



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

**Ein cyf/Our ref: EPR/NP3290VM/Rev01
Eich cyf/Your ref:**

Natural Resources Wales
Chester Road
Buckley
Flintshire
CH7 3AJ

PRIVATE & CONFIDENTIAL

**c/o Director and/or Company Secretary
Clwyd Breakers Ltd
61 King Street
Wrexham
Wrexham County Borough
LL11 1HR**

Ebost/Email:
Andrew.r.sowerby@cyfoethnaturiolcymru.gov.uk
Ffôn/Phone: 0300 065 3806

13th October 2017

Dear Sir/Madam,

Letter of possible revocation of environmental permit

We are writing to advise you that we regard operator competence seriously and are now assessing your suitability to continue to hold an environmental permit. We intend to submit a report for consideration to our Wales Enforcement Panel who will consider the course of action we propose take, including whether your permit should be revoked.

Our view is that it is necessary to consider revocation of your permit due to the following issues:

a) History of relevant offences:

You or a relevant person to you has been convicted of relevant offences.

On the 27th March 2014 at Wrexham Magistrates Court Clwyd Breakers Ltd pleaded guilty to five offences. These were that:-

1. On 8 June 2012 at Gardden Industrial Estate, Ruabon- failed to comply with permit condition 2.3.1. in that vehicles stored outside permitted area, contrary to Regulation 38(2) Environmental Permitting (England and Wales) Regulations 2010.
2. On 27 November 2012 (as per above)
3. On 21 December 2012 (as per above)
4. On 30 July 2013 2013 (as per above)
5. On 24 May 2013 at Llay Hall Industrial Estate, Cefn y Bedd, Wrexham operated a regulated facility otherwise than under an environmental permit, contrary to Regulation 38(1)(a) of the Environmental permitting (England and Wales) Regulations 2010.

b) Record of permit non-compliance:

We are concerned about non-compliance with your permit conditions, including:

- Failure to comply with enforcement notice issued on 25th April 2017.
 - Failure to comply with enforcement notice issued on 28th May 2013. The operator failed to comply with the notice by the deadline specified (12th June 2013). However, it was acknowledged that the required actions were completed on the 14th July 2013 and at that time the decision was made to take no further action.
 - Repeated warnings have been issued on compliance assessment reports on numerous occasions without noticeable improvements being made or sustained.
 - Ongoing history of non-compliance with permit conditions which has led to Clwyd Breakers being regarded as a worst performing Band F site in 2016/17. This is likely to be repeated in 2017/18. The site is already in Band F for the 2017/18 compliance year.
- List of recent persistent and ongoing non-compliances;

Permit Condition	Details of Non-Compliance	Action taken by NRW and other comments
2.4.1	Waste vehicles and waste car parts are repeatedly stored outside the permitted area.	• Previous enforcement action (2014 – detailed above), • Advice and guidance provided, • Repeated non-compliance has led to permit breaches and site warnings, • Inclusion within enforcement notice served on 25th April 2017.
1.1.1	Activities not managed and operated in accordance with management system, in that operator has repeatedly failed to store car parts and engines in accordance with Section 4 of the Environment Management System.	• Advice and guidance provided, • Repeated non-compliance has led to permit breaches and site warnings, • Inclusion within enforcement notice served on 25th April 2017.
2.5.1	Storage of ELVs have not met the requirements of article 6(1) of the End-of-Life Vehicle Directive, in that un-depolluted ELVs have repeatedly been observed being stored on the permeable hardstanding.	• Advice and guidance provided, • Repeated non-compliance has led to permit breaches and site warnings, • Inclusion within enforcement notice served on 25th April 2017. • Operator has frequently taken action to resolve this issue, but then will become non-compliant again shortly after.
3.1.3	Potentially polluting liquids repeatedly observed not being stored within secondary containment as required by permit.	• Advice and guidance provided • Repeated non-compliance has led to permit breaches and site warnings, • Inclusion within enforcement notice served on 25th April 2017.

3.1.1	Emissions of substances causing pollution off site, in that there have been ongoing issues with oil contaminated runoff discharging to both ground and surface water drains, especially during periods of heavy rainfall. Oil is also tracked off site by vehicles and footfall.	• Advice and guidance provided • Repeated non-compliance has led to permit breaches and site warnings, • An enforcement notice was served on 10th July 2013 to try and resolve the issue on part of the site. Work at that time did resolve the issue from that specific part of the site but runoff has remained a problem in other areas. The problem is especially noticeable during periods of heavy rainfall. Whilst further work has been completed it has not been enough to eliminate the problem.
1.1.1	The operator is required to produce a “written management system that identifies and minimises risks of pollution, including those arising from operations, maintenance, accidents, incidents, non-conformances, closure and those drawn to the attention of the operator as a result of complaints.” The operators environment management system has not been compliant with this requirement.	• Advice and guidance provided • Repeated non-compliance has led to permit breaches and site warnings, • Inclusion within enforcement notice served on 25th April 2017. • A number of updated versions of the environment management system have been submitted by the operator but they have not appropriately addressed the risks on site, despite advice and guidance. • On the 4th September 2017 an updated management system was received and whilst it seems more appropriate it still requires some improvements.
1.1.4	The operator was non-compliant with the requirements of an approved competence scheme.	• Advice and guidance provided • Repeated non-compliance has led to permit breaches and site warnings, • TCM certificate for Neil Bennett expired on the 28th February 2016. Despite repeated reminders to ensure that the certificate was updated by completing the continuing competency test prior to the certificate expiring, no action was taken. Following the expiry date the operator was repeatedly reminded of the need for a technically competent person. It wasn't until the 3rd April 2017 that a consultant was brought in to provide TCM cover. Despite a request to see a copy of the consultants' certificate of technical competency to ensure he has the appropriate award, we have so far not received anything.

- Due to difficulties with Clwyd Breaklers Ltd being able to pay their subsistence fees in the past NRW had allowed the company to pay via a specially arranged payment plan. However, the last payment towards the 2016/17 annual subsistence fees was made in April 2017 and the subsistence fees for this year, 2017/18, are outstanding.

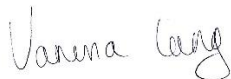
Before we submit the revocation decision papers to the Wales Enforcement Panel, we are giving you an opportunity to explain and demonstrate why you remain suitable to continue to hold the following permit: EPR/NP3290VM (EAWML 102006)

We advise you to make a submission about your suitability. You should submit it in writing to the address above within 21 days of the date of this letter. Please be aware we will not make multiple requests for this, if you do not reply or your response is inadequate we will not write to you again. Therefore, please ensure your response fully details the consideration you wish the Wales Enforcement Panel to take into account.

Factors to include in your response are:

- Circumstances of the offence(s)/permit breaches and how and why it/they occurred;
- Effect of the offences/permit breaches on the environment and/or people, including the local community and other businesses;
- What you have or intend to do to ensure the site fully complies with the permit conditions; please include specific steps and timescales;
- In the case of relevant convictions, the risk of repetition and justification;
- Details of all authorisations you hold with us.

On behalf of Natural Resources Wales,



Signed:

Vanessa Lang
Waste Regulation Team Leader, North Wales

Ein diben yw sicrhau bod amgylchedd ac adnoddau naturiol Cymru yn cael eu cynnal, eu gwella a'u defnyddio yn gynaliadwy, yn awr ac yn y dyfodol./Our purpose is to ensure that the environment and natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.