

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

TO:	Directors	
FROM:	Technical Committee	- LICENSING UNIT
DATE:	15 th February 2006.	
RE:	Objection to Proposed Decision for Padraig Thornton Waste Disposal Ltd. (PTWDL), Register No. 179-1.	

Application Details	
Class(s) of activity:	3 rd Schedule: 4, 5(P), 6, 7, 11, 12 and 13. 4 th Schedule: 1, 2, 3, 4, 8, 9, 10, 11 and 13.
Location of activity:	Calf Field, Ballynadrummy, Co. Kildare.
Licence application received:	30/09/2002.
PD issued:	29/07/2005.
Third Party Objection received	24/08/2005. L W Rentes, Rentes Plants Ltd. 25/08/2005. Jack O' Sullivan, EMS Ltd. on behalf of Broadford-Longwood Environmental Concern Ltd (BLEC). 26/08/2005. Sennan O' Reilly, An Taisce.
Submissions on Objections received:	20/10/2005 Mr. Conor Walsh, PTWDL.

Company

This report relates to an application by PTWDL for a Waste Licence to develop an Integrated Waste Management Facility incorporating a Non-Hazardous Residual Waste Landfill and a Recycling Centre at Ballynadrummy, Co. Kildare & Boolykeagh, Co. Meath. The principal activity proposed is Class 5 of the Third Schedule, i.e., landfilling, with the landfill proposed to cover approximately 25.4 hectares of a total facility area of approximately 82.5 hectares. The landfill is to accept waste at a rate of 220,000 tonnes per annum (t/a) and have a total capacity of approximately 2.855 million tonnes. The components of the recycling centre comprise of:

- (i) End-of-Life Vehicle (ELV) processing facility (25,000 vehicles/annum – 30,000 t/a).

- (ii) Dry recyclables sorting facility (5,000 t/a)
- (iii) Biodiesel Recovery Facility (5,200 t/a)
- (iv) Wood (6,500 t/a) and Tyre (1,040 t/a) treatment facility.

The site is located in a rural setting with approximately two-thirds of the facility located in Kildare with the remaining northern section in Meath. The vast majority of the proposed landfill area (approximately two-thirds) is located in Kildare with the remaining area in Meath. With the exception of approximately 3.1 hectares of the landfill (Phase I and the majority of Phase II) all waste activities are to be carried out in the area located within Kildare. The remaining portion of the Meath section is to be utilised as a landscaped buffer area.

There were 12 valid submissions made in relation to this application each of which was considered by the Board at Proposed Decision (PD) stage. The Directors approved the recommendation to grant a waste licence and a PD was issued by the Agency on the 29th July 2005.

Consideration of the Objection by Technical Committee

This report considers three valid third party objections and one valid submission on objection, as set out below. The main issues raised in the Objections are summarised below and where appropriate under various different headings. However, the original Objection should be referred to at all times for greater detail and expansion of particular points.

The Technical Committee, comprising of Mr. Breen Higgins (Chair), Ms. Pernille Hermansen and Dr. Jonathan Derham has considered all of the issues raised in the Objections and this report details the Committee's comments and recommendations following the examination of the objections together with discussions with the inspector, Mr. Donal Howley, who also provided comments on the points raised.

Third Party Objections

No.	Objector Name and Address	Date Received
1	L. W. Rentes, Rentes Plants Ltd., Moyvalley, Broadford, Co. Kildare.	24 August 2005.
2	Jack O' Sullivan, EMS Ltd. on behalf of Broadford-Longwood Environmental Concern Ltd.	25 August 2005.
3	Sennan O'Reilly, An Taisce.	26 August 2005.

1. L. W. Rentes, Rentes Plants Ltd., Moyvalley, Broadford, Co. Kildare.

The objector submitted a two page letter with an accompanying nine page attachment from Owen W. Jones, Crop Protection Advisor (dated 22 August 2005) addressed to

the Agency in the form of a short introduction and objections to the PD on a number of grounds.

The issues can be sub-divided into groundwater, infrastructural concerns and plant health:

1.1 Groundwater

The objector refer to the fact that An Bord Pleanala (ABP) has, as one of the reasons for refusing planning permission, stated that the lands are not confined as claimed but that the aquifer and River Boyne are in fact at risk from leakage from the landfill. Furthermore, the objector refer to the predicted leachate loss of 410m³ per annum from the facility as stated in the EIS and express concern for the potential consequences on drinking water supplies in the area where residents are dependent on groundwater for use.

This objection is on issues related to those articulated in Objection 2.3 by Environmental Management Services (below), and for convenience will be considered together there.

Submission on Objection:

Refer to Objection 2.3 below from Environmental Management Services on behalf of Broadford-Longwood Environmental Concern Ltd.

Technical Committee's Evaluation:

Refer to Objection 2.3 below from Environmental Management Services on behalf of Broadford-Longwood Environmental Concern Ltd.

Recommendation

No change.

1.2 Infrastructure

The objector makes a number of observations in relation to the recycling of end-of-life vehicles (ELVs) on site. A total of four points are raised of which three relate directly to the planning process, the remaining point raised states that car recycling shall take place '*...indoors within an enclosed facility*'.

Submission on Objection:

The applicant submits that the objections raised are primarily planning issues. Furthermore, the application outlines the intention to carry out all recycling of ELVs indoors.

Technical Committee's Evaluation:

The TC notes the concerns of the objectors, however the points raised are primarily a planning matter and cannot be considered by the Committee. The recycling of End-of-Life Vehicles is to take place in the enclosed '*Recycling Building No.1*' where all

activities will be closely monitored and controlled. Any potentially polluting substances shall be collected and handled appropriately as per the PD.

Recommendation

No change.

1.3 Plant Health

The objection contains an attachment from Owen W. Jones, Crop Protection Advisor, outlining a number of perceived potential risks from the proposed landfill development. The objection is concerned primarily with the risks posed by the proximity of the landfill to the wholesale tree and shrub nursery, a nursery that has been awarded numerous quality awards in the recent past. The attachment considers that the *'...landfill poses considerable risks from both alien and common diseases and pests, as well as the likely increase in mammals, especially small vermin, foraging birds, and the effects of dust, and possible water quality and availability.'*

Submission on Objection:

The applicant submits that it considers the concerns of the nursery *'understandable'* and recognises that the owners of the nursery *'feel the development poses a threat'* with regard to the perceived risks from the proposal. The applicant feels that the concerns are unfounded, as there has to be a source-pathway-receptor relationship for risk to be present. While the receptor is obviously the nursery plants the applicant considers that the *'...source is not proven (perhaps non-existent) and the pathway is unclear'*. The Integrated Waste Management Facility (IWMF) *'..will not process plant waste..'* and as *'..plant diseases such as Sudden Oak Death and Fireblight are "notifiable diseases", and when found must be destroyed (e.g., incinerated) rather than landfilled.'*

The applicant considers that in the *'...unlikely event that there is a source of plant disease in the landfill, the pathway from the source to the potential receptors needs to be assessed.'* Possible vectors are listed as being vermin, birds and wind. According to the applicant the issue of vermin and birds as vectors is adequately addressed under licence conditions. The possibility of windborne spore dispersal *'..is not a recognised concern at landfill sites'*. The applicant compares the situation to that arising at composting sites and the concerns over *Aspergillus fumigatus*, referring to the 250m buffer zone recommended by the UK Environmental Agency to remediate any risk from potential exposure to windborne spores. As the *'..Rentes nursery is approximately 500 meters from the landfill and that a composting plant is a much greater source of spore emissions....there is no potential for airborne transfer of disease infested spores from the landfill to the nursery'*.

Technical Committee's Evaluation:

The TC notes that the nursery is located more than 400m away from the proposed landfill. The absence of composting activities significantly reduces the potential for bioaerosol generation at the proposed facility and thereby the risk of migration of spores from the proposed landfill to the nursery. It is, therefore, highly improbable that the plant diseases listed in the objection will migrate from this site to cause a plant disease issue at the nearby nurseries. Moreover, the disposal facility is for residual waste (i.e., waste subject to source separation and pre-treatment to remove

organics and recycleables). In the event that small amounts of hedge trimmings etc., inadvertently make their way into the general waste stream this material will not be shredded but landfilled according to best practice. The only shredding to be carried out on site is of tyres and wood products, which will not lead to the generation of bioaerosols.

To address other potential vectors for the spread of plant disease (including birds and mammals), Condition 5.5 of the PD requires the licensee to ensure that vermin, birds, flies, mud, dust, litter and odours do not give rise to nuisance at the facility or in the immediate area of the facility. Furthermore, Conditions 6.20 and 6.21 specify the requirement for Bird Control and Vermin/Fly Control respectively.

Recommendation

No change.

2. Jack O’ Sullivan, EMS Ltd. on behalf of Broadford-Longwood Environmental Concern Ltd (BLEC).

The objection submitted contained a twenty-two page document consisting of an introduction, seven sub-sections and a further two appendices, as follows:

- 2.1 Further Information provided at the Oral Hearing Held by An Bord Pleanála (ABP) in Trim, Co. Meath, on 12 to 15 April 2005.
- 2.2 Decisions by An Bord Pleanála to refuse planning Permission for the Proposed Integrated Waste Management Facility and Residual Waste Landfill.
- 2.3 Complexity of the Hydrological and Hydrogeological Conditions on the Site, and Lack of Information Available about the Likely Adverse Impacts of the Proposed Development.
- 2.4 Adverse Effects on the Conservation and Protection of the River Boyne, A Special Area of Conservation, and on Other Nearby Designated Areas of Conservation and Amenity
- 2.5 Potential for Serious Adverse Effects on the Two Nearby Horticultural Nurseries.
- 2.6 Lack of a Substantive Functional relationship between the Components of the Proposed “Integrated” facility
- 2.7 Observations on the Effectiveness of the Proposed Waste Licence Conditions.

2.1 Further Information provided at the Oral Hearing Held by An Bord Pleanála in Trim, Co. Meath, on 12 to 15 April 2005.

This point of objection deals with Meath and Kildare County Councils and An Bord Pleanála (ABP) planning issues and oral hearing proceedings. It does not consider any of the conditions of the PD.

Technical Committee’s Evaluation:

The Technical Committee considers only those points specific to the PD.

Recommendation

No change.

2.2 Decisions by An Bord Pleanála to refuse planning Permission for the Proposed Integrated Waste Management Facility and Residual Waste Landfill.

This point of objection also deals with Meath and Kildare County Councils and An Bord Pleanála planning issues. The objection outlines the reasons for refusal of planning permission as outlined by ABP.

Technical Committee's Evaluation:

The Technical Committee considers only those points specific to the PD process.

Recommendation

No change.

2.3 Complexity of the Hydrological and Hydrogeological Conditions on the Site, and Lack of Information Available about the Likely Adverse Impacts of the Proposed Development.

The BLEC objection reiterates the points made through submission during the pre PD stage, all of the points raised were considered by the Inspector and the Board of the Agency at that time. Further, the objector outlines evidence as presented at the An Bord Pleanála (ABP) oral hearing in relation to the hydrogeological situation on site and the ABP inspector's assessment of the hydrogeological evidence submitted at the hearing. The objection quotes out of context from the Agency's Inspector Report and draws the conclusion that '*...the proposed waste licence is fundamentally incapable of regulating several significant impacts of the proposed development.*' A decision to grant a waste licence the objection states would '*...fly in the face of reason.*'

This objection is on related issues to those articulated in Objection 1 by LW Rentes (above), and for convenience they are both considered together here.

Submission on Objection:

The applicant submits a report prepared by its environmental consultants, White Young Green, stating that they accept that the Geological Survey of Ireland (GSI) has reclassified the underlying aquifer and that the vulnerability rating for the footprint area is High. However, they state that '*...the reclassification does not in any way preclude the development of the landfill here as the conditions for acceptability as set out by the GSI are fully met by the site conditions at Calf Field*'. The applicant goes on to state that information provided during the applicant stage '*...shows that a considerable thickness of till will remain below the footprint during and after construction.*'

In describing the aquifer the applicant submits that '*...the limestone aquifer at Calf Field can properly be described as a Locally Important, Semi-Confined Aquifer in which ground water is confined by the overlying low permeability till layer.*' In effect this means that the underlying aquifer boundary is "impervious" whilst the upper boundary is of a semi-pervious nature, which has a low, though measurable, permeability.

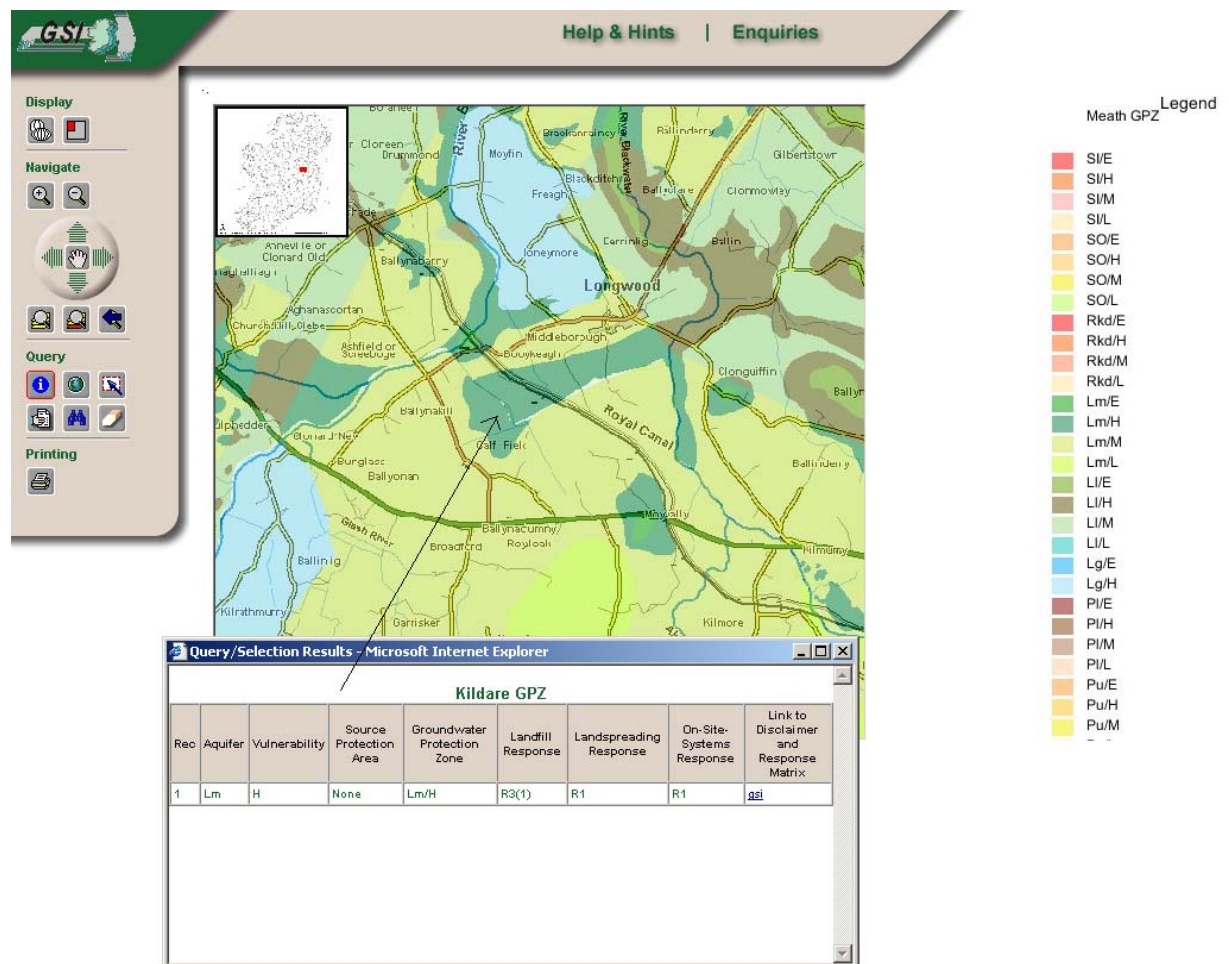
Technical Committee’s Evaluation:

The DoELG-EPA-GSI Groundwater Protection Response Matrix for the proposed site is R3¹ resulting in the site being ‘not generally acceptable, unless it can be shown that;

- the groundwater in the aquifer is confined; **or**
- there will be no significant impact on the groundwater; and
- it is not practical to find a site in a lower risk area.’

The proposed site does not conflict with the groundwater protection site suitability criteria identified in the DoELG –EPA-GSI Groundwater Protection Schemes.

Figure 1: Capture of GSI web map server showing the groundwater matrix response of R3(1) for the proposed Calf Field facility.



The aquifer is described in the Inspectors Report as being semi-confined, meaning an aquifer partially confined by soil layers of low permeability through which recharge and discharge can still occur. Condition 3.6.1(vi) of the Proposed Decision (PD) requires that ‘the base of the composite liner shall be a minimum of +4m above the

rockhead'. This four-meter overburden has a permeability ranging from 2.4×10^{-10} to 6.0×10^{-10} , based on trials carried out as part of the EIS accompanying the licence application. This means that the natural permeability of the in-situ material is lower than that required for the mineral component of the landfill liner. The applicants undertook a risk assessment that predicted a loss of 410m^3 of leachate at soil depths of $< 3\text{m}$. This was arrived at through modelling, using a *LandSim* package. It is necessary to understand that the worst case 'loss' of approximately 1m^3 of leachate per day takes place over a $250,000\text{m}^2$ footprint area. The consequence of such a 'loss' were it to happen, would be environmentally insignificant. The inclusion of Condition 3.6.1(vi) will substantially reduce any risk posed by the predicted loss and provide a high degree of protection to the underlying aquifer.

Any escape of leachate must first by-pass the leachate collection system and pass through the minimum of 1m clay liner which shall be engineered to have a permeability of 1×10^{-9} m/sec, overlain by a 2mm thick high density polyethylene (HDPE) layer, as per the EPA's landfill design manual. That is, the leachate risk assessment assumes failure of the leachate collection system, failure of the HDPE liner, and failure of the mineral liner. And all in the same location. This by any test is a very conservative risk probability.

A total of nine groundwater monitoring wells have been installed by the applicant in rock around the proposed landfill. The PD requires detailed on-going analysis at these locations. To reinforce the effectiveness of this measure the PD (Condition 6.9) has outlined monitoring of private wells within a 500m radius of the proposed facility, subject to well owners agreement.

The objection by Environmental Management Services (EMS) for BLEC details, and seeks to rely on, the concerns of the Planning Authority in relation to the proposed development, particularly on aspects of risk, and assessment thereof, to water quality. One of those concerns was in relation to investigation detail. Insofar as it is necessary to understand and assess the risk to groundwater and surface waters from emissions associated with this facility the Technical Committee note the extensive body of site investigation detail in the EIS and waste application documentation for this site. Moreover, the An Bord Pleanála assessment that EMS for BLEC seek to rely upon has not perhaps had the opportunity to adequately consider the mitigation measures applied to the potential emissions in the form of BAT for landfill engineering.

The opportunity of the Planning Inspectors to assess BAT for emissions minimisation and mitigation is somewhat harnessed by the Planning & Development Acts. Viz;

§34(2)(c) of the Planning & Development Act 2000 states that:

... where an application [for planning permission] relates to development which comprises or is for the purposes of an activity for which ... a waste licence is required, a planning authority shall take into consideration that the control of emissions arising from the activity is a function of the Environmental Protection Agency

The Agency on the other hand has the legal remit to assess such matters and determine on the basis of them. The Technical Committee having considered;

- the worst-case risk assessment (multiple and co-incident failure of lining system layers),
- the predicted low leakage rate (should it occur) and its dilution/attenuation (c.1m³ leachate release per day over a 250,000m² area – which is c.4ml per m²),
- the massive catchment dilutions down-stream of the nearest point of possible ingress (however implausible) to the Boyne (worst case leakage at the landfill represents 0.000072% of the flow at the Trim water extraction point),
- plume (if there were one) migration periods to the river are 60 to 100 years (meaning that the biochemical potency of the leachate would be virtually nil, and the chemical potency would be certainly substantially attenuated – on account of the substantially low permeability subgrade),
- the semi-confined aquifer characteristics (upward gradient),
- the large down-gradient distance to the Boyne (>1km),
- the large distance to the nearest down-gradient well (750m),
- the presence of in-situ very low-permeability clays,
- the wide experience and knowledge of modern landfill engineering and operational practices, and
- the application of EU and national standards, including BAT,

believe that this landfill proposal and emissions therefrom will not present any measurable risk to the Boyne catchment or other groundwater users in the area.

Recommendation

No change.

2.4 Adverse Effects on the Conservation and Protection of the River Boyne, A Special Area of Conservation, and on Other Nearby Designated Areas of Conservation and Amenity

The BLEC objection takes the form of five sub-headings, namely:

- (i) Concerns Expressed by Dúchas and the Development Applications Unit of the Department of the Environment, Heritage and Local Government (DoEHLG)

The objection outlines evidence presented to the ABP oral hearing in relation to concerns expressed by the DoEHLG with regard to the proximity of the landfill to four designated nature conservation sites. The objection further outlines various communications between the Developments Unit of the DoEHLG and Kildare County Council in relation to additional information to be provided by the applicant on issues of hydrology, vegetation and fauna at the Calf Field site.

- (ii) Additional Information on the Ecological Value of the Proposed Site and its Immediate Surroundings.

The objection outlines evidence presented at the ABP oral hearing by Dr. Chris Smal, consultant ecologist for the applicant. The objection states that the evidence presented conflicting information to the hearing and ‘*..failed to describe in detail the proposed mitigation measures necessary to avoid detrimental impacts on wildlife...*’.

- (iii) Amenity Uses of the Royal Canal, and Visibility of the Proposed Waste Facility from the Canal Bank.

The objection outlines evidence presented at the ABP oral hearing in relation to the proposed landscaping programme intended to mitigate the visual intrusion caused by the proposed development. The objection suggests that it is clear from the evidence presented to the hearing that the visual effects of the proposal could not be entirely eliminated. This would, it states, leave an open view of the proposed landfill for a 1.8km stretch of the Royal Canal and have a ‘*..consequential reduction of the amenity value of the canal.*’

- (iv) Instability of Canal Banks

The objection refers to a submission made to the Agency on behalf of BLEC during the PD stage of the licensing process. The objection draws attention to a statement made by Komex ‘*..that possible settlement of the overburden deposits underlying the site could be induced by the proposed dewatering necessary to construct the landfill, and this may have an impact on the Royal Canal embankment..*’. Furthermore, the objection suggests that the risk of the canal banks becoming more unstable due to the construction phase, dewatering and the ‘*..subsequent emplacement of large amounts of waste on relatively soft overburden..*’ has never been established and as such is grounds for refusal of the waste licence.

- (v) Observations on Wildlife and Amenity Issues

The objection suggests that the evidence as presented at the oral hearing does not sufficiently address the level of risk to wildlife and that the adverse impact on visual and amenity quality should be sufficient grounds for refusal of the waste licence application.

Submission on Objection:

The submission addresses each of the points raised by the objection and will be dealt with in chronological order.

- (i) Dr. Chris Smal, Ecological Consultant for the applicant, suggests that the points raised by the objectors is a fair response to the detail of the faunal submission made as part of the EIS. However, Dr. Smal suggests that the objectors attempt to use the findings of the EIS study out of context, in terms of the widespread distribution of the affected species of interest in Ireland, to suggest that the Calf Field site is one of especial interest. The species, he suggests are ‘*...all common and widespread species..*’. The submission concludes that the site is of “*low ecological value*” and that ultimately the landscaping proposals for the site ‘*..will prove beneficial to wildlife in the area..*’.

- (ii) See point (i) above which deals with ecological issues on site.
- (iii) The applicant suggests that the issues of amenity are planning issues and were comprehensively dealt with by the planning authorities.
- (iv) The applicant states that all 25 trial pits excavated on site showed “Clay” to be the dominant matrix in the soil. The submission disagrees with the suggestion that the construction of the landfill poses a risk to the stability of the canal, which is some 400m from the proposed footprint. The applicant also believes that the statement contained in the objection that waste will be placed on “*relatively soft overburden*” is erroneous and shows a lack of understanding of Irish Quaternary geology.

Technical Committee’s Evaluation:

The issues raised under 2.4 of the objection have been addressed comprehensively during the PD phase of the waste licensing process and through the planning processes and as such there is no requirement to reassess these issues as part of the TC process. There is nothing new or of such significance that would lead the TC to recommend a change in the PD

Recommendation

No change.

2.5 Potential for Serious Adverse Effects on the Two Nearby Horticultural Nurseries.

The point of objection outlines evidence presented at the ABP oral hearing on behalf of two nurseries in the vicinity of the proposed landfill. The evidence provided by Mr. Owen Wyn Jones, Crop Protection Consultant, concentrated the potential threat from both alien and non-alien plant diseases namely, “Sudden Oak Death” and “Fireblight” diseases

Further evidence was presented by Mr. Patrick Gleeson, Nursery Stock Specialist, Teagasc. Mr. Gleeson’s evidence concentrated on (i) The Importance of Uncontaminated Irrigation Water, (ii) Adverse Impact of Dust Fallout on Plants, and (iii) Spread of Plant Diseases.

- (i) Mr. Gleeson in his evidence outlined the importance of a clean water supply to a nursery given the fact that 90-95 percent by weight of plants consist of water. Chemicals contained in the irrigation water can impair growth especially those grown in containers, where imbalances in conductivity, alkalinity, sodium and boron can all impact on root growth. Furthermore, heavy metals in irrigation supplies, he states, may result in the loss of the complete crop.
- (ii) Dust pollution, it is stated, can have the effect of preventing gas exchange due to the clogging of stomata, particularly during dry weather conditions. This impacts on plant quality and could have major adverse consequences for the marketability of the plant products.

- (iii) The objection reiterates many of the points outlined by Mr. Owen Jones in the earlier objections on behalf of both the BLEC and Rentes Plants, see Section 1.3 of this report.

The objection on behalf of BLEC goes on to state that the proposed landfill will pose a significant risk to the long-term viability of the two nearby plant nurseries. Further, the objection suggests that ‘...the “Precautionary Principle” should be applied given the very serious consequences which would arise if any of the above mentioned plant diseases were to infect one or both of the nearby nurseries.’

Submission on Objection:

The submission references its response to the Rentes objection in relation to the issue of spread of Plant Diseases from the proposed facility. See Section 1.3 of this report.

Technical Committee’s Evaluation:

The risk of plant disease spreading from the proposed facility to the nearby nurseries has been dealt with in Section 1.3 of this report. The issue of protection of groundwater supplies is dealt with in Section 1.1 of this report. Condition 5.1 and Schedule B.1 of the PD sets sufficiently stringent standards on dust deposition rates (350mg/m²/day) to provide for appropriate protection of the nearby sensitive receptors.

Recommendation

No change.

2.6 Lack of a Substantive Functional relationship between the Components of the Proposed “Integrated” facility

The objection raises a number of issues arising from the planning process which the ABP inspector described as ‘...*failure by the developer to demonstrate a substantive functional relationship in terms of residual waste and the primary source of the waste from the Dublin area.*’ The objection suggests that as the Agency has a role in promoting recycling, and should therefore consider the most appropriate locations for the establishment of recycling facilities.

Submission on Objection:

The applicant submits that it believes the Agency to be ‘...*in favour of waste management infrastructure.*’ The submission further points to the issues being mainly concerned with planning issues and as such not relevant to the waste licensing process.

Technical Committee’s Evaluation:

The issues raised by the objection are matters that are more relevant to be addressed by the relevant authority during the planning process , i.e., the local planning authorities and ABP. The Agency has fulfilled its licensing functions under the Waste Management Acts.

Recommendation

No change.

2.7 Observations on the Effectiveness of the Proposed Waste Licence Conditions.

The objection declines to address specific licence conditions as it is the ‘*..belief that it would be inappropriate for the Agency to grant a waste licence for the proposed facility..*’. The objection states ‘*..that the Agency regards the setting of a licence condition as sufficient to ensure that the undesirable activity ...will not take place.*’ This, the objector believes, can not be so easily achieved and references European Court of Justice Case C-494/01 to reinforce this view. Quoting from paragraph 83 of the judgement the objection states that ‘*..significant harm to the environment, in particular the aqueous environment, has been caused by the operation of certain landfills in Ireland, despite the fact that these landfills have been licensed by the Agency..*’.

In conclusion the objection reiterates its contention that ‘*..where a site is inherently unsuitable for proposed landfilling or other waste-related activities, the attachment of conditions to a waste licence is not sufficient to protect the environment or local amenities. In such a case, the only appropriate decision would be to refuse a waste licence..*’.

Technical Committee’s Evaluation:

The Community Directive on Waste (1975/442/EEC) outlines the regime applicable to waste in the EU. It imposes on the Member States a number of obligations regarding waste management, including the following: to ensure that waste is recovered or disposed of without causing risks; to prohibit the abandonment or uncontrolled disposal of waste; to establish an integrated and adequate network of disposal installations; to take necessary measures to ensure that any holder of waste has it handled by a private or public waste collector or recovers or disposes of it himself; to introduce a system of permits for undertakings disposing of or recovering waste and a registration system for undertakings which collect or transport waste; and to ensure that undertakings keep a record of all the details of their operations (the quantity, nature and origin of the waste) and are subject to periodic inspections.

The European Court of Justice Case C-494/01 decision relates primarily to historical issues of unauthorised landfilling activities which prevailed in the Republic in the past, and states that ‘*..the Irish authorities have tolerated unauthorized activities in numerous places in Ireland, often over long periods, failing to require that those activities be brought to an end.*’

In addition, the ECJ said that because of the lack of an effective permit system and the ‘*tolerance of unauthorized activities,*’ Ireland ‘*has not ensured that other obligations imposed by the directive are performed.*’

It continued, ‘*the disposal or recovery of waste without risk to public health and the environment, the establishment of an integrated and adequate network of waste disposal, and the inspection of waste holders and of operators dealing with waste are possible only within the framework of an effective permit system.*’

The TC considers the licensing process for the proposed facility at Calf Field, Ballynadrummy to comply with the letter and the spirit of the Waste Directive and the ECJ ruling C-494/01. The process undertaken will ensure that the recovery, management and disposal of material will be carried out in a manner which affords maximum protection to the environment and public health.

Recommendation

No change.

3. Sennan O'Reilly, An Taisce

The observers submitted a three-page letter addressed to the Agency in the form of a short introduction and objections to the proposed decision on a number of grounds.

The issues raised were listed as follows:

1. Potential impacts upon the River Suir (sic) SAC have not been adequately dealt with (Protected habitats and species).
2. Irelands requirements under the Water Framework Directive are not met.
3. Refusal of Planning Permission for the facility by the Planning Authorities and An Bord Pleanála.

3.1 Protected habitats and species:

The objection makes a number of points in relation to the nature of activities to be carried out on the proposed site and the potential for '*..a significant adverse impact on this protected ecosystem.*' The objection refers also to a previous submission made by An Taisce in August 2002 which raised concerns in relation to the '*..adequacy of the leachate liner to mitigate long-term leachate risk, ...proximity of the leachate storage lagoon to the Royal Canal and the absence of information re the destination and treatment of the leachate...likely to be generated*'. Furthermore, the objection states that the EIS is insufficient in its hydrogeological assessment, while inadequate attention is given to the risk of accidental spillage or leakage of leachate. An Taisce submits that the proposed facility is likely to negatively impact on the protected River Boyne (cSAC) and Grand (sic) Canal NHA, and as such under Article 6 of the Habitats Directive (92/43/EC) a decision by the European Commission will be required prior to the development taking place.

Submission on Objection:

The applicant states that due to the number of errors contained in the objection from An Taisce it would indicate that the objection is in fact '*..a "cut and paste" standard objection that they [An Taisce] regularly submit to statutory bodies such as the EPA.*' The applicant believes that given '*..their hastily prepared and erroneous submission, it seems unlikely that An Taisce took the time to review the EIS in sufficient detail for their observations to hold any merit.*'

Technical Committee's Evaluation:

The issues raised by An Taisce have been addressed comprehensively during the PD phase of the waste licensing process and as such there is no necessity to reassess these issues as part of the TC process.

Recommendation

No change.

3.2 Irelands requirements under the Water Framework Directive are not met.

The objection refers to Irelands obligations to achieve the aims of the Water Framework Directive (WFD) by 2015. The objection states that to ‘*..allow this facility go ahead at this site will enormously increase this risk, and contravene the phased targets of the WFD, which obliges us to work progressively towards good ecological status for surface waters by 2015*’.

Submission on Objection:

The submission contends that as the proposed development is designed to contain, collect and treat all effluent, the conclusions of An Taisce are an inaccurate reflection of the situation.

Technical Committee’s Evaluation:

The Conditions as outlined in the PD, i.e., Conditions 6.8, 5.1, Schedules B.2 and C.4 provide adequate protection to the surface water environment. The issue of Surface Waters/Storm Water Runoff is dealt with comprehensively in Section 4.3 of the Inspectors Report. Only uncontaminated stormwater is discharged to surface water. There is no discharge of trade effluent to surface waters from the proposed facility.

Recommendation

No change.

3.3 Refusal of Planning permission for the facility by the Planning Authorities and by An Bord Pleanála.

The objection states that in the light of Meath Count Council’s refusal to grant planning permission due to hydrogeological considerations and ABP’s decision to uphold this refusal, it would be ‘*..entirely inappropriate for the EPA to proceed with the granting of a waste licence to this facility.*’

Submission on Objection:

The applicant submits that decisions of the Planning Authorities are irrelevant to the waste licence application.

Technical Committee’s Evaluation:

- The planning permission process and that of waste licensing are independent of one another. The legislation provides for Planning Authorities and the Environmental Protection Agency to consider submissions by another party in the making of their respective decisions. The waste licensing function of the Agency is clearly set out in the Waste Management Acts (WMA). In making decisions on waste licence applications the legislation prohibits the Agency

from granting a licence until it is satisfied with regard to a number of matters specified in the WMA. These include that the carrying on of the activities will not cause environmental pollution and that the Best Available Technology (BAT) for the particular activity will be used. .

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

Signed

Breen Higgins

Inspector

for and on behalf of the Technical Committee