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Decision Statement

Statement of our decisions made with respect to applications for a variation to an impoundment licence SW/053/0001/020 and a new transfer abstraction licence under the Water Resources Act 1991 (as amended) and the Environment Act 1995.

Executive Summary

We have decided to grant these applications as applied for based on all information provided.

1. Summary of the proposal

Variation to impoundment licence SW/053/0001/020

On the 14 February 2014 we granted impoundment licence number SW/053/0001/020 (Licence). The Licence was transferred to Susan-Ann Lee (Licence Holder) on 25 January 2016. The Licence authorised changes to be made to the weir at Weavers Mill to facilitate the development of a hydropower scheme.

The Licence included a condition 4.32:

This licence shall cease to be of any effect if hydropower generation authorised by this licence has not commenced within 3 years of the date of issue of this licence.

If the scheme was not operational by 14 February 2017 the Licence would cease to have effect.

The Licence Holder has applied to '*extend the self-destruct condition 4.32 to the end of December 2019*'.

No other changes to the Licence are proposed.

New transfer abstraction licence

The applicant has also applied to us for a new transfer abstraction licence to permit the taking of water from the River Avon to the mill channel. Although this is an ongoing historic situation, in that water has passed under the mill for many years, it is a licensable activity and the applicant is taking this opportunity to regularise the abstraction.

The flow of water to the mill channel is operated via the two control sluices of an existing Armfield Francis-type turbine located underneath the mill. The turbine does not operate but simply provides a conduit by which flow can enter the mill channel.

The control sluices are set to provide a sweetening flow to the mill channel and cannot be further adjusted to any great degree.

No changes to the established practice of controlling the flow to the mill channel are proposed.

1.1 Departures from application forms

None.

1.2 Details of proposal

Administrative details	
New licence number	Transfer abstraction licence SW/053/0001/024
Existing licence number	Impoundment licence SW/053/0001/020
Application reference numbers	Transfer abstraction licence NPS/WR/024504 Impoundment licence NPS/WR/024505
Applicant name and address	Ms Susan-Ann Lee Weavers Mill Avoncliff Bradford-on-Avon Wiltshire BA15 2HB
Application contact details	As above
Catchment	Bristol Avon C053001C
Agency Area	Wessex Area
Administratively complete date	7 September 2016
Relevant date	8 September 2016
Determination date	8 January 2017
Agreed extended determination date	n/a
Applicant entitled to apply	Yes
Supplementary reports	No supplementary reports were requested or submitted.

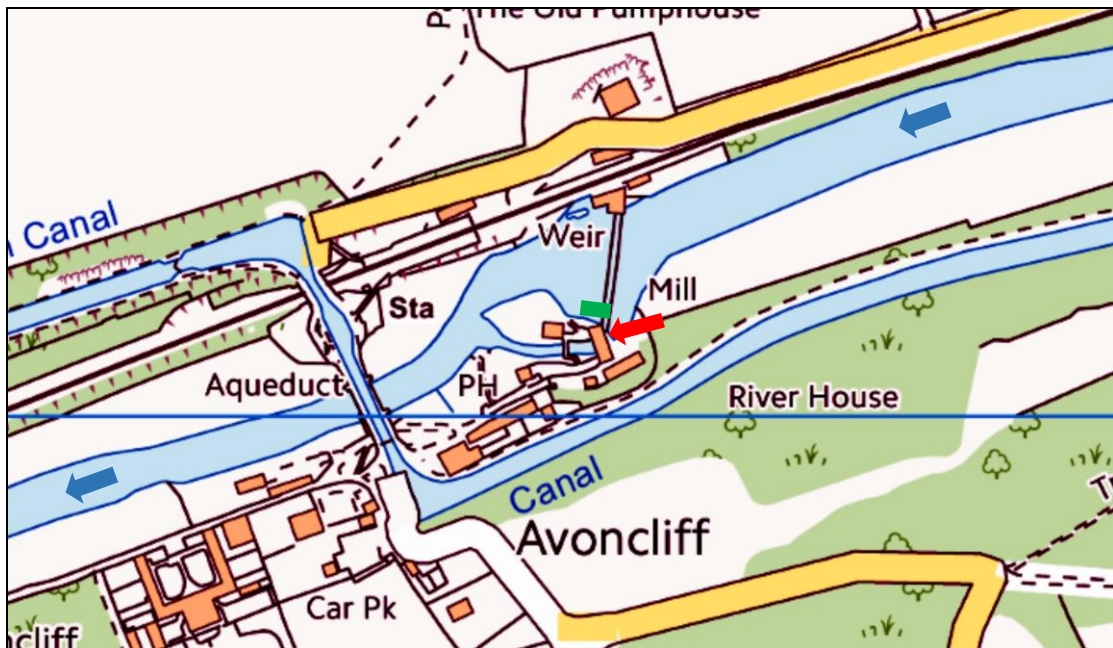
Impoundment details	Existing Licence	New Proposal
Name and/or description of inland water to be impounded	River Avon	As existing licence
Point of impoundment	Between National Grid References ST 80555 60045 and ST 80558 60080	As existing licence
Manner and extent of impoundment	An existing weir including the installation of a Kaplan turbine, intake screen, fish pass, fish bywash, eel pass structure and any associated ancillary works.	As existing licence

Impoundment details	Existing Licence	New Proposal
Further conditions	<p>Conditions (4.1-4.2) describing the impounding works and the maintenance of the works.</p> <p>Condition (4.3) requiring a Hands Off Flow (HOF).</p> <p>Condition (4.4) limiting the maximum take to the turbine.</p> <p>Condition (4.5) requiring the turbine to cease operation if generation is not possible.</p> <p>Conditions (4.6-4.8 & 4.11-4.12) requiring a staff gauge and level sensor to be installed, maintained and calibrated.</p> <p>Conditions (4.9-4.10) requiring water level measurements to be taken.</p> <p>Conditions (4.13-4.16) requiring approval for a method for measuring the HOF and that the HOF is measured daily.</p> <p>Condition (4.17) requiring the measurement of the flow through the turbine.</p> <p>Conditions (4.18-4.19) requiring the submission and retention of records.</p> <p>Conditions (4.20-4.22) requiring the installation and maintenance of an eel pass.</p> <p>Conditions (4.23-4.26) requiring the installation and maintenance of a fish screen.</p> <p>Other conditions (4.27-4.29) relating to the state of the weir and responsibilities concerning river flow and water quality.</p> <p>Condition (4.30) requiring confirmation that the scheme has been constructed according to the plans.</p> <p>Condition (4.31) requiring that we are notified prior to the scheme operating for the first time.</p> <p>Condition (4.32) requiring that the scheme is operational by 13/02/2017.</p>	As existing licence with the exception of condition 4.32. Application to extend until 31 December 2019.

Abstraction details	
Location of abstraction	The River Avon at Weavers Mill.
Source of supply	Surface water (the River Avon).
Point of abstraction	ST 80556 60043
Purpose of abstraction	Amenity flow to the mill channel.
Period of abstraction	All year.

Abstraction details	
Quantities and rate	The quantity is that which has historically passed under the mill and into the mill channel. The rate of flow will be fixed by the capacity of the partially open turbine control sluice gates.
Means of abstraction	Gravity flow to the mill channel controlled by two turbine control sluice gates (only partially operable).
Measurement of abstraction	None proposed.

1.3 Location map



Weavers Mill at Avoncliff. The red arrow marks the intake to the mill channel. The green box identifies the location of the hydropower scheme authorised by the Licence.

2. Case history

Date	Event
02/09/2016	Site visit to Weavers Mill.
07/09/2016	Application forms and enclosures received at PSC.
14/09/2016	Application acknowledged and relevant date set.
06/10/2016	Application advertised in the Wiltshire Star.
19/12/2016	Area agreement confirmed.

3. Water Resources (Environmental Impact Assessment Regulations) 2003 as amended by the Water Resources (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 2006

We have confirmed that neither proposal is a “relevant project”, as defined by the Regulations. No environmental statement is therefore required to be submitted in respect of these applications and project proposal.

4. Justification of requirements

Variation to impoundment licence SW/053/0001/020

The applicant has requested more time to complete the hydropower scheme and has cited a number of reasons for the scheme not progressing to date. The only change proposed to the existing conditions of the Licence is the extension of the period by which the scheme must be operational to 31 December 2019. No other changes are proposed.

In determining the current application to vary the Licence we have assessed whether there is or has been any material change in the relevant circumstances since we granted the Licence in 2014. We are satisfied that there are no, nor have there been any, material changes and so we are confident that our extensive consideration of a merits based comparison between the Weavers Mill scheme and a competing scheme, at the time that the impoundment licence was granted in February 2014, remains valid in determining this application.

The applicant has informed us that she became the owner of Weavers Mill in February 2014. The applicant has said that there then followed a period of uncertainty for her due to appeals made to other bodies against our determination in 2014. Despite this uncertainty the Licence was transferred to her on 25 January 2016.

Now that the appeals are concluded the applicant states that she is keen to progress the hydropower scheme.

Some concern was raised in representations that the proposed hydropower scheme at Weavers Mill would not or could not be delivered, putting into doubt that hydropower generation at the weir will take place. We have considered this issue accordingly and the applicant has provided us with a projected timeline for the delivery of the scheme in 2017/18 period. The timeline includes the sorts of information and timescales that we would expect to see for a project of this size and type. The applicant has asked for an extension of time until 31 December 2019 to allow for a period of 3 summers for the building and commissioning to take place. This longer time-frame allows for a contingency period to take account of times when working in the river will not be possible due to adverse river conditions. We consider that this is a reasonable period of time to allow the scheme to progress.

A project manager has been appointed and expert advice has been sought from a hydropower scheme developer and a local hydropower group. The applicant has also been in discussion with the developer of a local hydropower scheme, so as to learn from their skills and experience. The applicant has taken civil engineering advice principally concerning the construction of the receptor structure; the structure within which the turbine will be housed. With regard to access to the site, trees have been cleared from the rear of Weavers Mill to allow access for the plant and equipment that will be used to construct the scheme.

We also understand that discussions have taken place between the applicant and a local Councillor.

We have decided that the reasoning expressed by the Licence Holder as to why the scheme has not yet been constructed is reasonable. We are satisfied that in determining this application there have been no material changes in the relevant facts since the Licence was granted in 2014. We are also satisfied that the extension of time until 31 December 2019 is a reasonable extension of time to enable the works

to be completed and that the applicant has demonstrated that her intention to generate hydropower before 31 December 2019 is serious and attainable. We have taken account of all of the information provided to us, and the preparatory works described by the Licence Holder, in reaching our decision. We have had regard to all relevant matters including representations from third parties and these matters are reflected in this report.

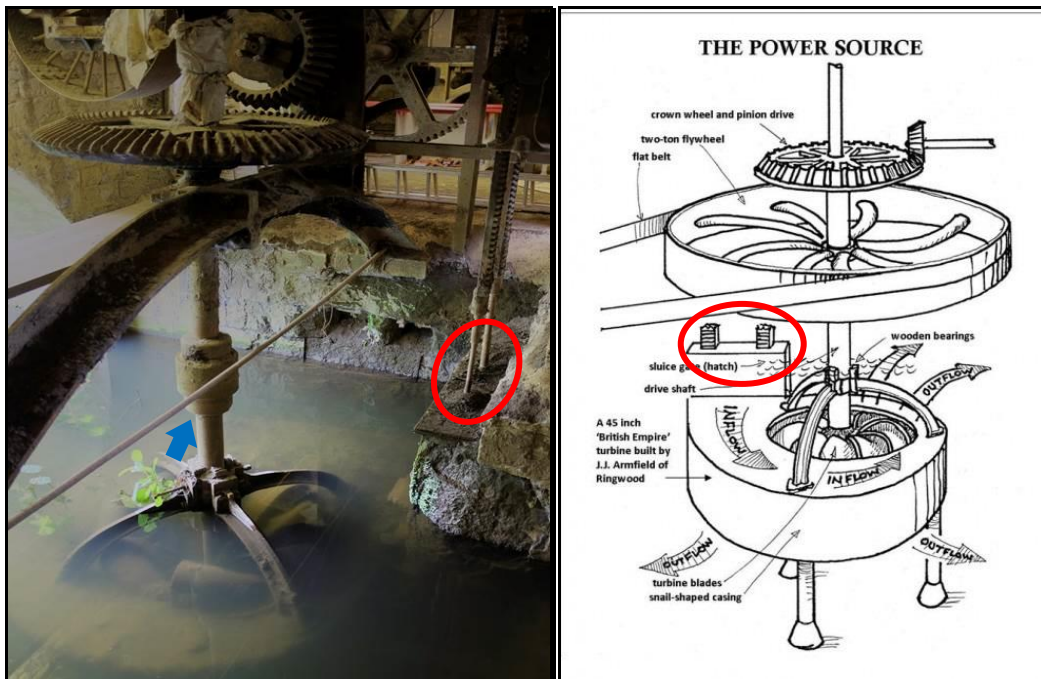
New transfer abstraction licence

Water is currently abstracted from the River Avon to provide a sweetening flow to the mill channel. The mill channel provides a habitat for fish, invertebrates and plants and a flow of water is needed to maintain this. There is also the amenity benefit of the channel to the owners of Weavers Mill.

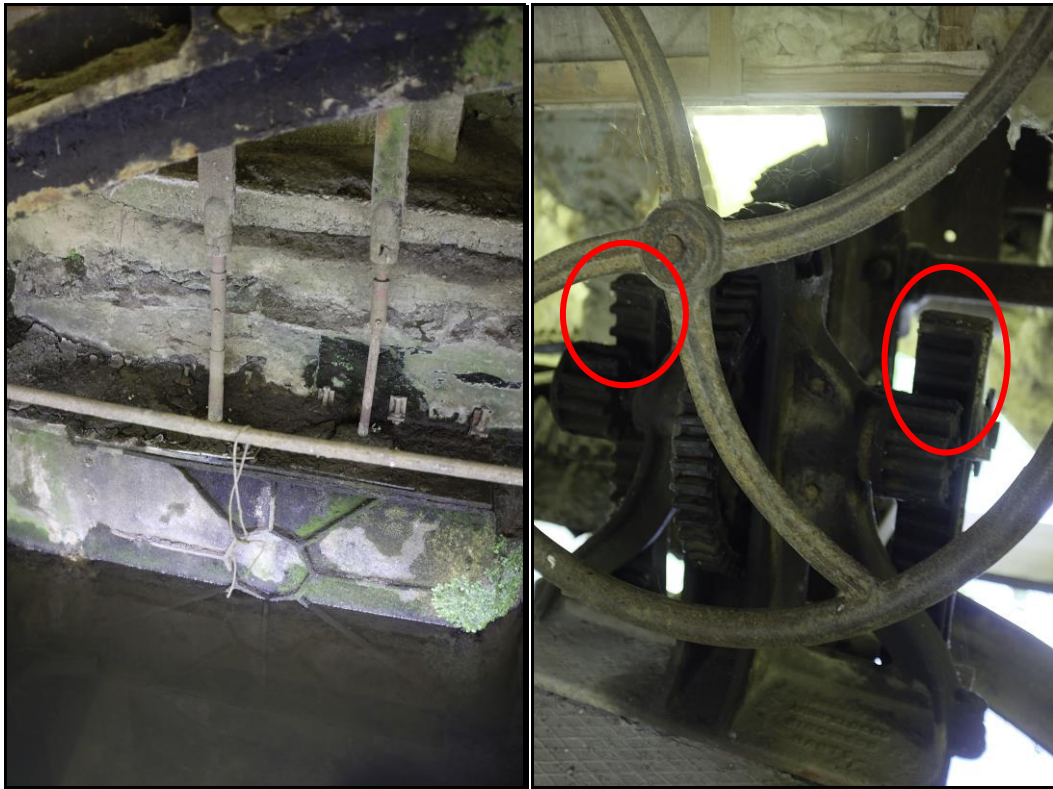
The rate of abstraction from the river to the mill channel is limited by the size of the opening through the two turbine intake sluice gates. This flow of water was measured as 162 litres per second on the 18 April 2012.

The two turbine intake sluice gates have limited operation and there are no plans to refurbish the gates or the turbine at this time.

All of the water entering the channel is returned to the River Avon ~60m downstream of the off-take at NGR ST 80500 60040.



The photo (L) shows the existing Armfield Francis-type turbine below the mill. The twin sluice gate controls (circled in red) are largely inoperable and only allow a 'sweetening flow' to pass through the turbine and to exit through one of the cowlings (blue arrow). The diagram (R) shows the same twin sluice gates which control the rate of flow into the turbine. The turbine sits in a pit which is heavily silted and the only flow of water is via the one turbine blade cowling. The turbine does not operate.



View (L) of the twin controls to the turbine inlet sluices. The inlet sluices are raised and lowered by turning the wheel at the top of the mechanism (R). The position of both sluices can be seen to be almost closed (red circles).

This is an ongoing historic transfer of water from the River Avon to the Weavers Mill channel where there was once a working turbine underneath the mill. All of the water entering the mill channel is returned to the river immediately downstream of the weir.

This situation is not uncommon where water has historically been used at a mill to drive machinery for milling / industry or, latterly, to generate electricity. Where those mills are no longer in use the transfer of water may still be continuing.

Such a transfer of water is a licensable activity and once we become aware that such a transfer of water is taking place we would expect that an application for a transfer abstraction licence would be made to regularise the situation. The applicant is now taking this opportunity to regularise the ongoing abstraction.

The granting of this transfer abstraction licence will not change in any way the circumstances or the way in which the ongoing historical abstraction takes place.

5. Advertising

Applications were advertised and placed on our website	
Date when advertised and placed	6 October 2016
Name of newspaper	Wiltshire Star
11 representations were received. Any relevant points raised have been addressed in section 5.1.	

As the applications were advertised, Statutory Notification was served to:

Statutory Bodies	Date
Statutory Water Undertaker (Wessex Water Services Limited)	28 September 2016
Responded that they had no comments to make.	
Canal & River Trust	18 November 2016
Commented they expect that their abstraction of water to feed the canal would not be affected and we agree.	

5.1. Representations and decision document

11 representations were received so a decision statement will be published to the GOV.UK website within 14 days of the date of our decision on the applications.

Of the 11 representations received; 5 were in support of the applications, 5 were against and 1 was subsequently withdrawn.

A summary of the representations received is below. Some of the comments received were not material considerations for us when determining these two applications as they referred to matters considered in full during our determination of the licence applications for competing hydropower schemes in 2014. We have therefore not addressed those here.

Point raised in representation	Response
Support for the applicant to allow them the extra time needed to undertake the work to develop the hydropower scheme.	No specific response other than we have noted their support for the scheme.
The Licence is not fit-for-purpose.	To see how we have considered this point please refer to section 4. The merits of the Weavers Mill hydropower scheme were all fully considered during our 2014 determination of the licence applications for competing hydropower schemes. We are satisfied that there have not been any material changes since 2014 and therefore the merits of the Weavers Mill scheme are not relevant to this determination. The application is to only vary the Licence to extend the date by which the hydropower scheme must be operational. No other changes to the Licence are proposed.
No volume for the sweetening flow was stated in the application nor in the press advertisement.	There is no requirement for the volume of water to be stated in an application for a transfer abstraction licence. Section 24A Water Resources Act 1991 allows for abstraction licences to be granted where water is being transferred from one source of supply, in this case the River Avon, to another, the mill channel without intervening use. Such abstractions are authorised using a transfer abstraction licence. A transfer

Point raised in representation	Response
	<p>abstraction licence does not need to include a volume of water as a condition of the licence.</p> <p>Where a simple transfer of water such as this is taking place we can choose to grant a transfer licence that reflects the ongoing custom and practice that simply requires the licence holder to maintain the abstraction status quo. In the case of Weavers Mill the application for a transfer abstraction licence is to regularise the transfer of water to the mill channel that has been occurring unchanged for many years.</p> <p>The volume of water passing under the mill was measured by us in April 2012 as 162 litres per second and the means by which water is transferred via the inoperable turbine has not changed in the interim. We have engaged in pre-application discussions with the applicant and fully understand how the abstraction takes place and is managed.</p> <p>We are satisfied that our consultation process is fair, proportionate and reasonable.</p> <p>We note that there are no objections to regularising the ongoing historic transfer of water from the river to the mill channel.</p>
<p>Lack of progress of the Weavers Mill scheme.</p>	<p>To see how we have considered this point please refer to section 4.</p> <p>Additionally lack of progress during the initial three year timescale, which in any event in our view is justifiable, would not be a reason of itself to refuse to grant the variation.</p>
<p>The state of the weir.</p>	<p>The applicant has confirmed that the repairs to the section of weir in her ownership will take place as part of the works to install the hydropower scheme.</p>
<p>Concerns about a nearby hydropower scheme.</p>	<p>We are aware of a nearby hydropower scheme which uses a Kaplan turbine; the same type of turbine proposed for Weavers Mill. Earlier in the year the commissioning and operation of the scheme was impeded by low river flows (they are not allowed to operate below a prescribed river flow), but we now understand that the scheme has been made operational.</p> <p>The applicant is aware of the nearby existing scheme and is proposing to install a scheme of a similar design at Weavers Mill.</p>

Point raised in representation	Response
Why a single application fee of £1500 was acceptable for both applications.	In a circumstance like this where more than one licence is required for the same overall operation at a site only one application fee is required.
The public consultation process, the availability of the original licence document and the transfer of the impounding licence to the current holder.	<p>The applications were advertised in the Wiltshire Star on the 6 October 2016 and on our website for a period of 28 days. For ease of access copies of the application forms and all enclosures were available to inspect in hard copy form at our Bridgwater office from this date.</p> <p>We are under a duty to maintain documents for inspection by members of the public, this would include the Licence and the notice of transfer. There is no requirement for the applicant to include a copy of the Licence, nor a copy of any transfer notice or forms (WR165) with the application. Members of the public have the right to view all documents held on the public register.</p> <p>This is all in accordance with our duties and the legal requirements as stated in the Water Resources (Abstraction and Impounding) Regulations 2006.</p> <p>Any member of the public unable to find a document can ask for assistance and help will be provided and/or copies made. We are not aware that assistance was asked for and in any event there can be no prejudice because the existence of the Licence has been known since 2014.</p> <p>Section 59A Water Resources Act 1991 provides that a licence holder may transfer '<i>a licence to obstruct or impede the flow....</i>' (an impounding licence) by giving us notice of the proposed transfer.</p> <p>This is a simple process whereby the transferor and transferee agree to transfer the licence. They give notice of their intention to us and we amend the licence and the transfer takes effect.</p> <p>Impounding licence number SW/053/0001/020 was issued on the 14 February 2014. We received notice of the intention to transfer the licence on 8 January 2016 and the licence was subsequently transferred to the current licence holder (Susan-Ann Lee) effective on the 25 January 2016.</p> <p>Transferring a licence from one holder to another has no effect on any of the conditions of a licence. No one is prejudiced by not being aware of a transfer notice and hence there is no obligation on us to advertise a transfer of a licence from one holder to another.</p>

Point raised in representation	Response
Control of the water level; the Weavers Mill turbine; public interest; access and invalid data	These issues were all fully considered during our 2014 determination of the licence applications for the competing hydropower schemes. We are satisfied that the situation remains as stated then.

6. External consultation

We consulted Wessex Water Services Ltd and they had no comments to make on these applications.

It was not necessary to consult any other external bodies about these applications.

7. Technical assessment of the proposal

Licensing Strategy:

The abstraction point is within the Middle River Avon AP9 assessment point in the River Avon abstraction licensing strategy.

The water availability is as follows:

Q Percentile	Water Resources availability colour	Water resource status
Q30	Green (water available for licensing)	Fully licensed flows would be >EFIs
Q50	Green (water available for licensing)	Fully licensed flows would be >EFIs
Q70	Green (water available for licensing)	Fully licensed flows would be >EFIs
Q95	Yellow (restricted water available for licensing)*	Fully licensed flows would be just <EFIs

*note that the abstraction of water to the mill channel is entirely non-consumptive. All of the water directed into the mill channel is returned to the river immediately downstream of Weavers Mill. Any restriction that might apply at Q95 flows would only become relevant for a consumptive use of water where there was a net loss of water to the catchment.

Water Framework Directive (WFD) status information

This is a surface water abstraction that is within the (Heavily Modified) surface water body Bristol Avon (Semington Bk to By Bk) - ID GB109053027372. It is located in the Severn River Basin District.

Consideration	Status
	Cycle 2 baseline data (2015)
Overall WB status	Moderate
Ecological potential	Moderate
Fish	Not assessed
Invertebrates	High
Macrophytes & Phytobenthos combined	Good
Hydrological regime	Supports good
Mitigation measures	Mod/less
Physico-chemical	Moderate
Chemical	Good

Reasons For Not Achieving Good (RNAG)

The water body is currently failing for physico-chemical (Phosphate). This is caused by sewage discharges and water company waste water treatment affecting the water quality.

WFD Objectives

Consideration	Cycle 2 Objective
Overall WB status	Good by 2027
Ecological potential	Good by 2027
Hydrological regime	Supports good by 2015
Mitigation measures	Good by 2027

The proposal will be assessed against the WFD status throughout sections 7.2-7.7.

7.1 Designated and protected conservation sites and species

Nearest conservation sites (distance searched – ~650m radius)		
Designation types	Name of site	Distance and direction
Special Areas of Conservation (SACs)	None	n/a
Ramsar sites	None	n/a
Special Protection Areas (SPAs)	None	n/a
Sites of Special Scientific Interest (SSSIs)	None	n/a
National Nature Reserves (NNRs)	None	n/a
Local Nature Reserves (LNRs)	None	n/a
Ancient Woodland	Beck Addy Wood * Avoncliff Wood *	~50m to the south ~600m to the southwest
Scheduled Ancient Monuments (SAMs)	None	n/a
Local Wildlife Sites (LWSs)	Bristol Avon River ** Kennet & Avon Canal * Beck Addy Meadows * Beck Addy Woods * Avoncliff Wood *	Within ~40m to the south ~70m to the south ~150m to the southeast ~600m to the southwest

Nearest conservation sites (distance searched – ~650m radius)		
National Parks	None	n/a
Areas of Outstanding Natural Beauty (AONBs)	Cotswold **	Within
Heritage Coast	None	n/a
Restoring Sustainable Abstraction (RSA) Programmes	None	n/a
Protected Species	European Water Vole European Eel migratory route (see section 7.5)	Within Within
Protected Habitats	Deciduous woodland *	~20m to the east

The radius searched was ~650m. This is reasonable because neither application can affect any designations or protected species beyond the confines of the site.

* neither application will negatively affect any designation. The Licence was issued 14 February 2014 and the potential for the hydropower scheme to impact upon the environment was fully considered at that time. The variation applied for does not seek to change any conditions beyond that which states that the hydropower scheme shall be operational within 3 years. The new transfer abstraction licence seeks to regularise the flow of water into the mill channel. All of the water abstracted is returned to the River Avon ~60m after the point of abstraction at the mill.

We consider that these applications at Weavers Mill fall within the environmental criteria that are our responsibility and due care has been taken to minimise the impact on conservation designations and upon biodiversity, ecological and fisheries interests. There are no statutory consultation processes for these sites.

7.2 Hydrology and impact on flows

Supporting Element	Cycle 2 (2015) status	Objective
Hydrological regime	Supports good	Supports good by 2015

No negative impact upon the site hydrology can occur as result of these proposals and neither of these proposals prevent the implementation of the measures required to help achieve the relevant water body objectives.

The abstraction to the mill channel as measured in 2012 (162l/s) represents ~17% of the Q95 (951l/s) of the river at Avoncliff. At the site visit on the 2 September 2016 the observed flow in the channel did not seem to be at the same rate as that recorded in 2012. A rough estimate would have been ~100l/s. It is probable that the intake sluices to the turbine have degraded or that the old turbine has silted up further.

Any licence we may issue will state the means by which water is transferred from the main river to the mill channel. In this case the abstraction is controlled by twin sluice gates at the intake to an inoperable Armfield Francis-type turbine. The amount that the gates are open has become fixed through time and they cannot be opened further or operated effectively. The penstock wheel does turn and the control rods to the gates do move but this just induces leakage at the top of the gates to occur.

Any changes to this means of operation, for example replacement of the current turbine intake gates with a new set of gates, or removal or refurbishment of the turbine, that could mean that more water is abstracted to the mill channel would require a variation to the licence.

We are satisfied that the current abstraction arrangements (rate and method) are sustainable in terms of the mill channel and river environment, but we would not want any increase in abstraction to take place that has not first been tested through the licence application process. Our first priority has to be that the majority of the water is maintained within the main river channel to the benefit of the river environment.

7.3 Impact on water quality

Element	Cycle 2 (2015) status	Objective
Physico-chemical quality	Moderate (Phosphate)	Good by 2027

Neither proposal will impact upon the water quality of the watercourse, or prevent the water body from reaching the objective status of Good by 2027.

7.4 Impact on geomorphology

Supporting Element	Cycle 2 (2015) status	Objective
Morphology	Not assessed	Not assessed

No impact upon the site geomorphology can occur as result of these proposals and neither will these proposals prevent the implementation of the measures required to help achieve the relevant water body objectives.

7.5 Impact on ecology (including fish)

Element	Cycle 2 (2015) status	Objective
Invertebrates	High	Good by 2015
Macrophytes & Phytobenthos combined	Good	Good by 2015
Fish	Not assessed	Not assessed

No impact upon the site ecology will occur as result of these proposals, nor can they cause any deterioration in the water body status to take place.

Protected species - European water vole & European Eel migratory route

When the Licence was granted the potential for the hydropower scheme to impact upon water voles and eels was fully considered at that time. The variation applied for does not seek to change any conditions beyond that which states that the hydropower scheme shall be operational within 3 years.

The Licence is conditioned such that the Licence Holder is required is construct and maintain an eel pass at the weir.

There is currently no effective route for eel to pass upstream underneath Weavers Mill. It is feasible that eel may pass downstream through the old turbine, but it would not be the primary route to negotiate the mill and weir. No improvements to facilitate eel passage are proposed below the mill.

7.6 Habitats Directive and Conservation of Habitats and Species Regulations 2010 and Wildlife and Countryside Act 1981

We are of the opinion that the proposal is not likely to have any impact on sites designated under the Habitats Directive and Regulations nor the Wildlife and Countryside Act.

7.7 Water Framework Directive (WFD) summary impact statement

The requirements of WFD have been taken into account and we are satisfied that granting these licences, subject to the conditions included in the licences, will meet the requirements of WFD.

7.8 Protected rights and lawful uses

Variation to impoundment licence SW/053/0001/020

The application relates to the variation of condition 4.32 of the Licence. No other changes to the Licence are proposed. All protected rights and existing lawful uses were considered during the determination of the Licence in 2014 and the situation has not changed and remains the same with respect to any such rights or uses.

New transfer abstraction licence

The transfer of water from the river to the mill channel will have no effect on the proposed impounding works (hydropower scheme) authorised by the Licence.

No new protected rights or lawful uses have been identified within the area affected by these proposals.

7.9 Other considerations

Consideration	Comments
Flooding	Neither the application to extend the date for making the hydropower scheme operational nor the application to transfer water to the mill channel will impact upon flooding within the vicinity of Weavers Mill.
Archaeology	Neither the application to extend the date for making the hydropower scheme operational nor the application to transfer water to the mill channel will impact upon any archaeological features within the vicinity of Weavers Mill.
Recreation/amenity	Neither the application to extend the date for making the hydropower scheme operational nor the application to transfer water to the mill channel will impact upon any recreation or amenity features within the vicinity of Weavers Mill.
Subsidence and desiccation	Neither the application to extend the date for making the hydropower scheme operational nor the application to transfer water to the mill channel will cause subsidence or desiccation within the vicinity of Weavers Mill.

7.10 Other permits that might be required or related to the proposal

Permits	Yes/No	Comments
Water discharge activity permit	No	Not applicable.
Flood risk activity permit	No	The building of the hydropower scheme will require a flood risk activity permit or permits but the scheme itself is not subject to consideration here.

8. Assessment of likely Costs & Benefits of proposed approach

Water Resources/ The environment	Both licences accord with local Water Resources policy and are sustainable.
The applicant	The applicant retains their Licence for an extended period of time so as to allow them to complete the planning process, apply for other relevant permissions and to construct the hydropower scheme. The licensing of the transfer of water to the mill channel brings this abstraction into the licensing regime.
The Agency	In determining the licences in accordance with the local and national policy, we are fulfilling our duties as a regulator. Both licences will require us to undertake periodic compliance checks throughout the lifetime of the hydropower scheme.
The economic and social wellbeing of the rural community	No adverse effects on the social and economic wellbeing of local communities in the rural area are perceived as a result of these proposals.

Alternative approaches considered

- | |
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| <ul style="list-style-type: none"> 1 - Refuse. 2 - Grant with different terms than applied for by applicant. |
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Reason for choosing preferred approach over alternative approaches

<p>There has been no material change in any of the relevant circumstances since we granted the Licence in 2014 and we are satisfied that the applicant has been justified in not progressing the scheme whilst the status of the Licence has been uncertain and that, in relation to the abstraction, the existing situation is being regularised. We are satisfied that the applicant now has in place a project plan that should ensure that the scheme is generating hydropower before 31 December 2019. Both applications are sustainable in the long term and should be licensed.</p>
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9. Biodiversity and sustainable development

The principles of sustainable development and biodiversity are embodied in the conditions attached to the licences.

10. Time limit

Variation to impoundment licence SW/053/0001/020

A time limit has not been included because the licence variation applied for is to a licence to impound water.

New transfer abstraction licence

An expiry date of 31 March 2029 will be applied to this licence in accordance with the common end date for the River Avon licensing strategy and our approved policy.

11. Measurement of use of water for power generation / abstracted

Variation to impoundment licence SW/053/0001/020

No changes to the existing method of measurement of the amount of water used for power production are proposed in this application.

New transfer abstraction licence

If authorised the licence will not require the licence holder to measure the quantity of water abstracted.

12. Special agreement

There are no special agreements required for either application.

13. Enforcement – Criticality Class

Variation to impoundment licence SW/053/0001/020

The licence enforcement criticality level will remain 'Highly Critical' because all new hydropower schemes are inspected during their first year once they become operational.

New transfer abstraction licence

The licence enforcement criticality level will be 'Less Critical' because this is an ongoing historic abstraction situation that has been occurring for many years without incident.

14. Charging factors

If authorised, both licences will be exempt from the payment of annual charges.

15. Other statutory duties

15.1 Section 4 Environment Act 1995 (pursuit of sustainable development)

We have considered whether additional requirements should be imposed in relation to our principal aim of contributing to attaining the objective of sustainable development under section 4 of the Environment Act 1995, the existing requirements are sufficient in this regard and no other appropriate requirements have been identified.

We have had regard to Government guidance issued under section 4(2) of the Act, namely '*The Environment Agency's Objectives and Contribution to Sustainable Development: Statutory Guidance (December 2002)*'. Regarding the exercise of our water resources functions, we are required:

'To plan to secure the proper use of water resources by using strategic planning and effective resource management which takes into account environmental, social and economic considerations, and in particular:'

'To ensure that the abstraction of water is sustainable, and provides the right amount of water for people, agriculture, commerce and industry and an improved water-related environment; and to develop and maintain a framework of integrated water resources planning for the Agency and water users.'

15.2 Section 6(1) Environment Act 1995 (conservation duties with regard to water)

We have considered our duty to promote the conservation and enhancement of the natural beauty and amenity of inland and coastal waters and the land associated with such waters, and the conservation of flora and fauna which are dependent on an aquatic environment and are satisfied that these proposals meet this duty.

15.3 Section 6(2) Environment Act 1995

In reaching our decision we have taken all such action as we consider necessary or expedient for the purposes of conserving water resources, and securing their proper use (including the efficient use of those resources).

We support the use of sustainable energy, including hydropower, to help meet UK Government renewable energy and greenhouse targets.

With regard to proper use, we believe our decision to grant the variation to the Licence for the proposed scheme at Weavers Mill will facilitate the generation of hydropower for the long term public interest.

15.4 Section 6(6) Environment Act 1995

It is our duty to maintain, improve and develop salmon fisheries, trout fisheries freshwater fisheries and eel fisheries.

The proposed hydropower scheme at Weavers Mill has incorporated eel and fish passage arrangements into the scheme and we consider that this duty has been met.

15.5 Section 7 Environment Act 1995 (pursuit of conservation interests)

We have had regard to these factors as indicated (amongst others) in section 6.0 above and consider that we have met these duties.

Section 7(1)(a) of the Environment Act 1995 places a duty on us, when considering any proposal relating to our functions, to exercise our functions so as to further the conservation and enhancement of natural beauty.

Section 7(1)(c)(ii) of the Environment Act 1995 places a duty on us to take into account any effect which the proposals would have on the beauty or amenity of any rural or urban area or on any such flora, fauna, features, buildings, sites or objects.

Section 7(1)(c)(iii) of the Environment Act 1995 places a duty on us, when considering any proposal relating to our functions, to have regard, amongst others matters, to any effect which the proposals would have on the social well-being of local communities in rural areas and to take into account any effect which the proposals would have on the beauty or amenity of any rural area.

15.6 Section 8 Environment Acts 1995 and Sections 28G and 28I Wildlife and Countryside Act 1981

Under section 28G of the Wildlife and Countryside Act 1981 we have a duty to take reasonable steps to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which a site is of special scientific interest (SSSI).

There are no SSSIs within the vicinity of Weavers Mill which will be affected by the scheme.

15.7 Section 39 Environment Act 1995

We have a duty under section 39 of the Environment Act 1995 to take into account the likely costs and benefits of granting the applications ('costs' being defined as including costs to the environment as well as any person). We have taken these factors into account as indicated in section 8.0 above.

15.8 The Conservation of Habitats and Species Regulations 2010

Under regulation 61 of these Regulations, we must, before granting any abstraction or impoundment licence, assess whether it is likely to have a significant effect on a European site (Special Areas of Conservation or Special Protection Area), either alone or in combination with other projects; and if so assess the implications of the abstraction upon that site in light of its conservation objectives. In the light of the conclusions of the assessment (and subject to regulation 62) we will only grant a licence after having ascertained that it will not adversely affect the integrity of the European site.

There are no European sites within the vicinity of Weavers Mill which will be affected by the scheme.

15.9 Section 85 Countryside and Rights of Way Act 2000

Section 85 places a duty on us to have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty (AONB) when exercising or performing any of our functions in relation to, or so as to affect, land in an such an area.

The scheme is within the Cotswold AONB. Matters relating to the AONB are discussed in section 7.1 above.

15.10 Section 40 Natural Environment and Rural Communities Act 2006

Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on us to have regard, so far as is consistent with the proper exercise of its functions, to conserving biodiversity. '*Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or enhancing a population or habitat.*'

When issued neither the variation to the Licence nor the new transfer abstraction licence will compromise the biodiversity of the area.

15.11 Water Environment (Water Framework Directive) (England and Wales) Regulations 2003

As required by regulations 3 and 17 of these Regulations, in reaching our decision we have exercised our water resources functions so as to secure compliance with the Water Framework Directive and we have had regard to the Severn River Basin Management Plan for this river basin district which has been approved under regulation 14 of these Regulations.

We are satisfied that in granting a transfer abstraction licence and the variation to the Licence there will be no deterioration in the status of the water body.

15.12 WRA 1991 section 21(4) and (5)

We are satisfied that when granting these licences the river flow will not be less than is necessary for meeting (in respect of both the quality and quantity of water) the requirements of public health, navigation and land drainage. All water that is abstracted to the mill channel will be returned to the river immediately downstream of the mill.

15.13 WRA 1991 section 38(3)(b)

We have had regard to the reasonable requirements of the applicant as shown in section 4 of this report.

15.14 Environmental Impact Assessment Directive 2011/92/EU

These Directives are implemented by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. These Regulations apply to applications for planning consent made to a local planning authority; they do not apply to applications for a licence made to us under the WRA 1991.

Neither application falls within the Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003 as neither is a “relevant project” for the purposes of those Regulations.

16. **Conclusion and recommendation**

Conclusion

Full and due consideration has been given to all comments and representations made. We have had regard to whether there are any protected rights and lawful uses. We have considered all information contained within the applications.

We are satisfied that the reasoning expressed by the Licence Holder as to why the scheme has not yet been constructed is reasonable. We are satisfied that in determining the application to vary the Licence that there is no material change, nor has there been any material change, in any of the relevant circumstances since we granted the Licence in 2014. We are also satisfied that the extension of time until 31 December 2019 is a reasonable extension of time to enable the works to be completed.

We are also satisfied that in granting a transfer abstraction licence we are regularising an ongoing historic transfer of water and we not giving the right to alter the current abstraction arrangement.

Recommendations

It is recommended that the applications are approved and licence numbers SW/053/0001/024 and SW/053/0001/020 should be issued with the conditions as drafted.