

Compliance Assessment Report

Report ID:
CAR_NRW0034834

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

Site	The Old Brickworks	Permit Ref	HB3433RA			
Operator/Permit holder	Mark Robinson					
Regime	Waste Operations					
Date of assessment	31/01/2019	Time in	11:30	Out	12:00	
Assessment type	Site Inspection					
Parts of the permit assessed	Permit & operational area					
Lead officer's name	Warwick-Brown, David					
Accompanied by	Moggridge, Lara					
Recipient's name/position	Mark Robisons/ Site Manager	Date issued	20/03/2019			

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	2.1.1
C2 - General Management - Management system and operating procedures	C2	1.1.1
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C3	4.3.5

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 – The Old Brickworks (EPR-HB3433RA/EAWML 104308)

Officers David WARWICK-BROWN and Lara Moggridge attended The Old Brickworks on 31/01/19 at 11:30 for a site inspection. We initially met with site manager Mark Robinson, who was busy with the team on site at the time due to the snow forecasted later in the afternoon, so we proceeded to inspect the perimeter of the site unsupervised. The weather was cold and breezy at the time of visit.

Site inspection

When inspecting the site, it was evident that the activities being carried out on site were not compliant with the conditions specified in the permit. The original permit, dated 28/08/12, allows the 'storage of waste and the treatment of waste by sorting, separation, screening, crushing and blending of waste to produce soil, soil substitutes and aggregate', and 'the annual throughput of the site must not exceed 75,000 tonnes per year'. The storage aspect of the permit allows for the waste to be stored temporarily on site while it is being treated rather than for the permanent deposition of waste – this activity would require a waste recovery permit. From our visual inspection of the site and from checking your waste returns, waste being brought into the site for treatment purposes has evidently been permanently deposited on site since the issuing of the permit in 2012. Various breaches to the permit have been scored due to non-compliance with the permitted conditions.

During the inspection it was mentioned that planning permission has been granted by Torfaen Council, which allowed for raising the level of the land. After contacting the council, we have received the planning permission for this site and there is no confirmation that this is the case. Section 4 of the planning permission states that 'the site shall be used for inert construction and demolition waste processing to a maximum of 65,000 tonnes capacity per year and for no other purpose'. We have also been in contact with CLAIRE and can confirm that there is currently no Materials Management Plan registered at this site.

A1 – Specified activities – permit condition 2.1.1 – category 2 breach

This condition specifies that you are authorised to carry out the activities specified in schedule 1, table S1.1, which outlines the details of the permitted activities and the limits of these activities. As previously mentioned, the limits outlined do not allow for the permanent deposition of waste onto the land. The only activities listed within this permit allow for the recovery of waste material, rather than disposal. The assessment of your waste returns confirm that no waste is being removed and thus recovered from the incoming waste in your operations. A **category 2 breach** for this non-compliance is being scored accordingly.

The following photographs were taken on site during our visit and highlight the extent and scale of the issue: image 1 provides evidence for the quantity of waste that has been built up around the perimeter of the site as a result of the disposal activities; images 2 and 3 provide further validation that the waste is being continuously deposited and levelled out on site, (3) which supports a statement made by Mr Robison during our site visit confirming that this was the case.

Action: Please cease the deposition of any further waste. Please provide any information and evidence of the deposition of the waste material currently on site.



Image 1 – Extent to which waste has been deposited around the perimeter, confirmed by the height of the accumulated waste against the tree line.



Image 2 – Evidence of waste being deposited on site rather than being recovered and exported, as well as evidence of levelling of other waste material on flattened surfaces.



Image 3 – Further evidence of levelling on site.

G4 - Reporting and notifications– permit condition 4.3.5 – category 3 breach

Condition 4.3.5 of your permit states ‘Where the operator proposes to make a change in the nature or functioning, or an extension of the activities, which may have consequences for the environment and the change is not otherwise the subject of an application for approval under the Regulations or this permit: (a) the Environment Agency (NRW) shall be notified at least 14 days before making the change; and (b) the notification shall contain a description of the proposed change in operation.’

As NRW have recently confirmed, your permit is a bespoke permit due to its site specific permitted conditions, which relate to your site being directly next to an area of land where a field mouse survey had previously taken place. Referring to your recent correspondence with our Permitting team, an application for an Admin Variation was returned to you on 23/10/18, requesting for a Normal Variation application to be submitted due to your permit type. This is an ongoing issue, and since there has been no further response from yourselves regarding this application, a **category 3 breach** is being scored for this non-compliance with your permit.

Action: Please submit a Normal Variation to increase the boundary of your site to include the extended boundary outline.

C2 – Management system and operating procedures – permit condition 1.1.1 – category 2 breach

The root cause for the other non-compliances in this CAR form has been identified as relating to the failure to comply with the management procedures in your Environmental Management System (EMS), as stated within permit condition 1.1.1. A **category 2 breach** is therefore being scored for the non-compliance with the management systems in place.

Also, advice and guidance regarding updates to your EMS was given after our last inspection (in CAR form dated 11/10/18), relating to the maximum quantity of material to be held on site. This is evidently a factor in your operations that requires consideration. If these updates have been implemented, then please send an updated version to NRW.

Action: Please submit the updated version of your EMS.

Further action

Following the outcome of this inspection we are hoping to arrange a meeting to discuss the matters outlined in this CAR form and we will be in contact with you in due course.

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_NRW0034834**

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Site	The Old Brickworks	Permit Ref	HB3433RA
Operator/Permit holder	Mark Robinson	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			
C2	C2	Please submit the updated version of your EMS.	20/05/2019
G4	C3	Please submit a Normal Variation to increase the boundary of your site to include the extended boundary outline.	20/05/2019
A1	C2	Please cease deposition of waste on site and provide any information/evidence of deposited material on site	20/03/2019

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.