

DIRECTOR-GENERAL'S
OFFICE
16 MAY 2006

Kerdiffstown,
Sallins,
Co. Kildare.

12/05/06

Dr. Mary Kelly,
Director General,
Environmental Protection Authority,
Headquarters,
P.O.Box 3000,
Johnstown Castle Estate,
Co. Wexford.

ENVIRONMENTAL PROTECTION
AGENCY WASTE LICENSING
RECEIVED
15 JUN 2006
INITIALS..NK.....

c.c: Mr. Padraic Larkin, Director of Licensing and Guidance
Dr. Jonathan Derham, Office of Licensing and Guidance
Mr. Dara Lynnott, Director of Enforcement

Re: **Recommended Decision in relation to File Reference 47-2**
Applicant/Licensee : Neiphin Trading Limited
Location of Facility: Kerdiffstown, Naas, Co. Kildare

Dear Dr. Kelly,

We note with concern that a Recommended Decision has been published on the EPA website in relation to the above Licence review. We assume that this will now be passed over to the Board of Directors for final authorisation and issue to the Licensee. Please note that if the Board of Directors issue this Licence in its current form, we will have no choice but to seek legal redress.

The EPA have lied to the members of the public who took part in this review process. We are told that our submission " **will be taken into account when determining the review**" see EPA letter dated 31/08/04.

We were told "the Board of the Agency wishes to assure you that the refusal of your request for an oral hearing **does not mean that your objection will receive any less consideration** than where a hearing is granted." see EPA letter dated 13/03/06.

We were also told that the Board of the Agency "wish to advise that the Technical Committee will deal with your objection in a professional and **impartial manner**" see EPA letter dated 13/03/06.

This review process has been stage-managed to give the impression that the democratic process is being upheld when in fact, it has been subverted.

We respectfully submit that the EPA are not in a position to refuse to grant this Licence review because many of the new processes applied for in this case, were pre-arranged by Agency staff with the Licensee. This collusion between the Agency and the Licensee means that the objections of the residents of the area **cannot be given any consideration** and are ignored. The Technical Committee **cannot act in an impartial manner** in these circumstances.

Several examples of this collusion follows:

1. Agency staff agreed with Neiphin Trading Ltd that the Composting infra-structure could be commissioned in advance of the review process final decision.
When such a large investment has been made by the Licensee on the strength of backing from Agency staff, the EPA are precluded from refusing to grant a licence for that activity.
2. The Licensee has been working furiously to finish off the area North of the Line "A – B" on map reference A.3 page 34 Recommended Decision. The Technical Committee then imposed this restriction on placement of waste and recovered materials in this area when the work was completed. It is obvious that the Licensee was given prior warning that the Agency would put this restriction in place. A Warning Notice has been issued to the Licensee in relation to an earthen berm constructed in this area. By imposing this new restriction the Agency legitimises non-compliance with the Planning Laws by the Licensee.
3. Please see the enclosed letter dated 22/03/06 from Dr. Ted Nealon to Mr. Liam Foley. In this letter Dr. Nealon informs us that the Licensee has "obtained the agreement of the Environmental Protection Agency to install our own concrete batching plant". This is proof-positive that agreements are being made to install infrastructure without any regard for public health or the proper planning of the area.

We refer to a recent court case between the EPA and Greenstar Limited. Judge Con O'Leary said: "This facility was practically on the site boundary. Could the EPA have anticipated the fact that there was an almost inevitability about it going to give rise to this problem?"

He also warned the EPA that "the gaps" in its method of assessing the suitability of the site "undermine confidence in the adequacy of the agency's assessment of the appropriateness of the location."

In Kerdiffstown, our situation is almost identical to the case in Cork, in that the facility is being operated on our site boundary. By agreeing the final decision in principle in advance of the commencement of the review process the Agency has compromised itself. As a result, it will be impossible for the Agency to enforce the conditions it has set out in this Licence. This gives the Licensee free reign in carrying out activities at the Facility.

Regardless of any pre-agreed arrangements the Agency has made with the Licensee, the Agency must pre-empt any problems which we will experience as a result of granting this Licence or it leaves itself open to legal action in the future.

Yours faithfully,

Liam Foley
Mr. Liam Foley

Deirdre Foley
Mrs. Deirdre Foley

Michael Butler
Mr. Michael Butler

Hannah Foley
Ms. Hannah Foley

Michael Foley
Mr. Michael Foley

Valerie Foley
Mrs. Valerie Foley

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Environmental Protection Agency
An Ghníomhaireacht um Chaomhú Comhshaoil

Mr & Ms Liam & Deirdre Foley
Kerdiffstown
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W: www.epa.ie

Lo Call: 1890 33 55 99

31st August 2004

47-2

Review of a Waste Licence re: Kerdiffstown at Naas, Co. Kildare.

Dear Mr & Ms Foley,

I am to refer to your letter of 31/08/2004, received on 31/08/2004, in relation to the review of a waste licence reference number 47-2, by Neiphin Trading Ltd., in respect of a facility at Kerdiffstown, Naas, Co. Kildare.

I am to advise that your letter will be treated as a submission and will be taken into account when determining the review, in accordance with the Waste Management Acts, 1996 to 2003, and Article 15 of the relevant Waste Management (Licensing) Regulations, which provides as follows:

Extract from the Waste Management (Licensing) Regulations.

Submissions to the Agency regarding applications.

15. For the purpose of section 40(2)(b) of the Act, a person may make a written submission to the Agency in relation to -
- (i) an application, and
 - (ii) such plans, documents and other information and particulars, including an environmental impact statement, as are submitted by the applicant in accordance with articles 12, 13, 14 and 16, and the Agency shall not give notice of a proposed decision under section 42(2) of the Act before the expiry of a period of one month following the date of a relevant -
 - (a) acknowledgement in accordance with article 14(2)(a), or
 - (b) notice in accordance with article 16(2)(a), or
 - (c) acknowledgement in accordance with article 16(4), whichever such date is the later.

The application and associated correspondence, including the acknowledgements and notifications referred to in Article 15 above, are available on the public file relating to the application as they arise and that file may be inspected by any person during office hours at the Agency's headquarters. A copy of the file is also available for inspection at the offices of Kildare County Council. Copy extracts from the file will be supplied by the Agency to any person, on request, subject to payment of the reasonable cost of making the copy.

You are advised to refer to the public file for information on the progress of the application. The Agency will write to you to inform you of its proposed decision on the review in due course.

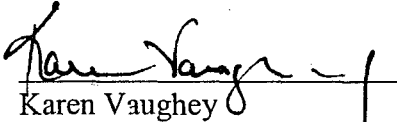


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YEARS

Guardians of the Environment

Please direct any further correspondence in relation to this matter to Administration,
Office of Licensing & Guidance, Environmental Protection Agency, Headquarters, P.O.
Box 3000, Johnstown Castle Estate, County Wexford.

Yours sincerely,



Karen Vaughey

Programme Officer

Office of Licensing & Guidance

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Environmental Protection Agency
An Ghníomhaireacht um Chaomhú Comhshaoil

Mr & Mrs Liam & Deirdre Foley
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13 March 2006

Reg No. 47-2

re: Objection to the proposed decision of the Agency on a waste licence application by Neiphin Trading Ltd. in respect of a facility at Kerdiffstown, Naas, Co. Kildare,

Dear Mr & Mrs Foley,

I refer to the above referenced waste licence application and in particular to a request for an oral hearing which was considered by the Board of the Agency at its meeting of 07/03/06.

Under the Waste Management Acts, 1996 to 2005 the Agency has an absolute discretion to hold an oral hearing in relation to an objection. The Board of the Agency decided not to hold an oral hearing in this case.

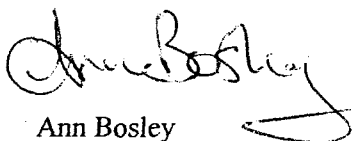
In light of this decision the Board of the Agency wishes to assure you that the refusal of your request for an oral hearing does not mean that your objection will receive any less consideration than where a hearing is granted. They also wish to advise that the Technical Committee will deal with your objection in a professional and impartial manner.

The Technical Committee will prepare a report and recommendations having taken into account all the issues raised in your objection. The Board of the Agency will consider your objection together with the report and recommendations of the Technical Committee before making a final decision. This decision will be made as soon as possible and without undue delay. Once the final decision is made you will be notified at the earliest possible date.

The decisions of the Agency are based on objective and independent evaluation of all the issues raised by all parties to a licence application. The Agency is committed to openness, fairness and transparency in its decision making process and I can assure you that you will have access to all documentation in relation to this licence application including the report and recommendations of the technical committee and the final decision.

Please note that the register number assigned to this waste licence application is 47-2. Please address all correspondence in relation to this matter to the *Licensing Unit, Office of Licensing & Guidance, Environmental Protection Agency, P.O. Box 3000, Johnstown Castle Estate, Co. Wexford* quoting the register number.

Yours sincerely,



Ann Bosley
Programme Officer
Office of Licensing & Guidance

Encl.

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Mr Liam Foley,
Kerdiffstown,
Sallins,
Co. Kildare



22 March 2006

RE: RECENT COMPLAINTS.

Dear Mr Foley,

I refer to your recent complaints which have been passed on to me. Please accept our apologies for any disruption of your nights sleep due to the early delivery of concrete to the site. We are taking steps to ensure that this problem won't occur in the future and ~~have obtained the agreement of the Environmental Protection Agency to install our own concrete batching plant~~ which will greatly reduce, or even do away with, the need for concrete to be delivered to the site.

In relation to odour, I would appreciate it if you would contact the site staff when ever you detect a problem so that they can investigate it immediately.

Machinery does, occasionally, get delivered to the site outside normal working hours and, sometimes, due to timetabling, this is inevitable. However, I have asked our staff to try and ensure that machinery is delivered during normal working hours.

I understand from the site staff that they investigated your complaint about litter at the time that you lodged the complaint and that it was resolved satisfactorily.

If I can be of any further assistance, please do not hesitate to contact me.

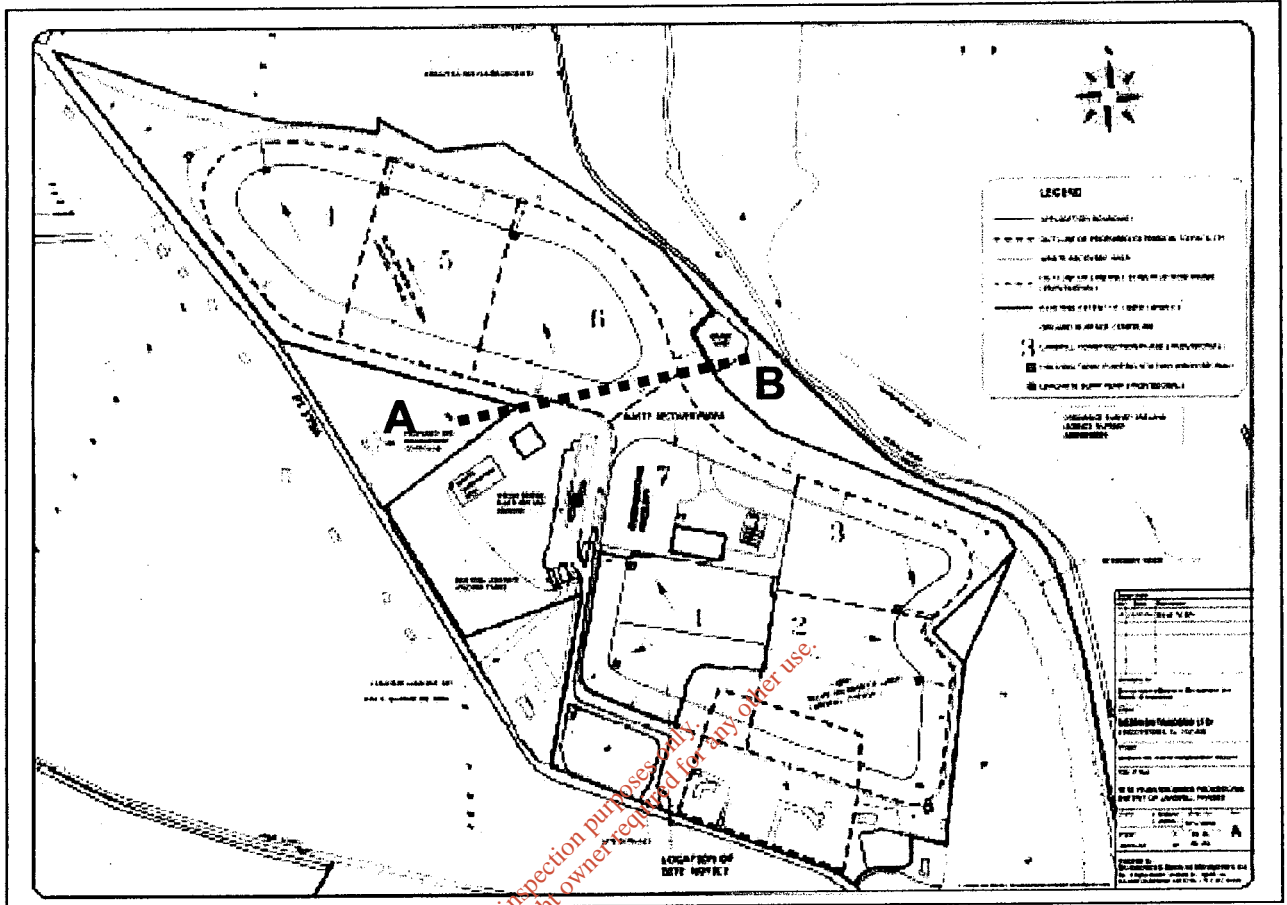
Yours sincerely,

A handwritten signature in black ink, appearing to read "T Nealon", written over a horizontal line.

Dr Ted Nealon, B.Sc., M.Sc., Ph.D., MCIWM
Director

Service/Skip Hire: 01 466 4444
Head Office: 01 466 4400
Accounts: 01 466 4460
Customer Care: 01 466 4424
Fax: 01 466 4411
E-Mail: info@a1waste.ie

A.3 Plan showing restriction regarding the placement of waste and recovered materials at the Neiphin Trading Ltd facility W047-02 (refer Condition xxx)





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13/05/2006 10:24