

DECISION STATEMENT

ABSTRACTION LICENCE APPLICATION

W. J. Bracey Limited

Application number: NPS/WR/023820

Licence number: AN/034/0009/011

EA Area: East Anglia

Date of Application: 30 January 2018

Applicant details:

W. J. Bracey Limited

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

Summary of the proposal

Proposal for a new licence on the same terms to replace abstraction licence AN/034/0009/011 which expired on 31 March 2018.

Limited Extension of Validity (LEV) was applied to this licence to enable the Licence Holder to continue to abstract under the terms of their expired licence whilst we determined their renewal application.

This proposal is located in the Broadland Abstraction Licensing Strategy area.

Source of supply: Underground strata comprising of sand, gravel, and crag.

Points of abstraction

Abstraction Point 1 - Manor Farm, Stalham, Norwich, Norfolk (National Grid Reference, TG 35902 25705)

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

Abstraction quantities

Between Abstraction Point 1 and Abstraction Point 2:

32,000 cubic metres per year.

570 cubic metres per day.

28 cubic metres per hour.

At an instantaneous rate not exceeding 8.8 litres per second.

Validated means of abstraction

Abstraction Point 1

Twelve wellpoints not exceeding 10 metres in depth and 50 millimetres in diameter with associated pump.

Abstraction Point 2

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

Purpose of abstraction: Spray Irrigation - Direct

Abstraction period: From 1 April to 31 October inclusive.

Case history

21/12/2017 – The applicant applied to renew their licence AN/034/0009/011 on the same terms.

21/01/2020 – Email sent to the applicant to advise that the renewal licence application may not be renewed.

30/01/2018 – We acknowledged the application and extended the validity of the licence under Section 46A Water Resources Act 1991 to enable the applicant to continue to abstract water under the terms of their expired licence until the application is determined or any appeal is concluded.

23/06/2021 – Letter sent to applicant confirming that licence would not be renewed.

Justification of quantities

The historic usage of the licence between 2010 and 2017 indicate that the licence has been utilised.

The applicant also provided information in terms of cropping area and irrigation requirements to support continued need for the abstraction licence.

Based on the information provided and our assessment, we are satisfied that the applicant met the justification requirements.

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 these data, it was determined whether adverse effect could be concluded by the abstraction on designated sites.

Statutory consultation

As the application was not advertised, it was not necessary to notify any statutory bodies other than Natural England.

External representations:

No representations were received as the application was not advertised.

Protected rights

As this application is for a same terms renewal, we would not expect any additional impact on existing protected rights or lawful uses.

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 an Appendix 4, and joint Habitats Regulations Assessment Stage 1 and Stage 2 (HRA2) appropriate assessment which concluded that an adverse effect cannot be ruled out or avoided, even with conditions or restrictions.

Natural England responded to our consultation on 16 October 2023 and confirmed that they agreed with the assessment conclusions.

Biodiversity and sustainable development:

We have had regard to Government guidance issued under section 4(2) of the Act, namely *'The Environment Agency's Objectives and Contribution to Sustainable Development: Statutory Guidance (December 2002)'*. Regarding the exercise of our water resources functions, we are required:

'To plan to secure the proper use of water resources by using strategic planning and effective resource management which takes into account environmental, social and economic considerations, and in particular:'

'To ensure that the abstraction of water is sustainable, and provides the right amount of water for people, agriculture, commerce and industry and an improved water-related environment; and to develop and maintain a framework of integrated water resources planning for the Agency and water users.'

The principles of sustainable development and biodiversity have been considered as part of our refusal of 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 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 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 reason:

It is not possible to ascertain that this abstraction is not having an in combination adverse effect on Broad Fen, Dilham SSSI, a component of The Broads SAC and Broadland SPA and Ramsar.

Therefore, applying the requirements of the Habitats Regulations we cannot consider renewing abstraction under this licence.

Contact the Environment Agency:

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