

MEMO

TO: Board of Directors **FROM:** Brendan Wall
CC: Gerry Carty **DATE:** 20th May 2003

SUBJECT : Technical Committee Report on Objections to Proposed Decision - South Dublin County Council, Ballymount Baling Station Reg. No. 3-3

Application details

Application Details	
Applicant:	South Dublin County Council
Location of Activity:	Ballymount Baling Station, Ballymount Road, Walkinstown, Dublin 12
Reg. No.:	3-3
Licensed Activities under Waste Management Act 1996:	Third Schedule: Classes 12, 13 Fourth Schedule: Classes 2, 3, 4, 13
Proposed Decision issued on:	8/11/02
Objections received:	3/12/02 (Third party) & 4/12/02 (Applicant)
Submissions on objections received:	5/2/03 (Third party)
Inspector that drafted PD:	Donal Howley

Objections received

Objection by Applicant South Dublin County Council

Objection by third party/parties Mr. Christopher Merrigan
(on behalf of Greenpark Residents Association)

Submission in relation to Objection Mr. Christopher Merrigan
(on behalf of Greenpark Residents Association)

A Technical Committee was established to consider the objections.

The Technical Committee included;

Brendan Wall, Chairperson
Dave Shannon, Inspector
Pernille Hermansen, Inspector

This is the Technical Committee’s report on the objections.

1. Objection from South Dublin County Council

The council objects to six conditions of the Proposed Decision to grant a revised waste licence for this existing municipal waste baling station and civic waste facility.

Ground 1: Condition 5.2.3: *The council objects to the daily limit of 1,040 tonnes, which is specified in Condition 5.2.3. The council claims that the daily limit will cause operational difficulties, as tonnage received is not constant over a six-day week although the weekly total over a six-day week of 6,240 tonnes is acceptable. The council requests that this condition be amended to “the quantity of waste to be accepted at the Baling Centre over a working week shall not exceed 6,240 tonnes”.*

Technical Committee’s Evaluation

This daily limit has been set by the Inspector based on the operational capacity of the balers as described in the Inspectors report. It is also noted that the Inspectors Report mentions that waste was left on the floor of the baling station overnight on numerous occasions in non-compliance with Condition 6.5 of existing waste licence 3-2. The purpose of the daily limit is to prevent excessive build up of waste at the facility, which might lead to odour nuisances. The Technical Committee (TC) considers that the daily limit is necessary to ensure that the waste accepted is handled properly. The TC note that the introduction to the PD refers to a daily rather than an annual limit of 324,480 tonnes and this should be corrected.

Recommendation

<p>No change to Condition 5.2.3.</p> <p><i>Correct the typo in the introduction.</i></p>

Ground 2: Condition 5.3.3: *The council notes that Condition 3.9.2 requires that a negative air pressure and emissions control system be maintained in the Waste Reception Area of the Baling Centre. Such a system requires the use of fast acting doors to achieve negative air. The Council argue that the installation of heavy-duty plastic sheeting on the doors as specified in Condition 5.3.3 and the regular movement of the fast action doors would cause serious operational problems and would constitute a safety hazard.*

Technical Committee’s Evaluation

Condition 5.3.3 mentions that the plastic sheeting on the doors should extend as far down as is compatible with the safe passage of facility vehicles through the doorways. This wording allows the licensee some flexibility in the design of the plastic sheeting. The wording of Condition 5.3.3 with the inclusion of “unless otherwise agreed” also allows the licensee to propose changes to the installation and operation of the plastic sheeting on the doors if these prove to cause operational difficulties. A number of alternatives to fast acting doors such as “air curtains” are available and could be installed to ensure that the negative air pressure system functions as designed. Note that Condition 1.3 mentions that nothing in the licence shall be construed as negating the licensee’s statutory obligations or requirements under any other enactment’s or regulations.

Recommendation

No Change to Condition 5.3.3

Ground 3: Condition 5.6.2: *This condition specifies that putrescible household waste accepted at the Civic Waste Facility shall be compacted or removed off site on the day of acceptance. The council state that they would like to accept putrescible waste on a Sunday but because the baling station and off site facilities are closed on Sundays they could not comply with Condition 5.6.2. The Council requests that Condition 5.6.2(i) be amended to “compacted at the Baling Centre within 24 hours”.*

Technical Committee’s Evaluation

The TC agrees that some modification to Condition 5.6.2 is required in order to facilitate the operation of the Civic Waste Facility on a Sunday. The TC considers that the licensee should have two options in this case. The first option is that at the end of business on a Sunday all the full or partially full skips of putrescible waste should be covered and stored indoors at the baling station. These skips should be then emptied the following morning. The second option is that the licensee provides a fully enclosed compactor skip for deposit of putrescible waste.

Recommendation

Change Condition 5.6.2 as follows;

Unless otherwise agreed with the Agency, putrescible household waste accepted at the Civic Waste Facility in accordance with this licence shall be either;

- (i) compacted at the Baling Centre on the day of acceptance, or
- (ii) removed off site to an alternative facility on the day of acceptance, or

(iii) in the case of putrescible household waste accepted on a Sunday this waste shall either be deposited into a fully enclosed compactor skip, or if open skips are used these skips shall be covered and transferred into the Baling Centre building at the end of the working day.

Ground 4: Condition 5.6.3: *This condition specifies that Green waste cannot be stored at the facility for longer than 48 hours before removal to an agreed facility. The Council states that if Green waste is delivered late on a Saturday it is possible that the Council may not remove Green waste until the following Tuesday as the Green waste acceptance facility is closed every Monday. The Council would like to accept Green waste on a Saturday to meet public demand for the service. The Council requests that this condition be amended to give a period of 72 hours in place of 48 hours.*

Technical Committee’s Evaluation

The TC considers that the Council should make every effort to remove the waste within 48 hours, However, we see no reason why the green waste can’t be stored for 72 hours to overcome the difficulty mentioned.

Recommendation

Change Condition 5.6.3 as follows;

Green waste shall only be accepted at the Civic Waste Facility prior to recovery at a facility agreed with the Agency. Any such green waste shall not be stored on site for a period longer than 48 hours before removal to the agreed recovery facility, **except in the case of green waste accepted on a Saturday, which can be stored for a period of 72 hours. All skips of green waste shall be kept covered during storage.**

Ground 5: Condition 5.6.4: *This condition specifies that only private vehicles shall use the facility and that the facility shall not be used as a transfer station for the disposal of waste by commercial waste disposal contractors or local authority waste collection vehicles. The council state that landscape gardeners with green waste for recycling and commercial vehicles transporting waste on behalf of charities currently gain entry to the Civic Waste Facility. The council requests that this condition be re-worded to allow for the aforementioned class of vehicles.*

Technical Committee's Evaluation

It is the intention of Condition 5.6.4 to prevent the Civic Waste Facility becoming a transfer station used by commercial waste contractors (i.e. operators with waste collection permits). It is not the intention of the condition to limit the use of the facility by small business operations such as landscape gardeners or charities and therefore the TC recommend some changes to this Condition. The TC also notes that licensee can set their own more prescriptive rules as to the type of vehicles using the facility.

Recommendation

Delete the first sentence of the Condition 5.6.4 and change the remainder of the Condition as follows;

The facility shall not be used as a transfer station for **the disposal or recovery of waste by commercial waste contractors** or local authority waste collection vehicles.

Ground 6: Condition 6.6.2: *The Council states that the trigger level for BOD specified in Condition 6.6.2 is not in proportion to the COD licence limit. The Council could be in compliance with the COD level but not the BOD level so there is a conflict with the value set out. The Council requests that the BOD limit should be amended to correspond to the COD level stipulated.*

Technical Committee's Evaluation

The TC notes that the BOD value of 25mg/l mentioned in Condition 6.6.2 is a “trigger level” and is not an emission limit value. As specified in the interpretation of the licence a trigger level is a parameter value, the achievement or exceedance of which requires certain actions to be taken by the licensee. The BOD value of 25 mg/l is a means of checking surface water quality and identifying potential problems before the COD limit is exceeded. Using the COD/BOD ratio of 1.54: 1 (*ref: EPA Parameters of Water Quality – Interpretation and Standards, 2001. Page 78*) the trigger value of BOD 25mg/l equates to a COD of 38.5mg/l which is well below the ELV of 150mg/l.

Recommendation

No Change to Condition 6.6.2

Objection 2: Mr. Chris Merrigan on behalf of Greenpark Residents Association

In the introduction to their objection the Greenpark Residents Association outlines their reservations and concerns about the role of the EPA in implementing the provisions of the Waste Management Act. They question how the EPA can propose to issue a revised licence to SDCC in view of their history of compliance with the existing licence. They state that the revised licence should not be issued until the negative air handling system required by the existing licence is in place. They threaten that if the licence for 3-3 is issued in its present form they will complain to the Ombudsman and/or the European Commission. They report that odours were particularly bad during February to August 2002 and have fears about the prospect of further odours in the evening because of the proposed longer opening hours. In the objection the Residents Association list seven specific criteria for objecting to licence 3-3 and these are considered in this report.

Ground 7: Putrid Odours emanate from Ballymount Baling Station: *Greenpark Residents Association state that intermittent odours emanate from the baling station which severely impact on the housing estate located within 100m of the facility. They claim that SDCC and their consultant argue that there is no significant odour issue. Residents have submitted over 100 complaints to SDCC and EPA. They list people who have witnessed the odours.*

Technical Committee's Evaluation

It is noted that the Inspectors Report states that over 200 odour complaints have been received. The TC also notes that the Inspector has taken this issue in to consideration when assessing the application. We consider that there are generally sufficient conditions in the PD covering odour controls (including Conditions 3.9.2, 3.9.3, 5.2.5, 5.3.5, 5.4.1 6.2, 6.3, 7.1, 7.2, 7.8.1, 9.4.1 and 9.5). In relation to odour inspections and audits, the PD specifies that the odour audit (Condition 8.10) has to be carried out annually and the inspections weekly (Condition 8.11.1). In view of the previous problems at this facility the TC considers that the frequency of odour inspections should be changed to daily until the licensee demonstrates that the operation of the facility is fully compliant with the odour control conditions. The TC considers that the Manager or Deputy should carry out these inspections. The TC also considers that a windsock should be installed to aid in these inspections.

Recommendation

Change Condition 8.11.1 as follows;

The licensee shall, **at daily intervals**, inspect the facility and its immediate surrounds (**including the Greenpark Estate**) for nuisances caused by litter, birds, flies, mud, dust and odours.

Add three new conditions as follows;

Condition 8.11.2: The facility manager or deputy shall carry out the inspections referred to in Condition 8.11.1, unless otherwise agreed by the Agency.

Condition 8.11.3: The frequency of these inspections may only be decreased to weekly with the prior agreement of the Agency, once all the relevant odour control measures have been implemented at the facility.

Condition 8.11.4: A windsock shall be installed at the facility and wind direction and strength shall be recorded during all nuisance inspections.

Ground 8: Capacity of Ballymount Facility: *Greenpark Residents Association claim that SDCC have refused to show details in relation to the capacity of the equipment. The EPA determined the capacity in Reg. No. 3-2 to be 180,000 tonnes but balers are being overworked as evident from the amount of breakdowns. They question how the EPA can justify licensing quantities of 350,000 and 324,000 tonnes respectively. They also state the licensee has to maintain suitable spares for equipment but both balers were out of action during March / April 2002 due to major breakdowns.*

Technical Committee's Evaluation

The TC note that details on the Baling capacity is provided in the Inspectors Report. The hourly capacity of the two balers is 96 tonnes, which means a daily capacity of 1392 tonnes for the proposed 14.5 hours of operation. The PD limits the daily tonnage to 1040 tonnes in order to maintain appropriate standby capacity.

Recommendation

No Change

Ground 9: Civic Responsibility: *The Greenpark Residents Association mention that they reluctantly conceded to the construction of the baling station but they now consider that they have been let down by the operation of the facility. They also ask about progress with the other facilities mentioned in the Waste Management Plan for the Dublin Region.*

Technical Committee's Evaluation

The TC note these are general comments rather than a specific objection to a particular condition of the proposed waste licence. Condition 2.4.1 requires the licensee to maintain a communications programme in order that the public can obtain information about the facility and other related issues.

Recommendation

No Change

Ground 10: Suitability of the Licensee (SDCC): *The Resident Association claim that SDCC are not suitable to hold a waste licence. They list a number of reasons including failure to adhere to existing licence conditions, the council depends on wind to disperse odours and they lack ability to manage the facility. The Association is very critical of SDCC and makes various allegations about the credibility of the Council and the independence of the consultant's reports. They argue that SDCC have to hire consultants*

because of the lack of ability and knowledge of SDCC to run the facility. The Residents Association is refusing to meet with the council unless there is an independent person present. They also note that letters from the council to a local TD state that much of the complaints are coming from the same source. The objection notes that the EPA are taking SDCC to court for 4 breaches of the licence 3-2. They add details saying that the balers were out of action simultaneously and the doors were broken. They states that a truck load of waste was also accepted on the 22/7/02 outside the hours of operation.

Technical Committee's Evaluation

Condition 2.1 of the PD covers facility management and it is noted that the manager, deputy and personnel have to be suitability qualified and experienced. It is clear from the objection that the residents are annoyed and frustrated about the situation. The TC consider that both the Residents Association and Council need to resolve their differences and implement the communications programme envisaged by Condition 2.4. Communications should be both ways and in order to strengthen this condition the TC recommends the changes indicated below.

In relation to the comments about the licence compliance the TC acknowledges that enforcement of the existing licence has been problematic. SDCC was successfully prosecuted in the District Court on the 13/1/03 in relation to the operation of the facility due to the failure of the Council to comply with a number of conditions. SDCC pleaded guilty to the charges and were fined €3000 in addition to payment of costs of €5000 to the Agency. The TC is confident that appropriate enforcement action will continue to be taken by the Agency when warranted.

Recommendation

Amend Condition 2.4.1 as follows;

The licensee shall **establish and** maintain a Communications Programme. **The Communications Programme shall inform and involve the local community and** ensure that members of the public can obtain information at the facility, at all reasonable times, concerning the environmental performance of the facility.

Ground 11: Suitability of Ballymount Baling Station Location: *The Residents Association object to the location of the facility because it is located 100 meters from ribbon housing; and putrid odours waft down onto the house in the estate. They state that the Lord Mayor of SDCC experienced this situation and the Greenpark Residents Association considers the location inappropriate.*

Technical Committee's Evaluation

The TC notes that the PD contains a number of conditions to deal with odour issues and the onus is on the licensee to comply fully with these conditions. Condition 6.3 specifies that the licensee has to ensure that operations on site are carried out in a manner such that air emissions or odours do not result in a significant impact beyond the site boundary. Failure to comply with the conditions of the waste licence is an offence and could result in further enforcement action by the Agency.

Recommendation

No Change

Ground 12: Structure of Ballymount Baling Station: *Greenpark Residents Association note that the facility is basically an enormous shed and that the doors are permanently open during operation. The claim that the condition about closing the doors whenever practicable is ambiguous. They state that SDCC have refused to install an air control system and plastic flap door covers as required by the existing licence.*

Technical Committee's Evaluation

Condition 3.9.2 of waste licence 3-3 requires the licensee to install and maintain a negative air pressure and emissions control system in the waste reception area of the Baling Centre. The TC notes that installation of this negative air pressure system was also a requirement of waste licence 3-2 and should have been installed by the 31/1/02. The TC also note that the licensee was successfully prosecuted by the Agency for not installing this system (in breach of Condition 4.19.5). As far as the TC is aware this system has not yet been commissioned. A consultant's proposal on the system was received by the Agency on the 5/2/03 and has been agreed.

In view of the fact that the licensee was prosecuted for not installing this system the TC recommends that the EPA write to the County Manager for South Dublin County Council requesting a progress report on the installation and commissioning of the negative air pressure system. The licensee should be advised that a) work on the installation of the negative air system must be completed immediately and b) the licensee informs the EPA when the system is commissioned. The Council should also be advised that that failure to immediately commission the system could result in a further prosecution. These issues relate to the enforcement of the licence and appropriate actions will be taken by the Agency.

Recommendation

No change.

Ground 13: Reduced Condition of Licence 3-3 versus 3-2: *The residents group object to the granting of a revised waste licence with conditions such that the licensee will no longer be out of compliance in key areas. They question how the EPA can reduce the requirement for standby capacity in view of the poor compliance history of the licensee. The objectors are seriously critical of SDCC and accuse them of being incompetent. They don't believe that SDCC will divert trucks away from Ballymount if the equipment fails. They also question whether other facilities would have the capacity to accept this waste.*

Technical Committee's Evaluation

The TC note that detailed contingency measures in the event of a baler becoming inoperable are required by Condition 9.5 of the PD. The TC considers that these conditions are sufficient and provide for proper management of the waste. The TC does not accept statements made in the objection that the "EPA is being dishonest" in concluding that SDCC/IPODEC will react by diverting trucks of refuse to other facilities immediately when the Ballymount equipment fails. SDCC/IPODEC have a legal obligation to divert trucks in the event of equipment failure.

Recommendation

No Change

Ground 14: Negative Air Handling and Emission Control: *In their conclusions the residents consider that the revised licence must only be considered when SDCC have a) completed the installation of a proper negative control system for the controlling odours and b) the council displays a willingness to work with the EPA rather than considering them an insignificant nuisance. In summary they state that the people of Greenpark simply ask for “Clean Air”.*

Technical Committee’s Evaluation

In relation to the installation of the negative air system the TC considers that this work must be completed immediately. The TC considers that in the period of time prior to the commissioning of the system there are other controls conditioned in the PD to deal with potential odour issues. The TC notes that this facility plays a key role in the management of Dublin’s waste and any closure of this facility would have a significant knock on effect for waste management in the city.

Recommendation

No Change, but write to SDCC as indicated under Ground 13 above.

Submission on Objection from Mr. Christopher Merrigan, on behalf of Greenpark Residents Association

In the submission from Mr. Merrigan dated the 4/2/03 he expresses disappointment that the EPA did not hold an oral hearing and considers it incomprehensible that the EPA are proposing to grant an extended licence. Mr. Merrigan requests an explanation under the “Freedom of Information Act” on why the Board decided not to hold an oral hearing in this case. In the submission he mentions that the residents would have a significant contribution to make and says they had a detailed survey conducted among the residents of Keadeen Avenue. He goes on to say that it appears that this presentation will now have to be made to the Ombudsman and or the EU Commission.

In relation the objection from SDCC to closing the doors whenever practicable. Mr. Merrigan claims that the council have never acted but only procrastinated on this issue over the years. He mentions that a senior manager within SDCC stated that there would always be odour nuisances at the facility. In the submission Mr. Merrigan argues that there has been delays in the licensing process and SDCC when granted a licence disregarded the aspects it did not like. In his opinion SDCC had no intention of installing a third baler and negative air system and this was evident back in January 2001.

Technical Committee’s Evaluation

The TC notes that the Agency responded to the Freedom of Information request and a letter was issued to Mr. Merrigan on the 28/2/03 enclosing two relevant records in relation to the request. We note that Mr. Merrigan did not submit details on the survey that he referred to in his submission. The other issues raised in the submission have been covered elsewhere in this TC report.

Recommendation

No Change

Signed:

Brendan Wall
Technical Committee Chairperson