



AIR POLLUTION ACT 1987, as amended

Air Pollution Appeal Register Number: E0011-01

APPEAL by Trevor O'Shea of Fairview House, Clash East, Tralee, County Kerry against the decision made on the 8th day of July 2022 by Kerry County Council to grant, subject to conditions, a revised licence to BioAtlantis Limited, Clash Industrial Estate, Clash East, Tralee, County Kerry in respect of the operation of a seaweed processing plant (Reference AP-17-01B). The installation is a seaweed extraction plant to produce plant health, foliar and granular fertiliser for agriculture and horticulture. There are seaweed chopping, washing, extraction and purification operations carried out on the site with an odour abatement system and one main emission stack. The emissions from the site are from a small boiler, an emissions stack from processing, fugitive emission from seaweed treatment and noise emissions from on-site processing, and from delivery and collection traffic. These are all in accordance with plans and particulars lodged with the said Council.

DECISION: The Agency, in exercise of the powers conferred on it by Section 34 of the Air Pollution Act 1987, as amended, and based on the reasons and considerations set out below, hereby refuses the appeal and directs the said Council to grant the licence in accordance with the conditions attached to it. Notwithstanding said refusal, the Agency acknowledges the grounds of the appeal and furthermore directs Kerry County Council to grant the licence subject to the amendments detailed in the appendix of this Direction.

REASONS AND CONSIDERATIONS

Having regard to the location of the seaweed processing plant, the relevant air quality standards, the information submitted in support of the application, the appeal received, submissions or observations regarding the appeal, and the report of the Inspector, it is considered that, subject to compliance with the conditions, and amended schedules and conditions, attached to the licence to be granted by Kerry County Council, the operation of the seaweed processing plant will not result in air pollution and is otherwise compatible with the protection of the amenities of the area and of public health and the environment.



In making its decision the Agency completed a screening exercise in relation to nearby Natura 2000 sites, taking into account:

- the submission by the Appellant,
- the submissions and observations on the appeal by the first part and Kerry County Council,
- the report of the Inspector dated 8th March 2024, and
- the Appropriate Assessment screening carried out by the Inspector.

A screening for Appropriate Assessment was undertaken to assess, in view of best scientific knowledge and the conservation objectives of the site, if the industrial plant, individually or in combination with other plans or projects is likely to have a significant effect on any European Site. In this context, particular attention was paid to the European Sites at Ballyseedy Wood SAC (Site Code 002112), Tralee Bay and Magharees Peninsula, West to Cloghane SAC (Site Code 002070), Tralee Bay Complex SPA (Site Code 004188), Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161), Slieve Mish Mountains SAC (Site Code 002185), Lower River Shannon SAC (Site Code 002165), Akeragh, Banna and Barrow Harbour SAC (Site Code 000332), Castlemaine Harbour SAC (Site Code 000343) and Castlemaine Harbour SPA (Site Code 004029).

The industrial plant is 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 cannot be excluded, on the basis of objective information, that the industrial plant, 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 industrial plant was not required.

This determination has been made in light of the following reasons:

- The installation is located in an industrial estate and is not within any European sites and there are no European sites within 1.7 km of the installation. The nearest site is Ballyseedy Wood SAC (002112), located 1.7 km south of the installation.
- All European sites and their qualifying interests are considered outside the zone of influence of the air emissions arising at the installation.
- European sites and their qualifying interests are considered outside the zone of influence of noise emissions arising at the installation as the nearest European site with noise sensitive qualifying interests is 3.4 km southwest.
- While there is potential for accidents and unplanned releases from the installation, it is considered that the storage, containment, materials handling practices and infrastructure onsite are sufficient to ensure that accidental emissions from the activity will not impact on the qualifying interests of any of the European sites identified.
- Given the nature and scale of emissions, it is considered that the activity in combination with other plans or projects will not have a significant effect on European sites.



MATTERS CONSIDERED

In making its decision, the Agency had regard to those matters to which, by virtue of the Air Pollution Act 1987, as amended and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

SEALED by the Seal of the Agency on the 4th day of April 2024

PRESENT when the seal of the Agency was affixed hereto:


Tara Gillen
Authorised Person



Appendix

Append Condition 4 as follows:

- 4.5 No specified emission from the installation shall exceed the emission limit values set out in *Schedule A: Emission Limits*, of this licence once agreed with the local authority following completion of Condition 4.1.
- 4.6 Odour Management Plan
- 4.6.1 The licensee shall prepare, maintain and implement, to the satisfaction of the Licensing Authority, an Odour Management Plan.
- 4.6.2 The plan shall include all odour sources including emission points regulated in this licence.
- 4.6.3 The plan shall be submitted to the Local Authority within six months of the date of grant of this licence.
- 4.6.4 The plan shall outline odour reduction and abatement measures.
- 4.6.5 The plan shall as a minimum address the following:
- (i) the operation of equipment to ensure compliance with emission limit values and a reduction in fugitive emission sources.
 - (ii) storage areas and the storage and handling of wastes and other materials with a potential for causing odour.
- 4.6.6 The plan shall be prepared in accordance with the Agency's Odour Emissions Guidance Note (Air Guidance Note AG9).
- 4.6.7 The plan shall be reviewed annually.
- 4.7 Odour
- 4.7.1 The licensee shall carry out an odour survey of the site operations weekly.
- 4.7.2 The survey programme shall be undertaken in accordance with the methodology specified in the 'Air Guidance Note 5 (AG5) Odour Impact Assessment Guidance for EPA Licensed Sites' as published by the EPA.



Insert Schedule A: Emission Limits and Schedule B: Control and Monitoring.

Append the following to Schedule A: Emission Limits:

Schedule A.1 Emissions to Air

Emission Point Reference No.: A1-1 (Odour Abatement Exhaust Stack)

Location: To be confirmed

Volume to be emitted:

Maximum rate per hour: To be confirmed ^{Note 1}

Stack height: To be confirmed ^{Note 1}

Parameter	Emission Limit Value
Odour (OUE/m ³)	To be confirmed ^{Note 1}
Total Volatile Organic Compounds (TVOC) mg/m ³	To be confirmed ^{Note 1}

Note 1: To be approved by Kerry County Council

Append the following to Schedule B: Control and Monitoring:

Schedule B.1 Monitoring of Emission to Air

Emission Point Reference No.: A1-1 (Odour Abatement Exhaust Stack)

Parameter ^{Note 1}	Monitoring Frequency	Analysis Method/Technique
Odour	Quarterly	EN Standard Reference Method 13725
Total Volatile Organic Carbon (TVOC) mg/m ³	Biannually	Standard Method
Volumetric Flow	Quarterly	Standard Method

Note 1: The licensee shall maintain appropriate access to standby and/or spares to ensure the operation of the abatement system.

Reason: To provide for the protection of the environment by way of control and limitation of emissions.



CONDITION 5 CONTROL AND MONITORING

Amend Condition 5.1 with the following:

5.1 Test Programme

5.1.1 The Licensee shall prepare, to the satisfaction of the Licensing Authority, a test programme for odour/air emission abatement equipment installed to abate emissions to atmosphere. This programme shall be submitted to the Licensing Authority in advance of implementation. Following agreement with the Licensing Authority, the Test Programme shall be completed within three months of the commencement of operation of the abatement equipment (**if different from current abatement system**).

5.1.3.4 Be prepared in accordance with the guidance published by the 'Agency, Odour Emissions Guidance Note (AG9)', as may be amended or replaced.

Rename the current condition 5.1.3.4 in the licence as 5.1.3.5.

Append the following to Condition 5.2

5.2.1 Sampling and analysis shall be undertaken by competent staff in accordance with documented operating procedures. Unless otherwise approved by the Local Authority, sampling and analysis of emissions to atmosphere shall be carried out by ISO 17025 accredited persons/organisations, with accreditation for the relevant scope of sampling and analysis.

5.2.2 Such procedures shall be subject to a programme of Analytical Quality Control using appropriate control standards.

5.2.3 Where any analysis is sub-contracted it shall be outsourced to a competent laboratory.

Reason: To provide for the protection of the environment by way of control and limitation of emissions.



Delete Condition 5.5, 5.6 and Condition 5.7.

~~5.5 If required by the Licensing Authority, the Licensee shall retain the services of a competent person(s) to undertake air quality monitoring at the facility. The scope of same shall be agreed in advance with the Licensing Authority. A report shall be furnished to the Licensing Authority as soon as practical after the monitoring is carried out. The Licensee will be liable for all costs associated with this monitoring.~~

~~5.6 The Licensing Authority reserves the right to retain the services of a competent person(s) to undertake air quality monitoring at the facility on behalf of the Licensing Authority. The Licensee will be liable for all costs associated with this monitoring.~~

~~5.7 Analyses shall be undertaken by competent staff in accordance with documented operating procedures. Monitoring and analysis shall be undertaken by a laboratory accredited to ISO17025; where analysis is sub-contracted it shall be to a competent laboratory.~~

Reason: To put first party on equal terms with other industry and reduce costs associated with monitoring.

Amend Condition 5.11 as follows:

5.11 Fugitive Emissions

The Licensee shall prepare a programme to the satisfaction of the Licensing Authority, for the identification and reduction of fugitive emissions using an appropriate combination of best available techniques. The scope of this programme shall be agreed in advance with the Licensing Authority and carried out within ~~6~~ **12** months of the date of grant of licence ~~commencement of production at the facility~~. The findings of this programme shall be furnished to the Licensing Authority as soon as possible thereafter.

Reason: To make the new revised licence current.

Replace Condition 5.13 with the following:

5.13 The concentration and volume flow limits for emissions to atmosphere specified in this licence shall be achieved without the introduction of dilution air and shall be based on gas volumes under standard conditions of:

5.13.1 From non-combustion sources:

Temperature 273K, Pressure 101.3 kPa (no correction for oxygen or water content).



5.13.2 From combustion sources:

Temperature 273K, Pressure 101.3 kPa, dry gas; 3% oxygen for liquid and gas fuels.

5.13.3 In the case of the Thermal Oxidiser:

Temperature 273K, Pressure 101.3 kPa, percentage reference oxygen value for the thermal oxidiser to be approved by Kerry County Council.

5.13.4 For odour monitoring by olfactometry:

Temperature 293K, Pressure 101.3 kPa, no correction for oxygen or water content as per relevant process (combustion / non-combustion sources) in accordance with EPA Emissions Monitoring Guidance (AG2).

Amend Condition 5.15

5.15 In the event that the proposed abatement equipment is ineffective for the control of odours from the site, as established by an independent assessment carried out by the Licensing Authority, the said Authority reserves the right to instruct the Licensee to **direct all odours from the facility through the thermal oxidiser** to the satisfaction of the Licensing Authority.

Reason: To make the new revised licence current.

Insert the following to the GLOSSARY:

Daytime: 0700 hours to 1900 hours

Evening Time: 1900 hours to 2300 hours

Night-time: 2300 hours to 0700 hours

Noise-sensitive location (NSL): Any dwelling house, hotel or hostel, health building, educational establishment, place of worship or entertainment, or any other installation or area of high amenity which for its proper enjoyment requires the absence of noise at nuisance levels.

$L_{Aeq,T}$: This is the equivalent continuous sound level. It is a type of average and is used to describe a fluctuating noise in terms of a single noise level over the sample period (T).

$L_{Aeq,T}$: The Rated Noise Level, equal to the L_{Aeq} during a specified time interval (T), plus specified adjustments for tonal character and/or impulsiveness of the sound.

Reason: To provide for clarity.



CONDITION 4 EMISSIONS

Append the following to Condition 4:

4.8 Noise from the installation shall not give rise to sound pressure levels ($L_{Aeq, T}$) measured at NSLs in the vicinity of the installation which exceed the limit value(s).

Reason: To provide for the protection of the environment by way of control and limitation of emissions.

CONDITION 5 CONTROL AND MONITORING

Append the following to Condition 5:

5.17 Noise

The licensee shall carry out a noise survey of the site operations annually. The survey programme shall be undertaken in accordance with the methodology specified in the '*Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4)*' as published by the EPA.

5.18 Noise Management Plan

5.18.1 The licensee shall prepare, maintain and implement, to the satisfaction of the Licensing Authority, a Noise Management Plan.

5.18.2 The plan shall be submitted within six months of the date of grant of this licence.

5.18.3 The plan shall outline noise reduction and abatement measures.

5.18.4 The plan to reduce noise emissions should include the following mitigation measure(s): abatement and enclosure of operations, processes and equipment giving rise to exceedances of noise limit values measured at noise sensitive locations.

5.18.5 The plan shall be prepared in accordance with the Agency's Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4).

5.18.6 The plan shall be implemented within 12 months of the date of grant of this licence.

5.18.7 The plan shall be reviewed annually.

Reason: To provide for the protection of the environment by way of control and limitation of emissions.



SCHEDULE A

Append the following to Schedule A:

Schedule A.2 Noise Emissions

Daytime dB L_{Ar,T} (30 minutes)	Evening time dB L_{Ar,T} (30 minutes)	Night-time dB L_{Aeq,T} (15 minutes)
55	50	45 ^{Note 1}

Note 1: During night time hours, there shall be no clearly audible tonal component or impulsive component in the noise emission from the activity at any noise-sensitive location.

SCHEDULE B

Append the following to Schedule B:

Schedule B.2 Noise Monitoring

Period	Minimum Survey Duration
Daytime	A minimum of 3 sampling periods at each noise monitoring location ^{Note 1}
Evening-time	A minimum of 1 sampling period at each noise monitoring location.
Night-time ^{Note 2}	A minimum of 2 sampling periods at each noise monitoring location.

Note 1: Sampling period is to be the time period T stated as per Schedule A: Noise Emissions, of this licence. This applies to day, evening and night time periods.

Note 2: Night-time measurements should be made between 2300hrs and 0400hrs, Sunday to Thursday, with 2300hrs being the preferred start time.

Reason: To provide for the protection of the environment by way of control and limitation of emissions.

