

This report was approved to go to the Board by Brian Meaney, Senior Inspector.

Signed Gráinne Dylisby Date: 10-Aug-16



OFFICE OF ENVIRONMENTAL SUSTAINABILITY

ENVIRONMENTAL LICENSING PROGRAMME MEMORANDUM

TO: DARA LYNOTT, DIRECTOR

C.C: Frank Clinton, Programme Manager

FROM: Caroline Murphy, Inspector

DATE: 10th August 2016

RE: Request by applicant to withdraw a waste licence application: Register Number W0264-01, Sand & Gravel Merchants Limited, Thornberry, Kill, County Kildare.

Waste licence application

On the 13th February 2009 Sand & Gravel Merchants Ltd submitted a waste licence application to the Agency for the backfilling of a former sand and gravel pit with 400,000 tonnes of soil and stone and for the recovery of 40,000 tonnes per annum of construction and demolition waste. At the time of application the void space of the quarry was estimated to be 180,000m³.

On the 17th February 2016 Sand & Gravel Merchants Ltd confirmed that they wished to withdraw this waste licence application as the facility was in the advanced stages of restoration. The applicant confirmed that restoration works were due to be completed in spring/early summer of 2016.

Planning history

The Planning Department of Kildare County Council confirmed on the 22nd January 2016 that:

- The only planning permission relating to the site is Planning File Reference No. 85/771 (PL 9/5/70970)). This permission was granted by An Bord Pleanála in September 1986.
- The planning permission granted by An Bord Pleanála detailed the following
 - "... to grant permission for the first phase of the development taking in the lands at the rear or eastern end of the site (area 35,000sq.m approximately) and outline permission is granted for the second phase of the development comprising the central part of the site (area 42,000sq.m approximately) ..."
 - Condition No. 1 of the permission specified that:

"Waste disposal operations on the site shall cease on the expiration of a period of four years from the date land fill operations are commenced in phase 1, unless approval has been granted by the planning authority or by An Bord Pleanála [Pleanála] on appeal in respect of phase 2 of the undertaking".

- Any current landfill operations on the site do not have the benefit of a planning permission; and
- The proposal the subject of the waste licence application does not have the benefit of a planning permission and does not come within the scope of planning permission 85/771 (PL 9/5/70970).

The Planning Department have confirmed that the activities proposed in the waste licence application do not have the benefit of planning permission.

The applicant considers planning permission 85/771, PL 9/5/70970 does in fact authorise activities that are the subject of their waste licence application. This opinion is the opposite to that held by the Council.

Waste Facility Permit history

The void at the facility has been authorised to be filled with soil and stone under waste facility permits issued by Kildare County Council since 2001.

The Agency received correspondence from Kildare County Council on the 27th July 2016 that confirmed:

- an inspection of the facility was completed on the 22nd July 2016;
- waste activities are not being carried out at the facility;
- the facility has been restored and closed in accordance with the conditions of waste permit WP277/2007 and Kildare County Council are satisfied with the restored site; and
- the facility has been restored to grassland.

Submissions

Five submissions were received by the Agency in relation to the licence application. The submissions are summarised below followed by the Inspector's response. However the original submissions should be referred to for full details.

Submission from the Health Service Executive (HSE) (received 11 March 2009):

The HSE confirmed it had no objection to the activity involving the recycling and reclamation of other inorganic materials.

The HSE stated that if there was to be any alteration to the classes of activity licensed, which would increase the scope of the storage activity, that a separate waste licence application should be made.

Submissions from the Environment Section of Kildare County Council (received on the 25th March 2009 and the 3rd April 2009):

In the first submission received Kildare County Council stated that they did not wish to make a submission on the application.

The Agency acknowledged the Council's correspondence on the 27th March 2009 and the Council responded to this correspondence (second submission) stating that the Agency's correspondence would be referred to their technical staff.

Submissions from Angela and Ray Buckley made on behalf of Rathgorragh Resident's Association (received on the 26th November 2015 and the 28th July 2016):

In the first submission the following concerns were highlighted:

- unclean road surfaces caused by the use of an unsuitable wheel wash, frequency of use of a road sweeper and number of lorries entering/exiting the facility; which was affecting the condition of cars using the road, created dangerous road surface conditions and affected the entrances to resident's homes;
- planning permission for the activity;
- type of waste being deposited; and
- length of time this facility has been in operation under a waste facility permit from Kildare County Council despite several complaints from local residents to the Agency with regard to breaches of the Environment Impact Statement (EIS) lodged with the waste licence application.

An unsigned letter from Kildare County Council regarding an inspection they completed at the permitted facility was attached to this submission. This letter confirms that the Council inspected the facility on the 23rd November 2015 while it was active and observed clean topsoil and subsoil being accepted at the facility for storage prior to restoration of the remaining 10 acres. They noted that 12 acres of the site were capped and restored. A small amount of debris was observed at the site entrance.

The residents also confirmed in this submission that they have tried, to no avail, to meet with the facility operator and have had numerous communications with Kildare County Council.

In the second submission the Association highlighted that the applicant does not appear to have planning permission to operate at the facility's location and that they have on-going issues with the operator, land owner and Kildare County Council regarding the operation and the breaches of the EIS. The correspondence from the Planning Department of Kildare County Council to the Agency dated the 22nd January 2016 was attached to this submission (discussed in the *Planning History* section above).

Comments

The Local Authority remains the regulatory authority for this facility. Kildare County Council have confirmed that there is no longer a waste activity taking place at this facility and that it has been closed and restored in accordance with the waste facility permit and to the Council's satisfaction.

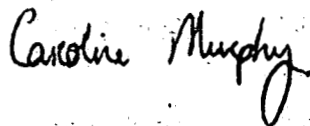
Recommendation

For the following reasons, I recommend that the Agency agrees 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 recovery facility has been authorised and regulated by Kildare County Council during its lifetime;
- Kildare County Council have confirmed that no waste activity is being carried out at the facility;
- Kildare County Council confirmed that the facility has been restored in accordance with the waste facility permit and to their satisfaction.

I recommend that a letter is issued to the applicant informing them that the application has been withdrawn.

Signed:



Caroline Murphy
Inspector
Environmental Licensing Programme
Office of Environmental Sustainability