

## **DECISION STATEMENT**

### **Dr R H R Bomford and Colin Clarke & Sons – Abstraction Licence Application**

**Application number:** NPS/WR/023968

**Licence number:** 18/54/17/0712/R01

**EA Area:**

Shropshire, Herefordshire, Worcestershire and Gloucestershire

**Date of Application:**

21/12/2018

**Applicant details:**

Dr R H R Bomford and Colin Clarke & Sons

Gooms Hill Farm  
Radford,  
North Inkberrow  
Worcestershire  
WR7 4LT

**Summary of the proposal:**

The application was to renew full abstraction licence 18/54/17/0712 for Dr R H R Bomford and Colin Clarke & Sons which expired on 31 March 2018. The annual quantities were for 36,363 cubic metres.

The proposal is located in the Warwickshire Avon Abstraction Licensing Strategy area and is for a winter (November to March) surface water abstraction for the purpose of storage for subsequent spray irrigation. The current licence contains conditions that state a lockable weir plate must be installed, which has been completed. Another condition states that an approved storage area must be built. As of 14 February 2018, no written approval or evidence has been received from the applicant stating that this storage area has been constructed.

The Environment Agency refused the application to renew the abstraction licence due to the applicant not being able to prove continued justification of need. Water had not been abstracted for 13 years, the pump and meter had been sold and the applicant did not provide a business case for future use.

**Source of Supply:** Inland water (springs) at Bevington Hall Farm, Cock Bevington, Salford Priors, Evesham, Worcestershire

**Points of abstraction and quantities:**

NGR SP 05013 51850: 36,363 cubic metres per year

**Means of abstraction:**

A gravity feed pipe of internal diameter not exceeding 150 millimetres.

**Purpose of abstraction:**

Filling approved storage areas for subsequent spray irrigation

**Abstraction period:**

1 November to 31 March inclusive.

**Case history:**

The Agency contacted the applicant on the 5 February regarding the lack of usage over a period of 13 years and the fact that the metering and pump equipment had been sold. The Agency requested supporting information demonstrating a continued justification of need.

The applicant replied on the 13 February stating that they wished to keep the current licence to allow for future flexibility regarding farming and that a pump and meter could be brought onto site if and when required.

We replied the same day requesting more information for Justification of Need, requesting evidence such as business and/or cropping plans, land in hectares to be irrigated or contracts with suppliers. The applicant was informed that a licence could not be issued without this information, and if they could not provide it, they might prefer to allow their licence to expire and reapply at a later date for a new licence when the need arose. We asked them to reply within ten working days.

The Agency sent an email on the 21 March chasing a response from the applicant. The Agency informed the applicant by email on the 23 March that we would process the application as a refusal if no response was received.

The applicant was called on the 27 March but did not answer. The Agency left a voicemail asking them to call back regarding their application.

The Agency sent an email on the 6 April suggesting an extension to the 11 May for the determination date to the applicant to give them time to send evidence of Justification of Need. They were informed that if we had received no response by 13 April then we would assume that they were in agreement with our proposed extended determination date of 11 May 2018 and would process the application with the information available. By the 13 April, no response was received.

The applicant was called on the 19 April but did not answer. The Agency left a voicemail asking them to call back regarding their application. A letter was sent to the applicant on the 26 April asking them to provide the necessary information for justification of need. They were asked to provide this information by the 4 May. No response was received by the 4 May, therefore we processed the refusal on the 8 May.

**Justification of quantities:**

The abstraction returns submitted since 2000 show that the applicant has not used any water since 2003. Additionally, a compliance inspection by the Agency in 2016 determined that both the pumping equipment and meter have been sold and that the land was being used as pasture for sheep and cattle.

The applicant was asked to provide business or cropping plans, contracts with suppliers or other evidence to prove justification of need. However, as of 8 May 2018, no evidence has been provided to this effect.

Therefore the Agency is not satisfied that the applicant has provided evidence for continued justification of need and the application was processed as a refusal.

**Resource assessment:**

The abstraction point is within the Evesham (River Avon) assessment point 10 in the Warwickshire Avon abstraction licensing strategy.

At assessment point 10, there is water available for licensing with a hands-off flow of 409MI/d at Evesham gauging station on the River Avon and a HOF of 1800MI/d at Deerhurst gauging station on the River Severn.

**Impact assessment of proposal:**

Impact on flows - the Agency has concluded that the River Avon surface water body is unlikely to be significantly affected by this abstraction due to the relatively small amounts being abstracted and the fact that abstraction is limited to the winter months when flows are higher.

Impact on water quality - The surface water body currently has a physico-chemical status of moderate due to a phosphate levels. This element is failing due to phosphate levels (pollution) linked to agriculture. Whilst any reduction in dilution could theoretically negatively impact on the water body, it is not believed that granting the proposed licence would aggravate the cause of failure, as this licence does not authorise abstraction quantities that are large enough to effect dilution on a water body scale and authorises abstraction of water only during the winter months when flows are usually higher.

Impact on geomorphology - The River Avon has a hydrological regime which supports good and this is not expected to deteriorate due to the fact that this abstraction takes place during winter months when flows are generally higher, and the authorised quantities represent a negligible proportion of flows in the Avon.

Impact on ecology - This abstraction is unlikely to impact negatively on ecology due both to the fact that licensed quantities are too small to impact on the waterbody and also abstraction is authorised to take place only during winter months when flow is higher.

**Statutory Consultation:**

No consultations were made.

**External Representations:**

No representations were made.

**Protected Rights:**

There is no requirement to consider protected rights as this is an application for a same terms renewal

**Conservation Issues:**

It is not considered that this abstraction would adversely affect local ecology or cause deterioration to the WFD biological status, which is currently at Good. This abstraction is unlikely to cause deterioration to the WFD waterbody due both to the fact that licensed quantities are too small to impact on the waterbody and also abstraction is authorised to take place only during winter months when flow is higher.

For the same reasons, it is not expected that the sites and species downstream of the abstraction would be adversely impacted by a renewal of the licence on the same terms.

The Environment Agency is of the opinion that the proposal is not likely to have any impact on sites designated under the Habitats Regulation or the CRoW Act due to there being no relevant sites based on a search 7.8km downstream.

**Costs/ Benefits:**

Refusing the licence will reduce the future risk of deterioration to relevant water bodies. A refusal to renew this licence could potentially impact upon the future business requirements of the applicant. However, we have assessed the Licence Holder's historic use and consider that this impact will be negligible.

Social and Economic welfare of rural communities: No adverse effects on the social and economic wellbeing of local communities in the rural area are perceived as a result of this proposal.

**Conclusion and recommendation:**

We have assessed the proposed replacement licence against the three tests for renewal (environment sustainability, justification of need and water efficiency) and we have concluded that the test for justification of need has not been met.

There are three tests for renewal, the second of these being that the Licence Holder has a continuing requirement to abstract.

In cases of non-use, licences can still be renewed if they fulfil one of the following criteria: an agreed emergency need, operational considerations that support periods of non-use, or the presentation of a satisfactory business case. However, none of these criteria were fulfilled and, therefore, the licence cannot be renewed.

It should be noted that, with regard to non-use, legislation under section 52 of the Water Resources Act 1991 allows us to serve proposals to revoke an existing licence without the duty which would otherwise apply to compensate the applicant/licence holder for any losses. The legislation therefore encourages an approach of licences being revoked or not renewed in the event of non-use.


**Recommendations:**

It is recommended that the application is refused as the Licence Holder has no plans to abstract water in the future and as they have no pump or meter they have neither the means, physically or legally, to abstract water.

**Contact the Environment Agency team:**

Water Resources Permitting, Sheffield, S9 4WF

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Team Leader	 Stephen Copley, National Permitting, Team Leader
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