



OFFICE OF LICENSING & GUIDANCE

INSPECTORS REPORT ON A LICENCE APPLICATION

To:	DIRECTORS	
From:	PERNILLE HERMANSEN	- LICENSING UNIT
Date:	28/02/06	
RE:	APPLICATION FOR REVIEW OF A WASTE LICENCE FROM NORTH TIPPERARY COUNTY COUNCIL, LICENCE REGISTER 78-2	

Application Details

<p>Type of facility:</p> <p>Class(es) of Activity (P = principal activity)</p> <p>Quantity of waste managed per annum:</p> <p>Classes of Waste:</p> <p>Location of facility:</p> <p>Licence application received:</p> <p>Third Party submissions:</p> <p>EIS Required:</p> <p>Article 14 Notices sent:</p> <p>Article 14 reply received:</p> <p>Article 14 Compliance date:</p> <p>Article 16 Notices sent:</p> <p>Article 16 reply received:</p> <p>Article 16 Compliance date:</p> <p>Site Inspection:</p>	<p>Integrated Waste Management Facility (Non-Hazardous Waste Landfill, Civic Amenity Facility, Composting Facility and Construction and Demolition Waste Recovery Facility)</p> <p>3rd Schedule: Classes 1, 2, 4, 5 (P), 11, 12 and 13 4th Schedule: Classes, 2, 3, 4, 10, 11 and 13</p> <p>47,000 tonnes</p> <p>Municipal waste, Commercial waste, Sludge, Construction and demolition waste.</p> <p>Ballaghveny Landfill, Ballymackey, County Tipperary</p> <p>16/03/04</p> <p>Three</p> <p>No as confirmed by An Bord Pleanála</p> <p>6/07/04</p> <p>9/8/04, 17/8/04, 6/4/05</p> <p>26/04/05</p> <p>6/05/05</p> <p>7/6/05, 1/7/05</p> <p>3/02/06</p> <p>29/04/04. Site notice compliant. Visit carried out by PH.</p>
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1. Facility

This application relates to an application by North Tipperary County Council (NTCC) for a review of the existing waste licence (WL 78-1, issued on 4/5/01). The landfill will consist of a total of 11 cells as allowed for under the existing licence.

The principle amendments proposed in the review application to the existing waste licence (WL 78-1) are:

- increase the post-settlement (restored) height of cells 3-5 from the currently approved 114mOD to 120 mOD
- extend the timeframe for acceptance of untreated sludges at the landfill
- allow for an increase in quantity of waste accepted from 37,000 tpa to 47,000 tpa
- allow the acceptance of 10,000 tpa of Construction and Demolition waste

The classes of activity applied for are the same as in the existing licence (WL 78-1).

The hours of waste acceptance set in the existing licence (WL 78-1) have been retained. The RD also sets hours for operation of the facility (Condition 1).

Compliance Record

At the site inspection carried out by OEE on 1/12/04 five non-compliances with the existing licence (WL 78-1) were observed. The non-compliances related to delay in installing major infrastructural works such as the installation of an operational landfill gas management system, adequate leachate management systems, installation of surface water management system including the provision of surface water settlement lagoon, installation of waste inspection/quarantine area and capping of filled areas. Since the site inspection the applicant has commenced the installation of landfill gas abstraction wells at the facility. A flare has also been installed at the facility but is not connected to the abstraction wells.

Planning

The Agency requested on 19/5/05 that the applicant get written confirmation from An Bord Plenála (ABP) whether approval under the Planning and Development Act, 2000 as amended and/or an Environmental Impact Statement was required for the proposed changes to the facility including annual intake of waste.

NTCC made a submission to ABP on 3/10/05 requesting a letter of confirmation as detailed above. The Agency also sent a letter of clarification on the issue to ABP on 27/10/05 in relation to the facility.

ABP made an order on the case on 31/1/06. The decision was “NOT TO DIRECT the local authority to prepare an environmental impact statement in respect of the said proposed development ...”. The reasons and considerations of ABP are detailed in Section 5 below.

2. Operational Description

The applicant proposes to accept 47,000 tonnes per annum consisting of municipal waste (22,000), commercial waste (10,000 tonnes), construction and demolition waste (11,500 tonnes) and Sludge (3,500 tonnes). The RD allows the facility to accept up to 47,000 tonnes per annum detailed in Schedule A of the proposed waste types. The

annual tonnages of the various waste types can be changed with the agreement of the Agency as long as the total annual tonnage remains the same.

The existing licence (WL 78-1) specifies that no untreated sludges can be accepted at the facility from 1 January 2004 and no sludges shall be accepted from 1 January 2006. The applicant proposed an extension to the deadline for acceptance of untreated sludges at the facility to September 2005. The RD only allows for the acceptance of treated sludge in accordance with Article 6(a) of the Landfill Directive (Condition 8). Pre-treatment methods such as lime stabilisation will improve the handling characteristics of the sludge, mitigate odour and eliminate pathogens (Condition 6). The pre-treated sludge can be used for daily cover and/or for restoration of the landfill cells. Currently there are 8 cells to be restored where the use of pre-treated sludge could aid in stabilisation and accommodate a large nutrient need.

The applicant proposes to recover construction and demolition waste at the facility. Construction and demolition waste for recovery will be accepted during the set hours of waste acceptance. The recovery operation will be carried out west of the landfill cells. The area will consist of an incoming waste stockpiling area, waste processing area with stockpiles of processed waste and residual waste storage area where skips for residual waste such as timber, plastic and metal will be located. The applicant states that the waste will be processed by use of a mobile crusher and screens on a quarterly basis.

The applicant proposes to carry out composting of approximately 2,000 tpa of green waste. The green waste will be accepted at the civic amenity facility. The green waste will be shredded on-site prior to composting in an open windrows system. The applicant proposes that the exact location of the composting facility will be determined during the design stage. However, it is specified that composting shall not be carried out within 200m of any sensitive receptors (Condition 3). The design details for the composting facility is to be agreed by the Agency as a Specified Engineering Works in accordance with Condition 3 and Schedule D.

3. Use of Resources

Condition 7 requires the applicant to carry out an audit of the energy efficiency of the site. Reduction of energy use and water usage as well as use of raw materials shall be identified and incorporated into the Schedule of Environmental Objectives and Targets.

4. Emissions

4.1 Air

The existing licence states that a gas flare and associated infrastructure shall be installed at the facility within six months of the date of grant of the existing licence (WL 78-1) i.e. the infrastructure should have been in place by 4/11/01. The applicant has installed gas abstraction wells at the facility to the satisfaction of OEE but the wells have not been connected up to the flare. The RD requires that the infrastructure for collection and flaring of landfill gas management system shall be installed and commissioned at the date of grant of this licence (Condition 3).

Schedule C sets the monitoring requirements for landfill gas. The RD requires that one borehole per cell is installed for the monitoring of landfill gas within the waste body prior to the landfill gas collection system being in place (Condition 6). Furthermore

landfill gas shall be monitored in the installed perimeter landfill gas boreholes (Schedule C). The trigger levels for landfill gas are set out in Condition 6 of the RD.

4.2 Emissions to Sewer

Composting Facility

The windrows composting facility shall be installed on a concrete impermeable surface (Condition 3). The applicant proposes to collect all leachate and stormwater runoff in a storage tank and use it in the composting process (Condition 3). Any surplus leachate will be discharged to the leachate lagoon and tankered off to Nenagh Waste Water Treatment Plant (WWTP) (Condition 5).

Leachate removal

The existing licence (WL 78-1) requires that the applicant install a leachate management system at the facility by 30/6/02.

Nine leachate monitoring/extraction boreholes have been installed within Cells 1-5 as required under the existing licence (WL 78-1). Currently leachate is extracted from cells 1-5 to a leachate lagoon adjacent to the cells. The applicant proposes to decommission this lagoon and replace it with a pumping/collection chamber which will be connected to the lagoon constructed to the north of cells 6-8 currently holding leachate from cells 6-8. Leachate collected and stored in the lagoon will then be tankered to Nenagh WWTP. The RD allows for the proposed leachate management system as detailed (Condition 3). Condition 6 specifies that within three months the applicant shall submit an updated leachate monitoring programme to include for leachate monitoring in Cells 1 to 11.

A telemetry control system is also proposed to monitor leachate levels within the landfill and the lagoon and to provide a control to the leachate management system. The existing licence requires that a SCADA System and a telemetry system for the monitoring, control and management of leachate be installed at the facility within six months of the date of grant of the existing licence, i.e. 4/11/01. The RD requires that the telemetry system be installed and maintained at the facility from the date of grant of the licence (Condition 6).

4.3 Emissions to Surface Waters

The Inspector's report accompanying the existing licence (WL 78-1) details the surface water catchment surrounding the facility. The existing licence requires that a surface water management system, including a surface water lagoon, shall be installed by 30 June 2001.

The applicant has proposed the installation of surface water management system including collection pipework laid at the toe of the regraded slopes around cells 3 –5 and two surface water lagoons for settlement prior to discharge to surface water courses. The RD specifies that the proposed surface water management system shall be provided and maintained from the date of grant of this licence (Condition 3).

The RD requires that surface water monitoring is carried out at the two proposed surface water lagoons and at the existing surface water monitoring points (SW1, SW2, SW3, SW4 and SW6). Biological Monitoring shall be carried out annually at locations agreed by the Agency (Schedule C). The emission limit values are to be met at the outlets from the two proposed surface water lagoons (Schedule B).

4.4 Emissions to ground/groundwater:

The Inspector's Report that accompanied the existing waste licence (WL 78-1) outlines the geology and hydrogeology of the site.

The application documentation for review did not refer to any groundwater management infrastructure or groundwater monitoring. The RD requires that effective groundwater management infrastructure shall be provided and maintained at the facility during construction, operation, restoration and aftercare of the facility (Condition 3). Condition 3 of the RD specifies that the applicant shall install means of monitoring and discharge outfall for the groundwater drainage layer to ensure groundwater does not build up under the HDPE liner

In relation to groundwater monitoring boreholes, the RD reverts to the same requirements of the existing licence (WL 78-1) (Schedule C). The RD specifies that selected downgradient private wells within 500m of the facility shall be monitored subject to the owners' agreement (Condition 6).

4.5 Noise:

The applicant has submitted results from a noise survey carried out in June 2003. The noise levels were measured at 4 boundary locations and two noise sensitive locations. The daytime noise emission limit set in the existing licence was exceeded at the noise sensitive location NSL2 (57dB(A)). This was attributed to constant noise from birds, lawn mower in operation nearby and occasional traffic movement.

The applicant proposes to extend the noise monitoring programme at the facility to include the proposed area for the recovery of construction and demolition waste. The two main sources of noise at the proposed facility will originate from the recycling plant and the traffic generated. Waste processing will only be occasional (probably on a quarterly basis) and the impact of traffic will be minimal according to the applicant. The nearest residences are located 360 m southwest to the proposed C&D waste recovery area. The applicant states that at this distance the impact on the residences will not be significant.

The RD requires that noise emission is measured at the four boundary locations and specified noise sensitive locations (Schedule C). Prior to commencement of waste acceptance at the construction and demolition waste recovery area, the applicant shall submit an updated noise monitoring programme to include the two residences located closest to the proposed recovery area (Condition 6). Schedule B sets the noise emission limit value to be measured at noise sensitive locations.

4.6 Nuisance:

Potential nuisances at the facility are controlled by Condition 6 of the RD.

The applicant has not submitted any information in relation to litter control. The RD reverts to condition of the existing licence in relation to litter netting (Condition 6).

Dust

The applicant has submitted dust monitoring results from August and November 2003. None of the monitoring results exceed the dust deposition limit of 350mg/m²/day as set in the existing licence (WL 78-1).

In relation to the C&D waste recovery area, the applicant states that the dust emission will be infrequent as waste will only be processed when sufficient waste is available (probably on a quarterly basis). The applicant details that the nearest residence is approximately 360m southwest of the proposed recovery area. The applicant predicts that dust emissions are to be slight.

The applicant states that the shredding of green waste will cause dust emission. However, it is assessed that the levels of dust generated will be minimal. The quantity of waste to be shredded is very low (2,000 tpa) and the shredder will be operated intermittently. Condition 6 of the RD specifies that prior to commencement of waste acceptance at the composting facility, the applicant shall submit an updated dust monitoring programme.

Schedule C details the requirements in relation to dust monitoring at the facility. The dust deposition level is set in Schedule B.

5. Restoration and Aftercare

The applicant has applied for an increase in the post-settlement (restored) height of cells 3-5 from the currently approved 114mOD to 120mOD. Section 4.6 of the review licence application details the proposed modifications. The proposed landform including the proposed final design levels is shown in Appendix A of the Article 14 reply received on 9/8/04.

The consultants Mitchell and Associates carried out a visual assessment of the cell height increase on behalf of NTCC. The consultant states in their report that “the overall visual impact is insignificant and neutral, in that the capped landfill will be rehabilitated as a grassland, and will be visually integrated with the surrounding agricultural landscape”.

The decision by ABP specifies the following reasons and considerations to the development at the facility: *“having regard to the nature and extent of the development, including in particular the fact that the bulk of the additional waste to be accepted at the facility would be in the form of construction and demolition waste and to the environmental sensitivity of the area where the landfill is located, including in particular the landscape character of the area and the extent to which the landfill is exposed to views from the existing houses or public vantage points, it is considered that the proposed development would not be likely to have significant effects on the environment”*.

The restoration works on cells 3, 4 and 5 will include regrading of the sideslopes to 1:2.5 which should ensure stability of the slopes. Condition 6 of the RD requires that stability assessment of the sideslopes is carried out annually. The increase in height is acceptable on technical/engineering aspects as the proposed infrastructure is in accordance with Annex 1 of the Landfill Directive (1999/31/EC).

The RD allows for the proposed landform including the proposed post-settlement (restored) levels of cells 1 – 11 as set out in Condition 10 based on the acceptable technical/engineering aspects and ABP’s decision. This allows for the increase in the post-settlement (restored) height of cells 3 to 5 from the currently approved 114mOD to 120mOD as proposed by the applicant.

Cell 1 and 2 which are unlined cells have been capped with a temporary cap for a number of years and are supporting grass growth according to the applicant. The applicant proposes to cap Cell 1 and 2 with a 1m thick layer of subsoil and topsoil.

The RD specifies that a non-hazardous biodegradable landfill capping system as recommended in the Agency's Landfill Site Design Manual shall be installed at all cells including Cells 1 and 2 (Condition 10). The specified capping system shall consist of a 1m soil layer, a drainage layer, a compacted mineral layer or a geosynthetic layer and a gas collection layer.

Condition 10 of the RD requires that Cells 1 – 8 are capped within twenty-four months of the date of grant of the licence. The remaining Cells 9 – 11 shall be permanently capped within twenty-four months of the cells having been filled to the required level. The RD requires that the restoration of the landfill cells is undertaken twelve months after the installation of the permanent cap (Condition 10).

6. Waste Management, Air Quality and Water Quality Management Plans

The new Waste Management Plan for the Midlands Region 2005-2010 was adopted by NTCC on 1/2/06.

The *Waste Management Plan for the Midlands Region 2005-2010* states that “In the long term a policy of Regional landfill rationalisation will be pursued whilst continuing to operate and maintain existing landfill facilities to the highest international standards in accordance with Waste Licenses issued by the EPA”. Furthermore the plan outlines, “Although the level of waste disposal has decreased in the Region from 1998, landfilling is still the primary treatment outlet for municipal and industrial waste”.

7. Compliance with Directives/Regulations

The facility falls under the scope of the IPPC and Landfill directives. In relation to the Groundwater Directive, the facility will not have any direct emission to groundwater.

The facility as conditioned by the RD complies with the requirements of the Landfill Directive. The systems specified/conditioned by the RD for lining, leachate collection and capping comply with BAT.

8. Submissions

There were three submissions made in relation to this application.

8.1 Submission from Mr Frank Gleeson, Principal Environmental Health Officer, Mid-Western Health Board, Environmental Health Service General Hospital, Nenagh, County Tipperary.

Mr Gleeson states that the Mid-Western Health Board is concerned with the proposed increased sludge disposal contra to the original licence and would like to make an informed comment on it, requesting the full licence application and EIS for Reg. No. 78-2 and the final decision issued for Reg. No. 78-1.

Comment: The letter issued to Mr. Frank Gleeson on 27/4/04, acknowledging the receipt of the submission, details where the requested information can be obtained. No further submission has been received from the Mid-Western Health Board.

8.2 Submission from Mr Peter Ogg, Shannon Vermicomposting Limited, Coolross, Rathcabin, Roscrea, County Tipperary.

The submission by Mr. Ogg consists of:

1. Cover letter signed by Mr. Ogg.
2. Observations by Environment & Planning Law Group, Arthur Cox, Solicitors.
3. A report from Chemical Analysis Laboratories Limited (CAL)
4. Certificate of analysis from Treatment Systems Limited.
5. Copies of reports issued by the Agency in relation to site inspections and audits.
6. Twenty photos of the facility

1 Cover letter

In the cover letter Mr Ogg outlines his concern with the leachate management at the facility. He states that the leachate run-off and surface water run-off is combining and discharging into Ballaghveny stream, which eventually discharges into the Shannon which is used as drinking water.

Mr Ogg points out that leachate is sent to Nenagh Treatment Plant and that Ballaghveny accepts sludge from the treatment plant which according to Mr Ogg results in a never-ending circle. Furthermore Mr Ogg states that NTCC in cooperation with Nenagh Sewage Treatment Plant is incapable of dealing with the leachate from Ballaghveny Landfill.

Comment: The RD specifies that proper leachate management shall be installed and provided at the facility (Conditions 3 and 6). Condition 5 states that no leachate shall be discharge to surface water courses and surface water streams.

2 Observations by Environment & Planning Law Group, Arthur Cox, Solicitors.

Arthur Cox Solicitors (ACS) on behalf of the objector has raised the following points:

2.1 Applicable Law

On 12/7/04 the Waste Management (Licensing) Regulations came into effect. ACS submits that the Agency had received no response from the applicant on or before the above mentioned date in relation to an Article 14 notice. Based on this ACS requests that the Agency ensure compliance with the Protection of the Environment Act, 2003 and the Waste Management (Licensing) Regulations, 2004.

Comment: Article 2(2) of the Licensing Regulation, 2004 states that “The provision of the Regulations revoked shall; notwithstanding sub-article (1), continue to apply and have effect in relation to any application that is made, or any review that is notified under Section 42(1)(b) of the Act, before the coming into operation of these Regulations”. The review application by NTCC for Ballaghveny Landfill received 16/03/04 would therefore be assessed in accordance with the Licensing Regulation, 2000.

2.2 Landfill Directive

ACS states that the applicant acknowledges that it comprises a non-hazardous landfill and suggests certain measures will be implemented before 16/7/09. This

deadline only applies to landfills that are neither new landfills nor hazardous landfills. ACS presents that upon grant of the revised licence, the waste acceptance restrictions apply immediately to such parts of the landfill as are subject to that new revised landfill. This would include the proposals to accept untreated sludge and more C & D waste. ACS states that the Landfill Directive specifies that waste that has not been subject to treatment shall not be accepted/disposed of after 16/7/01 for new landfill facility. Furthermore, ACS states that the applicable waste licensing regulations expressly prohibit the acceptance of these untreated sludges under a revised licence. The same reasoning applies to acceptance of mixed C & D waste. ACS calls upon the Agency to reject the proposals regarding untreated sludges and C& D waste as contrary to the prohibitions described in Article 49(5) of the 2004 Regulations.

Comment: The landfill directive states that for existing facilities a landfill condition plan shall be submitted in accordance with Article 14. A landfill Conditioning Plan was submitted by NTCC for Ballaghveny Landfill on 19/7/02. Therefore the deadline given in the landfill conditioning plan for Ballaghveny Landfill would apply.

The Landfill Directive Article 6 specifies that Member States shall take measures in order that only waste that has been subject to treatment is landfilled. The mixed C&D waste accepted at the facility is not to be landfilled but instead accepted for recovery at the proposed C&D waste recovery area. The establishment of the C&D waste recovery area is to be encouraged to reduce the quantity of waste being landfilled. In relation to acceptance of sludges at the landfill, Article 14 specifies that if a landfill has submitted a Landfill Conditioning Plan then the latest date for compliance with the requirements of the Landfill Directive is 16 July 2009. The RD only allows for the acceptance of pre-treated sludge (Condition 8).

2.3 First Proposal – Increased Height

ACS states that there is a conflict in the Non-Technical Summary regarding to what cells an increased height will apply.

Comment: The proposed increase in height applies to cells 3 to 5.

2.3.1 Agency Function

ACS notes that the cells are already at or close to the height for which the application is made. ACS states that this has been noted in several Agency letters. ACS submits that the Agency is being presented with a fait accompli. ACS notes that there appears to be no provision under the WMA 1996 to 2003 for retention of unauthorised waste activities and it is clear that this breach of the existing licence conditions cannot be remedied by the current application.

ACS states that the application clearly amounts to an admission by applicant that it is not currently in compliance with the existing licence.

Comment: It has been determined based on an assessment of the application submitted by NTCC that the proposal for an increase in height of cells 3 – 5 would not have a significant environmental impact (see Section 5

of this report). The RD allows for an increase in height of cells 3 –5 to 120mOD (Condition 10).

2.3.2 Assessment of Proposal

ACS states that only the visual impact of the proposed increase in height has been meaningful addressed in the application. The summaries contained in the application do not accurately reflect the underlying report by Mitchell & Associates. Furthermore, ACS states that it is disingenuous of the applicant to attempt to reduce the assessment to a comparison of photomontage as the increase in height of 6 meters represents 40,000m³ volume of waste. ACS submits that this gives rise to more concern than simply visual impact.

Wrongful Acts

ACS states that the applicant suggests relocating waste would be too onerous and therefore a revised licence should be granted. ACS states that this amounts to the submission of wrongful acts on the part of the applicant somehow justify tolerance from the Agency. “This cannot be sustained. “

Management Competence

ACS states that the suggestion that relocating the waste would pre-empt a waste crisis must be overstated. If not it calls in the competence of the management of the facility. The new cells should certainly provide necessary capacity.

Unproven Capping Methods

ACS states that the methods now proposed for capping the cells have not been proven and without proven methods for cell capping the risk of environmental pollution cannot be dismissed.

Inadequate Visual Assessment

ACS submits that the applicant should have clearly illustrated the increase from 114mOD to 120mOD so that a meaningful comparison could be made. The current views from the eastern boundary would be significantly improved if the applicant had complied with the post-settlement heights under the current licence.

Comment: The applicant outlines in their submission (see below) that the figure of 40,000m³ is incorrect and that computer modelling predicts the volume of waste in cells 3 –5 over 114mOD following regarding works to be 21,500m³ with a further 10,800m³ of soils needed for the capping system.

Besides the visual impact associated with increasing the height of cells 3 – 5 other aspects in relation to environmental impact has been assessed by the Agency during the application process such as the hydrological impact and slope stability. Based on this assessment it is determined that the increase in height of cells 3 –5 will not cause any significant environmental impact (see Section 5 above).

Condition 10 requires that the applicant install final capping on the filled cells in accordance with the requirement for non-hazardous biodegradable landfill as set out in the Agency’s Landfill Site Design Manual. The specified capping system is BAT.

An Bord Pleanála concluded that "... it is considered that the proposed development would not be likely to have significant effects on the environment" as referenced earlier in this report.

2.4 Second Proposal – C & D Waste

ACS submits that the proposal regarding construction and demolition waste should be rejected as detailed. ACS further notes that the commitment regarding the use of crushed aggregate and surplus soil is described with the qualification "initially" and if put to other purposes these should be described.

ACS states that the applicant suggest that this aspect to its proposal will not cause a negative visual impact. ACS notes that Mitchell & Associates did not assess this.

ACS states that the proposal does not commit to excluding mixed construction and demolition waste. In order to meet the recovery target expressed in the application only selected kinds of this waste type should be accepted according to ACS.

Comment: In relation to rejection of the construction and demolition waste proposal see section 2.2 above.

2.5 Third Proposal – Treated Sludges

ACS states that the requested extension of the deadline relating to acceptance of treated sludges means that the Agency is again being presented with a fait accompli.

ACS submits that the proposal to accept untreated sludges should be rejected as the proposal is offered without any justification under the Regional Waste Plan or applicable Government policies. According to ACS no relevant justification has been provided for this proposal and no basis has been offered on which the Agency would be entitled to lawfully accede to this proposal.

Comment: The RD does not allow for acceptance of untreated sludges at the facility (Condition 8). Treated sludges can be accepted in accordance with the provisions of Article 6(a) of the Landfill Directive.

2.6 Miscellaneous

2.6.1 Financial Provisions.

ACS submits that the limited information on financial provision does not allow the Agency to properly assess the quality of provision being made available. ACS notes that the financial sustainability appears predicted on continued acceptance of untreated sludges and increased C & D waste.

ACS states that Section 40(4)(e) and 53 of the Waste Management Acts, 1996 to 2003 clearly apply to Local Authorities and the Agency must consider whether or not the applicant has made adequate provision to secure the relevant financial liabilities and commitments. According to ACS the good word of an entity is never sufficient to satisfy the onerous aftercare and decommissioning obligations that arise with a landfill facility.

Comment: The application was acknowledged as valid in accordance with Article 12 of the Licensing Regulations, 2000.

Condition 12 of the RD ensures the costs in the setting up, operation of, provision of financial security and closure and after-care for a period of at least 30 years shall be covered by the price to be charged

for the disposal of waste at the facility in accordance with Section 53(a) of the Waste Management Acts, 1996 – 2005.

2.6.2 Leachate Management

ACS states that recent leachate levels appear reduced compared to levels measured in the past. ACS notes that the applicant has not offered any explanation for this. According to ACS if the leachate is being returned to the landfill cells, there is a considerable risk for evaporation and creation and dispersal of heavy metals in dusts.

Comment: The RD sets out conditions in relation to leachate management at the facility (Conditions 3 and 6). The applicant states in their submission detailed below that the reduction in leachate levels is due to commencement of pumping of leachate from the leachate abstraction wells.

2.6.3 Fitness of Applicant

ACS states that Shannon Vermicomposting Limited has requested information from the applicant on a number of occasions in relation to compliance with the existing licence, none of which have been replied to. ACS submits that the lack of transparency and the deficiencies acknowledged by the Agency does not reflect well on the fitness of the applicant.

ACS notes that the proposals regarding untreated sludges and C&D waste both conflict with the provisions of national law that implement the Landfill Directive and this does not reflect well on the fitness of the applicant.

ACS states that the series of non-compliances recorded by the Agency must also cast doubt over the competence of the management of the facility.

Comment: Compliance with the provisions of the existing licence is a matter for the Office of Environmental Enforcement of the Agency and that office will take whatever enforcement action is deemed necessary with regard to compliance with conditions of existing licence. It should be noted that Section 40(4)(d) of the Waste Management Acts, 1996 to 2005 requiring the Agency not to grant a waste licence unless it is satisfied that the applicant is a fit and proper person does not apply to local authorities.

3 Result of Chemical Analyses

Comment: The results of chemical analysis from the two laboratories CAL and Treatment Systems Limited have been submitted without any chain of custody forms. Furthermore there is no detail of where the samples have been collected besides describing the location as leachate collection & surface water run-off stream (CAL) and dump lagoon and dump periphery (Treatment Systems Ltd.). Due to the lack of detail and chain of custody forms the results of the chemical analyses cannot be considered.

4 Enclosed Photos

Comment: The enclosed photos do not show the date when the photos were taken and no chain of custody has been submitted with them. Therefore the photos have not been considered here.

8.3 Submission from RPS-MCOS Consulting Engineers, Lyrn Building, IDA Business & Technology Park, Mervue, Galway.

RPS-MCOS has submitted a letter on behalf of NTCC in response to the submission made by Shannon Vermicomposting Ltd.

Comment: The submission by the applicant reiterates the information detailed in the review waste licence application and further information submitted by the applicant on 7/6/05 and 1/7/05 respectively. Where relevant, information has been included as part of the consideration of the submission by Shannon Vermicomposting Ltd (see Section 8.2 above).

9. Charges

The charge set in the existing licence (WL 78-1 issued on 4 May 2001) is €23,062. The recommended decision requires that the applicant shall pay an annual contribution of €17,959.00 (Condition 12).

10. Recommendation

I recommend that a licence be granted subject to the conditions set out in the attached RD and for the reasons as drafted.

In making the recommendation for a waste licence I have taken into account all information submitted as part of the application including the submissions.

I am satisfied, on the basis of the information available, that the waste activity, or activities, licensed hereunder will comply with the requirements of Section 40(4) of the Waste Management Acts, 1996-2005.

Signed

Pernille Hermansen
Inspector
Office of Licensing and Guidance

Procedural Note

In the event that no objections are received to the Proposed Decision on the application, a licence will be granted in accordance with Section 43(1) of the Waste Management Acts 1996-2005.