Compliance Assessment Report

Report ID: CAR_NRW0035616

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	08/08/2019	Time in	10:45	Out	12:05
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 Robisonson/ Site Manager	Date issued	22/08/2019		

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**
C2 - General Management - Management system and operating procedures	C3	Permit condition 1.1.1
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C3	Permit condition 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	2	**Total compliance score** (see section 5 for scoring scheme)	8

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 08/08/19 at 10:45 for a site inspection to assess permit compliance and to discuss the way forward regarding the accumulated and deposited waste that has been the focus of our regulation in the months since our last visit. Following our previous site visit on 31/01/19, NRW have been investigating the large scale permanent deposit of waste. Further details of this issue are outlined in the previous CAR form (CAR_NRW0034834).

We met with Permit Holder Mark Robinson and Technically Competent Manager Anthony Morgan, who showed us around the site during the inspection. The weather was sunny & breezy at the time of our visit.

Site inspection

There had been significant improvements at the site since the last inspection in January. It was clear that efforts had been made to excavate and process the volume of deposited waste, demonstrating that a substantial amount has been processed in recent months. Some materials processed to an end of waste status were being stored in clearly defined separate piles including granular fill and finished aggregate product (6F) to be exported.

The levelled-out hardstanding area was in full operation to treat waste as described in the permitted limits of activities (table S1.1).

The bunds around the perimeter of the site varied in height and had not been worked on since our last inspection. The bunds have been made using waste material produced on site. The dimensions of the bunds are planned to be built to a height of 2.5m with a 5m base. The bund on the NW edge of the sites perimeter was approximately 1-2m, and parts of the SW edge were approximately 4-5m at the time of our inspection. It is anticipated to level out the bunds to the proposed uniform dimensions in the coming months once the prioritised work on the site had been completed.

The WRAP Protocol and testing documents were provided and have been assessed and stored on NRW's database for future reference.

The issue regarding the permanent deposit of waste was discussed. Our investigation has assessed the volume of accumulated waste on site and from viewing the change in the site on Google Earth satellite images since the permit was issued in 2012. Additionally, our concerns relate to current environmental legislation – section 3.5 of the Environmental Permitting Guidance for the Landfill Directive states that 'a site which is used for the temporary storage of waste may be considered to be a landfill… if it is used to store waste for: one year or more where waste is destined for disposal; or three years or more where waste is destined for recovery or treatment' [1]. The WRAP Quality Protocol for Aggregates from inert waste [2] also states that any waste material stored indefinitely with little prospect of being used will become a waste again and subject to waste management controls.

During the site inspection, Mr. Robinson and Mr. Morgan stated the stockpiled waste on site would be processed and treated. Mr. Morgan stated that if, in the future, any of the waste on site was to remain more permanently on site then an appropriate authorisation would be sought retrospectively. As emphasised on site, **you are not able to obtain a retrospective authorisation for the permanent deposit and use of waste. If you intend to use any waste on site as a permanent deposit or to carry out any further activities (i.e. such as bunds) then you must apply for, and be successful in said application, for an appropriate permit prior to undertaking any use of waste activity**. Failure to do so will result in further enforcement action being taken.

As discussed, NRW remain concerned with the large amounts of waste on site which do not appear to be in designated stockpiles intended for processing. As detailed further on as an action, we expect a schedule of works to be put forward and added to the Environment Management System to set out the management, processing and turnover of this waste.

Compliance

G4 – Reporting and notifications – permit condition 4.3.5 – Category 3 breach

The progress of the current normal variation was discussed, which is being submitted to increase the boundary of the permit to the accurately outline of the sites perimeter. The previous CAR form requested for this application to be submitted by 20/05/2019. However, this application had still not been submitted at the time of our inspection due to some complications regarding the OPRA spreadsheet. The information you require for completing this spreadsheet is as follows:

- Site type: a16
- Emissions Attribute (Waste Input): 75,000 tonnes of inert waste
- Proximity to human occupation: <50m
- Assessment under wildlife, countryside or habitats legislation: CRoW
- Groundwater/aquifers: No
- Sensitivity of surface water: Grade 1 or 2
- Direct run-offs: No
- Air Quality Management Zone: No
- Flood plain: No

Since the issue surrounding this variation application was first highlighted following our inspection on 11/10/2018, a further breach has been scored for this non-compliance.

Action: Please submit this application by the end of September 2019.

C2 – General Management – permit condition 1.1.1 – Category 3 breach

The Environment Management System (EMS) contains no information on managing the stockpiled waste on site. NRW consider that the current issue surrounding this waste would not have materialised if there had been detailed plans to regulate how much waste is being imported and exported at the site within the EMS. This detail is expected in a site EMS in line with NRW's guidance *How to Comply* [3], which details what your EMS must contain – as stated within page 22 of the *How to Comply* guidance your EMS must include waste acceptance, quantities, treatment and storage procedures and storage of waste on site (i.e. how much waste can be stored at any one time in compliance with permit requirements). A further breach has been scored due to the lack of planning and management of the stockpiled waste on site and the failure to have an adequate EMS.

Action: Please submit a relevant schedule of works to include the details of how the large stockpiled waste is going to be appropriately managed and update the EMS to comply with NRW's *How to Comply* guidance. As detailed below, within the FPC QP review we expect the submitted information to include:

- Tonnage of waste currently stored and intended action plan on how you will process this waste, including timescales of when this waste will be processed
- How this waste will be processed and to what standard under the QP

- Incoming waste of similar type – explain the turnover and estimated tonnages of incoming similar waste types and how you will manage the tonnages appropriately
- Storage of this waste - this waste should be stored in identifiable stockpiles clearly awaiting reprocessing. Its current storage is unacceptable, as it is stored in a continuous levelled platform indicating land raising

Technically Competent Manager (TCM) – Continuing Competency Certificate
The relevant WAMITAB continuing competency certification for TCM Anthony Morgan we currently have stored on our database has expired on 19/06/2019.
Action: Please provide an up to date version of this certification.

Small site strategy

Processed soil sent off site for use will be subject to waste controls – this means any outgoing soil must be treated as a waste and sent to an authorised site for its use. We discussed the possibility of introducing a small site strategy in compliance with the objectives of the CL:AIRE Code of Practice. To utilise a small site strategy, you must submit a written method statement/materials management plan for approval to NRW. The small site strategy materials management plan will need to address how you intend to comply with the requirements of CL:AIRE and include details of intended sampling/testing frequencies. You will be restricted to using this for only a small tonnage of outgoing waste (for larger projects you would require an individual MMP and full compliance with CL:AIRE requirements). The small site strategy must outline how you will document/record each outgoing load and project, and the associated testing carried out on the outgoing waste.
Action – submit an addendum to the Environment Management System to include a small site strategy for approval.

<u>Review of Factory Production Control (FPC) in line with Aggregates Quality Protocol (QP)</u>
During the site inspection the FPC was briefly reviewed along with associated testing. The FPC was taken away from site to continue the review against the aggregates QP. Following the review, the following comments/observations can be made:

- The FPC should be updated to reflect current site activities, including the detail of the exact materials produced on site under the QP. The first section of the document is taken from the Quality Control Protocol/Procedure, produced by the Quarry Products Association, Highways Agency and WRAP, and is therefore not site specific. Although this is useful as a generic start to the FPC it will need to be adapted to ensure your FPC is fit for purpose, site specific and utilised on site as part of your Environment Management System.
- Section 1.4 and 4.2.2 of the QP detail that if material is stored indefinitely with no certainty of use the material will revert to being waste. In addition, Section B2.3 of Appendix B in the QP details production requirements including that input materials must be stocked in a controlled manner in clearly identified locations and the finished product must be identifiable. This is currently not occurring on site for the large stockpile of waste discussed on site, which both Anthony Morgan and Mark Robinson stated was difficult to set processing timescales for. NRW require information to ensure the correct and proper management of the waste in line with permit conditions and to ensure compliance with the QP. As stated above in the action for the breach against permit condition 1.1.1, you must submit documentation in relation to this waste stockpile to detail:

    - Tonnage of waste currently stored and intended action plan on how you will process this waste, including timescales of when this waste will be processed
    - How this waste will be processed and to what standard under the QP
    - Incoming waste of similar type – explain the turnover and estimated tonnages of

    - incoming similar waste types and how you will manage the tonnages appropriately
    - Storage of this waste - this waste should be stored in identifiable stockpiles clearly awaiting reprocessing. Its current storage is unacceptable, as it is stored in a continuous levelled platform indicating land raising.

Without this information NRW will consider the material is stored indefinitely with no certainty of use and it will revert to being waste in line with the Sections 1.4 and 4.2.2 of the QP. The long-term storage of this waste will be considered as a permanent deposit in line with the Landfill Directive, as explained on site, and NRW may require its removal via an enforcement notice.

- It is not clear from your FPC which standard is being used, the FPC must be updated to accurately reflect what standard QP aggregate is being produced to.
- Testing frequencies within the FPC are not being implemented on site as detailed within Section 7.2 – they also do not correspond with the frequencies detailed with Appendix B, section B2.8 and Table B2 of the QP. Therefore, you must review and amend this section of your FPC/EMS and follow your updated procedures.
- Delivery documentation was not available on site to review, but it must conform with the requirements stated within B2.5 and B2.6 of the QP
- Appendix B, Section B2 details the requirements of the FPC, and includes the requirement for a periodical review of the FPC document and procedures. Details of how you will review the FPC must be included within your FPC
- Testing provided during the site inspection has been reviewed and NRW make the following observations

Date	**Company undertaking testing**	**Waste tested**	**Comments**
24th October 2014	CJ Associates	1A, 1B & 1C	2 samples passed for 1A and 1B classification but failed for 1C
20th February 2015	Dets	Soil	The QP does not apply for soil (note it would apply if you implement a small site strategy in site procedures)
21st September 2015	QTS Environmental Ltd		The analysis was difficult to review as the print out was cut off, meaning NRW were unable to review sample and analysis information
6th April 2016		Clay with stones	Comments on the analysis show an insufficient sample was received in inappropriate containers for hydrocarbon analysis so some testing could not be completed

The testing provided doesn't provide supporting evidence that the FPC Section 7.2 procedures are being adhered to. In addition, NRW would recommend that sufficient documentation is kept with the samples in relation to the following:

    - How samples are collected, and by whom (method statement)
    - What stockpiles/where and when samples are collected
    - What standard in the QP the samples are being analysed to
    - Procedures to be undertaken when samples fail analysis and do not meet required criteria

This will provide context to demonstrate compliance with the QP requirements.

Action – update and submit amended FPC/EMS to reflect activities in accordance with the above comments. This update must include details on how you will document QP compliant material, including systems on recording outgoing QP tonnages for auditing purposes.

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.

References:

[1] Environmental Permitting Guidance, The Landfill Directive, For the Environmental Permitting (England and Wales) Regulations 2010
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69347/pb13563-landfill-directive-100322.pdf

[2] Quality Protocol, Aggregates from inert waste, End of waste criteria for the production of aggregates from inert waste
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/296499/LIT_8709_c60600.pdf

[3] How to comply with your environmental permit https://cdn.naturalresources.wales/media/2110/how-to-comply-with-your-environmental-permit.pdf?mode=pad&rnd=131467604540000000

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	Date	08/08/2019

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	C3	Please submit a relevant schedule of works to include the details of how the large stockpiled waste is going to be appropriately managed and update the EMS to comply with NRW's How to Comply guidance	30/09/2019
G4	C3	Please submit this application by the end of September 2019.	30/09/2019

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.