

**This Report has been cleared  
for submission to the Board by  
the Programme Manager F Clinton**  
Signed: [Signature] Date: 10/2/10

**OFFICE OF CLIMATE,  
LICENSING &  
RESOURCE USE**



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

<b>TO:</b>	Directors
<b>FROM:</b>	Technical Committee <b>Environmental Licensing Programme</b>
<b>DATE:</b>	10 February 2010
<b>RE:</b>	Objection to Proposed Decision for <b>Greenstar Holdings Limited, Ballynagran Residual Landfill, Waste Reg: W0165-02.</b>

Application Details	
Classes of Activity (P = principal activity):	4 <sup>th</sup> Schedule: 4,9,11 & 13 3 <sup>rd</sup> Schedule: 1,4,5,6 & 13
Location of activity:	Ballynagran Residual Landfill, Ballynagran, Coolbeg and Kildrandra, County Wicklow.
Licence review initiated:	18 June 2009
PD issued:	19 October 2009
First party objection received:	16 November 2009 <sup>Note 1</sup>
Third Party Objection received:	None
Submissions on Objections received:	None
Additional Information:	None

Note 1: In accordance with Section 17(1) of the Waste Management Acts (1996 to 2008), as the final date for a valid objection was a Sunday (15<sup>th</sup> November), all valid objections received up to and including Monday 16<sup>th</sup> November were regarded as having been received before the expiration of the objection period.

**Company**

On 18 June 2009, the Environmental Protection Agency initiated a review of the waste licence relating to the landfilling activities at Ballynagran Landfill, waste licence register number W0165-02. The main reasons for initiating the review were:

- To give effect to articles 5 and 6 of Council Directive 1999/31/EC on the landfill of waste (the Landfill Directive) regarding the treatment of waste prior to landfill and diversion of biodegradable municipal waste from landfill.
- To incorporate limits on the acceptance of biodegradable municipal waste at landfill (expressed in the document *Municipal Solid Waste – Pre-treatment and Residuals Management: An EPA Technical Guidance Document* published 19 June 2009) that have regard to the need to implement and achieve landfill diversion targets set out in the Landfill Directive. The diversion of biodegradable municipal waste will, *inter*

*alia*, reduce landfill gas production and have consequent benefits regarding greenhouse gas emissions and the potential for odour nuisance.

- To address odour issues as requested by the Office of Environmental Enforcement on foot of odour complaints received in relation to the facility.

One submission was received (first party) in relation to the application and this was considered by the Board at PD stage.

### **Consideration of the Objection**

On 2 February 2010 the Board of the Agency approved the recommendation of Licensing Inspector, Brian Meaney that an oral hearing of the objections was not required in this case based on the following criteria:

1. Whether there were any new issues not previously raised that are specific to the location or the development.
2. The sensitivity of the location/local environment.
3. Whether it is a matter of national or regional importance.
4. The scale or complexity of the development.
5. Whether there was any significant new information.

The Technical Committee, comprising of Jennifer Cope (Chair) and Seán O'Donoghue 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. The Technical Committee consulted Agency Inspector Brian Meaney (expert for waste sector), in relation to waste issues.

This report considers the first party objections. There were no third party objections or submissions on objections.

## **First Party Objection**

The applicant makes 16 points of objection, each of which have been dealt with below.

### **A.1. Condition 1.5.3**

*The licensee proposes an amendment to a section of the condition as follows (additional wording in bold text):*

*“(i) Treatment shall reflect published EPA technical guidance as set out in **Municipal Solid Waste – Pre-treatment and Residuals Management, EPA 2009 and the EU Directive on the landfilling of waste.**”*

Technical Committee's Evaluation: The EPA technical guidance document *Municipal Solid Waste – Pre-treatment and Residuals Management, EPA 2009*, fully addresses the requirements of the landfill directive and the technical committee does not consider it necessary to include any specific reference to the Landfill Directive.

<b>Recommendation:</b> No change.
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## A.2. Condition 1.6.1

*The licensee objects to the wording of condition 1.6.1 and states “the term ‘disposal’ should be removed from the wording of this condition as it is contrary to the Landfill Directive (Council Directive 1999/31/EC) which refers only to biodegradable waste ‘going’ to landfill.”*

*The licensee has requested the removal of the percentage limits from this condition, on the basis that the percentages used are significantly out of date, and the use of more up to date percentage figures will have a big impact in terms of required infrastructure and investment.*

*Furthermore, the use of percentage figures is flawed and targets should be expressed in terms of tonnes. The licensee believes that the use of percentages disincentivises recycling of both biodegradable and non-biodegradable waste. The Agency should focus on increasing the absolute level of biodegradable waste diversion, and should limit the amount of non-processed waste delivered directly to landfill. This would require waste collectors to invest in biowaste treatment or use MRF facilities.*

*The licensee notes that from the EPA Waste Workshop in October 2009 it is acknowledged that the percentage figures will change.*

*The licensee also states ‘It is a concern both in terms of environmental risk and anti-competitiveness, that the Agency has not sought to attach conditions restricting BMW intake to all landfill licences currently accepting or licensed to accept MSW.’*

Technical Committee’s Evaluation: In accordance with the landfill directive: “*landfill*’ means a waste disposal site for the deposit of the waste onto or into land.” Landfilling as an activity is disposal. The use of the term ‘disposal’ in the condition is not contrary to the Landfill Directive.

The calculations on BMW diversion from landfill in the EPA technical guidance document *Municipal Solid Waste – Pre-treatment and Residuals Management (2009)* were based on 2007 statistics. The guidance stated that as further statistical data became available the EPA would update this direction to the sector, as necessary. The 2008 National Waste Report identifies that there has been a decrease in the generation of municipal waste. This may allow for an increase in the percentage limit in order to ensure that diversion of BMW from landfill is adequate to meet the requirements of the Landfill Directive and a change in the percentage has been signalled accordingly. Condition 1.6.1 allows for the EPA to vary percentage limits.

With regard to the use of percentage limits as opposed to tonnages, the licensee does not elaborate on how this disincentivises waste recycling. The percentage limits specified in the condition are derived directly from the percentages specified in Article 5 of the landfill Directive 1999/31/EC as they have been applied to national statistics in the National Strategy on Biodegradable Waste and most recently updated in the National Waste Report 2008. With regard to the proposal to *limit the amount of non-processed waste delivered directly to landfill*, condition 1.5.3 prohibits the landfilling of untreated waste.

The EPA initiated a review of 25 landfill licences in June 2009. It is anticipated that all landfills that accept municipal solid waste will be reviewed prior to commencement or prior to July 2010.

Based on the above the technical committee do not consider it necessary to amend this condition.

<b>Recommendation:</b> No change.
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### **A.3. Condition 1.6.2**

*The licensee proposes a change to Condition 1.6.2 to remove the requirement to review the landfill licence in order to allow an increase in the limits set out in Condition 1.6.1. The licensee objects to applying for a review of a waste licence unless overall tonnage is to be increased.*

*The licensee states that the agreement allowed under the condition should not be restricted to landfills, and upstream waste facilities such as MRFs should be included, as increased BMW diversion through recycling at a MRF upstream of the landfill should be the Agency's focus. The conditions should reflect upstream recycling and landfill diversion. Not to do this would place the expansion of recycling at a disadvantage compared to the expansion of bio-stabilisation technology.*

#### Technical Committee's Evaluation:

An application for a waste licence review will only be required when there is a proposed increase in the limits set out in condition 1.6.1. A technical amendment may be sought for a decrease. An increase in BMW acceptance at the landfill may give rise to odour nuisance at the landfill given the fact that BMW is odour forming. Therefore the EPA would be required to assess the impact of an increase in BMW acceptance at the landfill under a licence review and there would be a need to allow public participation.

The purpose of this licence review is primarily to implement the Landfill Directive. The EPA has not at this time proposed allowing collective agreements with facilities other than landfills. The limits apply to all landfill operators, but compliance with the limits will impact on upstream waste operations.

**Recommendation:** No change.

### **A.4. Condition 1.7.1**

*The licensee requests an amendment to the condition requiring it to determine the biodegradable municipal waste content of Municipal Solid Waste (MSW) accepted for disposal at the facility. The amendment would only require such determination when testing protocols have been agreed to the satisfaction of the Agency. The licensee requests the amendment on the basis that it is premature to require such testing in advance of agreed testing protocols.*

#### Technical Committee's Evaluation:

The EPA has published a draft "Protocol for the Evaluation of Biodegradable Municipal Waste sent to Landfill by Pre-Treatment Facilities" for public consultation. Submissions have been invited up to 1 April 2010. It is anticipated by OEE that this guidance will be finalised prior to the 1 July 2010 implementation date for BMW diversion. In the interim, the licensee should be in a position to use the preliminary BMW factors published in that document or to use locally generated factors, subject to the agreement of the Agency, in accordance with condition 1.7.3.

**Recommendation:** No change.

#### **A.5. Condition 1.7.2**

*The licensee requests that chemical treatment processes be included in this condition (in addition to biological treatment processes) with regard to criteria for defining waste as bio-stabilised. This would allow access to a greater range of available and emerging tests.*

Technical Committee's Evaluation: There appears to be confusion between the reference to biological treatment processes for stabilisation and the testing of the bio-stabilised residual waste. The wording proposed by the applicant makes reference to chemical treatment process parameters, however it appears to the technical committee that the intent of the objection is to include chemical tests for measuring the extent of biostabilisation. The committee does not see how the amended wording proposed will meet the purpose of the objection. The condition makes no reference to the test method for determining biostabilisation.

**Recommendation:** No change.

#### **A.6. Condition 1.7.3**

*The licensee requests the removal of the reference to the use, where appropriate, of EPA approved contractors for the determination of calculation factors for use in determining BMW content. This is requested as it is considered to be anti-competitive.*

Technical Committee's Evaluation: The enabling condition allowing the Agency to require the use of EPA-approved contractors is, *inter alia*, designed to ensure consistency in determination of BMW factors should this prove necessary in light of variable or inconsistent findings being reported from treatment or landfill facility operators. The ability to carry out the characterisation in accordance with approved protocols will be the qualifying criterion for approval. It is therefore not the opinion of the committee that this practice will be anti-competitive.

**Recommendation:** No change.

#### **A.7. Condition 1.7.4**

*This condition defines biostabilisation of residual waste as, inter alia, the reduction of respiration activity such that after four days it is < 10mg O<sub>2</sub>/g DM, and < 7mg O<sub>2</sub>/g DM from January 1<sup>st</sup> 2016. The licensee objects to the post 2016 limitation, stating that it is excessive, has a detrimental effect on the bankability of existing biostabilisation technology, and will probably prevent its construction. Also, this limit provides very little extra benefit for the costs involved.*

Technical Committee's Evaluation: The relevant EPA guidance, (*Municipal Solid Waste – Pre-treatment and Residuals Management: An EPA Technical Guidance Document* published 19 June 2009) specifies the 10mg O<sub>2</sub>/g DM and 7mg O<sub>2</sub>/g DM standards. With regard to the 7 mg O<sub>2</sub>/g DM standard, the guidance states: “The higher standard required from 2016 onwards reflects the desire to reduce the residual landfill gas production potential in the bio-stabilised waste sent to landfill. The higher standard is appropriate under the terms of BAT.” This guidance was published following consultation with industry stakeholders.

**Recommendation:** No change.

#### **A.8. Condition 3.22**

*The licensee objects to the wording of the condition and states that there are already conditions in the waste licence which meet the requirements of the Department of Agriculture to ensure farm animals or food chain do not come into contact with waste.*

Technical Committee's Evaluation: The purpose of this condition is to ensure full compliance with any requirements of the Department of Agriculture, Fisheries and Food relating to the management of animal by-products. The technical committee sees no reason for change in this regard.

<b>Recommendation:</b> No change
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#### **A.9. Condition 7.1**

*The licensee requests the amendment of this condition to the following:*

*"Emissions from the activities shall be free from odour at levels likely to cause significant odour annoyance outside the site, as perceived by an authorised officer of the Agency, unless the operator has used appropriate measures agreed with the Agency under condition 8.1.4 to prevent or, where that is not practicable, to minimise the odour. The licensee shall ensure that birds, vermin, dust, mud and flies do not cause pollution and are managed in accordance with the requirements of this waste licence."*

Technical Committee's Evaluation: This request was included as part of a submission from the licensee made prior to the PD, which was fully addressed in the inspector's report, and the PD retained this condition unchanged. As the Board has already made a decision on this matter having given full consideration to the licensee's request, the Technical Committee sees no reason to recommend any change to the PD in this regard.

<b>Recommendation:</b> No change.
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#### **A.10. Schedule D, Table D.3.1**

*The licensee requests a biannual ambient odour monitoring frequency (the PD requires monthly monitoring), and also that monitoring need not commence until six months from the date of commencement of waste disposal. The licensee also requests that the monitoring method is specified in the table as one of those described in the draft CEN Standard CEN/TC264/WG2.*

Technical Committee's Evaluation:

The Office of Environmental Enforcement (OEE) currently operates to a standard procedure when undertaking odour assessments in the vicinity of landfill facilities. This methodology requires the use of a Field Sheet for odour assessment at the landfills – mapping odour intensity on a grid basis, taking account of local topography and prevailing weather conditions. Whilst the document has not yet been formally published OEE have provided the Standard Operating Procedure to a number of landfill operators in order to assist operators in assessing odour impact. It is considered that the use of this procedure will allow operators to trend odour impact over a prolonged period in the immediate vicinity of the landfill. It is the intention of the OEE to formalise this document and to make it available to all landfill operators in the short term.

This request, in its entirety, was originally included as part of a submission from the licensee made prior to the PD and was fully addressed in the inspector's report. The PD imposed a monthly monitoring frequency, using a method to be agreed with the Agency which will enable a database of odour incidence to be developed. As the Board has already made a decision on this matter having given full consideration to the licensee's request, the Technical Committee sees no reason to recommend any change to the PD in this regard.

**Recommendation:** No change.

#### **A.11. Odour control (proposed new condition)**

*The licensee has proposed a condition which requires the licensee to undertake an odour assessment and prepare an odour management plan, and specifies the scope of both. The condition also requires the submission to the Agency of a programme for ongoing odour monitoring and assessment. The licensee states that the proposed condition is based on conditions in the current licence and will help to reduce the potential for odour nuisance.*

Technical Committee's Evaluation: This request was originally included as part of a submission from the licensee made prior to the PD and was fully addressed in the inspector's report.

As outlined in the inspector's report, condition 7.8 of the PD imposes new obligations regarding prevention, assessment and management of odour. This is due to the number of odour complaints received in relation to Ballynagran landfill. The Office of Environmental Enforcement has identified the facility as being in need of enhanced control regarding the prevention and management of odour.

As the Board has already made a decision on this matter having given full consideration to the licensee's request, the Technical Committee sees no reason to recommend any change to the PD in this regard.

**Recommendation:** No change.

#### **A.12. Schedule A: Waste Acceptance**

*The licensee states that the current restriction on the permissible quantities of C&D waste at the site for recovery, restoration and development works could result in odour nuisance and the environmentally unsound practice of importing raw material for development works. The licensee requests that the restriction of acceptance of C&D waste on-site for the purposes of restoration and aftercare be removed from Schedule A. The licensee states that this would bring the Ballynagran licence into line with other similar licences, such as (W0081-03) KTK and W0201-02 (Drehid) which have no such restrictions on inert waste acceptance.*

Technical Committee's Evaluation:

This request was originally included as part of a submission during the review of the licence by the licensee and was fully addressed in the inspector's report. The proposed changes are outside the scope of this licence review.

**Recommendation:** No change

### **A.13. Acceptance of asbestos waste (interpretation section and proposed new condition)**

*The licensee requests the inclusion of a condition to allow the disposal of asbestos waste at the facility, and also a definition/explanation of the term "Asbestos Waste" in the interpretation section of the licence. The licensee has supplied a proposed wording in the objection for both the condition and the definition/explanation.*

Technical Committee's Evaluation: The same request was included as part of a submission from the licensee made prior to the Proposed Decision (PD). In addressing the request the inspector's report states that "it is not possible, within the confines of this limited review of the licence, to evaluate the impact in the absence of a full technical assessment of the proposed changes."

Neither the RD nor the PD allow for the disposal of asbestos waste at the facility. As the Board has already made a decision on this matter having given full consideration to the licensee's request, the Technical Committee sees no reason to recommend any change to the PD in this regard.

**Recommendation:** No change.

### **A.14. Condition 1.5.2**

*The licensee requests the amendment of this condition, which prevents the disposal of hazardous wastes at the facility, in order to exempt "hazardous wastes suitable for disposal in non-hazardous landfills in accordance with Article 6(c)(iii) of Council Directive 1999/33/EC". The purpose of this amendment is to allow the disposal of asbestos waste at the facility, as outlined in A.13. above.*

Technical Committee's Evaluation: As per A.13. above, it is not recommended to allow the disposal of asbestos waste at the facility at present, and therefore it is also not recommended to amend this condition.

**Recommendation:** No change.

### **A.15. Condition 11.8**

*The licensee requests three changes to the condition:*

- 1. The removal of the first sentence, which requires the licensee to report to the Agency such data and records, and at such a frequency, as may be specified by the Agency to demonstrate compliance with condition 1.6.1.*
- 2. The deadline for the submission of quarterly reports to be extended from a week to ten days after the end of the reporting period.*
- 3. The removal of the requirement to report on compliance on a cumulative basis for the calendar year to date.*

*The licensee submits these objections on the basis that the requirements are excessively onerous and out of line with existing quarterly reporting requirements.*

Technical Committee's Evaluation: This condition requires the licensee to monitor for compliance with condition 1.6.1 on an ongoing basis. It is considered that the licensee should be able to produce figures within one week of the end of each quarter to demonstrate compliance with the relevant targets (both quarterly and year to date), and that such practice



would be consistent with good management of the landfill. This is not considered excessively onerous, and the licensee has not provided any specific details in this regard.

**Recommendation:** No change.

#### **A.16. Schedule D, Table D.7 Waste Monitoring**

*The licensee states that the requirement to sample every 200 tonnes from each waste source (and test for respiration activity after 4 days) is an excessively high sampling frequency, would be excessively costly (€200,000 per annum for customers of the landfill), and will cause significant health and safety risks due to the increased number of machine movements needed to get the samples. The licensee states that it is unclear how responsibility for carrying out this rate of sampling is to be transferred to the Materials Recovery Facilities (MRFs). The licensee notes also that the Agency has committed to covering the full costs of such testing for the first year.*

Technical Committee's Evaluation: A draft "Protocol for the Evaluation of Biodegradable Municipal Waste sent to landfill by Pre-Treatment Facilities", November 2009, is available to download from the EPA's website and refers to the sampling frequency. The draft Protocol sets out the sampling and monitoring regime which will provide acceptable evidence to the EPA of BMW content of MSW sent to landfill.

The guidance in the draft Protocol and the associated reporting spreadsheet will be field tested over the coming months with a view to finalising the documents by July 2010. Any interested party is invited to make a submission on the content and operation of the protocol up to 1 April 2010.

Table D.7 refers solely to the monitoring of biostabilised residual waste which is defined in the licence as "residual biodegradable municipal waste that has been treated to achieve an EPA-approved biodegradability stability standard (as defined in this licence) prior to landfilling or alternative use agreed." The monitoring frequency referred to in Table D.7 can be reduced if an alternative protocol is agreed with the Agency under Condition 1.7.2. Such an alternative protocol would incorporate the correlation of biological treatment process parameters with the biostabilisation standard.

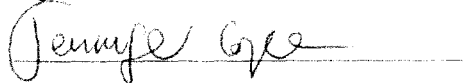
**Recommendation:** No change.

#### **Overall Recommendation**

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

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

Signed



Jennifer Cope

for and on behalf of the Technical Committee