

**OBJECTION TO CERTAIN CONDITIONS OF A PROPOSED DECISION, BY THE ENVIRONMENTAL PROTECTION AGENCY, TO GRANT A WASTE LICENCE. OBJECTION MADE IN ACCORDANCE WITH SECTION 42 OF THE WASTE MANAGEMENT ACTS, 1996 (AS AMENDED)**

**Waste Licence Register No.:** W0260-01

**Applicant:** Crystalhill Inns Limited trading as CHI Environmental

**Facility:** The Quarry, Grannagh, Kilmacow, Co. Kilkenny.

**Last Date for Objection:** 5pm on 25<sup>th</sup> January 2016

**Objection Fee:** €500 (Payable by applicant: CHI Environmental)

**Summary of the Appeal:**

Appeal against certain conditions in the decision of the EPA to grant a Waste Licence

**To:**

Environmental Protection Agency  
Headquarters  
P.O. Box 3000  
Johnstown Castle Estate  
County Wexford  
Ireland

**Name of Appellant:**

Mr. Freddie P.R. Symmons B.Env.Sc (HONS) MCIEEM  
*Senior Environmental Consultant*  
**Kingfisher Environmental Consultants.**  
4 Silverhill,  
Ballisodare,  
Sligo.

On Behalf of Crystalhill Inns Limited trading as CHI Environmental (The Applicant)

**Date:** 22<sup>nd</sup> January 2016

Environmental Protection  
Agency  
25 JAN 2016



**KINGFISHER**  
ENVIRONMENTAL CONSULTANTS

4 Silverhill,  
Ballisodare, Sligo  
Mobile: 087 2641979  
www.wastepermitireland.com  
freddlesymmons@hotmail.com

Date: 22<sup>nd</sup> January 2016.

Environmental Protection Agency  
Headquarters  
P.O. Box 3000  
Johnstown Castle Estate  
County Wexford  
Ireland

**Waste Licence Register No.:** W0260-01  
**Applicant:** Crystalhill Inns Limited trading as CHI Environmental  
**Facility:** The Quarry, Grannagh, Kilmacow, Co. Kilkenny.  
**Proposed Determination:** To Grant a Waste Licence

Dear Sir/Madam

We act for the applicant: Crystalhill Inns Limited trading as CHI Environmental, and we are also the Senior Environmental and Policy Advisor to the Soil Recovery Association of Ireland (SRA). We have been engaged by our clients: Crystalhill Inns Limited trading as CHI Environmental to prepare this attached report.

In Accordance with Section 42 of the Waste Management Acts, 1996 (as amended) we hereby made an objection to the Agency in relation to certain conditions within the proposed determination to grant a Waste Licence application to Crystalhill Inns Limited trading as CHI Environmental for their existing waste recovery facility at The Quarry, Grannagh, Kilmacow, Co. Kilkenny.

Our clients have included the correct fee of €500 and note that the deadline for objections is 5pm on 25<sup>th</sup> January 2016.

We look forward to a positive outcome with regards to this objection to certain conditions contained therein, and that a Waste Licence is issued by the Agency which recognises the genuine issues raised in this submission.

Please address all future correspondence to Crystalhill Inns Limited trading as CHI Environmental in this matter.

Yours sincerely,

*Freddie Symmons*

**Freddie P.R. Symmons B.Env. Sc (HONS) M.C.I.E.E.M.**  
Senior Environmental Consultant  
**KINGFISHER ENVIRONMENTAL CONSULTANTS**

Full Member of the Chartered Institute of Ecology and Environmental Management  
Senior Environmental and Policy Advisor to The Soil Recovery Association of Ireland (SRA)



### Introduction

This submission is made on behalf of Crystalhill Inns Limited trading as CHI Environmental (the licensee) in response to the to the proposed decision of the Environmental Protection Agency (the Agency) to grant a Waste Licence for the continued operation of an existing waste recovery facility at The Quarry, Granngh, Kilmacow Co. Kilkenny.

The Licensee would like to acknowledge that it is broadly in agreement with the proposed decision and welcomes that the process is moving forward. The Licensee is pleased that the current situation of being between two regulatory authorities will be resolved allowing it to proceed and invest in its business.

While the above is true, the proposed decision includes a number of specific provisions and references which the Licensee considers do not:

- Adequately reflect the fact that the waste recovery facility is currently extant
- Take account of the need for a transition period, whereby the Licensee is allowed a reasonable period to implement some of the measures required.
- Recognise its positive environmental record in operating and managing the existing waste recovery facility from its establishment in 2004 to date.

In this submission, the Licensee identifies a number of conditions and matters in the proposed decision which it would like the Agency to reconsider and amend prior to issuing the final decision on the Waste Licence in respect of its existing waste recovery facility.

Where appropriate, the Licensee has also suggested possible amendments to the licence which address their specific concerns.

### Grounds of Appeal – Conditions being raised for Revision

#### **Point 1: Terminology Used – Contaminated Soil**

<b>Contaminated soil and stone</b>	Soil and stone that contains anthropogenic or man-made substances (such as rubble, concrete, bricks, metal and bitumen) that are not natural to the environment from which the material was extracted.
<b>Construction and demolition (C&amp;D) waste</b>	Wastes that arise from construction, renovation and demolition activities: Chapter 17 of the EWC or as otherwise may be agreed.

#### **Our Comments:**

The definition of contaminated soil and stone is not soil mixed with concrete or bricks etc. In our opinion, contaminated soil is soil that contains dangerous substances such as oil or heavy metals which poses a risk to ground or surface waters and which requires special handling and treatment and would normally be considered hazardous material which has its own EWC Code of 17 05 03.

It is our concern that this definition used by the EPA leads to confusion from third parties.

#### **Our Proposed Revision:**

We would respectfully request that the Agency revise the wording being used and relate it to EWC Codes and legal terminology contained within the Waste Management Acts so that there is no misunderstanding over the description of this material.



**Point 2: Conditions 3.9, 9.1 and 9.2**

- 3.9 Construction and Demolition Waste Recovery Area
- 3.9.1 In advance of the commencement of waste activities, the licensee shall provide and maintain a construction and demolition waste recovery area. This infrastructure shall at a minimum comprise the following:
- (i) an impermeable concrete slab;
  - (ii) collection and disposal infrastructure for all run-off;
  - (iii) appropriate bunding to provide visual and noise screening.

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**Condition 9. Accident Prevention and Emergency Response**

- 9.1 The licensee shall, in advance of the commencement of the activity, ensure that a documented Accident Prevention Procedure is in place that addresses the hazards on-site, particularly in relation to the prevention of accidents with a possible impact on the environment. This procedure shall be reviewed annually and updated as necessary.
- 9.2 The licensee shall, in advance of the commencement of the activity, ensure that a documented Emergency Response Procedure is in place that addresses any emergency situation which may originate on-site. This procedure shall include provision for minimising the effects of any emergency on the environment. This procedure shall be reviewed annually and updated as necessary.

**Our Comments:**

The above listed conditions in the proposed decision, references completion of these items before the commencement date or in advance of the commencement date. Given that the site is an existing permitted facility and not a new activity this is neither correct nor practical.

The Waste Management (Facility Permit and Registration) Regulations 2007 (as amended) specifically allow for the continued operation of an existing permitted facility once a waste licence has been applied for and such a facility will continue to operate under their current waste permit until such time that a waste licence is either granted or refused. In this regard the legislation is clearly drafted to ensure that for existing authorised facilities there is no break in the activity. It follows that the transition to Waste Licensing for an already heavily regulated industry should be smooth and cost-efficient. Therefore any measures that may be required by the Agency as a condition of a waste licence should take account of this and allow a reasonable and practical time-frame for the implementation of any site infrastructure or other measures as may be deemed necessary.

The granting of a waste licence should not cause an activity to have to temporarily cease activities pending the implementation of any condition of a Waste Licence.

**Our Proposed Revision:**

We request that these conditions be amended to identify a set timescale with which to carry out these tasks and to continue to trade as a waste recovery facility.

**Point 3: Condition 6.5 and Table C5: Groundwater monitoring**

- 6.5 The frequency, methods and scope of monitoring, sampling and analyses, as set out in this licence, may be amended with the agreement of the Agency following evaluation of test results.



- 6.9 The settlement ponds shall be inspected monthly and shall be de-silted as necessary. Subject to compliance with waste acceptance criteria and procedures established under this licence, the silt can be used as backfill on-site.

**C.5 Groundwater Monitoring**

Reference No:

PT-1, PT-2, PT-3

Location:

As per drawing 'Site Layout - Groundwater Monitoring wells - Revision 1' dated 14/01/05 and at additional locations as may be agreed by the Agency.  
PT-1: S57736 15008  
PT-2: S57682 14713  
PT-3: S57992 14798

Parameter	Monitoring Frequency	Analysis Method/Technique
pH	Quarterly	pH electrode/meter
Conductivity	Quarterly	Standard Method
BOD	Quarterly	Standard Method
COD	Quarterly	Standard Method
TOC	Quarterly	Standard Method
Ammonia (as N)	Quarterly	Standard Method
Nitrate	Quarterly	Standard Method
Total Nitrogen (as N)	Quarterly	Standard Method
Total Phosphorus (as P)	Quarterly	Standard Method
Orthophosphate (as P)	Quarterly	Standard Method
Total Dissolved Solids	Quarterly	Standard Method
Dissolved Metals <sup>Note 1</sup>	Quarterly	Standard Method
Total Petroleum Hydrocarbons (to include mineral oils)	Quarterly	Standard Method
Diesel Range Organics	Quarterly	Standard Method
Petrol Range Organics	Quarterly	Standard Method
Aluminium	Quarterly	Standard Method
Arsenic	Quarterly	Standard Method
Boron	Quarterly	Standard Method
Chloride	Quarterly	Standard Method
Chromium	Quarterly	Standard Method
Cyanide	Quarterly	Standard Method
Mercury	Quarterly	Standard Method
Potassium (as K)	Quarterly	Standard Method
Sodium	Quarterly	Standard Method
Sulphate	Quarterly	Standard Method
Total Coliforms	Bi-annual	Standard Method
Faecal Coliforms	Bi-annual	Standard Method

Note 1: Cd, Cu, Fe, Pb, Mg, Mn, Ni and Zn.

**Our Comments:**

Condition 6.5 is not consistent with the inspectors report. It relates to Groundwater monitoring. The Agency is seeking quarterly sampling for an extensive suite of parameters despite already having being given several years of Groundwater monitoring results which demonstrate that the existing facility and recovery activity is having no negative impact upon groundwater. The EPA Inspector has already acknowledged in her report that ...

- This monitoring demonstrates that the facility inclusive of the historic landfill is not having a significant impact on the groundwater body.



**Our Proposed Revision:**

Therefore annual monitoring of Groundwater at the three groundwater wells is more than sufficient and appropriate, given the long existence of the recovery activity at this location and the lack of any impact that it may have had on groundwater.

**Point 4: Condition 6.16**

6.16 Topographical Monitoring

A topographical survey shall be carried out on an annual basis. The survey shall include measurement of the remaining available void space. The survey shall be in accordance with any written instructions issued by the Agency.

**Our Comments:**

This condition is excessive given that the site has a weighbridge already in place and records of all materials entering and leaving the site are recorded accurately. In discussions between the SRA and the EPA it was discussed that a site survey may be a way of confirming annual waste acceptance figures on sites which did not have a weighbridge.

**Our Proposed Revision:**

The current situation on site allows for the accurate measurement of all recovery material entering the site and is more than sufficient. It is considered excessive for the Agency to seek the requirement for an annual topographical survey in addition to having a weighbridge.

**Point 5: Condition 8.12**

This condition refers to the achieving of End of Waste on secondary aggregates and it states:

- 8.12 Unless otherwise agreed only secondary aggregate that has achieved end-of-waste status shall be used for engineering purposes at the facility.

**Our Comments:**

As of the drafting of this document there has been no decision on the End of Waste status for any site in this country. The licensee along with SRA group members drafted End of Waste document at great time and expense which still has no decision recorded six months after being proposed. Currently this condition leads to the importation of virgin aggregate for use in haul roads on site. This is an excessive cost to the site and is of no benefit to the environment.

**Our Proposed Revision:**

A decision is required immediately on the status of secondary aggregates.



**Point 6: Condition 8.17**

- 8.17 Unless agreed by the Agency the licensee shall not dispose of any waste that has been accepted at the facility for the purpose of recovery.

**Our Comments:**

Condition 8.17 appears contradictory in that if material enters the site in the C&D part of the operation that subsequently upon closer inspection does not meet waste acceptance criteria, the licensee is not allowed to send this off-site for disposal.

**Our Proposed Revision:**

Please could the Agency clarify this condition so that any ambiguity is removed?

**Point 7: Condition 10.2**

- 10.2 Closure, Restoration and Aftercare Management Plan (CRAMP)

- 10.2.1 The licensee shall prepare, to the satisfaction of the Agency, a revised, fully detailed and costed plan for the decommissioning, closure, restoration and aftercare of the facility or part thereof. This plan shall be submitted to the Agency for agreement within three months of the date of grant of this licence.

**Our Comments:**

"Landfills" exist for the principal purpose of disposing of waste with the restoration of the site following on from the completion of the waste disposal activities. However, and this is crucial, sites for the improvement or development of land using inert waste have the primary objective of waste recovery for restoration purposes from the outset. The "restoration/development or improvement" of the site is the primary and only objective and therefore it is not applicable to apply rules and guidance notes for landfills to these sites where restoration is the primary consideration.

Therefore sites for the improvement or development of land using inert waste should be regarded as restoration sites from the outset and all conditions relating to these sites should reflect this

**Our Proposed Revision:**

The Closure, Restoration and Aftercare Management Plan (CRAMP) should be commensurate to the risk of these new class of activities being licensed (i.e. a recovery facility and not a landfill) and the level of detail should also reflect that restoration is occurring from the very start of site activities and is not left until the end as with a landfill.



**Point 8: Condition 3.17.2**

This condition again refers to the landfill manual. The EPA inspector's acknowledges in her Inspector's report that:

Even though the facility is not a landfill (i.e. it is not a waste disposal activity) BAT for the activity is taken to be best represented by the guidance given in the Agency's Guidance Note on Best Available Techniques for the Waste Sector: Landfill Activities (2011), insofar as it relates to the backfill activities at this facility. The Reference Document on the Best Available Techniques for the Waste Treatments Industries (IPPC Bureau 2006) is also relevant as a reference for BAT for the recycling of C&D waste.

**Our Comments:**

It should be highlighted that the SRA at great cost and time prepared an industry led Guidance note for the sector. The licensee's application has been prepared in accordance with these guidelines.

**Point 9: Conditions 12.2.2 and 12.2.3**

- 12.2.2 The licensee shall arrange for the completion, by an independent and appropriately 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 10 for execution of the CRAMP. A report on this assessment shall be agreed by the Agency no later than three months from the date of grant of this licence. The ELRA shall be reviewed and updated 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 Within six months of the date of grant of this licence, 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). 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.

**Our Comments:**

Condition 12.2.2 and 12.2.3 as drafted leaves the licensee open to liability for others past actions – i.e. the former Kilkenny CC landfill. The condition makes no reference whatsoever to the exclusion of the former landfill from the liability of the proposed licensee. Yet the EPA Inspector has stated in her report that:





Granny landfill meets the definition of a closed landfill in accordance with the *Waste Management (Certificate of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations 2008*. In accordance with Regulation 7(1) of the above Regulations Kilkenny County Council are required to make an application to the Agency for a certificate of authorisation. To-date an application for a certificate of authorisation has not been received by the Agency for this closed landfill.

This licence application will not deal with the authorisation of the historic landfill; it will be dealt with separately when Kilkenny County Council makes an application to the Agency in accordance with the above Regulations.

**Our Proposed Revision:**

We respectfully request that the Agency full clarify this condition and acknowledge that the liability of the Historic Landfill lies solely with Kilkenny Co. Co. and that the licensee only need prepare reports in relation to their site and their waste recovery activities.

**Point 10: Table A1: Waste Acceptance**

**A.1 Waste Acceptance**

Only the wastes as specified in Table A.1 are acceptable for recovery at the facility unless otherwise agreed by the Agency.

**Table A.1.1 Waste Categories and Quantities**

EW CODE	WASTE TYPE <small>Notes 1 &amp; 2</small>	MAXIMUM (TONNES PER ANNUM)
17 05 04	Soils and stones other than those mentioned in 17 05 03	125,000
17 05 06	Dredge spoil other than those mentioned in 17 05 05	
17 05 08	Track Ballast other than those mentioned in 17 05 07	
17 01 01	Concrete	45,000
17 01 02	Bricks	
17 01 07	Mixtures of concrete, bricks, tiles and ceramics (other than those mentioned in 17 01 06)	
17 09 04	Mixed construction and demolition wastes	
<b>Total</b>		<b>170,000</b>

Note 1: Any proposals to accept other compatible inert waste types shall be agreed in advance by the Agency.

Note 2: The limitation on individual inert waste types may be varied with the agreement of the Agency subject to the total limit for inert waste staying the same.



**Our Comments:**

Table A1: Waste Acceptance excludes Bituminous Material 17 03 02 and also 17 04 07 – Mixed metals which are authorised under the existing waste permit.

Only 2 new additional EWC codes (different to the Waste Permit) were applied for under the Waste Licence and these are 17 05 06 and 17 05 08.

**Our Proposed Revisions:**

We have been given no reason as to why these were removed from the PD. We would like these EWC codes restored to our Waste Licence and in accordance with our Waste Licence Application and the accompanying EIS.

**Point 11: Table B.3 and C.2: Noise Monitoring**

**B.3 Noise Emissions**

Daytime dB L <sub>Aeq</sub> (30 minutes)	Evening time dB L <sub>Aeq</sub> (30 minutes)	Night-time dB L <sub>Aeq</sub> (15-30 minutes)
55	50	45 <sup>Note 1</sup>

Note 1: There shall be no clearly audible tonal component or impulsive component in the noise emission from the activity at any noise-sensitive location.

**C.2 Noise Monitoring**

**Location:**

At locations agreed by the Agency

Period	Minimum Survey Duration <sup>Note 1</sup>
Daytime (07:00 to 19:00 hrs)	A minimum of 3 sampling periods at each noise monitoring location
Evening-time (07:00 to 23:00 hrs)	A minimum of 1 sampling period at each noise monitoring location.
Night-time <sup>Note 2</sup> (23:00 to 07:00 hrs)	A minimum of 2 sampling periods at each noise monitoring location.

Note 1: Sampling period T will be in accordance *Schedule B.3 Noise Emissions* of this licence. This applies to day, evening and night time periods.

Note 2: Night-time measurements shall be made between 2300hrs and 0400hrs, Sunday to Thursday, with 2300hrs being the preferred start time.

**Our Comments:**

The Agency have set out noise monitoring to be carried out at three different specified periods including "Evening Time" which is at odds with the information set out in the Waste Licence Application and the EIS and is at odds with similar industry standards such as the EPA Guidelines for the Environmental Management in the Extractive Industry (2006) and the agreed Irish Concrete Federation (ICF) Environmental Code which all set out clearly Daytime noise measurements and Nighttime noise measurements.

**Our Proposed Revisions:**

Noise Monitoring is unacceptable and excessive in the Evening Time (7-11pm) and would set an unwarranted precedent. The Grannagh site is closed from 6pm and we cannot see any justification why it has been included as EPA Guidance has always been day noise levels only. We respectfully request that the Agency amend this condition accordingly.