



**Environmental Permitting (England and Wales)
Regulations 2016, Regulation 36**

Enforcement Notice

To: Kevin Nash Group PLC
Units 18-21, Burnham Business Park
Burnham-on-Crouch
Essex
CM0 8TE

Maldon District Council ("the Council"), in exercise of the powers conferred on it by Regulation 36(1) of the Environmental Permitting (England and Wales) Regulations 2016 ("the EPR"), and in relation to the environmental permit for:

**Kevin Nash Group PLC
Units 18-22, Burnham Business Park
Burnham-on-Crouch
Essex
CM0 8TE**

The Council is of the opinion that you have contravened the following conditions of your environmental permit:

1. Emissions release points, condition 2
2. Extraction system changes, condition 3
3. Efflux velocity, condition 4
4. Offensive odour beyond the site boundary, condition 7
5. Wind direction indicator, condition 8
6. Documented records not available, condition 10
7. Dipping, tumbling and drying undertaken outside of designated areas, condition 20
8. Extraction arrangements, condition 22
9. Extraction arrangements, condition 23
10. Building structure and equipment not capable of being cleaned, condition 28
11. Potentially odorous materials not stored in sealed containers, condition 30
12. Poor standard of housekeeping, condition 32
13. No prior notification of a change to the operation of the installation, condition 41

The matters constituting the contravention, the steps to be taken to remedy the contravention or remedy the matter likely to cause the contravention and, the time period within which the specified steps to remedy the contravention or remedy the matter likely to cause the contravention must be taken, are specified in schedule 1 to this notice.

Signed: 
Chris Shipham
Environmental Protection Team Leader

Dated: **1st August 2018**



Guidance for Operators receiving an Enforcement Notice

This guidance does not form part of the enforcement notice, but it is for the guidance of those served with the Notice. Further guidance can be found in the General Guidance Manual at www.defra.gov.uk/environment/ppc

Dealing with an Enforcement Notice

The enforcement notice requires you to take the steps specified, by the given date in order to ensure compliance or prevent non-compliance with an environmental permit condition or conditions. Failure to comply with the terms of this Notice is an offence under regulation 38(3) of the 2016 Regulations. Operation of the permit relating to this installation has been suspended, either wholly or in part as detailed in the Notice. It is therefore an offence to continue to operate your installation/ mobile plant, to the extent specified in the Notice, until such time as the Council withdraws the notice.

Appeals

Under regulation 31 of the 2016 Regulations operators have the right of appeal against an enforcement notice. The right to appeal does not apply in circumstances where the Notice implements a direction of the Secretary of State/Welsh Ministers given under regulations 61 or 62 or a direction or when determining an appeal. Appeals against an enforcement notice do not suspend the terms of the notice. Notice of appeal against an enforcement notice must be given within **2 months** of the date of the Notice. The Secretary of State/Welsh Ministers may in a particular case allow notice of appeal to be given after the expiry of this period, but would only do so in the most compelling circumstances.

How to appeal

There are no forms or charges for appealing. However, for an appeal to be valid, appellants (the person/operator making the appeal) are legally required to provide (see Schedule 6 of the 2016 Regulations):

- the appropriate authority written notice of the appeal;
- a statement of the grounds of appeal;
- a copy of any relevant application;
- a copy of any relevant environmental permit;
- a copy of any relevant correspondence between the appellant and the regulator;
- a copy of any decision or notice which is the subject matter of the appeal; and
- a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or dealt with by way of written representations.

Appellants should state whether any of the information enclosed with the appeal has been the subject of a successful application for confidentiality under regulation 48 of the 2016 Regulations, and provide relevant details – see below. Unless such information is provided all documents submitted will be open to inspection. Further guidance on commercial confidentiality can be found in chapter 8 of the PPC General Guidance Manual. Appeals should be despatched on the day they are dated, and addressed to:

The Planning Inspectorate, Environment Team, Major and Specialist Casework, Room 4/04 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN

If an appeal is made, the main parties will be kept informed about the next steps, and will also normally be provided with additional copies of each other's representations. To withdraw an appeal – which may be done at any time - the appellant must notify the Planning Inspectorate in writing and copy the notification to the local authority who must in turn notify anyone with an interest in the appeal.

Costs

The operator and local authority will normally be expected to pay their own expenses during an appeal. Where a hearing or inquiry is held as part of the appeal process, by virtue of paragraph 5(6) of Schedule 6, either the appellant or the authority can apply for costs. Applications for costs are normally heard towards the end of the proceedings and will only be allowed if the party claiming them can show that the other side behaved unreasonably and put them to unnecessary expense. There is no provision for costs to be awarded where appeals are dealt with by written representatives.

Offences

Failure to comply with the requirements of an Enforcement Notice is an offence under regulation 38 of the 2016 Regulations. A person guilty of an offence under this regulation could be liable to (i) a fine of up to £50,000 or to imprisonment for a term not exceeding 6 months or both; or (ii) to an unlimited fine or imprisonment for a term not exceeding five years or both (regulation 38), depending on whether the matter is dealt with in Magistrates or Crown Court. Additionally, under regulation 42 of the 2016 Regulations, the Council may in certain cases take proceedings in the High Court for the purpose of securing compliance with the Enforcement Notice.

Schedule 1

The Council is of the opinion that you have contravened the following conditions of your environmental permit:

- 2 Emissions to air shall only be released from the emission release points as specified in this condition and as shown in Schedule 4 to this permit.

Reference	Source	Abatement	Details
Exhaust stack 1	Main production building	None	13m stack terminating 3.42m above roof ridge, fitted with a jet cap
	Tumbler room	Activated carbon	
Exhaust stack 2	Not in use		
Exhaust stack 3	Laboratory	Activated carbon	6.26 m stack terminating at eaves height, fitted with an accelerator cone
Exhaust stack 4	Packing & bottling room	Activated carbon	Vented internally into main production building
Exhaust stack 5	Not in use		
Exhaust stack 6	Not in use		
Exhaust stack 7	Not in use		
Exhaust stack 8	Not in use		
Exhaust stack 9	Dipping & drying room	Activated carbon	6.26 m stack terminating at eaves height, fitted with an accelerator cone
Exhaust stack 10	Boiler combustion emissions	None	stack terminating above lean-to roof

- 3 The Operator shall notify the Regulator in writing at least 14-days prior to any changes to extraction systems and exhaust stacks serving the permitted installation.
- 4 Where dispersion is used to achieve compliance with the odour emission limit specified in row 1 of the table in condition 7 the exit velocity shall be at least 15m/s. Where this cannot be achieved due to unacceptable emissions of droplets, the exit velocity shall be at least 9m/s.
- 7 The emissions monitoring provisions of this condition shall apply to the whole of the permitted installation described in condition 1 and the emission release points described in condition 2:

Row	Substance	Source	Emission limits/provisions	Type of monitoring	Monitoring frequency
1	Odour	All odour emissions from contained and fugitive sources	Free from offensive odour at or beyond the site boundary	Olfactory assessment at site boundary	At least daily
2	Particulate matter	Whole site	No visible emissions	Visual observations	At least daily
3	Droplets, persistent mist and fume	All emissions to air (except steam and condensed water vapour)	No droplets, no persistent mist, no persistent fume	Visual observations	At least daily

- 8 A simple wind direction indicator (such as a windsock or weather vane) shall be installed in order that likely emission paths and areas of potential odour impact can be identified in the case of abnormal emissions.
- 10 The operator shall keep documented records of emissions monitoring undertaken in accordance with condition 7. Emissions monitoring records shall:
- (a) detail the name of the person undertaking the assessment, and;
 - (b) include wind direction and strength; and,
 - (c) detail the outcome of the assessment; and,
 - (d) be legible; and,
 - (e) be kept on site; and,
 - (f) be kept by the operator for at least two years; and,
 - (g) be made available for the regulator to examine.
- 20 Dipping, tumbling and drying shall only be undertaken in the designated dipping, tumbling and drying areas as shown in Schedules 2 & 3 to this permit.
- 22 Extract ventilation serving designated dipping and drying areas shall be permanently connected to an exhaust stack as described in condition 2, and operated with activated carbon filtration.
- 23 Extract ventilation serving designated tumbling areas shall be permanently connected to an exhaust stack as described in condition 2, and operated with activated carbon filtration.
- 28 The production building structure, floors, equipment and containers shall be capable of being cleaned effectively, and maintained in good condition. Cardboard or similar sacrificial floor coverings shall not be used.
- 30 Potentially odorous waste materials shall be stored inside the process building unless in sealed containers. In this condition, covered skips shall not be regarded as sealed containers.
- 32 A high standard of housekeeping to be maintained.
- 41 If the operator proposes to make a change in operation of the installation, he must, at least 14 days before making the change, notify the regulator in writing. The notification must contain a description of the proposed change in operation. It is not necessary to make such a notification if an application to vary this permit has been made and the application contains a description of the proposed change. In this condition 'change in operation' means a change in the nature or functioning, or an extension, of the installation, which may have consequences for the environment.

The matters constituting the contravention are:

Kevin Nash Group PLC operates a fish bait manufacturing activity, producing 'boilies', ground baits, pellets, hook baits and bait additives. The principal activity is boilie production. Boilies are round balls manufactured from a base mix containing both wet and dry ingredients such as semolina, rice flour, soya, egg albumin and fish meal. Flavourings and other additives are included in the mixture according to the recipe. The plant has received a permit in August 2016.

A complaint was received in September 2017 from the occupier of a nearby industrial unit of intermittent odour from Nash Baits in August 2017. The odour was alleged to be particularly bad on the 1st of September 2017, where the complainant alleged that the 'stench in his factory was horrendous' and like 'standing in a field of maggots'. Maldon Council had an exchange of emails with the Operator, specifically asking if any changes to plant and equipment or airflow rates had been made in August. No substantive response to that request was received other than general comment about other potential odour sources; however an inspection was arranged for 19th September 2017.

The pre-arranged inspection by the Council on 19th September revealed that in the Operators opinion, the complaint was likely to have been due to a problem with the waste bins, in that packaging used for boxed eggs had attracted flies and caused a smell (contravention of condition 30). Off-site odour was noted at the time of the inspection (contravention of condition 7). The boilie drying arrangement had been significantly changed within the process building (contravention of conditions 20, 22 and 23), for which a number of plywood enclosures (contravention of condition 28) had been constructed in the process building, and were not connected to the prescribed emission released point (contravention of condition 2). The Council had not received prior notification of this change (contravention of condition 3). The standard of housekeeping inside the production building was noted to have declined (contravention of condition 32).

An email was received from the Operator on 27th September 2017 detailing a potential design for a revised factory, and mentioned the possibility of the addition of a third boilie machine. No installation date or timetable of works was stated. An inspection report was emailed to the Operator on 2nd October 2017, and a plan and timetable of works for improved extraction was requested by 31st October 2017.

An update email was received from the Operator on 17th October 2017 which contained further information on the proposed extraction plans, however a timetable of works was not stated. Another email was received on 5th February 2018 containing further revised plans. No timetable for the works was included.

A pre-arranged inspection was undertaken by the Council on 19th March 2018. This identified that:

1. An LEV test on the extraction system in November 2016 had deemed the main system unsatisfactory, and with an air flow less than 15m/s required by the permit (contravention of condition 4).
2. A wind direction indicator to assist olfactory assessments had not been fitted (contravention of condition 8.)
3. Boilie drying operations had significantly increased again and were not being undertaken in the permitted area (contravention of condition 20, 22 and 23).
4. Housekeeping and cleaning was generally of a poor standard (contravention of condition 32).
5. A third boilie machine had been installed (contravention of condition 41).

The inspection report emailed to the Operator on 20th April 2018 required the Operator to provide the following by 11th May 2018:

1. A summary document detailing the equipment now in use and how you propose to ensure that odour from the activities is controlled in accordance with Best Available techniques. Please forward this document by 11th May 2018.
You must include the following in your response:
 - a) Any changes to emission point references (condition 2).
 - b) How the required efflux velocity will be achieved (condition 4).
 - c) Odour from boilie manufacturing operations will be contained and abated.
 - d) Odour from boilie drying operations will be contained and abated.
 - e) Updated site plans (proper drawings).
2. Timetable for a revised LEV system
3. Timetable for a deep clean.

A complaint relating to odour from the Operators installation was received by the Council on 16th April 2018. This was attributed by the Operator in an email of 17th April 2018 to the use of a pallet of boxed eggs. The Operator also advised that they were going ahead with a new LEV system as their money situation was getting better.

An odour nuisance diary was received by the Council on 27th June in response to a complaint earlier in the year relating to odour from the Operators installation. The diary alleged frequent off-site odour from the operation of the regulated activity. The Operator was asked to provide production data for the specific complaints, and this was received on 19th July 2018. Some but not all production data correlated with the odour reported. In response to the diary sheet, an unannounced inspection was planned by the Council for 25th July 2018 at 11am.

The Council undertook an unannounced inspection on 25th July 2018 at 11am. At the time of the inspection, works to install a revised LEV system were in progress. The contractor advised that the carbon filter above the original boilers had been disconnected (contravention of condition 2). Off-site odour attributable to the boilie operation was noted in the road adjacent to the installation, and outside the installation boundary. The odour was intermittent, and it was not clear if the odour was from the process chimneys or the open forklift access door. No odour was noted from waste bins as they had just been emptied. The site odour logbook could not be found (contravenes condition 10). The Operator was advised that even though works were in progress for a revised LEV system, the Council would be issuing an enforcement notice to require works to be completed within three weeks, to control emissions of odour during the works, to apply for a substantial variation to realign the permit with site operations and to undertake any other works specified to demonstrate full compliance with permit conditions.

The steps to be taken to remedy the contravention or remedy the matters likely to cause the contraventions are as follows, and must be completed on or before the date specified:

The Council considers that the Operator must take the following steps:

1. Operate the installation in a manner that does not result in offensive odour beyond the site boundary. **Immediately.**
2. Undertake and record an olfactory assessment around the installation boundary at least daily and record the results of the assessment in the logbook. **Immediately.**
3. Install and operate an effective LEV system for the installation in order to comply with the emission limit requirements of Row 1 of table 1 of your permit. **On or before 17th August 2018.**
4. Install a simple wind direction indicator (such as a windsock or weather vane) in order that likely emission paths and areas of potential odour impact can be identified in the case of abnormal emissions. **On or before 17th August 2018.**
5. Test the revised LEV system in order to demonstrate the efflux velocity of emissions (condition 4). **On or before 24th August 2018.**
6. Submit a substantial variation application to the Council **on or before 31st August 2018**, detailing how emissions of odour from the activity will be controlled in accordance with Best Available Techniques, including the following information:
 - a) Revised site location plan to show fridges, freezers and IBC storage areas.
 - b) Revised extraction system plan, clearly showing the location of activated carbon filter units.
 - c) How emissions from boilie manufacturing operations will be released and /or abated.
 - d) How emissions from boilie drying operations will be released and /or abated.
 - e) How emissions from boilie dipping operations will be released and /or abated.
 - f) How emissions from the laboratory will be released and /or abated.
 - g) Revised chimney drawing, including the heights and locations, a description of the source of all release points, and the justification of the emission release heights.
 - h) How the required efflux velocity will be achieved.

A substantial variation application form will be forwarded to you. The substantial variation application fee is £1,050.
7. Paint or otherwise effectively seal bare wood surfaces, particularly of drying enclosures to make them capable of being cleaned effectively **on or before 31st August 2018.**
8. Undertake a deep clean of the internal process building and external yard areas to remove dust, dirt and any other boilie debris **on or before 31st August 2018.**

