



**OFFICE OF  
LICENSING &  
GUIDANCE**

**REPORT OF THE TECHNICAL COMMITTEE ON  
OBJECTIONS TO LICENCE CONDITIONS**

<b>TO:</b>	Directors	
<b>FROM:</b>	Technical Committee	<b>- LICENSING UNIT</b>
<b>DATE:</b>	15/07/04	
<b>RE:</b>	Objection to Proposed Decision for Bord Gais Eireann, Waterford Gasworks, Waterside, Johnstown Business Park, Waterford City, Waste Reg: 190-1	

Application Details	
Class(s) of activity:	Third Schedule Class 11 & 13 under licensed waste disposal activities, and Fourth Schedule Classes 2, 3, 4, and 13 under licensed waste recovery activities. The principal activity has been set as Fourth Schedule, Class 2 (Recycling or reclamation of organic substances which are not used as solvents).
Location of activity:	Waterford Gasworks, Waterside, Johnstown Business Park, Waterford City
Licence application received:	16/07/ 2003
PD issued:	01/04/04
First party objection received:	26/04/04
Third Party Objection received	None received
Submissions on Objections received:	Not applicable

**Company**

This waste licence application is for the remediation of a disused gasworks facility in the south-east Waterford City area, to be developed suitable for commercial and residential use by Bord Gais Eireann.

Coal based gas manufacture started at the site in 1826 and carried on up to the 1960s. A surface-site clearance contract was carried out in 1993. However, a number of buried underground tar tanks and gasholder basins remain, some containing hazardous sludge. The entire compound now consists of open ground awaiting a waste licence for soil and groundwater remediation and excavation of tanks. The intended period of the waste licence is one year, after which time long-term operations and monitoring will be undertaken in accordance with a licence surrender and after care management plan.

Waste activities will principally involve the treatment of contaminated groundwater prior to sewer discharge; the excavation of hazardous contaminated soil, sludge, and materials; *ex-situ* soil blending/mixing of the soils in a gasholder basin; their temporary storage; and soil export to Europe by ship for treatment and disposal. Hard material such as brick and concrete will be

stockpiled on site, to be crushed for fill on-site. Soils will be moved from site by road to the nearest port at Bellview c. 5km distance, on the other side of the River Suir.

No submissions were received in relation to the application.

### **Consideration of the Objection**

The Technical Committee, comprising of Patrick Byrne (Chair), Stuart Huskisson and Aoife Loughnane has considered all of the issues raised in the Objection and this report details the Committee's comments and recommendations following the examination of the objection together with discussions with the inspector, Malcolm Doak, who also provided comments on the points raised.

This report considers the first party objection.

### **First Party Objection**

Mouchelparkman state that they have reviewed the proposed decision in conjunction with their Client (Bord Gais Eireann) and have identified a number of locations where, in particular, references as to the timing of certain activities could cause ambiguity later on and therefore they would prefer to have them clarified now.

The First Party provide a break down of the timing of various activities prior to the commencement of the works covered by the licence. They state that some items scheduled for delivery within months of the date of grant of licence cannot be properly prepared in the absence of a contractor, and a contractor may not be on site for a period of between 36-42 weeks while Bord Gais seek, evaluate and accept tenders, issue orders and mobilise to commence site activities etc.

#### **A1. Condition 1**

The First Party claim that only after the above activities have taken place can commencement of the waste activity begin. Therefore it is suggested that the following definition should be included perhaps under Condition 1, as follows:

*Commencement of waste activities shall mean any of those works defined in Part 1, Schedule of Activities Licensed. Commencement of these Waste Activities shall be advised by the Licensee, in writing, to the Agency at least six weeks in advance.*

#### **Technical Committee's Evaluation:**

The TC acknowledges that Bord Gais have to undertake a number of stages prior to establishing a main contractor on-site, however prior to a main contractor commencing on-site Bord Gais will be required to undertake some works i.e. installation of security fencing, facility notice board etc. The TC therefore cannot accept the inclusion of a general condition as proposed by the first party, appropriate periods for the completion of specific works shall be specified in the relevant conditions. The TC in the following sections addresses objections by the First Party to the specific timeframes.

Recommendation: No change.
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#### **A2. Condition 2.4.1**

The First Party suggest that as the facility will not be in existence for 8-10 months that condition 2.4.1 requiring the licensee to establish and maintain a Communications Programme should be amended to read: "...*This shall be established not later than four weeks prior to the commencement of waste activities.*"

#### **Technical Committee's Evaluation:**

The TC considers that it is necessary for the licensee to establish a communications programme, the communications programme should be established at an appropriate level within one month of the date of grant of licence to reflect the level of activity on-site. This would as a minimum require the installation of a Facility Notice Board with essential information including contact phone numbers. This would ensure that members of the public, especially neighbouring residents, can obtain information from the licensee in relation to the waste activities. The communications programme shall be further developed and established on-site one month prior to the commencement of waste activities on-site. The commencement of waste activities in this case refers to the activities in *Part 1 Schedule of Activities Licensed*.

Recommendation: Amend condition 2.4.1 to read:

**The licensee shall establish and maintain a Communications Programme to ensure members of the public can obtain information about the facility at all reasonable times, concerning the environmental performance of the facility. This shall be established within one month of the date of grant of this licence and shall be revised and made available on-site one month prior to commencement of waste activities.**

### **A.3. Condition 8.1**

The First Party state that the monitoring required by condition 8.1 requires the existence of a properly staffed site infrastructure which will not be in existence until the contractor comes on-site and therefore they suggest that the condition be amended to read “*shall commence no later than two weeks prior to commencement of waste activities.*”

#### **Technical Committee’s Evaluation:**

The TC notes that noise, dust, and emissions to sewer will not occur until waste activities have commenced on site. Therefore, much of the monitoring required under *Schedule D: Monitoring* is not relevant prior to the commencement of licensed activities. However, due the contaminated nature of the site, the TC considers that groundwater monitoring should begin prior to the commencement of the licensed activities. Monitoring required prior to commencement of activity shall be organised as per monitoring undertaken in the preparation of the waste licence application.

Recommendation: Amend Condition 8.1 to read as follows:

**The licensee shall carry out such monitoring of noise, atmospheric and foul water emissions at such locations and frequencies as set out in *Schedule D: Monitoring of this licence upon commencement of waste activities*. Groundwater monitoring (as set out in *Schedule D.5*) shall commence no later than two months after the date of grant of this licence.**

### **A.4. Condition 8.7**

The First Party object to condition 8.7, which requires submission of the names, qualifications and a summary of relevant experience of all persons that will carry out all, sampling and monitoring. The First Party grounds for objection are similar to their objection to A.3 and request that the condition be amended to “*Not later than four weeks prior to commencement of waste activities*”.

#### **Technical Committee’s Evaluation:**

The TC considers that it is appropriate for the licensee to supply the information requested under condition 8.7 prior to sampling and monitoring commencing on-site. The information

submitted to the Agency within one month of the date of grant of licence shall refer to those employed to undertake groundwater monitoring and may refer to the consultants as employed to prepare the Waste Licence Application, these details can be changed/revised when a contractor commences operations on-site or where the personnel sampling and monitoring on-site change.

Recommendation: No change.

#### **A.5 Condition 11.4.1**

The First Party states that similar to above the Monitoring Locations require the details of the proposed site infrastructure, which will not exist until the contractor is selected. They suggest that the condition be amended to “*Not later than four weeks prior to commencement of waste activities*”.

#### **Technical Committee’s Evaluation:**

The TC considers that the monitoring locations stipulated in the licence can be identified and shown on an appropriately scaled drawing(s) prior to a contractor been selected. The monitoring locations are included under *Schedule D: Monitoring*, as “*monitoring locations shall be those as set out in Table D.1.1 and Drawing No. 25836/B/108.*” The identification of the monitoring locations within two months of the grant of licence can be revised following the selection of a contractor or following commencement of activities that may result in the identification of more suitable monitoring locations.

Recommendation: No change.

#### **A.6 Condition 12.2.1**

The First Party claim that the Environmental Liabilities Risk Assessment requires final method statements and destinations of materials to be known and therefore they suggest that the condition be amended to “*Not later than four weeks prior to commencement of waste activities*”.

#### **Technical Committee’s Evaluation:**

The condition allows the licensee three months to complete and submit an Environmental Liabilities Risk Assessment. The activities which are to be carried out on-site have been detailed in the waste licence application and are controlled by the conditions of this licence therefore it should be possible for the licensee to complete the risk assessment prior to the selection of contractors.

Recommendation: No change.

#### **A.7 Condition 1.5.2 Working Hours:**

The First Party apologise for not detailing the rationale for working to 2000 hours in the application. They state that site operations may require long uninterrupted periods to complete certain tasks which entail long or complicated set up procedures. The necessity for this will only become apparent when the selected contractors’ detail working arrangements are to hand. The request to operate until 2000 was also included so that the longer daylight hours in summer could be utilised and hence shorten the overall length of site works. They acknowledge that the option to agree additional working hours as set in condition 1.5.2 should suffice to deal with the above possibilities.

#### **Technical Committee’s Evaluation:**

The operating hours specified in condition 1.5.2 (0800 – 1800 Monday to Saturday inclusive) were recommended by the inspector taking account of the many local residences which are immediately adjacent to the site on the north and east sides. The provision included in the

condition for the licensee to agree additional working hours should suffice to deal with the situations outlined in the licensees' objection.

Recommendation: No change.

#### **A.8 Condition 1.5.3 Sunday Working**

The First Party states that Sunday working is critical to the project and is an intrinsic part of the design. A section of the site is occupied by a tenant on a 20 year old sale agreement that was never finalised, Bord Gais and the current occupiers are on course to legitimise the situation when remediation is complete. An attached letter from the occupier confirms their agreement to the project but identifies their concerns regarding access and requests that critical works are carried out at weekends, including Sundays to minimise disruption to their operations. The First Party refer to phasing/fencing of site works outlined in the Waste Licence Application proposed to minimise impact on the occupiers of the site.

The First Party suggest condition 1.5.3 be amended to *“The facility shall only operate on eight to ten Sundays the dates of which will be agreed with the Agency at least one week in advance.”*

#### **Technical Committees' Evaluation**

Condition 1.5.3 specifies that the facility shall not be operated on Sundays but includes provision for the licensee to operate on Sundays where agreed by the Agency. The licensee should make every effort to avoid operating on Sundays as there are residences in close proximity to the site, the hours of operation on Sundays shall also be specified as part of any agreement with the Agency.

Recommendation: No change.

#### **A.9 Condition 3.6.1 Weighbridge**

The First Party point out that they raised, as part of the EIS, that the provision of a weighbridge on site could be difficult given its' size and the relative small area of the site, all of which will be excavated at some time during the project. They outline the area of the site necessary to accommodate the wheelwash and weighbridge and state that the installation of a weighbridge would be a serious impediment to day to day site operations.

They suggest that the condition be amended to *“The licensee shall provide and maintain a wheel cleaner at the facility and a weighbridge if possible. If an onsite weighbridge is not feasible, due to relative small size of site, then procedures for the use of any off site weighbridge facility shall be agreed in advance with the Agency”*.

#### **Technical Committee's Evaluation**

The TC considers that the provision of a weighbridge on-site is essential to maintain records of quantities of material taken off site and later brought on-site. However it may be possible given the limited extent of the site to accept the use of an off site weighbridge for a limited period which shall be agreed with the Agency.

Recommendation: Amend Condition 3.6.1 to read as follows:

The licensee shall provide and maintain a weighbridge and a wheel cleaner at the facility.  
**The weighbridge may be temporarily removed off site for final site clearance subject to the agreement of the Agency.**

#### **A.10 Condition 4.2 Finished, Restored Site Level of 3mOD**

The First Party state that the adoption of a finishing restored site level of 3mOD would entail achieving a level greater than existing site levels and could potentially cause problems at the

site perimeters. They are unclear where or in what context Waterford City Council requires a 3mOD finished site level, they outline draft scheme designs for flood relief prepared for the Office of Public Works. They provide a copy of a letter submitted to Waterford City Council in relation to site levels and the timing of achieving them and Waterford City Council's subsequent grant of planning permission.

#### **Technical Committees Evaluation**

The licence application states that Waterford City Council requires the restored site be finished to a level of +3mOD (currently +2.5mOD) since the St Johns River is prone to flooding and so this was included as Condition 4.2 by the Inspector. However, the First Party Objection includes a copy of the planning permission granted by Waterford City Council for the works, which refers to a level of +2.2mOD, unless otherwise agreed by Waterford City Council. The TC consider that provision should be included in the licence which allows the applicant to agree in writing with Waterford City Council and the Agency an acceptable site level. The TC therefore recommends a finished restored site level of 2.2mOD or as agreed with the Agency and Waterford City Council. This would allow the same flexibility as allowed in the planning permission granted to the licensee (File Ref. No. 03/461).

Recommendation: Amend Condition 4.2 to read as follows:

The final height of the finished restored site shall not be less than **2.2mOD Malin Head or as otherwise agreed in writing with the Agency and Waterford City Council.**

#### **A.11 Restored Site to be 95% hard standing**

The First Party state that this would require surfacing the full area prior to any subsequent site development and would result in the generation of waste material requiring removal off site at the time of development of the site. The 95% hardstanding emanates from the Quantative Risk Assessment Report (QRA) and presumes that the site is being used by persons. This is valid when the site is developed but until this time the site will be secured by fencing with limited access similar to the present condition. They suggest that condition 4.2 and 4.3 be combined to read "The licensee shall finish the site levels outlined in Option 2, Drawing No. 25836/B/111, unless otherwise agreed in writing with Agency and Waterford City Council. The timing of achieving the 95% hardstanding on the site to be likewise agreed".

They also suggest for clarity that condition 4.4 include the following statement "All material below the Remediation Target Levels derived in the QRA, ref condition 5.1.1(a), will comply with this condition".

#### **Technical Committees' Evaluation**

It is envisaged that the end-use of the entire site will be a mixed development to include a residential area that is not expected to have any gardens (for vegetable plots), but will have landscaping. However, it was also envisaged in the application that the site is to be remediated prior to sale and await occupation depending on the real estate market. As a result the application stated the QRA is for a finished site with hardstanding across 95% of the site. The TC believes that it is appropriate that the finished restored site shall have hardstanding across 95% of the facility to prevent the usage of the lands for vegetable plots or parkland where children may play. Stricter cleanup standards would need to be applied if the site were to be left fallow without hardstanding cover since there is a possible risk that the lands could be entered onto by people/children. The use of fencing alone to prevent access is not sufficient. The hardstanding can be utilised by the developer when building works commence. The emplacement of hardstanding after cleanup is a strictly necessary activity and acts as a safety measure to prevent land bank usage.

The TC believes that condition 4.4 as included in the PD is appropriate in relation to the use of reprocessed construction and demolition material and waste. It is necessary that the licensee submit evidence that the reprocessed waste is fit for the intended purpose of use.

Recommendation: No change to condition 4.3 or 4.4

#### **A.12 Condition 3.11.2, Condition 8.10 and schedule D**

The First Party state that these conditions require the existing monitoring wells to be decommissioned within 2 months of the grant of licence and monitoring to be carried out at new wells to be installed. They suggest that decommissioning should be related to when works start on site. In addition as new monitoring wells cannot be installed until the area around each well has been remediated they propose to use the existing wells for monitoring purposes with them being decommissioned, as appropriate, to the excavation and remediation programme. They suggest that condition 3.11.2 be amended “*All monitoring wells other than those specified in schedule D, be decommissioned during the period of the waste licensing activities in accordance with the UK, EA guidelines*”

#### **Technical Committees’ Evaluation**

The objector believes that groundwater monitoring must be carried out at new wells to be installed on the site. The TC have clarified this issue with the Inspector and note that the monitoring wells specified in *Schedule D: Monitoring* of the licence currently exist on site. These monitoring wells shall be maintained on site and measures taken to protect them while remediation is being undertaken.

The TC consider that the all monitoring wells other than those specified in *Schedule D: Monitoring* of the licence must be decommissioned prior to the commencement of activities on-site. The TC believe that a two month period from the grant of licence provides adequate time for the licensee to have the necessary monitoring wells decommissioned.

Recommendation: No change.

#### **Overall Recommendation**

It is recommended that the Board of the Agency grant a licence to the applicant

- (i) for the reasons outlined in the proposed determination and
- (ii) subject to the conditions and reasons for same in the Proposed Determination,
- and
- (iii) subject to the amendments proposed in this report.

Signed:

Dated:

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Patrick Byrne

for and on behalf of the Technical Committee.