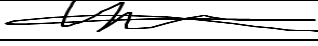


NRW CAR Form Response

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Requirement:	CAR Form response	CAR NRW0043300
Date of Submission:	08 th February 2024	
Signature:		Gareth Hill
Version number and date:	Version 1	February 2024

**Introduction and Background**

Install Waste Management Ltd have been successfully operating an Environmental Permit at Unit 12, Atlantic Trading Estate, Barry, CF63 3RF since November 2016, largely without incident or permit breach.

In more recent years and with the introduction of the current waste Regulatory officer, permit breaches have been scored in increasing severity whilst the operator has not altered the ways of working on site significantly, if anything, the site has become more efficient and effective at managing waste throughput and processing on site to meet the current standards required of the waste industry.

On 17th October 2023 there was a fire on site that regrettably started with (presumably) a lithium-ion battery spontaneously combusting on the surface of a waste stockpile within the building. The fire started at approximately 23:30pm, some 5½ hours after the operational staff left and final fire watch was undertaken.

NRW attended the site for a post fire meeting with the Operator on 24th October 2023 where post fire actions/business plans etc were discussed. There has been no contact since this meeting with NRW in relation to site clean-up or operations.

On the 1st February 2024 the Operator received a CAR form from NRW with permit breaches (to be detailed below) following the fire incident mentioned, the CAR form was sent 3½ months after the incident.

A further point to note, the operator submitted its FPMP to the Regulatory Officer for the site in November 2022, this is 11 months prior to the fire. The operator has never heard back from the Officer with comments regarding the FPMP not being suitable.

Context and Justification

The first point that we'd like to make at this stage is that we find it extremely unfair that NRW have asked for full justification for our meeting when requested following this CAR form when, NRW didn't give the operator the same courtesy when issuing this CAR Form and its associated breaches, especially following the discussions had on site in October post fire. Providing NRW with our issues/queries only serves for you to be able to provide a well-thought reply.

For ease of reading and discussion, the layout of the provided CAR form will be followed with our concerns about the scores, comments and actions detailed within it.

Within the covering email received from NRW a comment has been made that the breaches and categorisation of incident has been done inline with the guidance and EPR. This is to be kept in mind throughout.

CAR NRW0043300

Details of the assessment section

Within this section of the CAR the breaches are expanded upon and justified by NRW officers. Ahead of the first breach (D2), several paragraphs are within the report, one of the paragraphs comments that *“the majority of the firewater was recycled and reused, but some portion of the firewater was diverted to the combined sewer located on the road which is within the permitted site boundary.”*

Within the **Provision and Management of Firewater** section of the submitted Fire Prevention and Mitigation Plan (FPMP) the recirculation of firewater is a planned approach to a fire incident at the site to help in the reduction of impact and to extinguish the fire as quickly as possible.

Breach D2-Incident Management-accidents, emergency and incident planning.

A Category 2 breach has been scored against permit condition 3.5.1 that 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’*. A category 2 breach has been scored, according to the CAR form for the non-compliance against sections of the guidance (fire) not being followed throughout the incident.

The first point to note, is that when a submitted and live document is in use that satisfies permit condition 3.5.1, this is what NRW should be breaching against, not the guidance itself. The guidance is just that, a guide to be used by operators when compiling their FPMP documents. If certain elements of the guidance are not achievable on site, then full justification and alternative procedures should be proposed as set out within Section 1- Introduction and Scope of the Guidance document itself.

Running theme of Site manager not being present

This accusation is simply not true, we are unsure of what evidence NRW have that this was the case. If you would like to share this evidence, please email it across.

The site director arrived at the site for approximately midnight on the night of the fire. This is just 30 minutes from when the FRS had an emergency call alerting them to the incident. Upon his arrival, a discussion was had with the chief fire officer on site and the operator informed the FRS not only of the hydrant and its location but also highlighted that the site next door has 2 large storage tanks of water that could be used if required. This was rejected and the FRS decided that their best use of water was the river.

The director remained on site until he left the site at 4am for approximately 2 hours. This was done to brief the staff for the day and to update supervisory staff, as well getting some food etc. The director returned to the site for 6am where he remained for most of the day.

It is quite clear that the director of the company was fully present for most of the incident. Therefore, the running opinion and comments from NRW that he was not on site or was not available is completely fictitious and has been made erroneously. Therefore, all breached points relating to this, should be discarded.

Point 1.1 of CAR Form

The 3 points listed as bullet points in the CAR were either followed or were not possible to be followed and so this point is not applicable (in addition to not breaching the actual on-site documents). The first bullet point requires that water be added to cool the waste, this did happen as the FRS clearly added water to the waste within the building to cool and/or extinguish the waste. The second and third points were not possible on site as the FRS clearly instructed all personnel who were not FRS to leave the site area as there was the threat of explosions in a Health and Safety warning. Therefore, the operator could not do these bullet points without risking his own life and those who would have been charged with the task.

Your justification for the breach in this section-doesn't appear to comment on any of the bullet points listed and so has offered no real reasoning for the breach being scored. NRW comments that the walls of the building were not fireproof and that the doors were open, aiding the spread of the fire. We would be very grateful if you could highlight in either of our FPMP or the Guidance documents where it says that the building must be a fireproof building or where all doors are to be kept closed. Please bear in mind that the FRS themselves required that the roller shutter doors be open to access the building. In fact, the guidance clearly states in Section 12-Waste Stored Within a Building, that *'waste storage areas should have some means of clearing smoke from the building, such as openable skylights or roller shutter doors, to aid firefighting'*. Therefore, the doors being opened should not be considered as a breach but as a positive move to aid firefighting as per the requirements of the published guidance. This section of the guidance also comments that Fire walls and/or separation should be considered. We can confirm that as per the FPMP provided to NRW, fire walls were being used on site as was a gap at the rear of the walls. This was done to aid with the lowering of fire risk on site and as an agreement between the operator and the landlord to prevent the plant using the building walls as 'push walls' to ensure the structure of the building was protected.

Point 1.2 of CAR Form

This point relates to the guidance again and not to the FPMP that the site work to. See above for comments on breaching the guidance and not the documents held. As above, the justification for this point of the breach only mentions that the site does not have a fixed suppression system. As per the above, the guidance allows for operators to use other techniques to aid with firefighting. If you refer to the section of the site FPMP headed Fire Detection and Suppression, you will see full justification for not having a suppression system. In summary, the relatively low levels of material, the comprehensive CCTV system and fire watch procedures along with daytime use of fire extinguishers have justified the lack of suppression system for a site of this relatively small size. Therefore, this section of the breach is not relevant.

Point 1.3 of CAR Form

This section of the CAR form aims to justify the breach by commenting that due to the site manager not being on site the FRS had no idea where they could get water from, and that the hydrant was too low in pressure for them to use effectively. Firstly, as detailed above, the site manager was

present and had informed the FRS of the location of the Hydrant and the 2 sumps available within the yard next door (FRS chose not to use them). NRW have laid blame for the hydrant being low in pressure on the operator as it has been used for breach justification. This pressure issue is not the fault of the operator and so it cannot be used in any way to justify a breach scored against the operator for having a lack of water on site, there was simply no way of the operator knowing this would be the case.

Point 1.4 of CAR Form

This section of the breach justification concerns the management of water runoff. Yet again and as per the above point, NRW have listed the Guidance points as opposed to using the submitted FPMP and its section relating to Fire water containment. The point also comments on the site manager not being present, please refer to the above section as this was not the case. The point refers to there being an NRW officer on site and that this Officer authorised the discharge to foul sewer, as is commonplace in an emergency where both NRW and the FRS have the authority to use their discretionary powers to prevent/stop the emergency getting worse. It is unclear why this is being used against the operator as breach justification especially when considering NRW have had access to the sites FPMP for 11 months and therefore were fully informed on where the drainage system is and its capacity as this is detailed within the document. This is further the case when NRW arrived on site at 11am, nearly 12 hours after the fire was reported to the FRS (the FRS have an automatic reporting system to NRW for Fires at Waste sites), NRW therefore had plenty of time to familiarise themselves with the drainage system on site and could have read the document prior to their arrival.

There is also a large section of the justification for the breach that relies on assumptions for events that didn't happen:

'...that the risk of diverting the fire water had not been properly assessed and had the sewer become overwhelmed, there was a risk of overflowing into the Cadoxton River. If the FRS had a sufficient water supply which was required to manage the fire, the containment measures would not have been sufficient and would have likely discharged to watercourse causing a significant impact.'

As this is a CAR form following an incident, the breaches should be dealing in facts as the actual picture and timeline of events is known. NRW cannot use assumptions for scenarios that didn't occur, observations, comments and ultimately breaches must deal with facts based on the evidence that is known to have occurred. In this instance, a *'portion of the firewater was diverted to the combined sewer'* and therefore, no pollution was noted. There is also no quantification of how much water was put to the foul network. As NRW have deemed this as being a Category 2 breach of the permit, a quantification would be expected as to the levels of water that caused a pollution, in this case 0 as they were safely disposed of.

The operator would like this breach removed.

Breach E2-Emissions to Land and Groundwater

A Category 1 breach of the permit has been scored against permit condition 3.1.1 that states *'Emissions of substances not controlled by emission limits (excluding odour) shall not cause pollution. The operator shall not be taken to have breached this condition if appropriate measures, including, but not limited to, those specified in any approved emissions management plan, have been taken to prevent or where that is not practicable, to minimise, those emissions.'*

This breach clearly details that an operator will not be seen to have breached this condition if appropriate measures including, but not limited to, those specified in any approved emissions management plan, have been taken to prevent or where that is not practicable, to minimise, those emissions. As detailed above, the operator had the measures in place at the site to prevent and minimise, as far as practicable the emissions that would result from a fire. Please see the points raised above for further explanation.

Additionally, in the breach justification for the category 1, NRW have provided no evidence or detail of where a pollution that is major in nature, occurred to land or groundwater. The justification for the Category 2 breach clearly outlines that all firewater was recirculated on site and that only a portion of the water was diverted to fowl sewer, therefore preventing any escape to the environment. The breach does note that several business premises were damaged because of the fire, this is regrettably correct. However, this is not justification for this breach at all. The FPMP states that firewalls were in use to the sides and the rear of the waste reception hall and we have confirmed that there was a gap around the entire internal wall to prevent damage from the waste, plant etc being caused, therefore, the site have *'appropriate measures, including, but not limited to, those specified in any approved emissions management plan, have been taken to prevent or where that is not practicable, to minimise, those emissions.'*

Further to this, we do not feel that it is appropriate for NRW to alter the breach of permit headings to suit their own agenda. For example, if you refer to section 1 of the CAR form Summary of Our Findings, the breach for the Category 1 clearly defines this area as being E2-Emissions-Land and Groundwater. Then within the breach justification section 4 Details of Our Assessment, the heading has been altered and reads E2-Emissions-Land. This is clearly a deliberate act to align the breach to suit the loss of building justification and to try and pass it as a pollution to land due to the loss of infrastructure, which is inaccurate and not the case of this breach.

The operator would like this breach removed.

Breach G4-Monitoring and records, Maintenance and Reporting- Reporting and notification to Natural Resources Wales

A Category 3 breach was scored against permit condition 4.3.1(a) and the justification from NRW was that they were informed by the security guard for the area, the operator believes that this breach is also not required. As NRW were already informed, the operator just thought that a secondary phone call wouldn't achieve any different outcome to what had already happened. The FRS and the operator attended the site and NRW were fully informed. The comment that the site manager didn't communicate with NRW across the entire incident is also inaccurate and is not true. As discussed in the meeting post fire, there were discussions relating to the questioning of the regulatory officer on site and the inappropriate nature of them. Therefore, clearly there were communications between the operator and NRW and so the CAR form factually incorrect.

The operator would like this breach removed.

Other Issues

As discussed previously and as an ongoing issue, the operator believes that the Regulatory Officer who deals with the site is not suitable to continue with the Regulation of the site. Therefore, we would like this issue to be raised within our meeting and the Operator will bring with him questions, queries, and observations etc to raise/discuss.