



**OFFICE OF CLIMATE, LICENSING &
RESOURCE USE**

ENVIRONMENTAL LICENSING PROGRAMME MEMORANDUM

TO: DARA LYNOTT, DIRECTOR

C.C: Frank Clinton, Programme Manager

FROM: Caroline Murphy, Inspector

DATE: 26 August 2013

RE: Recommendation to consider a waste licence review application to have been withdrawn: Register Number W0021-03, Mayo County Council, Derrinnumera Landfill, Derrinnumera, Newport, County Mayo.

On 22 May 2007 Mayo County Council applied to the Agency for a review of their waste licence, register number W0021-02, to provide for the inclusion of a sludge hub centre, an interim sludge drying/lime-dosing system, a leachate treatment facility and a pumping station to pump treated leachate via a rising main to the discharge outfall of the proposed Newport Wastewater Treatment Plant (WWTP) (D0224-01). It has been proposed that the treated leachate will discharge together with the effluent from the plant via a marine discharge pipe into Newport Bay. This discharge point is located approximately 7km from Derrinnumera landfill (which is now closed).

On 17 September 2008 An Bord Pleanála issued Board Direction Ref: 16.JA.0002 stating that the Board decided to refuse approval for the construction and operation of a sludge hub centre and leachate treatment facility at the existing landfill at Derrinnumera for reasons including:

- The Board was not satisfied that the proposed development of a leachate treatment facility, sludge hub centre and associated effluent pipeline at this location represents the optimum approach for treatment of landfill leachate and sludge arisings taking into consideration:
 - the sensitive nature of the receiving environment namely Clew Bay¹, and
 - the limited remaining life-span of the existing landfill at Derrinnumera.
- The Board considered that the Environmental Impact Statement (EIS) for the Derrinnumera site, which is based upon a Design Build and Operate (DBO) contract, fails to provide adequate assurances in relation to the nature of the leachate treatment process and its efficacy and reliability. The Board had regard to the:
 - sensitive nature of the receiving waters in Clew Bay, and

¹ Clew Bay is a natural habitat (a candidate Special area of Conservation), a natural shellfish and seafood production area (waters meeting the Class A Shellfish Production Standard and subject of an Oyster Fishery Order) and salmon fishery.

- fact that the leachate would require treatment to a very high standard and on a consistent basis to ensure no significant adverse impacts on the natural environment.
- The Board was not satisfied that the acceptable environmental management of the overall Derrinnumera site, which would be operated by two entities (a DBO operator and the landfill operator), was adequately demonstrated in the EIS.
- The Board was not satisfied that the proposed development would not pose an unacceptable risk of adverse impact on habitats and of environmental pollution and therefore the proposed development would be contrary to the proper planning and sustainable development of the area.

The Department of Environment, Heritage and Local Government has stated that the *"...project will have negative effects on the Freshwater Pearl Mussel and its habitat during construction; the risk of possible pollution events once operational has not been discounted. In view of this negative assessment, the project (or this part of the project) may not be permitted under Article 6(3) of the EU Habitats Directive..."*

This development was refused permission by An Bord Pleanála in 2008. The Agency has had no indication that Mayo County Council is considering a revised planning application. There is no correspondence on the file to indicate any sense of urgency on the part of the applicant to see the licence application progressed. It is clear that this development cannot proceed at this time. It is noted that the principle of there having to be planning permission in place prior to the Agency granting a licence is now enshrined in legislation governing new licence applications. This new legislation does not apply to this application given its age, however it is conceivable that a legal challenge to an Agency decision made in the absence of planning permission could succeed. There is considerable local and national interest in the application, but a considerable period of time has elapsed since the interested third parties made their original submissions (2007 in most cases). For the Agency to continue to consider the waste licence application (given its age and the age of the submissions and for a development that cannot proceed and might be subject to judicial review) would take a considerable amount of inspectorate and administrative resources. This would be an inefficient use of constrained Agency resources.

Recommendation

I recommend that in accordance with article 21 of the Waste Management (Licensing) Regulations 2004, as amended, the Agency moves to consider the application to have been withdrawn.

In the event that the application is to be considered to be withdrawn I recommend that a Notice under Article 21(2) of the regulations be served on Mayo County Council specifying an appropriate period within which they must respond, justifying why the application should not be regarded as withdrawn, and if they fail to so respond the application should be declared to be withdrawn.

Signed:



Caroline Murphy
Inspector
Environmental Licensing Programme