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Objection No. 3

George & Maggie Williams
George Williams Antiques
The Annexe, Newcastle House
Kilmainhamwood, Kells
County Meath

The Environmental Protection Agency
Headquarters
P.O. Box 3000
Johnstown Castle Estate
County Wexford

28th October 2013

Re: Submission in respect of an application by Padraig Thornton Waste Disposal Limited for a review of a waste licence for a facility at Kilmainhamwood Compost, Ballynalurgan, Kells, County Meath.

Your ref; WO195-02

Dear Sir or Madam,

We, George and Maggie Williams, of 'The Annexe', Newcastle House, Kilmainhamwood, Kells, County Meath, hereby **object** to a proposed decision and request an oral hearing in respect of a notification in accordance with Section 42(2) of the Waste Management Acts of a proposed decision on an application for a review of a waste licence in respect of a facility at Kilmainhamwood Compost, Ballynalurgan, Kells, County Meath.

We enclose herewith the fee which is required of €200. We also enclose a fee of €100 to ground our request for an oral hearing, which is required in the light of the matters that we have raised in the succeeding paragraphs of this document, and in order to provide an appropriate mechanism for the Agency to carry out the Environmental Impact Assessment, in a form and in a manner required under the Environmental Impact Assessment Directive.

The Agency will be aware of the numerous submissions that have been made by both the undersigned that is George Williams and Maggy Williams, in respect of the operation of this composting facility, by written communication, telephone and email for at least the last 7 years.

The Agency will be aware that the impact of this facility has been devastating, particularly arising from emissions from the facility which have caused physical damage both to us as individuals, including respiratory problems, running of the nose, prolonged sore watering and stinging of the eyes, sore dry rasping throat, dry-mouth and general discomfort, has had a very serious impact on our animals, particularly our horses which are highly valuable animals as Maggy Williams competes at national level and soon to be international level in dressage and equine health is a fundamental prerequisite for such activity, and for the use and enjoyment of our land which is rendered both impossible because of the odour and the physical effect which it has and by virtue of the health impacts which creates not only physical discomfort but high levels of stress and anxiety and these are all matters that have been communicated to the Agency and I attach at Appendix 1 a list of the complaints made which the Agency can see have been voluminous and reflect the level and intensity of the impacts from this facility in its current state.

The proposal now involves an increase in the level of the activity by 100%, increasing the level of waste to be processed at the site from 20,000 to 40,000 tonnes per annum and if the effect is proportionate to the impact which this facility has, then it will render any continued occupation and any use of our property impossible and we are very concerned and the Agency is aware of these concerns which have persisted since the date the occupation commenced.

We regret to say that our experience of dealing with the Agency has been one of frustration and one where there has been no real engagement with our concerns and a manifest sympathy for the applicant which is reflected in all our discussions with the Agency and frequently a failure not just to believe the evidence which we experience on a regular basis but even to engage and the impression that we have which is borne by many years of the type of responses is that we are merely cranks and busybodies who are wasting the Agency's time and there is from our perception of the response of the Agency, an undisguised sympathy with the developer who has made the application and appears to have a particular relationship with the Agency which has to some extent coloured the Agency's views of our concerns.

It is in this context that we became aware of the application to double the size of the waste facility and we contacted the Enforcement Department of the Agency for direction as to how we might participate in the process and contacted Mr. Eamonn Merriman who had informed us that the site, notwithstanding the submission of the application was not yet active and that there was

no obligation on us at this stage to make any submissions – and indeed encouraged us not to make any submissions until, as he described, the site "became live". He suggested that we continue to monitor the site and as soon as the site became live, we would then make whatever submissions were appropriate and they would thereafter be considered by the Agency, and both myself and my husband monitored the site on a daily basis and up until the actual decision was made, the site did not appear active and in such circumstances we made no submission. We have now taken appropriate advice and find that what we were informed of by Mr. Merriman was contrary to and inappropriate for the type of application which we should have participated in immediately the application was made. We have raised this with Mr. Merriman and we have received an aggressive response but the truth of what is set out above has never been contradicted and we are extremely concerned about why such an approach was adopted in the light of all the surrounding circumstances and in the light in particular of what Mr. Merriman knew from his own knowledge as to the kind of impact this development was having upon us and upon our lives.

It now appears that Mr. Merriman has been in contact with the developer, either in an informal or formal manner, and has informed us that he personally appears to have given consent to the developer to carry out works for the expansion of the plant well over six months before the decision of the 1st October was made. In a decision dated the 18th day of January 2013, Thorntons were permitted to modify the area of the activity the subject matter of the application for licence review and in effect implement works which permitted the increase in the quantity of waste which has now been approved by the decision of the Agency of the 1st October 2013. We cannot comprehend how it could have been appropriate for the Agency to have approved such a decision while the review of the licence was ongoing and the same Agency which approved this decision was the body who ultimately made the decision of the 1st October and how could it be said that the issue, given the decision of 18th January 2013, had not already been predetermined in the light of this determination.

It now transpires furthermore that there was a requirement to carry out an Environmental Impact Assessment as a condition precedent to the granting of the review. This has come as a complete surprise as we were not aware, notwithstanding our detailed analysis of the notices published, that there is any reference to such an obligation and no notice was ever published in that regard. We have examined the documentation lodged with the Agency and find that no information

directed to the decision which the Agency is required to make, namely on the review of the activity, has ever been made and therefore there was no information of a type that could ground a determination for the purposes of the Environmental Impact Assessment Directive ever made. No opportunity was ever afforded to us to participate in that process and we have been fundamentally prejudiced by the failure to deal with the matter in the manner which is necessitated by the obligations in these EIA Directives to require a notice be published, to require appropriate information containing all the relevant documentation such as to allow for us as participants in and people affected by the development, to be aware of the nature and extent of the development and to be aware that an Environmental Impact Assessment is to be carried out by the competent authority, at this stage the Agency. None of these matters were ever furnished to us and we were completely ignorant of the procedures that the Board was required to adopt and were never informed, notwithstanding our regular communication with the Agency – and certainly Mr. Merriman never informed us of any of these matters nor was there any way that we could have known these matters and the failure is a failure to properly implement the procedures which the Agency is now obligated to proceed under.

The manner in which the application was considered is so inept that it scarcely could qualify as an analysis and it appears no regard has been had to what Mr. Owens and the Agency are aware of as the horrific conditions under which we are expected to live in such close proximity to this facility. There is already medical evidence which has been submitted by our neighbour to the effect which it has on him and on his wife Margaret and we believe that the effects which we experience are similar and are equally attributable to this facility. Our animals and in particular our horses exhibit similar symptoms and we believe that this is directly attributable to the facility and we are faced with the appalling position adopted by the developer, Thorntons, and which appears to have been accepted by the Agency, that there is no odour generated by the facility. This is patently untrue and indeed the developer, Thorntons Recycling has accepted that significant odours occur but have indicated that these are due to malfunctions in equipment but these malfunctions occur only at particular periods where certain climatic conditions prevail and indeed these odours which are denied consistently as occurring are nonetheless implicitly accepted because the documentation submitted identifies additional odour abatement measures have now been introduced. Why, in circumstances where these odours are being denied, would any such additional facilities be provided but all of this information has only come to our

knowledge subsequent to the decision of the 1st October 2013 when the full file was made available.

We are appalled that the approach that has been taken has been so discourteous to us, has been it almost appears to us calculated to mislead us and to prevent our appropriate participation in the process and where the approach that has been adopted by the personnel attached to dealing with the application has been one of subservience to and sympathy with a developer who notwithstanding that he has caused effects for which it is the function of the Agency to ensure does not occur, appears to suffer no penalty or even no conditions requiring that this should not occur.

If the Agency were genuinely concerned but were persuaded by the Developer's submission that no odours infact escaped from the site boundary then, a simple condition indicating that no odours should be detectable outside the perimeter of the site and no emission should be generated which would have the effect of causing any discomfort to third parties, would be a simple condition and would reflect an approach of the Agency which could call the developer's bluff. What we have instead is an odour prediction model which, if the Agency were aware of the practice in respect of odour emissions, has no validity as the only competent basis upon which **an** odour specialist will advise, is the only basis on which to detect odours and to consider their acceptability or otherwise is to experience those odours and use the human nose and in those circumstances an odour prediction model has an extremely limited application. Indeed in response to a series of questions which demonstrate the total absence of appropriate information, particularly in the context of an Environmental Impact Assessment of March 2013, information which is required under the EIA Directive to be the subject matter of specialist input, has been prepared by employees of the developer who describe themselves as "compost facility manager" and "environmental manager" but do not set out their qualifications or indeed their independence and indeed it is clear that both of these individuals are employed by the company and therefore offend once again the most fundamental principles of the EIA Directive, namely independence from the applicant.

In those circumstances we believe that we have been fundamentally misled by the Agency who has a duty to act appropriately, particularly when advising parties like ourselves who do not understand or can fully appreciate the intricacies of this type of procedure, we have been misled

by the failure to publish notices and to identify procedures which are required to be complied with but which have not been complied with in the manner in which documentation has been submitted or notices published and which we have been prejudiced as a result; we are aware now that the manner in which the proposed determination has been made is fundamentally invalid and requires a root and branch analysis both in terms of information, in terms of identification of impacts, in terms of the identification of significant adverse effects and how these might be mitigated and to have these considered not just in terms of the direct effects but the indirect, short and long term effects and cumulative effects, and all of these which are fundamental requirements of the Environmental Impact Assessment Directive have not been carried out.

It is entirely pointless to seek to engage by way of a written submission in this process, which is so fundamentally flawed.

In our discussions with the Agency, they indicate that Agency has a facility to provide an oral hearing and having reflected on the matter it now appears that this is an appropriate mechanism to seek to try to deal with these issues and to afford us an opportunity to:

(i) indicate the effect that this facility is having upon us as human beings in terms of its physical impact upon us and in terms of its psychological impact upon us;

(ii) its impact upon the use and enjoyment of our house, which we understand we are entitled to both as a matter of our human rights and as a matter of our constitutional rights;

(iii) as a matter of the use and enjoyment of our lands, which is equally protected as a constitutional right under Article 40.3 and Article 43 of the Constitution and under the European Convention of Human Rights, and

(iv) on our animals, and in particular our horses which have been adversely effected by the use and operation of this facility, and of which we can provide both medical and veterinary evidence which will verify and substantiate these effects.

It will allow the most fundamental issue in an Environmental Impact Assessment to be considered, namely:

1. the likely significant effects both direct and indirect, long term, short term and cumulate effects on human beings, which have never been properly considered in the consideration of this application to date,

2. allow the Agency to have at least some information on the impacts which this is having on us, which cannot be adequately communicated in written form and which can only be reasonably and properly put forward at an oral hearing, and

3. equally it allows for a consideration under the Environmental Impact Assessment Directive of the effects of this development on flora and fauna and in particular as fauna as the animals and livestock that we keep on our lands are directly and adversely affected by the emissions from the facility and this is a fundamental aspect of Environmental Impact Assessments which require the most basic information to be before the Agency as part of its ultimate assessment and which again cannot be appropriately or adequately communicated by way of a written submission.

Equally the impact of these emissions on the other issues which the Environmental Impact Assessment Directive requires, namely soils, air, plants and water are all affected and again to deal with these issues by way of a written submission is simply impossible and to communicate the full effect of the existing facility on the receiving environment is simply impossible having regard to the restraints that are inevitably contained within a written submission.

It would be impossible in any event to deal and engage with this proposal in the light of the inadequacy of the information which has been submitted. The Agency is aware that in our submission the Environmental Impact Statement is fundamentally flawed, was prepared for an alternative purpose and is therefore inappropriate and inadequate to properly identify the likely significant effects relative to the functions that the Agency is required to exercise and indeed it is clear from the Request for Further Information issued by the Agency on the 5th March 2013, that this Environmental Impact Statement is completely inadequate.

The response, which could be construed as both a response to the review and to the Environmental Impact Assessment, could never meet the requirements of the Directive, is so terse and inadequate that it fails even to address the issues raised by the Agency and could never be a basis upon which the Agency could conduct an assessment to accord with the requirements of Council Directive 85/337 and is so fundamentally inadequate that it could not form the basis of a submission in any such review.

In any event it will be necessary as part of that oral hearing to elicit appropriate information from the developer and in particular the nature and location and origin of the waste that is brought to the facility including its records of tonnages and the extent to which the developer has complied with the obligations under the licence. We have grave concerns about the extent to which the current activity complies with the existing licence and indeed in the correspondence with the Agency the developer indicates in early 2013 that he is reaching the limits of the tonnages and the only verification is within the control of the developer itself and we are not persuaded without at least affording us the opportunity of having clarification in respect of this issue, that the terms and conditions of the existing licence is being complied with. This of course, if it were to be the case, would be a very serious matter under the Waste Management Acts and might have consequences for the status of the operation and whether it is a fit and proper person to carry on its activity and this is a fundamental matter that has never been addressed within the entirety of the process and is one that can only be properly conducted at an oral hearing. Equally, it is fundamental that we be made aware of the process and in particular the specific plant and equipment that is within the facility, how that plant and equipment operate, what are the effects of a breakdown in the various systems, which is the normal explanation given for the odours with all the consequences attached thereto, and the manner in which the facility operates on a day to day basis is fundamental to a proper analysis and an assessment of any review and is fundamental to a consideration of the likely significant effects which the Agency is required to identify as part of the Environmental Impact Assessment.

The other major issue is the ultimate disposal of this material and having reviewed the documentation, no sites are identified to which the compost is disposed of and the Agency will be aware that frequently we have observed from our own knowledge, contaminated material being removed from the site, that is materials contaminated by plastic and other foreign bodies, which could not meet any standards (although it appears that there is no current standards being

applied to the facility), and in such circumstances it is fundamental to again have consideration of the effects as to where these materials are being disposed of.

The developer indicated to the Agency that it is referencing certain plants and we will require details of those plants in order to conduct a review of the appropriateness of a reliance on these facilities, and these are simply some of the issues that will require to be addressed by way of further information from the developer. It is entirely pointless in such circumstances to seek to try to engage in this process in the light of the manner in which this application has been considered to date and in such circumstances we are requesting that the oral hearing be conducted and we would ask the Agency to note formally that we do not consider that the requirements of either Irish domestic law or indeed the requirements of the Environmental Impact Assessment Directive can be complied with by way of a written review.

We would ask the Board therefore to confirm as soon as is practicable, that it is disposed to hold an oral hearing in circumstances where if the Board were to proceed to conduct its review on the basis of inspector Owens' determination and in the light of all the correspondence which has now been made available to us, we will have to consider whether it is appropriate to take proceedings in respect of the manner in which the application has been considered to date and we are required, we are advised, under the normal judicial review proceedings, to take those proceedings without undue delay, but clearly we would not take such proceedings if the Agency were to proceed to convene an oral hearing and allow the matter to be considered within the context of that procedure.

We await hearing from you as a matter of urgency.

Yours faithfully,

George Williams

George Williams

28TH OCT 2013.

Maggy Williams

Re: Submission in respect of an application by Padraig Thornton Waste Disposal Limited for a review of a waste licence for a facility at Kilmainhamwood Compost, Ballynalurgan, Kells, County Meath.

Your ref; WO195-02

APPENDIX 1

Instance of Odour Nuisance from Kilmainhamwood Compost from George and Maggy Williams between 2008-2013

2008
27th April
5th May
6th May
7th May
8th May
10th May
11th May
14th May
15th May
16th May
17th May
27th May
28th May
29th May
18th August
4th Sept
5th September
2nd Nov
3rd Nov
4th Nov

2009
5TH Feb
16th March
15th April
20th April
2nd June
6th June

15th June
1st July
6th August
11th September
12TH Sept
13th September
14th Sept

2010
22nd Feb
24th Feb
8th March
10th March
24thMarch
12th April
15TH April
8th Nov
21st Nov
22nd Nov
24TH Nov
30th Nov
1st Dec
13th Dec
14th Dec
22nd Dec
23rd Dec

2011
26th Jan
29th Jan
19th Feb
21st Feb
22nd Feb
4th March
23rd March
24th March
25th March
25th March
26th March
12-20nd April
21st April
22nd April
25th April
28th April
1st Oct
2nd October

25th October
8th Nov

2012
11th Jan
13th Jan
21st Jan
22nd Jan
23rd Jan
1st Feb
16th March
17th March
18th 23rd March 2012
24th March 2012
28th March 2012
4th April 2012
5th April 2012
12th April 2012
23rd April 2012
23rd April 2012
24th April 2012
27th April 2012
4th May 2012
5th May 2012
18th May 2012
6TH June 2012
7th June 2012
8th August 2012
9th August 2012
21st Sept 2012
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23rd October 2012
24th October 2012
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5th Dec 2012
6th Dec 2012
16th Dec 2012
20th Dec 2012

2013
19th Jan 2013
23rd Jan 2013
10th Feb 2013
11th Feb

22nd Feb
23rd Feb
24th Feb
17th March
18th March
26th March
3rdApril
9th July
13th July
28th July
29th July
17th September
25th September
26th September
27th September
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