

**This Report has been cleared  
for submission to the Board by  
the Programme Manager F Clinton**  
Signed:                      Date: 0/2/10

**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 <sup>th</sup> February 2010.
<b>RE:</b>	Objection to Proposed Decision for a revised licence for <b>Donegal County Council, Ballynacarrick Landfill, Licence Register W0024-04.</b>

<b>Application Details</b>	
Class of activity:	3 <sup>rd</sup> Schedule: 5(P), 6 and 13. 4 <sup>th</sup> Schedule: 2, 3, 4, and 13.
Location of activity:	Ballinacarrick, Ballintra, Co. Donegal.
Section 42(1)(b) notice issued:	18/06/2009
Article 16(3)(a)(i) issued:	27/07/2009.
Article 16(3)(a)(i) reply received:	20/08/2009 & 31/08/2009.
PD issued:	19/10/2009.
First Party Objection received:	16/11/2009 <sup>1</sup> .

This report relates to an objection by the licensee, Donegal County Council (DCC), to a Proposed Decision (PD) on a revised Waste Licence for an existing landfilling activity at Ballinacarrick, Ballintra, Co. Donegal.

DCC has operated a landfill at Ballynacarrick since 1980, originally filling into an unlined peat depression, and expanding into a lined cell on issue of Waste Licence W0024-01, granted 31/08/2000. A 225,000m<sup>3</sup> capacity extension was the subject of Waste Licence Review W0024-02 granted on 10/12/2004. A further review was undertaken (W0024-03 - granted on 27/11/2008) to increase waste intake from 24,000 tonnes per annum (tpa) to 35,000 tpa.

This review of the licence is primarily concerned with ensuring that the landfill is operating in compliance with all relevant requirements of the Landfill Directive (1999/31/EC) including the need to divert biodegradable municipal waste from landfill. Waste must be treated before disposal in the landfill and treatment must now reflect pre-treatment technical guidelines published in 2009 by the Agency –

<sup>1</sup> Note that the closing date for receipt of objections was 15<sup>th</sup> November 2009, which fell on a Sunday. Therefore, objections were accepted up to 5 p.m. on Monday 16<sup>th</sup> November 2009.

*Municipal Solid Waste – Pre-treatment and Residuals Management: An EPA Technical Guidance Document.* Limits on the acceptance of biodegradable municipal waste are introduced. There is a consequential need, set out in the licence, to update and revise waste acceptance procedures, maintain records to demonstrate compliance with new requirements and provide periodic reports on waste disposal and recovery at the facility.

There were two valid submissions made in relation to this application prior to it being considered by the Board at Proposed Decision stage. The licensing inspector fully considered the submissions when assessing the licence review documentation. The Board approved the recommendation of the inspector to grant a licence and a Proposed Decision (PD) was issued by the Agency on the 19<sup>th</sup> October 2009.

### **Consideration of the Objection by Technical Committee**

This report considers **one valid first party objection**, in the form of 3-page letter. The main issues raised in the objection are summarised below and where appropriate under various different headings. However, the original objection and supporting documentation should be referred to at all times for greater detail and expansion of particular points.

The Technical Committee (TC), comprising of Mr. Breen Higgins (Chair) and Ms. Ciara Maxwell, has considered all of the issues raised in the objection and this report details the Committee’s comments and recommendations following the examination of the objection together with discussions with the inspector, Mr. Michael Owens and the sectoral technical expert, Mr. Brian Meaney, who also provided comments on the points raised.

#### **First Party Objection**

<b>No.</b>	<b>Objector Name and Address</b>	<b>Date Received</b>
1	Mr. Peadar MacRory, Senior Engineer, Divisional Manager, Water And Environmental Services.	16 <sup>th</sup> November 2009.

#### **1. Peadar MacRory, Senior Engineer, for and on behalf of DCC.**

The licensee submitted a three-page letter addressed to the Agency in the form of a number of points of objection in relation to specific Conditions contained within the PD.

#### **Condition 8.1.1 & 8.1.2 *Limit on acceptance of biodegradable municipal waste;***

The licensee states that all waste coming to the Ballynacarrick landfill is pre-treated, but states that the licensee is not in a position to quantify the degree of biodegradable municipal waste (BMW) diversion being achieved.

The licensee makes the point that the collection of waste is undertaken exclusively by private operators and a three-bin collection system does not suit the low population density within their jurisdiction for economic and logistical reasons. Further, the licensee considers that this condition should be revisited given the particular difficulty faced by those local authorities endeavouring to achieve the higher biodegradable municipal waste (BMW) diversion targets in areas with low population densities, e.g.,

County Donegal. For this reason the licensee is of the opinion that the national targets specified in Condition 8.1.2 can most effectively be achieved by requiring higher diversion targets from areas of higher population density, as economies of scale means that technology will be provided sooner at these locations.

Furthermore, the licensee seeks an extension to the timeframes specified to allow the development of more comprehensive biological treatment infrastructure nationally. All waste collection in the local authority area is undertaken by private contractors who are in the process of developing mechanical separation capacity and are exploring biological treatment infrastructure. However, an extended timeframe is required to achieve the desired diversion rates.

#### **Technical Committee's Evaluation:**

The EPA technical guidance document *Municipal Solid Waste – Pre-treatment and Residuals Management* (2009) does not mandate a three-bin collection system, however the Ministerial Circular WPPR 17/08 addressed to each County and City Manager requires that a 'brown bin', for source segregated biodegradable waste, be implemented for all urban areas over 1,500 persons. In addition, the Circular letter, referred to above, recommends that the Local Authorities use the Waste Collection Permit authorisation regime in combination with local by-laws, if appropriate, to act as a driver for the roll-out of separate collection/source segregation of biodegradables.

The EPA guidance document referred to above, which is based on 2007 statistics, specifies that the maximum allowable BMW content in municipal solid waste (MSW) accepted at landfill should be 40% (by weight) for 2010. Condition 8.1.2 of the PD allows the EPA to vary the percentage limits on a general basis if deemed appropriate. Any such variations will be based on the actual recorded figures for the landfilling of waste during 2008, 2009 and 2010. 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 that the landfill directive targets can be met. The guidance document also noted that as further statistical data became available the EPA would update this direction to the sector, if appropriate.

Recent trends suggest a fall in the quantities of municipal waste being sent to landfill<sup>2</sup>. Should data submitted from landfill operators and the wider waste sector for the national waste report in 2009 support this fall, then the EPA may, if deemed necessary, revisit the diversion obligations specified for landfill operators. Condition 11.17 of the PD provides for quarterly reporting of municipal waste and biodegradable municipal waste landfilling rates, thus progress on landfilling rates can be closely tracked.

With regard to the issue of capacity to segregate and process BMW it is agreed that at present there is an infrastructural deficit, however it is considered that the initial targets as outlined in Condition 8.1.2(i) of the PD will be achieved through a combination of the three-bin initiative, diversion of biodegradables to home composting programmes, existing and pending biowaste treatment capacity, improved removal rates for paper and cardboard waste and implementation of the Waste Management (Food Waste) Regulations 2009. This will provide an opportunity, prior

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<sup>2</sup> It is estimated that a total of 3,224,281 tonnes of municipal waste was generated in Ireland in 2008, a decrease of 5% on the 2007 figures. (Source: *National Waste Report 2008*, EPA, 2009)

to the deadline for the achievement of the second target, for the sector to develop a network of treatment facilities throughout the state.

For these reasons the Committee considers the requirements of Condition 8.1.1 and 8.1.2 to be appropriate.

<b>Recommendation:</b> No change.
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### **Condition 8.1.3 Collective Agreements**

Condition 8.1.3 provides scope for the operators of two or more licensed landfills to seek the agreement of the Agency to collectively comply with the diversion targets stipulated in condition 8.1.2. The licensee believes that such an arrangement is 'unworkable'. Three reasons are posited to support this view, as follows:

- The licensee suggests that a lack of waste characterisation data means that they are not in a position to quantify the BMW content of the municipal solid waste accepted at Ballynacarrick landfill. This in turn prevents the licensee from arriving at an appropriate figure for diversion.
- The lack of data on BMW prevents the licensee from entering negotiations with suitable partner operators, and
- Once the characterisation work is complete the licensee will be 'forced' to negotiate collective agreements in an environment where they have no 'leverage' to do so. The licensee considers that in the absence of a regulatory framework to facilitate negotiations they will be exposed to financial cost and risk management issues may arise.

All this leads the licensee to suggest that the imposition of condition 8.1.3 is premature as the necessary factors to allow the authority to comply with the condition are not yet in place.

### **Technical Committee's Evaluation:**

In an effort to assist each operator in determining the BMW content of the waste being accepted at their facilities the EPA has developed tools, available at <http://www.epa.ie/downloads/advice&guidance>, to aid this process. This assistance takes the form, in the first instance, of a Waste Pre-treatment spreadsheet. This spreadsheet contains conversion factors to allow a determination of the biodegradable content of a given quantity of municipal solid waste, depending on the type of collection/segregation system employed. Secondly, a draft 'Protocol for the Evaluation of Biodegradable Municipal Waste Sent to Landfill by Pre-treatment Facilities' has been published for consultation on <http://www.epa.ie/downloads/advice&guidance>. The submission period for comments is open until 01/04/2010. The draft protocol, under Section 4, outlines the methodology for assessment of the BMW content of MSW in residual waste outputs from transfer stations. These measures should greatly assist the licensee in the characterisation of their waste, vis-à-vis, the BMW content of the MSW accepted at Ballynacarrick landfill.

With regard to the third issue raised by the licensee, the PD will not 'force' the licensee into negotiations with third parties on collective arrangements as the condition simply provides the option that two or more landfills may seek the

agreement of the Agency to comply with the targets specified under Condition 8.1.2. The decision to negotiate, or otherwise, rests completely with the licensee. It is agreed that by entering into negotiations the licensee will be exposed to some degree of financial cost and that risk management issues will arise, but this is considered to be the norm for any negotiation involving a financial component.

**Recommendation:** No change.

### **Condition 11.17 *Quarterly Reporting***

The licensee states that they are not in a position to report quarterly on the quantity of MSW and BMW being accepted at the facility as it is not currently in possession of this data. The licensee does not expect to be in possession of this information until early 2010 and requests that the commencement date of 01/01/2010 be revisited to reflect this reality.

### **Technical Committee's Evaluation:**

The Committee considers that the existing licence requirements, as per Condition 11.12 of licence Reg. No. W0024-03, will have produced a historical database of figures for the quantities of MSW accepted at the facility. These figures should be readily available to the licensee and therefore will not prove to be an obstacle in achieving the timelines specified for reporting obligations under Condition 11.17. In order to estimate the BMW fraction the licensee may, prior to the determination of BMW content of the municipal waste as per Condition 8.1.13 of the PD, apply the appropriate conversion factors referred to previously in this report.

The condition also allows the Agency to advise on the frequency of reporting to demonstrate compliance with the diversion targets.

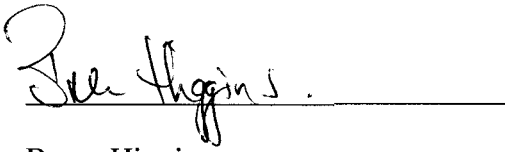
**Recommendation:** No change.

### **Overall Recommendation**

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

- (i) for the reasons outlined in the Proposed Decision and
- (ii) subject to the conditions and reasons for same in the Proposed Decision

Signed

A handwritten signature in cursive script, reading "Breen Higgins", is written over a solid horizontal line.

Breen Higgins

Inspector

Office of Climate, Licensing and Resource Use

for and on behalf of the Technical Committee