

DECISION STATEMENT

Kevin, Ruth and Tom Lamacraft trading as 'KJ, RS & TR Lamacraft'

Licence Application

Application number: NPS/WR022742

Licence number: SW/051/0005/005

EA Area: Wessex (North)

Date of Application: 18 July 2016

Applicant details:

Kevin, Ruth and Tom Lamacraft trading as 'KJ, RS & TR Lamacraft'
Knowle Farm
Timberscombe
Minehead
TA24 6TZ

Summary of the proposal:

The applicants propose to grow potatoes on a 3.7 hectare field they own at Timberscombe. The intention is to spray irrigate the potato fields taking water from the River Chivett via an existing weir structure (the highest point of the field).

In light of our obligations, when determining the application, to have regard to all relevant circumstances, representations made in the course of the application, our duties under section 7(1) (c) of the Environment Act 1995, and the interests of existing lawful users, we have decided to refuse this application for an abstraction licence.

Source of Supply: Points of abstraction and quantities:

River Chivett (also known locally as the River Chernet and the Timberscombe Stream).

Means of abstraction:

A mobile pump

Purpose of abstraction:

Point of abstraction: At national Grid Reference 'SS 95499 42383'.
Quantities: 14m³/hour, 320m³/day, and 6475m³/year at 3.6 litres per second.

Abstraction period:

All year

Case history:

27/07/2016 - Formal application received following pre application advice to apply.

30/08/2016 - Applicants confirm ditch/leat remains dry due to the bunging of the pipe supplying it.

13/09/2016 - Statutory notification sent to South West Water.

14/09/2016 - Application advertised in West Somerset Free Press – beginning of 28-day public notice period.

16/09/2016 – email response from applicants providing details of ditch/leat repair work.

22/09/2016 - Response from Somerset County Council confirming drain is Mill Leat under dispute and that its supply remains in question.

27/09/2016 - Conversation with Somerset County Council regarding the ongoing dispute regarding Mill Leat.

12/10/2016 - End of public notice period / deadline for representation submissions. 3 statements of truth and 6 representations received.

01/12/2016 – Agency Officer met with applicants on site.

19/01/2017 Internal consultation carried out to discuss flood related queries in relation to the bung and our view on cessation of flow down the Mill Leat.

26/01/2018 – Legal document received outlining requirement for Mill Leat.

Justification of quantities:

Volumes requested are based on a dry year to irrigate 3.7 hectares of potatoes (main crop) in Agro climatic Zone 3 using a medium AWC (Average Water Capacity) soil. Our annual recommended requirement for a dry year for this scenario is 6,475m³. Based on other (spray) irrigators, the daily rate is the annual divided by approximately 20 days which gives 320m³ per day and 13.3m³ per hour (rounded up). This is in line with the applicants request and is therefore justified.

Resource assessment:

The proposed abstraction point sits within the River Avill (AP2) assessment point in the South and West Somerset WFD Management Area ALS. Water availability at AP2 is 'green – water available for licensing' at least 95% of the time for consumptive abstraction. The ALS suggests that a Minimum Residual Flow (MRF) should be applied as a restriction on any licence at this location. The MRF is 10.7 Megalitres per day. This translates to a restriction at the proposed location of 1.48 Megalitres per day equivalent to Q99 which equates to 1% of the year (3 days per year). However this is the minimum restriction that would be put on a licence at this location; A flow equivalent to Q95 would be required to protect the downstream ecology of the river Chivett (from the weir). Our most recent assessment shows that a Q95 flow is equivalent to 34 litres per second.

Impact assessment of proposal:

Our view on the impact of this abstraction remains inconclusive; 3.6 litres per second is approximately 10% of the minimum flow required (Q95) at the site. On this basis (with no supply to the Mill Leat as proposed) impact on downstream interests of the river Chivett would be low. However we have been made aware that restoration of the Mill Leat is currently underway. This work includes alterations to the pipework used to supply the Mill Leat. The invert level of the supply pipe following restoration and how this affects flows in the various channels remains unknown. Our assessment on flows at this time is premature in nature.

Statutory Consultation:

South West Water were consulted on 13/09/2016 but we did not receive any response.

It was not necessary to consult any further external bodies about this proposal. A risk assessment of the area shows that 'Dunster Park and Heathlands' SSSI, which is situated 1.4 kilometres from this proposal, may be at risk. The SSSI is designated for its heathland, grassland, woodland and their associated invertebrates and breeding birds. Given the distance between the abstraction point and SSSI and that the SSSI does not have any notified riverine migratory features, the possibility of exposure is very low. The Agency is therefore of the opinion that there is no mechanism for impact on the SSSI. An appendix 4 assessment was filed for audit purposes only.

External Representations:

A total of 6 objections were received, all in favour of a resumption of flow into the Mill Leat, and thus the removal of the bung from the pipe supplying it. Some of those concerned explained how depriving the Mill Leat of any flow would affect their interests as riparian owners. Others objected to the application in support of Cowbridge Sawmill Museum which contains the waterwheel historically supplied by the Mill Leat.

Protected Rights:

We have modelled two scenarios which suggest that there would be no measurable impact on any protected rights. However with the bung placed in the entrance to the Mill Leat, the entire available flow in the river continues downstream of the weir and no flow enters the Mill Leat. Therefore our assessment of the water available for abstraction has been restricted to this situation. With authorised work currently underway on the Mill Leat, it is clear that any resulting flow split between the Chivett and Mill Leat will need to be established before we are able to properly assess the volume of water available for abstraction at the proposed abstraction point.

Conservation Issues:

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 the proposal meets this duty. A summary of our decision has been filed for our records.

Costs/ Benefits:

Our decision accords with local Water Resources policy.

In determining the application in accordance with the local and national policy, we are fulfilling our duties as a regulator.

There is a likelihood of appeal given our decision to refuse the application.

Irrigation availability for crop production has not been secured with a licence.

Social and Economic welfare of rural communities:

The interests of downstream lawful users have likely been protected by our decision. Irrigation availability for crop production has not been secured with a licence.

Conclusion and recommendation:

Full and due consideration has been given to any comments and representations made, and due regard has been taken of protected rights and other lawful interests.

With a view to protect the interests of the Mill Leat and its users, we have decided to refuse the application for an abstraction licence.

Contact the Environment Agency:

Water Resources Team, 99 Parkway Avenue, Sheffield, S9 4WF

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Date completed/updated:	10/07/2018
Date of sign off	11/07/2018
Team Leader sign off	Peter Maksymiw
Date of final submission	11/07/2018