

MEMO

TO: Board of Directors **FROM:** Brian Donlon

CC: **DATE:** 9/7/01

SUBJECT : Pat Ahern, Ahern Industrial Services - Reg. No. 136-1

Application details

Application Details	
Applicant:	Pat Ahern, Ahern Industrial Services
Location of Activity:	Sarsfieldcourt Industrial Estate, Sarsfieldcourt Cork
Reg. No.:	136-1
Licensed Activities under Waste Management Act 1996:	Third Schedule: Classes 11, 13 Fourth Schedule: Classes 2, 3, 4, 13
Proposed Decision issued on:	16/3/01
Objections received:	11/4/01
Submissions on objections received:	23/5/01
Circulation of Article 26 notice to applicant	5/6/01
Reply to Article 26 notice	19/6/01
Inspector that drafted PD:	Dr M Henry

Objections received

Objection by Applicant	1
Objection by third party/parties	1
Submission in relation to Objection	2

1. Applicant : K.T Cullen (on behalf of Ahern Industrial Services)
2. Fionnuala Cawhill & Associates solicitors (on behalf of Loughlin Ryan and others)

A Technical Committee was established to consider the objections.

The Technical Committee included;

- Brian Donlon, Chairperson
- Regina Campbell, Inspector
- Brendan Foley, Inspector

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

1. Objection from Pat Ahern, Ahern Industrial Services

The applicant requests that Table G.1 of the PD be amended (see their revised Table G1 below). The reason for this is that Cork Corporation no longer accept mixed C&D waste at Kinsale Road Landfill and now require that all C&D waste be presorted into recyclable materials (brick, block and concrete).

They suggest that the proposed additional throughput of waste can be easily handled at the proposed facility and that a separate bay will be provided inside the main building for the segregated recyclable C&D waste. They suggest that there will be a c. 5% increase in traffic movements as a result of their increased tonnages and that there will be an increased potential for dust generation at the site. However, they propose to conduct all waste processing within the main building and they propose to review the situation over the first three months of full operation. They state that the proposed practice of segregating C&D waste at the facility will provide an overall beneficial impact for the region generally.

Revised Table G.1: Waste Categories and Quantities (as proposed by applicant in their objection)

WASTE TYPE	MAXIMUM WASTE QUANTITY TO BE ACCEPTED DURING RELEVANT TIME PERIODS				
	Year 1	Year 2	Year 3	Year 4	Year 5 onwards
Household waste	610	756	915	1,074	1,159
Commercial & Industrial	49,000	60,760	73,500	86,240	93,100
Construction & Demolition	3,250	3,575	3,933	4,326	4,758
TOTAL	52,860	65,091	78,348	91,640	99,017

Note 1: The C&D waste quantities applied for were for Year 1 390tpa out of 50,000 tpa total waste acceptance.

Submission on Objection by Fionnuala Cawhill & Associates

In their submission (dated 23/5/01) they state that “they have instituted judicial proceedings against An Bord Pleannala for their failure to carry out an integrated assessment of the development of its impact on human health and on the environment”. They state that they have been instructed that material changes have been made to the nature of the development and in those circumstances that it is inappropriate for the Agency to proceed further. They state that the design has been modified and that while their clients have not been put on notice of these modifications the Agency now seeks to determine the waste licence application. However, they state that in the event that the Agency further considers the application that they be afforded an opportunity to make oral submissions.

Article 26 Response from Applicant

They state in this correspondence that due to changes in waste acceptance procedures at Kinsale Road that they now need to amend the C&D waste tonnages applied for but that this does not constitute a material change to the development. They further state that they will designate a separate bay within the main processing building which will involve the construction of a low wall (c. 2m high) but that there will be no changes to the size, orientation or external appearance of the building. They included correspondence from their architects that states that they have made no application for changes to the original plans to the Planning Authority.

Technical Committee’s Evaluation

The segregation and recovery of C&D waste is in line with Government policy and the acceptance of waste at the facility is subject to detailed waste acceptance procedures which are required to be agreed prior to the commencement of waste activities (Condition 5.1). Further, Condition 5.7 requires proposals for the segregation and recovery of waste types. The TC note the restrictions imposed by Cork Corporation on mixed C&D waste being accepted at Kinsale Road Landfill and acknowledge the necessity of increased segregation of construction and demolition waste at the facility.

The TC note that an emission limit for dust deposition (350mg/m³) has been set in order to control any fugitive dust emission from activities on site. The applicant will be required to maintain negative pressure throughout the waste transfer building, install dust flaps on doors to the building and to install an odour management system (Condition 6.9.2).

A request for an oral hearing together with the appropriate fee was not received within the statutory objection period

Recommendation

Amend Table G.1 Waste Categories and Quantities as follows:

	MAXIMUM WASTE QUANTITY IN TONNES TO BE ACCEPTED DURING RELEVANT TIME PERIODS
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WASTE TYPE	Year 1	Year 2	Year 3	Year 4	Year 5 onwards
Household waste	610	756	915	1,074	1,159
Commercial & Industrial	49,000	60,760	73,500	86,240	93,100
Construction & Demolition	390	484	585	686	741
TOTAL	50,000	62,000	75,000	88,000	95,000

Note 1: The quantity of the individual waste types to be accepted may be altered subject to the agreement of the Agency and provided that the total quantity of waste accepted at the facility does not exceed the tonnages specified in this table.

Objection2: Fionnuala Cawhill & Associates (on behalf of Loughlin Ryan and others)

They object to the PD on the grounds that (I) there was non-compliance with EU Directive 85/337/EEC (as amended by 97/11/EEC) and (ii) failure to consider all relevant submissions, particularly those dealing with the “*proposed location of the plant*”.

They state that the Agency has misdirected itself in law by failing to consider the location of the proposed facility. They further state that their clients have initiated proceedings with a view to having the decision of An Bord Pleaneala in this matter judicially reviewed and they ask that we don’t make a decision on the application until the termination of those proceedings.

Submission on Objection from Applicant

They state that they consider that the main thrust of the objection is in relation to the Agencies responsibilities to implement the provisions of the EIA Directive. They point out that the EIS prepared was fully compliant with all EU Directives and amendments and that the applicant gave full consideration to all submissions made.

Technical Committee’s Evaluation

The application was assessed as being valid in accordance with the relevant waste licensing legislation and in particular Section 40(3) of Waste Management Act. The waste licence application and the accompanying EIS were assessed as being compliant with the Regulations.

The final decision will ensure that the facility will not impact significantly on the environment. The issues of planning raised here are outside the scope of the proposed decision and are a matter for the planning authority. Proceedings relating to any judicial review of an An Bord Pleannala decision is not a basis for the Agency to delay making a final decision on an application. There is a requirement in the licensing legislation that objections are considered within a four-month period.

Recommendation

No change

Signed: _____
Brian Donlon
Technical Committee Chairperson