

Compliance Assessment Report CAR_NRW0046116

Permit being assessed: WP3231NB.

For: The Creamery , **held by:** Dairy Partners (Cymru Wales) Limited

At: Aberarad, Newcastle Emlyn, Carmarthenshire, SA38 9DQ.

Type of assessment: Site Inspection,

Reason: Other.

On: 29/01/2025 between 10:06 and 10:50.

Parts of permit assessed: Condition 3.2.3, Condition 3.4.1, Condition 2.3.1(a).

NRW Lead Officer: Kirsty Thomas, accompanied by Alex Bowder.

Report sent to: Dairy Partners (Cymru Wales) Limited, Operations Manager, on 20/02/2025.

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

Part of permitted activity assessed (compliance criteria)	Assessment result	Permit condition
IR3B - Installations - Emissions and monitoring - Emissions of substances not controlled by emission limits	C2 Significant	Condition 3.2.3
IR3D - Installations - Emissions and monitoring - Noise and vibration	C2 Significant	3.4.1
IR2C - Installations - Operations - Operating techniques	C2 Significant (Suspended)	2.3.1(a)

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

Total non-compliances recorded	Total non-compliance score
3	62

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
IR3B	Any containers (including their pipework) holding potentially polluting liquids must be provided with appropriate containment.	20/02/2025

Criteria	Action needed	Complete by
IR3D	Operator to only complete Liquefied Natural Gas (LNG) refuelling using the techniques and manner described in the documentation within permit table table S1.2 operating techniques until such a time that alternative techniques and manners are agreed through a permit variation.	20/02/2025
IR2C	Operator to only complete Liquefied Natural Gas (LNG) refuelling using the techniques and manner described in the documentation within permit table table S1.2 operating techniques until such a time that alternative techniques and manners are agreed through a permit variation.	20/02/2025

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.

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

This Compliance Assessment Report (CAR) details the comments of Natural Resources Wales (NRW) Officers for the unannounced site visit on 29/01/2025 at The Creamery, Aberarad, Newcastle Emlyn SA38 9DQ for activities by Dairy Partners (Cymru Wales) Limited (the operator) under the Environmental Permit **EPR-WP3231NB**.

The visit purpose was to inspect the Effluent Treatment Plant (ETP) to confirm secondary containment arrangements in place.

Background

A Regulation 36 Notice was issued (17/12/2021) in response to a non-compliance with permit condition 3.2.3 which was first identified in April 2021 (CAR_NRW0038334).

Condition 3.2.3 of the permit^[1] stated:

"All liquids in containers, whose emission to water or land could cause pollution, shall be provided with secondary containment, unless the operator has used other appropriate measures to prevent or where that is not practicable, to minimise, leakage and spillage from the primary container".

The Regulation 36 Notice included 2 steps; initially, submission of a variation application for the new ETP with a proposed secondary containment system for the aeration and balance tanks, and secondly, construction of an approved secondary containment system, subject to the relevant permissions.

A Secondary Containment Lagoon (SCL) design was agreed as part of the permit variation V004 (variation issued 09/03/2023). The agreed design is required to be implemented to provide adequate containment provisions for the new ETP in line with permitting requirements, as well as CIRIA 736 standards ('containment systems for the prevention of pollution') and therefore meeting Best Available Techniques (BAT).

Retrospective planning permission for the new ETP (including the proposed secondary containment lagoon) was granted 28/03/2024. The Regulation 36 Notice required construction of the approved secondary containment system if both permissions were obtained and within 10 months of whichever was granted later. This therefore created a compliance deadline for construction of the SCL by 28/01/2025.

[1] Condition 3.2.3 of permit version V003 at the time the Regulation 36 Notice was issued. Current version of the permit is V005. Condition numbering and wording has not changed.

Site Observations

NRW Officers attended the Dairy Partners site on 29/01/2025 at 10:06am. NRW Officers spoke with Dairy Partners staff to confirm the purpose of the visit.

NRW Officers proceeded to the ETP area where it was evident that the SCL was not in place, and that no construction work had commenced. The ETP was in operation at the time of the visit.

The River Arad flows directly through the site and is within close proximity to the ETP. The River Arad is a tributary of the River Teifi with the confluence approximately 0.42km downstream of Dairy Partners facility. Both watercourses are sensitive receptors, however the Teifi is also a Designated Special Area of Conservation (SAC, designated for several Annex II fish species) which is the highest level of environmental protection that can be afforded to a habitat in Europe.

Any pollution of the River Arad has potentially significant implications and this emphasises the importance of potentially polluting liquids having secondary containment as required by Condition 3.2.3 of the permit.



Image 1 - ETP operating with no SCL and in close proximity to the River Arad



Image 2 - ETP operating with no SCL and in close proximity to the River Arad



Image 3 - ETP operating with no SCL

The use of the ETP without appropriate secondary containment in place is an ongoing non-compliance. **This has been assessed as a non-compliance score of Category 2 (C2 - significant) which will be recorded against sub-criteria IR3B - Emission and Monitoring - Emissions of substances not controlled by emission limits, Condition 3.2.3 of the environmental permit. This in accordance with NRW's compliance scoring guidance.**

ACTION: Any containers (including their pipework) holding potentially polluting liquids must be provided with appropriate containment.

The action completion date for the associated action has been entered to reflect the immediate requirement on the operator to comply with the condition.

During the visit, NRW Officers also witnessed an LNG delivery (via LNG provider FloGas) taking place within the site boundary.



Image 4 - LNG delivery

The LNG delivery was already taking place when NRW Officers arrived to site. Acoustic barriers were observed around parts of the LNG delivery area but gaps were evident ultimately decreasing the effectiveness of the barriers. No acoustic barriers were present along the site boundary fence as were observed during previous visits.

Note: Acoustic barriers are not the current approved appropriate measure for noise abatement from LNG refueling activities.

NRW Officer requested to speak to the LNG delivery driver (FloGas) and confirmed the bar pressure of the pump. The LNG unloading pump was taking place at less than 10 bar pressure. NRW Officers observed the unloading pump to be running at approximately 9.5 bar pressure.

NRW Officers assessed noise levels outside of the permit boundary during the LNG delivery taking place. A perceived offensive and continual tonal noise originating from the LNG road tanker whilst located at a nearby receptor was identified.

The noise emission is a non-compliance scored a Category 2 (C2 - significant) against permit condition 3.4.1. The noise encountered by NRW Officers was considered offensive to the human senses and therefore polluting. This score has been applied in accordance with NRW's compliance scoring guidance. This non-compliance will be recorded against sub criteria IR3D - Noise and vibration.

LNG deliveries continue to take place without the agreed silent delivery operating techniques as outlined in the environmental permit operating techniques "*Report into LNG delivery Systems at the Newcastle Emlyn Dairy*" dated 30th December 2019.

A permit variation has been submitted for use of an alternative noise abatement measure for LNG deliveries, but is yet to be determined by NRW (there is no guarantee the proposed method will be accepted).

The root cause for noise pollution from the LNG delivery is a result of Dairy Partners operating without the agreed delivery technique (i.e. not silent delivery). **Therefore, a non-compliance with permit condition 2.3.1 (a) is also recorded. This non-compliance has been scored a Category 2 (C2 - significant) which will be recorded against sub criteria IR2C - Operating techniques, as per the reasons set out above. This in accordance with NRW's compliance scoring guidance. However, the non-compliance score against IR2C is suspended acknowledging the permit variation submission.**

Note: The acoustic barriers currently being used during the LNG delivery are not effectively minimising noise.

ACTION: Operator to only complete Liquefied Natural Gas (LNG) refuelling using the techniques and manner described in the documentation within permit TableS1.2 operating techniques until such a time that alternative techniques and manners are agreed through a permit variation.

The action completion date for the associated action has been entered to reflect the immediate requirement on the operator to comply with the currently agreed operating technique (silent delivery).

END

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.