

 <p><b>epa</b> Environmental Protection Agency An Ghníomhaireacht um Chaomhnú Comhshaoil</p>	<p><b>OFFICE OF LICENSING &amp; GUIDANCE</b></p>
<p><b>REPORT OF THE TECHNICAL COMMITTEE ON OBJECTIONS TO LICENCE CONDITIONS</b></p>	
<b>TO:</b>	Directors
<b>FROM:</b>	Technical Committee - LICENSING UNIT
<b>DATE:</b>	31/8/2006
<b>RE:</b>	Objection to Proposed Decision for Brownfield Restoration Ireland Ltd, Licence Register W0204-01

Application Details	
Class(s) of activity:	<b>3rd Schedule: 4, 5, 7(P), 11, and 13 4th Schedule: 2, 3, 4, 11, and 13</b>
Location of activity:	<b>Whitestown Lower, Stratford-on-Slaney</b>
Licence application received:	<b>18/03/2004</b>
PD issued:	<b>06/04/06</b>
First party objection received:	<b>03/05/06</b>
Third Party Objection received:	<b>27/04/06, 02/05/06, 03/05/06</b>
Submissions on Objections received:	<b>03/05/06, 30/05/06, 01/06/06, 06/06/06</b>
35 [Waste] extension of time	<b>Issued 29/08/06, extended to 29/09/06</b>
Class(s) of activity:	<b>3rd Schedule: 4, 5, 7(P), 11, and 13 4th Schedule: 2, 3, 4, 11, and 13</b>

## Company

The application relates to a proposal for cleanup and remediation of an existing unauthorised landfill site and the establishment of associated infrastructure including an engineered landfill and a composting facility. As well as the remediation of the existing site the applicant proposes to use the facility for further commercial waste disposal and treatment.

Proposed remediation and site development measures include the installation of a bentonite barrier/wall to hydraulically separate the existing landfill area from its surrounds; the construction within the area isolated by the bentonite barrier of a lined, engineered landfill; construction of a waste treatment building and composting facility.

The site of the proposed landfill is a partially worked-out sand and gravel pit, which has been used as an unlicensed landfill from the late 1970's until 2001. It is estimated that 240,00 tonnes of waste have been deposited on-site with 194,000 tonnes of this being estimated as being inert waste. The applicant proposes to continue quarrying operations at the site while the landfill is in operation and the surrounding lands are also thought to have significant sand and gravel deposits. The site is located immediately adjacent to the Carrigower River, which has been designated as an SAC and a Site of Community Importance (SCI) (salmonids).

Further details of the proposal may be found in the two Inspectors' reports dated 10/08/05 and 02/03/06.

The Board of the Agency in their consideration of the application and all other documentation associated with the application deemed that the Proposed Decision should restrict activities at the facility to those associated with remediation and restoration of the site, to the exclusion of those associated with additional commercial waste disposal and or treatment.

### **Consideration of the Objection**

The technical committee, comprising of Kevin Motherway (Chair) and Maeve McHugh, 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, Johnathan Derham, who also provided comments on the points raised: The technical committee consulted Agency Inspector Breege Rooney (OEE inspector for Roadstone W0213-01), in relation to issues associated with that site referred to in a number of the objections.

This report considers the six valid third party objections and the first party objection. One objection was deemed inadmissible, as it did not comply with legal requirements. This report also considers six submissions on objections.

In some cases the objections and submissions do not specify which specific condition number of the Proposed Decision they are objecting to and in these cases the technical committee have interpreted the specific condition(s) to which their objection refers.

In cases where an objection is deemed to have been dealt with in a previous section of this report, the reader is referred to that section of the report, with the recommendation of the technical committee being repeated for each objection.

Having reviewed the available documentation the technical committee have formed opinions and in considering the Objections the technical committee has borne the following in mind:

- 1 The technical committee believes that the site in its current condition is not suitable for a non-hazardous landfill. The technical committee also believe that given the characteristics of site and proximity of the site to housing and a designated water body that had the site been a greenfield site, it would

- have been rejected during the early stages of a site selection exercise for a non-hazardous landfill.
- 2 The void space generated at the site and the consequent visual impact is a result of the operation of the sand and gravel quarry. The restoration of the quarry and any visual impact is a matter for the closure plan of the quarry, as specified in the planning conditions for the operation of the quarry. The enforcement of this planning condition is solely a matter for the planning authority. Any subsequent designations of land use issues are matters for the planning authority.
  - 3 The Board of the Agency has identified the need for the urgent remediation of the illegal waste deposited at the site and the amelioration of the risks it poses, as a separate matter from the restoration of the site due to quarrying activities.
  - 4 The restriction of the waste licence to the processing of the historic waste on-site and the removal of any non-inert material from the site, allows the applicant to remediate the illegal landfill and make the landform of this area of the site safe.
  - 5 The landowner is free to apply to the relevant authority for any activity necessary to allow them to restore the quarry site to the condition required by the planning conditions for the operation of the quarry, while also complying with any long-term conditions of the waste licence. The proposed decision does not give rise to any impediment to the complete future restoration of the site, in full compliance with the planning conditions for the quarrying operations.

## First Party Objection

### A.1. Condition 1.3 and 1.4

*The Applicant lodged an objection to the fundamental conditions of the licence which would restrict their activities to the restoration of the site, with the deposition of waste restricted to inert waste and the condition that all other waste be removed from the site. The applicant sets forward eight reasons for their objection which are dealt with below.*

#### Reason A

*The applicant wished to amend their original proposal. They outline that they now propose not to develop a facility to deal with wastes arising, but rather a facility which will concentrate on facilitating the remediation of existing unauthorised waste facilities in County Wicklow and the surrounding areas. This new proposal has been formulated as a result of concerns expressed by local residents and local representatives, i.e. as a response to these requests. The applicant then goes on to state that this plan was the original purpose for which their company was established. The applicant outlines the current need for such a facility in the*

*County Wicklow area and how the Whitestown site, if it were permitted to do so could aid in the remediation of other sites in the County.*

#### Reason B

*The applicant outlines that there is no suitable facility available in County Wicklow, or in the adjoining areas with the capacity or capability to process waste from unauthorised waste sites in the area. The applicant notes that no provision for the processing of such illegal wastes have been made in the national or county waste management plan. The applicant points out that the disposal of such wastes without any efforts to effect recovery would be counter to EU policy.*

#### Reason C

*The applicant includes in Appendix 2 of their objection a copy of a Wicklow County Council document outlining their position in the Whitestown site and their discussions with Brownfield Remediation Ireland. The applicant states that the document confirms the acceptability to Wicklow County Council of the use of an engineered landfill as a non-hazardous residual landfill. The applicant further states that this approach is in accordance with the expressed wishes of the council. The applicant then refers to meetings with the Wicklow county manager, where the applicant claims the county manager "requested that Brownfield Restoration Ireland Ltd. also purchase the site at Stevenson's Quarry and remediate those wastes at the Whitestown site".*

#### Reason D

*The applicant refers the Agency to a Section 60 Ministerial directive dated 3rd of May 2005, with a copy of same being included in the appendix to the objection. The applicant outlines how they believe their proposed facility will comply with this condition. The applicant states that due to the proximity of housing to the site that the remediation of the site is imperative, but that no other grounds for the clean-up of the site, such as proximity to wetlands, natural heritage areas, candidate special areas of conservation, special protection areas or places of special interest exist. The applicant says they recognise the importance of remediating the site as it is adjacent to a Site of Community Importance (SCI) (salmonids).*

#### Reason E

*The applicant states that the Agency has been promoting the use of risk assessment based approaches to the location of facilities for several years and that a risk based approach is being adopted to the enforcement of licences. The applicant outlines the findings of the risk-based approach Landsim model that they submitted as part of their waste licence (with the model also included in the appendix to the objection). The applicant points out that the engineering measures proposed for the site in their*

*application are above and beyond those suggested by the model. Again the applicant refers to the Section 60 ministerial directive stating that the "Agency's code should be the making safe of the site".*

#### Reason F

*The applicant states that the Agency must be aware that the criteria for assessing a waste licence application are defined in the Waste Management Acts and that these criteria do not include such issues as "good governance", as referred to in the inspectors report to the board.*

#### Reason G

*The applicant claims that a senior planner from Wicklow County Council accepted that remediation of an unauthorised waste site does not fall within the norms of site selection. The applicant also outlines claims that Wicklow County Council used the site in the past. Documentary evidence that Wicklow County Council were corresponding with the landowner, dating from 1999, regarding the use of the site by the council is also presented.*

#### Reason H

*The applicant outlines the shortfall that will occur to allow the void space of the quarry to be restored if the Agency does not grant a licence to allow waste to be imported onto the site. The applicant also indicates that this void represents an environmental liability and also points out that there is a problem of fly-tipping in Ireland. The applicant also points out that the planning permission for the quarry requires that the void space be filled.*

#### Additional Comments by Applicant

*The applicant expresses concern and seeks an explanation regarding the release of documents relating to the application and how these may have affected attitudes to the facility.*

#### Submission(s) on Objection:

*Objector C disputes the applicant's assertion that apart from the proximity of dwellings that the site does not fall under Section 60 Ministerial guidance as it "does not fall within the other categories such as compromising wetlands". The objector*

references a report by Mr. David Ball to an Bord Pleanála. The objector also expresses great concern regarding the applicant's request for an explanation regarding documents, which the objector believes the public may not have had access to.

Objector E believes the applicant's claim to exist for the sole purpose of remediating illegal landfill sites is disingenuous. The objector points out that it is the role of regulators and not the applicant to deal with illegal landfill sites. The objector outlines that it is their understanding that there are facilities with sufficient capacity to deal with the illegal waste problem in Co. Wicklow and that nobody was suggesting that waste from such illegal sites would be simply dumped without attempts at recovery and waste reduction. The objector also outlines that the opinions of the county manager are not relevant to this application. The objector also seeks an explanation as to what the applicant's request for an explanation regarding the release of documents relates to.

Objector B believe the applicant's objection amounts to a new licence application and that the previous application is invalidated by this new application. The objector also disagrees with the applicant's interpretation of the Section 60 directive. The objector also states the applicant is incorrect in stating the site is not a Special Area of Conservation.

Objector D believe the applicant's objection amounts to a substantial and material change and that the previous application and supporting documents are no longer valid. The objector request the Agency reject the application and instruct the applicant to re-submit. The objector also disagrees with the applicant's interpretation of the Section 60 directive. The objector rejects the finding of the applicant's risk assessment model and believes the input information to be outdated. The objector also points out that the characteristics of the waste used in the model are not appropriate.

Objector F submits that the new proposal submitted by the applicant in their objection are not appropriate to the site and that the applicant cannot be certain of the volumes of non-hazardous waste on-site or of the demand from other such sites in the area. The objector also notes the applicant lists Roadstone Blessington as an illegal landfill even though it is a fully licensed facility. The objector believes that Condition 1.3 and Condition 1.4 of the Proposed Decision are correct and should stand. The objector points out that the restoration of the site need not include the re-instatement of original mineral resource and the that the deposition of such a large volume of waste as the applicant proposes could sterilise surrounding sand and gravel resources. The objector believes that the reinstatement of the pit should be the subject of a completely separate waste licence application for the importation of inert soil and that no material should be imported to the site until the remediation of the site is complete.

#### Technical Committee's Evaluation:

*Reason A*

The apparent changes in company ethos or the source of the waste they propose to import onto the site are not relevant to the application for the waste licence. The regional demand for a waste facility to aid in the clean up of illegal waste sites in County Wicklow is a strategic and regional planning matter for the local authority. The role of the Agency is to assess the impact a proposed facility will have on the environment and to refuse or grant an appropriate licence for the facility to operate.

*Reason B*

The Agency considers all environmental and waste related national and EU legislation and policy when considering any waste licence, however with the overriding caveat of the environmental suitability of a site for the proposed activity.

*Reason C*

The Agency are the independent statutory body for the determination of waste licence applications, regardless of the policy of any local authority regarding either regional matters or an individual site. In the Wicklow County Council document submitted it is noted that at several points Wicklow County Council point out that the BRI proposals for activities and infrastructure at the Whitestown site are well in excess of what is needed to remediate the waste on-site. The council also express concern at "the size of the proposed operation, the timetable for the operation and the increased risks to the environment from the size of the proposed development". The council document states, with regard to proposals submitted for the site and their views :

*" The two point of serious incompatibility are:*

- *The proposal to import wastes.*
- *The proposal to infill the site to original contours with the residual processing of 1,400,000 tonnes of on site and imported waste at a rate of 180,000 per annum for 8 years"*

The Wicklow County Council Document goes on to state:

*"WCC cannot support those elements of the proposal which go beyond simply remediating the illegally imported wastes and urges the EPA to refuse the application."*

The attempt by the applicant in Reason C of their objection to characterise Wicklow County Council's position as being broadly supportive of their proposal is not supported by the documentation before the technical committee.

*Reason D*

The technical committee can see no argument in this reason given in the objection as the proposed decision facilitates the clean up of the illegal waste on-site.

*Reason E*

While the Agency, along with international best practice encourages the use of risk based approaches, they do not have a position on the use of any particular computer packages or models such as *Landsim*. While recognising the value of such models as a tool in identifying and quantifying risks, real word experience and data must also form the backbone of decision-making process in the assessment of any application or report submitted to the Agency.

The proposed decision will allow for the remediation of the site, with the Agency satisfying its role in accordance with its governing legislation and the Section 60 Ministerial directive of 3rd of May 2005.

*Reason F*

The Agency's powers and responsibilities as a competent authority stem not only from the Waste Management Acts 1996-2005, but also from the Environmental Protection Agency Act 1996, the Protection of the Environment Act 2003 and EU Directives.

Stemming from these pieces of legislation, the stated mission of the Agency is:

*"To protect and improve the natural environment for present and future generations, taking into account the environmental, social and economic principles of sustainable development."*

Some of the principles of sustainable development are specifically mentioned in Section 52 (2) (b) and (e) of the Environmental Protection Act 1992

*Section 52*

*(2) In carrying out its functions, the Agency shall-*

.....

*(b) have regard to the need for a high standard of environmental protection and the need to promote sustainable and environmentally sound development, processes or operations.*

.....



*(e) ensure, in so far as practicable that a proper balance is achieved between the need to protect the environment (and the cost of such protection) and the need for infrastructural, economic and social progress and development.*

The term "good governance", as referenced in the inspector's report to the board of the Agency, is one of the accepted pillars or precepts of sustainable development and as such it is incumbent on the Agency to bear this in mind in all its affairs including the issuing of waste licences.

#### *Reason G*

The Agency would accept that the norms of site selection do not apply in the case of the remediation of a site, as the location of an environmental liability at the site is the driving factor. However the norms of site selection for a non-hazardous waste landfill are not overridden by the existence of an illegal facility at a location. As stated in previous inspectors reports and the preamble to this report, the site selection criteria for a non-hazardous landfill are based on the suitability of the site and not the presence of any pre-existing environmental liability.

#### *Reason H*

The issue of the planning condition and its enforcement are a matter for the planning authority. The committee fail to see how the Proposed Decision would make the site more vulnerable to fly-tipping and point out that Condition 6.5.3 of the licence will make the licensee responsible for any litter or waste placed on or in the vicinity of the facility.

#### *Response to Additional Comments on document handling*

There are national and EU requirements to provide access to all information relating to licence applications (the most relevant to waste licensing being Section 19 of the Waste Management (Licensing) Regulations 2004). The Agency complied with its statutory obligations to this in all respects for the purposes of this application by the applicant. However due to an error, internal EPA documents, which the Agency is not required to make available until a Proposed Decision has been made were temporarily made available on the EPA website.

As part of the Agency's policy of making information freely available to the public, all documentation relating to any licence application is freely available on the EPA website, as well as being available to view in public offices at our headquarters in Wexford. This system of making all documentation available on-line is the first and still the only such service offered to the public by any environment agency in Europe. This service was introduced on Wednesday the 1/3/2006. All electronic documentation in the Agency's databases relating to licence applications was made available on that date, with the exception of any internal documents, with such documents only made available after a Proposed Decision is issued by the board of the Agency. Due to an error, the first Recommended Decision for the application (dated 2005) was made available to the public in advance of the board's Proposed

Decision being issued. This error was noted and corrective action taken on Monday the 6/3/2006. Following the issuing of the Proposed Decision by the board on the 6/4/2006, the Recommended Decision (dated 2005), along with all board minutes and all other documents related to the Proposed Decision, was made available to the public. This error on the part of the Agency had no impact on the consideration of the waste licence application by the board.

<b>Recommendation:</b> No Change
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## Third Party Objections

Six Third Party Objections are considered, for convenience they are labelled:

- B. Ann Maria Dunne, Director (on behalf of the Directors of Chrysalis Centre Ltd.).
- C. Peter Walton and Florence Staunton.
- D. Jack O'Sullivan, Environmental Management Services, (on behalf of the Whitestown Awareness Group).
- E. Emer and Russ Bailey.
- F. Michael Nicolson, Director of Services, Environmental and Water Services, Wicklow County Council.
- G. Ian Lumley, Heritage Officer, An Taisce.

For clarity any Submission on Objections made by the First Party in relation to the Third Party objections are dealt with in association with the objection to which they relate.

### **B. Ann Maria Dunne, Director, Chrysalis Centre.**

Ms Dunne writes on behalf of the Chrysalis Centre which, she states is the closest business and one of the nearest residential properties to the site in question. She expresses her relief and appreciation on receipt of the proposed decision but notes

that she still has some concerns in relation to the proposed decision. The concerns referred to are dealt with below.

**B.1 No Condition Referenced - EPA Technical Advisor/Site Agent**

*The objector requests that, in light of previous illegal activities on the site, the licence conditions should require that an EPA technical advisor or qualified independent consultant be on site at all times during the remedial works. Similar requests for an on-site Inspector to be appointed are outlined in Objections D, E and G.*

Submission on Objection: A submission by Objector D refers to Objection B.1 in its summary of the submissions forwarded to it by the Agency. This is the only reference to an EPA technical Expert

Technical Committee's Evaluation:

The Agency referred to the possibility of appointing an independent technical expert in a press release regarding the issuing of the Proposed Decision, on the 7<sup>th</sup> of April 2006, as follows:

*"In addition, the EPA may appoint an independent technical expert to oversee the remediation programme and report to the EPA on a regular basis".*

The need for and the appointment of such an expert to oversee the activities at this or any other site can be decided by the Office of Environmental Enforcement at any stage, under the legislation governing the Agency, with no special condition required in the licence to do so. Under the Protection of the Environment Act 2003 and the Waste Management (Amendment) Act 2001 the Agency can appoint an "Authorised Person", with powers of entry and to report on the environmental issues associated with the site. All EPA inspectors or any person sanctioned by the Agency would have such powers. All procedures and working methods will have to be agreed with the Agency prior to the remediation of the site, giving the Agency the opportunity to assess the need for any fulltime on-site presence.

In order to allow the smooth and easy appointment of any such agent and to allow the Agency to recover the costs of any such appointment deemed necessary, specific mention of an agent and a clause allowing for the recovery of these costs are outlined below:

**Recommendation:**

Reword conditions as follows:

Condition 3.1

Waste shall not be disturbed, recovered, or deposited, on any part of the facility; (a) without the prior agreement of the Agency **or its Agent**; and, (b) before the ELRA and Financial Provision required under Condition 12.2.3 is agreed by the Agency.

Condition 3.2

The licensee shall establish all infrastructure referred to in this licence, to the design set out in the Application documentation or as may be otherwise specified or varied by the conditions of this

licence, or as otherwise instructed by, or agreed by the Agency or its Agent.

Condition 3.5.1

The licensee shall submit proposals for any Specified Engineering Works, as defined in *Schedule D: Specified Engineering Works*, of this licence, to the Agency for its agreement at least one month prior to the intended date of commencement of any such works. No such works shall be carried out without the prior agreement of the Agency or its Agent.

Condition 3.5.3

Following the completion of any specified engineering works, the licensee shall complete a construction report. The validation report shall be made available to the Agency on request. The report shall, as appropriate, include the following information:-

- (a) A description of the works;
- (b) As-built drawings of the works;
- (c) Any other information requested in writing by the Agency or its Agent.

## B.2 Condition 1.10 Clarification of Remediation Start Time

*The objector believes that the recommended licence time frame is five years and requests that, because of the protracted history of the site that a start date should be specified for the remediation, to commence as soon as possible.*

*Objectors D, E and G also express similar opinions, believing the licence to have a five-year lifespan.*

*Objector C and D also express a desire that a limit be imposed on the length of time taken for the remediation of the site, with these being discussed below.*

Submission on Objection: A submission by Objector D refers to Objection B.2 in its summary of the submissions forwarded to it by the Agency. This is the only reference to objections to Condition 1.10 in the submissions

### Technical Committee's Evaluation:

The technical committee believes that it is the understanding of the objector(s) that Condition 1.10 specifies the duration of the waste licence as being five years. This however is not the case. Condition 1.10 refers to Section 49(2) of the Waste Management Acts 1996 – 2005, which reads as follows:

*49 Limit on duration of waste licences.*

*49.—(1) Where the activity to which a waste licence relates has not been substantially commenced within the period of 3 years beginning on the date on which the licence was granted or, as may be appropriate, the period referred to in paragraph (a) or (b) of subsection (2), then that licence shall cease to have effect on the expiry of the said period.*

*(2) The Agency may, having regard to the nature of the activity to which a waste licence to be granted or granted by it will relate or relates, as the case may be, and any arrangements necessary to be made or made in connection with the carrying on of the activity and any other relevant consideration—*

- ( a ) specify for the purposes of subsection (1) a period of more than 3 years beginning on the date on which the licence is to be granted,*
- ( b ) in the case of a waste licence granted by it, on an application which complies with such requirements (if any) as may be prescribed being made by the holder of the licence in that behalf, extend for the purposes of subsection (1) the period referred to in that subsection or specified by it under paragraph (a), as may be appropriate.*

This section of the Waste Management Acts effectively means that if having been granted a waste licence, the holder of the licence fails to substantially commence the activities, which the waste licence allows, within three years of the licence being issued, that the waste licence expires. Once a licence expires it cannot be revived or re-activated and an entirely new waste licence application would be required, with this application involving the same public consultation and rigorous and lengthy assessment procedure as any other waste licence. The section gives the EPA the power to specify an expiration period longer than three years. The process of developing any waste facility is often protracted, with practical and sometimes complex legal issues completely unrelated to the waste licence often delaying the process for long periods. The Whitestown site is currently the subject of legal proceedings over which the Agency has no control.

The Agency recognises the urgent need for the remediation of the waste on-site and so the period of time for the expiration of the licence has been extended to five years. While this may appear counterintuitive it is to ensure that should any delay in commencement of licensed activities occur due to circumstances beyond the control of the Agency or the licensee, that the licence would remain valid for a longer period and so as avoid any additional delay.

It is the view of the technical committee that the extension of the expiration period for the licence under Section 49 (2)(a) of the Waste Management Acts 1996 – 2005 is a prudent and necessary move to ensure no additional delays hinder the urgent need to remediate this site.

<b>Recommendation:</b> No Change.
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### **B.3 Condition 3.11 Lagoon Structures**

*The Objector does not specifically reference Condition 3.11, but this is the most relevant condition to which the objection refers.*

*With regard to the lagoon structure the objector objects to the building of permanent structures onsite and instead favours the use of a mobile resource recovery unit and a covered leachate storage tank similar to those recommended for the Roadstone licence in Blessington. Objectors C, D and E lodge similar Objections referencing the Roadstone Blessington site.*

Submission on Objection: A submission by Objector C referring to the Roadstone Blessington site and by objector D, restate their objections to any non-temporary lagoon structures.

#### Technical Committee's Evaluation:

Condition 3.5 and Schedule D of the Licence refer to Specified Engineering Works, which the licensee has to agree with the Agency prior to the commencement of any works. The Leachate Management Infrastructure, also specified in Condition 3.11, is covered under Condition 3.5. This will ensure that all works to be carried out will be to the satisfaction of the Agency. The design of such works is matters for the licensee, which must be approved by the Agency before they are allowed to proceed.

As to whether the lagoon infrastructure should be a temporary or longer-term is not and will not be specified by the Agency. The Proposed Decision requires that once the licensed activities at the site cease that all infrastructure will have to be shown to be decommissioned to the point where no environmental emissions occur. This does not necessarily dictate that infrastructure be removed, but that it be made safe and pose minimum risk to the environment. The siting, retention or removal of any such infrastructure is a matter for the planning authority and the Agency's role is restricted to ensuring that any such infrastructure is licensed to operate; no longer is responsible for emissions once operations cease; or that any such emissions are agreed and monitored as specified in a licence. It is therefore not appropriate for the Agency to dictate in the licence the design or nature (temporary or longer-term) of the lagoon structure on-site.

Although four of the Objections refer to temporary structures being specified for the Roadstone Dublin Remediation Landfill at Blessington, no such condition is specified in the waste licence (Reg No. W213-01), with the general Specified Engineering Works condition being applied (Condition 3.16 in Licence W0213-01). The technical committee also consulted with the Licence Inspector in the Office of Environmental Enforcement for the Blessington facility, who confirmed that the Agency have not specified that any structures at the Blessington facility have to be temporary in nature.

<b>Recommendation:</b> No Change.
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#### **B.4 Condition 3.25 - Composting Unit**

*The Objector does not specifically reference Condition 3.25, but this is the most relevant condition to which the objection refers.*

*The objector notes that an in-vessel composting unit is recommended for the facility but deems in-vessel units to be unsuitable for rural conditions because of odour and noise pollution. Instead she requests a mobile composter.*

*Another similar objection to the composting of waste was received from Objector E. Objector F also questioned the technical feasibility of composting the waste on-site.*

Submission on Objection: Apart from a summation of all objections by Objectors B, E and F, Objector D also endorses Objector F's questioning the feasibility of composting of the waste.

#### Technical Committee's Evaluation:

The use of in-vessel composting is acceptable in that the process of composting can be more readily controlled due to the instrumentation associated with these composters, which ensure that conditions are maintained at their optimum in terms of composting and the minimisation of odours.

There are specific conditions in the licence to deal with noise and odour. Condition 5.2 and 5.4 of the proposed decision state:

- 5.2 The licensee shall ensure that the activities shall be carried out in a manner such that emissions including odours do not result in significant impairment of, and/or significant interference with amenities or the environment beyond the facility boundary.*
- 5.4 The licensee shall 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. Any method used by the licensee to control any such nuisance shall not cause environmental pollution.*

Both these conditions very clearly preclude the licensee from emitting odours and noise that would give rise to nuisance. The limits on noise emissions are also clearly specified in Schedule B.2 of the Proposed Decision.

Condition 5.2 is a general "odour condition" and Condition 5.4 is a general "nuisance condition" included in nearly all waste licences. Based on recent legal advice, received since the issuing of the Proposed Decision, these conditions have been reworded to make them more robust legally. The technical committee believe this new wording should be applied in any Final Decision.

**Recommendation:**

Amend Condition 5.2 and 5.4 to read as follows:

**5.2 The licensee shall ensure that activities on the site are carried on in a manner such that emissions, including odours, do not result in an impairment of, or an interference with amenities or the environment beyond the facility boundary or any other legitimate uses of the environment beyond the facility boundary.**

**5.4 The licensee shall ensure that all or any of the following:–**

**vermin**

**birds**

**flies**

**mud**

**dust**

**litter**

**which are associated with the activity do not result in an impairment of, or an interference with amenities or the environment or any other legitimate uses of the environment beyond the facility boundary. Any method used by the licensee to control or prevent any such impairment / interference shall not cause environmental pollution.**

**B.5 Condition 6.5.4 - Covering of Vehicles**

*The objector requests that all transport of materials is carried out in securely covered vehicles.*

Submission on Objection: Apart from a summation of all objections by Objector D, there are no other submissions on the objection.

Technical Committee's Evaluation:

Condition 6.5.4 of the proposed decision states:

*6.5.4 The licensee shall ensure that all vehicles removing waste and materials from the facility are appropriately covered.*

The technical committee believe that this condition addresses the objectors concern that all vehicles be securely covered.

**Recommendation:** No Change.



### **C. Peter Walton and Florence Staunton**

*The objectors welcome and applaud the Agency in its decision to licence only remediation activities. However they are concerned about the length of time the applicant may take to remediate the site, the nature of the lagoons on-site, and that on completion of remediation the applicants would have established practice and infrastructure onsite with regard to waste management activities and could use this precedent as a basis for an application to import further waste. They request three changes to the proposed decision:*

#### **C.1 Condition 1.10 Time limit on remediation:**

*The Objector does not specifically reference Condition 1.10, but this is the most relevant condition to which the objection refers.*

*The Objector requests that the Agency set a limit on the time within which the remediation must be completed, with no specific timeframe suggested by the objector.*

*Objector D in Section 6.2 of their document submits a similar objection, specifying a period of less than two years.*

#### Submission on Objection:

Objector C re-iterates his objection in a submission and Objector D also summarising the objection in their submission.

#### Technical Committee's Evaluation:

It is possible that the objector believes that the timeframe for remediation is five years as discussed above in Item B.5.

No time limit is specified in the licence for the length of time for the remediation of the site. The limitations and maximum tonnages per annum specified in Schedule A.2 are upper limits. Under the terms of the licence, the licensee would therefore be free to carry out the remediation of the site over whatever timeframe they saw fit. Any other legal enforcement deadlines emplaced on the landowner are independent of the terms of the proposed waste licence under consideration by the technical committee. There is a financial incentive for any remediation operation to be carried out in as swift a fashion as possible to minimise costs and to reduce the period over which emissions occur and the resultant costs of mitigating measures and monitoring associated with those emissions.

Notwithstanding, it is the view of the technical committee that a maximum time limit for the remediation of the site should be specified, to ensure that once the clean-up of the site begins, that it is carried out in a timely fashion that will: minimise the continued environmental damage the waste on-site may be causing; and ensure that

any inconvenience (permitted within the terms of the licence) on local residents is minimised.

The applicant states in Section 1.4 of the EIS accompanying the application:

*“All previously deposited non-inert wastes at the site will be excavated and put through a treatment and recovery process (i.e. screening to remove fines, removal of recyclables on-site). It is proposed that the excavation of these wastes will be phased over time and should take place within the first two to three years of development.”*

This two to three year period for the excavation of the waste on a phased basis suggests that this time period would be sufficient for the completion of the remediation activities, in the absence of the additional work associated with the development of the other waste activities, which the proposed decision has refused. Notwithstanding the slight reduction in operating hours discussed in Item E.5 of this report, a time period of three years is considered by the technical committee to be ample time to complete the remediation the site.

The technical committee also suggest the re-wording of Table A.2 in Schedule A of the Proposed Decision to include the note *“On-site historically deposited wastes. Nil import”*, to the waste types as well as the waste quantity to further affirm that no waste may be imported onto the site.

**Recommendation:**

Inclusion of new Condition 1.11 in the licence:

**1.11 All waste activities and the restoration of the site shall be completed within three years of the date of commencement of the activity.**

**Amendment of Schedule A.2, in the interests of clarity, as follows:**

**Table A.2 Waste Categories and Quantities**

	Resource Recovery Buildings & Plant	Landfill Restoration
WASTE TYPES	Household & Commercial <sup>Note 1</sup>	Non-hazardous Inert
	Non-Hazardous Industrial <sup>Note 1</sup>	

	Construction & Demolition <sup>Note 1</sup>	
	Non-hazardous Inert <sup>Note 1</sup>	
<b>MAXIMUM (TONNES PER ANNUM)</b>	180,000 <sup>Note 1</sup>	Only that amount necessary, and available from on-site sources, to infill and grade the excavations formally occupied by the historical waste
<b>Note 1 On-site historically deposited wastes. Nil import</b>		

**C.2 Condition 3.11 Lagoon Structures:**

*The Objector does not specifically reference Condition 3.11, but this is the most relevant condition to which the objection refers.*

*The Objector requests that no lagoons be permitted, but rather mobile structures, such as those specified by the Agency for the Roadstone site in Blessington, be specified for the Whitestown site.*

*Objectors B, D and E lodge similar objections referencing the Roadstone Blessington site*

Submission on Objection:

A submission by Objector C referring to the Roadstone Blessington site and by objector D, restate their objections to any non-temporary lagoon structures.

Technical Committee’s Evaluation:

This item has been discussed in Section B.3 of this report.

**C.3 Condition 10 Land Use**

*The objector requests that a definitive requirement be specified in the licence that on completion of remediation of the site, Condition 10 be strictly adhered to and that Condition 10 should also specify that the site be returned to agricultural or similar land use.*

*Objectors D and G also submit similar requests that the land use after closure be specified as being beneficial agricultural use. Objector E comments in their objection that they are relieved that the local environment will revert to its original state.*

Submission on Objection: The Applicant responds to the objections by agreeing with the stated aim of the operation of the waste facility of returning the site to agricultural use, but that this will necessitate the infilling of the estimated 1,200,000

m<sup>3</sup> void space at the site, with the vast majority of this material being sourced from off-site as outlined in their waste licence application.

Objector C re-states his objection in a submission.

A submission by Objector D also summarises the objection by Objector C as well as restating their own position on the need to specify a land-use in the licence.

Technical Committee's Evaluation:

The Agency has no remit to specify land-use. This is the remit of the planning authority. The Agency can however specify that the site be returned to a satisfactory state and thus allow the planning authority to determine the appropriate land use.

The restoration of the site to a suitably graded and stable landform is specified in Condition 10 of the proposed. This will return the site to a state similar to the way it was before the illegal deposition of waste occurred, i.e. a partially worked out quarry.

In order to restore the site to its original pre-quarry state a large volume of suitable material would have to be imported. However the restoration of the site to mitigate any impact of the quarrying operations is a matter for the closure plan of the quarry and the planning conditions for the quarrying operations and is not related to the remediation of the illegal landfill on-site.

**D. Jack O'Sullivan, Environmental Management Services, (on behalf of the Whitestown Awareness Group)**

*The objectors wish to emphasise their satisfaction that the PD allows only those activities associated with the clean up and remediation of the unauthorised landfill and precludes the import of waste into the site. They feel that to have permitted the applicant with a licence for the acceptance and disposal of further quantities of waste would be to lend unwarranted legitimacy to the former illegal dumping operation and would set an unwanted precedent for the owners and operators of other unauthorised landfills. There are however several aspects of the PD which give the objectors cause for concern. They suspect that the applicant will also object to the PD and feel that it is important that the group remains a participant in the process by which the Agency will arrive at their Final Decision. The objection outlines the group's history of participation in the planning and licensing process to date. The objectors note and welcome the Agency's 'Reasons for the Decision'. The objection discusses and welcomes various aspects of the Inspector's Report dated 02/03/06. The comments of the objector are noted by the technical committee and are dealt with in the following paragraphs:*

## D.1 Condition 1.4 The Role of Inert Waste

*The objection seeks clarification as to whether the importing of inert waste into the site would conflict with Condition 1.4.*

### Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

### Technical Committee's Evaluation:

Condition 1.4 and Schedule A of the proposed decision clearly outline that no waste may be brought on site. This condition clearly prohibits the importation of inert waste onto the site, whatever the purpose.

<b>Recommendation:</b> No Change
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## D.2 No Condition Referenced *Dealing with contaminated soil, sand and gravel.*

*The objectors consider that the licence should also prescribe what measures are to be taken to render environmentally safe the contaminated soil, sand & gravel from the site.*

### Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

### Technical Committee's Evaluation:

Condition 1.3 of the proposed decision states:

*"1.3 All domestic, commercial and other non-inert wastes shall be removed off-site to an approved disposal/recovery facility."*

Any contaminated soil, sand and gravel are considered to be a waste (European Court of Justice ruling *ECJ 07-09-2004*) and therefore will have to be removed from the site under Condition 1.3 of the licence.

The licence includes conditions which control emissions from the facility and it is very clear from Condition 1.3 and 8.9 that only inert waste will be allowed to be re-deposited on-site. Condition 8.9 outlines that all inert waste must be pre-certified as being inert before it is allowed to be deposited. The criteria and the methods of testing to determine acceptability as inert waste are outlined in EU Council Decision

of 19 December of 2002 (2003/33/EC), with clear criteria as to what level of contamination is permitted in waste to be deposited at an inert landfill.

Condition 8.9 also outlines that the licensee will have to submit procedures to the Agency prior to the commencement of any operations, with a procedure for waste characterisation to 2003/33/EC standard being included.

In summary all non-inert waste will be removed from the site. The Agency will ensure that all materials re-deposited on the site are inert. The removal of waste from the site will be subject to the Waste collection permit regulations, which are enforced by the Local Authority.

<b>Recommendation:</b> No Change
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#### **D.3 Condition 1.10** *Timeframe of the licence*

*The objector seeks clarification as to the timeframes specified in the proposed decision with regard to the length of operations at the site.*

##### Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection

##### Technical Committee's Evaluation:

This is the same as 'Clarification of Remediation Start Time' under Section B2 of this report.

#### **D.4 Condition 2.1** *Site Agent*

*The objector states that while Condition 2.1 specifies that a suitably qualified and experienced site manager be employed that the Agency appoint a site agent (as outlined in an EPA press release on 7<sup>th</sup> of April 2006) to be present on site at all times.*

##### Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection

##### Technical Committee's Evaluation:

This objection is dealt with in Item B1 of this report

### **D.5 Condition 3.2 Temporary Structures**

*The Objector does not specifically reference Condition 3.2, but this is the most relevant condition to which the objection refers.*

*The objectors request that the licence should specify that no fixed plant should be permitted on the site. The reason for this request is that they wish to ensure that there would be no excuse for the licensee to continue using the plant after the activity for which the licence is issued has ceased i.e. after the site has been restored. They therefore feel that it is important that no permanent waste recovery buildings or structures should be constructed on the site. Objectors B, C and G also object in a similar manner.*

#### Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection

Objector D concurs with the objections lodged.

#### Technical Committee's Evaluation:

This objection is similar in nature to item B3, discussed above, in that it requests that the Agency specify the design and nature of infrastructure on the site. The design, retention or removal of any structures on the site is a matter for the planning authority; with the Agency's only remit being to ensure that the environment is protected and that any emissions resulting from such structures are regulated. As part of the closure plan for the facility the Agency require that any infrastructure be made safe, but have no remit to require either that it be temporary or that it be removed. Any waste activity carried out at the site after the remediation of the site would require a new waste permit or waste licence to operate. When this activity is completed the Licence surrender provisions of the Waste Management Acts apply.

<b>Recommendation:</b> No Change
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### **D.6 Condition 10 – Land Use**

*This Condition requires that the excavated areas formerly occupied by historical waste shall be suitably graded to a safe and stable landform; and the objector welcomes this. However, they request that the Agency expand this condition so as to ensure that the final landform has a natural appearance and is similar (as far as*

*practicable) to other landforms in the surrounding area. They consider that a 'safe and stable landform' could be visually intrusive and a constant reminder of the presence of buried wastes and the previous waste-related activities. They additionally request that this condition should be amended to require the restoration of the site to beneficial agricultural use.*

Submission on Objection:

A submission by Objector D summarises the objection by Objector C as well as restating their own position on the need to specify a land-use in the licence.

The Applicant responds to the objections by agreeing with the stated aim of the operation of the waste facility of returning the site to agricultural use, but that this will necessitate the infilling of the estimated 1,200,000 m<sup>3</sup> void space at the site, with the vast majority of this material being sourced from off-site as outlined in their waste licence application.

Objector C re-states his objection in a submission.

Technical Committee's Evaluation:

An objection to this condition has been dealt with in item C3 of this report.

**D.7 Condition 11** *Notification of incidents*

*The objectors are of the opinion that the expression 'as soon as practicable' does not require or express the necessary degree of urgency to ensure the protection of the vulnerable aquifer and the SAC and they suggest that these two conditions should be modified to replace 'as soon as practicable' with an expression such as 'immediately or as soon as practicable thereafter, and not more than twelve hours after the incident under any circumstances whatsoever'.*

Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

Technical Committee's Evaluation:

Conditions 11.2 and 11.3 govern the notification of incidents as follows:

*11.2 The licensee shall notify the Agency by both telephone and either facsimile or electronic mail, if available, to the Agency's Headquarters in Wexford, or to such other Agency office as may be specified by the Agency, as soon as practicable after the occurrence of any of the following:.....*

*11.3 In the case of any incident which relates to discharges to water, the licensee shall notify the Local Authority and the Eastern Regional Fisheries Board as soon as practicable after such an incident.*



The term *'as soon as practicable'* is used very deliberately instead of a specific time limit based on Agency experience in previous legal actions. In the case where a specific time limit were to be given, it means that a licensee/defendant could argue that according to their licence their priority was to inform the Agency of an incident in a set time limit, rather than actually deal with an incident and prevent pollution. It also means that any reporting to the Agency/Fisheries Board is informative and substantive, with licensees being given the time necessary to gather the facts and give useful information that will allow the Agency/Fisheries Board to act in meaningful manner, rather than inaccurate or sketchy information being submitted to satisfy an immediate deadline.

In short to use a term such as immediate or to set a specific time limit would actually weaken the effectiveness of the licence condition and the Agency's ability to enforce it on the basis of any delay in informing the Agency of an incident.

<b>Recommendation:</b> No Change
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**D.8 Condition 11.7** *Access to documents.*

*Condition 11.7 requires the licensee to keep certain documents on site, and these documents must be available to the Agency for inspection at all reasonable times. The objectors request that this condition be amended to require that the same documentation should be available for inspection by local residents or their representatives at all reasonable times.*

Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

Technical Committee's Evaluation:

Condition 2.3 of the licence requires the licensee to establish a communications programme to ensure members of the public can obtain information about the facility. In addition any member of the public is entitled to inspect the enforcement file, which would contain all the information outlined in Condition 11.7 at the EPA offices enforcing the licence.

<b>Recommendation:</b> No Change
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**D.9 Schedule A – Authorised Processes**

*The Whitestown Awareness Group is particularly concerned that some nine processes are authorised, and it would appear that a number of these may give rise to*

*nuisance and may be visually intrusive, e.g., composting, mechanical-biological treatment (MBT), shredding, crushing, screening, sorting, blending, baling, and repackaging. Furthermore while these processes would appear to be covered by the general licence conditions, there are no specific conditions included in the licence to ensure that none of these processes would give rise to nuisance, emissions, or other adverse impacts on the quality of life and enjoyment of properties by local residents.*

Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

Technical Committee's Evaluation:

Licences do not specifically authorise each individual process on-site, but rather authorise activities under the schedules of the Waste Management Acts 1996 to 2005. Condition 5.3 of the Proposed Decision prevents any process occurring on-site that gives rise to nuisance, with Condition 4.4 setting noise limits as specified in Schedule B.2 of the Proposed Decision. The site is required to operate within these parameters. Due to recent amendments to general licence conditions the technical committee have proposed the rewording of Condition 5.3, as outlined in item B.4 of this report.

<b>Recommendation:</b> No Change
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## **E. Emer and Russ Bailey**

*The objectors express their support for the Proposed Decision and then go on to discuss issues that remain to be of concern to them.*

### **E.1 Condition 1.10 - Clarification of Remediation Start Time**

*Similar to other objectors the objection seeks clarification on the timescale for the licence.*

Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

Technical Committee's Evaluation:

This matter has been dealt with in Item B2 of this report

<b>Recommendation:</b> No Change
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### **E.2 Condition 3.11 - Lagoon Structures**

*The Objector does not specifically reference Condition 3.11, but this is the most relevant condition to which the objection refers.*

*Similar to other objections the objector outlines that they believe that open lagoon structures are unacceptable and that the Agency should specify mobile leachate holding tanks to be used at the site, similar to those the objector believes were specified for the Roadstone Blessington facility.*

#### Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

#### Technical Committee's Evaluation:

See Response to Item B3 of this report.

### **E.3 Condition 4.4 - Noise from composting**

*The Objector does not specifically reference Condition 4.4, but this is the most relevant condition to which the objection to potential noise emissions refers.*

*The objector states that noise in a valley location, such as the Whitestown site, can be clearly heard over long distances. As large volumes of material will be required to feed the composter at the site, some limitation on its operational hours should be specified.*

*It should also be specified that the composting unit together with all other plant brought onto the site must be removed offsite on completion of the remediation.*

#### Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

#### Technical Committee's Evaluation:

This objection is similar to Item D.9 of this report, where the limitations on noise specified in the licence are outlined.

Condition 1.6 of the PD limits the operational hours of the facility with the exception of necessary monitoring and control equipment and automated process related to composting (such as temperature and oxygen monitoring and aeration). Such automated processes which the licence may permit, will first have to be agreed with the Office of Environmental Enforcement, in accordance with Condition 1.6. The operating hours of the facility specified by Condition 1.6 is discussed further in item E.5 of this report.

Composting is a continual i.e. 24 hours per day process and cannot be shut down for example at nighttime and the hours of operation for this process cannot be specified. However the operation of the composting unit in terms of loading and unloading, which would be the noisiest activity associated with the composting plant are governed by the operational hours of the facility and any noise emissions emanating from the composting facility (day or night) will be governed by Condition 4.4 of the licence.

The request that all plant be removed offsite at the end of any composting activity is dealt with in item D.5 of this report.

<b>Recommendation:</b> No Change
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#### **E.4 Condition 3.2 - Temporary Structures**

*The Objector does not specifically reference Condition 3.2, but this is the most relevant condition to which the objection refers.*

##### *Recycling/Recovery Buildings*

*While the objector realises that there have to be buildings to facilitate the recycling/recovery of materials on site, they believe that the buildings should be temporary in nature or better still mobile. If the applicants intend to continue to operate a recycling transfer station on this site when the clean up is finished, then that will be a whole new application at that time. They believe that the licence should not facilitate possible future commercial development at Whitestown.*

##### Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

##### Technical Committee's Evaluation:

This item is dealt with in item D5 of this report

**E.5 Condition 1.6 - Operational Hours**

*The objector believes that bearing in mind the noise sensitivity of the area, the proposed operational hours are excessive. Living in this area as they have for over 30 years, they say they have been subjected to reversing bleeps and machinery motor noise from the illegal operation, which was carried on at this site for many years, together with those associated with the legitimate operations of the quarry. The prospect of legitimate constant noise emanating from this site from 07.30 – 19.30 Mon – Fri and 08.00 – 16.00 on Saturday is not encouraging and would, they believe, leave very little time for residents to have any kind of respite from such noise, from which there is no escape unless one remains indoors with the windows closed. There is no mention in the proposed licence of Bank Holidays. These must be treated as Sundays and excluded from the hours of business activity, and we suggest a reduction in operational hours as follows: Mon – Fri 08.00 – 18.00 (except Bank Holidays, Sat 08.00 – 13.00).*

Submission on Objection:

Submissions from Objectors B and D concur with the need to revise the operational hours of the facility.

Technical Committee's Evaluation:

The Technical Committee note the comments and concerns of the objector in relation to noise and hours of operation. The alteration of the licensed hours of operation would naturally have direct effects on the lifespan of the remediation operation. The licence seeks to find a balance between the length of the working day and the length of time the facility will need to be operated in order to discharge the requirement to remediate this site.

In considering the operational hours of the facility the proximity of dwellings to the site boundary is a significant factor, which must be borne in mind in considering any loss of amenity for the duration of the licensed activities of the site.

It is the opinion of the technical committee that the application of these hours to the Whitestown site, which would result in a reduction in the operational working week of 7.5 hours, from 68 hours to 60.5 hours, will not significantly impact on the remediation schedule for the site, but would reduce the day to day impact of the licensed activity on the surrounding area.

The technical committee therefore believe the following licence condition would be appropriate.

**Recommendation:** Alter Condition 1.6 to read as follows:

**1.6 Waste despatch Hours and Hours of Operation**

**1.6.1 With the exception of emergencies or as may be agreed by the Agency, waste shall be despatched from the facility only between the hours of 0800 to 1800 Monday to Friday inclusive and 0800 to 1600 on Saturdays.**

- 1.6.2 The facility shall be operated (automated continuous processes excepted) only during the hours of 0730 to 1800 Monday to Friday inclusive and 0800 to 1600 on Saturdays.**
- 1.6.3 Except in an emergency, the facility shall not operate or despatch waste on Sundays or on Bank Holidays without the agreement of the Agency.**

**E.6 No Condition Referenced - EPA Technical Advisor/Site Agent**

*The Objector suggests a “murky history” to the Whitestown site and given any uncertainty regarding the actual volume of material deposited that they believe that a fulltime EPA technical expert should be present during the normal operating hours of the facility.*

Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

Technical Committee’s Evaluation:

This item has been discussed in item B.1 of this report.

**E.7 Condition 11 Notification of incidents**

*The objector requests that the condition on reporting be altered to replace the phrase “as soon as practicable” with “immediately”, given the potential that pollution could travel a considerable distance before the incident is reported.*

*This objection is very similar to Item D.7 of this report.*

Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

Technical Committee’s Evaluation:

This objection has been considered in Item D.7 of this report

**F. Michael Nicholson, Director of Service, Environment and Water Services, Wicklow County Council (WCC).**

*Wicklow County Council supports the Agency's decision to refuse permission for the construction of a landfill at the site and to limit the licence to activities necessary for the remediation of the unauthorised landfills present on the site. The Council has reviewed the contents of the PD and submits the following suggested amendments:*

**F.1 Classes of Activity**

*Part I Schedule of Activities Licensed: Class 5 should be omitted from the Licensed Waste Disposal Activities as no engineered landfill will be constructed at the site.*

*Class 1 should be added to permit the deposition of recovered inert soils at the site following the excavation and treatment of the wastes.*

Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

Technical Committee's Evaluation:

The Proposed Decision restricts the landfilling on-site to inert waste only. Class five of the Third Schedule of the Waste Management Acts 1996 to 2003 is still the relevant activity for this licence. The nature and specification of the "engineered landfill and lined discrete cells, which are capped and isolated from one another and the environment" as may be deemed necessary can be agreed with the Agency as part of the specified engineering works, with the design and specification of the landfill appropriate to the inert nature of the waste to be deposited.

<b>Recommendation:</b> No Change
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**F.2 Viability of Composting**

*Part II Conditions: WCC does not believe that any organic waste present within the unauthorised waste bodies would be suitable for composting at this stage having been buried in the ground for 5 or more years. Consequently, the Council believes that Composting should be omitted from the authorised processes listed in Schedule A: Limitations.*

*Condition 3.5: Specified Engineering Works: WCC believes that the installation of a compost facility should not be included in Schedule D: Specified Engineering Works.*

Submission on Objection:

Objectors B and D concur with Objector F's questioning of the need for composting facilities at the site.

Technical Committee's Evaluation:

The technical committee concur that the use of composting on the site may be of limited value given the mixed nature of the waste and that varying degrees of decomposition may have already occurred in the waste body. The technical committee also note that the composting of any such waste can only yield Stabilised Biowaste as an end product, as the waste for composting was not segregated at source. This product can be used for cover at non-hazardous landfills, but would be unacceptable for such a purpose at an inert landfill, such as the Whitestown site. Given that stabilised bio waste is not classified as inert, then this material is prohibited from being deposited on-site in any manner by Condition 1.3 and will have to be removed from the site, to either an appropriately licensed facility or suitable use in accordance with guidance.

While the success of the composting of the waste is in question and the feasibility of use for the end product is also in question, any attempt by the licensee to reduce to the volume of waste, which may have to go to landfill, is to be encouraged. It is therefore the view of the technical committee that the licence should allow the composting of the waste on-site, with the actual decision as to whether this activity is attempted being left to the licensee.

**Recommendation:**

No Change

**F.3 Condition 8.9.3 – Clarification of term landfill**

*Condition 8.9.3 states, "The following wastes shall not be disposed of at the on-site landfill facility. This condition should be omitted, as there will be no on-site landfill facility at the site.*

- 8.9.3 The following wastes shall not be disposed of at the on-site landfill facility:-
- (i) hazardous wastes,
  - (ii) biodegradable waste,
  - (iii) liquid wastes.

Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.



Technical Committee's Evaluation:

As stated in Part I Schedule of Activities Licensed in the licence:

*"For the purposes of Article 48 of the Waste Management Licensing Regulations 2004 (S.I. No. 395) this facility is classed as an inert waste landfill."*

The waste management facility being licensed includes an inert landfill for the purposes of the remediation of the areas of illegal landfill on-site. The condition is therefore correct in its wording.

**Recommendation:**

No Change

**F.4 Condition 3.1 – Need for method statement**

*The Objector does not specifically reference Condition 3.1, but this is the most relevant condition to which the objection refers.*

*The Council believes that the waste licence should require Brownfield Restoration Ireland Limited to submit a method Statement to detail the methodology and procedures required to complete the remediation of the sites.*

Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

Technical Committee's Evaluation:

While there is no specifically worded condition as outlined in the objection, all aspects of the design, operation/management, timescales, reporting and monitoring of the activities carried out at the facility and any resulting emissions have to be agreed with the Agency before any activity can commence. Condition 3.1 requires the prior agreement of the Agency before any waste can be disturbed, recovered or deposited, effectively preventing the operation of the site until the Agency is satisfied with the infrastructure and operations methods to be employed.

**Recommendation:**

No Change

**F.5 Condition 8.9.3**

*WCC wishes to see the remediation of the unauthorised landfills started and completed without delay. The Council believes that the waste licence issued to Brownfield Restoration Ireland Limited should contain a timetable for the completion of the different phases of the remediation process, i.e. the submission of the specified detailed proposals and plans; the excavation, processing and disposal of the wastes; and the restoration of the site.*

Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

Technical Committee's Evaluation:

The technical committee has considered this issue in Item C.1 of this report and recommended that a three-year time limit be imposed on the duration of the licensed activity at the site. The Agency has no remit to specify when the remediation of the site should begin, but can specify timetables associated with the licensed activity.

**G. Ian Lumley, Heritage Officer An Taisce – the National Trust for Ireland and additional comments from An Taisce pertaining to the application.**

*An Taisce welcomes the Proposed Decision by the EPA to licence the remediation of the unauthorised landfill at Whitestown. They then outline the following concerns.*

**G.1 Condition 10 -Land Use**

*Clarity is required re the use of inert waste for the purpose of remediation. The PD prohibits the importation of waste except for inert material recovered from the remediation of illegally deposited waste. It should be made specific in the licensing conditions that the site is restored to beneficial agricultural use upon completion of the remediation allowed for within this licence.*

Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

Technical Committee's Evaluation:

This item has been considered by the committee in item C.3 of this report.

### **G.2 Condition 1.10 - Clarification of Remediation Start Time**

*The PD allows for an unnecessary long duration of five years for the remediation of the site.*

#### Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

#### Technical Committee's Evaluation

This item has been considered in item B.2 of this report.

### **G.3 Condition 3.2 - Temporary Structures**

*A requirement that only mobile plant is allowed on site and that fixed plant will not be permitted should be inserted into the licensing conditions. Structural development would necessitate a planning application and it has already been acknowledged by the EPA and other agencies that this is an unsuitable location for the processing of waste.*

#### Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

#### Technical Committee's Evaluation:

This item has been considered in item B.3 and D.5 of this report.

It is noted by the committee that the statement "*the EPA and other agencies that this is an unsuitable location for the processing of waste*" is inaccurate. While the committee cannot account for the opinion of other agencies, the EPA has never stated the site is unsuitable for the processing of waste and would not have issued a proposed decision if they were of the opinion that the processing of waste at the facility would result in unacceptable impact on the environment.

What the objector may be referring to were conclusions in the inspector's report to the Directors of the Agency dated 2<sup>nd</sup> of March 2006, where the inspector outlined

the view that the site was unsuitable for the siting of "a domestic, commercial and industrial waste landfill facility". The inspector expressed in that same report that the site was suitable for the Class 7 activity of the Third Scheduled of Waste Management Acts 1999-2005, i.e. the processing of waste.

**Recommendation:** No Change.

#### **G.4 No Condition Referenced - EPA Technical Advisor/Site Agent**

*Given the site history, a requirement should be inserted into the licence conditions that the remediation process be carried out under supervision of a suitable EPA staff member at all times so as to maintain public confidence.*

##### Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

##### Technical Committee's Evaluation:

This item has been dealt with in item B.1 of this report.

#### **G.5 Condition 11 Notification of incidents**

*Conditions should be amended requiring the licensee to notify the Agency of any release of pollutants to the environment immediately because of vulnerability of ground and surface waters and proximity of European Designated salmonid river (SAC) and proximity of nearby residents.*

##### Submission on Objection:

Apart from a summation of all objections by Objector D there are no submissions on this objection.

##### Technical Committee's Evaluation:

This item has been dealt with in item D.7 of this report

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

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

Signed

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Kevin Motherway

Inspector

for and on behalf of the technical committee