


|   |   |
|---|---|
| <br>Environmental Protection Agency<br>An Ghníomhaireacht um Chaomhnú Comhshaoil | <b>OFFICE OF ENVIRONMENTAL<br/>SUSTAINABILITY</b>   |
|   | <b>ENVIRONMENTAL LICENSING PROGRAMME</b>  |
| TO:   | Each Director   |
| FROM:   | Anne Lucey, Inspector, Environmental Licensing Programme  |
| DATE:   | 6 December 2021   |
| RE:   | Technical Amendment to Industrial Emissions Licence Register Number: W0146-02, held by Knockharley Landfill Limited, Knockharley, Navan, Co. Meath. |

The Agency received a request on 16 July 2021 from Knockharley Landfill Limited, Licence Reg. No. W0146-02 to technically amend its Licence. The request relates to a temporary increase in the overall maximum quantity of waste for acceptance at the installation until the end of 2021 (from 200,000 tonnes up to 250,000 tonnes).

This memo recommends that the change **cannot be** accommodated by a Technical Amendment, in accordance with Section 96(1)(a), (b) or (c) of the Environmental Protection Agency Act 1992 as amended.

## 1. Background

Knockharley Landfill Limited was granted a licence; Reg. No. W0146-01, on 19 March 2003 for an installation located at Knockharley, Navan, Co. Meath. The installation is currently licenced under Class 11.5<sup>1</sup> and 11.1<sup>2</sup> of the First Schedule to the EPA Act 1992 as amended.

License Reg. No. W0146-01 was amended in 2005 to give effect to the requirements of Council Directive 96/61/EC concerning integrated pollution prevention and control (IPPC). A revised licence, Reg. No. W0146-02, was issued to Knockharley Landfill Limited on 23 March 2010 following an Agency initiated review for the purposes of the Landfill Directive. An amendment of the licence was carried out in January 2013, in relation to the European Communities Environmental Objectives (Groundwater) Regulations 2010, and again in October 2013 to permit a temporary trial for metal recovery from incinerator bottom ash (Technical Amendment A and B). In December 2013, the licence was amended by the Agency to bring it into compliance with the Industrial Emissions Directive (Directive 2010/75/EU).

<sup>1</sup> Landfills, within the meaning of section 5 (amended by Regulation 11(1) of the Waste Management (Certification of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations 2008 (S.I. No. 524 of 2008)) of the Act of 1996, receiving more than 10 tonnes of waste per day or with a total capacity exceeding 25,000 tonnes, other than landfills of inert waste.

<sup>2</sup> The recovery or disposal of waste in a facility, within the meaning of the Act of 1996, which facility is connected or associated with another activity specified in this Schedule in respect of which a licence or revised licence under Part IV is in force or in respect of which a licence under said Part is or will be required. (Is an industrial emissions directive activity, in so far as the process development or operation specified in 11.1 is carried on in an installation connected or associated with another activity that is an industrial emission directive activity)

An additional licence amendment was granted in November 2016 to allow for a temporary increase of 95,000 tonnes of waste for disposal to meet a critical shortfall of authorised landfill capacity in the state at that time (Technical Amendment C). A further amendment was granted in March 2018 following a notice issued by Meath County Council under section 56 of the Waste Management Act 1996 as amended. The notice provided for the disposal of waste from an illegal landfill at Timoole, Co Meath and for the purpose of preventing environmental pollution. The amendment authorised the intake of 70,000 tonnes of waste from Timoole landfill and 70,000 tonnes of waste for use as daily cover and conditioning of or mixing with the waste accepted from Timoole landfill (Technical Amendment D).

The existing Industrial Emissions (IE) licence for Knockharley Landfill Limited authorises a total annual waste acceptance of 200,000 tonnes with the following breakdown; the disposal of 175,000 tonnes of non-hazardous waste, including residual household, commercial and industrial wastes, and the recovery of 25,000 of construction and demolition wastes.

## **2. Technical Amendment request**

On the 16 July 2021, the Agency received a request for a Technical Amendment (TA) of IE Licence Reg. No. W0146-02, in order to allow for a temporary increase in the overall maximum quantity of waste for acceptance at the installation until the end of 2021, from 200,000 tonnes up to 250,000 tonnes.

The proposed change is to '*Schedule A.1. Waste Acceptance*' of the existing licence. The increase would apply to the maximum annual waste quantity accepted for disposal of household, commercial & industrial wastes i.e. an increase from 175,000 tonnes to 225,000 tonnes. No increase was requested in relation to waste recovery.

The licensee states in its TA screening assessment that there is a grant of planning permission by An Bord Pleanála. The planning permission, granted on 30 April 2021, relates to a proposed development at the installation which includes an increase in the total quantity of waste for acceptance at the installation to 440,000 tonnes per annum. The planning application was subject to an environmental impact assessment by An Bord Pleanála and required the preparation of a Natura Impact Statement. A licence review application for the proposed development is currently under assessment by the Agency.

The licensee submitted a cover letter in support of the TA application dated 14 July 2021. The cover letter provided clarification on the reason for the amendment request and the planning status of the installation.

## **3. Consultation with the Office of Environmental Enforcement (OEE)**

I have consulted with the OEE Inspectors, Cathal Gahan and Carol O'Sullivan, in relation to this technical amendment request. The OEE confirmed that the proposed temporary increase in tonnage of waste for acceptance at the installation cannot be accommodated under the existing licence. OEE has confirmed that there are no legal proceedings in train in respect of this licence.

## **4. Assessment**

The licensee in its cover letter state that the temporary increase in tonnage is needed to provide essential support to the Dublin/Eastern Region waste market by processing wastes that would otherwise have been processed at the Pdraig Thornton Waste Disposal Limited installation on the Killeen Road, Dublin (W0044-02). The Pdraig Thornton Waste Disposal Ltd installation (W0044-02) suffered a major fire on 09/01/2021 and waste processing activities

have ceased at the site since. The licensee further states that the loss of processing capacity at the Thornton's Facility has created a major issue for the safe management of a significant portion of waste arisings in the Eastern Region and that waste normally processed at the Thornton facility could remain uncollected, with impacts on public health and national recycling targets.

The proposed amendment request was assessed against the relevant criteria in the Agency's guidelines for licence amendments<sup>3</sup>. The licensee has requested a temporary increase in the total annual waste acceptance limit at the installation until the end of 2021. The increased capacity is requested specifically in relation to waste for disposal, increasing the maximum annual tonnage from 175,000 tonnes to 225,000 tonnes, resulting in the total annual waste acceptance limit increasing from 200,000 tonnes to 250,000 tonnes. Any increase in the maximum annual waste acceptance limit is considered a significant change and such a request would not normally be undertaken by TA based on EPA guidance on technical amendments.

The current IE licence permits the acceptance of up to 200,000 tonnes per annum of waste, of which 175,000 tonnes is disposal capacity and 25,000 tonnes is recovery. Condition 3 of the former planning permission granted by An Bord Pleanála (PL17.220331) restricted the disposal capacity at the facility to 88,000 tonnes per annum. The remaining 87,000 tonnes of disposal capacity, between what's authorised by the IE licence and the planning permission, has up to this year been utilised by accepting waste for recovery. The planning permission granted by An Bord Pleanála on 30 April 2021 (ABP-303211-18) permits an increase in the total quantity of waste for acceptance at the installation to 440,000 tonnes per annum. The permission granted is subject to a number of conditions including:

*4.(a) The volume of residual municipal solid waste accepted for disposal shall not exceed 188,000 tonnes per annum, which shall be reviewed after a period of three years.*

However, the licensee in its cover letter has not provided sufficient information as to the need, or quantity, of the requested capacity at the landfill considering the Thornton facility provided waste processing activities as opposed to landfilling.

Additionally, for an amendment to be accommodated by way of technical amendment it would need to satisfy Section 96(1) of the EPA Act 1992 as amended which states that "*The Agency may amend a licence or revised licence for the purposes of:*

*(a) correcting any clerical error therein,*

*(b) facilitating the doing of anything pursuant to a condition attached to the licence where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or the terms of the licence taken as a whole but which was not expressly provided for in the condition, or*

*(c) otherwise facilitating the operation of the licence and the making of the amendment does not result in the relevant requirements of section 83(5) ceasing to be satisfied."*

The amendment request to increase the acceptance of waste above the existing limit in the licence cannot be considered to be (a) correcting any clerical error or (b) facilitating the doing of anything pursuant to a condition attached to a licence where the doing of that thing may

---

<sup>3</sup> Guidance on Requests for Alterations to a Licensed Industrial or Waste Activity (EPA, June 2019).

reasonably be regarded as having been contemplated by the terms of the condition or terms of the licence when taken as a whole.

It is also considered that the amendment cannot be accommodated by way of 96(1)(c). For an amendment to be accommodated under Section 96(1)(c) it must satisfy both criteria (i) *otherwise facilitating the operation of the licence* and (ii) does not result in *Section 83(5) failing to be satisfied*.

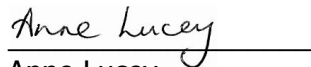
In relation to part (i) the significant increase in the waste acceptance limit cannot be interpreted as otherwise facilitating the operation of the licence and in the absence of any substantial justification for the capacity increase, any amendment would be facilitating a breach of the limit of waste tonnage imposed in the current IE licence.

It is therefore considered that the proposed amendment cannot be accommodated by way a technical amendment

## **5. Recommendation**

This memo recommends that the requested change **cannot be** accommodated by a Technical Amendment of Licence W0146-02 (held by Knockharley Landfill Limited), in accordance with Section 96(1)(a), (b) or (c) of the EPA Act 1992 as amended.

Signed,



Anne Lucey

Inspector

Environmental Licensing Programme