



Ceased Licence Memo

DATE:	06/11/20
TO:	Tom Ryan, OEE Director
FROM:	Cian O'Rourke, OEE Inspector
SUBJECT:	Propose to Cease Waste Licence Reg. No W0221-01

1. RECOMMENDATION

As the carrying on of the activity to which Waste Licence Reg. No W0221-01 relates has not been substantially commenced within a period of 5 years beginning on the date on which the licence was granted, I recommend the following:

1. That the Office of Environmental Enforcement (OEE) issue a letter of notification to the Licensee under Section 49(1) of the Waste Management Act 1996, as amended stating that the licence has ceased to have effect from 17/05/2011 and the activity cannot now commence under this licence.
2. That the OEE notifies Dublin City Council of the above.
3. That the OEE make the relevant amendments to the OEE database and notifies the other internal offices (OES, ELP, ORM Environmental Monitoring, OCCS Accounts payable/receivable) to reflect the change in the licence's status to Ceased.

2. SUMMARY

Name of Licensee	Dublin City Council
Registration Number	W0221-01
Facility Address	Labre Park Civic Amenity Site, Ballyfermot, Dublin 10
Class of Activity	<p>D15: "Storage prior to submission to any activity referred to in a preceding paragraph of this Schedule, other than temporary storage, pending collection, on the premises where the waste concerned was produced."</p> <p>R4: "Recycling or reclamation of metals and metal compounds."</p> <p>R5: "Recycling or reclamation of other inorganic materials"</p> <p>R13: "Storage of waste intended for submission to any activity referred to in a preceding paragraph of this Schedule, other than temporary storage, pending collection, on the premises where such waste is produced."</p>
Dated Licence Issued	17/05/2006
Date Licence Ceased	17/05/2011

3. FACILITY LOCATION

The site is based in a predominantly industrial area of the south-central portion of Dublin City, 2km south of Ballyfermot Village. An area of residential accommodation (Labre Park) is located 30m north east of the site and The Grand Canal is located 10m to the south of the site. It borders Kylemore Industrial Estate to the west and north. The R112 road is approximately 200 metres to the east.

4. FACILITY HISTORY

On the 17/05/2006, Dublin City Council was issued with a waste licence Reg. No. W0221-01 for a civic amenity facility at Labre Park Civic Amenity Site, Ballyfermot, Dublin 10.

Entirely separate from the proposed facility and associated licence, there was an issue relating to historic waste on site.

The location of the licensed facility was in an area of suburban land which was unused for a number of years and, as a result, became derelict and used historically for unauthorised dumping of waste materials. The Inspectors Report notes that at the time of the application, the licensee informed the Agency they had collected 2,810 tonnes of illegally dumped waste material for disposal.. Additionally, according to the licensee there was evidence that a range of materials had been deposited below ground on the site as various non-hazardous waste materials were encountered beneath the surface soil cover (volume of waste materials estimated at 95,000 m³ - 114,000 m³). This included plastic fragments, tarmacadam, commercial waste, bags of un-identified granular material, partially decomposed organic material, plastic bottles, textiles, cardboard and paper intermixed with clay material.

The licence did not permit the acceptance of waste until after the proposed civic amenity facility was built. The infrastructure was never built and the licenced activity never commenced. The licence does not refer to, nor, authorise the historic waste deposited on the site.

Condition 1.10 of the licence permits a 5 year commencement timeframe: *“Having regard to the nature of the activity and arrangements necessary to be made or made in connection with the carrying on of the activity, the specified period for the purpose of Section 41(1) of the Waste Management Acts 1996 to 2005, is 5 years”*. As the licence was granted on the 17/05/2006, this period has now expired.

In 2017, the licensee stated in email correspondence with an Agency inspector that the activity never commenced and that there were no plans for future commencement. There is a small building of unknown use (possibly a pumping station) partially on site in the north west of the site boundary.

Precedent was set in April 2019 whether a Waste Licence could be categorised as “Ceased; Never Commenced” with the presence of historic unauthorised waste remaining on site in the case of Waste Licence W0143-01. In this instance, a historic and unauthorised landfill existed on site prior to the licence application. The licensed activities never commenced, and the licence did not reference nor speak to the unauthorised landfill. Legal advice sought for the change in licence status of W0143-01 stated the following:

- *“The activities licenced in Part 1 of the licence never commenced.*
- *The monitoring obligations set out in the licence never commenced.*
- *As the licensed activity never commenced, the Agency can treat the licence as having ceased to have effect pursuant to Section 49 of the Waste Management Act 1996 (“where*

the activity to which a waste licence relates has not been substantially commenced within the period of 3 years beginning on the date of which the licence was granted then that licensee shall cease to have effect on the expiry of said period.”)

→ *The licence ceased to have effect 3 years after it was granted.”*

For the case of W0221-01 (considered herein), the situation pertaining to historic waste remaining on site is perceived to be the same as that of W0143-01.

5. CONDITION OF SITE

<p>Known contamination:</p>
<p>There is historic deposition of non-hazardous waste at the site beneath the top layer of soil surface soil cover. This contamination is not a result of the licensed activity. Analysis of soil and groundwater samples taken as part of the application process indicated that the materials deposited within the site are not impacting on soil or groundwater to any significant extent. The results of an investigation by the applicant proposed that the materials within the site should remain in-situ and undisturbed. Landfill gas monitoring is not a requirement of the licence as the potential for production is low due to the type of waste deposited at the site.</p>
<p>Remediation:</p>
<p>There is no remediation plan associated with the facility.</p>
<p>Other Environmental Liabilities:</p>
<p>There are no other known environmental liabilities associated with the facility.</p>

6. AGENCY'S ASSESSMENT

The most recent Agency inspection was carried out on the 17/10/2018 in order to verify if the licensed activity had commenced. The site inspection report concluded that, in so far as could be reasonably established, the licensable activity was not being carried out as it appeared that the facility was never developed, SV14700 refers.

The site of the licensed activity remains in the undeveloped condition it was in upon application for the Waste Licence. The current environmental condition of this site has not been assessed, however as the waste activity did not commence following grant of the licence, there are no environmental liabilities associated with the licensable activity at the site.

Based on the Agency's site visits and an assessment of available documents, it is considered that the activity to which Waste Licence Reg. No W0221-01 relates has not been commenced within a period of 5 years beginning on 17/05/2006, the date on which the licence was granted. As the licensed activity never commenced, the Agency can treat the license as having ceased to have effect pursuant to Section 49 of the Waste Management Act 1996.

7. FINANCIAL CHARGES & ACCOUNTS

Liaison with the OEE Financial Charges Contact and Accounts has confirmed that there are no outstanding financial charges relating to this licence.

Signed: Cian O'Rourke

Cian O'Rourke, OEE Inspector

Date: 06/11/2020

Reviewed: Darragh Page
Darragh Page, Programme Manager

Date: 16/11/2020

Approved: Tom Ryan
Tom Ryan, Director

Date: 15/12/2020