

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

**OFFICE OF
LICENSING &
GUIDANCE**

■ Environmental Protection Agency
An Ghníomhaireacht um Chaomhú Comhshaoil

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

TO:	Directors	
FROM:	Technical Committee	Environmental Licensing Programme
DATE:	10 February 2010	
RE:	Objection to Proposed Decision for EPA-initiated review of a waste licence for Kerry County Council, North Kerry Landfill, Muingnaminnane, Tralee, County Kerry – Licence Register No. W0001-04	

Application Details

Type of facility:	Landfill
Classes of Activity (P = principal activity):	3 rd Schedule: 2, 4, 5 (P), 6, 7, 11, 12 & 13 4 th Schedule: 2, 3, 4, 10, 11 & 13.
Quantity of waste managed per annum:	35,000 tonnes
Classes of Waste:	Household, commercial, construction and demolition, industrial non-hazardous solids, Biodegradable waste for composting.
Location of activity:	Muingnaminnane, Tralee, County Kerry
Licence review initiated:	18/06/09
PD issued:	19/10/09
First party objection received:	13/11/09
Third Party Objection received	None
Submissions on Objections received:	None

Introduction

This report relates to a licence review of North Kerry Landfill, waste licence W0001-03, granted to Kerry County Council on 30th March 2005. The licence review was initiated by the Environmental Protection Agency on 18th June 2009, principally to give effect to the following:

- Articles 5 and 6 of Council Directive 1999/31/EC on the landfill of waste, regarding the treatment of waste prior to landfill and diversion of biodegradable municipal waste from landfill;
- Article 49(5) of the Waste Management (Licensing) Regulations 2004, which states that waste that has not been subject to treatment shall not be accepted or disposed of in a landfill facility;
- The Office of Environmental Enforcement assessment of the landfill conditioning plan; and
- Best Available Techniques (BAT) obligation to reduce the overall environmental impact of landfill in particular the acceptance of biodegradable municipal waste at landfill.

The EPA issued a Proposed Decision (PD) on the licence review on 19th October 2009. Kerry County Council lodged an objection to the PD on 13th November 2009. The Council had made an earlier submission (dated 16th July 2009) in relation to the licence review. There were also two third party submissions, received on 17th & 28th July 2009. All submissions were considered by the Board at PD stage.

Consideration of the Objection

The Technical Committee, comprising of Aoife Loughnane (Chair) and Stuart Huskisson, has considered all of the issues raised in the first party objection. This report details the Committee's comments and recommendations following the examination of the objection together with discussions with the Office of Environmental Enforcement Inspector, who also provided comments on the points raised. The Technical Committee consulted Agency Inspector Brian Meaney, expert for the waste sector.

First Party Objection

Kerry County Council made nine points of objection to the conditions of the PD. There were no third party objections or submissions on objections.

A.1. Condition 1.5.1.1 – Waste Acceptance Hours

Condition 1.5.1.1 states:

1.5.1.1 Waste may be accepted at the facility for disposal at the landfill only between the hours of 0830 to 1700 Monday to Friday inclusive and 0830 to 1300 on Saturdays and 0830 to 1600 on the Saturday of bank holiday weekends.

Kerry County Council requests the extension of waste acceptance hours on Saturdays from 0830 to 1700 in order to facilitate the disposal of waste over weekend periods. Saturday is the busiest day of the week at North Kerry Landfill.

Kerry County Council also requests the addition of the following to Condition 1.5.1.1 to facilitate the proper disposal of waste prior to the Christmas period:

“... and 0830 to 1830 on 23rd of December (except when it falls on a Sunday).”

Technical Committee's Evaluation:

Table 1 below summarises the hours of waste acceptance and landfill operation as (i) set out in the existing licence (W0001-03), (ii) requested by Kerry County Council in their submission on the licence review (W0001-04) in July 2009, (iii) set out in the PD, and (iv) requested by Kerry County Council in their objection to the PD in November 2009.

Table 1. Hours of Waste Acceptance and Landfill Operation

Licence	Limitation	Mon-Fri	Saturdays	Saturdays of Bank Holiday Weekends
W0001-03	Waste Acceptance	8.30 – 17.00	9.00 – 13.00	9.00 – 16.00
	Landfill Operation	8.30 – 17.30	9.00 – 14.00	9.00 – 17.00
KCC submission on licence review (W0001-04)	Waste Acceptance	8.30 – 17.00	8.30 – 13.00	N/A
	Landfill Operation	8.00 – 18.00	8.00 – 16.00	N/A
PD W0001-04	Waste Acceptance	8.30 – 17.00	8.30 – 13.00	8.30 – 16.00
	Landfill Operation	8.00 – 18.00	8.00 – 14.00	8.00 – 17.00
KCC objection to PD	Waste Acceptance	8.30 – 18.30 on 23 rd December (except when it falls on a Sunday)	8.30 – 17.00	N/A
	Landfill Operation	8.30 – 19.00 on 23 rd December (except when it falls on Sunday)	8.30 – 17.00	N/A

Note: The hours highlighted in bold represent hours that differ from previously authorised hours.

The Technical Committee notes that the hours of waste acceptance and landfill operation in the PD have been extended, compared to those authorised under the existing licence (W0001-03). There were no third party objections to the PD.

The Technical Committee does not consider it appropriate to consider a further extension to the hours of operation and waste acceptance during the objection phase of the licence review, as this would not allow for a complete assessment of the likely impacts, nor would it provide an opportunity for third party submissions on the matter.

The Technical Committee notes that Conditions 1.5.1.1, 1.5.1.2 and 1.5.2.1 of the PD refer to 'bank holidays', whereas Condition 1.5.1.3 refers to 'Public Holidays'. For consistency, the Technical Committee recommends amending the relevant conditions to replace any reference to 'bank holiday' with 'Public Holiday'.

Recommendation: Amend Conditions 1.5.1.1, 1.5.1.2 and 1.5.2.1 as follows:

- 1.5.1.1 Waste may be accepted ~~at the facility for disposal~~ at the landfill only between the hours of 0830 to 1700 Monday to Friday inclusive (**Public Holidays excluded**), ~~and~~ 0830 to 1300 on Saturdays and 0830 to 1600 on the Saturday of **Public Holiday** weekends.
- 1.5.1.2 The landfill ~~at the facility~~ may be operated only during the hours of 0800 to 1800 Monday to Friday inclusive (**Public Holidays excluded**), ~~and~~ 0800 to 1400 on Saturdays and 0800 to 1700 on the Saturday of **Public Holidays** weekends.
- 1.5.2.1 Waste shall be accepted at the Civic Waste Facility only between the hours of 0830 to 1700 Monday to Friday inclusive (**Public Holidays excluded**), ~~and~~ 0900 to 1300 on Saturdays and 0900 to 1600 **on the Saturday of Public Holiday** weekends.

A.2. Condition 1.5.1.2 – Hours of Operation

Condition 1.5.1.2 states:

1.5.1.2 The landfill at the facility may be operated only during the hours of 0800 to 1800 Monday to Friday inclusive and 0800 to 1400 on Saturdays and 0800 to 1700 on the Saturday of bank holiday weekends.

Kerry County Council requests the extension of operational hours on Saturdays from 0830 to 1700 in order to facilitate the disposal of waste over weekend periods. Saturday is the busiest day of the week at North Kerry Landfill.

Kerry County Council also requests the addition of the following to Condition 1.5.1.2:

“... and 0830 to 1900 on 23rd of December (except when it falls on a Sunday).”

This request is made to facilitate the proper covering of waste prior to the Christmas period.

Technical Committee's Evaluation:

See Technical Committee's evaluation and recommendation for Objection A.1 above.

Recommendation: No change.

A.3. Condition 5.2.5 – Waste Acceptance & Characterisation Procedures

Condition 5.2.5 states:

- 5.2.5** Within one month of the date of grant of this licence, the licensee shall submit to the Agency for its agreement updated written procedures for the acceptance and handling of all wastes. These procedures shall include details of the treatment of all waste to be carried out in advance of acceptance at the facility and shall also include methods for the characterisation, classification and coding of waste. The procedures shall have regard to the Council Decision (2003/33/EC) establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to Directive 1999/31/EC on the landfill of waste.

Kerry County Council seeks an extension of the time in Condition 5.2.5 for submission of written waste acceptance and handling procedures to the Agency from one month to three months. The extension is requested in order to facilitate the formulation of correct and accurate procedures by landfill management which are to reflect the significant changes in waste acceptance being implemented by W0001-04.

Technical Committee's Evaluation:

The Technical Committee recommends no change to this condition on the basis that the updated waste acceptance and handling procedures need to be ready in advance of 1st July 2010, and should therefore be prioritised by the licensee as a matter of urgency.

Recommendation: No change.

A.4. Condition 5.2.6 – Waste Treatment

Condition 5.2.6 states:

- 5.2.6** Only waste that has been subject to treatment shall be accepted for disposal at the landfill facility.

Kerry County Council requests that the requirement for treatment of all such wastes be delayed until February 2011 to allow implementation of the appropriate measures. The requirement, from the date of issue of the revised licence, that all waste accepted for disposal is subject to treatment would be extremely difficult to attain.

Technical Committee's Evaluation:

It is recognised that the pre-treatment obligations will be a significant challenge for landfill operators. But under the obligations of the Landfill Directive, operators must ensure that only waste that has been subject to treatment shall be accepted for disposal at the landfill.

Recommendation: No change

A.5. Condition 5.2.7 – Limit on acceptance of BMW

Condition 5.2.7 states:

- 5.2.7** Unless otherwise as may be specified by the Agency, the following limits shall apply:
- (i) From 1 July 2010 to 30 June 2013 inclusive, a maximum of 40% by weight of municipal solid waste (MSW) accepted for disposal to the body of the landfill shall comprise biodegradable municipal waste (BMW), measured on a calendar year basis, or, in 2010 and 2013, part thereof,

- (ii) From 1 July 2013 to 30 June 2016 inclusive, a maximum of 24% by weight of MSW accepted for disposal to the body of the landfill shall comprise BMW, measured on a calendar year basis or, in 2013 and 2016, part thereof,
- (iii) From 1 July 2016, a maximum of 15% by weight of MSW accepted for disposal to the body of the landfill shall comprise BMW, measured on a calendar year or, in 2016, part thereof.

unless an alternative has been agreed in writing by the Agency in accordance with Condition 5.2.8.

Kerry County Council requests that the above targets be relaxed and timeframes extended as these are unlikely to be realisable in the short timeframe in which they are to be achieved. They state that BMW accounted for 67% of the waste which entered North Kerry Landfill in 2008.

Kerry County Council propose the following:

- *Waste characterisation surveys to be carried out on selected waste customers entering the landfill site to establish the BMW content of their waste. Then a more accurate figure of BMW entering the landfill can be established. Once established, Kerry County Council will revert back to the Agency with a BMW figure and a plan of action to direct this BMW from the landfill site.*
- *Realistically it will take approximately four months for all waste characterisation surveys to be carried out and verified. Once this information is gathered, landfill management will meet with the relevant stakeholders and decide on an appropriate course of action to divert the BMW away from landfill.*

In conclusion, it is not realistic to assume that the 40% BMW target for July 2010 will be met.

Technical Committee's Evaluation:

The specified limits on acceptance of BMW at the landfill are based on 2007 waste statistics. The EPA technical guidance document *Municipal Solid Waste – Pre-treatment and Residuals Management* (2009) states that as further statistical data becomes available, the EPA would update this direction to the sector, as necessary. A change in the 40% BMW acceptance limit has been signalled in the EPA's National Waste Report 2008 and is likely because of reduced landfilling in 2008 and new waste compositional analysis.

Condition 5.2.7 begins with the clause '*unless otherwise as may be specified by the Agency*' which will allow for the EPA to vary the percentage limits if necessary, based on actual landfilling statistics. This matter will be kept under review by the EPA's Office of Environmental Enforcement (OEE). Should landfilling rates be so low as to mean a significant 'overshoot' of the landfill directive target will occur, then the percentage limits will be recalculated to a level that will ensure the landfill directive targets will be met but not unnecessarily exceeded. Condition 12.5 of the PD requires quarterly reporting of MSW and BMW landfilling rates, thus progress during the year can be tracked.

Based on currently available information, the Technical Committee recommends no change to condition 5.2.7. All landfill operators will be notified at the same time of any change to the proportion of BMW that may be accepted for disposal.

The specified timeframes for achieving the BMW content limits of the MSW disposed of to the landfill, with escalating obligations for 2010, 2013 & 2016, have been set in order to meet the pre-treatment and biodegradable waste diversion obligations as set out in the Landfill Directive.

Recommendation: No change.

A.6. Condition 5.2.11 – Determination of BMW content

Condition 5.2.11 states:

5.2.11 In determining BMW content, the licensee shall use approved calculation factors for BMW content of municipal waste streams published by the EPA. With the agreement of the EPA, alternative factors can be used if they have been determined following waste characterisation carried out in accordance with EPA-approved characterisation protocols including, where appropriate, the use of EPA-approved contractors.

Kerry County Council requests for the following to be removed from this condition:

“... including, where appropriate, the use of EPA-approved contractors”.

The Environmental Services Section of Kerry County Council has been carrying out waste characterisation surveys since 1995, in accordance with the EPA guidance document. Therefore they feel that it would be appropriate for Kerry County Council staff to carry out any further waste characterisation surveys and the unnecessary expense of hiring an external contractor is not required.

Technical Committee’s Evaluation:

It is intended that the waste characterisation work will be carried out at the up-stream pre-treatment facilities, and not at the landfill itself. The draft *Protocol for the Evaluation of Biodegradable Municipal Waste sent to landfill by Pre-treatment facilities* (EPA, November 2009), states that pre-treatment facilities will use EPA approved contractors to test and audit the procedures to determine residual MSW sent to landfill. These audits will provide acceptable evidence to the EPA of the BMW content of MSW in the loads sent to landfill.

The requirement to use EPA-approved contractors in the determination of alternative BMW factors is to ensure consistency of approach. This clause may be implemented by the OEE if inconsistencies become apparent in the information being reported by the licensee.

Recommendation: No change

A.7. Condition 5.2.18 – Waste Acceptance Procedures

Condition 5.2.18 states:

5.2.18 The waste acceptance procedures established under Condition 5.2.5 shall provide:-

- (i) For the checking of waste documentation on receipt of waste in the waste reception area;**
- (ii) For non pre-cleared customers, the visual inspection and testing of waste in the waste inspection area pending acceptance/rejection;**
- (iii) For the visual inspection of waste when deposited at the working face;**
- (iv) For the keeping for two months of any samples associated with on-site verification sampling of waste accepted at the facility.**

Kerry County Council requests for the following to be added to part (ii) of this condition:

“... excluding members of the public accessing the landfill site”.

It would be unrealistic to expect that waste brought to the landfill by members of the public (approximately 60 customers per day) should be subject to individual inspection and testing.

Kerry County Council requests a relaxation of the retention time in part (iv) of this condition from two months to one month due to storage issues on site.

Technical Committee's Evaluation:

5.2.18 (ii): The PD prohibits the acceptance of untreated waste from members of the public at the landfill for direct disposal. Private vehicles are required to deliver waste to the civic waste facility. It is not intended that the licensee should visually inspect and test such private waste loads delivered to the civic waste facility. The Technical Committee recommends amending the condition to reflect this.

5.2.18 (iv): It is anticipated that the number and size of waste samples to be stored on-site would be relatively small, therefore the requirement for storage of samples should not be unduly onerous.

Section 2.2.1 of *Council Decision 2003/33/EC establishing criteria and procedures for the acceptance of waste at landfills* sets out the types of wastes acceptable at non-hazardous landfills without testing. The exempted wastes are: municipal waste (EWC chapter 20), separately collected non-hazardous fractions of household wastes and the same non-hazardous materials from other origins.

Therefore, the requirement for on-site verification sampling at North Kerry Landfill applies to bio-stabilised residual waste, industrial non-hazardous solids and construction & demolition waste. The keeping of samples for two months will allow for OEE verification of on-site sampling of waste accepted at the facility. The Technical Committee recommends no change to this condition.

Recommendation: Amend Condition 5.2.18 as follows:

5.2.18 The waste acceptance procedures established under Condition 5.2.5 shall provide:-

- (i) For the checking of waste documentation on receipt of waste in the waste reception area;
- (ii) For non pre-cleared customers (**excluding private vehicles arriving at the Civic Waste Facility**), the visual inspection and testing of waste in the waste inspection area pending acceptance/rejection;
- (iii) For the visual inspection of waste when deposited at the working face;
- (iv) For the keeping for two months of any samples associated with on-site verification sampling of waste accepted at the facility.

A.8. Condition 13.3.2 – Environmental Liabilities Risk Assessment

Condition 13.3.2 states:

13.3.2 The licensee shall arrange for the completion, by an independent and appropriate qualified consultant, of a comprehensive and fully costed Environmental Liabilities Risk Assessment (ELRA) to address the liabilities from past or present activities....

Kerry County Council requests the removal of the following wording from this condition:

“... by an independent and appropriate qualified consultant”.

On 29th April 2009, Kerry County Council submitted a comprehensive ELRA to the Agency. The ELRA was completed by the landfill site engineer using the EPA guidance document – Guidance on Environmental Liability Risk Assessment, Residuals Management Plans and Financial Provision. This submitted ELRA should be sufficient and the expense of hiring a consultant engineer to complete the same report seems unnecessary.

Technical Committee's Evaluation:

The conditions requiring Environmental Liabilities Risk Assessment (ELRA) are not in the current licence for North Kerry Landfill, W0001-03. Kerry County Council prepared and submitted an ELRA to the OEE in April 2009, which they state is in accordance with the EPA's *Guidance on Environmental Liability Risk Assessment, Residuals Management Plans and Financial Provision*. The OEE has not approved the submitted ELRA to date.

The Technical Committee considers that Condition 13.3.2 is worded to ensure that the ELRA is completed by an independent and appropriately qualified consultant in order that a third-party validates the assessment, proposals and financial provisions. This will assist in ensuring that realistic planned/anticipated and unexpected risks and associated costs are considered.

While the condition requires the completion of the ELRA by an independent and appropriately qualified consultant, it does not preclude the licensee from undertaking other aspects of the ELRA.

Recommendation: No Change

A.9. Table D8.1 Waste Monitoring

Table D.8.1 *Waste Monitoring* reads as follows:

Waste type	Frequency	Parameter	Method
Bio-stabilised residual waste	Every 200 tonnes from each source ^{note 1}	Respiration activity after 4 days	Agreed by the Agency

Note 1: Frequency may be reduced if an alternative protocol is agreed by the Agency under Condition 5.2.10.

Kerry County Council objects to the frequency of testing every 200 tonnes on the basis that it would be extremely costly to undertake, and it is their understanding that there is currently no laboratory in Ireland capable of carrying out these tests. Kerry County Council seeks a relaxation of the frequency of testing to every 10,000 tonnes.

Technical Committee's Evaluation:

The sampling frequency of testing every 200 tonnes of bio-stabilised residual waste sent to landfill is recommended in the draft *Protocol for the Evaluation of Biodegradable Municipal Waste sent to landfill by Pre-Treatment Facilities* (EPA, November 2009).

The footnote to the table states that the frequency may be reduced if an alternative protocol is agreed by the Agency under Condition 5.2.10. This means that the landfill may not need to carry out the monitoring at the specified frequency if the up-stream pre-treatment facility can prove that their treatment process can consistently achieve the bio-stabilised residual waste criteria specified/agreed under Condition 5.2.10.

The Technical Committee acknowledges that at present there is very limited capability to carry out respiration activity testing (AT₄) in Ireland. This test is currently available in the UK (on a limited basis - only one laboratory identified) and is carried out extensively in Germany and Austria. The requirement for respiration activity testing to prove the stability of bio-stabilised residual waste is likely to lead to an increased demand for AT₄ testing, which may lead to an increase in the capacity for carrying out this testing in Ireland.

The Technical Committee notes that there are only a small number of facilities in Ireland that currently biologically treat the residual fraction of MSW. Therefore, the demand for this testing is likely to be low at present, at least for an initial period, until such time as a greater number of facilities are able to treat residual waste to the appropriate stabilisation criteria.

Recommendation: No change.

A.10. Requests for Clarification

In addition to the above objections, Kerry County Council seeks clarification on the following:

1. There are two definitions of biodegradable waste in the interpretation of the PD. Which one is appropriate?
2. Inclusion of a definition for the term 'pre-cleared customers' would be most useful.

Technical Committee's Evaluation:

The term 'Biodegradable waste' is defined in the published EPA technical guidance *Municipal Solid Waste – Pre-treatment and Residuals Management*, EPA, 2009, as 'waste that is capable of undergoing anaerobic or aerobic decomposition such as food and garden waste, paper and cardboard, etc'. This is the definition that should be used in the licence.

In this context, the term 'pre-cleared customers' means known customers or new customers that have been subject to initial waste profiling and waste characterisation off-site. The written records of this off-site waste profiling and characterisation should be retained by the licensee for all active customers and for a two year period following termination of licensee/customer agreements. Any waste received from non pre-cleared customers should be directed to the quarantine area for inspection and characterisation prior to rejection or clearance for acceptance. The TC recommends the inclusion of this definition for clarity.

Recommendation:

Delete the first definition of 'Biodegradable Waste' in the Interpretation of the licence.

Biodegradable Waste	Any waste that is capable of undergoing anaerobic or aerobic decomposition, such as food, garden waste, sewage sludge, paper and paperboard.
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Include a definition of 'Pre-cleared customers' as follows:

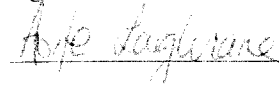
Pre-cleared customers	Known customers or new customers that have been subject to initial waste profiling and waste characterisation off-site (Civic Amenity Sites and WEEE collection centres excepted).
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Overall Recommendation

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

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

Signed



Aoife Loughnane

for and on behalf of the Technical Committee