

INSPECTORS REPORT

WASTE LICENCE REGISTER NUMBER 19-1

Applicant: South Tipperary County Council

Facility: Hardbog landfill , Hardbog ,Grangemockler, Co. Tipperary

***Recommendation:** That the Agency grant the applicant a waste licence for the proposed landfill development subject to conditions as recommended in the attached proposed decision.*

(1) Introduction:

The Inspectors Report dated 3rd September 1999 and considered by the Board on 8th September 1999 should be read in conjunction with this Report. In considering this report, the Board of the Agency will have before it all information relating to the application, which I have read and considered in preparing this report. This report updates this and takes into consideration all information, submissions, reports and documents received in relation to this application subsequent to the report of 3rd of September 1999. The recommended proposed decision reflects the current landfill management practices in Ireland, the requirements of the Landfill Directive and the Agency's licensing of non-hazardous landfill facilities. The report also seeks to address the significant issues that have arisen since the inspectors report of 3rd September 1999 was considered by the Board of the Agency.

The application is for a new landfill facility accepting 40,000 tonnes per annum. The facility will be an engineered landfill and will be situated at Hardbog, Grangemockler, Co. Tipperary. The facility will be developed on a greenfield site. Ultimately, the facility will be restored in accordance with an agreed restoration/aftercare plan.

The proposed facility (See Attachment 1a–Site Location Plan and Attachment 1b proposed Facility Layout) , comprising some 15.4 hectares is to be located in the townland of Hardbog, approximately 25 km north of Clonmel and 1.6 km to the east of the junction of the N76 and the Ahenny Road. The nearest villages are Grangemeockler to the west and Ninemilehouse to the northwest both approximately 1.5km from the site. Other nearby settlements include Windgap some 3.3km to the northeast of the proposed facility, Carrick on Suir some 11.5 km to the south and Callan approximately 10 km to the north of the proposed facility. The nearest residential property is approximately 700 m from the facility boundary and there is a total of five residential properties within 750 m of the edge of the facility. The Ahenny road is used by the local community for walking, cycling, and for movement of livestock. Land and properties owned by The Camphill Community is situated less than 1km to the southwest of the facility and at the time of the application provided accomodation and training to approximately 45 individuals.

The existing landuse on the site at the time of the application comprised damp grazing pasture dominated by rushes with a network of watercourses and fieldrains within and around the periphery of the site with associated hedgerows. Landuse in the immediate vicinity of the site consists of agricultural land comprising improved pasture used predominantly for grazing (cattle, horse and sheep), unimproved pasture, damp scrub and young forestry plantation. Organic farming is practiced by a number of

individuals in the immediate vicinity of the facility many of whom are licensed organic farmers. Produce from these farms is consumed locally, supplied to the retail market and to producers of organic produce e.g Glenisk Yoghurts which distribute their produce nationally and internationally.

The site is situated within the catchment of the Lingaun River which is a tributary of the River Suir which joins with the main channel of the Suir downstream of Carrick on Suir. The Lingaun River supports good nursery and spawning grounds for salmonids upstream and downstream of the facility. Groundwater is an important source of drinking water for residential properties in the vicinity of the proposed facility. In addition groundwater and surface water provide a source of drinking water for livestock in the farmholdings adjacent to the landfill.

Land ownership

The land which comprises the facility is owned by two landowners. The majority of the land is the subject of a conditional contract between the applicant and the owner (once the proposed development of the landfill obtains approval the lands will transfer to the applicant). A planning application for a residential property was lodged by the landowner prior to the applicant expressing interest in the site. A single field adjoining the proposed site entrance is the subject of a Compulsory Purchase Order. This field will enable the site access to be constructed. The landowner has objected to the CPO of this field as well as to the CPO of land associated with the proposed improvements to the Ahenny Road.

Background to the recommended Proposed Decision dated 28th November 2003.

A Proposed Decision for Waste Licence register Number 19-1 was issued by the Agency on 9th of November 1999 and this allowed the development of a landfill at Hardbog Grangemockler Co. Tipperary subject to a number of conditions. A number of objections including a request for an Oral Hearing were received. The Agency decided to grant an oral hearing which was held from April 4th to April 7th 2000.

The Chairperson of the Oral Hearing submitted his report and recommendations, which were subsequently considered by the Board of the Agency. The Board of the Agency decided to grant a licence subject to a number of conditions and a licence was granted on 29 June 2000.

On 28th August 2000 Ms Elizabeth Murray acting as representative of the Hardbog and Grangemockler Environmental Group initiated judicial review proceedings in relation to the Agency's decision to grant a licence. Among the issues raised in the Statement to Ground the Application for Judicial Review was *.. "that the decision to grant a licence was made ultra vires the powers of the Agency in that the conditions imposed and in particular conditions 1.2 and 7.9 of the licence fundamentally altered the nature and extent of the waste disposal facility without any notice or opportunity being given prior to such alteration"*.

The Conditions 1.2 and 7.9 are as follows:

Condition 1.2

Unless otherwise agreed with the Agency, in order to facilitate an extension of the buffer zone to 100m, waste activities shall be restricted to the area of land outlined in red on Drawing No. 97-02401-03 Rev A. dated October 1997 submitted to the Agency on 15 December 1998. Any reference in this licence to “facility” shall mean the area thus outlined in red.

Condition 7.9

A 100m wide buffer zone shall be maintained around the perimeter of the facility in which no waste shall be deposited. The outer 75m of this buffer zone shall be maintained without the use of pesticides in a manner consistent with the principles of organic farming.

The High Court, on 11 December 2000 granted an Order quashing the Agency’s decision in relation to the waste licence application. In addition, the High Court ordered that the application be reconsidered by the Agency.

In reconsidering the application, the Agency issued a request for further information on 10 April 2001 related to the environmental impact of the creation of or the making arrangements for a 100m buffer zone on an area extending up to 100m from the boundary of the facility. The notice specified that a response should be received no later than 22 June 2001. Due to ongoing difficulties with gaining access to land adjoining the facility the applicant did not provide the relevant information by the required date. The applicant obtained an order of the District Court 11 March 2002 authorising officials of the local authority and its agents to enter the lands in question for the purpose of gathering the required information.

On 01 August 2002, the applicant submitted the further information to the Agency. Following an assessment of this further information, the applicant was required to publish a notice (Article 16(2)) in the same newspapers in which the original notices relating to the application was published. The notices were published on 29 March 2003. This notice advised the public that significant further information had been submitted to the Agency in relation to the effects on the environment of the propose development. The published notice also set out that any person may make a submission in writing to the Agency within a one-month period.

SUMMARY DETAILS :

Quantity of waste to be accepted (tpa)	40,000 tonnes for disposal.
Environmental Impact Statement Required and Valid	<i>The further information required to be submitted was not a new EIA but rather is supplementary information provided to assess the environmental impact of the provision of a 100m buffer zone.</i>
Number of valid submissions received following the high court order.	13

SITE VISITS:

DATE	PURPOSE	PERSONNEL	OBSERVATIONS
	Site inspection	04.11.'03	Inspect facility and surrounds

(2) Facility Development***Further information submitted by the applicant***

The further information submitted by the applicant concludes *that the provision of a 100m wide buffer zone would;*

- *Provide no net benefit for human beings*
- *Place increased financial burdens on the Council;*
- *Provide no additional mitigation measures to protect air, water, human beings or farm practices; and,*
- *Provide no additional protection for organic farming.*

The following paragraphs outlines in general terms the information submitted by the applicant in relation to the *Assessment of the Impact of the Provision of a 100m wide buffer zone around the proposed Hardbog Landfill.*

Section 3 –Human Beings:

The applicant has stated that landtake would be a significant impact of the provision of the buffer zone. In the assessment it is stated that the council would be required as a minimum to purchase 24 ha of land from the adjoining landowners and that in order to avoid fragmentation of the lands a possible 22 ha could be required. The applicant comments that this would mean that of the 61 ha required only 6.3 ha (approximately 10%) would be required for landfilling. The applicant further states that the farming practices would need to be adjusted to a manner consistent with organic farming and that the long-term significant impact of the proposed buffer zone would be the costs both to the council and farmers. The applicant concludes that regardless of how the land is farmed or by whom the land is farmed, the land-take requirement cannot be justified.

Section 6: Material Assets :

The applicant comments that “No evidence has been found to confirm that there is any organic farming practiced “ immediately adjacent to the (suggested) buffer zone” as is assumed in Paragraph 4 of the Agency’s request for information.

In the conclusions to this section the applicant states that a Condition that requires the Council to provide a 100m wide buffer zone around the facility would have a significant negative impact on Material Assets. The applicant goes on to state.. “that it would make the cost of providing and operating the facility significantly more costly. It would affect the community and farm practices in the area in that it would remove or restrict up to 45 ha of farm land from its traditional use, possibly reducing the viability of the residual landholdings.”

The applicant concludes that “ the waste licence application includes for the provision of a 50m buffer zone around the landfill footprint going onto explain that the landfilling area comprises 40% of the lands required. It is further concluded that “ the provision of the 50m wide buffer zone and ancilliaries, as shown in the application adequately addresses waste management, nuisance control, landfill gas, leachate management, surface water and groundwater.

Section 10 -Interaction of the Above

The applicant concludes that “ the 100m wide buffer zone would:

- Provide no nett benefit for human beings
- Place increased financial burden on the Council
- Provide no additional mitigation meadsures to protect air, water, human beings or farming practices.

In this context the applicant states that the proposed facility is designed as a contained landfill adding that the primary purpose of containment is to prevent emissions of pollutants and to protect environmental public health.

- Provide no additional protection for organic farming in the area.
On the subject of organic farming the applicant refers to guidance provided in the Standards for Organic Farming (prepared by the Irish Organic Farmers and Growers Association) with respect to buffer zones. The applicant makes reference to the section entitled Environment, Spraydrift and Conservation in particular to Environmental Contamination of a Holding (e.g pollution from traffic or factories). The applicant advises that the Standard, requires that in the absence of a windbreak (a hedge), a buffer of 10m may be required between the organic crop and the source of the contamination. It is further added that the Council’s proposal is for the retention of the boundary hedgerow therefore no buffer would be required. It is further added that the Council’s proposals also incorporates a 50m distance between the potentail source of contamination,(the area to be landfilled) and the facility boundary.

Recommendations Re: Site Development

Notwithstanding the restrictions which I recommend be imposed on the waste activities to be undertaken within the facility I also recommend that a 70m buffer zone in which no waste related activity shall be undertaken is applied within the facility boundary. The buffer zone shall be 70 metres from the landfill footprint to the boundary of the facility. The boundary of the facility shall be that proposed by the applicant in the application. Condition 3.14.1 of the PD provides for this buffer zone. In making this recommendation I have considered and taken into account the following:-

- *All the documentation and information relating to the application from the applicant and all other parties;*
- *The High Court Order;*
- *The nature of the activities to be undertaken at the facility and the associated activities such as movement of waste disposal vehicles, leachate tankers, site development activities etc. outside the landfill footprint;*
- *The height to which waste will be deposited above ground level;*
- *Standard 2.60 of the Standards for Organic Food and Farming in Ireland (August 200 Edition/ October 1st 2001 Edition) I note that this standard*

refers to the possible requirement for a 10 metre buffer zone between the organic crop and the source of contamination to be provided. The standard also provided for this requirement to be varied with respect to orchards which may require a 20m buffer;

- *The existence of and potential for organic farming practises to be established, within some of the adjoining land;*
- *The applicant's conclusions in relation to the provision of a buffer zone, as outlined above, and the applicant's statement in Section 6 of the Environment Assessment "that the Council's application stands namely to develop the facility in accordance with the information and particulars previously submitted";*
- *The requirements of the Landfill Directive and in particular that waste to be landfill has to subject to treatment prior to disposal ;*
- *Tthe benefits likely to be provided following treatment of waste particularly with respect to a reduction in the potential for environmental nuisance;*
- *The current practice in relation to waste management and landfill management;and,*
- *The current Agency practice/standards in licensing non- hazardous landfill facilities.*

This buffer area will provide an additional 40% increase in the width of the 50m buffer zone as proposed by the applicant. Importantly the entire buffer area will be under the control of the conditions of the licence and thus the maintenance and management of the buffer zone will be within the licensed facility boundary.

While the applicant states in Section 5 of the assessment "*that none of the evidence gathered in preparing a response to this query suggests that there is organic farming adjacent to the suggested buffer zone*", there is organic farming in the area and there is potential for organic farming to be practised on some of the land immediately adjoining the proposed facility.

The provision of the increased buffer zone over that proposed by the applicant will result in a reduction in the size of the landfill footprint within the facility boundary and thus the total waste quantity to be accepted at the facility. I estimate that the reduction in the size of the landfill footprint will be approximately 2 ha. amounting to a 33% reduction in total tonnage. It is likely that the void space capacity will be reduced by a greater amount than this when the side slopes are taken into consideration. The implications of the reduction in void space on the life span of the facility is likely to be mitigated by the requirements of Conditions 1.4 and 1.6 that only treated waste is be accepted at the facility. The nature and extent of the treatment of the waste streams permitted to be accepted at the facility will determine the extent of any reduction in waste volume. Condition 1.6.5 requires the nature and extent of treatment of waste prior to acceptance at the facility to be agreed by the Agency. I acknowledge that reduction in the size of the landfill footprint will have implications on the layout of cells within the facility boundary and the phasing of the development. The applicant is therefore required by Condition 3.2.2 to submit an updated layout of the phased development of the landfill cells within the facility taking into account the requirement to provide a 70m buffer zone within the facility

boundary. Condition 3.2.1 requires a proposed schedule of the phased development of the facility.

(3) Waste Types/Quantities/Hours of Waste acceptance

The waste types and permitted annual waste intake remains unaltered as per the waste licence application and are as follows:-..

WASTE TYPE ^{Note 1}	TONNES PER ANNUM ^{Note 2}
Household ^{Note 2}	22,000
Commercial ^{Note 2}	4,000
Sewage Sludge	1,000
Construction and Demolition	2,000
Industrial Non-Hazardous Sludges	2,000
Industrial Non-Hazardous Solids	9,000
Total	40,000

Note 1: Only pre-treated wastes are acceptable for disposal

Note 2: The tonnage of Household and Commercial waste accepted at the facility may be altered with the prior agreement of the Agency provided that the total amount of all wastes accepted at the facility does not exceed 40,000 tonnes per annum.

Significantly, however, I recommend in accordance with the requirement of the Landfill Directive and in accordance with the current trends in the development of new landfills, that all waste, including sludge is pre-treated, prior to being accepted at the facility as required specifically by Condition 1.4 and 1.6. In addition under Condition 11.3 –Waste Recovery Reports there is a requirement for the licensee to submit a report examining off-site waste recovery options including the off-site recovery/treatment of municipal and industrial sludge.

I am recommending that waste acceptance be allowed between the hours of 08:30 and 17:00 Monday to Friday and 10:00 to 12:30 on Saturday. Acceptance is to be prohibited on Sundays and Bank holidays. Waste operation at the facility will be 08:00 to 18:00 Monday to Friday and 09:30 to 13:30 on Saturdays.

(4) Emissions to Air, Groundwater , Surface Water

The comments made in the inspector’s report dated 3rd September 1999 in relation to emissions to air, groundwater and surface water which was considered by the board on 8th September 1999 continue to be valid (See Attachment 2).

No further significant information has been submitted by the applicant relating to emissions to air, groundwater and surface water. It is worth noting in relation to emissions from the facility that due to the requirement for an increased buffer zone to be provided at the facility, and by virtue of the resulting reduced landfill footprint and

waste input this will have an overall reduction in the potential for emissions to air, surface water and groundwater.

The monitoring programme for surface water and groundwater is required to commence within 2 months of the date of grant of the licence. This will provide information with regard to the impacts (if any) of the construction and other aspects of the development.

(7) Other Significant –Issues

Community Fund

I recommend that the applicant (licensee) be required to set up and contribute to a community fund. Such a fund would be dedicated to local environmental and community projects. Such a fund was considered by the Agency with regard to this application and was worded as follows.

Two percent of the gate fees charged for the disposal of waste at the facility, or thirty thousand pounds per annum, whichever is the greater sum, shall be spent on local environmental and community initiatives each year that the landfill accepts waste for disposal. The amount spent shall be updated annually in accordance with changes in the Consumer Price Index. A committee comprising representatives of the licensee, local community representatives and elected representatives shall oversee the selection of projects.

I recommend that the wording be retained and modified as follows:

Two percent of the gate fees charged for the disposal of waste at the facility, or forty thousand euro per annum, whichever is the greater sum, shall be spent on local environmental and community initiatives each year that the landfill accepts waste for disposal.

My view is that the reference to the Consumer Price Index is not appropriate for the proposed fund, given that the fund is to be fixed at two percent of the gate fees which should in any event reflect inflation. In addition, I can see difficulties in the Agency specifying the proposed make-up of a committee to oversee the selection of local environmental and community initiatives. I note that a similar approach as specified in this condition has during this year been advertised in local press by a local authority seeking proposals for projects in the vicinity of licensed waste facilities in the county.

HAZOP ASSESSMENT

I do not propose to include a condition requiring the applicant to undertake a HAZOP Assessment following construction of the facility. The carrying on of a HAZOP Assessment is a matter for the Health and Safety Authority.

(8) Waste Management, Air Quality and Water Quality Plans

- **Joint Waste Management Plan for the South East (July 2002)** This Plan is a Joint Waste Management Plan for the South East Region – comprising Carlow, Kilkenny., South Tipperary, Waterford and Wexford County Councils and

Waterford City Council.. The Plan replaced the individual plans of the constituent local authorities and covers the period 2002-2021.

It is acknowledged in Section 3.5 of the Summary of the Plan that *“In the period 2002-2008 , prior to full implementation of a centralise facility , additional landfill capacity is necessary in the Region. There is less than two years landfill space left regionally. It will be necessary in the short term for each authority to provide either new landfills or landfill extensions to fulfil existing demands.* It is further stated in Section 15.4 of the Plan under Disposal that *“the current shortfall in landfill capacity will have to be redressed by the local authorities of the South East adding that “existing proposals need to be implemented to meet the immediate landfill needs of the South East Region”.*

Under Section 7.6 Proposals for New Facilities Within the South East Region it is stated that *“Landfill capacity within the region is at a critical point highlighting that three local authorities have proposals for new landfill sites”.* Under Section 7.6.1 South Tipperary County Council reference is made to the proposed landfill at Hardbog. It is stated therein that *“the site was licensed by the EPA in 2000, however, this was challenged on legal grounds”.* It is further stated that *“currently South Tipperary are awaiting a proposed determination (PD). It is further stated that legal challenges are still pending (Nov, 2001).*

(9) Submissions

A total of 13 valid submissions were received by the Agency following the High Court decision. I have read and had regard to the submissions in making my recommendation to the Board. Below is a summary of the main concerns raised in the submissions. The specific details in some submissions are highlighted to give an overview of the concerns raised.

Submission 1: Fionnuala Cawhill & Associates (Solicitors). 30th April 2001

Ms. Cawhill stated she understood that a procedure is being considered whereby a buffer zone of 100m would be applied around the landfill. Ms. Cawhill states that this would change the nature of the proposed development to such an extent that the application procedure should start again and a new E.I.S. be prepared. It would be inappropriate to ‘graft’ such changes onto the existing licensing procedure.

This would also involve investigation of lands partly owned by the objector’s client and she hereby gives notice that they do not give consent to Tipperary South Riding County Council (TSRCC) to examine these lands. Should such investigation be deemed necessary the procedure laid down in Section 14 of the Waste Management Act (1996) (WMA) will have to be complied with.

The Agency should write to the Local Authority (LA) indicating same or else the objector will bring legal proceedings to restrain such interference.

The Agency should refuse the licence and, if desired the LA could make a new application.

Inspectors Response

I note the comments made by Ms. Cawkhill and refer to my response below.

The High Court Order of the 11 December 2000 quashed the Agency's Final Decision dated 29th of June 2000 and ordered that the matter be returned to the Agency for reconsideration. Following the High Court Order, the Agency requested, further information from the applicant related to the environmental impact of the provision of a 100m buffer zone extending upto 100m from the boundary of the facility. The response to the further information submitted by the applicant concluded that the 100m wide buffer zone would:

- Provide no net benefit for human beings*
- Place increased financial burden on the council*
- Provide no additional mitigation measures to protect air, water, human, beings or farming practices.*
- Provide no additional protection for organic farming in the area*

In addition to the above, I refer to my recommendations re site development in this report.

On the issues raised with respect to the investigation of lands partly owned by the objector's client and that consent had not been given to Tipperary South Riding County Council (TSRCC) to examine these lands- I am aware that the applicant and their consultants did not until 11 March 2002, some 11 months from the date on which further information was requested by the Agency in relation to the provision of a 100m buffer zone, obtain an order of the District Court and its agencies to enter the lands in question for the purpose of gathering the required information. It is my contention that the difficulties between the applicant and other third parties with respect to the entry on to lands outside the original application boundary is a matter between the applicant and the landowner(s) in question. As is evident from the order of the District Court, this matter was subsequently resolved through legal procedures.

Investigation of lands adjoining the proposed facility boundary was addressed by the order of the of the District Court dated 11 March 2002.

On the suggestion that the Agency should refuse the granting of a licence and that if so desired the local authority could make a new application, the Agency in complying with the High Court Order determined that the appropriate action was to request further information from the applicant in relation to the provision of a buffer zone outside the facility boundary.

Submission 2: Fionnuala Cawkhill & Associates (Solicitors). 2nd May 2001 Elizabeth Murray and the Hardbog/ Grangemoekler Environmental Group.

This submission is identical to Submission 1 except the names of the clients are given.

Inspectors Response

See Inspectors Response to Submission No. 1 above.

Submission 3: Josef A Teppan Founder/Director Camphill Communities of Ireland. 21th June 2001

The objector refers to the assurances of the Tipperary South Riding County Council (TSRCC) County Manager (in a letter to the South Eastern health Board (SEHB)) that the council will do everything in its power to ensure that the Camphill Community will not be adversely affected by the development; and to assurances by the Agency (in the Inspector's report) that the facility operated in accordance with licence conditions will not impact upon the Camphill community farm, facilities, etc. taking the observations and experiences of people who live and/or work near the North Kerry Landfill as an example he states that he has reason to believe that the Camphill community would be affected by the proposed development. The following examples in relation to the North Kerry Landfill were cited based on observations and experiences of some people living and working in the area around North Kerry landfill :

- *damage to business (turf cutting)*
- *Birds – seagulls dropping rubbish from the landfill and spreading disease. Bird control inadequate/ineffective.*
- *Odours – people cannot carry out routine farm work due to odours.*
- *Flies – states that incidents of disease in cattle have increased since the landfill has been in operation.*
- *Poor covering of the landfill*
- *Litter nets are not adequate to control litter especially in high winds. Limerick dump closes in high winds for this reason but North Kerry Landfill does not.*
- *Rats are a problem.*
- *Leachate lagoons should be covered but are not.*
- *Trucks overturned on the road – danger.*
- *Foot and mouth outbreak – Kerry County Council moved skips in places where there were two suspected cases.*
- *Leachate leakage in January 2000.*
- *Roads inadequate for heavy vehicles.*
- *Traffic causes walls around private properties to become dirty.*

The objector states that the Agency is not aware of these problems at North Kerry Landfill because they give three days notice of site inspections, which gives plenty of time for the licensee to sort out any problems.

He also suggests that the Agency should hire consultants for EISs and charge the licensees the necessary amount to make the process more objective.

If the Camphill community ceases to exist there will be a major problem for the South Eastern Health Board (SEHB) establishing an alternative.

Objector also expresses concern at new powers for County Managers concerning waste and taking decision-making power away from elected members of the County Councils. In his opinion this undermines basic democracy.

Inspectors Response

The Agency is fully familiar with the operation of the North Kerry Landfill facility. The North Kerry landfill has been licensed by the Agency since 16th of July 1998 (Waste Licence Register Number W001) and currently operates under a Revised Waste Licence (Waste Licence Register number 1-2). There have been non-compliances issued by the Agency with respect to the operation of the facility. The management of the North Kerry Landfill facility have expended considerable resources in resolving these non-compliances. The reports and correspondence related to the enforcement of the licence for North Kerry landfill, Waste licence Register number W001 and 1-2 are available for inspection in the offices of the Agency and the offices of Kerry County Council.

It should be noted that while the North Kerry Landfill was the first landfill to be licensed by the Agency it had been already in existence and operational for a number of years prior to coming within the regulatory control of the Agency.. In contrast the proposed Hardbog landfill facility will be constructed and operated under the conditions of the Proposed Decision.

It is of note that during 2001 four complaints of an environmental nature were received by the management of the North Kerry landfill, during 2002 seven such complaints were received. This is a reflection of the manner in which the licensee has managed the operation.

It should be noted that Condition 2.3.2.4 of the attached proposed decision makes specific reference to the requirement that the Awareness and Training Programme shall include procedures to ensure that all facility staff are aware of the presence of the Camphill Community and organic and other specialised farmers in the locality.

The comment made by Mr. Teppan suggesting that the licensee is being given three days notice in advance of an inspection by Agency personnel is not correct. Routine site inspections and visits by for the purposes of enforcement monitoring by Agency personnel are unannounced. Due to the necessity for management staff at licensed facilities to be present at annual site audits advanced notice is given to the licensee of such audits. Similarly where significant engineering works are being inspected by Agency personnel advance notice is also required to be given so as to ensure that key personnel are present on the day to brief the inspector on specific aspects of the works and the associated QA.QC testing.

I note the comment by Mr. Teppan suggesting that the Agency employ independent consultants for EIS preparation to make the process more objective. The manner, in which the EIS for the proposed Hardbog landfill was prepared i.e. by private consultants commissioned by the developer, is no different to the manner in which EIS's are prepared commissioned for other developments in Ireland. The regulatory process does not provide the Agency with the discretionary power suggested by Mr. Teppan.

I note Mr. Teppan's comment with respect to a scenario where the Camphill community would cease to exist and the subsequent problem that would face the SEHB in establishing an alternative. I do not envisage that the Camphill Community situated some 1.7 km to the southwest would be significantly impacted by the operation of the proposed activity as controlled by the proposed decision.

On the concern expressed with new powers for County managers concerning waste and the taking decision-making power away from elected members of the County Councils, this is a ministerial decision and is not a matter for the Agency to adjudicate on.

Submission 4: Hardbog/ Grangemockler Environmental Group (Martin Madden, John Healy, Michael Hogan, Richard Rohan). 22nd June 2001

This submission refers to the inadequacy of the size of the site to meet the waste management needs of the County. The question is asked whether the EPA is assessing this important question. Concern is also expressed about the kinds of problems experienced by the residents near North Kerry Landfill including the following: odours, poor litter netting, poor covering of waste, vermin, flies, birds, cattle disease, undesirability of farm produce from near a landfill. Details of these issues at North Kerry Landfill are included in an appendix to this submission. It is also stated that people near North Kerry Landfill have requested settlements to relocate.

Inspectors Response

I note the comments made with respect to the adequacy of the size of the landfill to meet the waste management needs for the county. The provision of adequate waste management facilities for the county is a matter for the local authority. I refer you to The Joint Waste Management Plan for the South East (2002 has been adopted by South Tipperary County Council. This Plan covers the period 2002 – 2021 as referred to in Section 8 of this report.

It is stated that some of the Hardbog/ Grangemockler Environmental Group are farmers who express the following concerns in relation to the proposed development:

- the Agency is facilitating TSRCC by changing the facility boundary
- the proposed buffer zone would act as a breeding ground for vermin etc.
- the proposed buffer zone would encompass a public road.
- The proposed buffer zone would result in the compulsory purchase of a field, which contains an important water source for the farm.
- The loss of the field acreage will have a negative impact upon the farmers income, the farming system, participation in REPS and the farmer's eligibility for certain payments.

The submitters feel that they have no reason to expect a better situation than that experienced by people at North Kerry Landfill.

Inspectors Response:

I refer to my response to the issues raised in relation to the proposed buffer zone in Submission 1 above and I refer to my response in relation to the reference to the North Kerry Landfill as raised by Mr. Teppan in Submission 3 above.

Submission 5: Environmental Management Services Ltd. On behalf of Grangemockler and Hardbog Environmental Group. 22nd June 2001

The Agency sent a letter to TSRCC on 10/04/01 requesting further information regarding the waste licence application for Hardbog Landfill but no reference was made to the authority under which the information was being sought.

The request was also inadequate and should have sought information on

- alternative sites
- site selection procedure (which was revised when the land at Hardbog became available for purchase)e.g. why is the site remote from the County's principal sources of waste.

The Agency requested a detailed description of the existing land uses, farm practices, and associated habitats within 100m of the boundary and the buffer zone of the proposed facility. This would require investigation/ observation of farm practices, requested information from farmers and the carrying out of surveys (e.g. floral and faunal surveys). They believe that no such surveys were carried out and state that if this work is not properly carried out the Agency should refuse the licence.

An entire new E.I.S. should be carried out to take into account the proposed buffer zone and updates to the EIS Regulations since the date of submission of the original E.I.S.

The public health impacts of the proposed landfill as given in evidence by Dr. Nick Blitz at the Hardbog Oral Hearing was never refuted and must therefore be taken as fact.

Inspectors Response

I note the comments made in the submission. The information requested by the Agency in correspondence dated 10 April 2001 was pursuant to the High Court Order quashing the Final Decision dated 29 June 2000 and instructing the Agency to reconsider the decision. The letter issued specifically referred to the application for a proposed landfill facility at Hardbog, Grangemockler, Co. Tipperary and referenced the application Reg. No. 19-1. It also clearly stated that the Agency was considering the application again, pursuant to an order of the High Court. See also my response under Submission 1 above on the issue of the provision of a buffer zone.

The Oral Hearing Report and the Final Decision issued by the Agency dated 29.06.'00 has taken into account the evidence presented at the Oral Hearing. I refer you also to my response to Submission 1 above.

Submission 6&7: Dr. A.N. de Souza. Director of Public Health SEHB. 15th August 2002 & 3rd October 2002.

In an initial submission dated 15th August 2002 Dr. de Souza commented that a buffer zone, even of 100m would not reduce the potential for causing ill health to the Camphill Community, especially as some of its members have an immunological deficit which makes them more vulnerable to infection and environmental hazards.

Subsequent to this the Agency wrote to Dr. de Souza requesting him to provide evidence in relation to the issues raised in his submission.

In response Dr. de Souza stated that there is a lack of epidemiological studies in relation to landfills but a number of community studies have reported an increase in

respiratory symptoms, irritation of skin, nose and eyes, gastro-intestinal symptoms, headaches and allergies. Dr. de Souza further comments that : *the mentally handicapped population specially those suffering from Downs Syndrome and other chromosomal abnormalities have on immune deficiency, which makes them more prone to infections especially upper respiratory infections. Infectious material may be spread by flies, scavenging birds and rodents to the surrounding area and a buffer zone will not prevent this spread of infectious material from the landfill.*

Inspectors Response

See my response on the issue of the requirement for a 100m buffer zone under Submission 1 above.

I do not envisage that the Camphill Community situated some 1.7 km to the southwest would be significantly impacted by the operation of the proposed activity as controlled by the proposed decision.

I also refer to Condition 2.3.2.4 in relation of Awareness and Training for site personnel and in particulr the requirement that the Awareness and Training Programme shall include procedures to ensure that all facility staff are aware of the presence of and the requirements of the Camphill Community and organic and other specialised farmers in the locality”.

Condition 7.1 requires the licensee to ensure that vermin, birds, flies, mud, dust, litter and odours do not give rise to nuisance at the facility or in the immediate area of the facility. Further it is required that any method used by the licensee to control any such nuisance shall not cause environmental pollution. In addition, Condition 7.9 requires the licensee within twelve months of the commencement of waste activities to submit a report to the Agency on the effectiveness of the environmental nuisance control measures used at the facility. See alo my response under Submission 1 above.

Submission 8: Duchas. 13th September 2002

In this submission it is stated that Duchas has no recommendations or objections in relation to this application.

Inspectors Response

I note the comments of Duchas.

Submission 9: Environmental Management Services on behalf of Grangemockler and Hardbog Environmental group.

TSRCC’s response to the Agency’s request for further information stated that the proposed 100m buffer zone would provide no additional benefit/mitigation to human beings, air, water or farm practices and would place increased financial burdens on the Council. The submitters wish to refute these conclusions as follows:

- the applicants response did not adequately address the issue of ‘alternatives’ as per the Environmental Impact Assessment Regulations, or the impacts of the 100m buffer on the development, operation and restoration of the proposed facility.
- The Agency’s request for information did not ensure compliance with the EIA Legislation.
- Buffer zones are now considered best practice and have been required in waste licences subsequently issued by the Agency. The buffer zone should therefore be required at Hardbog.
- Even a 100m buffer zone may be inadequate to protect wildlife and mitigate against the spread of disease.
- A detailed description of existing land uses and farm practices and associated habitats within 100m of both sides of the boundary was requested by the Agency but this is not meaningful in a farming context and, in any case has not been adequately addressed by the applicant in its response to the Agency.
- A new E.I.S. is necessary in order to take into account the proposed buffer zone and updates in legislation. The Landfill Directive came into force since the original application was submitted to the Agency and the application should now be reconsidered in view of this.
- The site selection procedure was flawed and illogical. The selection criteria were modified when the Hardbog site became available to the applicant.

Inspector Response

I refer to my response to Submission 1 above.

In relation to the compliance with the EIA legislation, the request for further information dated 21st April 2001 made specific reference to the provision of an environmental assessment of the provision of a 100m buffer zone and required that this should comply with the EIA legislation. The applicant in their response stated in Section 6 of the Environment Assessment “that the Council’s application stands namely to develop the facility in accordance with the information and particulars previously submitted”. The applicants response updates the original EIS and associated further information submitted.

The site selection process is detailed in the EIS. Over 100 sites were included in the site screening process. Due to the characteristics of the Hardbog site it was recommended for further site investigation and an EIA.

Submission 10: Environmental Management Services on behalf of Grangemockler and Hardbog Environmental group. 2nd October 2002

The group received raw data and field notes, requested under the Freedom of information Act which related to an Agency request for further information in relation to the waste licence application. In the material received there was no reference made to waste management, nuisance control measures, landfill gas management, surface water or groundwater management, soil types or geology, which should have been addressed. The observations made were confined to a limit of 100m on each side of

the buffer area. This does not make sense in an ecological or in an agricultural context, as farm practices in one part of a farm are influenced by what is happening or may happen in another part of the same farm or adjoining farms. Wildlife will also range over extensive areas.

Inspectors Response

I note the comments made in the submission by Environmental Management Services on behalf of Grangemockler and Hardbog Environmental group. I refer to my response under Submission 1 above.

The issues highlighted in this submission as having been omitted from the further information are relevant to the construction and operation of the facility within the facility boundary.

This report and that dated 3rd September 1999 outlines the control measures that are to be put in place to deal effectively with emissions from the activities at the facility.

Submission 11: Betty Murray Hardbog/ Grangemockler Environmental Group. 28th April 2003

The submitter seeks clarification on several matters:

- whether the site notice published by TSRCC in the Nationalist newspaper on Saturday the 29/03/03 in response to the Agency's letter of 13/03/03 refers to the original Hardbog waste licence application or to another/ new application.
- whether the application referred to in that newspaper notice is for the same area of land as the original application.
- the originally submitted EIS cannot be adequate in view of the proposed changes but it seems to be the only EIS referred to.
- the Agency's 'Guidance Notes for Applicants' have changed considerably since 1996, as have the Waste Management (licensing) Regulations and the EIA Regulations.

The submitter also seeks clarification as to whether the new site notice should have been erected around the same time as the newspaper notice.

Inspectors Response

On the issue of the erection of a new site notice an Article 16(2) Notice under the Waste Licensing Regulations does not require the erection of a new site notice, It only stipulates that a newspaper notice is published. The application referred to in the newspaper notice is for the same area of land as the original application. The Agency has previously asked for significant further information in relation to the original application and also in relation to the provision of an increased buffer zone. I note the comment in relation to Agency's "Guidance Notes for Applicants". The Agency's Guidelines are still relevant in relation to the Hardbog Waste licence application which was made in November 1997.

See also response to Submission 1 and 9 above.

Submission 12: Josef A. Teppan. Camphill Communities of Ireland.

28th April 2003

This submission raises the same issues as submission 11 above and in addition the following:

2003 is the year of the disabled and International Special Olympics are being held in this country. Under the new Agency 'Guidance Noted for Applicants' the Agency refers on p22 under C.5(c)(i) to the words 'avoid sensitive communities etc.' The Agency should abandon plans to develop a waste management facility in close proximity to the home and workplace of people who have an immunological deficit which makes them more vulnerable to infections and environmental hazards.

Inspectors Response

I note the comment made by Mr. Teppan. See response under Submission 11 and 3 above.

Submission 13: John F. Condon. Chairperson of IBEC South Tipperary Committee.10th September 2003.

This submission urges the Agency to make an early determination on the licence application because of the fact that the planning and licensing issues relating to it have been ongoing for six years and, in the meantime, industry in South Tipperary has been faced with the threat of having no landfill facilities available.

Inspectors Response

I note Mr. Condon's comments. The Agency will seek to ensure that there is no undue delay in making a decision in relation to this application.

Signed _____

Dated:

Tadhg O'Mahony Inspector, Office of Licensing and Guidance

Attachment 1a and 1b
Attachment 1a–Site Location Plan and Attachment 1b
proposed Facility Layout

**Attachment 2 Original Inspectors Report
Dated 3rd September 1999**