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submission to the Board by
Senior Inspector, Brian Meaney
Signed: Brian Meaney Date: 25/06/2015



OFFICE OF CLIMATE, LICENSING,
RESOURCES & RESEARCH

ENVIRONMENTAL LICENSING PROGRAMME MEMORANDUM

TO: DARA LYNOTT, DIRECTOR

C.C: Frank Clinton, Programme Manager

FROM: Caroline Murphy, Inspector

DATE: 25th June 2015

RE: Request by applicant to withdraw a waste licence application: Register Number W0276-01, DOK Quarrystone Limited, Garranmore, Cashel, County Tipperary.

Waste Licence Application

On the 10th August 2010 DOK Quarrystone Ltd submitted a waste licence application to the Agency for the backfilling of a quarry void with 273,600 tonnes of soils, subsoils, stone and rock over the lifetime of the facility and for the recovery of 14,400 tonnes of construction and demolition waste for use in engineering activities.

On the 15th September 2014 DOK Quarrystone Ltd confirmed that they wished to withdraw this waste licence application as they no longer intended to backfill the quarry void, identified in the application, with waste soil and stone. Alternatively, the applicant outlined its intention to use soil and stone that meets the criteria required under Article 27 of the European Communities (Waste Directive) Regulations 2011 for any future backfilling activities i.e. the fill material to be considered a by-product and not a waste.

Planning

Planning permission (Planning File Reference No. 06/1651) is in place for the area of land outlined in the waste licence application. In this planning application the applicant stated that it was intended to restore the site to previous levels and reintroduce the former foliage of the area. On the 23rd May 2007, South Tipperary County Council granted permission for retention to DOK Quarrystone Ltd, for the development of land, namely: retain existing quarry and associated works.

Waste Facility Permit

The applicant was authorised to carry out backfilling of the quarry void with waste soil and stone under Waste Facility Permit No. WFP 038-01 by Tipperary County Council. This permit was issued on the 27th August 2007 and expired in 2010, and provided for an annual intake of 60,000 tonnes. No subsequent waste facility permits have been issued for this facility. However, it is apparent that the waste activity has continued on the basis that a waste licence application had been submitted to the Agency. It is far from clear that this on-going waste activity and continuation of the expired permit has a sound legal basis. Notwithstanding, Tipperary County Council confirmed to the Agency, on the 23rd February 2015, that the facility has not been closed out to their satisfaction and the activity is on-going pending a licence decision from the Agency. The local authority cannot confirm there are no residual

environmental pollution or liabilities associated with the site because it states that this is a matter is for the applicant to determine in consultation with the Agency.

The local authority confirmed, on the 23rd February 2015 and the 2nd March 2015, that the Annual Environmental Reports from 2007 – 2014 indicated that a total of 99,641 tonnes of waste has been deposited at the facility. A facility which requires $\geq 100,000$ tonnes of waste soil and stone to be deposited for the purposes of the improvement or development of land requires a waste licence¹.

Future backfilling of the quarry void

The applicant confirmed their intention to use soil and stone that is not classified as waste, but rather classified as a by-product, for all future backfilling operations and that they are aware of the criteria that must be met in order to regard soil and stone as not being a waste but as being a by-product.

The applicant has been informed by the Agency that it is possible that the Agency will determine that the material is to be considered as waste and not as a by-product. This is due to the likelihood that the environmental assessment completed as part of the planning application is not a sufficient means of demonstrating that the use of the material would not lead to overall adverse environmental impacts as required by article 27(1)(d) of the Regulations. As a result, if the applicant intends to meet the recovery objective outlined in the waste licence application, the deposition of waste soil and stone will most likely be required.

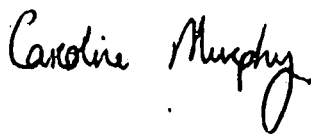
Recommendation

For the following reason, I recommend that the Agency does not agree to the withdrawal of the waste licence application as sought by the applicant in accordance with article 21 of the Waste Management (Licensing) Regulations 2004 as amended:

- The waste activity is on-going at the facility. The previously permitted waste activity has not been completed and closed out in accordance with the waste facility permit and to the satisfaction of the local authority. It is a requirement of article 21(1) of the Waste Management (Licensing) Regulations 2004 that an application can only be withdrawn where the waste activity is not on-going.

I recommend that a letter is issued to the applicant informing them that the application has not been withdrawn, that it remains a valid waste licence application on which the Agency will make a decision in due course and that a refund on the licence application fee will not be provided at this time.

Signed:



Caroline Murphy
Inspector
Environmental Licensing Programme

¹ Waste Management (Facility Permit and Registration) Regulations 2007, as amended.