

Signed: *Brian Meaney*

Date: 11/11/2016



**OFFICE OF ENVIRONMENTAL  
SUSTAINABILITY**

**ENVIRONMENTAL LICENSING PROGRAMME MEMORANDUM**

**TO:** DARA LYNOTT, DIRECTOR

**C.C:** Frank Clinton, Programme Manager

**FROM:** Caroline Murphy, Inspector

**DATE:** 11<sup>th</sup> November 2016

**RE:** Recommendation to consider a waste licence application fee refund: Register Number W0264-01, Sand & Gravel Merchants Limited, Thornberry, Kill, County Kildare.

On 13<sup>th</sup> February 2009 Sand & Gravel Merchants Limited applied to the Agency for a waste licence 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.

On the 22<sup>nd</sup> December 2014 the Planning Department of Kildare County Council confirmed that the activities proposed in the waste licence application did not have the benefit of planning permission.

On the 17<sup>th</sup> 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.

Kildare County Council confirmed on the 27<sup>th</sup> July 2016 that the facility had been restored and closed in accordance with the conditions of waste permit WP277/2007 and that Kildare County Council were satisfied with the restored site, following an inspection carried out by the local authority on 22<sup>nd</sup> July 2016.

Subsequently, on the 23<sup>rd</sup> August 2016, the Agency issued correspondence to Sand & Gravel Merchants Ltd acknowledging the formal withdrawal of their waste licence application in accordance with Article 21(1) of the Waste Management (Licensing) Regulations 2004, as amended.

On the 26<sup>th</sup> September 2016 the applicant requested a partial refund of €5,000 of the €10,000 licence application fee paid.

**INSPECTOR'S ASSESSMENT**

Article 45 of the Regulations provides the Agency with the absolute discretion to refund up to half of any fee payable in respect of a particular application where it is satisfied that the payment in full of the fee would not be just and reasonable having regard to the relevant circumstances of the activity.

Sand & Gravel Merchants Ltd submitted a cheque of €10,000 in payment of the application fee for a category 4 waste recovery activity in accordance with Part I of the Second Schedule of the Regulations.

It has been noted that the application was received in 2009 and was subsequently withdrawn in 2016; however, the Agency was seeking information from the applicant over this time period.

The Agency issued three notices in accordance with Article 14(2)(b)(ii) of the Waste Management Licensing Regulations on the 17<sup>th</sup> June 2009, 29<sup>th</sup> August 2011 and the 28<sup>th</sup> February 2014. Reminders were issued by the Agency seeking a response to these notices.

The Agency issued a Notice in accordance with Section 42 (1I)(b) of the Waste Management act 1996, as amended on the 28<sup>th</sup> February 2014 requesting the submission of an EIS within 16 weeks of this date. The applicant requested two extensions, which the Agency granted on condition the EIS was to be submitted by the 1<sup>st</sup> October 2014. The EIS was submitted on the 10<sup>th</sup> October 2014.

The Agency communicated with both the Planning and Environmental Departments of Kildare County Council with regard to the planning and waste facility permitted status of the facility.

The Agency also received and dealt with a small number of complaints, in the form of submissions on the licence application, that resulted in correspondence with Kildare County Council.

**RECOMMENDATION**

Due to the level of work completed on the application, including time spent dealing with local complainants, the time spent tracking responses to notices issued and the level of communication required with Kildare County Council in order to confirm the planning and restoration status of the facility, I consider that the payment in full of the fee is just and reasonable. Therefore, I recommend that a refund of 50% of the fee paid should not be paid to the applicant, Sand & Gravel Merchants Ltd.

Signed:   
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Caroline Murphy  
Inspector

Dated: 07<sup>th</sup> November 2016  
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