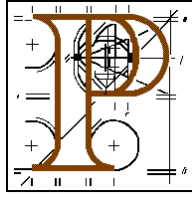


An Bord Pleanála



Inspector's Report

An Bord Pleanála Reference PL 17.220331

DEVELOPMENT: Extension (c. 2 ha) to existing landfill footprint, increase waste intake volume to 200,000 tonnes per annum and modify condition No. 2(a) of permission Ref No 01/5006 at Knockharley, Flemingstown, Tuiterrath. Co. Meath

PLANNING APPLICATION

Planning Authority: Meath County Council
Planning Authority Reg. No: NA/ 60336
Applicant: Greenstar Holdings Ltd
Application Type: Permission
Planning Authority Decision: Split Decision

APPEAL

Appellant: Greenstar Holdings Ltd
Type of Appeal: First Party
Observer: Fergal O' Byrne
Rose Faulkner
Fergus Doonan
Knockharley & District Residents Association
Date of Inspection: February 13th, 2007
Inspector: Breda Gannon
Appendix 1: Annotated Photographs
Site Plan/Extracts from Development Plan

INTRODUCTION

This is a First Party appeal against a split decision issued by Meath County Council.

SITE LOCATION AND DESCRIPTION

The site is located at the Knockharley landfill facility north of Kentstown in Co. Meath. The landfill is located c 45 km north west of Dublin city, 7 km south of Slane and 10 km east of Navan in Co Meath. The landfill is connected to the N2, which lies to the east of the site by a dedicated access road via an underpass below the regional road CR 384.

The landfill footprint currently occupies an area of c 23 ha and runs along a north/south axis in the centre of the total land holding which occupies an area of 135.2 ha. There is controlled access to the facility at the site entrance with a weighbridge at the waste reception area. The administrative buildings, weather station and car parking facilities are located on the north side of the access road. The road swings southwards along the east side of the landfill footprint where access to the active cells is achieved. The leachate lagoon and an aviary are located on the east side of the road with the gas flare compound further south. The storm water attenuation pond and an associated constructed wetland are located to the southeastern corner of the landfill footprint. A sizeable screen berm has been constructed along the southern boundary. The access road continues along the western boundary of the existing active cells and deteriorates into a dirt track. The boundaries of the active phases of the landfill are demarcated by post and wire fencing.

The appeal site is located in the extreme north west corner of the landfill footprint, which is as yet undeveloped. The land in the vicinity is agricultural pastureland. Kentstown, the largest local settlement is located c 1.5 km to the south of the landfill footprint. The pattern of residential development in the vicinity of the site is generally dispersed with ribbon development along local roads.

PLANNING APPLICATION

There are three main components to the proposed development:-

- An increase in the landfill footprint.
- Removal of the discrepancy between the licensed and planning permitted tonnage accepted so that 200, 000 tonnes per annum are accepted
- Removal on a restriction imposed by the planning permission but not replicated in the licence on the source of waste.

It is proposed to extend the existing landfill by an area of approx. 2 hectares, thereby reverting to the footprint proposed in the original application. Condition No. 3 of the original permission PL 07.125891 omitted a portion of the original landfill footprint (wedge shaped portion to the north-west), to provide a minimum separation distance of 250 m from the boundary of the nearest adjoining property to the north. It is stated that property has now been acquired, removing the rationale for the restriction on the landfill footprint, and facilitating the extension of the landfill to the entire licensed area.

The EPA waste licence for the facility permits the acceptance of 200,000 tpa of waste for disposal and recovery. The permission granted by the Board restricts the tonnage of waste for disposal to 132,000 tonnes until December 2007. Thereafter the tonnage is

restricted to 88,000 tpa. The application proposes to increase the annual intake to 200,000 tpa without any step down in 2007. It is considered that there are considerable environmental advantages with accelerated landfill.

The planning permission granted restricts the source of waste to waste arising in the North East Waste Region. The EPA licence places no geographical restriction on the source of the waste. The application seeks the removal of the restriction.

ENVIRONMENTAL IMPACT STATEMENT

An EIS was submitted with the application, which is summarised below for the information of the Board.

Chapter 1 – provides a description of the project. The Knockharley landfill opened in December 2004 and accepts residual household, commercial and industrial wastes together with construction and demolition wastes, with all waste for disposal to arise from the North East Waste Region, as defined by the counties of Meath, Louth, Cavan and Monaghan.

The application arises as it is proposed to reconcile from 2007 onwards the annual intake of waste at the facility permitted under the An Bord Pleanála permission with that permitted under the EPA licence i.e. 200,000 tpa for disposal and recovery purposes until 2018 with a further two years allowed to restore the landfill in accordance with best practice. The proposed increased filling rate is considered more efficient and environmentally sustainable than the permitted rate of filling.

The proposal also seeks to change the source of permitted sources of waste and while continuing to be primarily available to meet the needs of the NE region, that the landfill should be filled in a manner that allows the NE Region to distribute its excess capacity to neighbouring waste regions. It is noted that since the original grant of permission there have been material changes in the planning circumstances, which are considered significant in relation to the operation of the existing licensed facility. A review of the various policy documents/guidance, recent significant planning decisions are included in this section of the EIS.

Two alternatives are considered. Alternative A-The Do Nothing Alternative will maintain the current permitted waste output. At these filling rates the lifetime of the approved facility is up to 2033. The permitted rate of landfilling increases the duration of the production of leachate and landfill gas, prolongs the duration of traffic to the site and the time in which potential nuisances must be managed, reduces landfill sustainability and introduced inefficiencies with respect to fuel consumption, energy use and the return on the investment in the infrastructure. At the approved slower rates of landfilling the economies of harnessing landfill gas for energy generation would also be compromised.

Due to recent large scale extension permitted to Local Authority landfills, the capacity of waste facilities in the Region can satisfy the needs of the region for the duration of the waste plan and possibly for 35 years beyond. The adjoining Dublin Region does not enjoy equivalent security of landfill capacity. If the current situation prevails the facility at Knockharley would not be available to accept waste arising within County Dublin during the anticipated waste crisis in the Dublin Region, while waste from remote parts

of Cavan, Louth and Monaghan all considerably further away from the facility would continue to be allowed access to Knockharley.

Alternative B -The the removal of the regional restriction and the alignment of the planning permission tonnage with the waste licence tonnage would leave Knockharley in a position to provide Dublin's commercial and industrial sectors with an environmentally secure outlet for a relatively small proportion of their waste in the event of anticipated delays in planned Dublin waste infrastructure arising. It will allow for a more efficient and environmentally sustainable rate of filling the landfill while helping to utilise the excess landfill capacity in the North East Region for the purposes of landfilling waste from neighbouring regions in a manner which meets the objectives of the North East Waste Management Plan and the Dublin Waste Plan.

It is noted that the environmental impact of the entire footprint was described in the EIS supporting the original application. The waste licence granted to the facility and the attached conditions assume that the footprint layout is as per the application documentation and the EIS.

Chapter 2 – Provides a description of the existing and proposed operation and details of environmental control, monitoring and reporting at the landfill.

The current permission permits the development of approximately 23 ha of landfill footprint. Waste arriving at the facility enters the site via a private dedicated access road that connects the landfill with the N2 road. The waste arrives in approximately 22 tonne loads. Waste deposited in the landfill are compacted and covered daily to limit windborne litter and other nuisances. Bird control is achieved through the use of trained birds of prey, combined with other deterrents such as kites and balloons. Odour control technology has been installed at the facility.

Leachate that collects in the base of the footprint is pumped to the leachate lagoon and is ultimately tankered from the site for treatment and disposal. Surface water from the landfill is directed to a purpose built storm water attenuation pond and constructed wetland. The outflow from the constructed wetland flows into the local drainage network. The development of the landfill to date has included the construction of berms and the planting of trees designed to limit the visual intrusion of the development within the local landscape. Emissions from the site are fixed by a set of emissions contained within the EPA licence and these relate to noise, leachate, landfill gas, dust deposition, PM₁₀, surface water and ground water.

The application to change the source of the waste arriving at the landfill facility will not result in significant changes to the existing operation or in any significant environmental impacts. The increase in the landfill and tonnage will result in changes to the operation. The intensification of use will primarily result in an increase in the number of traffic movements entering and leaving the site associated with waste deliveries, leachate removal and the construction and restoration programmes. Otherwise the proposed intensification will have a minimal impact on the existing daily operation of the landfill.

An increase in the amount of leachate produced will arise due to the planned extension of the landfill footprint but will not impact on the frequency of leachate removal or on the capacity of either the leachate lagoon or the treatment plant.

In terms of landfill gas, the higher the waste intake rate, the more efficient the gas extraction and utilisation becomes. The ultimate expectation for the facility is to have sufficient landfill gas to operate a gas utilisation plant instead of flaring to atmosphere.

No additional mitigation measures are proposed in relation to the changes in the leachate generation regime.

Chapter 3 – Climate: There are no expected impacts from the development on the local climate. Landfill facilities generate landfill gas comprising methane and carbon dioxide. It is generally accepted that these gases contribute to global warming and climate change. Although there will be a greater production rate of landfill gas from the increased waste acceptance, it will be actively abstracted and directed for flaring and utilisation. The overall quantity will not be altered by the accelerated filling but the effectiveness of extraction and the economies of utilisation will be increased. Methane will be treated on site in accordance with the waste license, consequently the main emission to atmosphere will be carbon dioxide.

Waste pre treatment to reduce the organic waste deposited to landfill, gas flaring and ultimately gas utilisation for electricity generation will result in reduced greenhouse gases from the landfill over time.

No additional mitigation measures are deemed necessary.

Chapter 4 – Traffic: The proposed increase in annual intake will result in an increase in the current traffic generation at the site. It is estimated that the current permitted tonnage of 132, 000 generates 20 HGV trips per day. Increasing the waste input to that currently permitted under the EPA waste licence would result in a total of approximately 31 HGV trips per day, an increase of 11 trips per day over that currently generated. The results of the traffic surveys indicate that the main corridor upon which the new traffic generated by the development will have an impact is the N2. The peak hour traffic generation of the site is forecast to be approximately 3 HGV trips. The forecast maximum increase in daily traffic on the N2 is estimated to be 0.24%. This increase in traffic is likely to be barely imperceptible to existing road users in the vicinity of the site. There will be no increase in the number of vehicles using the R 153 or R 150 Regional Roads.

The original development was estimated to generate c 51 HGV trips per day delivering materials for disposal, as load sizes were anticipated to be smaller than they actually are. This has arisen due to current policy that all waste received at new residual landfills must be treated. Much of the waste arriving at the facility is first treated in a Materials Recovery Facility. The implications of the policy is that the average payload arriving at the landfill site has increased considerably and accordingly it follows that the traffic generated will be significantly less. Under the original EIS, the impact of the development upon the operation of the road network in both directions was shown through detailed analysis as not likely to be significant. The robustness of this analysis was commented on in the Inspector's report on the previous appeal on the site.

The forecast increase in traffic resulting from the proposed increase in the annual maximum tonnage permitted at the landfill will be within normal daily fluctuations in traffic volumes on the receiving road network in the vicinity of the site and will be virtually imperceptible to existing road users. The impact of the modest increase in traffic is further reduced by the recent opening of the Ashbourne-M50 dual carriageway scheme, which provides a high standard connection from the landfill to the M 50 motorway and to the Dublin Region.

No mitigation measures are deemed necessary.

Chapter 5 – Noise: The main changes to the existing noise environment associated with the proposed development will be from increased traffic to the facility. The noise emission standards imposed by the EPA in the operating license reflect a disposal rate of 200,000 tpa and includes the planned extension to the An Bord Pleanála approved

footprint. The original EIS estimated that the facility would generate 51 HGV trips per day. This figure has been revised downwards to 31 HGV trips per day as highlighted above.

All of the increased traffic associated with the proposed development will pass along the N2 and it is considered that impacts on adjacent residential properties will be minimal to imperceptible, as the traffic will be averaged out over the course of the operational hours of the landfill.

An assessment of noise levels were taken from a similar gas flare to that installed on the site. The sound pressure levels were 67 dB. As noise levels attenuate by 2 dB per doubling of distance it is concluded that as the closest sensitive receptor is located 300m from the flare, noise will be insignificant during day and night time periods.

No additional noise mitigation measures are proposed.

Chapter 6 – Soils & Geology: This chapter describes the regional and local geology. The proposed extension of the landfill footprint will involve the excavation of soil and till beneath the additional disposal area. An approximate volume of 50,000 m³ of material will be excavated from the extension of Phase 7. The excavated material will be stored and used in the landscaping measures and in the final capping layer.

No additional mitigation measures are proposed.

Chapter 7 – Surface Water: The site lies within the River Nanny catchment close to the catchment divide with the River Boyne. At a more local level the site lies within the catchment of the Kentstown Stream, a tributary of the River Nanny. Drainage from the landfill facility is directed towards a storm water pond and afterwards to a constructed wetland before it flows into the local drainage network which in turn flows into the Kentstown stream. The storm water pond has sufficient capacity to dampen storm breaks and to maintain the current discharge characteristics for the landholding. To facilitate the extension the Knockharley stream will be diverted around the footprint towards the north of the waste disposal area.

The surface drainage from the greater part of the development site leaves the property in a deep ditch located in the extreme south east corner. An isolating weir can divert the site drainage to the storm water lagoon in the event of a contamination incident. The quality of surface water discharging is monitored on a regular basis and is fully compliant with the conditions of the waste licence.

The extension of the footprint area will marginally reduce that part of the development site that drains to the storm water pond. The drainage in the extension will instead be contained within the liner system leading to a slight increase in leachate production. The proposed extension will eventually result in a larger area of the capped landfill draining to the storm water pond as permitted by the ABP permission. The storm water pond was constructed in accordance with the EPA license and is designed to accommodate the runoff from the completed landfill, including the planned extension. The intensification of the proposed disposal rate will have no significant impact on surface water.

No additional mitigation measures are proposed.

Chapter 8 – Groundwater: Describes the ground water resource. The glacial till at Knockharley confines the underlying aquifer which has little groundwater potential. The overburden is of limited groundwater potential and has a low vulnerability rating. The overburden water table is within 1.5 m of the ground surface. The excavation to form the landfill footprint has impacted locally on the overburden water table which results

from the base of the landfill extending below the water table as planned and permitted by both the EPA and ABP.

The proposed footprint extension to the northwest will have no significant impact on the groundwater levels in either the overburden or the underlying bedrock. In the initial stages of the extension, the excavation into the glacial till will result in some local lowering of the shallow overburden water table and the piezometric surface in the bedrock, as has already happened with the construction of Phase 1. The groundwater levels in both the overburden and the bedrock will revert to the preconstruction situation when there is no longer a requirement to manage the level of the shallow overburden water table within the footprint area. The continued collection and removal of the leachate will ensure that there are no leachate emissions to groundwater. The intensification of the disposal rate will have no significant impact on surface water.

No additional mitigation measures are proposed in relation to the protection of groundwater.

Chapter 9 – Ecology: The site does not lie within any designations of nature conservation interest and there are no designated sites within 5 km of the landfill site. The main habitat types currently on site include improved grassland, man made structures and hedgerows. The improved grassland, by its nature has a low ecological value and is botanically impoverished as it is a managed habitat. The remaining hedgerows on the site following the excavation of the landfill footprint are predominantly unmanaged mature hedgerows with trees. Hedgerows to the north of the site are predominantly of moderate local ecological value. A number of hedgerows particularly to the west of the landfill and along the western boundary are of moderately high local ecological value. Over 112 acres of tree and scrub planting has been carried out by the developer along the eastern, northern and western parts of the site. The area to the north east of the landfill site known as the ‘Brickfields’ is still intact. This area is composed of a large field containing a mosaic of vegetation types including wet woodland, swamp and wet grassland.

The areas of land outside the landfill footprint are a suitable habitat for a number of common mammals with fox and brown rat being the most common species. Rabbits, field mice and hedgehog were also identified. Badger setts were identified during the original survey but a more recent study carried out in February 2003 revealed that the setts were abandoned. No setts were present in the area that would be affected by the initial construction of the development.

Mature trees around the site boundary can provide roosts for bats. Common frog was found in the drainage ditches around the site. The activities on the site would not impact on these drains. The recently planted area will encourage wildlife and provide shelter for mammals and provide corridors for foraging, breeding and feeding.

A Barn Owl was originally identified on the site. It is possible that there is a pair of owls on the vicinity of the site. The hunting range for barn owls could be several kilometres from the landfill and consequently operations at the site will not impact on the owls.

Other species of bird found around hedgerows include blackbird, robins, song thrush, dunnock, blue tit, chaffinch etc. Species found in the improved grassland include meadow pipit, sterling, crow species, jackdaw and magpies. Species regularly observed at the site since 2001 include Greenfinch, Goldfinch, Yellowhammer, Linnet etc. A range of water birds has been reportedly spotted regularly on the constructed wetland

including herons, duck species, swans, water hens, cormorants etc. The constructed wetland will encourage amphibians such as frogs and newts and could possibly be a refuge for Moorhen in the area.

No salmonid species were found in the Knockharley Stream and the only fish species recorded were the three spined stickleback and eels. The survey found no rare macro invertebrate species in the stream.

It is concluded that neither the increase in waste intake to the site nor the footprint extension will have an impact on the ecological importance of any designated sites in the vicinity. The development of the ABP permitted footprint and the planned extension will lead to further habitat and flora loss. The additional loss of habitat and flora directly related to the footprint extension is not considered significant. The proposed intensification of the disposal rate will not have a significant impact on habitats and flora at the development site.

The planned intensification in the disposal rate and the proposed extension to the footprint will not have a significant impact on the potential for rodent and insect infestation nor should it lead to an increase in scavenging birds visiting the landfill due to the existing control measures that area in place. The development as proposed is not expected to have any significant impact on birds. Continued activity at the landfill is not expected to have any adverse impacts on the macro invertebrate species found in the Knockharley Stream. There is potential for short term impacts on water quality associated with the re-routing of the stream which may include silt loading etc.

It is considered that no additional mitigation measures above those required by the current EPA licence are needed to alleviate any potential impacts on the ecology of the development site and the surrounding area resulting from the proposed development.

Chapter 10 – Cultural Heritage: Initial investigation on the site recommended further examination of a number of areas in the site none of which are impacted by this proposed development. Subsequent planning conditions required that a suitably qualified archaeologist be employed prior to the commencement of development. A number of features were identified and investigated. The proposed extension comprises approximately a 10% increase in landfill footprint.

To mitigate against impacts, archaeological monitoring of all excavation works will be carried out.

Chapter 11 – Landscape & Visual Impacts: The site and much of its surrounds is a typical agricultural landscape which is not of particular scenic or amenity quality. The general topography is low lying. The nearest Area of Outstanding Landscape in the Boyne Valley, 5 km to the north at its nearest point. The nearest Area of Scientific Importance is Flemingstown Woodlands considered of local importance, 1 km to the south east. There are no Heritage Areas or Listed Views pertaining to the site or its surrounds.

Phase 1 of the site construction comprised the greatest visual impact and the most intense visual impact mitigation. At this stage all the external roadworks and internal ancillary infrastructure have been provided together with 20% of cell development. Virtually all the screen planting has been undertaken and will grow and mature as the remaining landfill cells are developed. The screen planting provided consists of a minimum 50 m wide belt of predominantly mixed woodland on the site boundaries of the main landfill area extending to over 112 acres of new woodland. To the south of the landfill, a 5m high planted berm has been provided to provide immediate screening

The area on which the footprint extension will be built is currently fallow. Based on the limited visibility of the current development and considering the minor modifications proposed to Phase 7, the visual impact will be insignificant. There will be no changes in the overall elevation of the development and the provision of a berm around Phase 7 and landscaping will further mitigate potential impacts.

Other than minor ground disturbance for the proposed revision of Phase 7, there will be no tree/hedgerow removal or significant changes in ground level. No significant impact on landscape and visual amenity should result from the proposed development.

No additional mitigation measures are required.

Chapter 12 Human Beings & Material Assets: The landfill lies in a rural area with local housing comprised of a mixture of farmhouses and detached residential single-family dwellings. Kentstown village lies 1.5 km south of the landfill footprint. Kentstown National School lies c 1 km from the proposed disposal area. There are c.21 houses within 500 m of the landfill footprint and 61 houses within 1 km.

In terms of impacts the landfill is for the receipt of non-hazardous solid waste. The potential for impacts arise from contamination of surface/ground water, sub surface migration of landfill gas and odour, dust and vermin. Having regard to the existing operations on the site and the monitoring of the facility in accordance with the EPA licence, it is not envisaged that the proposed extension will result in significant additional impacts. It is noted that the site operations were audited by the EPA in January 2005 and 2006 and on both occasions was found to be fully compliant with the conditions of the waste licence.

The proposed footprint extension is furthest removed from the greatest proportion of nearby dwellings and it is therefore unlikely to have any further potential effect on property values than that associated with the current permitted development. The community levy will be used to fund projects in the locality, which should have a positive effect on property values.

No additional mitigation measures are considered necessary in relation to the protection of human health or property.

Chapter 13 – Air: The main potential emissions to air from the proposed intensification of development will be from dust, odour and landfill gas. To date dust emissions from the current development including landfill cell construction and operation have not resulted in a breach in deposition standards. This demonstrates the success of current control measures. The waste composition will not change for the proposed intensification and consequently the types of odours currently detected on the site will not change.

As the intensification in waste acceptance will result in greater quantities of waste being accepted into the landfill in a shorter time interval, the intensity of landfill gas produced will be greater than for the current situation, hence the economic viability of landfill gas utilisation will be improved. The overall cumulative production of landfill gas will not change because the gross volume of waste does not change.

Mitigation measures include that the size of the flare and /or gas engine for combusting landfill gas which will be changed in line with gas production and following the agreement of the EPA.

Chapter 14 – Interactions: This chapter reviews the cumulative impacts likely to arise from the existing/proposed development.

The negative cumulative impacts are listed as follows: -

- Slight increased traffic movement on the N2
- Corresponding slight increase in noise level due to increase traffic to the landfill
- Corresponding slight decrease in air quality due to increase traffic to the landfill
- Visual impact of increased traffic movements
- Reduced distance between the waste body and the north-western boundary.

The positive cumulative impacts are listed as follows: -

- Accelerated waste filling will reduce significantly the lifetime of the landfill
- Reduced leachate production
- More concentrated peak in landfill gas production which can be used for more efficient energy recovery
- More efficient use of on-site human and mechanical resources.
- Reduced timeframe for landscape impact
- A more rational use of waste infrastructure
- Removal of unfair costs to Greenstar customers and other waste producers in neighbouring regions in need of residual waste disposal services.

PLANNING HISTORY

1. **PL 17.125891(P 01/5006)** – Permission granted on 26th August 2002 for the development and operation of an engineered landfill and ancillary development on this site.
2. **PL 17.217669(NA 50453)** - First Party appeal withdrawn against the split decision by the planning authority to grant permission for the change of use of maintenance building to offices including proposed new first floor, and to refuse permission to omit Condition No 2(A) of Ref 01/5006 which limits the waste to be accepted for disposal at the residual landfill facility to waste arising from the north east region.

PLANNING AUTHORITY REPORTS

The **Planning Officer's** report of 02.10.06 notes that since the original permission was granted which imposed a regional restriction on waste accepted at the facility, a number of National/ Regional Policy Statements have been published which advocate a more flexible approach to waste management. In light of the notable change of guiding principle with regard to the treatment of waste within regions and which support inter-regional movement and treatment of waste, it is considered that accepting waste from other regions must be considered in principle and having regard to the proximity principle.

It is considered that the restriction imposed by Condition No. 2(a) of the parent permission is no longer appropriate. No objections are raised with regard to the modification of Condition No 2(a) subject to the provision that the facilities provided in the region serve primarily the waste management needs in the region whilst not

precluding inter-regional movement of waste. It is recognised that a planning condition that limits the source of waste to one region creates problems for the operator to realise/enforce. It is recommended that a Liaison Committee be set up to ensure that waste for acceptance at the landfill is primarily waste generated and produced in the North East Region area of counties Meath, Louth, Cavan and Monaghan and to ensure regard is had to the proximity principle. It is considered that the traffic movements generated by a modified Condition No. 2 (a) would not create a traffic hazard, given the requirement to adhere to the proximity principle and the good road network in the vicinity.

With regard to the other component of the development which seeks to increase the annual tonnage, it is noted that the policy of the current waste management plan for the region is to move progressively away from landfill. A target of the Plan is to reduce landfill disposal to 18% by 2018. It is noted that current landfill capacity in the region is c 314,000 tonnes per annum and that there is in excess of a total of 5 million tonnes of landfill capacity. The current proposal seeks to increase the annual landfill capacity available in the region to c 426,000 tonnes per annum. Based on the forecasted reduction in landfill waste, there is an absence of need for this element of the development. To permit the development would conflict with the objectives of the waste management plan for the region and would have a rippling impact on the implementation of adjoining waste management plans particularly as the planning authority is disposed to permitting a certain amount of waste to be sourced outside the region.

Input at the facility to 200,000 tonnes per annum would compromise Knockharley landfill designation as being the long-term residual landfill for the region and would compromise the long-term needs of the region. If the proposed increase was permitted the landfill capacity would only be available for the next 15 years, based on the current status of landfills in the region.

The **Environment Department** in their report (undated) states that the proposal to increase the intake and shorten the operational life of the landfill is not consistent with the objectives and core ethos of the North East Regional Waste Management Plan. The original 2001 Waste Management Plan for the Region included provision of a regional landfill to provide for the long term residual waste needs of the region. Knockharley was identified as the long term residual landfill for the region and retains its status as the nominated regional facility under the 2005 Waste Management Plan. It behoves the Council therefore to protect this asset as a critical piece of long-term residual waste infrastructure available in the region.

The long term demand for landfill capacity will diminish as waste infrastructure and separate collections for dry recyclables and organic wastes are rolled out across the country. The National Biodegradable Waste Strategy cites the requirement to reduce the percentage of Biodegradable Municipal Waste to 35% of the volume of waste that arose in the region in 1995. This requirement in effect places an upper limit on the tonnage of residual waste that may be land filled in the region by 2014. The restriction on the tonnage of waste arising in the region that can be land filled coupled with the stated objective of the waste management plan 2005 to '*continue to pursue a policy of rationalisation of landfills in the long term*' clearly indicates a move away from the provision of additional landfill capacity.

It is stated that while the policies of the waste management plan, various policy documents and the Ministerial Direction support the long term residual landfill capacity in the region, they do not support the retention of the restriction on the source of the waste as imposed under the parent permission 01/5006. The data available to Meath County Council does not support the need for additional land fill capacity in the region. It recognises that other authorities have the ability to extend the operational lives of their landfill, however, it cannot predict with certainty that such capacity would be available elsewhere in the region in the long term, if the regional facility was allowed to shorten its operational life by increasing the rate of fill from 88,000 tonnes post 2007 to 200,000 tonnes as proposed under the application.

The annual tonnage allowable under the current permission exceeds the projected annual intake of municipal solid waste arising in the region in 2014 by approximately 27,000 tonnes per annum . Therefore, there can be no justification in terms of demand for additional capacity within the region for an increase in the annual intake to 200,000 tonnes per annum. The current plan recognises that “ *as landfill disposal rates decrease the lifespan of the current landfills will be extended considerably and could meet the needs of the region for the next 30-40 years.* ”

It is concluded that the Council acknowledges that the reason for the imposed restriction of the landfill footprint no longer exists, due to the purchase of an adjacent property. It is accepted that the exclusion of the 2 ha section will mitigate against achievement of the design finish profile of the landfill but that based on the projected waste arisings and landfill capacity in the region, it is considered that the development of this additional 2 ha section would be premature at this time. No objection was made to the modification of Condition No 2(a) of 01/5006 subject to a condition that no waste contractor collecting waste in the North East Region shall be unreasonably denied access to the site to dispose of waste originating in the North East Region and that landfill capacity be primarily reserved for waste arisings from the North East Region. Any remaining capacity can be made available for waste arisings from neighbouring waste management/ planning regions in accordance with the proximity principle.

The **Road Design Office** report of 21.09.06 notes that the Traffic Impact Assessment for this extension shows an increase in traffic from the south (Dublin) direction of approximately 1 vehicle per hour. Since the opening of the M1 the traffic on the N2 has decreased significantly. The net effect on the existing/ future traffic and capacities is negligible. No objection to the development was raised subject to all contributions originally levied for roads being paid and a further contribution proportional to the increased tonnage.

The **National Roads Design Office** in their report of 15.09.06 raised no objection to the development subject to the Area Engineer’s report. It was noted that the site was outside the referral corridors for the M3 Clonee to North of Kells Motorway Scheme, the N2 Finglas to Ashbourne and the proposed N2 Slane By Pass Scheme.

PRESCRIBED BODIES

The **DoEHLG** (Development Applications Unit) recommended that archaeological monitoring be carried out of all ground works associated with the development.

The **Health Safety Executive** in their report of 28.09.06 stated that having regard to the numerous complaints made to the EPA by Knockharley Community Liaison Committee

and Kentstown National School regarding alleged on-going odour pollution further information should be sought on odour complaints received by the applicant and responses to same, specific details on the on-site fog spray system, methods used to determine the infectiveness of the odour control programme and leachate removal.

PLANNING AUTHORITY'S DECISION

A split decision was issued in this case.

1. The planning authority decided to grant permission for the removal of the regional restriction on the origin of waste accepted at the facility to modify condition no. 2(a) of permission Reg Ref No. 01/5006 and (PL 19.125891) so that the facility can accept waste from adjoining regions. The decision to grant permission was subject to one condition which required that waste for acceptance at the landfill facility be primarily waste generated and produced in the North East Region area of counties Meath, Louth, Cavan and Monaghan and have regard to the proximity principle. It specified that each consignment of waste arriving at the facility be accompanied by a waste certificate detailing waste origin, source, weight, composition etc. Details of the waste delivered to the site on a daily/weekly/ and monthly basis to be submitted to the planning authority on a monthly basis. It was also required that a Liaison Committee be established to agree on an ongoing basis the origin/source/collector contractor of the waste.
2. The planning authority decided to refuse permission for an extension measuring c. 2 ha to the existing permitted landfill footprint on the basis that it was considered that the proposal to increase tonnage per annum and increase the landfill footprint would compromise the viability of more sustainable waste infrastructure, would compromise Knockharley landfill designation as being the long term residual landfill for the region, would compromise the long term waste requirements of the North East Region and would compromise the development of waste management facilities in adjoining regions. It was considered therefore that the proposal would conflict with the 2005 North East Region Waste Management Plan and would be contrary to the proper planning and sustainable development of the area.

APPEAL SUBMISSIONS

1st PARTY APPEAL

The grounds of appeal which are structured to address issues relating to the substance of the application i.e. regional restriction, landfill extension and increased tonnage are summarised as follows: -

Regional Restriction

- The planning authority's decision fails to fully implement the Ministerial Direction contained in Circular 04/05 and fails to deliver the Direction's intended outcome of supporting "the attainment of national waste management policy objectives".
- Having regard to the Ministerial Direction, the projected waste stream at Knockharley and the recent appeal decisions at Usk & Drehid there is no basis for a regional restriction and permission should be granted without any reference to waste sources.

- While the lodged plans and particulars addressed in detail the anticipated split between waste from the North East and non North-East sources (i.e. the Dublin Region), Condition No 1 is not at all precise in this regard.
- The qualification in Condition No 1 that waste for acceptance at the landfill facility should *primarily* be waste generated and produced in the North –East region is unworkable and particularly so if the reduced tonnage is to apply. If the term *primarily* is to remain it should only apply with the proposed increased tonnages as sought by the applicant.
- Significant permissions have been granted by the Board to local authority landfill developments without any conditions regulating specifically the types of tonnage of waste to be accepted at the site or its origin. Similarly recent permissions granted in respect of non-local authority landfill at Usk (09. 131473) and Drehid (09.212059) in Co Kildare make no reference to regional restrictions. Since the nature and extent of the proposed development including the origin of the projected waste stream is described in the lodged plans/documents, the ancillary wording of Condition No 1 is not necessary.
- The ancillary part of Condition No.1 is entirely unnecessary and particularly objectionable is the role of the liaison committee.
- There are fundamental difficulties, legally, administratively and operationally with the ancillary part of Condition No 1. Firstly it envisages the delegation of a key planning function to a committee. The planning authority may be acting ultra vires in this regard and the statutory basis for imposing such a condition is questionable. In terms of the regulated movement of the waste stream, reliance should be placed on the EPA waste licence regulatory regime, rather than on the ancillary wording of Condition No 1.
- Condition No 1 does not comply with established principles for the imposition of conditions which requires that they be necessary, precise, reasonable and enforceable.
- The stipulation that a committee determines planning matters is fraught with precision difficulties as *primarily* is not defined and there is potential for materially different interpretations of Condition No 1. The wording is therefore vague and imprecise.
- The lack of precision also relates to reasonableness and enforceability criteria for attaching conditions. Condition No 1 imposes an unreasonable burden because the landfill operator is required to prepare a waste certificate to record prescribed details of every waste consignment. The practicalities of obtaining this information are questionable. The condition is so unspecific it may be virtually impossible to establish whether the developer is in or is not in compliance with its terms.
- Although the term '*primarily*' is derived from the Waste Circular 04/05, it is not defined in the Circular, the Act or the North East Region Waste Plan. It is open to interpretation both in terms of quantities and may be interpreted in relation to the performance of the facilities in the region collectively rather than individually.
- In support of this region wide interpretation Keypoint KP3 of the National Review of Waste Management Plans is clearly seen to refer to the performance of waste management regions rather than individual facilities within any particular region.
- Invites the Board to consider the meaning of the term 'primarily' in the Waste Circular and to consider if it is intended to apply to landfills or other element of the waste management structure in isolation or is it meant to be considered in relation to the region as a whole.
- Waste is currently accepted at the existing facility from sources within the North East Region as specified by Condition No 2 of 01/5006. The company complies with the requirement of this condition to submit records to the planning authority in

respect of all waste delivered to the site on a daily/ weekly and monthly basis. The Board imposed this procedure in the original permission and it appears to be working satisfactorily without the requirement for a Liaison Committee. There is no objection to the continuation of this established compliance arrangement but there is an objection to the impractical requirement of the ancillary wording of Condition No 1.

- The Board considered the wording of this condition in PL 17.125891 and save for the Liaison Committee now sought under Condition No 1 sought identical details in relation to each waste load. The requirement to submit waste certificates identifying the origin, source and area in which the waste is produced/ generated and waste collection schedules is impracticable and is more properly recorded through the Waste Management (Permit) Regulations and the licensing of individual waste and recycling stations.

Landfill Extension

- The rationale for the restriction upon the extent of the original landfill footprint no longer exists. The property from which the minimum separation distance of 250 m had to be maintained has been acquired by the applicant. The applicant intends to reconcile the landfill footprint under the planning permission with the landfill footprint authorised through the waste licence by extending the footprint by 2 ha.
- The surface area and the location of the proposed extended landfill footprint is exactly as approved under the EPA licence. The revised footprint is no closer than 250 m from any dwelling which is consistent with EPA guidance for landfills.
- The planning authority's rationale that the proposed extension is not supported by any reasonable evaluation of the issues.

Increased Tonnage

- There is a significant discrepancy between the licensed tonnage as per the EPA Waste Licence and permitted tonnage in the permission. The total licensed waste intake is 200,000 tonnes per annum. In accordance with Condition No 2 residual waste up to 132,000 tonnes per annum can be accepted at the site until December 2007 with the permitted capacity to be reduced to 88,000 tonnes per annum thereafter. Under the requirements of the condition the reduced permitted annual tonnage is solely and exclusively for the North East Region.
- For waste management purposes the regional level is the appropriate tier that should inform the planning and provision of services and infrastructure associated with waste management. The planning authority's decision does have adequate regard to the wider waste management issues in the Greater Dublin Area (GDA) as defined in the Regional Planning Guidelines and within which Meath is located.
- The applicants landfill is the only landfill in both the North East Region and the GDA. Yet despite its location in the GDA, the landfill at Knockharley is the only landfill in the North East region which is prohibited from accepting waste from the other constituent counties within the GDA region because of Condition No 2(a) of the existing permission 01/5006.
- The regional dimension is recognised throughout current waste management policy and several statutory waste plans and strategic documents as a vital element in the delivery of waste facilities. In the interests of proper planning and sustainable development, a planning authority is required to take account of matters which relate to the planning and development of areas outside its own functional area. In this case, Meath County Council is located within the GDA region so the

implications of the waste management issues within the GDA are relevant considerations here.

- Having regard to waste policy in Circular 04/05, the anticipated needs of the GDA and the proper planning and sustainable development of the area, the increased tonnage should be approved.
- The Waste Management Plan for the Dublin Region 2005-2011 identifies that there is likely to be a short term requirement for additional landfill disposal capacity in the GDA after 2007. Although the stated policy of the Plan is self reliance in terms of waste management infrastructure, the Plan acknowledges a preference for the GDA as a preferred destination for the disposal of waste until such time as landfill disposal capacity and waste to energy capacity are in place.
- Two planned major elements of waste infrastructure, the landfill at Nevitt and the Dublin Waste to Energy Plant on the Poolbeg peninsula have attracted considerable opposition, which is likely to delay considerably their commencement dates. In the event of delays a stated alternative destination for Dublin's waste arising is the landfill at Arthurstown, Co. Kildare which even allowing for extension of time to fill the existing permitted void would not increase the available void in the GDA.
- It appears in the short term that the Dublin Waste Management Region will need to export waste for disposal to neighbouring regions. It seems to follow that the engineered residual landfill capacity at Knockharley should be available to provide part of the solution for the deficit in terms of waste that cannot be recovered. This is fully in accordance with Section 18.11 of the Dublin Waste Management Plan , which acknowledges the regional dimension to existing waste management practices in the GDA(as defined in the Regional Planning Guidelines).
- The Northeast Region Waste Management Plan 2005-2011 recognises that the region is well serviced with landfill capacity and Section 14.2 recommends that consideration be given to acceptance of waste arising in neighbouring regions.
- The applicant's landfill has available licensed capacity to allow it to accept residual waste from the Dublin Region in accordance with the regional approach laid down on the Ministerial Direction.
- The anticipated need for additional short-term landfill capacity to serve the GDA is recognised in the Waste Management Plan for the GDA.
- Analysis of landfill demand and capacity demonstrates that a deficit in available landfill capacity will occur for residual waste for the Dublin Region confirming the projections in the waste plan. It is anticipated that residual waste from landfill will exceed landfill capacity in 2008. After 2008 it is predicted that a capacity deficit of up to 550,000 tonnes to 600,000 tonnes per annum until thermal treatment commences in or about 2010. The deficit will continue beyond 2016 if planned thermal treatment is further delayed until then.
- Knockharley is well positioned to provide short to medium term capacity for residual waste arising in the Dublin Region until such time as the proposed infrastructure comes on stream. It is not envisaged that the proposed additional tonnage would address the deficit in its entirety but the permitted rate should be increased so that this landfill has the flexibility to form part of the GDA region-wide response. Having regard to the delays and associated with large scale projects, it is prudent and in accordance with the principles of proper planning and sustainable development that the proposed increased tonnage is permitted so that the existing licensed capacity at Knockharley is available to meet the wider regional requirements outlined above.
- Fingal County Council (the lead Authority for the Dublin Waste Management Region) recognises this aspect in its submission to Meath County Council with respect to the proposed development. It refers to two circumstances where it would

be reasonable for cross boundary of waste and the landfill at Knockharley complies fully with those circumstances on both counts (Appendix E).

- The EIS demonstrates that the proposed increase tonnage rates accords with the EPA waste licence. Waste inputs at the current permitted rate (88,000 tonnes per annum after 2007) are materially less than the design rate leading to less sustainable electricity generation from landfill gas and a longer duration of leachate production than envisaged in the EPA waste license. Permission should be granted for the increased tonnage to match the licensed input rate on sustainability grounds.
- Greenstar intends the facility will ‘primarily’ accept waste from the North East Region in accordance with the Ministerial Direction. Based on the planning authority’s decision if the term ‘primarily’ were applied to the current permitted tonnage (88,000 tpa in 2008) it would result in the supply of a mere 40,000 tpa capacity of the estimated 500,000 tonnes per annum disposal need in the Dublin area, should either the planned new landfill and /or incinerator proposals be delayed.
- Approving the proposed increased capacity of 200,000 tonnes at Knockharley would provide a very useful additional disposal capacity of say up to 80,000 tonnes for use by the Dublin region in the expected waste crises or more, if necessary, should the Board adopt the approach in other planning decisions and not impose a regional restriction.
- The facility has an EPA licensed capacity of 200,000 tonnes per annum comprising 100,000 tonnes from the North East Region, 80,000 tonnes from the adjoining Dublin Region and 20,000 tonnes of recovered waste. At these rates the proposed waste facility would primarily serve the North East Region as per the Regional Waste Plan and in accordance with national waste management policy objectives in the Ministerial Direction.

In conclusion, Condition No 1 is not necessary and should be omitted. The omission of the condition would be consistent with recent decisions in relation to local authority / non local authority landfills. If the Board decides to impose a regional restriction it is invited to consider the suggested wording in paragraph 2.24 of the submission.

The permitted tonnage rate at the landfill should be increased so that the facility can play its role in the regional response to the projected landfill capacity crunch in the GDA.

Since the ‘primarily’ restriction remains the key planning control, the proposed increased tonnage for disposal i.e. 180,000 tonnes comprising 100,000 tonnes from sources from the North East Region and 80,000 tonnes from the Dublin Region primarily serves the North East Region and helps to achieve national waste management policy objectives.

The acceptance of waste at Knockharley in accordance with its EPA licensed input rate is more sustainable resulting in a shorter lifespan for the site, more efficient electricity generation from landfill gas and lower leachate production rates. The removal of the regional restriction and the increased tonnage rate would allow Greenstar to accept residual waste from its Millennium Park recycling facility enhancing the sustainability of its operations.

The appeal is accompanied by a number of documents to which I draw the attention of the Board.

OBSERVERS

1. Fergal O'Brien

- The proposed extension would bring the landfill closer to observers house than is currently permitted with attendant problems of dust, noise, odour , flies, vermin visual intrusion, asset value loss etc over and above that for which is currently permitted.
- Greenstar have failed to put in place odour monitoring as required by the waste license and are therefore operating illegally. Existing odours are a constant source of nuisance.
- From the EPA publication “ Focus on Environmental Enforcement”, it is shown that the Knockharley landfill operation constituted the second highest level of complaints in Ireland in 2005 with ‘odour’ being the main source of complaint.
- The reduction in the buffer zone from 500 m to 250m as required by the Landfill Directive was allowed by way of a compromise that any landfill would be constructed and operated to the highest level while at the same time affording protection to the surrounding population. Greenstar have failed to construct/operate the landfill as understood by the final version of the Landfill Directive. It has failed to put in place VOC monitoring, water testing, flaring in accordance with the licensing requirements and permanent structures for flaring of landfill gases.
- Greenstar are in breach of the Noxious Weeds Act 1963.
- The additional capacity sought is unnecessary as existing capacity for the region is more than adequate.
- The application is an attempt by Greenstar to legalise the current practise of sourcing waste from outside the region. Woodchip is also imported from outside the North East Region in contravention of the planning permission.
- There is no evidence in the application of how the requirements of Council Directive” 1999/31/EC on the landfill of waste are to be effectively implemented.
- Raw untreated organic waste is now accepted at the site. Refuse trucks take domestic waste directly to the landfill which is in breach of the Landfill Directive, which requires treatment prior to disposal.
- The applicant has ignored both national and local obligations with regard to waste reduction. European/National and Regional policy is to have forced under capacity for landfill thereby increasing other options in the waste hierarchy.
- The application works against the EU principles on waste management. It will allow the Dublin region a new outlet for municipal waste disposal. To assist the precautionary principle there should be forced under capacity in the Dublin region and use of the Knockharley infill will work against this.
- It is unclear how the polluter pays principle will operate in the context of the landfill.
- Development ignores the proximity principle.
- The development will increase the currently excessive noise levels experienced from the site.
- The Kentstown Draft Development Plan 2005 shows additional housing nearer to the proposed site. The application fails to have regard to Council Directive 199/31/EC in terms of location.
- Traffic hazard arising from additional traffic movements.

The submission is accompanied by a number of documents, to which I draw the attention of the Board.

2. Rose Faulkner, Fergus Doonan & Knockharley District Residents Association

- Procedures in accordance with the Planning and Development Act 2000 not adhered to by Meath County Council i.e. Statutory Bodies not informed (Inland Waterways), HSE recommendations not followed up and application invalidated.
- The specified engineering works as agreed by the statutory bodies regarding drainage from the entrance road were not adhered to resulting in the unauthorised construction of a large drainage pipe to the rear of the homes on the Eastern boundary including the destruction of land drains.
- Nuisance to adjacent dwellings arising from landfill gas, contaminated dust and odour. Despite the planning authority's assertion that the facility is fully in compliance with the waste licence, non compliance notices have been issued.
- There is no EIA carried out on the specific nature of the landfill gas from the landfill.
- Odour neutralising agents and masking agents are constantly in use with no EIA carried out in this regard.
- Woodchip is dumped on the site and there is no adequate procedure in place to assess the level of contamination with CCA and creosote.
- There is no EIA on fire hazard associated with the site.
- There is a temporary gas flare on the site for which there is no planning permission, no risk assessment and no environmental assessment.
- Despite major concerns resulting from emissions, appeals to the HSE and the Health and Safety Authority have been ignored.
- Concerns re waste accepted at the site, which is stated to include ESB poles and car batteries.
- Waste has been accepted from outside the region in contravention of the conditions of the planning permission.
- Traffic hazard arising from increased traffic movements.
- EIS not available for public inspection.
- No evidence in the application of how the requirements of the Council Directive 1999/31/EC on the landfill of waste are to be effectively implemented.
- The application will work against the European Union principles of waste management.
- The proposed development is not allowing a 250 m buffer from the curtilage of the nearest house.
- The increase in tonnage will further increase the profitability of the operation of the landfill and any increase in tonnage accepted at the site will exacerbate the already severe impacts associated with the facility.

The submissions are accompanied by a map showing the location of the observers homes relative to the landfill.

RESPONSES TO GROUNDS OF APPEAL

The Planning Authority

The planning authority response includes part of the text of the planning officer's report. The following comments are made: -

- A condition must be included whereby waste accepted at the landfill facility should primarily be waste generated and produced in the North East Region including the counties Meath, Louth, Cavan and Monaghan and have regard to the proximity

principle. To omit Condition No 1 as suggested by the applicants would be contrary to the current National and Regional Policy Guidance. The planning authority has no objection to a revised condition being stipulated by the Board, if they are satisfied that such a condition would be more appropriate.

- With regard to the increase in the footprint of the landfill, the Planning Authority acknowledges that the reason the Board reduced the landfill has been overcome, as Mr Martin Curran's property has been purchased by the applicants. Having regard to the requirement in the Waste Management Plan for the North East Region 2005 to reduce the volume of waste going to landfill, it is considered that the proposal for an additional 2 hectares of landfill is premature at this time.
- It is the policy of the 2005 North East Region Waste Management Plan to build on the strategy of the original plan to move progressively away from landfill and strive to implement a regional approach to waste management that is sustainable and based on national and EU legislation and policy. A target is to reduce landfill disposal by 18% by 2018. Current landfill capacity in the region is c. 314,000 tonnes per annum and there is in excess of a total of 5 million tonnes of landfill capacity. Permitting an extension to the landfill at this time is therefore considered to be inappropriate.
- In the absence of need for an increase in footprint and tonnes per annum, to permit the development would conflict with the Waste Plan objectives to put in place a portfolio of strategies in accordance with the internationally recognised waste management hierarchy, which cites landfill as the last and least acceptable way to deal with waste.
- It is considered that this element of the proposed development would compromise 'Regional Policy Objectives' contained in the 2005 North East Waste Management Plan such as, 'the region will continue to improve the infrastructure for recycling and recovery of waste' and 'waste prevention and minimisation will be a priority'.
- It is considered that permitting a significant increase in tonnage per annum would have an adverse rippling impact on the implementation of adjoining waste management plans, particularly as the planning authority is disposed to allowing a certain amount of waste to be sourced from outside the region.
- The planning authority has no objection to condition no. 2(a) of the parent permission being modified such that waste for acceptance at the landfill facility is primarily waste generated and produced in the North East Region, but that permission to increase the waste intake volume to 200,000 tonnes per annum and an extension of the landfill footprint should be refused.

DEVELOPMENT PLAN

The operative development plan is the Meath Co Council Development Plan 2001. The Plan which was adopted in March 2001 noted that the existing waste disposal system in the county was dependent on landfill, with little segregation of waste with recovery of compostible wastes and/or recyclables. It was stated that the existing facility at Bracketstown would be replaced by a new sanitary landfill at Knockharley. The new facility would be accompanied by greater recovery of recyclable materials and composting of organic waste fractions and that the Regional Waste Management Strategy being adopted by the Regional Authorities will set the longer term vision.

The Draft Meath County Development Plan 2006 recognises that the management of waste is one of the three strategic challenges facing Ireland's environment. It recognises that in terms of waste infrastructure the facilities in the region have grown significantly. The Knockharley landfill is identified as a privately operated regional facility which has a capacity for 25 years and accepts both municipal and industrial waste.

The Draft Plan sets out a number of policies with respect to waste management, which includes: -

INF POL 64 To implement the provisions of the Waste Management Hierarchy and the Replacement North East Regional Waste Management Plan. All Prospective developments in the county will be expected to take account of the provisions of the Replacement Regional Waste Management Plan and adhere to those elements of it that relate to waste prevention and minimisation, waste recycling facilities and the capacity for source segregation. Account will be taken of the proximity principle and the interregional movement of waste as provided for under section 60 Policy Directive by the Minister of the Environment, Heritage & Local Government (WIR: 04/05)

NORTH EAST REGION WASTE MANAGEMENT PLAN 2005-2010

This replacement Waste Management Plan for the North East Region has been developed by the Local Authorities of Counties Cavan, Louth, Meath and Monaghan and covers the period 2005-2010. The policy set out in the replacement Plan will build on the strategy of the original Plan to move progressively away from landfill and to strive to implement a regional approach to waste management that is sustainable and based on national and EU legislation and policy. The integrated waste management approach grounded on the EU waste hierarchy will be applied to waste generated, implementing maximum recycling, recovery of energy from residual waste and moving away from landfill disposal. The targets set are similar to those of the original Plan :- 43% recycling, 39% thermal treatment and 18% landfill.

It is noted in the Plan that the services provided and the overall waste management system is more advanced than other regions nationally. The positive developments in recycling, energy recovery and landfill capacity secures the future of the North East for steady economic growth and will ensure that adequate infrastructure exists for continued investment and employment growth in the Region.

In terms of landfill, the long term objective is to reduce landfill disposal to just 18% of the waste stream in the Region. It is recognised that in the short to medium term until recycling rates increase and biological and thermal treatment facilities are introduced, there will be a need for significant landfill capacity. The Region has developed significant capacity in the past five years and there is currently a landfill operating in each County in the Region.

The Plan recognises that there should be flexibility with respect to the movement of waste across regional boundaries. In broad terms, the capacity of waste facilities in the Region should primarily assist the needs of the Region whilst not precluding inter regional movement of waste and allowing flexibility to cater for the development of required national infrastructure.

ASSESSMENT

The main issues which arise for determination by the Board in relation to this appeal relate to the appropriateness of the landfill extension, regional restriction on waste movement and increased tonnages. Other issues raised relate to impacts on adjacent residential property arising from odour, dust, landfill gas, vermin flies, visual intrusion and devaluation of property values.

Landfill Extension

The restriction on the size of the original landfill footprint was imposed due to inadequate separation distances between the landfill and the adjoining house to the north. The Board will note that the applicants subsequently acquired the property removing the rationale for the original restriction. The area in question involves a modification to Phase 7 of the landfill footprint by the re-instatement of a triangular shaped area at the northwest corner of the originally proposed landfill footprint, which was omitted by Condition No 3 of the parent permission (PL 07.125891).

The extended area involves an area of c 2 ha, the inclusion of which will result in a footprint that resembles that proposed under the original application and reconcile with the area of landfill approved under the licence issued by the EPA. With the exception of the concerns raised by the Inspector in the previous appeal with regard to the proximity to the dwelling house to the north, there were no other material considerations why this area was excluded from the site.

The planning authority is opposed to the proposed footprint extension on the basis of existing excess capacity in the Region. While I recognise that it is in accordance with both EU and National policy that there should be a progressive move away from landfill as a means of waste disposal, I have no objection in principle to the proposed footprint extension. The facility is designated as the long term residual landfill facility for the region and despite the provision of landfill diversion infrastructure which will further reduce the quantities of waste to landfill, there will always be a need for some level of landfill capacity. The proposed extension will not be consistent with the maintenance of the facility as a long term waste infrastructural resource.

Having regard to the status of the site as the designated long term residual landfill for the region, I consider that the proposed extension, which equates to an area of 10% of the total landfill footprint, in the context of a well developed facility which is comprehensively regulated to achieve high standards of environmental protection, is acceptable. I do not consider that the limited extension of the existing landfill would result in significant over provision of landfill which would be incompatible with its 'residual' role in the integrated waste management mix. The Board will note that the environmental impacts of the entire landfill footprint including the area which is the subject of the appeal were assessed under the original EIS. The inclusion of the extended area has also been assessed under the current EIS and no significant issues have been raised. The entire footprint is covered by the controls and monitoring regime required under the waste licence issued with respect to the facility.

Regional Restriction

It was a requirement of Condition No 2 (a) of the parent permission (PL 17.125891) that waste accepted at the landfill facility be limited to waste arising in the North –East region as defined by the Counties of Meath, Louth, Cavan and Monaghan. Significant policy changes have occurred since the parent permission was granted. The policy changes, instigated at national level, are reflected at a local level in the policies of the current waste management plan for the region.

At national level the publication 'Waste Management- Taking Stock and Moving Forward' (April 2004) recognised that it is not an automatic implication of waste management plans that waste facilities provided in the region have to be used exclusively for the region concerned. Each region is required to take responsibility for its own waste stated and the facilities provided in a region must *primarily* serve the waste management needs of that region. The Policy guidance issued pursuant to Section 60 of the Waste Management Act, 1996 (as amended) sought to address the fundamental difficulties which arise in terms of the interrelationships between regional boundaries and waste facilities provided. It reaffirms the application of the *proximity principle* as one of the fundamental components of policy in regard to the regulation of the movement of waste. It recognises that the application of the proximity principle does not entail interpreting administrative waste management planning boundaries in such a manner as to inhibit the development of waste infrastructure which will support the attainment of national waste management policy objectives through the rational development and use of such infrastructure.

At local level, the North –East Region Waste Management Plan 2005-2010 adhering to national guidance recognises that while the waste facilities in the Region should primarily satisfy the needs of the Region, there should be flexibility with respect to the movement of waste across regional boundaries. These policies do not support the retention of the restriction on the inter-regional movement of waste. I concur with the conclusions reached by the planning authority that a more flexible approach should be adopted and that providing regard is had to the proximity principle accepting waste from other regions should not be precluded. The restrictions imposed by the imposition of Condition No 2(a) of the parent permission is no longer appropriate.

While I accept as stated by the First Party that the interpretation of the word 'primarily' is fraught with difficulties, the wording of the key element of Condition No 1 is structured to adhere to ministerial guidance in terms of maintaining the self sufficiency of the region in terms of waste management, while encouraging, through the implementation of the proximity principle, the management of waste in close proximity to the location of its production. I accept that the interpretation of the word 'primarily', which is not defined in legislation, in the Ministerial Directive or in the various policy documents raises fundamental difficulties. There is clearly potential for materially different interpretations of the word with respect to the specific quantities of waste which must be derived from the region. In my opinion the word 'primarily' in the context of the regional waste management policy infers the majority, which in my opinion would equate to 80%.

The appropriateness of the ancillary part of Condition No 1, in particular the requirement that each consignment of waste arriving at the landfill be accompanied by waste certificates identifying waste origin, source and area in which it was produced/generated together with waste collection schedules has been raised by the appellants. The Board will note that similar issues were raised in the previous appeal (PL 17.215891) where it was concluded that the imposition of such a condition results largely in an unnecessary duplication of information already available to the planning authority under the 1998 and 2001 Waste Permit and Waste Collection Permit Regulations and accordingly there was no justification for its inclusion in the permission. I note the Inspector's comments that *'information regarding the weight, composition and nature of waste consignments arriving at the landfill site together with the name and address of the collection contractor is necessary to ensure that waste produced for disposal is delivered by a licensed contractor, the volumes, nature and*

composition of waste arriving at the site can be monitored to ensure compliance with any permission granted and that data relevant to the imposition of levies may be collated'. The Board will note that these requirements are covered by Condition No 2 of the parent permission.

The developer has also challenged the appropriateness of that part of Condition No 1 which seeks the establishment of a Liaison Committee to agree on an ongoing basis the origin, source collector/contractor of waste. On the basis that the Board has already accepted that this information is more appropriately recorded through the Waste Management (permit) Regulations 1998 and the Waste Management (collection permit) Regulations, 2001, I concur with the First Party that there is no need for the establishment for such a committee for this purpose. Notwithstanding the Inspector's comments on the previous appeal with regard to the potential role of a community liaison committee to provide for an ongoing review of landfill operations in conjunction with the local community, I note that the Board limited its function to the identification of environmental community projects to mitigate the impact of the landfill on the local community (Condition No 5).

Increased Tonnages

The substantive issue in this appeal relates to the question of whether increased tonnages should be permitted in the existing landfill. Restrictions were placed on the annual intake at the facility to 132, 000 tonnes per annum until December 2007 and thereafter to 88, 000 tonnes per annum under Condition No 2 of the Board's previous decision on the site (PL 17.125891). The Board will note that the original decision of the planning authority (01/5006) imposed a 88,000 tonne per annum restriction on waste disposal capacity at the facility over its projected lifespan. I note from the Environment Section report that this figure was arrived at on the then estimated landfill capacity required by 2014, allowing for delivery on other plan targets for recycling and thermal treatment. The rationale for the Board's decision to increase the disposal capacity to 132, 000 up to December 2007 was based on a shortfall between waste arisings in the North- East Region and available capacity, due to the eminent closure of the Dundalk landfill in 2002 and White River in 2004. It was also considered that at the end of 2007 with the coming on stream of alternative and preferred methods of disposal in the waste hierarchy, such as thermal treatment/incineration, waste volumes disposed of to landfill would reduce considerably.

The North East Region Waste Management Plan 2005-2010 has since been adopted. It remains the long term objective of the plan is to reduce landfill disposal to just 18% of the waste stream by 2014. Since the original Plan was adopted, significant progress has been made in terms of household and commercial waste recycling. There has also been significant progress in terms of securing substantial landfill capacity. The facility at White Chapel which was scheduled to close (Inspector's Report PL 17.125891) has been granted approval to extend and accept 96,000 tonnes per annum. There is now a landfill facility in each county in the Region with a total available landfill capacity of 313, 500 tonnes per annum.

Since the adoption of the first waste plan for the region progress has been made to move away from an over dependence on landfill. I note that waste arisings in the Region diverted to landfill in 2003 were 54% less than those landfilled in 1998 (Table 14.2). A continuation of this downward trend is required to meet the regional target of 18% of the waste stream. To further reduce reliance on landfill and achieve EU Landfill targets, the provision of thermal treatment of waste in the region by 2009 is considered a priority.

The delayed delivery of landfill diversion infrastructure has a significant bearing on the quantities of waste that will require to be landfilled. To achieve the regional target for landfilling of 18% by 2014 it is estimated in the Plan (Section 14.3) that 60,000 tonnes of municipal waste will require to be landfilled, assuming the regional targets for recycling (43%) and thermal treatment (39%) have been achieved. In the event that a Thermal Treatment facility is not operational by the end of the Plan period and assuming a regional recycling rate of 40% a total of 175,550 tonnes of municipal waste would remain to be treated. Although planning permission has been granted for a thermal treatment facility in Carranstown, Co Meath with a capacity for 150,000 tonnes per annum, a proposal to increase the capacity to 200,000 tonnes is the subject of an appeal to the Board, which may impinge on the forecasted delivery date in the Plan of 2007/8.

Irrespective of the tonnage of waste that is required to be diverted to landfill, it is clear that the four facilities that exist in the Region provide more than adequate capacity for landfill disposal in the Region. The remaining landfill capacity in the region is close to 4 million tonnes (Table 14.2). As landfill disposal rates decrease the lifespan of the current landfills will be extended considerably and it is estimated in the Plan *that the facilities could meet the disposal needs of the Region for the next 30-40 year's*. In addition to meeting the long term disposal needs of the Region, the Plan makes provision for the available overcapacity to be used to landfill waste from outside the region. This scenario is dependent on a shortfall in disposal capacity within neighbouring regions.

The First Party seeks to avail of the Region's overcapacity and to accept increased tonnages at the facility in addition to waste from the Dublin region. I note from the Waste Management Plan for the Dublin Region 2004-2010 that a critical shortage of landfill capacity is imminent with the closure of the landfill facilities. The policy of the Plan is to aim to become self-reliant in terms of waste management infrastructure ensuring that waste generated in the Dublin region should be managed in Dublin as far as possible. To this end it is perceived that the development of a Waste to Energy Plant at Poolbeg Peninsula is a critical element of waste infrastructure for the Region to ensure continued diversion of waste from landfill. Even with the diversion of waste from landfill to the WTE facility there will remain a significant requirement for residual landfill disposal. The urgent delivery of the proposed Fingal landfill (10 million tonne capacity at Nevitt which should provide sufficient capacity from 2009-2030) is required to replace existing landfills and to provide adequate safe disposal capacity for residual waste. It is clear from the Plan (Section 18.9) that the short-term waste disposal requirements for the Region are reliant on facilities outside the region i.e. extension of Athurstown facility in Co. Kildare, maximising the use of available disposal (or energy) recovery facilities in the Greater Dublin Area i.e. Kildare, Meath and Wicklow if feasible and seeking options for disposal capacity in other regions if necessary.

It is clear from the analysis of the waste management plans for both regions that the North-East region has the capacity to address the landfill deficiencies that exist in the Dublin Region in the short-medium term. The First Party seeks to argue that availing of this excess capacity to redress the imbalance and increasing the permitted tonnage would *'support the attainment of national waste management policies through the rational use of such infrastructure'* in line with the Ministerial Directive. However, I support the view of the planning authority that as the designated residual landfill for the region, the facility should be protected as an important long-term infrastructural resource. The ultimate aim of the waste plan is to reduce overdependence on landfill. As noted above the waste management plan estimates that only 60,690 tonnes of municipal

waste may be land filled in the region in 2014. The annual tonnage permitted under the existing permission exceeds the projected annual intake by c 28,000 tonnes and accordingly it cannot reasonably be argued that there is any justification for increasing the permitted annual intake to 200,000 tonnes. I concur with the conclusion reached by the planning authority that permitting increased tonnages would shorten the operational life of the facility which would be inconsistent with the core objectives of the waste plan.

Other Issues

It is contended by the observers to the appeal that there are impacts arising from the existing facility, which will be exacerbated by the extension of the landfill footprint. Concerns has been raised with regard to the impacts on the residential amenity of adjacent property arising from odour, noise, landfill gas, flies, vermin and dust, visual intrusion and traffic. The type of waste accepted at the facility has also been raised.

The issues raised by the observers relating to emissions including odour, noise, landfill gas etc and nuisances such as dust, flies, and vermin are subject to the requirements of the Waste Licence issued by the EPA. The control, monitoring and abatement of these impacts are a matter for the EPA under the licencing regime and are outside the scope of this appeal. Similarly the type of waste accepted at the facility is controlled by the licence and is limited to residual non-hazardous household, commercial and industrial waste

The observers have also raised issues with regard to visual intrusion and impacts on property values. In the context of the permitted landfill and the location of the proposed extension, it is considered that the inclusion of the triangular shaped area to the north west will have no significant impact on the value of the properties owned by Faulkner & Doonan to the east of the site. Similarly the location of the extension at the opposite side of the landfill footprint will not increase the visual intrusiveness of the development on the houses located to the east, provided the height of the extension does not exceed that of the permitted landfill.

The extension of the landfill footprint to the north west will have the effect of decreasing the separation distance to the house occupied by Fergal O' Brien to the north of the site. The impacts on existing property values was considered in the Inspector's report on the previous appeal on the site where it was concluded that *'with strict environmental controls in place and the visual integration of the site within the surrounding landscape the perceived disamenities and corresponding property devaluation would be of a short-term nature only'*. I note that significant tree planting has take place between the landfill footprint/ancillary facilities and the boundaries of the site which will further ameliorate the visual intrusiveness of the development.

The additional traffic movements generated by the proposed development has been raised by the observers to the appeal. The proposed development will result in minor increases in traffic which will be accommodated primarily on the N 2. In the context of the number of HGV's currently using the N2 the increase, which will equate to c. 11 trips per day, will be imperceptible to existing road users in the vicinity of the site. The impacts on adjacent residential properties which are concentrated on the minor road network will be negligible. The Board will note that the Road Design Section of Meath County Council have raised no objection to the development and confirmed the conclusions reached in the EIS that the net effect on the existing future traffic capacities is negligible.

I consider that the issues raised by the observers with regard to an unauthorised drainage pipe constructed to the rear of residential property to the east of the site is a matter for the planning authority to regulate. On the basis that the entire landfill footprint including the proposed extension have been subject to environmental impact assessment and the licence granted with respect to the facility covers emissions from the entire area, it is considered that consultation with Inland Waterways as a prescribed body under the regulations is not required as contended by the observers to the appeal.

The issues raised with regard to Fire and Health & Safety are matters which are subject to separate regulatory control and are outside the scope of the Board

RECOMMENDATION

In the light of the above assessment, I recommend that a split decision be issued as follows: -

- That permission be granted for the proposed landfill footprint extension
- That permission be granted for the removal of the regional restriction on the origin of waste accepted at the facility
- That permission be refused for the increased tonnages

REASONS AND CONSIDERATIONS (1)

Having regard to the permitted development on the site and the designated of the existing landfill as the long term residual landfill for the North East Region it is considered that the proposed footprint extension would not be incompatible with its 'residual role' or inconsistent with the core objectives of the Waste Management for the North East Region 2005-2010. It is considered, therefore, that subject to the conditions set out below the proposed development would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The proposed development shall be carried out in accordance with the conditions attached to the parent permission granted under An Bord Pleanála Order PL 17.125891 with respect to this site except as may otherwise be required to comply with the conditions attached to this permission.

Reason: To insure consistency with the development as previously permitted.

2. The developer shall facilitate the planning authority in the archaeological appraisal of the site and in preserving and recording or otherwise protecting archaeological materials or features, which may exist within the site. In this regard the developer shall:-
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any sub surface works (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably qualified archaeologist who shall monitor all site investigation excavation and other excavation works, and

The assessment shall address the following issues:-

- (i) the nature and location of any archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

Prior to the commencement of development, a report containing the results of the assessment shall be submitted to the planning authority. Arising from this assessment, the developer shall agree with the planning authority details regarding any future archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement of any of these requirements, the matter shall be determined by An Bord Pleanála.

Reason: In order to conserve the archaeological potential of the site and to secure the preservation of ant remains which may exist within the site

3. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to commencement of the proposed landfill footprint extension development or in such phased payments as the planning authority may facilitate and shall be the subject of any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

REASONS AND CONSIDERATION (2)

Having regard to:-

- (a) the national waste management policy framework and strategy as set out in the Government policy Statement “ Waste Management-Taking Stock and Moving Forward,” (2004) published by the Department of the Environment and Local Government
- (b) Policy Guidance pursuant to section 60 of the Waste Management Act, 1996 (as amended)
- (c) the Waste Management Plan for the North East Region 2005-2010

which facilitate the inter-regional movement of waste

it is considered that the regional restriction on the source of waste accepted at the facility imposed by Condition No 2(a) of the permission granted under An Bord Pleanála Order PL 17.125891 be removed and that waste accepted at the facility be subject to the condition set out below.

CONDITIONS

1. The waste accepted at the facility shall be primarily sourced from the North –East Region as defined by the Counties of Meath, Louth, Cavan and Monaghan and have regard to the proximity principle. Primarily shall be interpreted as not less than 80% of the overall annual intake permitted at the facility.

Each consignment of waste arriving at the facility shall be accompanied by a Certificate which shall identify the weight of each consignment, the name and address of the waste collection contractor disposing of the waste and the composition and nature of the waste for disposal.

Reason: To ensure that the wastes arising s with the North East Region are primarily sourced within the region in accordance with the national and local policy in relation to the inter-regional movement of waste.

REASONS AND CONSIDERATIONS (3)

Having regard to the current available annual landfill and overall landfill capacity in the North East Region, and to the requirement of the current Waste Management Plan for the North-East Region to reduce the volumes of waste diverted to landfill it is considered that the proposal to increase the tonnage per annum intake at the facility would compromise the viability of more sustainable waste infrastructure, would compromise the long term waste requirements of the region and the designation of Knockharley as the long term residual landfill for the region. It is considered therefore that the proposed development would conflict with the policies of the Waste Management Plan for the north East Region and would be contrary to the proper planning and sustainable development of the area.

Breda Gannon
Inspectorate
March 2nd, 2007