

MEMO			
TO:	Board of Directors	FROM:	Brendan Wall
CC:		DATE:	12 October 2000
SUBJECT : Technical Committee Report on Objections to Proposed Decision – Reg. No. 48-1.			

Application Details	
Applicant:	Marrakesh Limited
Location of Activity:	Kilmurry South Landfill, Kilmurry South, Kilmacanogue, Bray, Co. Wicklow
Reg. No.:	48-1
Licensed Activities under Waste Management Act 1996:	Third Schedule: Classes 1 and 13 Fourth Schedule: Classes 2, 4 and 13
Proposed Decision issued on:	26/05/00
Objections received:	20/06/00; 22/06/00
Submissions on objections received:	25/08/00
Inspector:	Mr. Eamonn Merriman

Consideration of the objections and submissions on objections The Technical Committee (Brendan Wall, Chairperson, Dave Shannon and Kevin McDonnell committee members) has considered all of the issues raised and this report details the Committee's comments and recommendations following the examination of the objections on September 4th and October 5th 2000.

Objections and submissions on objections received

Two objections to the proposed decision were received from:

1. Bord Na Mona Environmental Limited on behalf of the management of Marrakesh Ltd; and,
2. Peter Sweetman & Associates on behalf of Friends of the Irish Environment, Wicklow Planning Alliance, Peter Crinnion, Pauline Corley, Patrick Lawlor, Robert Patterson, Brian MacDonnell and Tom Kinsella.

Bord Na Mona on behalf of Marrakesh Ltd also made a submission on the objection by Peter Sweetman & Associates and this submission has been considered as part of this report.

Objection No.1: Bord Na Mona Environmental Ltd on behalf of Marrakesh Ltd

Ground A1 (General Comments, Schedule C, D and Tables D.1.2 & D.5.1)

The applicant argues that many of the conditions i.e. gas monitoring and meteorological monitoring are excessive and not applicable to an inert landfill and recovery /recycling facility.

Technical Committee's evaluation

There is evidence of historical acceptance of biodegradable waste. In addition methane was detected in one borehole and elevated levels of carbon dioxide were detected in a number of boreholes. Due to the historical acceptance of some biodegradable waste the technical committee consider that as a precautionary measure landfill gas monitoring is necessary. Meteorological monitoring is covered under Ground A7.

Recommendation

No change

Ground A2 (Condition 2.1.1)

The applicant objects to the timescale for the production of an EMS (9 months) and requests this to be increased to 12 months.

Technical Committee's evaluation

The technical committee consider that the timescale given for production of the EMS is reasonable. Given that the facility will be in use for a number of years and the final restoration is not anticipated for a few years, the EMS is required as soon as possible.

Recommendation

No change

Ground A3 (Condition 4.14.1, Schedule C and D)

The applicant refers to the condition and schedule regarding Specified Engineering Works. They object to the requirement for the submission of proposals for landfill gas management within two months and also argue that the landfill gas monitoring in Schedule D is excessive.

Technical Committee's evaluation

The technical committee have reviewed that PD and consider that proposals are not required for landfill gas management. The installation of landfill gas management systems is listed in Schedule C (Specified Engineering Works) in the event that future monitoring indicates that this is necessary. Condition 4.14.1 requires proposals within 2 months of the intended date of commencement of any future specified engineering works, not within 2 months of the date of grant of the licence as stated in the objection. There is evidence of historical deposition of some biodegradable of waste at the facility and consequently monitoring of landfill gas as specified in the PD is necessary. Condition 9.5 allows the Agency to amend the monitoring frequency should the results indicate that the monitoring frequency could be reduced.

Recommendation

No change

Ground A4 (Condition 5.10)

The applicant requests that the opening hours be extended to 06-00 to 20-00. The reason given is that waste generated from demolition and excavation can occur early or into the night and that extension of the opening hours is critical to the operation of the business.

Technical Committee's evaluation

The technical committee note that Condition 5.10 reflects the hours applied for by the applicant. In order to consider the extension of hours we consider that an assessment of the impact of noise on adjacent residents is needed. In the absence of such an assessment we consider that the hours set in the PD should stand. Condition 5.10 allows the waste acceptance hours to be altered following agreement with the Agency.

Recommendation

No change

Ground A5 (Condition 6.5)

The applicant argues that the covering of vehicles delivering waste is unnecessary and more applicable to refuse landfill than inert sites.

Technical Committee's evaluation

It is considered that covering of vehicles is necessary to avoid dust and littering from the escape of material transported within the vehicles. The PD does not specify the type of cover and this may be agreed with the Agency. It is considered that a vehicle would be "appropriately covered" if material transported within the vehicle cannot escape.

Recommendation

No Change

Ground A6 (Condition 9.13.2)

The objection sets out a number of reasons why the installation of additional groundwater boreholes is considered excessive including;

- (a) existing information has not established any impact;*
- (b) BH3 is already representative of shallow groundwater; and,*
- (c) the installation of two deep boreholes is not justified because in any case the downgradient private wells must be monitored and the applicant undertakes to supply an alternative source if results indicate that this is necessary.*

It is also argued that the monitoring of groundwater boreholes for landfill gas is unnecessary.

Technical Committee's evaluation

The installation of two further downgradient boreholes is required to monitor the impact of the landfill on groundwater quality. The private boreholes may be subject to other influences (e.g. septic tanks) and new boreholes upgradient of the houses and downgradient of the waste body are required to assess the quality and composition of groundwater emanating from the facility prior to it being influenced by factors outside the facility.

It is the view of the technical committee in relation to Condition 9.13.2(a), that the shallow borehole required to the south of the office should be positioned to the east of the office as this is more representative. This borehole is to monitor water movement in the upper sand aquifer.

Gas was detected in BH-5 and it is considered necessary as a precaution to monitor for gas outside the perimeter of the waste body.

Recommendation

Amend Condition 9.13.2 as follows:

9.13.2 The licensee shall provide the following additional boreholes:

(a) Within six months of the date of grant of this licence, the licensee shall install a borehole **east** of the office referred to in Condition 4.7 and outside of the fill area in order to monitor overburden groundwater in that sector downgradient of the landfill. **The exact location shall be agreed with the Agency prior to commencement of drilling.**

Ground A7 (Condition 9.15 and Schedule D.5)

The applicant argues that the requirement to install a meteorological station is excessive and that the parameters (wind, rain etc.) are of little concern at the site.

Technical Committee's evaluation

The PD does not require the establishment of a meteorological station at the site. The necessary data can be collated from stations where the meteorological conditions would be representative of the conditions at the site. It is considered that wind direction and speed is necessary as dust may be generated on site.

Recommendation

No Change

Ground A8 (Condition 10.1)

The applicant requests that the timeframe for production of the Emergency Response Procedures be increased from 6 to 9 months.

Technical Committee's evaluation

The time frame for submission of the ERP is the general time frame given to landfill sites and is considered reasonable.

Recommendation

No Change

Ground A9 (Condition 11.1)

The applicant argues that the annual contribution of £9,735 is grossly excessive and not in line with similar facilities. They request that the charges be recalculated to reflect the fact that the site is a recovery / recycling facility with a C&D waste disposal area.

Technical Committee's evaluation

The technical committee have reviewed the charges and consider that the annual charge should be reduced from £9,735 to £8,785. A copy of the revised charges sheet is attached. The reduction in costs stem from reducing the waste mobile unit visits from 1.5 days to 1 day and reducing the number of groundwater samples from 13 to 9.

Recommendation

Amend Condition 11.1 as follows:

Reduce the annual contribution from “£9,735” to “£8,785” .

Ground A10 (Table D.4.4)

The applicant objects to the excessive monitoring parameters and frequency listed in Table D.4.4 and requests that all monthly groundwater and leachate monitoring be changed to quarterly. Their reasons for this are (1) that no refuse or hazardous waste is or will be deposited and (2) quarterly monitoring would allow any seasonal variation to be detected.

Technical Committee’s evaluation

Based on the frequency for monitoring in other waste licences, it is recommended that the monthly monitoring frequency for groundwater levels, ammoniacal nitrogen, electrical conductivity and pH should be changed to a quarterly monitoring frequency and similarly the monthly leachate level monitoring should be changed to quarterly.

Recommendation

Amend Table D.4.4 as follows:

Under the heading GROUNDWATER change all “Monthly” monitoring frequencies (i.e. Groundwater level, Ammoniacal Nitrogen, Electrical Conductivity and pH) to “Quarterly”.

Under the heading LEACHATE change the “Monthly” monitoring of leachate level to “Quarterly”.

Objection No.2: Peter Sweetman & Associates on behalf of Friends of the Irish Environment, Wicklow Planning Alliance and a number of local residents

Ground B1 (Application was post prescribed application date)

The objection states the EPA should take immediate action to ensure that all operations are ceased forthwith since the application was received after the prescribed date and the site has been operating illegally since the 1st May 1997. Marrakesh Ltd in their submission to the objection argue that they were proactive and their approach to achieve compliance was consistent with many other facilities.

Technical Committee’s evaluation

The technical committee note that the PD in effect is a licence to close and restore the site.

The application was received on the 29th May 1998 whereas the prescribed date was the 1st May 1997. The technical committee therefore note that the facility is considered to be unauthorised under the Waste Management Act, 1996. The technical committee are aware that the Waste Management Act 1996 makes a distinction between the role of the Agency and the local authorities when it comes to dealing with the unauthorised disposal of waste. The unauthorised disposal or recovery of waste in the absence of a waste licence is primarily a matter for the relevant local authority.

The technical committee’s understanding of the PD is that it does not authorise the long-term continuation of landfilling at the facility but requires a phased closure of Phases I and II with environmental controls. The development of Phase III is prohibited (*Part 1 and Condition 5.11*).

The Inspectors report to the Board notes that the use of C&D waste to effect restoration of Phases I and II may be considered a recovery process. The technical committee also notes the following reason for the decision given in the PD: *“It provides for the rehabilitation and restoration of the existing landfill area and the protection of an area of outstanding natural beauty”*. The

restoration of Phases I and II of the existing landfill is covered by Class 4 of the Third Schedule and controlled by a number of conditions notably *Conditions 5.2, 5.5, 5.11 and 8.*

The technical committee considers that Class 1 of the Third Schedule may not be entirely relevant because future activities at the site are generally limited to the restoration of the existing landfill. Class 1 of the Third Schedule in this case is "*limited to the disposal of waste types specified in Schedule H, Table H.2 only in Phases I and II as shown in drawing number G1.3 of the application*". The technical committee note that the reference to Schedule H and Table H.2 is incorrect and should read Schedule F and Table F.2.

Recommendation

Amend the wording of Class 1 in Part 1 of the PD to the following;

This activity is limited to the disposal of the waste types specified in **Schedule F, Table F.2** only in Phases I and II **of the existing landfill (as shown in drawing number G1.3 of the application) for the purposes of restoration and rehabilitation.**

Ground B2 (Development is a material contravention of the Wicklow County development Plan)

The objection points out that location of the facility in an Area of Outstanding Natural Beauty is a material contravention of the County Development Plan and that the EPA has no authorisation to authorise such a contravention. Marrakesh Ltd in their submission argue that the site is exempt from planning and the restoration of the worked out quarry will enhance the area.

Technical Committee's evaluation

The PD is for the purposes of waste licensing under the WMA only and the issue raised is a planning issue which is outside the remit of the licence application. Condition 1.4 states 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

Ground B3 (Facility has no valid planning permission)

The objection contends that the operation of the dump is illegal since 1979 since it neither had a valid planning permission or a waste permit. This is denied by Marrakesh Ltd in their submission who claim that Wicklow County Council did not actively pursue or require any sites which were licensable under the Waste Management Act to obtain a permit.

Technical Committee's evaluation

The history of the facility in relation to planning permission and the issue of permits is a matter for Wicklow County Council. The requirement to hold a waste licence arose only from the Waste Management Act, 1996.

Recommendation

No change

Ground B4 (Groundwater Directive Issues)

The objection states that no authorisation should be granted to a development which poses a threat to groundwater supplies and that the Agency erred in law by granting the licence. Marrakesh Ltd in their submission notes that the information submitted confirms that the groundwater has not been affected.

Technical Committee's evaluation

There is no evidence to suggest the landfill poses a threat to groundwater supplies. Except in the case of bacterial counts that cannot be attributed to the presence of the landfill, the standards set in the EC (Quality of Water for Human Consumption) Regulations 1988 have not been breached in the private wells that were sampled as part of the application process. Conditions 5.1 and 5.2 limit the waste accepted at the facility to inert materials of the types found on a typical building site (e.g. clay, concrete, asphalt) and these are for the purpose of closure and restoration only.

Recommendation

No change

Ground B5 (Phase III extension)

The objectors do not agree with the PD allowing further landfilling on Phases I and II and argue that the restoration levels are already reached. They agree with the conclusion that development of Phase III would constitute a significant negative impact on the Area of Outstanding Natural Beauty and argue that further landfilling at Phase I and II would be likewise. Marrakesh Ltd in their submission states that there is "no reference to the landscape implication of Phase III in the draft licence" and that Phase I and II levels have not been exceeded.

Technical Committee's evaluation

The technical committee note that Phase III has been refused (*Condition 5.11*) since this phase was proposed on an undeveloped area of the facility. Phase I and II are existing operations which must be restored. When sufficient C&D waste is accepted to achieve the restoration levels specified in *Condition 8.1(b)* no further waste may be accepted for disposal or recovery (*Condition 5.5*). The levels specified in *Condition 8.1* are 10m lower than that applied for in the application. The visual integration of the existing landfill into the surrounding area is required and the technical committee consider that this can be achieved by allowing waste to be accepted to achieve the restoration contours specified in the PD. Refer also to the technical committee evaluation of Ground B1 above.

Recommendation

No change

Ground B6 (Phase III development)

This objection considers that the development of Phase III is not in the same planning unit and also refers to the planning application in relation to the extraction of sand and gravel. Marrakesh Ltd in their submission notes that the sand and gravel quarry is not part of the landfill site.

Technical Committee's evaluation

Phase III has been refused in the PD. Planning permission is a matter for Wicklow County Council.

Recommendation

No change

Ground B7 (Duchas Survey Work)

The objection contends that Kilmacanogue Marsh and the Dargle River must be submitted to the European Commission for consideration for inclusion in the NATURA 2000 list. The objection also notes that no reports or surveys were submitted by Duchas other than a submission saying they had no objections.

Technical Committee's evaluation

Duchas is the relevant authority and they have stated they have no objection to the granting of a waste licence. The technical committee is satisfied that Duchas reached their decision in an informed manner. The submission of sites for inclusion in the NATURA 2000 list is a matter for Duchas.

Recommendation

No change

Ground B8 (Borehole required to determine previous waste deposited)

The objectors state that the Agency has been negligent in not doing further research to ascertain the whole picture of what has been deposited at a dump which has been operating outside the law since 1979. The objection states that it is the submission of the residents that paint cans, a hazardous waste has been deposited. They claim that the EPA should have had a borehole sunk to ascertain the facts. Marrakesh Ltd in response accepts that some green waste was deposited and notes that a borehole was drilled into the waste mass at the request of the Agency.

Technical Committee's evaluation

The objector did not provide evidence to show that hazardous waste has been deposited. The Agency accepts that waste other than inert material has been deposited at the facility and has addressed this in drafting a number of conditions, including those concerning landfill gas. Condition 5.1 and 5.2 specify that only inert and inactive material shall be accepted at the facility in the future. It is noted that a borehole was drilled into the deposited waste mass as part of the application and an analysis was conducted of the eluate generated from the material penetrated during drilling indicated the presence of organic matter. The proposed monitoring programme allows the Agency to adopt a precautionary approach with regard to previous wastes deposited at the facility.

Recommendation

No change

Ground B9 (Condition 4.3, 4.10, 4.18 Planning permission for Infrastructure)

The objectors state that the infrastructure conditioned requires planning permission and the granting of planning permission for these developments would be a material contravention of the County Development Plan.

Technical Committee's evaluation

The technical committee notes that the PD is for the purposes of waste licensing under the WMA only. The Agency is not the responsible authority for issues of planning permission.

Recommendation

No change

Ground B10 (Condition 4.7 Planning Permission for Facility Office)

The objector states that planning permission is needed to convert the existing residence to an office.

Technical Committee's evaluation

The relevant planning authority is Wicklow County Council.

Recommendation

No change

Ground B11 (Landfill Gas Not Assessed)

The objection states that the Inspectors conclusion is flawed in relation to landfill gas as there was no independent investigation by the EPA. Marrakesh Ltd in their submission considers that the ongoing gas monitoring is excessive and speculate that this is a precautionary approach.

Technical Committee's evaluation

Landfill gas monitoring was carried out by environmental consultants. This data was available and considered during assessment of the application. It is noted that the generation of landfill gas varies with time and that monitoring is necessary to ascertain concentrations of landfill gas. Independent landfill gas monitoring will also be undertaken by the Agency on at least an annual basis.

Recommendation

No change

Ground B12 (Site Stability Assessment Flawed)

The objection states that the Agency's findings on stability are flawed as no proper investigations of the content of Phase 1 were carried out. Marrakesh Ltd refute the claims and say that two separate specialists have concluded that the stability of the facility is acceptable.

Technical Committee's evaluation

Based on the information submitted including surveys by O'Connor Melia Ltd (Engineering & Project Management Services) and Eugene M. Doyle & Associates (Consulting Engineers) no risk to slope stability was identified. In relation to future monitoring, Condition 9.9 requires a stability assessment of the existing side slopes of the facility within 3 months of the date of issue of the licence, and on an annual basis thereafter. The technical committee also considers that an predictive assessment should be carried out on the final profile specified under Condition 8.1 and the results submitted to the Agency for agreement.

Recommendation

Amend Condition 9.9 by adding the following sentence:

A stability assessment of the side slope contours specified in Condition 8.1 shall also be carried out and the results submitted to the Agency for agreement within three months of the date of grant of this licence.

Ground B13 (Loss of Sunshine)

The EIS was not adequate as it did not assess or show the loss of sunlight to adjoining residences. Marrakesh in their submission state that the final contours will not differ from the original natural contours and there will be no impacts associated with light loss.

Technical Committee's evaluation

The Agency was satisfied that the EIS was compliant with the Regulations. The potential for loss of sunshine to residences to the immediate east of the facility was considered during the processing of the application and has been taken into account in Condition 8.1 which restricts the height of the restored landfill phases to an elevation 10 metres less than the application height. Additionally Phase III has been refused.

Recommendation

No change

Ground B14 (Groundwater monitoring won't prevent pollution to Kimurra Stream)

The objection refers to the Inspectors report and argues that the statement "monitoring of groundwater will however be appropriate to the protection of Kilmurra Stream" is flawed as monitoring does not prevent pollution. Marrakesh Ltd in their submission states that there is no evidence of any impact.

Technical Committee's evaluation

The monitoring of groundwater alone will not prevent pollution but the technical committee is satisfied that compliance with the various conditions and requirements of the licence will ensure that emissions from the facility will not cause pollution especially with regard to the fact that the facility may accept only inert and inactive waste material listed in Table F.2. Monitoring will determine if the facility is having an effect on the surrounding groundwater and surface water and indicate if action needs to be taken. Information included with the application showed no significant impact on groundwater resources.

Recommendation

No change

Ground B15 (Lack of integration into the County Waste Management Plan)

The objectors question what is the point of the Wicklow Waste Management Plan if the EPA is going to ignore it. The objection also refers to Wicklow County Councils statement that "this facility cannot be considered for integration into the County Waste Management Plan".

Technical Committee's evaluation

The Wicklow County Council draft Waste Management Plan (1999) was considered during assessment of the application. The Plan notes that the applicant is commencing C&D waste recycling but the majority of the C&D waste is landfilled. The PD provides for restoration of the site with inert and inactive material only. The technical committee notes that *Condition 5.5* states that "once sufficient waste has been accepted at the facility to achieve the restoration requirements of Condition 8.1, no further waste shall be accepted for disposal or for recovery". The reference to integration of this facility into the County's Waste Management Plan is a matter for Wicklow County Council.

Recommendation

No change

Ground B16 (Comments on the Inspectors Report)

The objection lists a number of questions and concerns with regards to the Inspectors Report. These are briefly summarised and listed below (refer to objection for details). Some of the

comments in the submission from Marrakesh Ltd in refuting the objection are also included, but all have been considered.

B16.1: *The objectors question how the Agency can satisfy itself that the PAH's detected upgradient are not arising from the dump and is it not the duty of the Agency to find out where they are arising.*

Technical Committee's evaluation : The presence of polycyclic hydrocarbons in a borehole situated upgradient of the facility makes it highly unlikely that the PAH's are associated with the landfill. If they are not associated with the facility then the identification of their origin does not relate to the content of the Proposed Decision and is a matter for the local authority. However, the technical committee recommends that a note (Note 7) be placed after Table D.4.4 requiring PAH monitoring upgradient and downgradient to be undertaken within three months of date of grant of this licence. An interpretation of the results and assessment of the source of any PAH's detected must be submitted. Further monitoring can be requested if considered necessary. The local authority should be informed if any results indicate off-site sources of contamination.

Recommendation

Add "**Note 7**" to the parameter "**Polycyclic Aromatic Hydrocarbons**" in Table D.4.4 of Schedule D and add the following to the list of notes after Table D.4.4:

Note 7: PAH monitoring to be undertaken on upgradient and downgradient wells within three months of the date of grant of the licence and an interpretation of the results including an assessment of the likely source of any PAH's detected submitted to the Agency.

B16.2: *The objection argues that the fact that the PAHs are below the MAC is no guarantee for the future.*

Technical Committee's evaluation: The technical committee considers that the annual monitoring specified will allow any long term changes to be detected.

Recommendation

No change

B16.3: *The objection argues that the whole consent is flawed since the Inspector confirms that there is evidence that waste other than inert wastes have been deposited.*

Technical Committee's evaluation: The technical committee notes that the Inspector's Report shows that the evidence of historical deposition of wastes other than inert wastes was taken into account during the assessment of the application. This evidence influenced the wording of a number of conditions, including those concerning landfill gas. The results presented in the applicants submissions indicated that the quantities were not significant. It should be noted that the activity licensed only allows disposal of inert or inactive wastes listed in Table F.2.

Recommendation

No change

B16.4: *The facility should not have been licensed on the basis of the information available and the Agency cannot guarantee that the facility will not cause serious environmental pollution in the future. The objectors are also concerned about wastes deposited in the past. This is refuted by Marrakesh Ltd. in their submission.*

Technical Committee's evaluation: On the basis of the information submitted with the application, including the eluate and upgradient / downgradient groundwater analysis, and the restriction of wastes to be accepted at the facility to inert material, the technical committee is satisfied that the activity "will not cause serious environmental pollution in the future" if operated in accordance with the conditions of the licence.

Recommendation

No change

B16.5: *The interpretation of fit and proper person is disputed. The objection states that the EPA and Wicklow CC have been negligent in enforcing the legislation and the record of enforcement for landfill licences has to our knowledge been nil. The submission from Marrakesh Ltd states that Mr. Lawlor has successfully completed a FAS organised Waste Management Training Course.*

Technical Committee's evaluation: As far as the technical committee are aware the applicant has not been prosecuted in relation to Section 40(7)(a) of the WMA 1996 and under Section 40(7) of the WMA he must be deemed a fit and proper person. The Agency has processed the application in accordance in the Waste Management (Licensing) Regulations. The technical committees evaluation of Ground B1 outlines the enforcement responsibilities under the Waste Management Act.

Recommendation

No change

B16.6: *The objectors argue that planning permission is needed for the access road.*

Technical Committee's evaluation: The relevant authority to deal with traffic and planning issues is Wicklow County Council.

Recommendation

No change

B16.7: *The objectors claim that a full EIA should have been completed prior to the consent and the licence should only have been granted conditional on a full grant of planning permission. Marrakesh Ltd in their submission response say that a full and complete EIA was completed for the facility.*

Technical Committee's evaluation: The technical committee notes that the Inspector in his report to the Board states that the EIS submitted as part of the application was considered to be compliant with the regulations. The waste licence application was processed as set out in the legislation. Planning permission is a matter for the Wicklow County Council.

Recommendation

No change

B16.8: *The objectors disagree with the Inspectors assessment that traffic access at the facility is a matter for Wicklow County Council. Marrakesh Ltd in their submission note that this is a matter for the planning authority.*

Technical Committee's evaluation: The relevant authority to deal with traffic and planning issues is Wicklow County Council.

Recommendation

No change

B16.9: *The objectors consider that Phase I and II should have been refused for the same reason as Phase III. The only reason why Phase I and II is granted is to mitigate the negligence of the regulatory authorities. Marrakesh Ltd. in their submission state that “there is no mention in the draft licence or in any other correspondence from the Agency that Phase III has been refused”.*

Technical Committee’s evaluation: The PD is only for the restoration of Phases I and II. The visual integration Phases I and II of the restored site into the surrounding landscape was taken into consideration during the assessment of the application and Condition 8.1.(b) specifies a maximum restoration level of 164m OD, i.e. 10m lower than that applied for. The Restoration Plan includes details on the seeding and the planting of Gorse to blend the landfill site into its surroundings. The technical committee considers that Marrakesh Ltd must have misinterpreted the PD judging by their statement saying that there is no evidence that Phase III is refused. The technical committee considers that Condition 5.11 makes it clear that Phase III is refused. The technical committee’s recommendation under Ground B1 reiterates that fact that phase III is refused.

Recommendation

No change

B16.10: *The objection questions whether there are odours from the site. Marrakesh Ltd point out that this objection is mischievous.*

Technical Committee’s evaluation: The technical committee considers that odours are not an issue due to the nature of the waste to be deposited.

Recommendation

No change

B16.11: *The objectors disagree with the statement that Condition 8 will result in ecological improvement. Marrakesh Ltd. in their submission notes that no evidence of any bird habitat being impacted was found during the ecological assessment.*

Technical Committee’s evaluation: The technical committee notes that an ecological assessment was also compiled as part of the application and *Condition 9.11* requires an assessment of the ecology of restored phases of the landfill following their restoration.

Recommendation

No change

B16.12: *The objection argues that the subsidence and stability assessments were flawed as they presupposed that the only waste dumped on the site was inert. This is disputed by Marrakesh Ltd.*

Technical Committee’s evaluation: This aspect is covered under Ground B12 above.

Recommendation

No change

B16.13: *Breach of the Landfill Directive because residents are too close. Marrakesh Ltd. point out that this is an inert landfill.*

Technical Committee's evaluation: The technical committee disagree and notes that the facility is only licensed for phased closure using inert waste. The Landfill Directive must be implemented by 26/4/01 and hence this facility is not in breach of the Directive.

Recommendation

No change

B16.14: *The objectors consider that the EIS should have covered traffic.*

Technical Committee's evaluation: The relevant authority to deal with traffic and planning issues is Wicklow County Council.

Recommendation

No change

B16.15: *The objectors ask which applications for continued use as a landfill have been refused.*

Technical Committee's evaluation: This objection does not relate to the content of the PD.

Recommendation

No change

Ground B17 (Comments from Peter Sweetman & Associates on the submission from Wicklow County Council - pre-PD)

The objector raises a number of issues in relation to the submission from Wicklow County Council and argues that several of these items were not dealt with or taken into consideration. These are briefly summarised and listed below (refer to objection for details).

B17.1: *The objector notes that Wicklow CC proposed to make a reference to An Bord Pleanala to establish the status of the development and there is no reference to this in the Inspectors Report. Marrakesh Ltd. notes that there is no evidence that the council have referred this to An Bord Pleanala.*

Technical Committee's evaluation: This is a planning issue and not a matter for the Agency.

Recommendation

No change

B17.2: *Granting a licence prior to the outcome of the enforcement proceedings by Wicklow County Council was premature. Marrakesh Ltd in their submission state that the enforcement proceeding have not yet been implemented and the council threatened and felt obliged to carry out similar proceedings on all unpermitted facilities in the county.*

Technical Committee's evaluation: This is a matter for Wicklow County Council. There is no legal impediment to the issue of a waste licence and no requirement that planning permission be obtained in advance of a decision on a waste licence.

Recommendation

No change

B17.3: *The fact that the operation is within 200m of residences was not taken into account.*

Technical Committee's evaluation: The technical committee considers that the proximity of residents was taken into account as detailed by the Inspectors Report and a number of the conditions.

Recommendation

No change

B17.4: *The objector argues that Mr. Lawlor only has experience of running an illegal landfill. Marrakesh Ltd. submission states that they will employ specialist professionals.*

Technical Committee's evaluation: The technical committee note that the PD requires the licensee to employ a suitably qualified and experienced facility manager and also requires the licensee to ensure that personnel are experienced and trained (Conditions 2.7 and 2.8). A submission from Marrakesh Ltd states that Mr. Lawlor has completed the FAS waste management training course.

Recommendation

No change

B17.5: *The objector refers to a Wicklow CC submission in relation to weighing of waste and waste acceptance and considers that the inspector has totally taken the word of the developer despite the evidence available. The objectors also points out that there is no evidence that the Inspector ever visited the site.*

Technical Committee's evaluation: The technical committee notes that the facility was visited on a number of occasions by Agency staff, including the Inspector as set out in the Inspectors Report. The technical committee are satisfied that there are adequate conditions to cover the installation of a weighbridge (Condition 4.10) and waste acceptance and inspection (Conditions 3.10, 3.11, 5.1, 5.2 & 5.3).

Recommendation

No change

B17.6: *The objector points out that the inspector and the council disagree on the slope stability and asks whether the permitted contour was assessed.*

Technical Committee's evaluation: This is covered under Ground B12.

Recommendation

Refer to Ground B12

B17.7: *No conditions to implement a safety plan.*

Technical Committee's evaluation: Issues of safety plans and statements do not relate to the content of the PD. The responsible authority in this case is the Health and Safety Authority.

Recommendation

No change

B17.8: *Traffic control has not been covered and just passed to the council.*

Technical Committee's evaluation: The relevant authority to deal with traffic and planning issues is Wicklow County Council.

Recommendation

No change

B17.9: *The objectors state that there are no plans for the final profile and no requirement for one to be submitted for comment by the public.*

Technical Committee's evaluation: The technical committee note that Condition 8.1 sets out the maximum elevation of the final profile. Condition 8.1 also requires that the final surface must be sloped to reduce surface water infiltration and specifies the maximum slopes of the deposited waste. The Restoration Plan details the seeding and planting of Gorse to blend the landfill site into its surroundings. Condition 4.4.2 specifies the planting of hedgerows. Condition 8.1 requires a revised Restoration Plan drawing to be submitted and this will be available for viewing by the public.

Recommendation

No change

B17.10: *The EPA does not know what was dumped so they cannot grant a licence. Marrakesh Ltd. state that this is untrue.*

Technical Committee's evaluation: The technical committee note that a borehole (BH5) was drilled through the deposited waste mass and an analysis was conducted of the eluate generated from the material penetrated during drilling which showed no impact on groundwater. This is also covered under Ground B8.

Recommendation

No change

B17.11: *The inspector overlooked the sensitivity of the aquifer and the concerns from the council. The objection questions the EPA inspections of waste at landfills including Ballymount and Kill. Marrakesh Ltd. notes that details of the hydrogeological status were sent to the EPA.*

Technical Committee's evaluation: The technical committee note that groundwater issues are covered in the Inspectors Report. Protection of the groundwater is afforded by a number of conditions:- 5.1, 5.2 which control the type of waste accepted and permits only inert waste, 4.12 which requires bunding of the fuel storage area, 4.5 which requires the septic tanks to conform to the criteria set out in SR6 and 4.13 which requires maintenance of the septic tanks. A monitoring programme is specified to monitor groundwater in the vicinity of the facility. The technical committee considers these measures to be sufficient to protect the aquifer. Details of inspections of waste at other licensed facilities do not relate to the content of this PD, however, details of all inspections are available on the public file.

Recommendation

No change

B17.12: *The objectors view is that the Inspector ignored the concerns of the council that the development has resulted in it being a visually obtrusive landmark in the Area of Outstanding Natural Beauty. Marrakesh Ltd. states that the "reference to Phase III refusal is again not relevant".*

Technical Committee's evaluation: The technical committee note that the visual integration of the restored site into the surrounding landscape was taken into consideration during the assessment of the application and Condition 8.1.(b) specifies a maximum restoration level of 164m OD, i.e. 10m lower than that applied for. The Restoration Plan details seeding and planting of Gorse to blend the landfill site into its surroundings. The licence provides for the restoration of Phases I and II. Phase III is refused.

Recommendation

No change

Ground B18 (Environmental Impact Statement)

Concern is expressed that the EIS is inadequate and the following 6 specific points were raised. The technical committee note that the EIS submitted was considered to be compliant with the Regulations.

B18.1: *The objection expresses concerns about the organisational structure and Mr. Lawlors ability to manage the site given that his only experience is in operating an illegal dump.*

Technical Committee's evaluation: This is already covered under Ground B17.4.

Recommendation

No change

B18.2: Conflict between the name of the applicant (Marrakesh Ltd) and the name of the manager/owner in the EIS (Mr. Tony Lawlor). Marrakesh Ltd states that this issue was cleared up in numerous correspondence with the Agency.

Technical Committee's evaluation: The technical committee note that the applicant is Marrakesh Ltd and that this issue has been dealt with in the application process. Clarification was sought from our legal advisor.

Recommendation

No change

B18.3: Concern about unbunded diesel and oil tanks.

Technical Committee's evaluation: The technical committee notes that bunding of fuel storage tanks is required by condition 4.12.

Recommendation

No change

B18.4: The objectors express the view that minimal or no attention is paid to any laws.

Technical Committee's evaluation: The technical committee considers that the information submitted in the application and the application itself illustrate that the process is effective. Restoration of the landfill and its integration into the surrounding countryside is now required.

Recommendation

No change

B18.5: Comments on a planning issue in relation to Glending / Deerpark.

Technical Committee's evaluation: The relevant authority for planning issues is Wicklow County Council.

Recommendation

No change

B18.6: The objectors view is that the density of waste referred to in the EIS is incorrect. Marrakesh Ltd suggest that 1.2 tonnes / m³ is a more realistic figure.

Technical Committee's evaluation: The presented value of 900kg/m³ is an underestimate, however 2000kg/m³ is considered excessive (clay soil 1300kg/m³, sand 1600kg/m³). The inspector has taken into consideration the fact that all the previously deposited waste may not have been inert and has included a number of conditions to address this (landfill gas, detailed groundwater monitoring).

Recommendation

No change

Ground B19 (Conclusions)

The objector argues that the correct course of action is as follows;

- 1. To uphold this appeal and refuse the licence.*
- 2. Prosecute the operator for this illegal dump as no licence was applied for within the required timescale.*
- 3. Prosecute the operator under section 27 of the Planning Acts for unauthorised land use.*
- 4. Apply to the courts for an order to restore the site.*

Marrakesh Ltd in their submission notes that much of the objection addresses planning issues. They also state that it appears that the objector does not accept that this is an inert site. They

also say this C&D facility will assist Wicklow County Council in the achievement of its waste management obligations.

Technical Committee's evaluation

1. The technical committee consider that compliance with the conditions of the proposed decision together with the changes recommended in this report will ensure orderly restoration of the landfill.
2. The technical committee note that prosecutions for unauthorised disposal of waste is primarily a matter for Wicklow County Council.
3. The technical committee note that planning matters are outside the remit of the Agency.
4. The technical committee considers that restoration of the site is already covered by the conditions of the PD. We also note that there is no guarantee that the courts would grant an order to restore the site.

Recommendation

No Change

Signed:

Brendan Wall
Technical Committee Chairperson