



OFFICE OF CL...
RESOURCE USE

ENVIRONMENTAL LICENSING PROGRAMME MEMORANDUM

TO: DARA LYNOTT, DIRECTOR

C.C: Frank Clinton, Programme Manager

FROM: Caroline Murphy, Inspector

DATE: 20 February 2014

RE: Recommendation to consider a waste licence review application to have been withdrawn: Register Number W0214-02, Ted O'Donoghue & Sons Limited, Knockpogue, Waterfall, County Cork.

On the 2nd October 2008 Ted O'Donoghue & Sons Limited applied to the Agency for a review of their waste licence, register number W0214-01, to provide for an increase in the maximum waste acceptance threshold from 23,000 to 60,000 tonnes per annum and the use of a civic amenity centre.

On the 4th April 2009 Cork County Council made a decision (Planning File No. 094547) to refuse planning permission for the proposed increase of the facility's waste acceptance threshold to 60,000 tonnes per annum for reasons including:

- The level and type of additional vehicle movements generated by the proposed development would give rise to significant traffic flows on an inadequate road network and by reason of its location draw additional traffic movements into the area.
- The proposed development would interfere with the safety and free flow of traffic on the local road network, be detrimental to the quality of the country roads in the vicinity and endanger the public safety of road users including pedestrians by reason of traffic hazard.
- The proposed development would be contrary to the proper planning and sustainable development of the area.

The Agency has had no indication that Ted O'Donoghue & Sons Limited is considering a revised planning application. 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 EIA and 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.

A notice was issued on the 18th June 2013 in accordance with Article 14(2)(b)(ii) of the Waste Management (Licensing) Regulations 2004, as amended. This notice specified that a response was required by 2nd July 2013; however, to-date a response has not been received by the Agency.

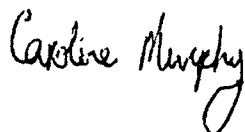
For the Agency to continue to consider the waste licence application (given its age and the age of the submissions and for a development that cannot proceed) would take a considerable amount of inspectorate and administrative resources. This would be an inefficient use of constrained Agency resources.

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 Ted O'Donoghue & Sons Limited 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