

Compliance Assessment Report

Report ID:
CAR_NRW0034713

This form will report compliance with your permit as determined by an NRW officer

Site	Croescarneinon Farm Landfill	Permit Ref	VP3899FS		
Operator/Permit holder	Davies Gethin & Son				
Regime	Waste Operations				
Date of assessment	31/01/2019	Time in	10:30	Out	11:00
Assessment type	Site Inspection				
Parts of the permit assessed	Permit, working plan & site history in accordance with current site activities				
Lead officer's name	Warwick-Brown, David				
Accompanied by	Moggridge, Lara				
Recipient's name/position	Edward Davies/ Operator	Date issued	21/02/2019		

Section 1 – Compliance Assessment Summary

This is based on the requirements of the permit under the Environmental Permitting Regulations or the licence under the Water Resources Act 1991 as amended by the Water Act 2003. A detailed explanation is captured in "Compliance Assessment Report Detail" (Section 2) and any actions you may need to take are given in the "Action(s)" (section 4). This summary details where we believe any non-compliance with the permit has occurred, the relevant condition and how the non-compliance has been categorised using our Compliance Classification Scheme (CCS). CCS Scores can be consolidated or suspended where appropriate, to reflect the impact of some non-compliances more accurately. For more details of our CCS scheme, contact your local office.

Permit conditions and compliance summary	CCS Category	Condition(s) breached
A1 - Specified by permit	C2	permit condition 37
G1 - Monitoring and Records, Maintenance and Reporting - Monitoring of emissions and environment	C2	permit condition 40/41
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C3	permit condition 39

KEY: See Section 5 for breach categories, suspended scores will be indicated as such.

A = Assessed or assessed in part (no evidence of non-compliance), **X** = Action only,
O = Ongoing non-compliance, not scored.

Number of breaches recorded	3	Total compliance score (see section 5 for scoring scheme)	66
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If the Number of breaches recorded is greater than zero, please see Section 3 for our proposed enforcement response

Section 2 – Compliance Assessment Report Detail

This section contains a report of our findings and will usually include information on:

- The part(s) of the permit that were assessed (eg. Maintenance, training, combustion plant, etc)
- Where the type of assessment was 'Data Review' details of the report/results triggering the assessment
- Any non-compliances identified
- Any non-compliances with directly applicable legislation
- Details of any multiple non-compliances
- Information on the compliance score accrued inc.
- Details of advice given
- Any other areas of concern
- Any actions requested
- Any examples of good practice
- A reference to photos taken

Compliance Assessment Report - Croescarneinon closed landfill (EPR-VP3899FS/EAWML 30077)

Site inspection 18/07/18

Environment Officers James MALATYNSKI and Lara MOGGRIDGE attended Croescarneinon closed landfill site at 11:30 to perform a site inspection on the 18/07/18 just off Cock-Y-Nanty road. There was no one on site at the time of inspection and the weather was dry/overcast. There was evidence that vehicles had been on site recently with tracks evident through the site.

Site inspection 31/01/19

A further site inspection of the closed landfill was carried out on 31/01/19 at 10:30 by Officers David WARWICK-BROWN and Lara MOGGRIDGE; again, there was no one on site during the inspection. The weather was cold and breezy, and the ground was frozen.

Both inspections of the site confirmed that mixed construction and demolition wastes and other wastes are continuously being deposited on site, despite the permit being in definitive closure where further waste acceptance is no longer permitted. There are therefore several non-compliances of this permit which require further action.

A desk-based audit has been conducted to review overall permit compliance. Our records indicate that the original licence was issued on 15/03/89 and permitted the disposal of clean soil and sub-soil only. The waste types were modified in 1993 to include soil, sub-soil, excavation waste, natural stone, slate and bricks. Non-permitted wastes have been frequently recorded in previous site inspections since 1998. As well as the two site inspections from this CAR form, the following dated CAR forms from previous inspections contain reports of these non-permitted wastes: 16/09/98, 15/10/98, 4/11/98, 18/11/98, 02/02/99, 06/05/99, 22/07/99, 04/08/99, 30/09/99, 20/01/00, 10/03/00, 16/03/00 & 22/03/00 (inspected by Officer Sam Eaves), 24/02/02 & 03/08/02 (inspected by officer Ceri Jones). There is no evidence to confirm that these wastes were removed so the waste has been classed as Type B as defined by our surrender guidance (*How to surrender your environmental permit, Additional guidance for Landfill and other permanent deposits of waste (5.02)*).

The Landfill Directive 1999 brought in requirements for the regulation of landfills. Article 14 of the directive set out the requirements for existing sites, which were those that were in operation or which had a Waste Management Licence (WML) or PPC permit that was granted before 16 July 2001. These existing sites were required to close as soon as possible in accordance with the requirements of the Directive or make a permit application for a landfill permit to continue to operate to the correct standards. Our records show that the site closed under the requirements of this legislation and was confirmed to be in post-closure phase on the 26th August 2003, and has been billed as such since the 1st April 2003. Therefore, the status of this permit is a closed landfill in line with the requirements of the Landfill Directive.

Legal entity

The permit remains in the legal entity of Gethin Davies and Son, and as it has never been formally transferred, Mr. Edward Davies as Mr. Gethin Davies' son is the legal entity responsible for the operation and compliance with this permit and the relevant legislation. The land is owned by Croescarneinon Tip Limited of which Mr. Edward Davies is a registered secretary and company director according to Companies House. Responsibility of the site and permit compliance falls to Mr. Edward Davies under the definition of operator according to the Environmental Permitting Regulations (2016), unless the permit is transferred to another legal entity.

A1 – Specified activities – Specified by permit: Permit condition 37 – CCS CAT 2

Permit condition 37 states *"The final layer of waste deposited shall be subject to the minimum compaction and shall to a depth of not less than 1m be kept free of materials likely to interfere with the final restoration or subsequent use."*

On 04/03/02 we received confirmation from a Mr. Robert Harry that the site was in its restoration phase and had been since January 2001. As mentioned, the site was then confirmed by us to be in a post-closure/definitive closure phase with reduced subsistence fees as of 01/04/03, therefore the site was no longer permitted to accept any waste on site for disposal purposes. Since the definitive closure the site should have only accepted suitable wastes to enable restoration in line with condition 37, and the only work ongoing at the site should have been the completion of restoration and implementation of the monitoring plan to enable surrender of the permit.

The working plan states *"Capping of the site: The original topsoil has been stripped and pushed to one side. This will be used to go back over the site once the landfill is complete. The area will then be used for growing grass."*

The working plan indicates that there wouldn't have been a need to import large amounts of material to enable completion of restoration.

Our investigation has confirmed that considerable volumes of waste material unsuitable for restoration purposes have been brought onto site since being in post-closure phase. The photographs attached to this CAR form show that general mixed construction and demolition waste has been disposed of while the permit is in closure. The wastes identified during the recent site inspections include woods, plastics, metals, other mixed construction and demolition wastes, and unidentified wastes - none of which are suitable for restoring the site in line with the permit and Landfill Directive.

Please note that restoration work began in 2001 and initially a statement was made that restoration would be completed that year.

Action: You must cease the acceptance of any waste on site.

G1 – Monitoring of emissions and Reporting – Permit condition 40/41 – CCS CAT 2

Regular monitoring has not been undertaken and significant time has elapsed since receiving your last monitoring report, which was received 29th October 2007. The monitoring at the site needs to be in line with the minimum requirements detailed in the Landfill Directive.

Permit condition 40 states *"Sampling points for landfill gas and leachate are to be provided on site at positions agreed with by the Waste Disposal Authority"*

Permit condition 41 states *"The sampling regime for gas and leachate monitoring is to be approved by the Waste Disposal Authority"*

There are limited records regarding the monitoring of the site. A series of monitoring points would be required due to the size of the site. Condition 1 [d] of the licence modification (dated 15/07/93) states that *'subject to the terms of this Licence, the site shall be operated in accordance with the working plan'*. Our records indicate the working plan was not formally approved, as required by the permit in condition 1[a], however as one was never resubmitted for approval, we must regulate against the unapproved one we have on file. Under the heading *'Leachate and Landfill Gas Monitoring'* of your working plan, it is stated that *'measures will be taken for the above and approximate positioning of the boreholes are shown on the plan. However, the exact positions can be established at a site meeting which can take place at your request.'*

Action: Please provide the plan that contains the positioning of the boreholes

Appropriate measures to prevent and mitigate pollution have not been taken due to the lack of relevant environmental monitoring. A monitoring scheme was proposed as part of a restoration plan written by the Earth Science Partnership dated 20th March 2003, which was submitted to the Environment Agency. After a review of the submission the Environment Agency made comments in a letter sent to Mr Robert Harry (dated 06/05/03) to improve the submitted monitoring scheme before the monitoring scheme could be accepted.

There is no formal approved restoration plan in place, despite documented evidence of the regulating authority at the time stipulating improvements to be made to the initial restoration plan that had been declined. Improvements requested were as follows:

1. Area of closure

Submission of a site plan confirming the area to be considered closed and identifying the location of any monitoring infrastructure (e.g. boreholes, wells, survey locations, etc.).

2. Site stability

Requirement to demonstrate that the waste mass is stable, that there will be no slippage and that any settlement will not have an impact on the site's infrastructure (e.g. monitoring boreholes). Additionally, provision of a topographical survey showing final levels used as a baseline to assess settlement in future.

3. Monitoring

Proposals for monitoring surface waters, groundwater and landfill gas were noted, but the revised plan should include details of the monitoring protocol (e.g. monitoring objectives, techniques for sampling, analytical methodologies and laboratory accreditation). It should also include a procedure for inspection, maintenance and reporting regarding monitoring infrastructure to ensure points are not damaged or allowed to fall into disrepair.

An initial desk study risk assessment to determine the hydrogeology of the site was also proposed. The amount and design of monitoring required at the site should be based on the assessment of risk the site poses to the environment and as a minimum should meet the requirements of the Landfill Directive.

Due to the evidence of continued disposal of waste over several years, as detailed above, it is reasonably foreseeable that significant environmental impact could have resulted from the activities on site. It is therefore integral to undertake monitoring at this site to determine the impact on the environment from the deposit of unauthorised wastes.

Action: Submit a restoration plan that includes an adequate monitoring regime for the sampling of surface water, landfill gas, groundwater and leachate monitoring in line with the above.

G4 – Reporting and notifications – Permit condition 39 – CCS CAT 3

Condition 39 of the permit modification states that *‘a copy of any notice or instruction received in respect of the facility from any authority other than the disposal authority which in any way relates to the use of the facility shall be given to the disposal authority within three days of the receipt of such notice or instruction’*. Our investigation of the site's history indicates that you have successfully appealed against Newport County Council in relation to time frames and operations on site, which would directly impact the work on the permitted site. It was only through investigation and liaising with relevant council departments that the discovery was made.

Action: NRW should be informed with regards to instruction given by another authority that would impact site operations within the specified time limit in the licence.

NRW must now consider what enforcement action to take.

If you have any issues with this report please contact David Warwick-Brown on 0300 065 3683 or david.warwick-brown@cyfoethnaturiolcymru.gov.uk

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.

EPR Compliance Assessment Report

**Report ID:
CAR_NRW0034713**

This form will report compliance with your permit as determined by an NRW officer

Site	Croescaeineon Farm Landfill	Permit Ref	VP3899FS
Operator/Permit holder	Davies Gethin & Son	Date	31/01/2019

Section 3 – Enforcement Response

You must take immediate action to rectify any non-compliance and prevent repetition. Non-compliance with your permit conditions constitutes an offence and can result in criminal prosecutions and/or suspension or revocation of a permit. Please read the detailed assessment in Section 2 and the steps you need to take in Section 4 below.

We will now consider what enforcement action is appropriate and notify you, referencing this form.

Section 4 – Action(s)

This section summarises the actions identified during the assessment along with the timescales for when they will need to be completed.

Criteria Ref.	CCS Category	Action required/advised	Due Date
See Section 1 above			
G4	C3	NRW should be informed with regards to instruction given by another authority that would impact site operations in the future within the specified time limit in the licence.	21/02/2019
A1	C2	You must cease the acceptance of any waste on site.	21/02/2019
G1	C2	Please provide the plan that contains the positioning of the boreholes. Please submit a restoration plan that includes a monitoring regime for the sampling of landfill gas, groundwater and leachate monitoring.	28/03/2019

Section 5 – Compliance notes for the Operator

To ensure you correct actual or potential non-compliance we may

- Advise on corrective actions verbally or in writing
- Require you to take specific actions verbally or in writing
- Issue a notice
- Require you to review your procedures or management system
- Change some of the conditions of your permit
- Decide to undertake a full review of your permit

Any breach of a permit condition is an offence and we may take legal action against you

- We will normally provide advice and guidance to assist you to come back into compliance either after an offence is committed or where we consider that an offence is likely to be committed. This is without prejudice to any other enforcement response that we consider may be required.
- Enforcement action can include the issue of a formal caution, prosecution, the service of a notice and/or suspension or revocation of the permit.

See our Enforcement and Civil Sanctions guidance for further information

This report does not relieve the site operator of the responsibility to

- Ensure you comply with the conditions of the permit at all times and prevent pollution of the environment
- Ensure you comply with other legislative provisions which may apply

Non-compliance scores and categories

CCS category	Description	Score
C1	A non-compliance that could have a major environmental effect	60
C2	A non-compliance which could have a significant environmental effect	31
C3	A non-compliance which could have a minor environmental effect	4
C4	A non-compliance which has no potential environmental effect	0.1

Operational Risk Appraisal (Opra) - Compliance assessment findings may affect your Opra score and/or your charges. This score influences the resource we use to assess permit compliance.

Section 6 – General information

Data protection notice

The information on this form will be processed by the Natural Resources Wales (NRW) to fulfil its regulatory and monitoring functions and to maintain the relevant public register(s). The NRW may also use and/or disclose it in connection with:

- Offering/providing you with its literature/services relating to environmental matters
- Consulting with the public, public bodies and other organisations (eg. 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 its service
- Freedom of Information Act/Environmental Regulations request

The NRW may pass it on to its agents/representatives to do these things on its behalf. You should ensure that any persons named on this form are informed of the contents of this data protection notice.

Disclosure of information

The NRW will provide a copy of this report to the public register(s). However, if you consider that any information contained in this report should not be released to the public register(s) on the grounds of commercial confidentiality, you must write to your local area office within fifteen working days of receipt of this form indicating which information it concerns and why it should not be released, giving your reasons in full.

Customer charter

What can I do if I disagree with this compliance assessment report?

If you are unable to resolve the issue with your site officer, you should firstly discuss the matter with officer's line managers using the informal appeals procedure. If you wish to raise your dispute further through our official Complaints and Commendations procedure, phone our general enquiry number 0300 065 3000 (Mon to Fri 08.00 – 18.00) and ask for the Customer Contact team or send an email to enquiries@naturalresourceswales.gov.uk. If you are still dissatisfied you can make a complaint to the Public Services Ombudsman for Wales. For advice on how to complain to the Ombudsman phone their helpline on 0845 607 0987.

Welsh Language

If you would like this form in Welsh please contact your Regulatory Officer.