



OFFICE OF ENVIRONMENTAL SUSTAINABILITY

ENVIRONMENTAL LICENSING PROGRAMME MEMORANDUM

TO: PROGRAMME MANAGER

FROM: Darragh Hearne
Circular Economy Programme

DATE: 21 December 2023

RE: Recommendation to consider the following Waste Licence Application, licence register number W0311-01-Kilsaran Concrete Unlimited Company to have been withdrawn

Applicant: Kilsaran Concrete Unlimited Company
CRO number: 23927
Location/address: Ballinclare Quarry, Kilbride, County Wicklow, A67 HN12
Application date: 22 February 2023

Recommendation:

The Programme Manager is asked to APPROVE the recommendation of this memo that the Agency moves to consider the above referenced licence application to have been withdrawn in accordance with Article 21 of the Waste Management (Licensing) Regulations 2004 as amended.

The Programme Manager is asked to APPROVE the recommendation to issue a refund of 50% of the application fee (€45,000) to the applicant.

Introduction

The Third/Fourth Schedule of the Waste Management Act 1996 as amended, indicates that the following classes of activity require a waste licence:

<p>Classes of Activity (under Waste Management Act 1996 as amended):</p>	<p>D01 Deposit into or on to land (e.g. landfill, etc.)</p> <p>D05 Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)</p> <p>D15 Storage pending any of the operations numbered D 1 to D 14 (excluding temporary storage (being preliminary storage according to the definition of 'collection' in section 5(1)), pending collection, on the site where the waste is produced).</p> <p>R05 Recycling/reclamation of other inorganic materials, which includes soil cleaning resulting in recovery of the soil and recycling of inorganic construction materials</p>
	<p>R12 Exchange of waste for submission to any of the operations numbered R 1 to R 11 (if there is no other R code appropriate, this can include preliminary operations prior to recovery including pre-processing such as, amongst others, dismantling, sorting, crushing, compacting, pelletising, drying, shredding, conditioning, repackaging, separating, blending or mixing prior to submission to any of the operations numbered R1 to R11)</p>
	<p>R13 Storage of waste pending any of the operations numbered R 1 to R 12 (excluding temporary storage (being preliminary storage according to the definition of 'collection' in section 5(1)), pending collection, on the site where the waste is produced)".</p>
	<p>R03 Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes), which includes gasification and pyrolysis using the components as chemicals</p>

A waste licence application was submitted by Kilsaran Concrete Unlimited Company (W0311-01) for the above listed classes of activity, in relation to the development of an inert landfill facility at Ballinclare Quarry, Kilbride, County Wicklow on 22 February 2023. The applicant submitted correspondence to the Agency, dated 04 December 2023 indicating their intention to withdraw the application. Additional correspondence to the Agency, dated 06 December 2023 was submitted seeking a partial refund of the licence application fee.

Reasons for withdrawal

The applicant wishes to withdraw the application as An Bord Pleanála refused planning permission (ABP-309991-21) for the development of the inert landfill facility at Ballinclare Quarry, Kilbride, County Wicklow. The applicant also seeks a refund of the application fee accordingly.

Article 21 of the Waste Management (Licensing) Regulations 2004 as amended

In accordance with Article 21(1) of the of the Waste Management (Licensing) Regulations 2004 as amended (hereafter referred to as the licensing regulations), *"An application (other than an application in respect of a waste recovery or disposal activity carried on or after the date prescribed for the purposes of section 39(1) of the Act in relation to the said activity), or a submission referred to in article 15 may be withdrawn at any time before the making of the decision of the Agency on the application".* Regulation 21(4) provides that *"Where pursuant to this article the Agency declares that an application is to be regarded as having been withdrawn, any submission or objection in relation to the application shall not be further considered by the Agency."*

Assessment

The licence application was received from the applicant on 22 February 2023 to develop and operate an inert landfill facility at its existing quarry in Ballinclare, near Kilbride, County Wicklow, in order to backfill it to its original (pre-development) ground level using imported inert soil and stone waste. The applicant also intended to establish and operate a construction and demolition (C&D) waste recovery / recycling facility and to install and operate a soil washing plant to recover sand and gravel aggregate from soil for subsequent use in the production of construction materials.

At the time of writing 8 submissions have been received. These submissions mainly focused on An Bord Pleanála's decision not to grant planning, effects on biodiversity, water quality of the Potter River, increased traffic, and lack of community engagement.

A Proposed Determination has not yet issued in relation to this application.

As provided for in Article 21(1), the applicant may withdraw its application at any time before the making of the decision of the Agency on the application. The applicant has stated its intention to withdraw the application in its correspondence dated 04 December 2023 and has included clear reasons for doing so, as outlined above.

Refunds

The Applicant requests a partial refund of the application fee.

In accordance with the Waste Management (Licensing) Regulations 2004 as amended, the licensee paid a licence application fee of €45,000, for the applied activities classes as listed in the previous table.

Article 45 of the licensing regulations provides the Agency with absolute discretion to refund up to half the fee payable in accordance with the regulations where it is satisfied that payment in full of the fee would not be just and reasonable having regard to the relevant circumstances of the activity.

The Agency resources expended in the processing of this application are the key criterion in assessing a refund request. It is considered that a significant amount of time was spent by programme officers and licensing inspectors in administering and technically assessing the licence review application vis-à-vis processing the application, assessing the proposed activities and associated EIAR (environmental impact assessment report) and NIS (natura impact statement), issuing of EIA and AA screening determinations and review of submissions. However, as the licence application did not progress towards a proposed determination prior to withdrawal, I consider that a partial refund of the fee is considered appropriate.

I recommend that 50% of the licence application fee (i.e., €22,500) be refunded based on the time and resources the Agency has expended on the assessment of this application.

Reasons for Recommendation of Refund

A partial refund is recommended on the basis that:

- A significant amount of time and resources were spent by the Agency processing and assessing the licence application. EIA and AA screening determinations were also issued and 8 submissions were reviewed.
- The licence application did not progress towards proposed determination prior to withdrawal.

Recommendation

I recommend that in accordance with Article 21 of the licensing regulations, that the Agency declare that the application for a waste licence by Kilsaran Concrete Unlimited Company (reference no. W0311-01) has been withdrawn. I recommend that the Agency's records are updated accordingly and that the applicant and submitters are informed that it is no longer the function of the EPA to consider any documentation which relates to the above application, and that any submission or objection in relation to the application shall not be further considered by the Agency, pursuant to Article 21(4) of the Regulations.

I recommended that 50% of the licence application fee (i.e., €22,500) be refunded based on the time and resources the Agency has expended on the assessment of this application.

A handwritten signature in black ink, appearing to read 'D. Hearne', written over a horizontal line.

Darragh Hearne
Inspector
Office of Environmental Sustainability