

## **Determination Report**

### **Report under the Water Resources Act 1991 (as amended) and the Environment Act 1995 of an application for a formal variation of licence numbers WA/060/0001/0022/V001 and WA/060/0001/0023/V001**

In this document, Natural Resources Wales ('NRW') means the Natural Resources Body for Wales ('the NRW') established by Article 3 of the Natural Resources Body for Wales (Establishment) Order 2012.

Please note that on 01 April 2013, the functions previously conducted by the Countryside Council for Wales ('CCW'), Forestry Commission Wales ('FCW'), and the functions of the Environment Agency within Wales ('EA/EAW'), (CCW, FCW and EA/EAW together 'the Legacy Bodies') were transferred to NRW.

In determining this application, NRW has exercised its duties and powers under the Water Resources Act 1991 (as amended) and the Environment Act 1995 and has taken account of guidance issued by the Legacy Bodies where relevant.

NRW has decided to grant the variation.

#### **1. Summary of the proposal**

Abstraction licence number WA/060/0001/020 and impoundment licence number WA/060/0001/016 were originally issued on 21 October 2016 for a hydropower scheme on the Afon Tywi. To correct an administrative error, the licence numbers were changed from WA/060/0001/020 to WA/060/0001/0022 (abstraction) and from WA/060/0001/016 to WA/060/0001/0023 (impoundment).

Condition 9.14 within the abstraction licence states *'This licence shall cease to be of any effect if the abstraction it authorises has not commenced within 3 years of the licence issue date.'* and condition 4.6 within the impoundment licence states *'This licence shall cease to be of any effect if the intake works authorised by it have not commenced within 3 years of the licence issue date.'*

Application form WRF to vary the licences was received on the 2<sup>nd</sup> of August 2019, requesting an 'extension' of the three year self-destruct (S/D) conditions on both the abstraction and the impoundment licence, up until May 2021.

These conditions will come into effect on the 21<sup>st</sup> October 2019. The applicant has confirmed that work on the scheme has already begun but an extension on the self-destruct conditions are required as construction is not anticipated to be complete until May 2021.

Supporting information has confirmed that the reason construction has not yet finished is due to the large scale of the scheme and time taken to obtain various required consents and a detailed design and construction tender. The applicant has confirmed that the project is continuously progressing and is currently about a third of the way through construction. The applicant has further confirmed that the following permissions have been secured:

- Planning permission
- Flood risk activity consent
- Pre-accreditation on the FIT.

Each application for an extension of the self-destruct condition is assessed on a case by case basis.

The current standard practice when extensions to self-destruct conditions are requested is to re-issue the licence with the standard 3-year condition. HEP Panel originally agreed to extend the self-destruct until the date requested by the applicant (please see DMS dated 22/08/2019). Further discussion confirmed that the HEP Panel would prefer to issue the self-destruct condition to the requested date on May 2021 rather than issue the licence again with the standard 3 year conditions (please see DMS dated 29/08/2019).

NRW have decided to issue the licences with the standard 3 year condition for the following reasons:

- It would be overly onerous to create a bespoke self-destruct condition with a specific date
- To ensure consistency with all previous decisions made regarding applications to extend self-destruct conditions

Please see email dated 29/08/2019, saved to DMS.

The HEP Panel were re-consulted with this decision and raised no objections (please see DMS dated 29/08/2019). The applicant was contacted on 02/09/2019 and raised no objections to the standard condition use on the abstraction licence, rather than the date originally applied for. (please see phone record dated 02/09/2019, saved to DMS)

As such, the abstraction and impoundment licences will be re-issued with the standard 3-year self-destruct condition rather than a bespoke condition until May 2021 (as proposed by the applicant); in line with previous decisions made regarding extension of self-destruct conditions.

Both licences will also include the requested update of Licence Holder name and registered address, as per companies house records.

NRW considers the variation to extend the self-destruct clause as reasonable and justified.

## **2. Conclusion and recommendations**

The principles of sustainable development are embodied in the conditions attached to the licences.

The conditions incorporated on the licences are considered to be necessary and reasonable in the light of the available and presented evidence. The conditions are also considered to be consistent with appropriate standards for enforcement by Natural Resources Wales.

I therefore recommend approval of the application and grant of a variation to Licence numbers WA/060/0001/0022/V001 and WA/060/0001/0023/V001.

### 3. AUTHORISATION

<b>Report by: Alex Cowell</b>  <b>Position:</b> Permitting Officer	<b>Date:</b> <b>15/08/2019</b>	<b>Signed: A.Cowell</b>
<b>Audit by: Jennifer Pocock</b>  <b>Position:</b> Senior Permitting Officer	<b>Date:</b> 09/09/2019	<b>Signed:</b> 
<b>Authorised by: Ashley Lansdown</b>  <b>Position:</b> Permitting Team Leader	<b>Date:</b> 09/09/2019	<b>Signed:</b> 