

DECISION STATEMENT

ABSTRACTION/IMPOUNDMENT LICENCE APPLICATION(S)

Worstead Farms Limited

Application number: NPS/WR/039502

Licence number: 7/34/09/*G/0092

EA Area: East Anglia

Date of Application: 15 August 2023

Applicant details:

Worstead Farms Limited
Holly House
Smallburgh
Norfolk
NR12 9NB

Summary of the proposal:

This application is for a new licence on the same terms to replace the expiring abstraction licence 7/34/09/*G/0092 which expired on 31 March 2024.

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.

Licence 7/34/09/*G/0092 authorised Worstead Farms Limited to abstract water from a borehole drilled into the chalk aquifer at Church Farm, Smallburgh, in Norfolk. The borehole is located within the Broadland Rivers Abstraction Licensing Strategy area.

Source of supply:

Underground strata comprising chalk

Points of abstraction/impoundment and quantities:

TG 33189 24021

68.4 cubic metres an hour

1,500 cubic metres a day

44,300 cubic metres a year

At an instantaneous rate of 19 litres per second

Means of abstraction:

A borehole not exceeding 84 metres in depth and 300 millimetres in diameter with a submersible pump

Purpose of abstraction:

Spray irrigation

Abstraction period:

1 April to 30 September inclusive

Case history:

On the 11 December 1978 licence 7/34/09/*G/0092 was issued to Smallburgh Farms with no time limit for 59,600 cubic metres per year. On the 2 November 1979 the licence was varied to increase the annual quantity to 88,600 cubic metres per year. On the 2 May 1980 the licence was varied to decrease the annual quantity to 44,300 cubic metres per year. On the 1 April 1995 the licence holder changed from Smallburgh Farm to Worstead Farms Limited.

On the 19 September 2011 a notice was served under Section 52 of the Water Resources Act 1991 to vary licence 7/34/09/*G/0092 to include a cessation condition linked to an observation borehole at Smallburgh Fen Site of Special Scientific Interest (SSSI) and a time limit was applied to the licence to the next common end date (31 March 2024). This change was required as part of the Review of Consents project. The varied licence was issued 20 December 2012.

On the 23 June 2021 a letter was sent to the licence holder confirming that the licence 7/34/09/*G/0092 would not be renewed after its expiration in 2024 in order to meet conservation objectives for the Broads Special Area of Conservation as identified under the Restoring sustainable Abstraction (RSA) project.

Justification of quantities:

Under Section 38(3)(b) Water Resources Act 1991, we have a duty to consider the requirements of the Licence Holder, in so far as they are reasonable. In the case of applications made to renew historic existing licences, this consideration will be to look at historic uptake of the licence and any future plans that the licence will be used for.

The applicant has provided the following information to support continued need for the abstraction licence.

Crop	Area (ha)	Total cubic meters required
Potatoes	24.28	30,000
Salads	20.23	20,000
Total		50,000

The applicant's water requirements appear reasonable when compared against the Water Resources Optimum Use Manual (WROUM) quantity of water required in both a dry and average year.

The applicant has provided the following 2009-2023 abstraction returns data in support of their licence renewal application.

Financial Year	Quantity abstracted (m3/year)
2009 / 2010	38,220
2010 / 2011	33,725
2011 / 2012	30,107
2012 / 2013	11,038
2013 / 2014	33,726
2014 / 2015	2,076
2015 / 2016	9,249
2016 / 2017	43,358
2017 / 2018	36,184
2018 / 2019	43,269
2019 / 2020	44,035
2020 / 2021	40,356
2021 / 2022	22,270
2022 / 2023	41,790

The applicant's water requirements appear reasonable when compared against the Water Resources Optimum Use Manual (WROUM) quantity of water required in both a dry and average year and annual returns show a generally high uptake of water with some variation year on year.

However, in response to proposed licence changes being required from the Review of Consents in 2011, and in anticipation of potentially losing access to the water licenced under 7/34/09/*G/0092, the applicant applied for a new winter storage reservoir for subsequent spray irrigation which was licenced in November 2012 as AN/034/0009/016 (time limited to 31 March 2030). This winter licence allows a maximum of 120,000m3/year of water to be abstracted from Smallburgh Watercourse at NGR TG 31544 24814. The

justification for the winter reservoir included the same area of land provided to renew licence 7/34/09/*G/0092. As such, justification provided for licence 7/34/09/*G/0092 is no longer sufficient, as the water is now being provided by licence AN/034/0009/016.

Given the facts presented, the justification provided for the quantities of water applied for under the renewal of 7/34/09/*G/0092 is not considered sufficient to warrant applying for the same volume of water.

However, as the application is being refused, further justification of need is not being considered in this case.

Resource assessment:

The abstraction point is within the Broadland Rivers Chalk & Crag, GB40501G400300 groundwater unit in the Broadland Rivers Abstraction Licensing Strategy (ALS).

According to the Broadland Rivers Abstraction Licensing Strategy, the confined chalk groundwater in the Broadland area is fully committed and no further consumptive abstraction can be considered. However as this is a licence renewal we must follow the renewals approach as detailed in the Broadland ALS.

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 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 has the potential to impact The Broads SAC, Broadland SPA, and Broadland Ramsar and we were unable to conclude no adverse effect when assessing its implications for the sites alone and in combination with other plans, permissions and projects.

We therefore completed an Appendix 4 and joint Habitats Regulations Assessments Stage 1 and 2 (HRA1 and 2) appropriate assessment which concluded that an alone and in combination adverse effect cannot be ruled out or avoided, even having considered mitigation measures and conditions. As mitigation we considered whether a lower annual quantity could be licensed however modelling showed that this would not remove the potential for adverse effect. Therefore, we are refusing the application to renew licence 7/34/09/*G/0092.

Natural England were consulted via an Appendix 4 and joint HRA1 and 2. Natural England responded on 15th October 2024 and confirmed that they agree with our conclusion of alone adverse effect.

Biodiversity and sustainable development:

We have considered whether additional requirements should be imposed in relation to our principal aim of contributing to attaining the objective of sustainable development under section 4 of the Environment Act 1995, the existing requirements are sufficient in this regard and no other appropriate requirements have been identified.

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.

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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 application recognising the impact of the refusal on the applicant's business and concluded that it is in 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 as a result of refusing their licence renewal application. 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 the 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 identified within The Broads Special Area of Conservation (SAC), Broadland Special Protection Area (SPA) and Broadland Ramsar.

Conclusion and recommendation:

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

The abstraction is causing an alone adverse effect on Smallburgh Fen SSSI and Broad Fen, Dilham SSSI, components of the The Broads SAC, Broadland SPA and Broadland Ramsar.

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

Contact the Environment Agency:

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