

This Memo has been cleared by  
Tom McLoughlin for submission  
to the Board

Signed: *Bea* Dated: 13 Feb 14  
*Claydon*



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:	13 February 2014
RE:	Objection to a Proposed Decision (PD) issued to Padraig Thornton Waste Disposal Limited, Unit S5B, Henry Road, Park West Business Park, Dublin 12, Licence Register W0195-02.

**Application Details**

Type of facility:	Compost Facility.
Classes of Activity ( <b>P</b> = principal activity):	3 <sup>rd</sup> Schedule: 8, 15. 4 <sup>th</sup> Schedule: 3 ( <b>P</b> ), 13.
Quantity of waste managed per annum:	40,000 tonnes.
Classes of Waste:	Biodegradable waste.
Location of facility:	Kilmainhamwood Compost, Ballynalurgan, Kilmainhamwood, Kells, County Meath.
Licence application received:	26 May 2010.
PD issued:	1 October 2013.

**1. Company and background to this report**

Padraig Thornton Waste Disposal Ltd., operates a composting facility. The original licensee (McGill Environmental Systems) was granted a waste licence (Licence Register No. W0195-01) for operation of this facility in July 2005. The current licensee purchased the facility in September 2005. The licence was transferred to the licensee in January 2006. The Company Registration Number (CRO) is 72366.

The facility is currently licensed to accept 20,800 tonnes of bio-degradable waste per annum. The review of the existing waste licence (Licence Register No. W0195-01) is concerned with: (i) an increase in the waste acceptance threshold to 40,000 tonnes per annum and associated extension to the current facility to provide sufficient processing capacity and (ii) a proposal to produce a new grade of compost at the facility.

This report relates to one valid first party objection and two valid third party objections received by the Agency in relation to the Proposed Decision (PD) issued to Padraig Thornton Waste Disposal Ltd., on 1 October 2013.

## 2. Consideration of the objections

This report considers one valid first party objection and two valid third party objections, as listed in the following table. The issues raised in the objections are summarised in this report. However the original objections should be referred to at all times for greater detail and expansion of particular points.

Objector's Name	Date Received
Padraig Thornton Waste Disposal Limited	24 October 2013
Mr Peter J W Brittain	29 October 2013
Mr and Mrs George and Maggy Williams	29 October 2013

The Technical Committee (TC), comprising of Ewa Babiarczyk (Chair) and Brian Meaney, has considered all of the issues raised in the objections and this report details the Committee's comments.

### 2.1 Objection No.1 from First Party

#### Objection 1. The licensee's name

The applicant states that the correct name of the licensee is *Padraig Thornton Waste Disposal Limited* and not *Padraic Thornton Waste Disposal Limited* as stated in the Proposed Decision.

#### Technical Committee's Evaluation

The licensee's name stated in the PD is the same name as stated in the application and the Certificate of Incorporation of a Company submitted in the licence application. The Companies Registration Office (CRO) confirmed however that the certificate submitted by the applicant is an old copy and there has been a new certificate issued since then. The CRO advised that the licensee's name is *Padraig Thornton Waste Disposal Limited*. Accordingly, use of the company name as requested by the applicant is recommended.

#### Recommendation:

Change all relevant references to "Padraic Thornton Waste Disposal Limited" (or Ltd) in the PD to "Padraig Thornton Waste Disposal Limited" in the following sections/conditions of the licence:

Front page  
Introduction  
Glossary of Terms – definition of licensee  
Part I Schedule of Activities Licensed

#### Objection 2. The licensee's address

The applicant states that the correct address of the licensee is Unit S3B, Henry Road, Parkwest Business Park, Dublin 12 and not "Unit S5B" as stated in the PD.

#### Technical Committee's Evaluation

The Technical Committee notes a typographical error in the licensee's address.

**Recommendation:**

Amend the licensee's address in *Glossary of Terms* to read as follows:

**Licensee** Pdraig Thornton Waste Disposal Limited, Unit S3B, Henry Road, Park West Business Park, Dublin 12. CRO Number 72366.

Amend the licensee's address in *Part I Schedule of Activities Licensed* of the PD to read as follows:

"In pursuance... to grant this Waste Licence to Pdraig Thornton Waste Disposal Limited, Unit S3B, Henry Road, Park West Business Park, Dublin 12, to carry..."

**Objection 3.** Condition 1.6.1 (iii)

1.6.1 *Unless otherwise agreed by the Agency, wastes accepted for biological treatment/composting at the facility shall only be:*

- (i) *Non-hazardous;*
- (ii) *Conducive to biological treatment/composting;*
- (iii) *Able to facilitate the achievement of the output quality standards specified in Schedule E: Standards for Compost Quality, of this licence; and,*
- (iv) *Compatible with the proposed end use.*

The applicant requests the addition of the following text "or an alternative quality standard for compost, subject to the agreement of the Agency" to Condition 1.6.1(iii) so this condition is consistent with Conditions 6.20.1 and 6.20.2 which relate to compost quality and include provision for alternatives for compost quality standards.

**Technical Committee's Evaluation**

An alternative quality standard for compost may be used at the facility subject to the agreement of the Agency.

**Recommendation:**

Amend Condition 1.6.1 to read as follows:

1.6.1 Unless otherwise agreed by the Agency, wastes accepted for biological treatment/composting at the facility shall only be:

- (i) Non-hazardous;
- (ii) Conducive to biological treatment/composting;
- (iii) Able to facilitate the achievement of the output quality standards specified in *Schedule E: Standards for Compost Quality* of this licence **or an alternative quality standard for compost as may be agreed by the Agency;** and,
- (iv) Compatible with the proposed end use.

**Objection 4.** Condition 3.22

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

The applicant states that it is not possible to position a wind sock or alternative wind direction indicator on buildings of the facility and have it visible from the public roadway

which is approximately 800m away. The applicant further states that an automatic weather station monitors and records the wind direction on site continuously and requests to remove Condition 3.22.

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

The Technical Committee notes that there are roads surrounding the facility with the nearest occupied dwelling approximately 300 m from the facility. Condition 3.22 does not specify which public roadway the wind sock should be visible from.

### **Recommendation:**

Amend Condition 3.22 to read as follows:

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

### **Objection 5. Condition 5.3**

#### *5.3 Storm water*

*The trigger levels for storm water discharges from the facility are:*

- (i) *Suspended Solids: 25mg/l*
- (ii) *Total Ammonia: 0.14 mg/l (as N)*
- (iii) *BOD: 2.6 mg/l,*

*unless otherwise agreed by the Agency in circumstances where it is satisfactorily demonstrated that discharge at a higher level will not cause environmental pollution.*

The applicant believes that the trigger levels set out in Condition 5.3 are too low and requests that the trigger levels are set at the quarterly levels recorded upstream of storm water discharges. The applicant argues that storm water discharge similar to upstream levels will not cause environmental pollution. In support of the request the applicant submitted one monitoring result for BOD and ammonia measured upstream and downstream of the storm water discharge point.

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

No specific trigger levels were proposed by the applicant. The submitted monitoring results do not provide sufficient information to recommend an increase of the trigger levels specified in Condition 5.3. Also, the objection has not established that the upstream water quality, which is proposed as the trigger level, does not indicate environmental pollution in the stream.

### **Recommendation:**

No change

### **Objection 6. Condition 6.13.1**

*6.13.1 Dust curtains shall be maintained on the entry/exit points of the waste processing building. All other doors of the waste processing building shall be kept closed where possible.*

The applicant requests that the requirement for dust curtains on the entry/exit points of the waste processing building is removed from Condition 6.13.1 as the building is under negative air pressure. The applicant continues that the composting process does not generate dust that would cause environmental emissions and that quarterly reports on dust monitoring at the facility show compliance with requirements of the existing licence. The applicant further states that all vehicle entry/exit points are adequately closed off using roller shutter doors and will be kept closed where possible, and all pedestrian entry/exit points are adequately closed off using hinged doors and also will be kept closed where possible.

**Technical Committee's Evaluation**

The Technical Committee proposes that Condition 6.13.1 is amended to provide for alternative to dust curtains as a precaution measure for control of fugitive dust emissions.

**Recommendation:**

Amend Condition 6.13.1 to read as follows:

**6.13.1 *Dust curtains or equivalent mechanisms approved by the Agency shall be maintained on the entry/exit points of the waste processing building to avoid the egress of dust, while open. All other doors of the waste processing building shall be kept closed where possible.***

**Objection 7. Condition 8.13**

*8.13 Unless approved in writing, in advance, by the Agency the licensee is prohibited from mixing a hazardous waste of one category with a hazardous waste of another category or with any other non-hazardous waste.*

The applicant requests to remove Condition 8.13 due to the fact that the licensee is not permitted to accept any hazardous waste.

**Technical Committee's Evaluation**

It is noted that Condition 8.3 prohibits acceptance of hazardous waste at the facility. However in the event that the applicant generates hazardous waste at the facility, the condition will ensure the prohibition of unauthorised mixing.

**Recommendation:**

No change

**Objection 8.** Schedule C.1.2: Monitoring of Emissions to Air

Emission Point Reference No: BF1 (Biofilter 1)  
BF2 (Biofilter 2)

Parameter	Monitoring Frequency	Analysis Method/Technique
Odour	Quarterly <sup>Note 1</sup>	See Note 1
Ammonia	Monthly (at outlet of Biofilter)	Colorimetric indicator tubes <sup>Note 2</sup>
Hydrogen sulphide	Monthly (at outlet of Biofilter)	Colorimetric indicator tubes <sup>Note 2</sup>
Mercaptans	Monthly (at outlet of Biofilter)	Colorimetric indicator tubes <sup>Note 2</sup>

**Note 1:** Odour measurements shall be by olfactometric measurement and analysis shall be for mercaptans, hydrogen sulphide, ammonia, and amines.

**Note 2:** Or an alternative method agreed by the Agency.

The applicant believes that the requirement to monitor odour quarterly by olfactometric measurement is excessive due to the fact that recently reported analysis, as requested in the existing licence, shows low or no emissions of ammonia, H<sub>2</sub>S and mercaptans detected as being released from the biofilters. The applicant further states that quarterly monitoring requirement places a financial burden on the operator and requests this monitoring frequency to be amended to bi-annual with additional monitoring subject to be requested by the Agency.

**Technical Committee's Evaluation**

Condition 6.8 provides for amendment of the monitoring frequency with the agreement of the Agency following evaluation of test results. It is noted that no such results were submitted in the objection. It is also noted that a period of intensive monitoring of biofilter emissions is recommended in a later section of this Technical Committee Report. Amendment of the monitoring arrangements in the PD after that intensive monitoring period should be subject to agreement by the Office of Environmental Enforcement (OEE).

**Recommendation:**

No change

**Objection 9.** Schedule E - Table E.1: Maximum Respiration Activity

Parameter	Quality Limit
Stability	Oxygen Uptake Rate (OUR), ≤ 13 mmol O <sub>2</sub> /kg organic solids/hour

The applicant requests the addition of the following text "or an alternative stability standard for compost may be used, subject to the agreement of the Agency". The applicant explains that this is to provide consistency with Conditions 6.20.1 and 6.20.2 which refer to alternative quality standards for compost quality. Furthermore, the applicant refers to various alternative standards for compost quality and adds that the oxygen uptake rate (OUR)

analysis is a relatively new method of measuring compost stability and not widely used in laboratories.

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

The Technical Committee notes that Table E.1 is part of Schedule E of the PD. Conditions 6.20.1 and 6.20.2 allow for the replacement of Schedule E in its entirety by an alternative compost quality standard. It is noted that there is no request for other changes within Schedule E. Thus there is no reason to recommend flexibility to be possible on this one item within Schedule E.

### **Recommendation:**

No change
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## **2.2 Third party objections from Mr Peter J W Brittain and Mr and Mrs George and Maggy Williams**

Mr Brittain's and Mr and Mrs Williams' objections are not directed to individual licence conditions. Rather, a number of overarching issues are discussed in detail in the objections. The Technical Committee's discussion of the objections is therefore set out by topic, rather than individual condition. The two objections deal with many common issues. Mr Brittain's objection is the longer and more detailed of the two documents. The Technical Committee will base its discussion (below) primarily on Mr Brittain's objection and will make reference to any particular points made by Mr and Mrs Williams where appropriate.

The applicant made no submission on the third party objections.

### *Odour nuisance and emission of harmful substances and bio-aerosols*

In their objections, Mr Brittain and Mr and Mrs Williams express doubts about the efficacy of air and odour abatement equipment in use at the facility and required by the PD. Both parties complain of serious health impacts contended to be brought about by emissions from the facility. It is also contended that health impacts are being suffered by livestock and horses held by Mr and Mrs Williams. A doctor's opinion is provided in Mr Brittain's objection that links Mrs Margaret Brittain's symptoms of illness to emissions from the plant, although the doctor concedes that it is not possible to firmly establish a cause-and-effect link. The doctor's report states that Mrs Brittain lives approximately one kilometre from the composting plant.

In response, the Technical Committee notes that the objections do not establish any link between the licensed facility and the odour nuisance and health impacts reported by the objectors. The Technical Committee cannot state that the licensed facility is the source of harmful or odorous emissions. However, the objections raise the possibility of the facility being the source of harmful emissions. It is a fundamental fact of the Agency's proposing to grant a licence (in the form of a Proposed Decision) that the activity, as may become authorised, will not cause harmful emissions and have health impacts. A composting plant is an entity that should be sealed and isolated from the environment. This is an objective that, from an engineering standpoint, is capable of being achieved. The air abatement plant proposed by the applicant has been found by the Agency to be BAT and should not cause environmental pollution and has been licensed on that basis. However, as described in the Inspector's Report, 14 odour complaints were received in 2010, reducing to 7 in 2011 after installation of new air management and air emissions abatement equipment. In 2012, the number of complaints increased again to 15 and in 2013, 12 complaints were received. On the other hand, a total of 7 unannounced odour surveys plus one audit were carried out by OEE in 2012 and 2013, all of which were deemed compliant. In 2011, the OEE commissioned

a monitoring exercise with Odournet which assessed the impact of odorous emissions and bioaerosols. Odournet's report concluded:

- residences to the north east of the facility are predicted to be adversely affected by odours;
- complainants at other locations which are not predicted to be adversely affected may have been sensitised to the odours from the facility or intermittent events take place that have not been accounted for in Odournet's odour dispersion model;
- the biofilters were performing at the middle to lower end of performance ranges typically observed by Odournet;
- both biofilters were removing ammonia but generating hydrogen sulphide, indicating that anaerobic decomposition may be occurring within the biofilters;
- the condition of the medium in one of the biofilters was not satisfactory and its removal in whole or in part would be beneficial to overall performance;
- there is no evidence of bioaerosols impact from the facility at off-site locations.

According to the inspector's report that was presented to the Board, works have been carried out to replace biofilter media and improve the management of biofilters to ensure more efficient distribution of air through them. The inspector's report assessed the odour impact assessment provided with the licence review application. The model predicted that no odour impact will be perceived by residents.

The Technical Committee consulted with the OEE and was informed that the licensee has been largely compliant with the existing licence and this has been verified by OEE odour surveys and externally-contracted monitoring, all mentioned above. A total of 8 non-compliances have been issued in 8 years, but none have related to an exceedence of emission limit values.

The conditions of the PD as written should be adequate to address the matter, for example:

- |                   |   |
|-------------------|---|
| Condition 1.6     | Limits waste acceptance to materials that are conducive to making compost and compatible with the end-use of that compost.                          |
| Condition 2.1     | Requires that the facility is managed by a competent person.  |
| Condition 2.2.2.8 | Requires a programme of maintenance for all plant and equipment and specifically refers to air and odour management systems.                        |
| Condition 2.2.2.9 | Requires adequate control of processes and identification of key indicator parameters for process control performance.                              |
| Condition 3.10.1  | Requires appropriate infrastructure for air handling and odour abatement.   |
| Condition 3.13    | Specifies the odour abatement system to include negative pressure in the building, enclosed composting bays/tunnels, acid scrubbing and biofilters. |
| Condition 6.5     | Requires that monitoring and analysis equipment are operated and maintained so that monitoring accurately reflects the emissions from the facility. |

The conditions mentioned above, allied with the entirety of the PD, should, if implemented and complied with, ensure that the facility cannot and will not have an impact on the surrounding environment. The conditions also require the licensee, through monitoring and control, to demonstrate such performance. It may however be the case that the abatement equipment installed at the facility is inadequate in its operation and/or maintenance and is unable to effectively treat the concentrated and odorous process emissions that arise in composting tunnels. The treatment system installed at the facility is an acid scrubber (for the



removal of ammonia) followed by two biofilters (for the removal of other odorous compounds). Off-gas emitted from the biofilters is diffused into the atmosphere. If the building and tunnels are properly sealed and are not leaking odorous air (which should be the case as they are under negative pressure), but if odorous emissions persist, then the air abatement treatment system is the obvious weak link and should be ruled out by the licensee as a possible source of emissions. The Technical Committee notes the statement in Mr and Mrs Williams' objection that the applicant has "accepted that significant odours occur but... that these are due to malfunctions in equipment but these malfunctions occur only at particular periods where certain climatic conditions prevail." The Technical Committee is of an opinion that this statement highlights the fact that the air abatement system must operate at all times in compliance with the conditions of the licence and must not, as may be inferred from the objection, be dependent on weather conditions to ensure proper operation.

The Technical Committee considers that the conditions of the PD are adequate to allow for the OEE to continue responding in an appropriate manner to ongoing odour complaints. A small number of minor amendments are proposed to *Schedule C.1.1 Control of Emissions to Air* and *Schedule C.1.2 Monitoring of Emissions to Air* of the PD to strengthen the availability of data and to improve generally its quality, as set out below. It is also recommended that the frequency of monitoring be increased for a period of 3 months to increase the amount of available data on the plant's performance. It is also recommended that the analysis of samples taken during this intensive monitoring period are subject to laboratory analysis as opposed to colorimetric indicator tubes.

**Recommendation:**

1. Insert a new condition 6.25 as set out below.
2. Replace the Schedules C.1.1 and C.1.2 in the PD with the Schedules set out below (new text is underlined, deletions presented as strikethrough)

6.25 Examination of air emissions abatement system

6.25.1 The licensee shall, for a period of 3 months and within 6 months of the date of grant of this licence, carry out an examination of the effectiveness of the air emissions abatement system installed at the facility. The analysis shall include at least the following:

- analysis and characterisation of the air emission extracted for treatment in the abatement system (inputs), including building air and air extracted from the closed composting tunnels to the extent that these can be representatively sampled separately;
- analysis and characterisation of the biofilter inlet and outlet gases;
- a mass balance of air flows and contaminants.

6.25.2 Analysis and characterisation under this condition shall be carried out fortnightly.

6.25.3 In addition to the parameters specified in *Schedule B.1 Emissions to Air* of this licence, the licensee shall include TOC and dust/particulates analysis in the characterisation of the air streams specified in Condition 6.25.1 and biological analysis (bacteria and *Aspergillus fumigatus*) in the characterisation of the biofilter inlet and outlet gases.

6.25.4 All analysis of samples, unless otherwise agreed by the Agency, shall be carried out in an appropriate accredited laboratory.

6.25.5 The examination referred to in this Condition (Condition 6.25) shall be carried out every 3 years or an alternative frequency as may be agreed by the Agency.

**C.1.1 Control of Emissions to Air**

**Emission Point Reference No:** (BF1) Biofilter 1  
(BF2) Biofilter 2

**Description of Treatment:** Acid scrubbing  
Biofiltration

<b>Control Parameter</b>	<b>Monitoring</b>	<b>Key Equipment</b> <sup>Note 1</sup>
<b>Air extraction</b>	Continuous with alarm/call-out	SCADA control system Pumps/engines Pressure gauges
<b>Acid scrubbing</b>	Daily visual check of scrubber flow Daily visual check of pressure drop	Flow and level meters Pressure gauges
<b>Biofilter -</b>		
<b>Inlet and outlet gases:</b> <sup>Note 2</sup>		
<b>Ammonia</b>	Monthly (at inlet and outlet)	Colorimetric indicator tubes <sup>Note 3</sup>
<b>Hydrogen sulphide</b>	Monthly (at inlet and outlet)	Colorimetric indicator tubes <sup>Note 3</sup>
<b>Mercaptans</b>	Monthly (at inlet and outlet)	Colorimetric indicator tubes <sup>Note 3</sup>
<b>Bed Media</b> – <sup>Note 4</sup>		
<b>Odour assessment</b>	Daily	Subjective impression
<b>Condition and depth of bed media</b>	Daily	Visual inspection
<b>Moisture content</b>	Monthly	Agreed method
<b>pH</b>	Bi-annually	Agreed method
<b>Ammonia</b>	Bi-annually	Agreed method
<b>Total viable counts</b>	Bi-annually	Agreed method
<b>General -</b>		
<b>Sprinkler system</b>	Daily visual check	System is operational
<b>Fan</b>	Daily visual check	System is operational
<b>Negative Pressure across biofilter</b>	Monthly	Air current tubes

**Note 1:** The licensee shall maintain appropriate access to standby and/or spares to ensure the operation of the abatement system.

**Note 2:** Samples of biofilter outlet gases shall be of undiluted emissions taken from a representative covered area directly above the biofilter bed media.

**Note 3:** Or an alternative method agreed by the Agency.

**Note 4:** The biofilter shall be examined to ensure that no channelling is evident. Turning, restructuring and the addition of supplementary bed materials or total replacement of bed materials shall be carried out as required subject to bed performance.

*C.1.2 Monitoring of Emissions to Air*

**Emission Point Reference No:** BF1 (Biofilter 1)  
BF2 (Biofilter 2)

Parameter	Monitoring Frequency	Analysis Method/Technique
Odour	Quarterly <sup>Note 1</sup>	See Note 1
Ammonia Hydrogen sulphide Mercaptans <u>Amines</u>	Monthly (at outlet of Biofilter)	Colorimetric indicator tubes Notes 2

**Note 1:** Odour measurements shall be by olfactometric measurement and analysis shall be for mercaptans, hydrogen sulphide, ammonia, and amines.

**Note 2:** Or an alternative method agreed by the Agency.

*Public information*

The third party objectors both state that they were unaware that the Agency was carrying out an Environmental Impact Assessment on the application. Mr Brittain states that the Inspector's Report does not state when the EIS was submitted formally to the Agency and "it appears that no reference to the carrying out of an Environmental Impact Assessment by the Agency appears in the public notices". Mr Brittain states that he was "entirely unaware that the Agency was conducting an Environmental Impact Assessment [and] that [he] was entitled to participate in that Environmental Impact Assessment." Mr Brittain attributes the "default in this regard ...from the failure of the Agency to require that an appropriate notice be published of the obligation to submit an Environmental Impact Statement and of the statutory obligation on the Agency to carry out an Environmental Impact Assessment and on the right of the public to participate in that process." Such failure, in Mr Brittain's opinion, renders the Agency's decision invalid.

In response, it is a fact that an EIS was submitted with the application on 26/5/2010. It is a fact that the site notice and newspaper notice both stated that an EIS was submitted with the application. The notices stated that all documents provided by the applicant, including the EIS, would be available for public inspection or purchase at EPA HQ. The Agency made the entire application, including the EIS, available on its public website. The applicant complied with articles 5, 6 and 7 of the Waste Management (Licensing) Regulations 2004 in relation to the obligation to erect a site notice and publish a newspaper notice and the content thereof. There is no obligation in the Waste Management (Licensing) Regulations or any other statute to publish or require the publication of further notices stating that EIA will be carried out.

Mr Brittain states that the information provided to the Agency by the applicant was not circulated to him. Mr Brittain states that he had been excluded from communications between the Agency and the applicant and refers in particular to the nature of communication between the Agency and the application (a matter which is dealt with in more detail in the next section of this report).

In response, all written correspondence between the Agency and the applicant is presented on the Agency's website. The Agency does not have a policy of circulating application documentation, including responses to notices, to third parties. Instead, third parties can, on the Agency's public website, request automatic notification of new documents for a particular application via RSS feed.

*Relationship between licensing inspector, applicant and objectors*

Mr Brittain is concerned that the applicant knows the name of the licensing inspector dealing with their application, that correspondence from the applicant was addressed directly to the inspector and that the inspector would be in direct communication with the applicant. Mr Brittain finds this approach "disturbing" for the following reasons:

- any statutory request, for example under article 13 of the Waste Management (Licensing) Regulations, should come from the Agency, not an employee of the Agency;
- any response to such a request should be made to the Agency;
- the necessary level of independence, judicial detachment and objectivity cannot exist in circumstances where individuals including:
  - o the licensing inspector,
  - o the enforcement (OEE) inspector,
  - o the Programme Manager for the Environmental Licensing Programme, and
  - o the Director of the Office of Climate, Licensing and Resource Use of the Agency,

have, in Mr Brittain's opinion, "personalised" the Agency's relationship with the applicant.

Mr Brittain is concerned that the Agency does not afford him the same weight and importance as a participant in the review process as it does the applicant. He feels the process is fundamentally unfair to him, was contrary to his rights to fair procedures and natural and constitutional justice. Mr Brittain considered the Proposed Decision was made in a way contrary to his rights.

Mr and Mrs Williams suggest that the Agency has a "manifest" and "undisguised sympathy with the developer". Mr and Mrs Williams are appalled at the discourteous and misleading manner in which they have been dealt with by the Agency during the licence application.

The Technical Committee considers that the objections should be read to fully understand the extent of these concerns as expressed therein, the detail of which it is impossible to capture here in summary form.

In response, the Technical Committee notes that the Agency's internal procedures and practices dictate that the licensing inspector will correspond directly with the applicant, will meet with the applicant (if necessary) and will conduct a site visit (if necessary) during assessment of the application. The technical competence of licensing inspectors requires they take responsibility for the drafting and issuing of technical correspondence. A licensing inspector will, unavoidably, through for example, pre-application meetings, site notice inspections and site visits, have met with and become known to the applicant in the normal course of events. It is the Board of the Agency that makes the decision to grant or refuse a licence and the Board will not collectively have had such contact with the applicant and will, even if it is held that the licensing inspector and his or her line management is in some way compromised, make an independent and unbiased decision.

It should be noted that the "personalised" correspondence referred to above involving the Programme Manager and Deputy Director General was concerned with ongoing delays in the Agency's assessment of the licence application due to staff resource constraints. The letter written by the Programme Manager (15 January 2013) was a response to a letter (dated 18 December 2012) written by the applicant to the Agency's Deputy Director General seeking an opportunity to discuss the delay in processing their application. There is no indication whatsoever in the correspondence that the Agency had at any point in time prior to

considering the licensing inspector's Recommended Decision formed a view on the application or had decided that it would propose granting a licence. All the correspondence referred to above was published on the Agency's public website.

#### *Compliance with the existing licence*

Mr and Mrs Williams are concerned that the current activity is not complying with the existing licence, including conditions on the nature and location of origin of incoming waste and exceedence with authorised waste quantities. This should be a matter of consideration for the applicant as a fit and proper person.

The Technical Committee notes that compliance with the existing licence, and any revised licence as may be granted, is a matter for the Office of Environmental Enforcement. Waste acceptance is limited in the PD to non-hazardous biodegradable waste. The Inspector's Report stated that the applicant was prosecuted on three occasions, all before 2005, for breaches of another waste licence, W0044-02. No prosecution has taken place in respect of the licensed facility the subject of this licence review and report. The Technical Committee has no information to indicate that the inspector's assessment of the applicant as a fit and proper person is incorrect.

#### *Odour emissions*

Mr and Mrs Williams in their objection call for a condition indicating that no odours should be detectable outside the perimeter of the site and no emission should be generated which would have the effect of causing any discomfort to third parties.

The Technical Committee considers that such a condition exists in the PD. Condition 5.2 of the PD is as follows:

No emissions, including odours, from the activities carried on at the site shall result in an impairment of, or an interference with amenities or the environment beyond the facility boundary or any other legitimate uses of the environment beyond the facility boundary.

No further change is recommended.

#### *Environmental Impact Assessment*

The core of Mr Brittain's objection is a statement, with reasons, why, in his opinion, the Environmental Impact Assessment carried out by the Agency is flawed and invalid. His comments are directed to the Agency, but refer also to the licensing inspector, and state that the EIA is not compliant on a number of detailed points with the requirements of the EIA Directive. Mr Brittain's points are detailed and interconnected throughout his objection and the Technical Committee has not attempted in this report to summarise them faithfully in all their detail.

Mr Brittain states some surprise at discovering in the Inspector's Report that the development was of a size and scale that requires Environmental Impact Assessment. Mr and Mrs Williams state that they were not aware "notwithstanding detailed analysis of the notices published" that there was a requirement to carry out an EIA as part of the licence review process.

In response, the Inspector's Report states that an EIS accompanied the application. The EIS was the same EIS as that provided to the planning authority. Planning permission was granted by Meath County Council in February 2010. The planning authority's decision was appealed to An Bord Pleanála and, the Board having considered the appeal, planning permission was granted in January 2011. Thus, the fact that the development was of such

size and scale that it required Environmental Impact Assessment would have been public knowledge from at least February 2010 when the planning authority first made its decision. It is noted in this regard that an EIS was submitted as part of the planning application. It is also noted, as mentioned above, that the site notice and newspaper notice relating to the waste licence application mentioned the fact that an Environmental Impact Statement was submitted to the Agency which would of itself indicate, even if it is not explicitly stated, that the development was of a size and scale that requires Environmental Impact Assessment.

Mr Brittain expresses the opinion that the one EIS cannot possibly be used by the planning authority/An Bord Pleanála and the Agency. Mr Brittain considers it "simply outrageous and perverse to suggest that [an Environmental Impact] Statement containing information relevant to the making of a decision by An Bord Pleanála under the terms of its functions could simply be applied to comply with the Agency's obligations and meet the type of information the Agency is required to have before it when deciding on a review of the licence under the Environmental Protection Agency Acts." The two processes have regard to very different matters and require an "entirely different range of information". Mr Brittain considers that the application "is fundamentally invalid and void in its failure to comply with the relevant provisions of the Environmental Impact Assessment Directives and the relevant legislation transposing those obligations into Irish domestic law."

In response, Mr Brittain does not pinpoint the "relevant provisions" of the Directives and domestic law that are pertinent to his point of objection and the Technical Committee cannot therefore deal with any detailed matter in that regard. The Technical Committee is not competent to comment substantively on the role and responsibility of planning authorities and An Bord Pleanála in carrying out Environmental Impact Assessment. The Technical Committee is however aware that the EIA Directive applies in the same way and equally to the planning authorities, An Bord Pleanála, the Agency and any other public body that has responsibility under the Directive and as may be further prescribed in domestic law. The recent (2012) amendments to the Environmental Protection Agency Acts and Waste Management Acts set out the principle that the EIS prepared in relation to a development that requires both planning permission and an Agency licence (or licence review) must be the one and the same document and must relate to and describe the same development and identify, describe and assess the environmental impacts and potential environmental impacts of the same proposed development.

Mr Brittain is of the opinion that the EIA presented in the Inspector's Report is deficient, not least for its absence of "a description of the proposed development including information on the site, the design and size of the proposed development" but also for the fact that the EIS was prepared for An Bord Pleanála and "is directed to the functions of the Board". Mr Brittain asserts that the EIA as presented in the Inspector's Report is not clear in its description of effects on the environment of the following aspects of the application: traffic, dust, odour, biofilter off-gases and bio-aerosols. Mr Brittain states that the EIA does not describe the effects "but merely records that such emissions occur." Mr Brittain is critical of the licensing inspector and, in Mr Brittain's opinion, his lack of familiarity with the Agency's obligations under the Directive.

In response, the Technical Committee notes that the licensing inspector followed the Agency's licensing and EIA procedures in the presentation of an Environmental Impact Assessment in his Inspector's Report.

#### *Further information requests by the Agency*

Mr Brittain is concerned that an article 16 notice issued by the Agency on 5 March 2013 indicates that the issue of whether EIA was required at that time was still in question. The notice asked whether the preparation of an EIS was considered mandatory by the planning authority (Meath County Council).

In response, the Technical Committee notes that the text of the request is as follows:

"Confirm whether the preparation of an EIS was considered to be mandatory by the planning authority."

The Technical Committee ascertains that the reason for the question was to ensure that the EIS provided to the Agency is one that was necessary for the carrying out of an EIA by the planning authority. If the EIS had not been required by the planning authority and no EIA was carried out by the planning authority, it has been the Agency's position that such an EIS cannot be used by the Agency in carrying out its own Environmental Impact Assessment and that the Agency cannot in fact carry out an Environmental Impact Assessment at all in such circumstances. Thus the purpose of the question was to determine whether the EIS was an EIS that the Agency could in fact use in carrying out an EIA. The applicant, in their response to the notice dated 29 March 2013 stated that "the preparation of an EIS was considered mandatory by the authority."

Mr Brittain is also concerned by the fact that the Agency sought further technical information on the application in the same article 16 notice. This indicates to Mr Brittain that the information was not contained in the Environmental Impact Statement and the "plans and particulars lodged may not have reflected the nature of the operation at the date in which the proposed determination was made." Mr Brittain proposes that the absence of such information in the EIS means that the requirements of the Directive cannot have been satisfied.

In response, it is noted that the Agency's notice and the applicant's response both pre-date the Agency's Proposed Decision. The purpose of an article 16 notice is to ensure that the Agency has all of the information that it needs to make a decision on a licence application. All relevant information was obtained from the applicant before the Board of the Agency made its Proposed Decision. The Waste Management (Licensing) Regulations 2004, in article 13(4), state that an EIS shall comply with article 94 of the Planning and Development Regulations. The licensing inspector in his Inspector's Report stated his opinion that the EIS complies with the Waste Management (Licensing) Regulations 2004, as amended.

#### *Compost disposal*

Mr Brittain notes that the Agency did not have before it any information on odours arising from the disposal of compost. Mr and Mrs Williams state that no sites have been identified for disposal of the compost. Mr and Mrs Williams state that they have observed contaminated material with plastic and other foreign bodies being removed from the site.

The Technical Committee notes that the purpose of the licensed activity is to create compost that can be used to beneficial effect on agricultural or horticultural land, or for related uses. The PD proposes a technical standard for the compost whereby it will not, upon being used, cause environmental pollution or odour. The compost will not, as suggested by Mr Brittain, be disposed of as long as it is manufactured to standard and has a market value. The landspreading of compost is not an issue that the Agency has sought to regulate in licences issued to the composting sector. Rather, the marketing of and creation of a market for compost is a matter for the licensee, subject to compliance with any other legislation (for example the Nitrates Regulations that govern the application of fertiliser in agriculture) and the requirements of other relevant regulatory bodies. The PD states that any compost that fails to meet the standard set out in the PD should be put back into the treatment process. If the compost contains heavy metals at concentrations greater than those specified in the PD, the compost is to be disposed of as waste. Such disposal will not take place to land but can only take place at an authorised facility, and is most likely to be a landfill or incineration plant.

With regard to Mr and Mrs Williams' observations of contaminated material being removed from the facility, it is a fact that the licensee screens incoming and treated waste and

removes contaminants from the waste at both those stages in the process. Such contaminants will typically be removed from the facility as waste. The Technical Committee has no information that suggests inappropriate disposal of this or other material not suitable for classification as compost.

*OEE agreements under the existing licence*

Mr Brittain is concerned with correspondence between the licensee and the Office of Environmental Enforcement under the existing licence (W0195-01). Mr Brittain is concerned about the OEE's agreement to modifications to the facility and refers to the OEE's actions as "the informal approval of the review of the licence" by the OEE inspector. Mr Brittain is concerned that "an official of the Agency... authorised works to be carried out which had not been formally sanctioned by the Agency." Mr and Mrs Williams refer to this instance as the enforcement inspector having apparently personally given consent to carry out works to expand the plant and permit an increase in waste acceptance at the facility and that this decision seems to have pre-determined the outcome of the licence review. Mr Brittain is also concerned that he was never informed of the OEE's agreement to the works (which are described below).

In response, the Technical Committee notes that the OEE agreed to certain works to be undertaken at the facility in a letter dated 18 January 2013. This agreement was on foot of a letter from the licensee dated 27/3/2012 (received 28/3/2012) informing the OEE of works scheduled to take place in accordance with planning permission granted prior to that date. The works involved the construction of two new waste processing buildings and an office building and relocation of the weighbridge. In correspondence dated 3/4/2012, the OEE sought clarification on 21 points from the licensee. Having reviewed the licensee's response, the OEE consented to the works on 18/1/2013. It should be noted that, whilst it approved the construction works, the OEE's letter of that date also stated the following:

The Agency notes the current waste intake limits specified by Schedule A will remain in force unless altered by waste licence review process. It is noted that a waste licence review application (Register No. W0195-02) to increase the waste intake limit has been separately submitted to the Agency for assessment.

Thus, whilst the Agency agreed to the construction of new infrastructure at the facility, it did not agree to any increase in the quantity of waste authorised for acceptance and treatment. The Technical Committee is not aware of any information that would indicate that the Agency was influenced in any way by the OEE's agreement to carry out works at the facility.

With regard to Mr Brittain's not knowing of the OEE's agreement to the works, the Technical Committee is aware that correspondence of this nature would normally be kept on a public file at the Agency's Regional Inspectorate in Dublin, but not on the Agency's public website. The Technical Committee cannot state when or whether the correspondence referred to above was placed on public file. The availability of such documents is a procedural matter for the OEE and cannot be addressed further by the Technical Committee.



### 3. 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, and
- (ii) subject to the conditions and reasons for same in the Proposed Decision, and
- (iii) subject to the amendments proposed in this report.

Signed:



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Ewa Babiarczyk, Inspector  
for and on behalf of the Technical Committee

