

**ENVIRONMENTAL PERMITTING
(ENGLAND AND WALES) REGULATIONS 2016**

**APPEAL BY NICK BROOKES
AGAINST AN ENFORCEMENT NOTICE
ISSUED UNDER REGULATION 36**

PINS APPEAL REFERENCE NUMBER: APP/EPR/684 (ENV/3353252).

INDEX TO CORE DOCUMENT LIBRARY

CD 1: Appeal documents		
Document reference	Document title	Date
CD1.1	Environment Agency Pre-inquiry Statement of Case	01 May 2025
CD1.2	Appellant's Pre-inquiry Statement of Case	02 May 2025
CD1.3	Appellant's Comments to Respondents' Pre-Inquiry Statement	02 June 2025
CD1.4	Environment Agency Comments on Appellants Pre-Inquiry Statement	03 June 2025
CD1.5	Inspector's CMC note	09 September 2025

CD2: Proofs of evidence		
Document reference	Document title	Date
CD2.1	Summary of Jemimah Smith (Environment Agency) Proof of Evidence	TBC
CD2.2	Proof of Evidence of Jemimah Smith (Environment Agency)	TBC
CD2.3	Appendix 1 to Jemimah Smith (Environment Agency) Proof of Evidence – Photographs of the Site	14 September 2023 – 17 September 2024
CD2.4	Appendix 2 to Jemimah Smith (Environment Agency) Proof of Evidence - Estoppel	14 October 2025
CD2.5	Summary of James Pearson (Environment Agency) Proof of Evidence	TBC
CD2.6	Proof of Evidence of James Pearson (Environment Agency)	TBC
CD2.7	Appendix 1 to James Pearson (Environment Agency) Proof of Evidence - Environment Agency trommel fines audit and sampling report	September 2020
CD2.8	Appendix B to James Pearson (Environment Agency) Proof of Evidence - Environment Agency trommel fines audit and sampling report	August 2023
CD2.9	Proof of Evidence of Nick Brookes (Appellant)	TBC
CD2.10	Proof of Evidence of Marco Muia (Appellant)	TBC

CD3: Environmental permit and enforcement notice		
Document reference	Document title	Date
CD3.1	Environmental permit	17 August 2011
CD3.2	Enforcement notice	29 July 2024

CD4: Associated documents and plans (etc.)		
Document reference	Document title	Date
CD4.1	Nick Brookes Aggregates Protocol v2	12 September 2008
CD4.2	EMS v7.1	8 April 2011
CD4.3	Permit variation application	8 April 2011
CD4.4	Wash plant layout plan	21 July 2011
CD4.5	EMS v7.4	11 August 2011
CD4.6	Wash Plant area Photos taken by Marco Muia (Oaktree)	12 March 2012
CD4.7	EMS v10	11 March 2022
CD4.8	EMS v11	13 September 2024
CD4.9	Site drainage plan	17 July 2025
CD4.10	Aerial image of the Site	14 July 2025

CD5: Compliance assessment documents and audits		
Document reference	Document title	Date
CD5.1	Audit Report I 18.06.09 50066_M01	18 June 2009
CD5.2	Audit Report – Aggregate/Soil Producers Checklist	17 August 2010
CD5.3	Compliance Assessment Report 50066_0322553	18 December 2018
CD5.4	Compliance Assessment Report 50066/0394656	08 June 2021
CD5.5	Compliance Assessment Report 50066_0396714	30 June 2021
CD5.6	Compliance Assessment Report 50066_0412384	4 January 2022
CD5.7	Waste Audit Report 50066NICKBR14092023JSMITH1250066	30 October 2023
CD5.8	Compliance Assessment Report 50066_0478595	30 October 2023
CD5.9	Compliance Assessment Report 50066_0478595	27 March 2024

CD5.10	Compliance Assessment Report 50066_0512074	30 July 2024
CD5.11	Waste Audit Report 50066NICKBR26062024JSMITH1250066	30 July 2024
CD5.12	Waste Audit Report 50066NICKBR17092024JSMITH1250066	15 November 2024

CD6: Guidance documents		
Document reference	Document title	Date
CD6.1	WRAP quality protocol - aggregates from inert waste	September 2005
CD6.2	WRAP quality protocol - aggregates from inert waste	October 2013
CD6.3	Regulators' Code	April 2014
CD6.4	DEFRA Environmental Permitting - Core guidance	March 2020
CD6.5	Relevant extracts from waste classification technical guidance	October 2021
CD6.6	Environmental Management System (EMS) guidance	3 April 2023
CD6.7	Non-hazardous and inert waste: appropriate measures for permitted facilities guidance	1 August 2023
CD6.8	Environment Agency Enforcement and Sanctions Policy	11 December 2023
CD6.9	Definition of Waste (Check if your material is waste) guidance	11 July 2024
CD6.10	Waste operations and installations: assessing and scoring environmental permit compliance	13 March 2025
CD6.11	Waste duty of care code of practice	November 2018

CD7: Trommel fines documents		
Document reference	Document title	Date
CD7.1	Trommel fines/filter cake Waste Sampling Plan	12 January 2022
CD7.2	Chemtech Environmental Analytical test report	20 August 2024
CD7.3	Waste transfer notes	11-13 September 2024

CD7.4	Trommel fines/filter cake analysis and interpretation	28 February 2024 – 3 March 2024
-------	---	---------------------------------

CD8: Correspondence		
Document reference	Document title	Date
CD8.1	EA Letter to NB (Para 13 Exemption & wash plant permit variation)	03 October 2009
CD8.2	Oaktree letter to EA (Response to EA Email 2009-10-08)	8 October 2009
CD8.3	EA Letter to NB re: Site Improvements	15 October 2009
CD8.4	Email Exchange EA and Oaktree (Rachel Argyros and Jan Edwards)	03 June 2010 – 21 December 2010
CD8.5	Email EA Rachel Argyros to NB (regarding para 13 Exemption)	21 December 2010
CD8.6	Letter Oaktree to EA (Permit Variation Submission)	08 April 2011
CD8.7	Permit Application Duly Made Letter	24 May 2011
CD8.8	Letter EA to NB (Trommel fines Sampling requirements)	7 October 2020
CD8.9	Oaktree to EA CAR Form 50066_0412384 Challenge Letter	17 March 2022
CD8.10	Environment Agency response to CAR form 50066_0412384 Challenge	22 March 2022
CD8.11	Email EA to NB CAR form issue from site visit on 14/12/2022	15 March 2023
CD8.12	Email EA to NB Information Request	15 September 2023
CD8.13	Email exchange EA and Oaktree following meeting	15 September 2023 - 30 October 2023
CD8.14	Email NB to EA Photos following EA Visit Email	19 September 2023
CD8.15	Email EA to NB CAR form 50066_0478595 issue	30 October 2023
CD8.16	Letter Oaktree to EA CAR form 50066/0478595 Formal Challenge	24 November 2023
CD8.17	Email chain EA and Oaktree submission and acknowledgement of CAR Form 50066/0478595 Challenge	06 December 2023
CD8.18	Email Oaktree to EA Providing documents following discussion with Phil Gibbon	26 January 2024

CD8.19	Letter EA to Oaktree CAR form 50066/0478595 Formal Challenge Outcome	26 March 2024
CD8.20	Email EA to Oaktree/NB sending CAR form 50066/0478595 Challenge outcome	26 March 2024
CD8.21	Email EA to NB reissue of CAR form 50066/0478595	27 March 2024
CD8.22	Email Chain EA and NB Documents Request following 1 July 2024 inspection	27 June 2024 – 01 July 2024
CD8.23	Email Chain EA and Oaktree Without Prejudice - discussion of concerns surrounding regulation	27 June 2024 – 30 July 2024
CD8.24	Email exchange - Oaktree submission of requested info / test results re: coding of filter cake - EA acknowledgement	5 July 2024 – 30 July 2024
CD8.25	Email EA to NB notification of CAR form issue delay from inspection on 26/06/2025	11 July 2024
CD8.26	Email EA to NB Issuing Environment Agency Inspection Reports from inspection on 26/06/2025	30 July 2024
CD8.27	Email exchange Oaktree and EA Re submission of permit variation application/ receipt of Reg 36 Notice	06 December 2023 - 01 August 2024
CD8.28	Email exchange - EA to NB/Oaktree regulation 36 notice non-compliance notification Oaktree to EA submission of revised EMSv11.0 (EA on notice that Reg 36 Notice will be appealed)	13 September 2024
CD8.29	Letter EA to NB to Confirm Non-compliance with Regulation 36 Enforcement Notice	18 September 2024
CD8.30	Email exchange - EA to NB requesting waste assessment documentation (Trommel fines/filter cake) - NB to EA providing waste assessment documentation	26 September 2024 - 08 October 2024

CD9: Statutory provisions		
Document reference	Document title	Date
<i>Domestic law</i>		
CD9.1	Environmental Protection Act 1990, ss.33, 34, s.75A, 118, 157	1990
CD9.2	Hazardous Waste (England and Wales) Regulations 2005, Reg.4	2005
CD9.3	Legislative and Regulatory Reform Act 2006, ss. 21, 22	2006
CD9.4	Environmental Permitting (England and Wales) Regulations 2007 (Revoked) Extract from Schedule 3, Paragraph 13	2007
CD9.5	Environmental Permitting (England and Wales) Regulations 2016, Regs.2, 12, 20, 31, 36, 38, 39, 41	2016
<i>Assimilated law</i>		
CD9.6	Commission Decision 2000/532/EC establishing a list of wastes	6 December 2023
CD9.7	Waste Framework Directive 2008/98/EC	5 July 2018

CD10: Case law		
Document reference	Document title	Date / highlighted passages
CD10.1	Miller-Mead v Minister of Housing and Local Government [1963] 2 QB 196	12 December 1962 / pp.219-221, 224-233, 238-240
CD10.2	R (Reprotech (Pebsham) Ltd) v East Sussex CC [2002] UKHL 8; [2003] 1 WLR 348	28 February 2002 / [29], [32]-[35]
CD10.3	Henry Boot Homes Ltd v Bassetlaw DC [2002] EWCA Civ 983; [2003] 1 P & CR 23	28 November 2002 / [55] and [59]
CD10.4	Wandsworth LBC v SSTLGR [2003] EWHC 622 (Admin); [2004] 1 P & CR 32	29 January 2003 / [21]-[22]
CD10.5	R (European Metal Recycling Ltd) v Environment Agency [2012] EWHC 2361 (Admin); [2013] Env LR 14	31 August 2012 / [15] and [21]-[30]

CD10.6	<i>Trump International Golf Club Scotland Ltd v Scottish Ministers</i> [2015] UKSC 74; [2016] 1 WLR 85	16 December 2015 / [32]-[36], [44] and [53]-[60]
CD10.7	<i>Wood v Capita Insurance Services Ltd</i> [2017] UKSC 24; [2017] AC 1173	29 March 2017 / [10]-[15]
CD10.8	<i>Case C-487/17 Criminal proceedings against Alfonso Verlezza</i> [2019] Env LR 29	28 March 2019 / [AG77], [57]-[62]
CD10.9	<i>Lambeth LBC v SSHCLG</i> [2019] UKSC 33; [2019] 1 WLR 4317	3 July 2019 / [15]-[19]
CD10.10	<i>Porr Bau GmbH v Bezirkshauptmannschaft Graz-Umgebung (C-238/21)</i> [2023] Env LR 19	17 November 2022 / [AG57] –[AG59] and [70]-[74]
CD10.11	<i>Sara & Hossein Asset Holdings Ltd v Blacks Outdoor Retail Ltd</i> [2023] UKSC 2; [2023] 1 WLR 575	18 January 2023 / No pre-reading necessary, but see [46]-[47] and [49]-[50] and [57]
CD10.12	<i>R (Suez Recycling and Recovery UK Ltd) v Environment Agency</i> [2023] EWHC 3012 (Admin); [2024] PTSR 533	28 November 2023 / No pre-reading necessary
CD10.13	<i>R v Atlantic Recycling Ltd</i> [2024] EWCA Crim 325; [2024] Env LR 29	13 March 2024 / [21]-[32]