

Compliance Assessment Report CAR_NRW0038813

Permit being assessed: TP3599VH.

For: Kirkhamfield Depot, held by Powys County Council

At: Newtown, SY16 3AF.

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

On 28/09/2021 between 13:34 and 14:10.

Parts of permit assessed: See criteria listed below

NRW Lead Officer: Bethan Lewis, accompanied by Jeremy Goddard.

Report sent to: Chris Jones, Depot Manager on 20/10/2021.

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)	
C1 - General Management - Staff competency/training	C3 Minor	1.1.4
C4 - General Management - Storage, handling labelling and Segregation	Assessed (A)	
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)	
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C4 No impact	2.3.2 (a)

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

Total number of non-compliances recorded	Total non-compliance score
2	4.1

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
C1	Appoint a new Technically Competent Manager (TCM) to cover the permitted activity at Kirkhamfield Depot and supply NRW with a copy of their most recent competence certificate.	30/11/2021
G4	Consider varying permit or registering waste exemptions to accept other waste types at Kirkhamfield Depot and notify	30/11/2021

Criteria	Action needed	Complete by
	Bethan Lewis (NRW Officer) whether you intend to vary Kirkhamfield's permit, register waste exemptions or stop accepting non-permitted waste types at Kirkhamfield Depot by the relevant deadline. Stop accepting non-permitted waste types until the permit has been varied or appropriate waste exemptions have been registered.	

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

This was a routine unannounced site inspection of waste operations at Powys County Council's Kirkhamfield Highways Depot by Natural Resources Wales (NRW) Officers Bethan Lewis and Jeremy Goddard. The weather during this visit was wet but relatively warm.

Mr. Chris Jones, the depot manager, accompanied Bethan and Jeremy to view the wet and dry street-cleaning residue bays at Kirkhamfield Depot. These bays are shown in Image 1 below. Whilst the bays could be seen to have been over-filled in the past, with small quantities of street-cleaning residues observed on top of the bay walls, this appeared to be minimal and causing no environmental harm.



Image 1: Wet (left) and dry (right) street-cleaning residue bays at Kirkhamfield Highways Depot

G4 Reporting and notification to Natural Resources Wales - Cat 4; Permit Condition 2.3.2(a)

Prior to the above site inspection, Bethan Lewis reviewed Kirkhamfield Depot's waste returns from the first (January-March) and second quarter (April-June) of 2021. During this review, it was identified that the site had accepted List of Waste Codes 17 05 04 (soil/stone), 01 04 08 (tarmac/planings), 02 02 03 (gully waste) and 20 03 99 (road sweepings), which are waste codes not permitted to be accepted under Kirkhamfield's permit. Condition 2.3.2(a) of the permit states that "*wastes shall only be accepted if it is of a type and quantity listed in schedule 2 table(s)*" which consists of List of Wastes Code 20 03 03 (street-cleaning residues) only. As this is a breach of Kirkhamfield's permit conditions, the site has been scored for a category 4 breach under the above condition.

The acceptance of non-permitted waste types was raised with Mr. Jones during the above site inspection. It was explained to Mr. Jones that depending on what Powys County Council (PCC) intends to do with the non-permitted wastes, PCC could vary Kirkhamfield's permit or register waste exemptions to enable the site to accept these waste types in future. To enable PCC to consider these options further, below are links to information on varying waste operation permits and registering waste exemptions respectively:

<https://naturalresources.wales/permits-and-permissions/waste-permitting/apply-for-a-waste-permit/apply-to-vary-change-a-permit-for-waste-operations/?lang=en>

<https://naturalresources.wales/permits-and-permissions/waste-permitting/register-or-renew-your-waste-exemptions/?lang=en>

To rectify the above breach, NRW ask PCC to consider these options and notify Bethan Lewis (NRW Officer) whether they intend to vary Kirkhamfield's permit, register waste exemptions or stop accepting non-permitted waste types at Kirkhamfield Depot by the 30 November 2021. In the meantime, NRW ask PCC to stop accepting non-permitted waste types at Kirkhamfield Depot until the permit is varied or appropriate waste exemptions are

registered. PCC are reminded that if waste exemptions are registered at Kirkhamfield Depot, waste activities covered by these exemptions must be kept separate from the waste activity conducted under the permit.

As it is suspected that street-cleaning residues were incorrectly coded on the previous waste returns as 20 03 99 rather than 20 03 03, NRW also ask PCC to ensure that the correct waste code is used on future waste returns.

C1 Staff competency/training - Cat 3; Permit Condition 1.1.4

During the above site inspection it was identified that Kirkhamfield Highways Depot do not currently have a Technically Competent Manager (TCM) as the most recent TCM had left the site to undertake duties elsewhere. Whilst PCC are currently looking to appoint a new TCM, condition 1.1.4 of Kirkhamfield's permit states that "*the operator shall comply with the requirements of an approved competence scheme*". As this is not currently the case, the site has been scored for a category 3 breach under the above condition. In order to rectify this breach, NRW ask PCC to appoint a new TCM to cover the permitted activity at Kirkhamfield Depot and supply NRW with a copy of their most recent competence certificate by the 30 November 2021. If PCC have any issues in completing this within the timeframe given, we ask that they contact Bethan Lewis regarding this matter prior to this deadline.

In this document 'Natural Resources Wales' means the Natural Resources Body for Wales established by Article 3 of the Natural Resources Body for Wales (Establishment) order 2012.

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.