



OF

This report has been cleared for Submission to the Board by the Programme Manager Frank Clinton  
 Signed Shulow Date: 1/12/10

**LICENSING & RESOURCE USE**

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

<b>TO:</b>	Directors
<b>FROM:</b>	Technical Committee - LICENSING UNIT
<b>DATE:</b>	11 <sup>th</sup> October 2010
<b>RE:</b>	Objection to Proposed Decision on a Waste Licence Application by Cork County Council – Bottlehill, Toreen South, Coom (Hudson). Cpp, (Fitzgerald), Glashaboy North, Bottlehill, County Cork; Waste Register Number: W0161-02.

**Application Details**

Class(s) of activity:	4 <sup>th</sup> Schedule: Class 4 3 <sup>rd</sup> Schedule: Class 4, 5 & 13
Location of activity:	Bottlehill, Toreen South, Coom (Hudson), Cpp, (Fitzgerald), Glashaboy North, Bottlehill, County Cork.
Licence review initiated:	23 <sup>rd</sup> December 2009
PD issued:	5 <sup>th</sup> August 2010
First party objection received:	None
Third Party Objection received	Two – 31 <sup>st</sup> August 2010, 1 <sup>st</sup> September 2010
Submissions on Objections received:	One – 5 <sup>th</sup> October 2010

**Company**

On 23<sup>rd</sup> December 2009, the Environmental Protection Agency (EPA) initiated a review of the licence for Bottlehill Landfill, County Cork, waste licence register number W0161-01 under Section 46(2) of the Waste Management Acts 1996 to 2008. The reasons for initiating the review are as follows:

- 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 reduce the overall environmental impact of landfill. In this context, there are newly elaborated 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 (a) determine whether new conditions on odour prevention and control should be proposed, (b) amend, replace or delete a number of other conditions where this is appropriate and (c) propose new conditions where these are deemed necessary.

The licensee made a submission on the licence review requesting a number changes to the licence, including a request for the removal of the requirement to accept predominantly baled waste. It should be noted that, to date, the landfill at Bottlehill has not accepted any waste.

There were two third party submissions received in relation to the licence review. These were considered by the Board at the PD stage.

### **Consideration of the Objections**

The Technical Committee, comprising of Suzanne Wylde (Chair) 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 together with discussions with the inspectors, Michael Owens and Caroline Murphy, who also provided comments on the points raised. The Technical Committee (TC) consulted Agency Senior Inspector Brian Meaney (expert for waste sector) in relation to waste issues.

There were no first party objections received. This report considers two valid third party objections. There were no submissions on either of the objections.

## **Third Party Objection**

The two (2 number) third party objections were received from Mr Tom Howard on behalf of the Carrignavar Community Council Ltd (received 31<sup>st</sup> August 2010) and Noonan, Linehan, Carroll and Coffey Solicitors on behalf of John O'Riordan and others known as Bottlehill Environmental Alliance (BEA) (received 1<sup>st</sup> September 2010). The latter also made a submission on the objection of Mr Tom Howard (received 6<sup>th</sup> October 2010). The points raised in the objections and the submission on the first objection are all addressed below.

### **A. Mr Tom Howard on behalf of the Carrignavar Community Council Ltd**

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

*Only residual waste shall be accepted for disposal at the facility.*

The objection relates to the removal of reference to baled waste from this condition, as a consequence of this licence review. The objection makes reference to the transposition of the EU Landfill Directive into Irish legislation, and the requirement therein that all waste to be landfilled must be pre-treated. The objection states that the term “treatment” implies the baling of waste at a waste baling facility, and source segregation and sorting at a materials recycling facility prior to recovery of waste and disposal of non-recyclables at landfill. The objection continues: “*For the EPA to turn around and allow for no baling whatsoever when it’s own investigations appear to be lazy and yet national legislation provides for it, is shocking to say the least when the EPA is the body charged with having the technical knowledge to protect our environment.*”

#### Submission on Objection:

The Bottlehill Environmental Alliance (BEA) wish to endorse the objection stating that the “*removal of the baling requirement would be ultra vires<sup>1</sup> the Agency having regard to the purpose and scope of the Licence Review as set out by the Agency itself in its letter dated 23 December 2009 to the Director of Services, Cork County Council*”. The BEA support their argument by referring to another Agency initiated review of Knockharley Landfill (W0146-02) and the associated inspectors report for that review. The inspectors report refused a number of requested amendments to the licence on the basis that they were outside of the confines of the limited licence review. In addition, the BEA highlight the fact that the Agency’s simultaneous review of the Arthurstown Landfill licence held by South Dublin County Council (W0004-04) made no change to the stipulation that waste be received in baled form.

#### Technical Committee’s Evaluation:

The baling of waste prior to it entering the landfill cells was addressed at the PD stage. In accordance with Article 6 of the Landfill Directive (1999/31/EC), and via the obligations of their waste licences, landfill operators are required to demonstrate that all waste accepted at the landfill has been treated prior to entering the landfill. The Landfill Directive defines “treatment” as ‘*the physical, thermal, chemical or biological processes, including sorting, that change the characteristics of the waste in order to reduce its volume or hazardous nature, facilitate its handling or enhance recovery*’. The Landfill Directive does not specify what physical treatments (e.g. baling) should be employed to suitably treat the waste prior to landfill, nor does the Landfill Directive specify preference for one type of treatment over the other, i.e. physical, thermal, etc.

The PD has not specified baling as a preferred method of pre-treatment for waste, prior to landfill, as the process has no apparent benefits from an environmental perspective.

Condition 1.6 Waste Treatment of the PD, as drafted, specifies the requirements for treatment of waste prior to landfill. This condition will ensure that the landfill conforms to the pre-treatment requirements of the Landfill Directive.

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<sup>1</sup> Beyond the power

The submission on the objection referred to requested amendments, by the licensee, to the Knockharley landfill licence. These requested amendments were refused based on, as stated in the inspectors report, a need for a full technical assessment of the matters raised by the licensee. Given the limited time to conduct the licence reviews and the scale of the task to ensure all of the landfill licences were reviewed by the requisite time, the EPA did not broaden the scope of the reviews to include amendments that would require detailed technical assessment.

The request of Cork County Council to have the requirement for baling excluded was based on the lack of evidence in published literature, or elsewhere, to show that there is an environmental benefit from accepting baled waste at landfills. The Agency conducted a review of a number of technical documents (listed in the Inspector's Report). The review concluded that there was no evident environmental benefit from baling of waste prior to landfilling.

The requirement for accepting baled waste at the Arthurstown Landfill was not removed from the licence as it was not requested by South Dublin County Council. In addition the landfill at Arthurstown is nearing the end of its lifespan and the local authority is satisfied to continue the current waste management practice at that landfill.

<b>Recommendation:</b> No Change
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## **A.2. Condition 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 the operation (including closure, restoration and aftercare) of the facility. 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 objection requests that the condition be amended to require Cork County Council *"to lodge a bond, to be managed by the N.T.M.A [National Treasury Management Agency] to cover the costs involved in the event of default by the licensee or by the future owner/operators of the facility"*.

### Technical Committee's Evaluation:

The PD, as drafted (Condition 4.4), also requires the licensee to put a Closure and Aftercare Management Plan (CRAMP) in place. The purpose of the CRAMP is to ensure appropriate plans and provisions are in place so that the facility can be restored to a satisfactory environmental condition upon site closure. The Agency guidance document *"Guidance on Environmental Liability Risk Assessment, Residuals Management Plans and Financial Provision"* provides guidance for licensees on how to develop a CRAMP. The guidance includes information on the financial instruments that can be used and allows the licensee to select the type of financial provision most suited to their facility. The document includes bonds as an option for financial provision. Condition

12.2.3 is written so that the licensee can select the most appropriate form of financial provision once the CRAMP has been prepared.

The European Communities (Environmental Liability) Regulations (S.I. 547 of 2008), came into force in Ireland on 1 April 2009. These Regulations transpose EU Directive 2004/35/CE on environmental liability with regard to the prevention and remedying of environmental damage. The Directive requires such persons to take preventive measures to avoid damage occurring, remedy damage that occurs and bear the remediation costs of damage that is remedied by the competent authority (in this instance the EPA). Condition 12.2 relating to environmental liabilities gives effect to the requirements of the Regulations. The condition provides a framework of environmental liability based on the “polluter pays” principle. This includes the requirement of the licensee to ensure that appropriate financial provision is maintained to cover any liabilities associated with the operation (including closure, restoration and aftercare) of the facility.

The National Treasury Management Agency (NTMA) was established in December 1990 by legislation, the National Treasury Management Agency Act, 1990. The Act empowers the NTMA *to borrow moneys for the Exchequer and to manage the National Debt on behalf of and subject to the control and general superintendence of the Minister for Finance and to perform certain related functions and to provide for connected matters*. The Agency does not place legal obligations on another state agency in its licences. Condition 1.3 (*...nothing in this licence shall be construed as negating the licensee’s statutory obligations or requirements under any other enactments or regulations*) of the PD places the obligation on the licensee to ensure all other relevant legislation is complied with.

<b>Recommendation:</b> No change.
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**B. Noonan, Linehan, Carroll and Coffey Solicitors on behalf of John O’Riordan and others known as Bottlehill Environmental Alliance**

The objection was submitted on behalf of the BEA. The group submitted a detailed submission on the licence application, which was dealt with at the PD stage. The group relies on the grounds detailed in that submission in their objection. The objection includes remonstrance’s to baled waste, leachate management and waste acceptance, with a number of excerpts from the report of the Oral Hearing, held by the EPA during the initial licensing of the landfill at Bottlehill (W0161-01).

**B.1. Baled waste and waste acceptance**

This objection does not make reference to any one condition but rather to all conditions that have been amended or deleted from the previous licence, with reference to baled waste. The objection cites excerpts from the Oral Hearing report, including the following –

*“In short, if this site is to operate under a licence consistent with current waste management practice, it should only be baled waste and also truly ‘treated’ (i.e. fully/practically separated waste) having passed through an appropriate facility.”*

*“The baling issue was also the subject of this condition [Condition 5.5 of W0161-01 relating to the working face] couched in terms that demonstrate the value of baling as a guarantor of minimising environmental pollution from the activity.”*

Technical Committee’s Evaluation:

It is the opinion of the TC that the issue of the merits, or otherwise, of baled waste has been addressed in detail under Objection A.1. of this report.

<b>Recommendation:</b> No change
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**B.2. Condition 5.3 (Waste Acceptance and Characterisation Procedures)**

The objection (perhaps inadvertently) quotes the following condition as Condition 5.3:

*Prior to commencement of waste acceptance at the facility, the licensee shall submit to the Agency for its agreement written procedures for the acceptance and handling of all wastes. These procedures shall include details of the pre-treatment of all waste to be carried out prior to acceptance at the facility.*

The objection states that the Agency should be more specific in the licence conditions about the procedures for the examination, testing, acceptance and handling of all wastes including details of the pre-treatment to be carried out prior to acceptance.

Technical Committee’s Evaluation:

It should be noted in the first instance that the text of Condition 5.3 quoted in the objection refers to the text of Condition 5.3 in the existing waste licence W0161-01. The text of Condition 5.3 in the PD (W0161-02) states the following:

*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 EU Decision (2003/33/EC) on establishing the criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 and Annex II of Directive 1999/31/EC on the landfill of waste.*

*The waste acceptance procedures established under this condition shall provide:-*

- *For the checking of waste documentation on receipt of waste in the waste reception area;*
- *For non pre-cleared customers, for the visual inspection and testing of waste in the waste inspection area pending acceptance/rejection;*
- *For the visual inspection of waste when deposited at the working face;*

- *For the keeping for two months of any samples associated with on-site verification sampling of waste accepted at the facility.*

The Condition 5.3 relating to waste acceptance and characterisation criteria in the PD is a very detailed and comprehensive condition, specifying to the licensee exactly what is required of them with regard to waste acceptance at the facility. In my opinion the Condition 5.3, as drafted in the PD, adequately addresses the objection.

**Recommendation:** No change

### **B.3. Leachate Treatment**

The objection again makes reference to the report of the oral hearing with an excerpt that stated “...*the site could be engineered to contain and manage the relevant emissions – i.e. capping, lining and leachate/gas/stormwater emission control*”. The objection then continues to state that the licence (W0161-01) contained a requirement to have confirmation from Cork County Council about the suitability and operational effectiveness of the Mallow Waste Water Treatment Plant (WWTP). The objection requested that up to date evidence should be sought that of the capability of the WWTP to comply with the requisite standards, both at present and into the future, if leachate is to be accepted at the WWTP from Bottlehill landfill.

#### Technical Committee’s Evaluation:

Cork County Council submitted an application for a waste water discharge licence to the EPA on 14<sup>th</sup> December 2007 for the WWTP at Mallow. This licence application is currently under assessment with the Office of Climate, Licensing & Resource Use of the EPA.

The Agency report “*Urban waste water discharges in Ireland for population equivalents greater than 500 persons: A report for the years 2006 and 2007*”, the most recent report of urban wastewater discharges, states that the WWTP was in compliance with the requirements of the Urban Waste Water Treatment Regulations (2001) in 2007. Condition 5.10.7 of the PD requires the licensee to demonstrate that the WWTP at Mallow is capable of treating the leachate sufficiently while still complying with all requisite surface water standards. In the event that the WWTP at Mallow is not capable of treating the leachate to appropriate standards, then the licensee may name an alternative WWTP that is capable of treating the leachate to an acceptable standard so as not to exceed any surface water standards.

The PD includes a new condition (Condition 5.10.8), which is not in the existing licence W0161-01, requiring Cork County Council to examine the feasibility of treating the leachate on site. Cork County Council are required to submit a report of this feasibility within 2 years of the date of grant of the final licence.

**Recommendation:** No change

#### **B.4. Hydrological and hydro-meteorological study and catchment delineation.**

The objection quotes the Chair of the Oral Hearing who stated that the hydrological assessment submitted as part of the EIS was “*seriously deficient*”. The BEA state in their objection that, there is still an outstanding need for the hydrological and hydro-meteorological regime to be confirmed on site, as well as a full delineation of the surface and groundwater catchments involved.

##### Technical Committee’s Evaluation:

Cork County Council is required in the PD (Condition 3.16 & 3.17) to install effective surface water and groundwater management infrastructure in order to ensure that water resources are protected from pollution by the waste activities. *Schedule D.1: Monitoring Locations* of the PD requires the licensee to carry out extensive surface water and groundwater monitoring. The PD also includes a failsafe for the Agency to include additional groundwater monitoring locations where required.

The EU Water Framework Directive requires that all waters achieve “*good status*” by 2015. The Directive considers the full range of water environments from source to sea, i.e., all surface waters and also groundwater. The Directive requires that measures be put in place to ensure that all waters achieve the “*good status*” by 2015. The PD as drafted has incorporated the requirements of the Directive. The closest surface water body to the landfill is the Coom River, which has good water quality (Q-value = 4, unpolluted). The PD requires a biological assessment of the surface water to be conducted once every two years using appropriate biological methods such as the EPA Q-rating system for the assessment of rivers and streams (Condition 8.9).

In addition to the extensive requirements in the licence for water monitoring, there is also a requirement for meteorological monitoring to be carried out in *Schedule D.6. Meteorological Monitoring*. The parameters that must be monitored on a daily basis include precipitation volume, evaporation, evapotranspiration, humidity and atmospheric pressure. The licensee is required to submit details of the meteorological monitoring on an annual basis, one month after the end of the year being reported on, in accordance with *Schedule E: Recording and Reporting to the Agency*. In addition to the existing requirements in the licence for meteorological monitoring, the TC recommends that two new conditions be included as per below.

##### **Recommendation:**

Add in new Condition 3.22 as follows:

***The licensee shall, within three months of the date of grant of this licence, install in a prominent location on the site a wind sock, or other wind direction indicator, which shall be visible from the public roadway outside the site.***

Add in new Condition 8.17 as follows:



***The licensee shall monitor meteorological conditions as specified in Schedule D.6. Meteorological Monitoring, of this licence.***

**B.5. Condition 1.5.2 & Condition 7.8.8**

*1.5.2 No hazardous waste, liquid waste or sludges shall be disposed of at the facility.*

*7.8.8 Where it is proposed to take biological sludges at the facility, these must be subject to appropriate pre-treatment in advance of acceptance at the facility.*

The objection states that these two conditions appear to be in contradiction of each other.

Technical Committee's Evaluation:

The TC is in agreement with the observations of the BEA and recommends that Condition 7.8.8 be deleted from the licence.

**Recommendation:** Delete Condition 7.8.8.

**B.6. Condition 1.7.1**

*The licensee shall determine the biodegradable municipal waste content of MSW accepted for disposal to the body of the landfill. Waste that has been bio-stabilised in accordance with Condition 1.7.4 shall not be considered BMW.*

The BEA object to this condition based on the premise that the licensee should not be left to make such a serious determination. In the opinion of the objectors the decision should be left to the Agency.

Technical Committee's Evaluation:

This is a standard condition used in all landfill licences and operators are required to monitor and report quarterly on the quantity of biodegradable municipal waste landfilled at the facility. The objective of this and associated conditions, based on the Landfill Directive, is to progressively reduce the intake of biodegradable waste at the facility with related long term beneficial impacts.

In addition, the basis for the condition is based on the requirements of the Landfill Directive (1999/31/EC) to reduce to volume of biodegradable waste going to landfill. The requirements of the Directive with regard to the limits are set out in Condition 1.6.2, limit on acceptance of biodegradable municipal waste.

**Recommendation:** No change.

## B.7. Condition 1.7.5

*Bio-stabilised residual wastes shall be monitored in accordance with Schedule D.7: Waste Monitoring, of this licence.*

The objection questions how will it be possible to monitor the stabilised waste in loose format, mixed and packed?

### Technical Committee's Evaluation:

Bio-stabilised residual waste means residual BMW<sup>2</sup> that has been treated to achieve an EPA approved biodegradability stability standard prior to landfilling or alternative use agreed (not a compost product standard as understood by EU 1774/2002).

As per the advice of the EPA technical guidance document "*Municipal Solid Waste – Pre-treatment & Residuals Management*", and as included in Condition 1.7.4 of the PD, the following standard will be applied for testing bio-stabilised residual wastes:

'stabilisation' means the reduction of the decomposition properties of biowaste to such an extent that offensive odours are minimised and that the Respiration Activity after four days (AT<sub>4</sub>) is <10mg O<sub>2</sub>/g DM (until 1<sup>st</sup> January 2016), and <7mg O<sub>2</sub>/g DM thereafter.

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 EPA has developed a "*Draft Protocol for the Evaluation of BMW sent to Landfill by Pre-Treatment Facilities*". The document includes technical guidance for operators to determine whether stabilised biowaste produced at a pre-treatment facility meets the EPA standard detailed above. Depending on the pre-treatment facility operational parameters, the operator will be able to estimate if the output could meet the EPA stability standard for residual waste sent to landfill.

<b>Recommendation:</b> No Change.
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## B.8. Condition 1.12

*This licence is being granted in substitution for the waste licence granted to the licensee on 25<sup>th</sup> June 2004 and bearing Waste Licence Register No: W0161-01. The previous waste licence (Register No: W0161-01) is superseded by this licence.*

The objection states that this licence is in place of an existing licence, which was never used as no waste was deposited, so there has been no trial of licence or systems.

### Technical Committee's Evaluation:

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<sup>2</sup> Biodegradable Municipal Waste

The EPA is the competent authority for granting and enforcing waste licences in Ireland, in accordance with the Waste Management Acts, 1996 to 2008. The EPA has been carrying out this function since 1996. It is not a requirement that the conditions of a licence be “trialled” prior to it being reviewed. A licensee is still legally bound to adhere to the terms of their licence, whether it be a reviewed licence or not.

The purpose of the licence review has been set out at the beginning of this report, but in short it was to bring the Bottlehill landfill licence in line with the requirements of the Landfill Directive (1999/31/EC). The licence review process did not address matters outside of those highlighted at the beginning of this report, as these matters had previously been addressed at the initial licensing stage and, in the case of this licence, in detail at the Oral Hearing.

<b>Recommendation:</b> No Change.
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## **B.9. Condition 4.4**

### *4.4 Closure, Restoration, Aftercare and Management Plan (CRAMP)*

- 4.4.1 Within 18 months of commencement of waste activities at the facility, the licensee shall prepare for agreement by the Agency, a fully detailed and costed plan for the closure, restoration and long-term aftercare of the site or part thereof. This plan shall have regard to the commitments given in Section 3.10 of the EIS for Licence Register W0161-01 (as may be varied herein, or otherwise amended as notified in the AER and approved in writing by the Agency).*
- 4.4.2 The plan shall be maintained and reviewed annually and proposed amendments thereto notified to the Agency for agreement as part of the AER. No amendments may be implemented without the prior agreement of the Agency.*

The objection states that the CRAMP should be prepared before land filling begins as the preparation of a CRAMP will be a costly process.

#### Technical Committee’s Evaluation:

The TC agrees with the objection that the CRAMP should be prepared before any landfilling begins. The TC recommends amending the existing condition 4.4.1 to require the CRAMP to be prepared prior to waste being accepted at the facility.

<b>Recommendation:</b> Amend Condition 4.4.1 as follows:
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<i>In advance of the acceptance of waste for disposal at the site, the licensee shall prepare for agreement by the Agency, a fully detailed and costed plan for the closure, restoration and long-term aftercare of the site or part thereof. This plan shall have regard to the commitments given in Section 3.10 of the EIS for Waste Licence Register W0161-01 (as may be varied herein, or otherwise amended as notified in the AER and approved in writing by the Agency).</i>
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#### **B.10. Condition 5.6.2**

*Biostabilised residual waste shall only be used as landfill cover where it has been stabilised in accordance with Condition 1.7.4 (or meets the requirements of an alternative protocol as may be agreed under Condition 1.7.2), complies with any requirements of the Department of Agriculture, Fisheries and Food relating to the management of animal by-products and has been agreed in advance with the Agency.*

The objection states that this condition refers to biostabilised waste, is vague and refers to animal by-products. The condition states that these waste types are a “*long way from municipal waste*”.

#### Technical Committee’s Evaluation:

Condition 5.6. of the PD refers to the use of daily and intermediate cover for the landfill. The purpose of daily landfill cover being to act as a form of nuisance control, in addition to reduce leachate generation and change the nature of gaseous emissions (thereby controlling odour). Biostabilised residual waste is a product of the treatment of municipal waste and is a means of extracting organic/biodegradable waste from municipal waste and treating it to reduce its biodegradability and potential for odour nuisance in a landfill.

The TC evaluation of Objection B.7. of this report explains what bio-stabilised residual waste means, i.e., treated residual biodegradable municipal waste. The purpose of the Condition 5.6.2 is to ensure that where bio-stabilised waste is used as daily or intermediate landfill cover, it will be properly stabilised (i.e. meet the EPA standard for bio-stabilised waste), and comply with the sanitisation requirements of the animal by-products legislation. In this way, its potential to cause an odour nuisance or contribute to the spread of animal disease is minimised.

<b>Recommendation:</b> No Change.
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#### **B.11. Condition 5.10.8 & Condition 6.4.1**

*5.10.8 Notwithstanding the requirements of Condition 5.10 generally and Condition 6.6.2, the licensee shall, within two years of the date of grant of this licence, carry out and submit to the Agency an independently verified economic, technical and environmental assessment of the feasibility of providing onsite treatment of the leachate generated at the facility. The assessment shall consider the provision of treatment during the active, closure and post closure phases. Recommendations shall be implemented according to a schedule as may be agreed with or specified by the Agency.*

*6.4.1 No raw leachate, treated leachate or contaminated water shall be discharged to surface water.*

The objection states that this condition amounts to opening the floodgates as the two receiving streams in Bottlehill are quite small and the dilution effect on the quantities

of leachate as identified in the EIS could have disastrous effects on surface and ground water. The objection also states that the condition contradicts Condition 6.4.1.

Technical Committee's Evaluation:

Condition 5.10.8 requires the licensee to investigate the possibility of treating the leachate on site. This is in line with the EU Proximity Principle, which holds that wastes must be treated and/or disposed of as close as possible to the point of generation. The principle works to minimise the environmental impact and cost of waste transport.

It is the opinion of the TC that the feasibility for treating leachate onsite should be examined on a repetitive basis, and therefore recommends amending Condition 5.10.8 to require the feasibility study to be conducted every 5 years. This will ensure that any new technologies that may arise in the interim can be incorporated into a future study. This is in keeping with the EU proximity principle as detailed above.

In the event that the feasibility study determined that it would be suitable to treat leachate at the facility and the study proposed to discharge the treated leachate to surface water, in the opinion of the TC this proposal would most likely require a licence review. If it is found to be feasible to treat leachate at the landfill, the leachate would have to be treated to a standard so as to ensure the water quality in the receiving waters does not breach the statutory limits for water quality, as set in the European Communities Environmental Objectives (Surface Water) Regulations, (S.I. 272 of 2009).

**Recommendation:** Amend Condition 5.10.8 as follows:

*Notwithstanding the requirements of Condition 5.10 generally and Condition 6.6.2, the licensee shall, within two years of the date of grant of this licence, and as appropriate every five years thereafter, carry out and submit to the Agency an independently verified economic, technical and environmental assessment of the feasibility of providing onsite treatment of the leachate generated at the facility. The assessment shall consider the provision of treatment during the active, closure and post closure phases. Recommendations shall be implemented according to a schedule as may be agreed with or specified by the Agency.*

**B.12. Condition 5.12.2**

*The licensee shall, prior to the commencement of tree felling consult with the Forest Service of the Department of Agriculture and Food in relation to tree felling. The felling of trees shall be undertaken only outside the breeding season (May - July) for birds unless with the prior consent of the Forest Service of the Department of Agriculture and Food and the National Parks and Wildlife Section of the Department of Environment, Heritage and Local Government. The nesting sites for owls and birds of prey shall be fully protected.*

The objection states that the licensee must seek a felling licence rather than simply consult.

Technical Committee's Evaluation:

The overriding purpose of Condition 5.12 is in relation to ecological protection of the site. The EPA is not the responsible authority for issuing licences for felling trees. The condition requires that the licensee consult with the Department of Agriculture, Fisheries and Food with regard to tree felling as the Department is the competent authority with responsibility for forestry in Ireland. Condition 1.1 of the PD states "...nothing in this licence shall be construed as negating the licensee's statutory obligations or requirements under any other enactments or regulations." This condition places the onus on the licensee to ensure that all of the licensee's legal obligations under any legislation not covered by the licence is complied with, including any requirement there may be in relating to the felling of trees on the site.

The TC recommends amending the Condition 5.12.2 to include the full title of the Department of Agriculture, Fisheries and Food.

**Recommendation:** Amend Condition 5.12.2 as follows:

*The licensee shall, prior to the commencement of tree felling consult with the Forest Service of the Department of Agriculture, Fisheries and Food in relation to tree felling. The felling of trees shall be undertaken only outside the breeding season (May - July) for birds unless with the prior consent of the Forest Service of the Department of Agriculture, Fisheries and Food and the National Parks and Wildlife Section of the Department of Environment, Heritage and Local Government. The nesting sites for owls and birds of prey shall be fully protected.*

**B.13. Condition 7.3.7 and Condition 11.4.2**

7.3.7 *Prior to the commencement of waste activities the licensee shall submit to the Agency for its agreement procedures for the operation of the facility in adverse wind conditions.*

11.4 *Reports relating to Facility Operations*

11.4.2 *Operation in Adverse Weather Conditions*

*Prior to the commencement of waste activities the licensee shall submit to the Agency for its agreement proposals for the operation of the facility in adverse weather conditions.*

The objection states that these conditions are excessively vague.

Technical Committee's Evaluation:

Condition 7.3.7 is quite clear in its requirement that the licensee shall submit procedures to the Agency for the operation of the landfill during adverse wind conditions. The condition should be read in conjunction with the rest of the

Condition 7.3 which refers to the requirements to be put in place to ensure effective litter control at the site. When read in conjunction with the rest of the condition, it is clear that the procedures required are for wind conditions when it becomes more difficult to control litter at the facility.

The objection also states that Condition 11.4.2 is excessively vague. Adverse weather conditions could be defined as weather conditions which impede normal operational activities. The condition requires for the submission, by the licensee, of procedures for operating the landfill during times when normal operating procedures have been disrupted due to the weather conditions. Such conditions would be high winds, heavy rainfall events and extreme temperature conditions.

The TC is of the opinion that Condition 7.3.7 should be amended to refer to adverse weather conditions as opposed to adverse wind conditions, so as to correspond with Condition 11.4.2.

**Recommendation:** Amend Condition 7.3.7 as follows:

*Prior to the commencement of waste activities the licensee shall submit to the Agency for its agreement procedures for the operation of the facility in adverse **weather** conditions.*

#### **B.14. Conditions 12.1, 12.2, 12.3 and 12.4**

*Condition 12.1 to Condition 12.4, inclusive, deal with Agency charges to the licensee, the requirements of the Environmental Liabilities Directive, landfill charges and the provision of a community fund.*

The objection states that these conditions amount to a very significant cost and must be in place together with all necessary legal, security, and financial guarantees prior to any waste entering landfill.

##### Technical Committee's Evaluation:

Prior to an applicant being granted a licence by the EPA, the applicant is required to demonstrate their financial capability to manage the facility in a manner that will not cause environmental damage, to include the financial provision for aftercare management and closure.

Condition 12.1 refers to the Agency charges that the licensee is required to pay. These charges are towards the Agency cost of monitoring the landfill and to contribute towards its costs in performing any other functions in relation to the activity. As already stated the licence is a legally binding document to which the licensee must adhere to, including payment of its annual charges to the Agency.

The Environmental Liabilities Directive has been transposed into Irish legislation as the European Communities (Environmental Liability) Regulation (S.I. 547 of 2009). These Regulations state that any operators of a site that has

the potential to cause environmental damage shall be liable for the costs incurred in carrying out preventative or remedial measures required in respect of the imminent threat or damage. The purpose of Condition 12 is to provide for adequate financing for monitoring and financial provisions for measures to protect the environment.

The TC agrees with the objection that the requirements of the conditions must be in place together with all necessary legal, security and financial guarantees prior to any waste entering landfill. As such the TC recommends that the Environmental Liabilities Risk Assessment, required to be completed under Condition 12.2.2, must be submitted to the Agency in advance of commencement of activity at the site. The TC recommends that the requirement for the licensee to make financial provision to cover any liabilities associated with the operation of the facility, required under Condition 12.2.3, also be put in place prior to the commencement of activity at the facility.

**Recommendation:** Amend Conditions 12.2.2 and 12.2.3 as follows:

*12.2.2 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) which addresses the liabilities from past and present activities. The assessment shall include those liabilities and costs identified in Condition 4 for execution of the Closure, Restoration and Aftercare and Management Plan. A report on this assessment shall be submitted to the Agency for agreement **in advance of the commencement of the activity**. The ELRA shall be reviewed as necessary to reflect any significant change on site, and in any case every three years following initial agreement. Review results are to be notified as part of the AER.*

*12.2.3 In advance of the commencement of the activity, the licensee shall, to the satisfaction of the Agency, make financial provision to cover any liabilities associated with the operation (including closure, restoration and aftercare) of the facility. 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.*

#### **B.14. Environmental Impact Statement**

The objection concludes with a brief statement that most of the EIS is “defunct” and that a new EIS should be prepared to comply with the EIA Directive and implementing Regulations.

##### Technical Committee's Evaluation:

It is not the responsibility of the EPA to require that an EIS be carried out. This is within the remit of the planning authorities and in this case is within the remit of An Bord Pleanála.



### **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

A handwritten signature in black ink, appearing to read 'Suzanne Wylde', is written over a horizontal line.

**Suzanne Wylde, Inspector**

for and on behalf of the Technical Committee

