

South Wales Wood Recycling Ltd

EPR/FP3095ET

Locks Yard, Heol Llan, Coity, Bridgend

Challenge received 22nd February 2018 from Mr. George Harvey (Commercial Manager) to CAR_NRW0032907 issued 15th February 2018 in respect of an audit carried out that same date

Inspecting Officer: David Morgan accompanied by Anthony Bruten

CAR_NRW0032907 recorded two Category 3 breaches of permit conditions 1.1.1 and 3.3.1, attracting a total compliance score of 8

No enforcement action has been initiated in respect of the above permit breaches

On receipt of the challenge to CAR_NRW0032907, David Morgan replied to Mr. Harvey on 23rd February 2018 acknowledging receipt

On 23rd February 2018 Jonathan Willington formally acknowledged the challenge and informed Mr. Harvey that this would be dealt with via an informal appeal procedure as detailed in Section 6 on CAR_NRW0032907

Internal review of CAR_NRW0032907 carried out on 14th March 2018 by:

Jonathan Willington (Waste Regulation Team Leader)

Gareth Davies (Senior Environment Officer, Waste Regulation)

Ffion Thomas (Senior Environment Officer, Waste Regulation)

David Ellar (Senior Environment Officer, Waste Regulation)

The main areas of concern raised by Mr. Harvey relate to the following:

- Opening comments**
- Inspection of site entrance**
- Waste storage**
- The Old Nursery**
- Exempt waste operation**
- Summary comments**

The review considered the details of CAR_NRW0032907 and each separate area of concern raised by Mr. Harvey. The formal challenge is appended to this report.

Opening comments

It is contended that the CAR did not accurately reflect the tone and findings of the inspection. If any misunderstanding has arisen during the inspection that is unfortunate. However, the findings of the inspection were discussed at that time. We would be happy going forward to detail in writing the findings of any inspection prior to leaving the facility to prevent further misunderstandings.

The complaint over stockpile heights onsite was received by us on 1st February 2018 from Bridgend County Borough Council. We are unable to release third party information i.e. the reporter details due to data protection rules. In respect of this report, the information would ideally have been passed to the operator. We will endeavour to do so in the future.

However, our officers carry out a combination of planned and unannounced visits as part of a risk based regulatory programme. Where reports are received from external sources of all waste activities, those reports are assessed and a suitable response determined. On this occasion, it was decided to consider the content of the report you mention during the next regulatory visit.

Our regulatory officers have a range of equipment available to them to aid with the delivery of work including tape measures, measuring sticks and a thermal imaging camera. Officers are encouraged to use such equipment as they consider appropriate to assess compliance. We do on occasion employ external contractors to aid with assessment of e.g. waste volumes, albeit we have not chosen to do so in respect of this facility.

Inspection of site entrance

A breach of permit was recorded in respect of waste woodchip being present outside of the site, that is on the highway, on the highway verge and in the ditch alongside the highway. The CAR details that previous discussions had taken place on this matter.

There is a permit requirement to take measures to prevent dust and woodchip from escaping the facility. On review, there does not appear to be definitive evidence to support that this waste woodchip has escaped from the facility. This breach of permit will therefore be removed from the CAR and from the facility compliance history.

We do consider this to be a breach of duty of care in that waste is escaping from vehicles entering / leaving site. Systems are acknowledged as being in place to clear material that has escaped site and to clean the affected area. We would recommend

that the arrangements for covering of vehicles is reviewed along with the frequency of checks and cleaning of these areas.

Waste storage

The challenge to the findings on waste storage are not supported. Evidence collected during the inspection support that waste was not being stored in line with permit requirements.

The requirements regarding stockpile heights and firebreaks and areas where waste should not be stored are unequivocal. Therefore, the breach of permit recorded for inadequate firebreaks and stockpile heights exceeding the permitted height will stand.

The Old Nursery

Reference to the separate matter of fire damaged waste, subject to a section 59 notice, being stored in this area outside of the permit boundary, should not have been included in the CAR. This is a wholly separate matter and will be addressed via separate correspondence.

Exempt waste operation

Reference to the exempt waste operation should not be included in the CAR. This is a wholly separate matter and will be addressed via separate correspondence. It is agreed the use of the word 'concealed' is misplaced and would be better replaced by the word 'stored'. Any issues in respect of the exempt waste operation will in future be subject to separate correspondence.

Summary comments

The reference to comments in respect of plant are noted. We would agree that the vehicle in question is plant. However, it should be noted that no breach of permit was recorded, simply a general comment made of housekeeping standards. The reference to a 'vehicle' being parked amongst the waste piles will be removed.

We note the stated intention to consider instigating a formal complaint in respect of our regulation of the facility. In line with our Customer Charter, detailed in section 6 of any CAR, should the decision be to not accept the findings of an informal appeal response, a formal complaint may be submitted.

We would however dispute the claims that regulatory inspections are not carried out in an objective, proportionate, fair or accurate way. Inspections are carried out to assess compliance against permit conditions. Where these conditions are breached such a breach is recorded and communicated. This is both objective and fair. We aim to ensure all CARs accurately reflect an inspection. Where as in this case this is challenged, we have an open and transparent process for reviewing CARs.

Our regulatory work is evidence and risk based. Those facilities considered to pose a greater risk attract greater regulatory effort. This is wholly in line with the Regulators Code and our Regulatory Principles. The inspection prior to that of 15th February 2018 was carried out on 19th June 2017. This is not a disproportionate regulatory focus on the facility.

The contention that the inspection was carried out to support ongoing formal action against the operator is not supported. As stated above, a process exists for an operator to challenge the findings of an inspection.

In respect of the Fire Prevention and Mitigation Plan (FPMP) guidance requirements and where permits now contain specific conditions relating to the management of fire risk, as with all our regulatory work our effort is risk based. Currently, in our Southwest Area, we have around 50 permits with these requirements and we are taking steps to ensure all operators comply with requirements.

Conclusion

We will reissue CAR_NRW0032907, removing the permit breach in respect of the inspection of the site entrance and removing any comments in respect of The Old Nursery and exempt waste operation. The reference to a 'vehicle' being parked amongst the waste piles will also be removed.

Future CARs will refer only to permitted operations. We will going forward issue separate correspondence and hold separate discussions for both The Old Nursery and for the exempt waste operation.

Following this review the Category 3 breach in respect of waste storage detailed and recorded in CAR_NRW0032907 is valid and will be included in the reissued CAR.

Appendix 1

Email received from Mr. Harvey dated 22nd February 2018.

From: george [<mailto:george@swwr.co.uk>]

Sent: 22 February 2018 16:44

To: Morgan, David <David.Morgan@cyfoethnaturiolcymru.gov.uk>

Cc: Philip Williams <philip.williams@blackfords.com>; Kevin Burke <kevin.burke@swwr.co.uk>

Subject: CAR form response

Hi David

Further to your inspection on 15 February 2018, we were disappointed that the CAR form did not accurately reflect either the tone or the findings of the inspection. You attended on site under the basis that you were following up on a complaint regarding excessive stockpile heights. I asked when this was received, and you said over 10 days ago. So I can add it to my complaints recording records, I would be grateful if you could please send me confirmation from your internal complaints recording system that this complaint was made. As well as being attended by another officer, Anthony Bruten, you had a height measure with you and also a tape measure. I am not sure what use the tape measure was in assessing the height of the piles on site (the apparent purpose of the visit) but can only assume that you had intended to measure other items on site that day prior to your visit. In respect of the complaint you received, I take this opportunity to note that no mention had been made to the company / site regarding this issue prior to your visit and you had waited some 10 days before attending.

Inspection of site entrance

You mention that there was significant amounts on woodchip waste on the road. You do not quantify at any point what significant is and I point out that this term is one which you regularly use to quantify our alleged breaches, to the clear detriment of our company. As can be seen from your pictures, there is clearly only barely a minimal amount of material at the very worse. You go on to say that this material 'appears to have either escaped the site or escaped vehicles entering / leaving the site'. There is no direct evidence that this is the case or that it arose from our vehicles. You then mention that it is disappointing that following previous conversations on site this issue has arisen again. We take this opportunity to note that since you were last on site in June 2017, the road has been routinely cleaned every two weeks. This is a total of approximately 26 separate occasions. This does not include the occasions in between these structured cleans when, following our daily boundary inspections, we have determined that it would benefit from an additional clean. We are disappointed that you have not acknowledged the communication we have had previously with yourself regarding deposits on the highway (most recent is 7th November 2017) and seem to continually negatively summarise our company's performance on a singular visit without due regard to all the facts.

In respect of the dust and woodchip in the small ditch outside the site, no mention of this was made during the site visit. It is therefore disappointing that you have chosen to breach us for this.

You will appreciate and as is clear from the evidence available that with the quantity of material that we deal with, the nature of it, our location and the measures that we have in place already, that we

take our responsibilities in this regard extremely seriously. We already spend significant amounts of time money dealing with 'community' relations and continue to do so. As you saw from your inspection on the site diary records and the pictures I sent to you, this issue was found to be present the day before your unannounced visit and measures had already been taken to address it. Confirmation was sent that this was done within hours of your visit. We note that there is no mention of this or the inspection of the site diary records made at all in the CAR form, though it was specifically undertaken and mentioned in the site meeting.

Waste Storage

You mention that the site was at, or close to, capacity. You make no recognition of the volume of material that has been moved from the stockpile on the left of the site and at the back of the site. All heights on stockpiles have also been reduced since June 2017, which makes the alleged complaint even more surprising. You mention that you took measurements of the firebreaks and have listed the readings as 5.5m and 5m respectively. I am surprised at these readings as at no point did you mention when measuring them the actual readings taken or that there was a breach. You did however state that the measurements you took were 'so minimal that they were not really an issue'. I would also note that you chose to take the measurements on the access ramp for the processing pad, rather than the actual stockpile itself, and that our daily site inspections do not support these readings.

You mention that two of the stacks appeared to be under the 5m limit and that a large section of the main stack appeared to be over 5m. Please see the pictures taken on site that day, with you present, that clearly evidence the stacks were all under 5m in height.

You mention that it was 'concerning to see that there was a build-up of waste woodchip in the area where the fuel storage tank is located' and that 'waste should be stored away from any flammable material store'. I take this opportunity to point out that no waste was being stored near the flammable material store at any point. The material was extremely minimal and likely the result of movements / loading on site. This area is cleaned regularly and was done so on the day you visited (approximately 4 manual shovel loads). You mention also that 'generally housekeeping on site is very poor' and that these areas 'require immediate attention'. You mentioned in the site discussion at the end of your visit that these concerns were regarding some drums at the front of the workshop. These were used for water for the machines and an old Adblue barrel.

The Old Nursery

This area is / has been used in strict compliance with the s.59 notice issued. It has had material added to it and blended that is entirely consistent with the requirements of the notice as agreed with NRW and is now ready for material to be removed. It is not being used as an overflow and never has it been.

I note your comment in relation to the s.59 notice expiration date. As discussed on site, it is likely that we will require an extension to this deadline so that we are able to clear the material in a safe and effective manner. You make no mention of the fact that you thought this shouldn't be a problem in the meeting we had on site and encouraged us to write into you and outline the case. We will be doing this shortly.

Exempt Waste Operation

You mention that this is an improvement since the last visit in June 2017, yet upon review of the CAR forms from that visit I can find no reference to this area in any of the reports. Again, this appears to be another negative comment against the company.

You mention a large pile of treated waste wood was concealed at the back of this area. There was nothing being concealed at all and we object to the connotations in this statement. This material is made up of material that is removed from the exempt material but which is not suitable for its end purpose. It is not in any way large.

Summary

Please see comments above. In addition, the picture you took is of a telescopic handler. It is an item of plant and machinery and not a vehicle. It is used during the day, every day and was parked next to the pile of ground scrapings as it is a safe and easily accessible place for it to be parked and as far as I am aware in no way breaches any permit legislation.

In view of the issues outlined above, please take this email as a formal notice of challenge against the breaches we have received. Separate to that, we will also be considering instigating a formal complaint. We would welcome inspections and reviews of our business and sites that are conducted in an objective, fair and consistent fashion, as we have found is the case with our other sites. However, since you have commenced regulating our Locks Yard site, you appear to be clearly intent on breaching our company for specific items that support your ongoing prosecution case and are not conducting your visits with any sense of objectivity, proportionality, fairness or accuracy. We are also aware that you are not implementing or regulating on the requirements of the FPMP guidance consistently on other sites (either bespoke or standard rules) across the waste industry. These issues are resulting in us having to challenge virtually every CAR from that you produce and at the current time we have at least three that are under challenge. It is not reasonable to expect us to continue to be regulated on this basis.

Best regards

George Harvey

Commercial Manager

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