

## DECISION STATEMENT

### ABSTRACTION LICENCE APPLICATION

**Mark Green and Frank Green trading as FM Green**

**Application number:** NPS/WR/037377

**Licence number:** WA/055/0019/019

**EA Area:** West Midlands

**Date of Application:** 23 April 2022

**Applicant details:**

Mark Green and Frank Green  
Trading as FM Green  
Ditton Farm  
St Owens Cross  
Ross on Wye  
Hereford  
HR2 8LL

**Summary of the proposal:**

The Environment Agency has refused to grant a new abstraction licence to Mark Green and Frank Green trading as FM Green to abstract water from an unnamed ditch at Peterstow, Herefordshire at National Grid Reference SO 55430 24627. The quantities applied for were 60 cubic metres per hour, 1,440 cubic metres per day and 19,000 cubic metres per year at an instantaneous rate of 17 litres per second.

**Means of abstraction:**

A gravity feed pipe controlled by a shut off valve.

**Purpose of abstraction:**

Filling a reservoir for subsequent spray irrigation.

**Abstraction period:**

From 1 November to 31 March inclusive.

**Case history:**

This application was received by the Environment Agency on the 23 April 2022. A risk of derogation to a nearby abstraction licence was identified as part of our assessment and the applicant was advised we were minded to refuse the application due to the risk of derogation to the nearby licence.

**Resource assessment:**

At the time the application was made, there was no flow data or hydrological assessment for the site available. The applicant carried out flow gauging at the site. The data provided by the applicant was limited and indicated that it would only be possible to abstract water at the applied for rates at times of very high flow but this resource assessment does not take into account the impacts that the proposed abstraction would have on the downstream abstraction licence, which is the reason for the application being refused.

**Impact assessment of proposal:**

A licenced abstraction is present downstream of the applied for abstraction point. The licence is for the abstraction of water from Hollymount Lake which receives water from upstream. It was determined that the proposed application has the potential to reduce the flows received at Hollymount Lake and prevent the lake from being fully filled. This would potentially prevent the licence holder from abstracting the full volumes permitted on their licence.

**Statutory consultation:**

Welsh Water was consulted on 30 November 2022. No response was received.

Natural England were consulted on 18 April 2023 via an Appendix 4 and Habitats Regulations Assessment Stage 1 and 2. Natural England responded on the 22 May 2023 and confirmed they agree with our conclusion of no likely significant effect/ damage to designated sites, conditional upon the Hands off Flow and screening mitigation measures being adhered to should the licence be issued.

**External representations:**

No external representations were received.

**Protected rights:**

During the impact assessment, licence 19/55/18/0023 held by Man of Ross Limited was identified to be at risk of derogation by the proposed abstraction. Derogation issues were unable to be resolved and, in order to satisfy our duty not to derogate protected rights under Section 39(1) Water Resources Act 1991, we must refuse this application.

**Conservation issues:**

Not applicable.

**Biodiversity and sustainable development:**

Not applicable.

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

We have considered the potential impacts on the social and economic welfare of rural communities. However the requirement to consider these impacts do not override our statutory duty imposed on us to prevent derogation of any existing protected rights.

**Costs/ Benefits:**

The applicant will need to seek alternative access to water, which may incur additional cost. We have taken this into account in our decision in accordance with Section 39 Environment Act 1995. However, this refusal has been deemed necessary to satisfy our duty not to derogate protected rights under Section 39(1) Water Resources Act 1991.

**Conclusion and recommendation:**

The Environment Agency has refused the application for an abstraction licence due to risk of derogation of an existing abstraction licence.

**Contact the Environment Agency:**

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Email: [PSC-WaterResources@environment-agency.gov.uk](mailto:PSC-WaterResources@environment-agency.gov.uk)