

Compliance Assessment Report CAR_NRW0042405

Permit being assessed: BW2692IM.

For: Morfa Hazardous Landfill , **held by:** Tata Steel UK Limited

At: Corus Strip Products Port Talbot Works , Port Talbot, SA13 2NG.

Type of assessment: Site Inspection,

Reason: Routine.

On: 24/08/2023 between 09:00 and 13:00.

Parts of permit assessed: Site Inspection.

NRW Lead Officer: Rhodri Morgan, accompanied by Neil Herbert.

Report sent to: Nathan Ace , Head of Environment TSUK Operations, on 14/09/2023.

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

Part of permitted activity assessed (compliance criteria)	Assessment result	Permit condition
IR2C - Operations - Operating techniques	C3 Minor	2.3.1(a)
IR1E - Management - Avoidance, recovery and disposal of wastes produced by the activities	C3 Minor	1.5.1
IR2G - Operations - Landfill engineering (only applicable to landfill)	Action only (X)	
IR2G - Operations - Landfill engineering (only applicable to landfill)	Action only (X)	
IR3C - Emissions and monitoring - Odour	Assessed (A)	
IR3F - Emissions and monitoring - Pests	Assessed (A)	

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

Total non-compliances recorded	Total non-compliance score
2	8

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
IR2C	Action 04205/01 - Tata to provide an urgent update on their	26/09/2023

Criteria	Action needed	Complete by
	plans to cap Cell 1 (including proposals for the temporary cap of the cell in the interim period). Initial update to be provided in routine fortnightly meeting – next scheduled for the 26th September 2023.	
IR1E	Action 04205/01 - Tata to provide an urgent update on their plans to cap Cell 1 (including proposals for the temporary cap of the cell in the interim period). Initial update to be provided in routine fortnightly meeting – next scheduled for the 26th September 2023.	26/09/2023
IR2G	Action 042405/02 – Tata to provide update on proposed timeline for the construction of Cell 3.	26/09/2023
IR2G	Action 042405/03: TATA to consider revision to design of sub cell 3 temporary bund in line with comments in the CAR report.	30/11/2023

Compliance 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

Tata Steel UK Limited (Tata) operates the Morfa Hazardous Landfill (MHL) under the provision of Permit BW2692IM. The larger waste management site at Port Talbot includes the closed landfill (MCL) and the non-hazardous landfill (MNHL).

The landfill accepts wastes produced exclusively by Tata; at present consisting mainly of construction and demolition waste containing hazardous substances^[1] (Chapter 17 Wastes), arising from activities at Port Talbot.

A routine inspection of the landfill was undertaken on the 24th August 2023. NRW were escorted around the permitted installation by Owain Davies and Justyn Hodge (Darlow Lloyd & Sons) and Chris Richards (Tata).

Site Observations

General

No wastes were visible on any of the inspected areas of the landfill, with all waste appearing to be suitably covered with appropriate daily or intermediate cover (Figure 1). No evidence of any banned or prohibited wastes were observed throughout the inspection[2].



Figure 1 – Landfill Surface

Leachate was not observed on any of the inspected landfill flanks (i.e., no evidence of leachate weeping, or breakouts were noted throughout the landfill). Surface water ponding was not observed in any of the inspected areas of the landfill.

No issues relating to malodorous emissions, pests, visible dust or any other amenity related condition were observed during the inspection. No wastes were received or deposited throughout the site inspection; therefore, we were unable to check the operators Level 3 waste acceptance checks.

Landfill Engineering– Capping of Cell 1

Following a site inspection in April 2021, NRW requested that Tata submit a plan for the temporary capping of Cell 1[3]. In response, Tata proposed to permanently cap Cell 1 at the same time as the construction of Cell 3. It was proposed that these works would be undertaken in the Spring/Summer of 2023.

NRW agreed to the proposal on the strict proviso that the permanent capping of Cell 1[4] would be completed by 30th September 2023. CQA documents have been submitted by the operator and approved for the capping works[5].

During the site inspection it was clear that the agreed deadline for the capping of Cell 1 will not be met. The operator confirmed that the CAPEX funding has yet to be approved, with a start date for the project unconfirmed. Tata believe that the seasonal restrictions on landfill engineering means the permanent capping of the cell is not likely until the Spring of 2024.

The delay in the capping works is unsatisfactory; especially following the conditional agreement to delay temporary capping to allow for the work to be completed in a more efficient manner to the operator. TATA need to provide an urgent update on their plans to address this matter (including proposals for the temporary cap of the cell in the interim period). NRW will now have to consider the issue of an Enforcement Notice.

Action 042405/01 – Tata to provide an urgent update on their plans to cap Cell 1 (including proposals for the temporary cap of the cell in the interim period). Initial update to be provided in routine fortnightly meeting – next scheduled for the 26th September 2023.

The ongoing delay to install a temporary or permanent cap to cell 1 of the Hazardous Landfill is resulting in the unnecessary generation of hazardous Leachate waste from the landfill site. **We consider these failures to be contraventions of condition 2.3.1a and condition 1.5.1 of the permit. Non-compliance scores of 3 has been attributed to these failures.**

Landfill Engineering – Construction of Cell 3

CQA documents have been submitted by the operator and approved for the construction of Cell 3[6]. The specification of the proposed cell is a replication of the containment design used for Cells 1 and 2, which are now nearing capacity.

Tata had initially indicated that the construction of Cell 3 would be undertaken throughout the spring/summer of 2023; running coherently with the capping of Cell 1.

The CAPEX funding for the construction of the cell has yet to be approved which has led to delays in the start of construction. Seasonal restrictions on landfill engineering means the construction of Cell 3 is unlikely to commence before the Spring of 2024.

Tata were advised to carefully consider the remaining void capacity at the Hazardous Landfill and timings of the construction of Cell 3. This may be particularly relevant as the potential for new waste streams is being considered by the operator. Given this and the significant lead in time for construction of landfill cells, NRW advise that Tata start this process urgently to ensure adequate void space is available.

The operator was informed that NRW is unlikely to accept a request to overtipp at the landfill if the remaining void space is filled before the construction of Cell 3.

Action 042405/02 – Tata to provide update on proposed timeline for the construction of Cell 3.

It was suggested that consideration is given to undertaking the required preparatory works for the construction of Cell 3 (sand stripping etc.) throughout the winter months. This may avoid potential ecological issues (nesting birds etc).

During the site inspection a suspected badger sett was observed on the proposed footprint of Cell 3. (Figure 3). Work that disturbs badgers is illegal without a licence, this includes; disturbing badgers when occupying a sett, damaging or destroying a badger sett and obstructing any entrance to a sett. The operator should consult with an ecologist and obtain the relevant licence before work commences.

Sub - Cell 3 (proposed) – Temporary Cell Bund

We have noted that the design for the temporary containment bund for cell 3 follows the design adopted for cell 1 and to a lesser extent cell 2. We would request that the temporary sub-cell design is revisited and a design that adopts an FML flap over the temporary clay bund structure is adopted. This is to reduce the risk of bund deterioration and leachate escape, particularly as the bund is likely to be in place for several years and in light of problems experienced with drainage in the current cells.

NRW are happy to discuss this further.

We would also ask that the temporary bund for sub-cell 3 is increased in height to at least 2m in height in order to ensure there is appropriate free-board (in-line with LFE4). Whilst we acknowledge that the bund is temporary, it is likely to be in place for several years and should meet the general requirement of a permanent bund. The temporary bund is aligned on an up-gradient, however given the leachate drainage and ponding issues experienced along cell1/2 flank (i.e. potential leachate reaching the toe of the bund), we believe that the bund should be increased in line with landfill guidance.

NRW believe that both changes are relatively simple to implement and can be agreed via a minor amendment to the CQA plan.

Action 042405/03: TATA to consider revision to design of sub cell 3 temporary bund in line with comments in the CAR report.

Vegetation Growth

Vegetation growth was observed along the northern flanks of the landfill and the containment bund (Figure 3). Without proper management, vegetation growth within and surrounding the landfill can threaten the integrity of the containment system.

The issue was previously raised following a site visit in October 2020 when an action was placed on the operator to clear a section of vegetation (CAR_NRW0037040). A return visit in April 2021 found that the vegetation had been cleared (CAR_NRW0038410).

Due to the impending construction of cell 3 and capping of Cell 1 – which will require reprofiling of the landfill flank and removal of the containment bund – the clearing of the vegetation has not been listed as an action within this CAR. However, the operator should ensure that this work is undertaken soon. Please have regard to any ecological impacts when undertaking any clearance works.



Figure 3 - Vegetation growth along northern flank of Cell 1.

Records – Waste Returns

A review of the quarterly waste returns submitted by the operator over the last two years^[7] was undertaken. The total volumes of waste reported in the waste returns were compliant with the limit specified in the permit – maximum input capacity of 500,000 tonnes per annum.

Over the reviewed period, the volume of waste deposited at the landfill has remained beneath historic deposition rates. This reflects the operators successful and continuous programme of waste minimisation, treatment and recovery within the steelworks.

The waste returns document the EWC waste codes for the wastes received at the facility. These were cross checked against the waste types permitted by the permit^[8]. All the wastes listed were permitted.

^[1] Based on waste returns information submitted for the periods between 2021 and 2023.

^[2] Article 5(3) COUNCIL DIRECTIVE 1999/31/EC

^[3] CAR_NRW0038410 – 17th June 2021

^[4] Email from Neil Herbert - dated 05th April 2022. Proposed Capping Haz Landfill – Acceptance of proposal

^[5] CAR_NRW0040577 – 24th October 2022

^[6] CAR_NRW0040578 – 24th October 2022

^[7] Period covered: Quarter 1 (January – March) 2021 to Quarter 2 (April – June) 2023

^[8] Schedule 2

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.

If your assessment result in Section 1 is suspended, what does this mean?

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 compliance criteria (used in section 1 and 2):

1. Management

- IR1A – General management
- IR1B – Finance (only applicable to Landfill)
- IR1C – Energy efficiency
- IR1D - Efficient use of raw materials
- IR1E - Avoidance, recovery and disposal of wastes produced by the activities
- IR1F - Multiple operator installations

2. Operations

- IR2A – Permitted activities
- IR2B – The site
- IR2C – Operating techniques
- IR2D – Technical requirements
- IR2E – Improvement programme
- IR2F – Pre-operational conditions
- IR2G – Landfill engineering (only applicable to Landfill)
- IR2H – Waste acceptance (only applicable to Landfill)
- IR2I – Leachate levels (only applicable to Landfill)
- IR2J – Closure and aftercare (only applicable to Landfill)
- IR2K – Landfill gas management (only applicable to Landfill)

3. Emission and Monitoring

- IR3A – Emissions to water, air or land
- IR3B – Emissions of substances not controlled by emission limits
- IR3C – Odour
- IR3D – Noise and vibration
- IR3E – Monitoring
- IR3F – Pests
- IR3G – Air quality management plans
- IR3H – Monitoring for the purposes of the Industrial Emissions Directive (this heading includes Large Combustion Plants)
- IR3I – Fire

4. Information

- IR4A – Records
- IR4B – Reporting
- IR4C – Notification

Enforcement response

Any non-compliance with a permit condition 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 twenty 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 to 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.