

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**

TO:	Directors
FROM:	Technical Committee - Environmental Licensing Programme
DATE:	10 th February 2010
RE:	Objection to Proposed Decision for EPA-initiated review of a waste licence for Laois County Council, Kyletalesha Landfill , Waste Reg. No. W0026-03 .

Application Details

Classes of activity (P = principle activity)	3 rd Schedule: 2,4,5(P), 6, 7, 11 & 13 4 th Schedule: 2, 3, 4, 9, 11 & 13
Quantity of waste managed per annum:	47,100 tonnes
Classes of waste:	Household, commercial, industrial non-hazardous solids, sewage sludge, construction and demolition waste.
Location of facility:	Clonsoughy, Kyleclonhobert, County Laois.
Section 42(1)(b) notice issued:	18 June 2009
Article 16(3)(a)(i) notice issued:	27 July 2009
Article 16(3)(a)(i) reply received:	20 August 2009
PD issued:	19 October 2009
First party objection received:	16 November 2009 ¹

This report relates to an objection by Laois County Council (the licensee) to a Proposed Decision (PD) on a revised Waste Licence for an existing landfilling activity at Clonsoughy, Kyleclonhobert, County Laois. The facility consists of an existing municipal waste landfill in a peatland area. The site has been used for landfilling since *circa* 1959. The licensee was granted Waste Licence W0026-01 on 11 May 2000. A revised licence W0026-02, authorising an increase in annual waste intake to 47,100 tonnes and the operation of a composting plant and a civic amenity facility, was granted 12 November 2003.

On 18 June 2009, the Environmental Protection Agency initiated a review of the waste licence relating to the landfilling activities at Kyletalesha Landfill, waste licence register number W0026-03. The licence review was initiated having regard to the requirements of the Council Directive 1999/31/EC on the landfill of waste (the *Landfill Directive*) and the Waste Management (Licensing) Regulations 2004, with reference, *inter alia*, to the diversion of

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

biodegradable municipal waste from landfill and the treatment of waste prior to landfill in accordance with the *Municipal Solid Waste – Pre-treatment and Residuals Management: An EPA Technical Guidance Document*, published 19 June 2009. The review also enhances the licence’s control and management of odours as requested by the Office of Environmental Enforcement on foot of odour complaints received in relation to the facility.

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

Consideration of the Objection

This report considers **one valid first party objection**, in the form of a three-page letter. The main issues raised in the objection are summarised below. However, the original objection should be referred to at all times for greater detail and expansion of particular points.

The Technical Committee, comprising of Ciara Maxwell (Chair) and Breen Higgins, 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, Michael Owens and the sectoral technical expert Brian Meaney who also provided comments on the points raised.

This report considers the first party objection.

First Party Objection

The licensee makes 3 points of objection concerning various conditions and schedules of the Proposed Decision. These are dealt with in the order in which they appear in the objection.

A.1. Condition 3.2.1 and Schedule B

The licensee objects to the “definition” of ‘Specified Engineering Works (SEW)’ contained in Schedule B and the requirements of Condition 3.2.1 stating that the requirement is onerous and does not allow the flexibility required to modify some works at construction stage as and when on-site problems are encountered. The licensee considers that this condition may therefore delay works to an unnecessary degree and result in unnecessary costs. The licensee quotes the example of the installation of sacrificial horizontal wells to capture gas as the cell is being filled. The licensee requests that the condition be amended to allow an appropriate degree of flexibility to vary construction details to reflect on-site construction difficulties.

Technical Committee’s Evaluation: Condition 3.2.1 reads as follows:

3.2.1 The licensee shall submit proposals for all Specified Engineering Works, as defined in Schedule B: Specified Engineering Works, of this licence, to the Agency for its agreement at least two months 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.

The Technical Committee notes that Condition 3.2.1 and the corresponding *Schedule B* is unchanged from the current licence W0026-02, issued 12 November 2003. This is a standard condition used in all waste licences and the engineering works specified in *Schedule B* reflect the requirements stipulated by the Office of Environmental Enforcement in its ‘Circular letter to all Landfills’, issued by the Environmental Protection Agency 20th June 2007. The circular was issued in response to odour issues arising at landfills due to poor planning in relation to phasing of cells, inadequate waste deposition methods employed, lack of landfill gas management infrastructure, poor maintenance of gas infrastructure or failing to put in place measures to minimise odours/gas emissions arising from deposited waste (e.g. delays in final capping). The

circular also states that “*The Agency will require that these items are agreed and established prior to providing permission for the deposition of waste into new cells.*”

The Technical Committee considers that Condition 3.2.1 and *Schedule B* are necessary for the control of odour at all licensed landfill sites and therefore recommends no change.

Recommendation: No change.

A.2. Condition 5.14.1 & 5.15.3

The applicant objects to the limit on acceptance of biodegradable municipal waste (BMW) stated in Condition 5.14.1 on the basis that the requirements do not take into account the achievements by local authorities in the reduction of our national dependence on landfill by developing an integrated waste management system based on the European Waste Hierarchy. The licensee states that all five Local Authorities in the Midlands Region have adopted and implemented waste management By-Laws to facilitate the roll-out of a three-bin collection system for areas with populations of greater than 1,500, as well as promoting home composting and/or community composting outside these areas. The licensee states that even if a 100% roll out of the three-bin collection system is achieved, the targets set out in the PD will not be achieved without the intervention of further mechanical and biological treatment. The licensee requests that the Agency reconsiders the approved calculation factors for the BMW content of municipal waste streams (Condition 5.15.3) or amend Condition 5.14.1.

The applicant further refers to the difficulties posed by the fact that Local Authority landfills facilitate members of the public who will be encouraged to separate their recyclable material as a minimum. Householders will also be encouraged to use home composters where possible. However, those householders who cannot undertake home composting and do separate their food waste will have to take their recyclables to one facility and food waste to another. The licensee will have to consider providing some intermediate facility to accommodate this.

Technical Committee’s Evaluation: The basis for applying the pre-treatment obligations on landfill operators has been detailed in the EPA Technical Guidance Document *Municipal Solid Waste – Pre-treatment and Residuals Management*. Whilst the guidance document does not mandate the three-bin collection system, it is recognised that the 2-bin system has significant penetration in the Irish waste management market and that the three-bin system is growing rapidly in line with the Ministerial Circular WPPR 17/08 (31-07-2008), which requires that the brown bin (for source segregated biodegradables) be implemented as a matter of urgency for all urban areas over 1,500 persons. The circular also recommends that Local Authorities use the Waste Collection Permit authorisation system and/or By-Laws as appropriate to ensure the separate collection/source separation 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 5.14.1 of the PD allows the EPA to vary the percentage limits applied at landfill if deemed appropriate. Any such variations will be based on the actual recorded figures for the landfilling of waste during 2008, 2009 and 2010. The guidance document also notes that as further statistical data becomes available the EPA will update this direction to the sector, if appropriate. Recent trends suggest a fall in the quantities of municipal waste being sent

to landfill². Should data submitted by landfill operators and the wider waste industry for the National Waste Report 2009 support this fall, then the EPA may, if deemed necessary, revisit the diversion obligations specified for landfill operators. Condition 11.8 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 5.14.1(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 (S.I. No. 508 of 2009). This will provide an opportunity, prior to the deadline for the achievement of the second target, for the sector to develop a network of treatment facilities throughout the state.

With regard to Condition 5.15.3, the Committee notes that 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 on the EPA website at <http://www.epa.ie/downloads/advice&guidance>. Firstly, conversion factors are presented in the Waste Pre-treatment Spreadsheet. The conversion factors assist in the 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 the Agency's website, <http://www.epa.ie/downloads/advice&guidance>. The submission period for comments is open until 01/04/2010. Finally, Condition 5.15.3 enables the Local Authority to develop alternative conversion factors following waste characterisation with the agreement of the Agency.

The Committee considers the requirements of Condition 5.14.1 and 5.15.3 to be appropriate.

Recommendation: No change.

A.3. Condition 12.1.1

The applicant objects to the increase in the annual contribution from €21,826 to €28,920, stating that the increase does not reflect the current economic constraints within which the Local Authorities now operate and the decline in landfill income across both the public and private sectors. The licensee requests a minimum 20% reduction in the annual fee until such time as the economy recovers.

Technical Committee's Evaluation: The annual charge stipulated in Condition 12.1.1 is the invoiced annual charge for 2009. This charge has been determined by the Office of Environmental Enforcement having regard to the extent of reporting, auditing, inspection, sampling, analysis and monitoring of the activity as considered necessary by the Agency. It is likely that the 2010 charge will be reduced compared to the 2009

² 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)

charge on the basis that the assigned enforcement category has reduced from W-A1 to W-A2. However, this a matter for the Office of Environmental Enforcement and is beyond the scope of this licence review. The TC recommends no change.

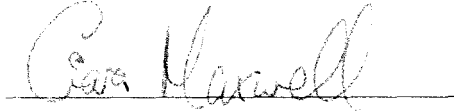
Recommendation: No change.

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, appearing to read "Ciara Maxwell", is written over a horizontal line.

Ciara Maxwell

for and on behalf of the Technical Committee