on the concrete impermeable surface area. The oil drums (potentially hydraulic oil from plant) were being kept within open topped battery boxes.

NON-COMPLIANCE B1 (Engineering to control emissions) - Condition 2.3.1 The activities shall be operated using the techniques and in the manner described in Table 2.3 Operating Techniques.

Table 2.3 of your permit states that certain waste types must be stored and all wastes must be treated on an impermeable surface with a sealed drainage system. There is a small

concreted pad to the right of the yard where waste is being stored and treated. This area of impermeable concrete floor contains a drain and has a concrete kerb around it to direct any run-off into the drainage system. A significant section of the kerbing around the concrete floor of the waste storage / treatment pad was damaged and had come away from the floor rendering the sealed drainage system defective, see Photo 2. **This area of kerbing needs to be properly repaired, as outlined in the Action found in section 2 of this report.**



Photo 2: Damaged kerbing on impermeable surface

NON-COMPLIANCE C3 (Materials acceptance) - Condition 2.2.1 states that 'Waste shall only be accepted if: (a) it is of a type and quantity listed in table 2.2a and 2.2b...'

It was noted that there were white good items such as washing machines and small electrical kitchen items on the impermeable concrete pad, see Photo 3. These items are classified as Waste Electrical and Electronic Equipment (WEEE) and would be considered large and small domestic appliances. They should be coded as 20 01 35 or 20 01 36* [Classify different types of waste: Electronic and electrical equipment - GOV.UK \(www.gov.uk\)](#).



Photo 3: WEEE. Large and small domestic appliances

Your standard rules permit SR2012 No14 - 'Metal recycling, vehicle storage, depollution & dismantling (authorised treatment) facility' does not doesn't include waste codes 20 01 35 and 20 01 36* in either table 2.2a or 2.2b. This means you cannot accept WEEE under the conditions of your permit. At present it is possible that you could store these items of WEEE under the S2 - 'storing waste in a secure place' waste exemption before onward transportation to another site for recovery. This would be a short term measure prior to the forthcoming changes in legislation which will prevent waste exemptions being registered on or adjacent to permitted sites. Waste being stored under an exemption would need to be kept separate from waste being store/treated under the authorisation of the permit. **Items of WEEE need to be removed off site as outlined in the Action found in section 2 of this report. Alternatively, please contact me to discuss how you may be able to temporarily accept and store WEEE under the terms of a S2 waste exemption.**

NON-COMPLIANCE B4 (Containment of Stored Materials) - Condition 2.3.1 states that 'The activities shall be operated using the techniques and in the manner described in Table 2.3 Operating Techniques.'

There were two ELVs located on the hardstanding outside of the impermeable surface concrete pad. These ELVs (one van and one car) had not been fully depolluted, see photo 4. Damaged and undepolluted end of life vehicles must be kept on the impermeable surface.



Photo 4: Not fully depolluted ELVs being stored on hardstanding

As outlined in the Action found in section 2 of this report, these two end of life vehicles either need to be moved onto the impermeable concrete surface served by a sealed drainage system or removed from site and taken to another appropriately authorised site. Without correct infrastructure and equipment you cannot attempt to depollute vehicles at this site.

Technically Competent Manager:

NON-COMPLIANCE C1 (Staff Competency / Training) - Condition 1.1.4 states that 'The operator shall comply with the requirements of an approved competence scheme'.

Prior to the visit I had received email notification from Mr. Mark Tymkiv that he was no longer acting as the site's Technically Competent Manager (TCM). On arrival it was clear that Mr. Kinch had limited knowledge of the permit and other associated documents, such as the Environmental Management System and Fire Prevention & Mitigation Plan. Speaking with Mr. Kinch it was clear that a TCM hadn't visited the site since late 2022 and that processes, such as daily checks were not being undertaken. Mr. Kinch informed me on site that he would contact Mr. Tymkiv in an attempt to have him reappointed as site TCM. Following the visit I spoke with Mr. Tymkiv, who confirmed that he had been reappointed to the role and would visit in the next few days. **As outlined in the Action found in section 2 of this report please ensure that the site has an appropriately qualified TCM in place, that the TCM is on site as per the attendance requirement and that they ensure that the site is run in accordance with the conditions of the permit, the Environmental Management System, Fire Prevention & Mitigation Plan and all applicable waste legislation. The TCM must ensure that the site is operating in compliance with its permit and that staff have sufficient knowledge of the permit, Environmental Management System and Fire Prevention & Mitigation Plan to ensure this.**

Environmental Management System (EMS):

NON-COMPLIANCE C1 (Staff Competency / Training) - Condition 1.1.1 states '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 results of complaints.'

It was evident that the site was not operating in accordance with the processes and procedures outlined in the EMS. Whilst Mr. Kinch was aware of the document and had a copy on site, he was unaware of it's importance and the requirement to follow the processes and procedures outlined within it. The EMS also needs reviewing as there have been changes in site management since it was issued. The document must reflect current site operations and if not be reviewed and updated. **As outlined in the Action found in section 2 of this report please ensure that the site operates in line with its permit and EMS. Your TCM must ensure that the site is operating in compliance with its permit and that staff have sufficient knowledge of the permit and EMS to ensure this.**

Fire Prevention and Mitigation Plan (FPMP):

NON-COMPLIANCE C1 (Staff Competency / Training) - Condition 3.4.1 states 'The operator shall manage and operate the activities in accordance with a written fire prevention plan using the current, relevant fire prevention plan guidance'.

As with the EMS whilst the site had a copy of the Fire Prevention and Mitigation Plan available Mr. Kinch had little understanding of the document and operations were not being carried out in accordance with it. **As outlined in the Action found in section 2 of this report please ensure that the site operates in line with its FPMP. Your TCM must ensure that staff have sufficient knowledge of FPMP to achieve this.**

Other Observations:

Officers asked to see the records and paperwork for waste being brought to and despatched from site. There were deficiencies in the transfer notes being used with them not containing much of the information required under law, such as the location of the transfer, the details of the entities involved in the transfer and a listing six figure European Waste Catalogue Code numbers to accurately describe the waste involved.

You are receiving and moving hazardous waste to and from site so will need to be using hazardous waste consignment notes and be registered as a hazardous waste producer.

As a permit condition the site is also required to submit annual waste returns to Natural Resources Wales detailing the type and volume of waste received at and removed from site.

Further guidance can be found below and these issues will be reviewed during future compliance work.

[Natural Resources Wales / Completing waste transfer notes](#)

[Natural Resources Wales / How to complete a hazardous waste consignment note](#)

[Natural Resources Wales / Register or renew as a hazardous waste producer](#)

[Natural Resources Wales / Submit your waste return](#)

Any queries in relation to the content of this report please don't hesitate to contact, Jeremy Goddard - jeremy.goddard@cyfoethnaturiolcymru.go.uk; 0300 065 4022.

ENDS.

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.