

This Report has been cleared for submission to the Board by Marie O'Connor,
Programme Manager

Signed: 

Dated: 7 October 2019



OFFICE OF ENVIRONMENTAL SUSTAINABILITY

REPORT OF THE TECHNICAL COMMITTEE ON REPRESENTATIONS MADE ON A DRAFT CERTIFICATE OF AUTHORISATION

TO: Each Director

FROM: Technical Committee Environmental Licensing Programme

DATE: 7 October 2019

RE: Representation on draft Certificates of Authorisation issued to Wicklow County Council for closed landfills at Fassaroe, Bray, County Wicklow.
Certificate of Authorisation Register Number H0474-02 (Fassaroe 3C)
Certificate of Authorisation Register Number H0475-01 (Fassaroe 2)
Certificate of Authorisation Register Number H0476-01 (Fassaroe 3B)
Certificate of Authorisation Register Number H0477-02 (Fassaroe 3A)

Application Details

Type of facility:	Closed landfill as defined in the Regulations ¹
Applications received:	3 January 2019
Draft Certificates issued:	1 May 2019
First party representation received:	30 May 2019

1. Background to this report

There are five landfill sites collectively known as the Fassaroe Historic Landfills. Fassaroe 1 landfill site was privately owned and operated. Therefore, it does not qualify as a historic landfill

¹ Waste Management (Certification of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations 2008 (S.I. No. 524 of 2008).

site, as defined in the Regulations. The four other landfill sites are Fassaroe 2, 3A, 3B and 3C. As their names indicate, they lie within the area of Fassaroe, Bray, Co. Wicklow. The Appendix to this report includes a map representing the 5 sites.

The risk category for each landfill is as follows:

H0474-02 (Fassaroe 3C) – Moderate Risk (class B)

H0475-01 (Fassaroe 2) – High Risk (class A)

H0476-01 (Fassaroe 3B) – Low Risk (class C)

H0477-02 (Fassaroe 3A) – High Risk (class A)

The Powerscourt Demesne is located approximately 2km to the southwest of the site. Dun Laoghaire Golf Club is located on elevated lands to the north west of the site. In general, the lands at Fassaroe are currently in agricultural use. There are a number of other notable activities within the general Fassaroe area: Roadstone quarry is located to the south-east of the area of the landfill. This quarry operates under licence from the EPA (Waste Licence Ref. W0269-01) for the operation of a soil recovery facility to backfill the quarry. There is also the Greenstar Recycling centre located to the north-east of the landfill location. This is a Materials Recovery and Transfer facility (MRF) operated by Starrus Eco Holdings Limited who are the named licensee on Waste Licence Register No. W0053-03.

There are also a number of residential clusters within 5 km radius of the landfill: at Thornhill Road, adjacent to Greenstar in the north-east; along Kilbride Lane in the south-east; and along Berryfield Lane which runs east to west through the Fassaroe area and connects to Ballyman Road in the west. There are a number of small businesses located within the residential clusters at Thornhill Road and Berryfield Lane. There is an existing 110kV ESB substation located on the southern side of Berryfield Lane to the south and east of the landfill site.

2. Consideration of the Representation

The issues raised in the first party representation in relation to the Draft Certificates of Authorisation (CoA) are summarised below. The representation, which addresses the four draft Certificates of Authorisation, should be referred to at all times for greater detail and expansion of particular points.

The Technical Committee (TC) comprising of Caitríona Collins (Chair) has considered all the issues raised in the representation and this report details the Committee's comments and recommendations following the examination of the representation, together with discussions with the Office of Environmental Enforcement (Caoimhin Nolan).

This report considers one valid first party representation, which collectively addresses the four draft Certificates of Authorisation.

Wicklow County Council submitted a representation in relation to a number of requirements set out in the draft Certificates of Authorisation that issued in relation to the four Fassaroe historic landfills.

Condition 3.1

The applicant expressed concern in relation to the requirement to carry out the remediation within 12 months of the date of grant of the Certificate of Authorisation and stated that it may not be in a position to comply with the timeframe as it is currently specified. In support of this concern, the applicant states that procurement of consultants and contractors would require more time and, in this regard, a timeframe of 24 months is sought. In addition, the applicant further contends that the date of grant of the Certificate of Authorisation is not an appropriate starting point as approval from An Bord Pleanála may be required, in which case, a timeframe for such approval is unknown. In this regard, the applicant is seeking that Condition 3.1 be amended to make reference to planning approval.

Technical Committee's Evaluation: The Technical Committee notes that Condition 3.1, as drafted, includes the provision "...or as otherwise agreed by the Agency". However, for the reasons stated by the applicant, it is likely that a timeframe of 12 months from date of grant of the Certificate of Authorisation is not achievable. As such, the Technical Committee recommends a change from 12 to 18 months, while maintaining the provision "...or as otherwise agreed by the Agency".

Reason for Decision:

The Technical Committee propose to amend Condition 3.1 as set out below and has reached its decision having regard to the following reason:

- To provide for a more reasonable timeframe for the implementation of measures.

Recommendation: Amend Condition 3.1 to read as follows:

3.1 The local authority shall implement the following measures within **18 months** of the date of grant of this certificate of authorisation or as otherwise agreed by the Agency.

Condition 3.1(a)

The applicant expressed concern about the requirement to prepare and implement a programme of 24-hour pumping trials for seven days, within a timeframe of 4 months from the date of the Certificate of Authorisation. The applicant is seeking 6 months for this work to be completed, to allow time for procurement of a contractor and the execution of the pumping trials.

Technical Committee's Evaluation: The Technical Committee notes that Condition 3.1, as drafted, includes the provision "...or as otherwise agreed by the Agency" and this provision is intended to address all requirements specified under Condition 3.1. As such, this provision addresses any flexibility that may be sought by the local authority in relation to the timeframe for the completion of the pumping trials.

Recommendation: No change

Condition 3.1(d)

The applicant is seeking that condition 3.1(d) be amended to include the provision "Unless otherwise agreed by the Agency..." as the measures specified in Condition 3.1(d) will be dependent on the outcome of the landfill gas pumping trials.

Technical Committee's Evaluation: The Technical Committee notes that Condition 3.1, as drafted, includes the provision "...or as otherwise agreed by the Agency" and this provision is intended to address all requirements specified under Condition 3.1. as such, the request of the applicant can be considered to be addressed.

Recommendation: No change

Condition 3.2

The applicant accepts the requirements of this condition in relation to ensuring that discharges and emissions from the landfill do not cause environmental pollution or deterioration in the status of the receiving surface water or groundwater bodies. However, the applicant is seeking confirmation that the baseline status relates against which any deterioration would be measured are the results described in the Environmental Risk Assessment submitted with the Certificate of Authorisation application.

Technical Committee's Evaluation: The Technical Committee notes that Condition 3.2, as drafted, refers to "... status of the receiving surface water body or groundwater body" and as such the meaning of this is the Water Framework Directive status of those receiving water bodies, as recorded and published by the Environmental Protection Agency.

Recommendation: No change

Condition 3.3

The applicant is seeking that the timeframe specified in Condition 3.3 be linked with the planning approval rather than the date of grant of the Certificate of Authorisation.

Technical Committee's Evaluation: The Technical Committee notes that Condition 3.3, as drafted, includes the provision "Unless otherwise agreed,...". As such, this provision addresses any flexibility that may be sought by the local authority in relation to the timeframe for the submission of the validation report.

Recommendation: No change

Condition 3.5

The applicant is seeking that a site-specific monitoring strategy be developed and agreed with the Agency and in particular proposes the following changes:

- Under Condition 3.5(b), reduce the number of leachate monitoring boreholes that require biannual monitoring from a total of 19 across the four sites to 12 across the four sites.
- Under Condition 3.5(e), sampling of two downgradient boreholes is required at each site. However, due to steepness of ground, there are no downgradient boreholes at sites 3A and 3C and as such the applicant is seeking flexibility by including the provision "...to be agreed with the Agency".
- Under Condition 3.15(d), the applicant is seeking that the requirement to publish results of gas and water monitoring data is reduced from quarterly to half-yearly, in order to be aligned with the monitoring frequency in Condition 3.5.

Technical Committee's Evaluation: The Technical Committee notes that condition 3.8 of the draft Certificate of Authorisation provides for the location, frequency, methods and scope of monitoring, sampling and analyses to be amended with the agreement of the Agency, and as such the applicant's requests in relation to Condition 3.5(b) and 3.5(e) can be addressed in this manner. In relation to the change requested in condition 3.15(d), the Technical Committee considers that it is reasonable to align the publication of results with the monitoring frequency and as such recommends that the draft Certificate of Authorisation be amended accordingly.

Reason for Decision:

The Technical Committee propose to amend Condition 3.15(d) as set out below and has reached its decision having regard to the following reason:

- To provide for greater alignment between the monitoring and communications programmes.

Recommendation: amend Condition 3.15(d) to read as follows:

d) The local authority shall, as part of the communications programme, publish gas **monitoring data quarterly** and water monitoring data **bi-annually** in a manner accessible by the public.

3. Overall Recommendation

It is recommended that the Board of the Agency grant a certificate of authorisation to the applicant

- (i) for the reasons outlined in the Draft Certificate of Authorisation,
- (ii) subject to the conditions and reasons for same in the Draft Certificate of Authorisation, and
- (iii) subject to the changes recommended in this report.

Signed

Caitriona Collins

Caitriona Collins

Date 07/10/2019

Senior Inspector

for and on behalf of the Technical Committee

