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submission to the Board by the  
Senior Inspector, Mr Brian Meaney  
Signed: *Donata Richards*, Date: 10/10/2016



OFFICE OF ENVIRONMENTAL SUSTAINABILITY

REPORT OF THE TECHNICAL COMMITTEE ON OBJECTIONS TO LICENCE  
CONDITIONS

TO:	Directors
FROM:	Technical Committee - Environmental Licensing Programme
DATE:	10 <sup>th</sup> October 2016
RE:	Objection to Proposed Decision (PD) issued to Mallow Contracts Limited for a facility at Lissard & Ballyhillloge, Mourneabbey, County Cork, Licence Register W0266-01.

Application Details

Type of installation:	Recovery of waste soil and stone.
Class of activity under the Waste Management Act 1996 as amended:	R 10
Licence application received:	13 <sup>th</sup> February 2009
PD issued:	30 <sup>th</sup> June 2016
First party objection received:	26 <sup>th</sup> July 2016

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

Mallow Contracts Limited currently operates under a waste facility permit from Cork County Council (Waste Permit Reg. No. CK(N)277/05). This waste facility permit allows for recovery of soil and stone, and construction & demolition (C&D) waste at the site. Planning permission Ref. No. 06/10406 was granted in 2007 for the infilling of the low lying lands with topsoil, subsoil, rock fill and the acceptance of minor quantities of C&D material, for the production of secondary aggregate to construct haul roads at the soil and stone fill area, and for sale for agricultural purposes.

The Proposed Decision issued on 30/6/2016 proposes to prohibit the further acceptance of waste at the facility, other than that required to complete the land reclamation works, and requires completion of restoration works in accordance with the original plans for the facility and the closure, restoration and aftercare management plan to be prepared under the licence.

This report relates to a valid first party objection received by the Agency in relation to the Proposed Decision (PD) issued to Mallow Contracts Limited on 30<sup>th</sup> June 2016.

## 2. Consideration of the Objection

The issues raised in the objection are summarised below. The original objection should be referred to at all times for greater detail and expansion of particular points.

Objector's Name	Date Received
Mallow Contracts Limited	26 <sup>th</sup> July 2016.

The Technical Committee (TC), comprising of Caroline Murphy (Chair) and Dr Magnus Amajirionwu, has considered all of the issues raised in the objection and this report details the Committee's comments and recommendations following the examination of the objection.

### Objection 1: *Condition 6.17.1 - Groundwater*

*6.17.1 The licensee shall, by 31<sup>st</sup> October 2016, have installed groundwater monitoring wells at the facility at three locations satisfactory to the Agency and screened at a depth satisfactory to the Agency. The location of the wells shall be triangulated based on groundwater flow gradients as follows:*

- one well that will provide a representative sample of groundwater upgradient of groundwater flow, and*
- two wells that will provide a representative sample of groundwater downgradient of groundwater flow. These wells shall be drilled through the deposited waste if necessary.*

The applicant confirmed that there are two existing wells, one immediately north (140NEW155) and the other immediately south (140NEW157) of the landfill and that water quality data was submitted to the Agency regarding these wells. The applicant confirmed that the facility can continue to use these wells for monitoring purposes and that another well could be installed around the entrance of the facility, which would provide for three wells in total.

The applicant also stated that they are leasing the land and do not own the land around the landfill site.

### Technical Committee's Evaluation:

The applicant has not clearly identified an objection to Condition 6.17.1. The applicant has provided information regarding two wells which currently exist at the facility, confirmation of the submission of groundwater quality data to the Agency, a proposal to install an additional well and a statement that they are lessees.

The applicant has identified existing wells north and south of their facility; however, they have not stated whether these wells are upgradient or downgradient of the facility. Taking into consideration the topography in the vicinity of the facility it seems likely that the groundwater gradient is flowing west - east rather than north - south. As a consequence the existing wells installed at the facility will not meet the requirements of Condition 6.17.1.

Upgradient and downgradient wells are required to identify any impact on groundwater quality from the facility. A minimum of three wells in total are required to facilitate the triangulation of data. The requirement for groundwater wells under Condition 6.17.1 will allow the applicant to meet the groundwater monitoring requirements in Schedule C.5. According to the inspector's report, non-inert waste was deposited at this unlined facility and the measures required by Condition 6.17.1 and Schedule C.5 are required to determine the groundwater quality beneath the facility.

The TC does not recommend a change to Condition 6.17.1.

### Recommendation:

No change.

## Objection 2: Condition 8.9.1

### 8.9 Existing material at the facility

8.9.1 *All waste that is stockpiled, stored, held or that will be excavated during reprofiling and restoration works at the facility shall be removed from the facility within one month of the date of grant of this licence.*

The objection stated:

- 90% of the facility has been completed on a phased basis and this facilitates the return of land to the facility owner for farming. The southern portion of the facility is currently being used for farming purposes;
- The applicant stated that there is currently a considerable volume of stone of various sizes stockpiled at the facility which is removed off-site as required for road and building developments. The reduction of these stockpiles is dependent on market demand for this stone. This stone is not intended to be filled on-site. The applicant has estimated that based on current market demand that the current stone stockpile could be removed off-site by June 2017 and that at this time the licenced activity would cease. The applicant stated that he cannot commit to having the facility completed before June 2017;
- The applicant stated that he had planning permission and a permit from the local authority to carry out this activity and when required by legislation he applied for a waste licence from the Agency in 2009. He stated the recovery of stone at the facility was an activity known to the local authority and the Agency and that there have been no complaints either from the public or the various State agencies. The applicant requests that as is he now ceasing the activity that he be provided more time to complete this process in an orderly fashion.

### Technical Committee's Evaluation:

Condition 8.9 requires the applicant to remove all stone stockpiles that will not be used or are not suitable to be used for reprofiling within one month of the date of grant of licence.

The applicant has stated that he cannot commit to closing the facility prior to June 2017 but that he can commit to removing all stone stockpiles from the facility by this date.

The TC notes that Cork County Council granted planning permission Ref. No. 06/10406 and waste facility permit No. CK(No) 277/05. The Council confirmed to the Agency that they are not aware of any convictions against the applicant and that there is no record of any complaint being received by the Council in respect of the facility. As the facility does not have a history of complaints the TC recommends that Condition 8.9 is changed to allow for the removal of stone stockpiles from the facility no later than 30<sup>th</sup> June 2017.

### Recommendation:

Change the wording of condition 8.9.1 from:

*All waste that is stockpiled, stored, held or that will be excavated during reprofiling and restoration works at the facility shall be removed from the facility within one month of the date of grant of this licence.*

to:

*All waste that is stockpiled, stored, held or that will be excavated during reprofiling and restoration works at the facility shall be removed from the facility **no later than 30<sup>th</sup> June 2017.***

### Objection 3: Conditions 10.4

10.4 *The restoration of the facility and its closure in accordance with the Closure, Restoration and Aftercare Management Plan shall have been completed by 30<sup>th</sup> September 2017.*

The applicant referenced their objection to Condition 8.9.1 and requested that the completion deadline is extended from 30<sup>th</sup> September 2017 to June 2018. The applicant requires the extra time to ensure grass growth on the last prepared section has been firmly established and to allow for the area to have passed through a complete uninterrupted 12 month period.

#### Technical Committee's Evaluation:

Objection no. 2 recommends that all stone stockpiles proposed to be removed off-site are removed no later than the 30<sup>th</sup> June 2017. As a consequence of this extension the applicant has three further months to close the facility in accordance with the CRAMP (Condition 10.4) and another month to validate the closure (Condition 10.9). The applicant has stated they require an extension in the time period from 30<sup>th</sup> September 2017 to June 2018 in order to close the facility. This extension would provide the applicant with one year to close the facility after the removal of stone.

The TC notes that Cork County Council confirmed that there is no record of any complaint being received by the Council in respect of the facility.

The TC agrees with a change to Condition 10.4 in order to allow restoration by the 30<sup>th</sup> June 2018 and as a consequence of this change it is also recommended to change Condition 10.9 to require a final validation report to be submitted to the Agency by the 31<sup>st</sup> July 2018.

#### Recommendation:

- **Change Condition 10.4 from:**

*The restoration of the facility and its closure in accordance with the Closure, Restoration and Aftercare Management Plan shall have been completed by 30<sup>th</sup> September 2017.*

**to:**

*The restoration of the facility and its closure in accordance with the Closure, Restoration and Aftercare Management Plan shall have been completed by **30<sup>th</sup> June 2018.***

- **Change Condition 10.9 from:**

*A final validation report to include a certificate of completion for the Closure, Restoration and Aftercare Management Plan and a final topographical survey shall be submitted to the Agency by 31st October 2017.*

**to:**

*A final validation report to include a certificate of completion for the Closure, Restoration and Aftercare Management Plan and a final topographical survey shall be submitted to the Agency by **31st July 2018.***

### 3. Environmental Impact Assessment Directive – Reasoned Conclusion Update

The TC has reviewed the assessment in the Inspector's Report and, taking into account the objection received, and the contents of this TC report, the TC considers that the likely significant direct and indirect effects of the activity have been identified, described and assessed in an appropriate manner as respects the matters that come within the functions of the Agency, and as required by Section 83(2A) and Section 87(1G)(a) of the EPA Act 1992 as amended.

It is considered that the mitigation measures as proposed in the Inspector's Report will adequately control any likely significant environmental effects from the activity.

It is also considered that the proposed activity, if managed, operated and controlled in accordance with the licence conditions included in the PD, with the inclusion of the amendments proposed in this report, is unlikely to damage the environment as a whole and the risk of potential impacts occurring is not unacceptable.

It is further considered that the proposed activity, if managed, operated and controlled in accordance with the licence conditions included in the PD, with the inclusion of the amendments proposed in this report, will not cause environmental pollution or the breach of any environmental quality or emission standard, and can be authorised by the Agency in accordance with Section 83(5) of the EPA Act as amended.

#### **4. 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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Caroline Murphy, Inspector  
for and on behalf of the Technical Committee