

Natural Resources Wales
Wales Permitting Centre (Cardiff)
Cambria House
29 Newport Road
Cardiff CF24 0TP

Attn: Kevin Ashcroft (Senior Permitting Officer)

(Copy by email)

Your ref: PAN000061

Our ref: REJ1-001/LF

21 October 2016

URGENT LETTER

Dear Sirs

Application for a new bespoke Environmental Permit for Hazrem Environmental Limited at Nine Mile Point Waste Transfer Facility, Nine Mile Point Industrial Estate, Cwmfelinfach, Caerphilly NP11 7HZ

1. We are instructed by local residents in connection with the application for a new Environmental Permit for Hazrem Environmental Limited at Nine Mile Point Waste Transfer Facility, Nine Mile Point Industrial Estate, Cwmfelinfach, Caerphilly NP11 7HZ (App ref: PAN-000061). The decision is presently pending. For the reasons set out in summary below, our clients have serious concerns regarding this application and strongly object to the grant of an Environmental Permit for the proposed operation at Nine Mile Point Waste Transfer Facility.
2. As NRW will be aware, public health concerns have been raised by local residents who are extremely concerned by the risk of adverse health consequences from exposure to NO₂ emissions from the proposed operations at Nine Mile Point. NRW consulted Public Health Wales (PHW) in respect of the Environmental Permit application, and in a letter dated 22 January 2016, NRW specifically requested that the consultation response from Public Health Wales considered whether or not the rise in predicted Nitrogen Oxide emissions during thermal inversion climatic conditions would lead to harm to the public's health in the vicinity.
3. PHW's consultation response from Aneurin Bevan University Health Board dated 19 September 2016 on behalf of PHW (the PHW consultation response) concluded that there were real concerns that the *"proposed operation will significantly add to the burden of air pollution, principally short-term NO₂ concentrations"*.
4. The overall conclusion of their consultation response was that: *"There is now strong evidence from the new modelling data that the development will cause significant short-term local air quality deterioration within an area of deprivation, including vulnerable populations. The evidence of increasing air pollution concentrations and*

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ill-health impacts is strong and any deterioration of local air quality is likely to have an adverse health and wellbeing impact. We would therefore recommend that the Regulator exercise caution in considering the granting of a Permit”.

5. Furthermore, the PHW consultation response also stated that the modelled air quality impacts are particularly significant in the broader public health context as the local area has a “*high deprivation status and, as such, the local population is more likely to have higher pre-existing rates of ill-health compared with elsewhere*”.
6. We therefore consider it highly important that further assessments are carried out in relation to this application, including a full Health Impact Assessment, to ensure that any decision regarding whether to issue the Environmental Permit will have fully considered the effects of exposure to NO₂ emissions in a context where the receiving neighbourhood is an area of high social and economic deprivation and especially where there is overwhelming evidence this community is especially vulnerable to any increased risk in adverse health effects. We believe that the law is clear that where the Local Health Board has come to such conclusions and highlighted their serious concerns over the application, it cannot be right to grant an Environmental Permit for the proposed operations in these circumstances as to do so would cause harm to human health.
7. Since the PHW consultation was submitted, we understand that the Applicant (Hazrem) has submitted various further air emissions data and there was some confusion as to whether this predicted lower concentrations of pollution. We now understand that the most recent report from Hazrem’s air quality consultants corroborates the fact that emissions would still be 300 mg/M³.
8. It is important to stress that these emissions concentrations are the same which were before PHW when they were consulted and raised their health concerns. It appears however from the email correspondence we have seen, that the officer dealing with the supplemental information, may have materially misunderstood the technical contents of the updated information which led him to wrongfully give the impression there would be lower emissions levels. To confirm our understanding of the position, we refer to the letter from Mr Allan Sharpe, a retired chemist, dated 18 October 2016 sent to NRW on behalf of the local residents (copy enclosed) in response to the later information. This makes plain that the predicted concentration of NO₂ emissions has remained at 300 mg/M³ and the applicant has not suggested any reduced rate of emissions.
9. We highlight the unfortunate and potentially unlawful conduct of Mr Ashcroft as a principle concern. He has adopted a stance that he will not formally consult on the new information; this conduct by the regulator creates a hostility and fear that the process is biased and unfair to local residents. It strikes us as completely at odds with NRW’s role as regulator to protect the health and well-being of the communities it serves, and contrary to its duty to protect the receiving community from harmful development, especially in circumstances where members of the community are known to be socially and economically deprived.
10. For these reasons, we fully expect the contents of this letter and Dr Sharpe’s letter to be taken into account in your determination of this permit application. We note that Mr Ashcroft’s email note of 17/10/16 gives an indicative timeframe for determination as mid December 2016 so there can be no lawful justification for failing to permit the local community to respond to the technical information so both views are before NRW at the time of your decision.

11. We also understand that Chris Burns (Chief Executive of Caerphilly County Borough Council (CCBC)) has written to NRW in a letter dated 4 October 2016 urging NRW to consider all the new evidence of the adverse impacts on the health of local residents and employees working in the vicinity when determining the environmental permit application. This is due to the fact that this evidence from the new modelling data was unavailable when his planning department granted planning permission.

Well-being of Future Generations (Wales) Act 2015

12. Section 4 Well-being of Future Generations (Wales) Act 2015 outlines seven "well-being goals", which include *inter alia* "A healthier Wales – A society in which people's physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood".
13. NRW is a public body for the purpose of the Act (see s.6). On this basis, NRW are expected to demonstrate in your decision process how you are meeting the *Healthier Wales* goal when the receiving community has been identified by the PHW consultation response as an area with a high social and health deprivation status.
14. It strikes us that in these circumstances, it is absolutely essential that there is no further risk of deterioration in local air quality. In this regard we note that CCBC, in its 2016/17 Corporate Plan (Well-being Objectives), has set a well-being goal to address social and health inequality in communities like Cwmfelinfach, see CCBC Well-being Objective 3, "*Close the gap in life expectancy for residents between the most and least deprived areas in the borough.*"

Conclusion

15. For the reasons set out above, we trust NRW will agree the application for a new Environmental Permit at Nine Mile Point Waster Transfer Facility should be refused.

Yours faithfully

Richard Buxton

Richard Buxton Environmental & Public Law

cc. Caerphilly County Borough Council (Attn. Chris Burns)