

**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**



**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 Holmestown Waste Management Facility, Wexford County Council. Licence Register No. W0191-02	

Application Details	
Type of facility:	Landfill
Classes of Activity (P = principal activity):	3 rd Schedule: 1, 4, 5 (P), 6, 7, 11, 12 & 13 4 th Schedule: 2, 3, 4, 9, 10, 11, 12 & 13.
Quantity of waste managed per annum:	80,000 tonnes
Classes of Waste:	Non-hazardous household and commercial waste, waste for composting, construction and demolition waste for recovery, household and commercial waste for recovery at the Civic Waste Facility and Materials Recovery Facility.
Location of activity:	Within the townlands of Holmestown Great, Glenduff, Bolgerstown, Muchwood, Ballyeaton, County Wexford.
Licence review initiated:	18/06/09
PD issued:	19/10/09
First party objection received:	16/11/09 ¹
Third Party Objection received	None
Submissions on Objections received:	None

Introduction

This report relates to a licence review of the Holmestown Waste Management Facility, waste licence W0191-01, granted to Wexford County Council on 10/12/2004.

¹ In accordance with Section 17(1) of the Waste Management Acts 1996 to 2008, as the final date for a valid objection was Sunday 15th November 2009, all valid objections received up to and including Monday 16th November 2009 were regarded as having been received before the expiration of the objection period.

The licence review was initiated by the Environmental Protection Agency (EPA) on 18/06/2009, 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; 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. Wexford County Council lodged an objection to the PD on 16th November 2009. The Council had made an earlier submission (dated 17th July 2009) in relation to the licence review. This was 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

Wexford County Council make five points of objection to the conditions of the PD. There were no third party objections or submissions on objections.

A.1. Condition 5.2.9 – Waste Acceptance & Characterisation Procedures

Condition 5.2.9 states:

- 5.2.9 The licensee shall, in writing, notify the Agency without delay of any waste that arrived at the facility that does not meet the waste acceptance criteria.**

The licensee considers this condition excessive. They propose to maintain a log of waste that does not meet the acceptance criteria at the facility. This log would be available for inspection and a summary of the log could be included in the AER.

Technical Committee's Evaluation:

This is a requirement of the Landfill Directive (1999/31/EC): Waste Acceptance Procedures, Article 11(1)(d) 'without prejudice to the provisions of Regulation (EEC) No 259/93, if waste is not accepted at a landfill the operator shall notify without delay the competent authority of the non-acceptance of the waste'. On this basis, the Technical Committee recommends no change to the condition.

Recommendation: No change.

A.2. Condition 5.18 - Limit on acceptance of BMW

Condition 5.18 states:

5.18.1 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 5.18.2.

5.18.2 Two or more licensed landfills may seek the agreement of the Agency that collectively they will arrange to comply with Conditions 5.18.1. Such agreement may be sought by review of the landfill licence for any facility seeking an increase in the limits set out in Condition 5.18.1, and by technical amendment of any licence for a facility seeking a decrease. Such agreement will be contingent on the net combined acceptance of biodegradable municipal waste at the participating facilities remaining unchanged.

The licensee objects to the specified limits on acceptance of BMW at the landfill. If the percentage BMW arisings from 1, 2 and 3 bin collection systems, as detailed in the EPA's Municipal Waste Characterisation Campaign 2008 are accurate, it is difficult to see how the 2010 and 2013 target levels will be achieved for landfills serving largely rural areas.

There is no available facility within the region with which the licensee could adopt an arrangement as provided for in Condition 5.18.2.

The EPA, in making its decision and in setting targets for the Holmestown facility should have specific regard to:

- The adopted Joint Waste Management Plan for the South East Region;*
- EPA Technical Guidance document MSW – Pre-Treatment and Residuals Management;*
- The rural character of the area served; and*
- The proximity principle.*

Wexford County Council submit that the implementation of a 2 bin collection system throughout the County, and a 3 bin collection in urban areas with populations >1,500, as per the EPA's Technical Guidance document, should be considered as satisfying the BMW targets in this licence.

There are currently insufficient outlets for treatment of bio-waste to meet the bio-stabilised residual waste/compost standards as set in the PD within the South East region. In considering the licence, the EPA should have regard to availability of treatment within the region.

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 5.18.1 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 can be met. Condition 11.8 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 5.18. 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 Technical Committee notes that any arrangement between two licensed landfills under Condition 5.18.2 is not restricted on a regional basis.

The provision of treatment facilities to meet the bio-stabilised residual waste standards is a waste management policy matter for the South East Region and is outside the scope of this licence review.

Recommendation: No change.

A.3. Condition 6.9 - Odour Control & Monitoring & Schedule D.12 - Ambient Odour Monitoring

Condition 6.9, comprising nine sub-conditions, sets out a number of requirements regarding odour control and monitoring at the facility, including:

- Requirement for an Odour Management Plan (OMP) for the facility (condition 6.9.1);
- OMP contents (condition 6.9.2);
- Monthly review & report of odour control measures (condition 6.9.3);
- Annual review of OMP as part of AER (condition 6.9.4);
- VOC trigger levels for surface emissions from waste body (condition 6.9.5);
- Covering of leachate holding tanks/lagoons & venting of head gases (condition 6.9.6);
- Covering of odorous wastes as soon as practicable (condition 6.9.7);
- Appropriate pre-treatment of biological sludges prior to acceptance (condition 6.9.8); and
- Mitigation of odour nuisance in siting & operating landfill gas infrastructure (condition 6.9.9).

Schedule D.12 *Ambient Odour Monitoring* is as follows:

Parameter	Frequency	Analytical Method/Technique
Odour	Monthly	To be agreed

The licensee objects to Condition 6.9 on the basis that the Holmestown facility does not create significant odour complaints/problems. The EPA has undertaken a number of site audits and inspections at Holmestown to date and no significant odour problem has been identified. To their knowledge, only one complaint relating to odour has been received by the Agency since the facility commenced operations in April 2008.

Wexford County Council makes every effort to manage odour issues on site and has been successful in its efforts to date. They believe there is no basis for the inclusion of condition 6.9 relating to odour in the licence.

Technical Committee's Evaluation:

This facility has not been identified by the OEE as a priority site with regard to odour. One odour complaint was received by the OEE in December 2008. The Technical Committee considers, in this case, that there is no reasonable justification to include the new odour control and monitoring condition (6.9) in this licence review.

The Technical Committee notes that during this review process the Proposed Decisions issued by the EPA in relation to other landfill facilities, not identified as priority sites with regard to odour, do not include additional odour control and monitoring requirements. Therefore, in the interest of equity and fairness, the Technical Committee recommends the removal of the new odour control and monitoring requirements in this case.

The odour control and monitoring conditions from the existing licence (W0191-01) should remain and are included in the PD.

Recommendation:

Delete Condition 6.9 in its entirety.

Delete Schedule D.12 Ambient Odour Monitoring.

Remove entry from Schedule H: Content of the Annual Environmental Report as follows:

~~Updates/Amendments to Odour Management Plan (OMP).~~

A.4. Condition 11.8 - Reporting to demonstrate compliance with diversion targets

Condition 11.8 states:

“The licensee shall report to the Agency such data and records, and at such frequency, as may be specified by the Agency in order to demonstrate compliance with the requirements of Condition 5.18.1. From 1 January 2010, and unless otherwise advised by the Agency, the licensee shall submit quarterly summary reports to the Agency within one week of the end of each quarter on the quantity of MSW and BMW accepted at the landfill during the preceding quarter and on a cumulative basis for the calendar year to date. The report shall detail the tonnage of MSW and BMW accepted and the basis (including all calculation factors) on which the figures have been calculated.”

The licensee requests clarification if waste characterisation is required from 1st January 2010 or 1st July 2010.

Technical Committee’s Evaluation:

In the interim period between the date of grant of the revised licence and 1st July 2010, landfill operators will be expected to comply with the conditions of the licences regarding measurement of BMW and stability of biostabilised waste, using the draft *Protocol for the Evaluation of Biodegradable Municipal Waste sent to Landfill by Pre-Treatment Facilities* (EPA, November 2009). They will also be required to submit quarterly reports to demonstrate compliance with diversion targets. The quarterly updates on the quantity of MSW and BMW accepted at the landfill will be required by the EPA’s Resource Use Unit to track progress against diversion targets and to compile national waste statistics.

Condition 11.8 states ‘*From 1 January 2010, and unless otherwise agreed by the Agency*’, which allows flexibility in this reporting requirement, where approved by the OEE on a case by case basis.

Recommendation: No change.

A.5. Conditions 12.2.1 and 12.2.3 – Environmental Liabilities

Condition 12.2.1 states:

12.2.1 The licensee shall as part of the AER, provide an annual statement as to the measures taken or adopted at the site in relation to the prevention of environmental damage, and the financial provisions in place in relation to the underwriting of costs for remedial actions following anticipated events (including closure) or accidents/incidents, as may be associated with the carrying on of the activity.

Condition 12.2.3 states:

12.2.3 As part of the measures identified in Condition 12.2.1, the licensee shall, to the satisfaction of the Agency, make financial provision to cover any liabilities associated with operation, including closure and aftercare, of the facility not covered by Condition 12.3. The amount of indemnity held shall be reviewed and revised as necessary, but at least annually. Proof of renewal or revision of such financial indemnity shall be included in the annual ‘Statement of Measures’ report identified in Condition 12.2.1.



The licensee states that it is not clear what should be included in the AER in relation to measures and associated costs for the prevention of environmental damage. The nature and scope of environmental damage should be defined prior to the inclusion of these conditions.

Technical Committee's Evaluation:

These conditions have been included in the PD to satisfy the requirements of Council Directive (2004/35/EC) on environmental liability with regard to the prevention and remedying of environmental damage.

As outlined in Condition 12.2.1, the annual 'statement of measures' in the AER should include:

- The measures taken at the site in relation to the prevention of environmental damage;
- The financial provision in place to underwrite the costs for remedial actions following anticipated events (including closure) or accidents/incidents; and
- Proof of renewal of such financial indemnity.

'Environmental damage' is defined in Directive 2004/35/EC as follows:

- (a) *damage to protected species and natural habitats, which is any damage that has significant adverse effects on reaching or maintaining the favourable conservation status of such habitats or species. The significance of such effects is to be assessed with reference to the baseline condition, taking account of the criteria set out in Annex I.*

Damage to protected species and natural habitats does not include previously identified adverse effects which result from an act by an operator which was expressly authorised by the relevant authorities in accordance with provisions implementing Article 6(3) and (4) or Article 16 of Directive 92/43/EEC or Article 9 of Directive 79/409/EEC or, in the case of habitats and species not covered by Community law, in accordance with equivalent provisions of national law on nature conservation.

- (b) *water damage, which is any damage that significantly adversely affects the ecological, chemical and/or quantitative status and/or ecological potential, as defined in Directive 2000/60/EC, of the waters concerned, with the exception of adverse effects where Article 4(7) of that Directive applies;*
- (c) *land damage, which is any land contamination that creates a significant risk of human health being adversely affected as a result of the direct or indirect introduction, in, on or under land, of substances, preparations, organisms or micro-organisms.*

The Technical Committee recommends the inclusion of the definition of 'environmental damage' in the licence glossary of terms.

Recommendation: Include the following definition in the licence glossary of terms:

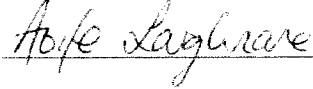
Environmental damage: As defined in Council Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage.

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 Loughmane

for and on behalf of the Technical Committee