



OFFICE OF
ENVIRONMENTAL
SUSTAINABILITY

TECHNICAL AMENDMENT MEMO

TO:	Dr Tom Ryan, Director
FROM:	Eoin McCaffrey, Inspector, Office of Environmental Sustainability
DATE:	12 September 2024
RE:	Request for Technical Amendment to Waste Licence Register Number: W0254-01, held by Walshestown Restoration Limited, for a facility located at Walshestown, Blackhall, Tipperkevin and Bawnoge, Naas, County Kildare; received on the 20 August 2022.
RECOMMENDATION:	Partially Accommodate

1. Licenced activity

Walshestown Restoration Limited was granted a licence, Reg. No. W0254-01, on 23 October 2013 for a facility located at Walshestown, Blackhall, Tipperkevin & Bawnoge, Naas, County Kildare. The facility is licenced under Recovery/Disposal Activities D01, D05 (Main Activity)¹ and D15 of the Third Schedule (Waste Disposal Activities) and R03, R04, R05 and R13 of the Fourth Schedule (Waste Recovery Activities) of the Waste Management Act 1996 as amended (See Appendix 1 for full details).

The facility is licenced as an inert landfill and a construction and demolition (C&D) waste recovery facility, operating within a worked-out sand and gravel pit. The excavation works on this site have been taking place since the late 1960's/early 1970's.

2. Technical Amendment Request

The request for a Technical Amendment of Licence Reg. No. W0254-01, is to provide for an increase in waste acceptance criteria (WAC) pollutant limits for all existing waste types and all future but as yet unknown waste types accepted at the facility in accordance with provisions of paragraph 2 to the Annex of Council Decision 2003/33/EC, establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 and Annex II to Directive 1993/31/EC (Landfill Directive). The Decision provides that in certain circumstances (taking into account characteristics of landfill and surroundings, the emissions from landfill (including leachate) and the limits for the specified parameters presenting no additional risk), up to three times the higher limit value for specific parameters are acceptable in the waste accepted and in certain circumstances for two times the higher limit value for Total Organic Carbon (TOC).

The licensee in its cover letter accompanying the present amendment request (CR09910) states that Technical Amendment A (TA A) of the existing licence issued in 2020 provided for higher WAC limits to be applied for two specific list of Waste (LoW) codes, 17 05 04 and 17 05 06, in accordance with the relevant legislation above. It also states that a Hydrogeological Risk Assessment (HRA) dated June 2018 which included a conceptual site model (CSM), and a detailed qualitative risk assessment (DQRA) was provided in support of TA A in 2019 and the outcome of that

¹ Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.) Deposit into or on to land (e.g., including landfill, etc)

HRA report should not be limited to the two specific LoW codes 17 05 04 and 17 05 06 but should be applied generally to all LoW codes currently accepted and accepted in the future at the facility.

A copy of the original HRA dated June 2018 was not submitted in support of the present amendment request (CR09910) but is available on the public file for licence reg. no. W0254-01. The licensee provided an appropriate assessment (AA) screening report dated 2019 as part of the present amendment request which is the same AA screening provided in 2019 as part of TA A and has not been updated.

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

I have consulted with the OEE Inspector, Ciaran Cuddihy, in relation to this technical amendment request. The OEE confirmed that the proposed amendment 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

TA A issued in 2020 provided for increased WAC Limits to be applied to LoW codes 17 05 04 and 17 05 06 only and no other waste codes. The HRA report provided in support of TA A in 2019 was independently assessed on behalf of the Agency with the independent assessment concluding that at the increased WAC limits, the risk at the nearest surface water receptor or to groundwater was considered acceptable and unlikely.

The independent review of the HRA in 2019 concluded that *“it is not clear that it is the intention of Council Decision 2003/33/EC that such an increase be applied generally, which makes this provision for case-by-case situations only at the recipient site”*.

The licensee states in its present amendment request (CR09910) that the separate acceptance standard complicates the operation at the facility. The licensee highlights that currently LoW code 17 05 04 is accepted at the facility and the higher WAC limits are permitted to be applied to the waste type. However, LoW 17 05 04 is authorised to be processed on-site and the resulting waste is reclassified as LoW 19 12 09 but that this reclassified waste LoW 19 12 09 is only permitted for acceptance at the standard inert WAC limit.

The OEE have confirmed the licensee’s submission that the processing of waste permitted to be undertaken on site results in LoW code 17 05 04 being accepted and processed into various size fractions and the output waste must then be reclassified as LoW 19 12 09. The OEE confirm that the output waste LoW code 19 12 09 does not have the higher WAC limits applied and agree this is an anomaly in the application of the WAC limits in the existing licence. The OEE do not agree with the licensee’s request that increased WAC limits are warranted to be applied generally for all waste types.

Therefore, it is accepted that the scenario above with regard to LoW 19 12 09 as set out by the licensee in its amendment request can be considered an anomaly in the application of the increased WAC Limits in the licence and should be rectified. Based on the above information, it is recommended to provide for higher WAC Limits for LoW code 19 12 09 only in *Schedule A.2.3. Limit Values* of the existing licence. It is recognised that it is not practicable for the licensee to apply for a technical amendment each time it is to request a new LoW code to be assessed and added to the schedule within the licence. The RA therefore includes a footnote in the schedule that will provide for LoW codes to be amended, subject to prior approval by the Agency and subject to the licensee having undertaken a detailed risk assessment to the satisfaction of the Agency.

However, it is recommended not to approve the licensee’s request to provide for an open authorisation for all known and unknown waste types to be accepted at the facility at the higher WAC limits. That any such approval for the acceptance of known and as yet unknown waste types at higher WAC limits should only be provided for after due assessment on a case-by-case basis and shall ensure that the nature of the waste to be accepted at the facility at

the higher WAC limits is not a significant alteration from that considered and assessed during the original licence application.

Section 42B(1) of the Waste Management Act:

Section 42B(1) of the Waste Management Act states that

“The Agency may amend a waste 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
- bb) facilitating compliance by the holder of a licence with technical requirements that may be established, or amended, arising from the introduction of new Community acts or amendments to existing Community acts, or
- c) otherwise facilitating the operation of the licence and the making of the amendment does not result in the relevant requirements of section 40(4) ceasing to be satisfied”.

It is considered that the proposed amendment request as recommended by the inspector above may be accommodated under section 42B(1)(c). To amend the licence under this criterion, two parts need to be satisfied, Part (i) otherwise facilitating the operation of the licence and Part (ii) does not result in the relevant requirements of section 40(4) ceasing to be satisfied.

As detailed in the assessment above, the change proposed (to LoW code 19 12 09 only) is considered as otherwise facilitating the operation of the licence and will not result in the relevant requirements of section 40(4) ceasing to be satisfied.

Based on the above assessment, it is concluded that the change to the licence, can be accommodated by Technical Amendment. It is considered that the proposed revision is in accordance with Agency guidelines for licence amendments and the proposed amendment² will satisfy the criteria under section 42B(1)(c) of the Waste Management Act allowing the Agency to amend a licence or revised licence.

5. Appropriate Assessment

Appendix 2 lists the European Sites assessed, their associated qualifying interests and conservation objectives.

A screening for Appropriate Assessment was undertaken to assess, in view of best scientific knowledge and the conservation objectives of the site, if the activities, individually or in combination with other plans or projects are likely to have a significant effect on any European Site. In this context, particular attention was paid to the European Site(s) as outlined in Appendix 1.

The activities are not directly connected with or necessary to the management of any European Site and the Agency considered, for the reasons set out below, that it can be excluded, on the basis of objective information, that the activities, individually or in combination with other plans or projects, will have a significant effect on any European Site and accordingly determined that an Appropriate Assessment of the activities was not required.

This determination is based on the following reasons:

- The facility is not located within a European Site.
- There is no hydrogeological connection between the facility and these European Sites.

² Guidance for Licensee on Request for Alterations to a Licensed Industrial or Waste Activity (EPA, June 2019).

- There will be no emissions of environmental significance from the activity. Therefore, there will be no impact on any European Site as a result of the amendment request.

6. Recommendation

This memo recommends that the requested change can be accommodated by a Technical Amendment of Licence W0254-01 (held by Walshestown Restoration Limited), in accordance with section 42B(1)(c) of the Waste Management Act 1996 as amended.

The specific changes in the Recommended Amendment relate to the following schedule of the licence:

- *Schedule A.2.3 Limit Values.*

I recommend that the licence amendment be approved as set out in the attached Recommended Amendment. The making of the amendment will not result in the relevant requirements of section 40(4) of the Waste Management Act 1996 as amended, ceasing to be satisfied.

Signed,



Eoin McCaffrey
Inspector
Office of Environmental Sustainability

Appendix 2: Classes of Activity licensed at the facility.

Third Schedule – Waste Disposal Activities

Main Activity:

Class 1. Deposit into or on to land (e.g., including landfill, etc.)

Other Classes of Activity

Class 5. Specifically engineered landfill (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)

Class 15. Storage pending any of the operations numbered D1 to D14 (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).

Fourth Schedule – Waste Recovery Activities

Class 3. 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.

Class 4. Recycling/reclamation of metals and metal compounds.

Class 5. Recycling/reclamation of other inorganic materials, which includes soil cleaning resulting in recovery of the soil and recycling of inorganic construction materials.

Class 13. 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).

Appendix 1: List of European Sites assessed, their associated qualifying interests and conservation objectives.

	European Site (Site Code)	Distance/Direction from Facility	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives
1	Red Bog, Kildare SAC (000397)	4.6 km northeast of the facility	Habitats: 7140 Transition mires and quaking bogs	As per NPWS (2019) Conservation Objectives for Red Bog, Kildare SAC (000397). Version 1. National Parks and Wildlife Service, Department of Culture, Heritage & the Gaeltacht (dated 17/07/2019).
2	Poulaphouca Reservoir SPA (004063)	4.3 km southeast of the facility	Species: A043 Greylag Goose <i>Anser anser</i> A183 Lesser Black-backed Gull <i>Larus fuscus</i>	As per NPWS (2022) Conservation Objectives for Poulaphouca Reservoir SPA (004063). First Order Site-specific Conservation Objectives Version 1.0. Department of Housing, Local Government and

				Heritage (dated 12/10/2022).
3	Wicklow Mountains SAC (002122)	8km southeast of the facility	<p>Habitats:</p> <p>3110 Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>)</p> <p>3130 Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i></p> <p>3160 Natural dystrophic lakes and ponds</p> <p>4010 Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>4030 European dry heaths</p> <p>4060 Alpine and Boreal heaths</p> <p>6130 Calaminarian grasslands of the <i>Violetalia calaminariae</i></p> <p>6230 Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) *</p> <p>7130 Blanket bogs (* if active bog)</p> <p>8110 Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>)</p> <p>8210 Calcareous rocky slopes with chasmophytic vegetation</p> <p>8220 Siliceous rocky slopes with chasmophytic vegetation</p> <p>91A0 Old sessile oak woods with <i>liex</i> and <i>Blechnum</i> in the British Isles</p> <p>Species:</p> <p>1355 Otter <i>Lutra lutra</i></p>	As per NPWS (2017) Conservation Objectives for Wicklow Mountains SAC (002122). Version 1. National Parks and Wildlife Service, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (dated 21/07/2017)
4	Wicklow Mountains SPA (004040)	11km southeast of the facility	<p>Species</p> <p>A098 Merlin <i>Falco columbarius</i></p> <p>A103 Peregrine <i>Falco peregrinus</i></p>	As per NPWS (2022) Conservation Objectives for Wicklow Mountains SPA (004040). First Order Site-specific Conservation Objectives Version 1.0. Department of Housing, Local Government and Heritage (dated 12/10/2022).

5	Mouds Bog SAC (002331)	12km northwest of the facility	<p>Habitats:</p> <p>7110 Active raised bogs</p> <p>7120 Degraded raised bogs still capable of natural regeneration</p> <p>7150 Depressions on peat substrates of the Rhynchosporion</p>	As per NPWS (2015) Conservation Objectives for Mouds Bog SAC (002331). Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht (dated 20/11/2015)
6	Pollardstown Fen SAC (000396)	14.5km west of the facility	<p>Habitats:</p> <p>7210 Calcareous fens with <i>Cladium mariscus</i> and species of the Caricion davallianae*</p> <p>7220 Petrifying springs with tufa formation (Cratoneurion)*</p> <p>7230 Alkaline fens</p> <p>Species:</p> <p>1013 Geyer's Whorl Snail <i>Vertigo geyeri</i></p> <p>1014 Narrow-mouthed Whorl Snail <i>Vertigo angustior</i></p> <p>1016 Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i></p>	AS per NPWS (2022) Conservation Objectives for Pollardstown Fen SAC (000396). Version 1. National Parks and Wildlife Service, Department of Housing, Local Government and Heritage (dated 14/01/2022)
7	Ballynafagh Lake SAC (001387)	14.9km northwest of the facility	<p>Habitats:</p> <p>7230 Alkaline fens</p> <p>Species:</p> <p>1016 Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i></p> <p>1065 Marsh Fritillary <i>Euphydryas aurinia</i></p>	As per NPWS (2021) Conservation Objectives for Ballynafagh Lake SAC (001387). Version 1. National Parks and Wildlife Service, Department of Housing, Local Government and Heritage (dated 10/12/2021)
8	Ballynafagh Bog SAC (000391)	15.5km northwest of the facility	<p>Habitats:</p> <p>7110 Active raised bogs*</p> <p>7120 Degraded raised bogs still capable of natural regeneration</p> <p>7150 Depressions on peat substrates of the Rhynchosporion</p>	As per NPWS (2015) Conservation Objectives for Ballynafagh Bog SAC (000391). Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht (dated 10/11/2015)