

MEMO			
TO:	Board of Directors	FROM:	Cormac Mac Gearailt
CC:		DATE:	29th January 2003
SUBJECT: Brivin Enterprises Ltd. Westside Waste Objections to Proposed Decision – Reg. No. 162-1			

Application Details	
Applicant:	Brivin Enterprises Ltd.
Location of Activity:	Westside Waste, Blacklion, Dublin Road, Co. Kildare
Reg. No.:	162-1
Proposed Decision issued on:	20/9/02
Inspector:	Caoimhin Nolan

Objections Received	Date Received
1. Dara Keogh, Chairman, Parklands Residents Association, Maynooth, Co. Kildare.	17/10/02
2. Mr Emmet Stagg TD, Lodge Park Straffan, Co. Kildare and Councillor John McGinley.	17/10/02

Submissions on Objection	Date Received
1. Mr Donal Marron KT Cullen & Co, on behalf of Brivin Enterprises Ltd.	25/11/02

Consideration of the Objections.

The Technical Committee (Cormac Mac Gearailt, Chairperson, John Gibbons and Mick Henry, 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 and submissions on this objection.

OBJECTION No 1:

Dara Keogh, Chairman, Parklands Residents Association, Maynooth, Co. Kildare.

GROUND 1:

The objector states that a Waste Licence should not be granted for the following reasons;

- (a) The application was made after the prescribed date of 1/5/97*
- (b) The current facility does not have planning permission*

- (c) *Planning permission required to carry out works as outlined in the Waste Licence Application and EIS has been refused by Kildare County Council*
- (d) *The applicant has shown disregard for Planning laws*
- (e) *The applicant has shown disregard for the Waste Management Act*
- (f) *The applicant has shown disregard for the environment and local residents.*
- (g) *The applicant has advertised itself as 'licensed' in the Golden Pages when this is not the case.*

Technical Committee's Evaluation

- (a) The application was received on 21/8/02, after the prescribed date as set out in the Regulations. As such it is currently an unauthorised facility in that there is no Waste Permit or Waste Licence for the facility.
- (b) Planning permission is a matter for the Planning Authority, and the Agency is not involved in discussions on planning applications.
- (c) Kildare County Council have refused planning permission for the development. An appeal has been lodged by the applicant to An Bord Pleanala and this is currently under consideration.
- (d) The issue of compliance with planning legislation is a matter for the Planning Authority.
- (e) It is noted that the facility is unauthorised with regard to the licensing requirements of the Waste Management Act 1996. The operators have not been prosecuted under the Waste Management Act 1996.
- (f) The objector makes a general statement that the applicant has shown disregard for the environment and local residents. However, no evidence is provided by the objector to demonstrate that the activity has been carried out with disregard for the environment and local residents. Where specific issues (and evidence) in relation to the environment and local residents are raised further down in this objection they are dealt with as such.
- (g) The objector refers to the fact that the applicant has advertised their business as licensed in the 'Golden Pages'. No specific evidence is included by the objector to demonstrate this. At present this facility is not licensed. It is open to the objector at any stage to report this issue to the relevant bodies e.g. Advertising Standards Authority for Ireland.

Recommendation

No Change

GROUND 2

The objector states that while it may be appropriate to licence a facility where all the planned infrastructure is already in place, it is not appropriate to allow the applicant to operate at the level applied for (45,000 tpa) considering the existing infrastructure.

Specifically the objector states that;

- (a) *Brivin Enterprises Ltd. have made no effort to reduce noise emissions from the site and granting a licence at this point is rewarding such behaviour.*
- (b) *Since Brivin Enterprises Ltd applied for a licence in August 2001(sic), there has been more than sufficient time to construct a noise berm and a waste transfer building. The objector states that the Proposed Decision gives further time for Brivin Enterprises Ltd to put this infrastructure in place*
- (c) *The objector states that while in the early stages of Waste Licensing it may have been appropriate to close unlicensed sites due to the dangers of illegal dumping, sufficient alternative licensed infrastructure is now to allow the law to be enforced fully.*

- (d) *The objector states that due to poor site security there is open access to this facility at certain points. The objector states that allowing a time period to improve this infrastructure legitimises this state of affairs and is negligent.*
- (e) *The objector states that Brivin Enterprises Ltd handle asbestos and therefore to allow waste activities in the open air is unacceptable.*
- (f) *The objector states that the facility is open to scavenging and that by licensing the facility this will be prolonged.*
- (g) *The objector states that many local residents are shift workers and that the noise emissions measured by Agency Inspectors on 25/6/02 are excessive.*

In summary the objector proposes two options to the Agency.

- *Either that the activities cease until new and appropriate infrastructure is constructed, at which point a licence may be granted or;*
- *require all activities to cease by end of 2002 and only allow activities to recommence when appropriate infrastructure has been constructed.*

Technical Committee’s Evaluation

The Technical Committee consider that the noise emissions being caused by the current level of waste activities (approx. 40,000 Tonnes per annum) are not acceptable and are resulting in significant environmental pollution. This is primarily due to the noisy nature of the activities being carried out (mainly loading, unloading, and processing of construction and demolition waste) and the fact that there are little to no environmental controls in place. In this regard Technical Committee consider that it is not appropriate to licence the facility to continue in operation until the appropriate waste infrastructure as outlined in the application is in place. When this infrastructure is in place this recommended Proposed Decision allows the applicant to accept 70,000 Tonnes per annum of waste.

In response to the specific points raised

- (a) The noise levels reported as part of the application and referred to by the objector are considered by the Technical Committee to be causing environmental pollution as defined in Section 5(1)(b) of the Waste Management Act 1996 (*‘Create a nuisance through noise’*). Therefore, the Technical Committee considers that the current unauthorised activities would not comply with the requirements of Section 40(4) of the Waste Management Act, 1996. For the reasons outlined above, the recommendation of this Technical Committee does not allow for the continuance of waste activities currently taking place at the site and only allows for the acceptance of waste after the proposed waste transfer building and associated infrastructure have been constructed and commissioned.

Noise monitoring data provided by the applicant (carried out July 2001) and as carried out by Agency staff (June 2002) demonstrates that there was significant impact due to noise emissions from activities occurring on site. L(A)eq values of between 61.1 – 82.1dB(A) were noted in the applicants monitoring. L(A)₉₀ measurements were also obtained to eliminate the contribution of traffic noise, and these results confirmed that the noise was principally from the activities occurring on-site.

Table 1 Noise monitoring carried out.

Agency Daytime limit of L(A)eq 55dB (values in bold exceed this)

	Agency Monitoring (June 2002)	Applicant Monitoring (July 2001)

	L(A)eq	L(A)eq	L(A) ₉₀
N1 (North boundary)	-	62.3	49.2
N2 On site	67.5	71.8	65.3
N3 On site	-	82.1	69.7
N4 (East boundary)	60.3	61.1	51.5
N5 (South boundary)	65.9	64.6	56

Agency monitoring on June 2002 noted L(A)eq values of between 60.3 – 67.5dB(A). This is compared to Agency limits of 55dB(A) during daytime hours. LA_{Max} values due to waste activities were noted at 87.3dB(A) during Agency monitoring. This was further confirmed by subjective assessment by monitoring personnel. Significant impulsive noise was noted during the Agency sampling event, due to operation of plant and banging of skips *etc.*

This monitoring confirms that there is little attenuation of noise from on-site activities between the rear of the facility (where most noisy activities are carried out) and the housing estate 50m to the South of the facility. This is not surprising, given that at present there is no dedicated building on-site and all activities occur in the open.

Additionally from observations made on site it is apparent that provision of a noise attenuation screen would not restrict a direct line of sight to upper floors of many houses which are in the neighbouring housing estate. Only a fully enclosed building would serve to sufficiently attenuate noise arising from the activities observed at this facility.

Arising out of this change to the Proposed Decision a number of Conditions will require adjustment as outlined below

- (b) See above
- (c) See above
- (d) Condition 3.4.1 requires that the licensee install fencing and gates prior to the commencement of waste activities. The Technical Committee also considers that the requirement for an acoustic screen be removed as the waste activities are to cease prior to construction of the Waste Transfer Building.
- (e) Waste activities may only occur inside the Waste Transfer Building, and only non-hazardous waste may be accepted.
- (f) See (d) above.
- (g) See (a) above.

Recommendation (Changes in bold text, except deletions)

Change Introduction to:

INTRODUCTION

This introduction is not part of the licence and does not purport to be a legal interpretation of the licence.

This licence is for the operation of a waste transfer station and Civic Waste Facility at Westside Waste, Blacklion, Dublin Road, Maynooth, Co. Kildare. The licence prohibits the carrying on of the activity until such time as the infrastructure specified in the conditions of the licence is in place.

The licence will allow Brivin Enterprises Limited accept non-hazardous waste (primarily construction and demolition waste) at this facility. Waste will be processed to remove the recyclable materials and the residual waste will then be sent to landfill. The licence requires that infrastructure be put in place to control the operations of the facility, including a Waste Transfer Building, a Civic Waste Facility, security fencing, wastewater and surface water collection systems and a wheelwash. The Waste Transfer Building will incorporate a dust/odour suppression system and noise cladding to reduce the potential for nuisance adjacent to the facility. The maximum quantity of waste to be accepted at the facility is specified in the licence as 70,000 tonnes per annum.

The licensee must manage and operate the facility to ensure that the activities do not cause environmental pollution. The licensee is required to carry out regular environmental monitoring and submit all monitoring results, and a wide range of reports on the operation and management of the facility to the Agency.

The licence sets out in detail the conditions under which Brivin Enterprises Limited will operate and manage this facility.

Change 1.4 to:

Only those waste categories and quantities listed in *Schedule A: Waste Acceptance* of this licence, shall be accepted at the facility. The maximum tonnage to be accepted at the facility, including the Civic Waste Facility, shall not exceed 70,000 tonnes per annum.

Change 1.6 to:

1.6 Waste Acceptance Hours and Hours of Operation

1.6.1 Following the construction of the Waste Transfer Building and Civic Waste Facility, the following waste acceptance and operating hours shall apply at the facility:

• Waste acceptance hours: 8.00 a.m. to 6.00 p.m. Monday to Friday inclusive and 8.00 a.m. to 1.00 p.m. on Saturdays.

• Facility hours of operation: 7.30 a.m. to 7.00 p.m. Monday to Friday inclusive and 7.30 a.m. to 2.00 p.m. on Saturdays.

1.6.2 Waste shall not be accepted at the facility on Sundays or on Bank Holidays.

Change 2.2.1 to:

Prior to commencement of waste activities, the licensee shall submit written details of the management structure of the facility to the Agency. Any proposed
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Change 2.3.1 to:

Within six months from the date of commencement of waste activities, the licensee shall submit to the Agency for its agreement a proposal for a documented Environmental Management System (EMS) for the facility. Following the agreement of the
.....

Change 2.4.1 to:

The licensee shall establish and maintain a Communications Programme to ensure that members of the public can obtain information at the facility, at all reasonable times, concerning the environmental performance of the facility. **This shall be established prior to commencement of waste activities.**

Change 3.3.1 to:

Prior to commencement of waste activities the licensee shall provide and maintain a Facility Notice Board on the facility so that it is legible to persons outside the main entrance to the facility. The minimum dimensions of the board shall be 1200 mm by 750 mm.

Change 3.4.1 to:

Prior to the commencement of waste activities the licensee shall provide adequate security and stockproof fencing and gates around the facility.

Change 3.5.2 to:

Prior to the commencement of waste activities the facility entrance area and the access road to the Civic Waste Facility shall be paved and maintained with tarmacadam.

Change 3.5.3 to:

Prior to the commencement of waste activities the licensee shall provide and maintain an impermeable concrete surface in the following areas of the facility: the Waste Transfer Building, the Civic Waste Facility, the skip storage area and the truck parking areas. These areas shall be concreted and constructed to British Standard 8110 or other standard agreed in advance with the Agency.

Change 3.8.1 to:

Prior to the commencement of waste activities the licensee shall provide and maintain a weighbridge at the facility.

Change 3.8.2 to:

Prior to the commencement of waste activities, the licensee shall provide and maintain a wheelwash at the facility.

Change 3.9.2 to:

Prior to the commencement of waste activities and annually thereafter, the licensee shall provide a report for the agreement of the Agency detailing the duty and standby capacity in tonnes per day, of all waste handling and processing equipment to be used at the facility. These capacities shall be based on the licensed waste intake, as per *Schedule A: Waste Acceptance*, of this licence.

Change 3.12.2 to:

Prior to the commencement of waste activities, the licensee shall provide and maintain separate collection systems for wastewater and clean surface water generated at the facility. Unless otherwise agreed by the Agency, wastewater generated at the facility shall discharge to the local authority sewer. The licensee shall provide a shut-off valve on both the surface water and wastewater network to stop the discharge if so required.

Change 3.12.3 to:

Prior to the commencement of waste activities, the licensee shall provide and maintain a designated impervious area for use as a vehicle/plant washing area. Drainage from this area shall be directed to the wastewater collection system.

Change 3.12.4 to:

Prior to the commencement of waste activities, all sewer gullies, drainage grids and manhole covers shall be painted with red squares whilst all surface water run-off gullies, drainage grids and manhole covers shall be painted with blue triangles. These colour codes shall be maintained so as to be visible at all times during facility operation, and any identification designated in this licence (e.g. SW1) shall be inscribed on these manholes.

Change 3.12.5 to:

Upon commencement of waste activities the surface water and wastewater collection systems, bunds, silt traps and oil separators shall be inspected weekly, desludged as necessary and properly maintained at all times. All sludge and drainage from these operations shall be collected for safe disposal. A written record shall be kept of the inspections, desludging, cleaning, and disposal of associated waste products, maintenance and performance of the interceptors, bunds and drains.

Change 3.13.1 to:

Prior to the commencement of waste activities, the licensee shall provide and maintain fire control systems at the facility and this shall include

Change 3.14.1 to:

Prior to the commencement of waste activities, the licensee shall provide and maintain a Waste Transfer Building to be used for the acceptance, processing and storage of waste. This infrastructure shall incorporate the following.....

Change 3.15.1 to:

Prior to the commencement of waste activities, the licensee shall provide and maintain a Civic Waste Facility. This building shall be acoustically screened.

Change 3.16.1 to:

Prior to the commencement of waste activities, the licensee shall provide and maintain a monitoring point (known as FW1) for the representative monitoring of the effluent being discharged to the local authority sewer, at a location to be agreed with the Agency.

Change 3.16.2 to:

Prior to the commencement of waste activities, the licensee shall provide and maintain a system for monitoring and recording the wastewater discharge volume/flow.

Change 3.16.3 to:

Prior to the commencement of waste activities, the licensee shall provide and maintain a surface water discharge monitoring point (known as SW4) at a location to be agreed with the Agency. This monitoring point shall monitor the final surface water discharge from the facility.

Change 5.1 to:

All waste processing shall be carried out indoors.

Change 5.2.1 to:

Prior to the commencement of waste activities, the licensee shall establish and maintain detailed written procedures for the acceptance and handling of wastes.

Change 7.4.2 to:

Prior to the commencement of waste activities, the licensee shall install and provide adequate measures for the control of odours and dust emissions, including fugitive dust emissions, from the facility. Such measures

Change 8.7 to:

Prior to the commencement of waste activities, the following information shall be submitted to the Agency for its agreement: the names, qualifications and a summary of relevant experience of all persons that will carry out all sampling and monitoring as required by this licence and who carry out the interpretation of the results of such sampling and monitoring. Any proposed changes to the above shall be submitted in writing to the Agency for its agreement.

Change 9.2 to:

Prior to the commencement of waste activities, the licensee shall submit a written Emergency Response Procedure (ERP) to the Agency for its agreement. The ERP shall address any emergency situations that may originate on the facility and shall include provision for minimising the effects of any emergency on the environment. This shall include a risk assessment to determine the requirements at the facility for fire fighting and fire water retention facilities. The Fire Authority shall be consulted by the licensee during this assessment.

Change 11.3 to:

11.3 Waste Recovery Reports

Prior to the commencement of waste activities, a report examining waste recovery options shall be submitted to the Agency for its agreement. This report shall

Change 11.4.1 to:

Prior to the commencement of waste activities, the licensee shall submit to the Agency an appropriately scaled drawing(s) showing all the monitoring locations that are stipulated in this licence. The drawing(s) shall include the reference code of each monitoring point.

Change 11.5.1 to:

The licensee shall submit to the Agency for its agreement, within thirteen months from the **date of commencement of waste activities**, and one month after the end of each calendar year thereafter, an Annual Environmental Report (AER).

Change 12.1.1 to:

The licensee shall pay to the Agency an annual contribution of €10,576 or such sum as the Agency from time to time determines, towards the cost of monitoring the activity or otherwise in performing any functions in relation to the activity, as the Agency considers necessary for the performance of its functions under the Waste Management Act, 1996. **The licensee shall in 2004** and subsequent years, not later than January 31 of each year, pay to the Agency this amount updated in accordance with changes in the Public Sector Average Earnings Index from the date of the licence to the renewal date. The updated amount shall be notified to the licensee by the Agency. **For 2003**, the licensee shall pay a pro rata amount from the date of this licence to 31st December. This amount shall be paid to the Agency within one month of the date of grant of this licence.

Change Schedule A to:**A.1 Waste Acceptance****Table A.1 Waste Categories and Quantities**

WASTE TYPE	MAXIMUM QUANTITY (TONNES PER ANNUM) <small>Note 1/Note 2</small>
Household	9,490
Commercial	9,490
Construction and Demolition	47,400
Industrial	3,620
TOTAL	70,000

Note 1: Refer to Condition 1.4.

Note 2: The tonnage of household waste, commercial waste, construction and demolition waste and industrial waste may be altered with the prior agreement of the Agency provided that the total amount of these wastes accepted at the facility does not exceed 70,000 tonnes per annum (as specified in the total above).

Change Schedule E to:

Report	Reporting Frequency ^{Note1}	Report Submission Date
Environmental Management System Updates	Annually	One month after the end of the year being reported on.
Annual Environment Report (AER)	Annually	Thirteen months from the date of commencement of waste activities and one month after the end of each calendar year thereafter.
Record of incidents	As they occur	Within five days of the incident.
Bund, tank and container integrity assessment	Every three years	Following completion of new structures and one month after end of the three year period being reported on.
Duty and standby capacity of waste processing plant	Annually	Prior to commencement of waste activities and one month after the end of each calendar year thereafter.
Specified Engineering Works reports	As they arise	Prior to the works commencing.
Monitoring of Surface Water Quality	Bi-annually	Ten days after end of the quarter being reported on.
Monitoring of Wastewater	Bi-annually	Ten days after end of the quarter being reported on.
Dust Monitoring	Three times a year	Ten days after the period being reported on.
Noise Monitoring	Quarterly	One month after end of the period being reported on.
Any other monitoring	As they occur	Within ten days of obtaining results.

Note 1: Unless altered at the request of the Agency.

GROUND 3

The objector states that if the Proposed Decision is to allow the activity to be carried out prior to the installation of buildings and associated infrastructure the tonnage handled should be reduced to 15,000tpa.

The objector points out that the inspectors report and the application both demonstrated that noise emissions are in excess of the emission limits stipulated in the licence. The objector states that this reduced level of activity would result in reduced noise emissions, provide space for construction work required, reduce the hazard to the public and allow Brivin Enterprises Ltd to maintain their business while improvements are made.

Technical Committee's Evaluation

See response to Ground 2 above.

Recommendation

No Change

GROUND 4

The objector points to a number of situations in the Proposed Decision where infrastructure is required to be put in place within 12 months of the date of grant of licence or when planning permission is granted, whichever is later. The objector states that where planning permission is not granted, and the Conditions of the Proposed Decision stand as they are, then the licensee will be allowed to carry out activities at the facility indefinitely at 45,000tpa without having to install any further control infrastructure. The objector proposes that the applicant should be required to put in the infrastructure to the timeframe outlined in the Proposed Decision or whenever planning permission is granted whichever is the sooner. The objector specifically refers to the changes made to the following conditions:

- 3.4.1 (Security),

- 3.5.3(Concrete surfacing),
- 3.12.2(waste water treatment),
- 3.12.3 (vehicle wash),
- 3.13.1 (fire control),
- 3.14.1 (provision of a building),
- 3.15.1 (Civic Waste Facility),
- 3.16.1 & 3.16.2 & 3.16.3 (Monitoring of emissions),
- 5.1 (indoor processing of waste) and
- 7.4.2 (Dust/odour control)

Technical Committee’s Evaluation

The Technical Committee do not accept that if planning permission is refused by An Bórd Pleanála that the licensee will be allowed to carry out activities at the facility indefinitely. [Planning permission has already been refused by Kildare County Council]

However, the Technical Committee note that if Planning Permission is refused by An Bórd Pleanála, then the Proposed Decision as issued will result in the following scenario;

- the applicant will be permitted to operate the waste transfer station for the acceptance of 45,000 Tonnes per annum of waste for a period of twelve months without the development of any control infrastructure (*i.e.* largely leaving the facility as it is).

The Technical Committee considers that this situation is not acceptable. However, if the changes recommended in this report, primarily those referred to in the response to Objection No. 1 Ground 2 above are incorporated in to the Waste Licence, this situation will not arise.

Recommendation

No Change

GROUND 5

- (a) *The objector draws attention to the recent decision by Kildare County Council to refuse planning permission, and calls for the ‘withdrawal’ of the Proposed Decision.*
- (b) *The objector states that due to the inadequate infrastructure present that the operator cannot carry out the activity in an acceptable manner. The objector therefore requests that the operation must be closed until planning permission has been secured.*
- (c) *The objector requests that monitoring frequencies for the following parameters be increased;*
 - *pH increased from bi-annually to daily*
 - *Dust monitoring from three times a year to fortnightly from April-Sept. and monthly otherwise.*
 - *Noise monitoring from quarterly to a minimum of monthly.*
- (d) *Noise*
 - i) *The objector requests that the timeframe for the construction of a 3m high acoustic fence as required under Condition 3.4.1 be reduced from “6 months from date of grant of licence or planning permission whichever is the later” to “3 months from date of grant of licence or planning permission whichever is the sooner”*
 - ii) *The objector requests that noise monitoring be required to commence within one month of date of grant of licence rather than three months as required under Condition 8.8.1.*
 - iii) *The objector requests that Table D.3.1 should be revised to ensure that all tonal and impulsive noise components are included within the 55dBA Emission Limit Value.*

- iv) *The objector requests that the term ‘clearly audible’ be defined in the glossary as 55dB’s or higher.*
- v) *The objector also requests that a measurement technique be included to judge compliance against Condition 6.6, with regard to tonal and impulsive noise.*
- (e) *The objector requests that a condition be included to allow the EPA access to the facility at all times, during operational hours to conduct any tests required.*
- (f) *The objector requests that the EPA carry out noise monitoring at this facility on an annual basis.*
- (g) *The objector requests that dust monitoring should commence within one month of date of grant of licence rather than three months as required under condition 8.10.1.*
- (h) *The objector requests that operating times be adjusted to prevent Saturday operation and that there be a minimum one hour suspension of activities around 12:30pm-1:30pm each day.*
- (i) *The objector requests that the Proposed Decision be amended to include a condition stating that in the event that planning permission has not been granted for the Waste Transfer Building that activities should cease until planning permission is granted thereafter and the building has been constructed.*

Technical Committee’s Evaluation

- (a) The Agency is aware of the refusal of Planning Permission by Kildare County Council. See response to Ground 2 above.
- (b) See response to Ground 2 above.
- (c) The Technical Committee consider that the monitoring requirements are appropriate
- (d)
 - i) With regard to construction of an acoustic barrier, see response to Ground 2 above.
 - ii) The Technical Committee considers that the noise monitoring requirements as outlined in the Proposed Decision are appropriate,
 - iii) All tonal and impulsive noises are included in the monitoring required.
 - iv) The noise monitoring regime required by this Proposed Decision will detect what noise is ‘clearly audible’ and is designed with this in mind.
 - v) The noise monitoring regime required by this Proposed Decision is adequate in order to judge compliance with the Conditions of this Proposed Decision.
- (e) Condition 8.4 requires the licensee to provide access to all monitoring points as required by the Agency.
- (f) Annual charges in this Proposed Decision are based (among other things) on annual noise monitoring being carried out by EPA staff at this facility. This level of monitoring may be adjusted as considered appropriate by the Agency.
- (g) The Technical Committee consider that the dust monitoring requirements are appropriate. In addition dust control measures will be required under Condition 7.4 of this Proposed Decision. Under Condition 8.2 the Agency may adjust the frequency and scope of monitoring required where this is deemed necessary.
- (h) The Technical Committee consider that the opening hours as outlined under Condition 1.6.1 above are adequate to control the impact of the waste activities occurring on-site.
- (i) See response to Ground 2 above.

Recommendation

No Change

OBJECTION No 2:

A second objection is included which is co-signed by Mr Emmet M. Stagg T.D. and Mr. John McGinley (Councillor). This objection raises the same points as Objection 1 in relation to Grounds 1-4. In the case where new points are made in this objection these are detailed below.

GROUND 1-4

These points are detailed above under Objection 1.

Technical Committee's Evaluation

These points are dealt with as above under Objection 1.

Recommendation

See <i>Objection 1</i> above.

GROUND 5

- (a) The objectors detail how the Proposed Decision allows the applicant to continue to operate at present levels in the event that planning permission is refused. The objectors are of the opinion that An Bord Pleanala will refuse the application for planning permission. They state that if this eventuality occurs the Proposed Decision as outlined will legitimise the existing operation.*
- (b) The objectors contend that since the Inspectors report states that the erection of a waste transfer Building will adequately deal with odour and noise problems that the Proposed Decision as it is currently worded (specifically the changes made by the Board of the Agency with regard to planning permission) will legitimise the existing situation to the detriment of local residents.*
- (c) The objectors take issue with the statement that the facility is in a semi-rural area since lands directly to the north of the site are zoned residential and north of these lands is zoned for public parkland. Therefore the legitimising of the existing facility is not appropriate.*
- (d) The objectors state that the reason why the applicant did not provide clear information relating to the operating times at the facility are outlined in Ground 1 Objection 1 above.*

Technical Committee's Evaluation

- (a) Planning permission is a matter for the Local Authority and An Bord Pleanala
- (b) See response to Objection 1, Ground 2 above.
- (c) Zoning in the Local Development Plan is a matter for the Local Authority
- (d) The Technical Committee notes this observation.

Recommendation

No change.

SUBMISSIONS ON THE OBJECTIONS

One submission was received in relation to the Objections, (from KT Cullen on behalf of Brivin Enterprises Ltd. (25/11/02))

SUBMISSIONS ON THE OBJECTIONS No. 1

GROUND 1

Item 1:

The submitter states that the points raised in objection 1 & 2 are flawed and based on hearsay. Is it contended that the current facility operates within the planning code and that Brivin

Enterprises Ltd. have applied for planning permission. It is also stated that there is no evidence to state that Brivin Enterprises Ltd. have shown disregard for planning law, the Waste Management Act, the environment, or neighbouring residents. In addition it is stated that residents of the local Blacklyon Housing Estate made a submission supporting the development.

Technical Committee's Evaluation

The Technical Committee notes these observations. This Technical Committee also notes that no submission was received from the residents of the local Blacklyon (*sic*) Housing Estate supporting the development.

Recommendation

No change

GROUND 2

Item 2:

- i) The submitter states that noise emanating from the site has been isolated and temporary in nature and usually due to construction activities rather than general site operation.*
- ii) The submitter states that the granting of a waste licence to Brivin Enterprises Ltd. could not be considered anti-competitive. In addition it is stated that Brivin Enterprises Ltd. operates within the planning code and has applied for a waste licence. The submitter states that if licensed Brivin Enterprises Ltd will be the only licensed 'recycling facility' in Co. Kildare.*
- iii) The submitter states that security is not an issue at the site as it exists. It is stated that there have been no concerns raised by residents of the local Blacklyon Housing Estate and there have been no incidents reported to date.*
- iv) The submitter states that asbestos is prohibited from the site and has never or will never be accepted at the site.*
- v) The submitter states that scavenging is prohibited at the site.*
- vi) The submitter states that there are low levels of noise associated with the operation of the facility and that the bulk of the noise in the area arises from the adjacent Leixlip to Maynooth Road.*

Technical Committee's Evaluation

i) – vi) The Technical Committee notes the comments made above and consider that the issues raised are dealt with in this report and in the amendments to the Proposed Decision as recommended in this report.

Recommendation

No change

GROUND 3

Item 3

- (a) The submitter states that objectors 1 & 2 above contradict themselves by requesting that operations should be reduced from 45,000tpa to 15,000 tpa since they also request that the facility should be closed entirely.*
- (b) It is also stated that the EIS carried out concluded that there are no significant effects on the environment by the operation at present, and that odours are not generated at the site as no putrescible wastes are handled at the site.*

Technical Committee’s Evaluation

- (a) The Technical Committee notes this observation.
- (b) See response to Ground 2 above. [The Applicant has applied to accept household waste and is licensed to accept this waste type. If this was type is accepted it is likely that odour control measures may be required (See Condition 7.4)]

Recommendation

No change

GROUND 4

Item 4

The submitter states that since Brivin Enterprises Ltd is an established practice and the EIS has shown that there are no significant effects on the environment by the operation then the conditions of the Proposed Decision, particularly timeframes allowed for the implementation of infrastructural changes should remain as outlined in the Proposed Decision.

Technical Committee’s Evaluation

See **OBJECTION No. 1**, Ground 2, Response (a) above.

Recommendation

No change

Signed:

Cormac Mac Gearailt
Technical Committee Chairperson