

MEMO			
TO:	Board of Directors	FROM:	Brendan Foley
CC:		DATE:	16/09/03
SUBJECT:	Pollboy Landfill Facility (Reg. No. 27-2)		

Application details

Application Details	
Applicant:	Ballinasloe Town Council
Location of Activity:	Poolboy Landfill, Poolboy, Ballinasloe, Co Galway
Reg. No.:	27-2
Licensed Activities under Waste Management Act 1996:	Third Schedule: Classes 4,5,6,7,11,13 Fourth Schedule: Classes 2,3,4,9,10,11,12,13
Proposed Decision issued on:	13/05/03
Objections received:	09/06/03
Submissions on objections received:	8/07/2003,14/07/2003
Inspector that drafted PD:	Michael Henry

Objections and Submissions on Objections received

Objection by Applicant

*Larry O'Toole MC
O'Sullivan & Co. Ltd on
behalf of Ballinasloe Town
Council*

Objection by third party/parties

*Fionnuala Cawkhill &
Associates (Solicitors) on
behalf of Gabriel Rohan and
Others.*

***Two Submissions in relation to
Objection***

*Larry O'Toole, MC
O'Sullivan & Co. Ltd on
behalf of Ballinasloe Town
Council (included legal
advice from Ballinasloe
Town Council)*

A Technical Committee was established to consider the objection.

The Technical Committee included;

Mr. Brendan Foley (Chairperson)

Dr. Brian Donlon

Ms. Maeve McHugh

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

Objection 1: Objection from MCOS on behalf of Ballinasloe Town Council

Ground 1.1 (Condition 1.6 – Scope of the Licence (Hours of opening))

In order to provide for a degree of flexibility in situations such as emergencies and arrangements during Bank Holiday periods, it is requested that all acceptance hours of operation be qualified with “unless otherwise agreed with the Agency”.

It is also requested that hours of operation of the landfill as set down in Condition 1.6.1.2 are extended from 6.00pm Monday to Friday to 7.00pm Monday to Friday to allow more flexibility with respect to covering waste and general tidying of the site.

Technical Committee's Evaluation

The committee in its review of this objection determined that some flexibility in hours of operation is required for a facility of this nature. In general the hours of operation are greater than the hours of waste acceptance to allow staff to prepare for and clean up after waste is received. The TC do not agree however, that waste acceptance hours of operation for emergencies and arrangements during Bank Holiday periods be qualified with ‘*unless otherwise agreed with the Agency*’ and consider that there is sufficient flexibility in Condition 1.6.1 to cater for this. The TC are of the opinion that requests from the applicant to dispose of waste in an emergency situation can be dealt with on a case by case basis with the Inspector in charge of the licence.

Recommendation

Amend Condition 1.6.1.2 as follows: The landfill at the facility may only be operated during the hours of 8.00am and **7.00pm** Monday to Friday inclusive and 8.30am and 5.00pm on Saturdays.

No change to Condition 1.6.1.3

Ground 1.2 (Condition 2 - Management of the Facility)

The current facility manager and deputy have both successfully completed the FAS Waste Management Training Programme. However the training programme runs only once a year. It is therefore suggested that the time frame on this condition be amended to 18 months.

Technical Committee's Evaluation

The TC considers that the timeframe of twelve months for the completion of the FAS Waste Management Training Programme (or equivalent agreed with the Agency) proposed in Condition 2.1.3 is reasonable.

Recommendation

No Change

Ground 1.3 (Condition 3.4.1 – Facility Security)

The site is currently inaccessible along the remaining part of the northern boundary as it is separated from the adjoining private lands by a wooded/heavily vegetated zone and surface stream. It is proposed that the second sentence of this condition is revised to read “palisade fencing and gates shall be maintained along the eastern boundary of the facility and the northern boundary of the Civic Waste Facility”.

Technical Committee's Evaluation

The TC notes the comments made by the applicant that the site is currently inaccessible along the remaining part of the Northern Boundary, but consider that this access may change in the event of the land being cleared for use at some future point in time and may leave the facility in this area unsecured. The TC considers that palisade fencing and gates are essential pieces of infrastructure along the eastern and northern boundaries of the facility for security purposes and should be retained. The Landfill Directive also states that there should be no free access to landfill facilities.

Recommendation

No Change

Ground 1.4 (Condition 3.11.1- Landfill Lining)

The system as recommended by the EPA Landfill Manual “Landfill Site Design” and generally in other recent EPA Waste Licences (e.g. Balleally Landfill – Waste Licence 9-2) is to provide a 2mm HDPE membrane over a 1m thick layer of compacted soil with a hydraulic conductivity of less than or equal to 1×10^{-9} m/s (or equivalent to be agreed with the Agency). This is also the system installed and approved by the Agency for the recently constructed Phase 1 cells at Pollboy Landfill (Waste Register 27-1).

Bentomat is a trade name of a geosynthetic clay liner (GCL) product. Given the above it maybe that the reference in a) of Condition 3.11.1 to “overlain by an appropriate geocomposite lay such as bentomat” is a typographical error and regardless it is considered that this requirement is inappropriate, inconsistent with EPA recommended and approved lining systems and not required to ensure that he full requirements of the Landfill Directive are met.

Technical Committee's Evaluation

The TC note that the results of monitoring undertaken to date highlights the fact that the facility has impacted on groundwater and surface water at/in the vicinity of the facility. The TC also note that some landfills currently being developed in Cork and Kerry have themselves recommended that an additional geocomposite layer be incorporated into the composite liner to further reduce the risk to groundwater.

Therefore, in order to minimise the risk to groundwater and ensure adequate protection of groundwater resources beneath the facility, the TC considers that an additional geocomposite layer (e.g. bentomat) is placed between the compacted soil layer and the 2mm HDPE.

The TC considers that the words ‘*unless otherwise agreed with the Agency*’ allows some flexibility in this condition to allow for minor changes in the technical and engineering design of the lining system (at the specified engineering works stage, Schedule B of the PD) with the agreement of the Agency.

Recommendation

No change

Ground 1.5 (Condition 3.12.6 – Dissolved Methane Removal)

The leachate from the landfill is pumped to the Ballinasloe Wastewater Treatment Plant via a dedicated rising main.

It is considered that there will be no risk from dissolved methane in the leachate as long as:

- i) the methane level in the leachate being discharged is below the limit of 0.14mg/l set down in Schedule C*

OR

- ii) if the level of dissolved methane is higher than 0.14mg/l that measures are taken at the treatment plant to ensure that there is no danger to personnel or equipment at the plant.*

It is proposed therefore that this condition is reworded as follows:

“If the leachate monitoring set out in Schedule D: Table D7.1 indicates that methane levels are exceeding the emission limit value of 0.14mg/l the licensee shall, within twelve months of the date of grant of this licence, submit proposals to the Agency for the safe management of the leachate specifically taking account of the elevated levels of methane either at the facility or at Ballinasloe Wastewater Treatment Plant.”

Technical Committee’s Evaluation

The TC considers that it is critical that a system for the removal of dissolved methane from the leachate prior to its discharge to Ballinasloe Wastewater Treatment Plant should be installed at the facility. Many licensed landfills (e.g. Kilbarry, Kinsale Rd.) discharging leachate to a wastewater treatment plant via sewer line would have a system for the removal of dissolved methane in order to maintain the integrity of the the sewer line and associated infrastructure via fire/explosion and also for health and safety reasons for personnel who would work at the facility.

Recommendation

No Change

Ground 1.6 (Condition 3.18-Telemetry System)

An automated control system has been installed as part of the Phase 1 development works for the control and management of leachate and groundwater. The system does not operate by telemetry as the scale of the site enabled a hard-wired system to be

installed in lieu. It is required therefore that the word “telemetry” in Condition 3.18 is replaced with the words “automated control”.

A separate dedicated gas monitoring system will be installed in the site office and will operate independently to the leachate/groundwater management system.

It is therefore requested that part c) of Condition 3.18.1 is deleted (given that the requirement for the monitoring system is set out in Condition 3.19 (see below).

Technical Committee’s Evaluation

The TC considers that the requirements of the condition have been addressed in so far as an automated control system has been installed. The TC agrees to amend the condition as suggested by the applicant. The TC also agree that part c) of Condition 3.18.1 be deleted as the requirement to install a gas monitor is already required in Condition 3.19.1(iii).

Recommendation

Amend Condition 3.18.1 as follows: An *automated control* system shall be provided and maintained at the facility.

Delete Condition 3.18.1 c)

Ground 1.7 (Condition 3.19.1- Monitoring Infrastructure)

The words “enclosed structures” given in part iii) of Condition 3.19.1 could also be interpreted as meaning manholes or buried chambers/tanks and it would not be normal practice or a requirement generally to install permanent gas monitoring systems in such structures. It is therefore requested that part iii) of Condition 3.19.1 be reworded as follows:

“an effective permanent gas monitoring system in the site office and any other buildings which will be occupied”.

Technical Committee’s Evaluation

The TC agrees that the term ‘enclosed structures’ caters for a wide variety of structures that are not required to be monitored for landfill gas.

Recommendation

Amend Condition part iii) of Condition 3.19.1 to read an effective permanent gas monitoring system in the site office **and any other on-site buildings.**

Ground 1.8 (Condition 4.2 - Restoration and Aftercare)

The Restoration and Aftercare Plan received by the Agency on 7 February 2003 showed a maximum post-capping post-settlement contour of 58mOD rather than a maximum pre-settlement contour of 58mOD as indicated in Condition 4.2. However, in order to fully restore the landfill to the appropriate profiles and shape and to provide appropriate surface water run-off some flexibility may be required with respect to the depths of subsoil placed over the capping. It is requested therefore that Condition 4.2 be reworded as follows:

“The maximum post-capping post-settlement height of the facility shall not exceed 58mOD. Notwithstanding this the maximum post-capping post-settlement heights of Phases 1, 2 and 3 shall be”

It is again advised however that it is likely (but not definite) that the final levels will be lower than this.

Technical Committee’s Evaluation

The TC considers that the maximum pre-settlement height should remain at 58mOD. As much of the surrounding area consists of low-lying peatland, any increase in the height of the landfill above this level, would result in a significant increase in the natural contours of the surrounding area.

Recommendation

No Change

Ground 1.9 (Condition 4.6.1- Final Cap)

The existing landfill at Pollboy is over 6 hectares in size and the planning restoration of the site includes 5 phases as shown in Figure 3.02 of the Restoration & Aftercare Plan submitted to the Agency on 7 February 2003. It will be impossible to cap and restore the entire existing site within 6 months, given that this would require capping through the winter months. We would therefore request that the wording of Condition 4.6.1 be amended as follows:

“Existing cells which have already been filled shall be finally capped within 15 months of the date of grant of this licence.”

Technical Committee’s Evaluation

The TC considers that the six-month timeframe to allow existing cells, which have been already filled to the required level, to be finally capped, is adequate for the completion of this work. *The five existing cells have intermediate capping and filling in the last of these cells ceased in March/April 2003.* This work is critical in order to reduce the impact on groundwater/surface water in existing unlined cells, promote surface water drainage and surface water run off, control gas migration and provide a physical separation between waste and plant/animal life. Under Condition 4.6 of the licence, the licensee has a time period of twenty-four months from the date of cessation of waste deposition for landfill restoration to be completed.

Recommendation

No Change

Ground 1.10 (Condition 5.8.1.1 - Facility Operation and Waste Management)

Ballinasloe Wastewater Treatment Plant, which currently disposes of their sludge at the landfill, is unable to meet this solids requirement. Proposals for the treatment and disposal of sludge have been set out in the Galway County and City Sludge Management Plan. However, until these proposals have been implemented there remains no alternative but to continue disposal at Pollboy Landfill.

It is therefore recommended that this existing sludge from the Ballinasloe Wastewater Treatment Plant may continue to be accepted at the landfill until alternatives are put

in place in line with the recommendations of the Sludge Management Plan for the Galway County & City as it is requested that this condition is reworded as follows:

“Only treated sewage sludge with greater than 15% solids content shall be disposed of at the facility”.

On this basis, it is also recommended that the reference to 25% solids in Note 2 of Schedule A: Table A1 is replaced with 15% solids.

Technical Committee’s Evaluation

The TC notes the applicants concerns but feels it is also important that the council examines the feasibility of composting this material by submitting a report within six months to the Agency for agreement.

Recommendation

Amend Condition 5.8.1.1 to read: Only treated sewage sludge with greater than **15% solids** content shall be disposed of at the facility.

Amend Condition 11.3(g) to include the following words: Composting of biodegradable or green waste and **treated sewage sludge** at the facility having regard to good practice and sustainability;

Amend Note 2, Schedule A TableA1 Waste Categories and Quantities to be accepted for disposal to: Only treated sewage sludge with greater than **15% solids** may be disposed of at the facility.

Ground 1.11 (Condition 5.13.2 –Certification of lagoon structures)

The only current lagoon on site is the leachate storage lagoon, which is, constructed of HDPE geomembrane over 1m thick-compacted clay. Any future lagoons constructed at the facility are also likely to be lined with a geomembrane rather than constructed of reinforced concrete. On this basis certification is likely to be based on the results of a leak detection survey, which is not generally carried out by the engineer. It is recommended therefore that this condition be reworded as follows:

“All lagoon structures on the facility shall be certified fit for purpose every three years by an independently and appropriately qualified body as approved by the Agency”.

Technical Committee’s Evaluation

The TC considers that it is preferable for a chartered engineer to carry out any lagoon certification at the facility, however it is recognised that there may be some personnel/bodies capable of doing the task whom may not necessarily be chartered engineers.

Recommendation

Amend Condition 5.13.2 to:” *All lagoon structures on the facility shall be certified fit for purpose every three years by an independently and appropriately qualified **person or body** as approved by the Agency”.*

Ground 1.12 (Condition 9.4.4 – Contingency Arrangements)

It is assumed that the term “slide slopes” is a typographical error and should read “side slopes”.

Technical Committee’s Evaluation

The comment is noted.

Recommendation

Amend Condition 9.4.4 to: In the event that monitoring of <i>side</i> slopes of the facility indicate
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Ground 1.14 (Section A1 – Waste Acceptance)

Table A.2 Waste Categories and Quantities to be accepted for Recovery

*Note 2 of this table include a number of wastes, which may be accepted at the facility. In order to allow the continued acceptance of other recyclable waste and to assist Ballinasloe Town Council in fulfilling the requirements of EU Directives it is proposed that the following wastes are added to the end of Note 2:
“Magazines, aerosols, white goods, waste electrical & electronic equipment (WEEE)”*

Technical Committee’s Evaluation

The TC consider that the words in Note 1 (Table A.2) ‘unless otherwise agreed with the Agency’ allows the applicant to make a case for broadening the list of materials that they are currently allowed to accept for recovery under the PD.

Recommendation

No change

Ground 1.14 (Schedule C– Emission Limit Values for Landfill Gas Plant)

The gas flare recently purchased has a discharge height of 7.5m. Envirocon Ltd carried out an air quality dispersion modelling study. This demonstrated that the predicted concentrations beyond the site boundary for the various emission scenarios are well below the relevant air quality limit values.

It is recommended therefore that the Minimum Discharge Height is revised to read “5m”.

Technical Committee’s Evaluation

The TC notes that the gas flare purchased by the applicant has a discharge height of 7.5m and don’t understand why the applicant would want to reduce it to 5m. The TC does not agree with the applicant to reduce the discharge height to 5m but does allow a decrease to 7.5m.

Recommendation

Amend Schedule C. table C.4. to delete 8m and replace with 7.5m

Ground 1.15 (Schedule D - Table D.1.1 Monitoring Locations)

Table D.1.1 references a number of monitoring locations for groundwater. Of these boreholes B2AP, MW6, RC2 and RC3 are located on private land and as such future access cannot be guaranteed. In addition borehole B8AP may have to be redrilled as it is within the entrance area recently constructed and it may not be practical to continue to monitor this borehole in the long term. It is therefore requested that the first sentence above Table D.1.1 is reworded as follows:

“Monitoring locations shall be those as set out in Table D.1.1 unless otherwise agreed with the Agency”.

Technical Committee’s Evaluation

Note 9 of Table D.1.1 allow groundwater-monitoring locations to be amended within six months of date of grant of the licence following agreement with the Agency.

Recommendation

No change

Objection 2 Fionnuala Cawhill & Associates Solicitors acting on behalf of Gabriel Rohan & Others

General Comment by Fionnuala Cawhill & Associates

They confirm that they act for the applicants (Gabriel Rohan & Associates) in relation to related High Court proceedings. The matter is subject of an Order of the High Court made on 14 December 1999, by Mr Justice Kearns. They enclose herewith a further copy of that Order for your attention and confirm that they will be seeking to enforce the within order.

The proposal is in contravention of the Order of the High Court, which was based on an agreement between the parties to be bound by the licence, as granted, and in those circumstances it would be inappropriate to make submissions in conflict with what has been expressly agreed.

Without prejudice to the foregoing they set out below out their clients ground of objection to Proposed Determination.

Submission on Objection by Ballinasloe Town Council:

The council states that they have received legal advice in relation to the reference to the High Court Order. They state that there is no reference in the High Court order that implies that the licence cannot be reviewed or that a new licence cannot be applied for. The proper and legal management of the landfill requires and is conditional upon the licence and consent of the EPA.

Technical Committee’s Evaluation

Legal advice was obtained by the Agency in the past in relation to the above and it stated that the agreement between the parties does not appear to have involved the Agency. While the objection states that they will be seeking to enforce the High Court Order, the Order could only be enforced against the Council. The Agency will continue to enforce the conditions of the waste licence for the facility and in the event

of non-compliance; the Agency will take appropriate enforcement action. The advice noted the contents of Section 40(11) of the WMA, 1996 which provides that the grant of a licence or revised licence does not itself authorise the licensee to operate a facility and it concluded that the Order does not constrain the Agency from determining the review application or from taking the letter and Order into account as a submission.

Recommendation

No change

Ground 2.1 – Proposed Extension

The proposed extension of the landfill under the control of Ballinsloe Town Council is in conflict with the provisions of Section 38 of the Waste Management Act 1996. Section 38(5) applies to “the continued operation of waste disposal facilities”. The application, according to Dr Henry’s Inspectors Report is for a “proposed extension in the region of 6.8 hectares”.

This application is not for the continued operation of waste disposal facilities but for the extension of a facility onto new ground not currently used for disposal, and the EPA’s Proposed Decision is based on that application. As such Section 38(5) does not cover it.

Submission on Objection by Ballinasloe Town Council:

The submission refers to the amendment of Section 38 of the Waste Management Act 1996 by Section 7 of the Waste Management (Amendment Act) 2001.

Technical Committee’s Evaluation

Section 7 of the Waste Management (Amendment) Act 2001 has amended Section 38 (5) of the Waste Management Act, 1996 to allow for the continued use of facilities by a corporation or council at a more intensive level than the level of the use that was being made of them on the commencement of this section.

Recommendation

No change

Ground 2.2 - Odours

The Inspectors Report states that “significant odours were coming from the facility” and “the phased capping and restoration of the existing unlined areas of the facility should significantly improve the odour situation”.

Serious odour nuisance is caused in the local area during calm and particularly foggy weather, most recently Tuesday 3 June 2003.

Section 40(4) of the Waste Management Act 1996 states that “The Agency shall not grant a waste licence unless it is satisfied that the activity and the applicant will meet various conditions, in particular that the activity “will not cause environmental pollution”.

It is clear from his Report that Dr Henry is not satisfied that the activity will not cause odour nuisance to the public. He says the changes “should significantly improve the odour situation” (our emphasis).

No licence for an extension can legally be granted while odour nuisance continues to be caused to local residents.

In addition, we are surprised that there is no odour-monitoring requirement in the licence given that this is known to be a problem. This omission is in breach of Section 41 of the Waste Management Act 1996.

Submission on Objection:

An active gas collection system is already in place at the site, which includes a network of extraction wells connected to a gas flare. This flare was being procured during December 2002 and since then the situation with regard to odour has significantly improved. The gas collection system will however only become fully effective when the existing (old) landfill has been fully capped which has not been possible to date given that the transition from the old unlined site to the new lined cells has only recently taken place.

In relation to odour monitoring they reaffirm the commitment of Ballinasloe Town Council to comply with any monitoring requirement set out in the final Waste Licence and to fully implement all nuisance control measure together with capping and restoration of the existing landfill and active gas control and collection and flaring which will minimize potential for odour.

Technical Committee Evaluation

It is noted that the Inspectors Report states that odour complaints (six telephone complaints and three written complaints) have been received in relation to this facility between the period 2002-2003. Site inspections undertaken by the Agency have confirmed that significant odours were coming from the facility and the licensee was subsequently notified of this. The PD contains a number of conditions in relation to odour control and these include Conditions 3, 4, 5, 7 and 8. The TC notes that landfill gas extraction wells (14 in total in six cells) and an enclosed flare, which appears to be working satisfactorily, have been installed at the facility since autumn last year. It is considered that this, together with the phased capping and restoration of the existing unlined areas of the facility should significantly improve the odour situation.

However, in view of the previous problems at this facility the TC considers that the licensee should put an odour monitoring programme in place. Similar programmes are in place at other licensed landfill facilities, which have experienced odour issues (e.g. Gortadroma 17-2). The TC also considers that a windsock should be installed to aid in these inspections.

Recommendation

Insert a new condition (Condition 8.13) as follows:

8:13 Odour Monitoring

8.13.1 The licensee shall implement an odour control programme at the facility. As part of this programme, the licensee shall carry out a monthly review of odour control measures in place at the facility.

This shall include;

- (i) consideration of odour complaints received (including details and nature of the complaints, times and weather conditions);**
- (ii) details of any monitoring carried out (including to validate complaints and identify the source of the complaint and actions taken, where relevant);and**
- (iii) recommendations to deal with odour problems and implementation of these recommendations.**

The licensee shall maintain these reports on site and forward them to the Agency on request.

8.13.2 A windsock shall be installed at the facility and wind direction and strength shall be recorded during all nuisance inspections.

Amend Schedule E: Recording and Reporting to the Agency to include odour monitoring:

Report	Reporting Frequency	Report Submission Date
Odour Monitoring	Quarterly	Ten days after the end of the quarter is reported on.

Ground 2.3 Pollution of surface water and groundwater by leachate

Leachate from the landfill continues to pollute groundwater and surface water. The Inspectors Report acknowledges, “the facility has impacted on groundwater”. And “the disposal of waste into lined cells together with the implementation of leachate and surface water management should significantly reduce the impact which the facility is having on the environment” (our emphasis).

Implicitly, therefore the Inspector is stating that the contamination of groundwater and surface water by leachate from the site will continue.

Here also, the proposed licence would be in breach of Section 40(4) of the Waste Management Act 1996. It would also be in breach of the Landfill Directive in failing to require the decontamination of the existing pollution source and polluted groundwater.

Without prejudice to our submission in this regard, we would point out that should the Agency or the applicant claim that the leachate emissions are not covered by the licence because they are not from the licensed activity, but rather from the old cells, this would place them in agreement with our ground of objection 1 above.

Submission on Objection:

It was recognized in the Waste Licence Application and supporting EIS submitted to the Agency in November 2001 that the existing unlined (old) landfill has impacted on the groundwater within the site. Measures were proposed in the Waste Application and EIS in line with the conditions set out in Waste Licence 27-1 to address this issue

and implementation of these measures has been ongoing over the past number of years.

Capping of the existing unlined landfill with a low permeability layer will have the most dramatic impact on leachate generation at the site and will be the factor which, combined with the other elements noted above, will lead to the biggest reduction in leachate being generated at the site and a consequent improvement on groundwater quality.

As noted in the response to Item 2 above the transition from the old unlined site to the new lined cells has only recently taken place and the capping programme is now being implemented.

Technical Committee's Evaluation

It is considered that the leachate management/control measures recently put in place together with the future restoration and aftercare of the existing unlined areas should reduce the impact on groundwater/surface water. Under the current licence (27-1) and the proposed decision (27-2) the licensee was and is required to construct lined cells, install leachate interceptor drains, leachate and surface water storage lagoons, a low permeability barrier alongside the existing landfill, leachate extraction wells within the existing landfills, etc. A number of infrastructural works have recently been completed at the facility including the provision of leachate extraction boreholes and a leachate interceptor drain around the existing unlined area. Leachate is currently being extracted and sent for treatment via a sewer line to a waste water treatment plant.

Recommendation

No change

Ground 2.4- Powers of the Agency

Important matters in the licence are left for further determination.

The Agency has no power to leave matters for agreement subsequent to the determination of the licence and the appropriate response in the event of a matter not being adequately dealt with in the application is to refuse the licence or if the licence has been determined to review the licence.

Our clients would be severely prejudiced by any such approach in circumstances where they would have no opportunity to participate in the determination of these matters and indeed the flexibility built into these conditions allows the proposal to be modified in a way, which could be adverse to their interests.

It is impossible to carry out an assessment, as the Agency is required to do under statute and under the regulations with the information that they have been provided with. The proposed licence fails to meet the obligations imposed under Irish and EU Law in this regard.

The Agency has no power to impose such conditions in the statutory scheme under the Waste Management Act.

Submission on Objection.

Ballinasloe Town Council recognize the authority of the Agency to decide what matters are left for further determination and this is consistent with the regulation of the current Waste Licence 27-1 in accordance with which Ballinasloe Town Council have been operating the facility.

Technical Committee Evaluation

Under the Waste Management Act 1996 Section's 40 and 41, the Agency is statutorily required to satisfy itself with regard to a number of matters before it can grant a licence. The Agency considered the application and report of its inspector together with all submissions received and was satisfied that there was sufficient information before upon which to make a decision. Section 41 of the Act sets out in detail the conditions that must be included in the licence and those that can be inserted where appropriate. The very nature of the activity i.e. landfill requirements for ongoing works at various locations throughout the site and some of which can only be finalised once the activity has commenced. It is a matter for the Agency to determine an application and in so doing *may grant a licence subject to, or without conditions or refuse to grant to the applicant such a licence.* The general public by way of submission at the assessment stage and by objection when a PD is issued can object to any condition they do not agree with it. All key infrastructural requirements are specified in the licence and although variations are allowed to certain works e.g. capping, any variations to these works must provide equivalent protection. All proposals/reports etc required by the licence will be available on public file and open to comment on by the public.

Recommendation

No Change

Ground 2.5 - Non-compliance with Landfill Directive.

The proposed licence is in breach of the Landfill Directive in a number of significant respects. In particular, the licence contains no proposals as to how waste is to be treated before arriving on site. There are no adequate proposals in relation to waste minimisation and reduction. This is particularly problematic given that the applicant is not the appropriate authority for the purposes of the Waste Management Act, 1996.

Submission on Objection:

The requirements of the of the Landfill Directive in relation to treatment of waste prior to landfill and more specifically diversion of biodegradable waste from landfill form an integral part of the Connaught Waste Management Plan and were part of the basis on which the policy for waste management in the plan was developed.

Technical Committee Evaluation

Condition 1.5 of the PD relating to waste acceptance stipulates some of the requirements of the Landfill Directive. It sets limitations on waste acceptance of tyres, prohibits the acceptance of hazardous waste, liquids and sludge wastes and requires treatment of wastes as detailed in Condition 1.5.1 and 1.5.2 Condition 1.5.3 of the PD will ensure that all waste accepted at the facility is subject to treatment by 16th July 2009 or earlier if otherwise instructed by the Agency.

The treatment of waste applies to new facilities from the start of operation under the Landfill Directive.

Recommendation

No change

Ground 2.6- Legislative Compliance

Lack of appropriate assessment for compliance with Landfill Directive, Environmental Impact Assessment Directive and Waste Management Act 1996.

There has been no appropriate assessment for the purposes of either Irish or European Law, including a failure to consider alternatives, and the fact that the suitability of the site for the proposed use has not been considered properly or has not been considered at all.

Submission on objection:

The Waste Licence Application and EIS submitted to the Agency in November 1998 on which Waste Licence 27-1 was based, set out the basis on which Pollboy Landfill was selected as the short to medium term site for the disposal of waste from the Galway region (See Section 2 of EIS 1998 copy attached). This EIS was prepared having regard to all relevant legislation and EU Directives including the 1999 EIA Regulations.

Technical Committee Evaluation

The waste licence application and E.I.S. were deemed to be in compliance with the relevant regulations. An assessment of alternative landfills was outlined in Section 2.14 of the EIS. In reaching a decision on the application for this facility the Agency were satisfied that Section 40(4) of the Waste Management Act 1996 would be complied with.

Recommendation

No change

Ground 2.7-Unsuitable Site.

The site is inherently unsuitable for use as a landfill due to geological, hydrogeological, and hydrological factors, impact on nature conservation objectives, ground and surface water and proximity to and nuisance caused to housing and agricultural/horticultural land uses.

Submission on Objection:

The EIS (2001) submitted to the Agency in support of the Review Application in 2001 concluded that “Having regard to the Galway Waste Management Strategy and the details outlined within this EIS, it can be concluded that the proposed to extend Pollboy Landfill to take 120,000 tonnes/annum of Co Galway’s waste up to December 2005 will not have an adverse environmental impact on the environment”.

The conclusions were based on a full assessment of all factors required to be considered in the 1999 EIA Regulations (SI No. 93 of 1999) including but limited to geology, hydrogeology, ecology, water quality, agriculture, landuse and community effects.

Technical Committee Evaluation

This issue is dealt with under Ground 2.6 above.

Recommendation

No change

Signed: _____

Brendan Foley,
Technical Committee Chairperson

Dated: _____

17 September 2003