

DECISION STATEMENT

ABSTRACTION LICENCE APPLICATION UNDER THE WATER RESOURCES (TRANSITIONAL PROVISIONS) REGULATIONS 2017

R and J M Place Limited

Application number: NPS/NA/000634

Licence number: 7/34/09/*G/0094

EA Area: East Anglia

Date of Application: 06 June 2019

Applicant details:

R. & J.M. Place Limited

Church Farm, Tunstead, Norwich, Norfolk, NR12 8RQ

Summary of the proposal:

Proposal to add trickle irrigation quantities to the base spray irrigation quantities on the existing licence, and to have an extended abstraction period for the trickle irrigation abstraction as detailed under 'abstraction period' below.

Source of supply:

Underground strata comprising of chalk at Ivy Farm, Neatishead, Norfolk.

Point of abstraction and quantities:

TG 33629 20334

31,306 cubic metres per year

1,200 cubic metres per day

58 cubic metres per hour

16 litres per second.

Means of abstraction:

A borehole not exceeding 71 metres in depth and 300 millimetres in diameter with a pump.

Purpose of abstraction:

Trickle irrigation.

Abstraction period:

01 March to 31 October inclusive.

Case history:

The current licence has one abstraction point (at National Grid Reference TG 33629 20334), which authorises abstraction for the purpose of spray irrigation. Trickle irrigation has historically also taken place from the same abstraction point. The applicant applied to vary the licence and add the purpose of trickle irrigation to the existing licence. This refusal decision only relates to this purpose of trickle irrigation.

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 meters and boreholes as well as meter reading data. We were satisfied that the applicant provided sufficient evidence of the quantities detailed in the 'Point of abstraction and quantities' section.

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; and Essex and Suffolk Water.

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 17 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 over-ride 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 and Broadland SPA and Broadland Ramsar.

Conclusion and recommendation:

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

The abstraction is causing an environmental impact on water dependent failing SSSIs (Alderfen Broad, Ant Broads and Marshes and Smallburgh Fen) and it

cannot be concluded that it is not having an adverse effect on European sites, which are underpinned by the SSSI sites.

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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