

## **DECISION STATEMENT**

### **ABSTRACTION LICENCE APPLICATION**

**W. J. Bracey Limited**

**Application number:** NPS/NA/001522

**Licence number:** AN/034/0009/011

**EA Area:** Essex Norfolk and Suffolk

**Date of Application:** 12 February 2020

**Applicant details:**

W. J. Bracey Limited

The Hall, Hall Lane, Postwick, Norwich, Norfolk, NR13 5HQ

**Summary of the proposal**

Proposal to add trickle irrigation (a previously exempt activity) purpose and associated quantities on the existing licence under The Water Resources (Transitional Provisions) Regulations 2017 (Transitional Regulations).

**Source of supply:** Underground strata comprising of crag.

**Point of abstraction:**

Abstraction Point 2 - Manor Farm, Stalham, Norwich, Norfolk (National Grid Reference TG 36180 25230).

**Validated quantities:**

A maximum of 25,209 cubic metres per year.

A maximum of 721 cubic metres per day.

A maximum of 31 cubic metres per hour.

At an instantaneous rate not exceeding 8.4 litres per second.

**Validated means of abstraction:**

A borehole not exceeding 30 metres in depth and 450 millimetres in diameter with a pump.

**Validated purpose of abstraction:** Trickle Irrigation - Direct

**Validated abstraction period:** From 1 June to 31 October inclusive.

**Case history:**

The existing licence (AN/034/0009/011) has two abstraction points ('Abstraction Point 1' and 'Abstraction Point 2') which are approximately 556 metres apart. The trickle irrigation only takes place from Abstraction Point 2, and therefore this refusal decision only relates to this single point.

This application was acknowledged by the Environment Agency on 12 February 2020 under the Transitional Regulations. The application was

advertised in the Eastern Daily Press and gov.uk on 14 May 2020. No representations were received.

**Justification of quantities:**

Under the Water Resources (Transitional Provisions) Regulations 2017 the quantity justification criteria was to provide sufficient evidence of abstraction for the purpose of trickle irrigation during the qualifying period 2011-2017. Maximum quantities evidenced within that time period were permitted to go on the licence.

Evidence provided by the applicant included photographic evidence of the trickle irrigation system, invoice for the installation of the irrigation pumping equipment, and abstraction records. We are satisfied that the applicant provided sufficient evidence of the quantities detailed in the 'Validated quantities' section above.

**Impact assessment of proposal:**

Using the Batched Abstraction Modelling (BAM) methodology, impact assessments were carried out for each application within the Ant, Bure and Thurne (ABT) area which determined the potential reduction in groundwater levels in the shallow groundwater table as a result of the abstraction. Using this data, it was determined whether adverse effect could be concluded by the abstraction on designated sites.

**Statutory consultation:**

As the application was advertised, Statutory Notification was served on 12 May 2020 on Anglian Water. No representations were received.

**External representations:**

None.

**Conservation issues:**

The abstraction subject to this application had the potential to impact The Broads SAC, Broadland SPA, and Broadland Ramsar and we were unable to conclude no likely significant effect when assessing its implications for the sites in combination with other plans, permissions, and projects. We therefore completed a Habitats Regulations Assessment Stage 2 (HRA2) appropriate assessment which concluded that an adverse effect cannot be ruled out or avoided, even with conditions or restrictions. Such a conclusion is considered serious damage as set out in the [2012 consultation](#) and [2017 Government response](#) to the consultation.

When consulted via the HRA process, Natural England responded on 16 November 2022 and confirmed that they agreed with the assessment conclusions.

Additionally, granting the application as applied for would contribute to the current Water Framework Directive status of the water body not being able to meet its objective of achieving 'good' by 2027 because the abstraction is contributing to the poor status of the Quantitative Groundwater Dependent Terrestrial Ecosystem WFD Test, which is causing an overall water body failure.

**Biodiversity and sustainable development:**

We are under Ministerial Direction (Article 4 Water Abstraction (Transitional Provisions)(England) Direction 2018) to refuse or curtail any application where it is necessary to protect any water, strata, flora or fauna from serious damage, or where we cannot conclude no adverse effect on a European site as detailed in the policy approach in the Government's 2017 consultation response document. This abstraction is considered to be causing serious damage to The Broads SAC, Broadland SPA and Broadland Ramsar.

The principles of sustainable development and biodiversity have been taken into account in the decision to refuse this application.

**Social and economic welfare of rural communities:**

We have carefully considered the effects on economic and social wellbeing of local communities in rural areas under section 7(1)(c)(iii) Environment Act 1995 but given the obligation to determine a licence application so as to ensure no adverse effect on integrity of European sites in combination with other plans, permissions and projects, we have refused the application to meet that obligation having had regard to effects on rural communities.

We have taken into account the statutory requirement in our regulatory decision to have regard to the Regulators' Code and considered the impacts of the decision on the applicant. However, this requirement does not override our other statutory duties and in particular our duties under the Conservation of Habitats and Species Regulations 2017 to ensure a conclusion of no adverse effect on site integrity.

We have considered whether it is proportionate to refuse this licence application recognising the impact of refusal on the applicant's business and concluded that it is the general interest to refuse the application in order to ensure no adverse effect on European sites.

**Costs/ Benefits:**

We have taken into account the likely costs and benefits of our decision on this licence application ('costs' being defined as including costs to the environment as well as financial costs of the decision) as required by section 39 Environment Act 1995. We have considered this duty against the obligation to meet Habitats Regulations and Water Environment (Water Framework Directive) Regulations' requirements but note the duty to take account of costs and benefits does not affect our obligation to discharge any duties, comply with any requirements, or pursue any objectives, imposed upon us under these Regulations [section 39(2) Environment Act 1995].

We considered the information the applicant provided regarding impacts to their business. These issues have been taken into account however these considerations do not override our statutory duties which include those under Regulation 63 of the Habitats Regulations to assess effects of

abstraction on integrity of European sites and which prevents licences being issued when there is a link between abstraction and adverse effects on the European site. This refusal has been deemed necessary for the purposes of protecting the environment, and, in particular, removing the contribution that this abstraction has to the potential adverse effects (which is considered to be serious damage) identified within The Broads SAC, Broadland SPA and Broadland Ramsar.

**Conclusion and recommendation:**

It is recommended that the application is refused for the following reasons:

- The abstraction is contributing to a potential in-combination impact above 5 millimetres on Broad Fen, Dilham SSSI and therefore adverse effects cannot be ruled out on The Broads SAC, Broadland SPA and Broadland Ramsar, which are underpinned by the SSSI sites (Broad Fen, Dilham, Ant Broads and Marshes, Smallburgh Fen, and Calthorpe Broad).
- The abstraction is also contributing to the poor status of the Quantitative Groundwater Dependent Terrestrial Ecosystem WFD Test, which is causing an overall water body failure.

**Contact the Environment Agency:**

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