Aftercare | Post Site Actions

Ref: CHECKED

Please see Annex AC11 for supporting information, and the “Introduction” for Health and Safety considerations and advice on the use of the guidance.

1. Continuity and record keeping
   Once a formal aftercare meeting has been held, there are a number of actions required to complete the course of events, if continuity and consistency is to be maintained throughout the aftercare period.
   a. continuity
   b. record keeping

2. Following the meeting, a formal record should be circulated to the relevant aftercare parties. This should include
   a. a record of the names (and job titles) of those present at the meeting
   b. ground and weather conditions on the day of the meeting, and prior to the meeting if considered relevant
   c. the remedial actions to be taken and by whom
   d. agree the management of the site to date
   e. agree the management of the site for the next year of aftercare
   f. comment on crop growth

3. Has a certificate of compliance been requested

COMMENTS

For more detailed information see: 

Cross references:
1. Continuity and record keeping

Once a formal aftercare meeting has been held, it is important both for continuity and good record keeping that written confirmation of the issues discussed is circulated to all the relevant aftercare parties.

a. continuity
   As the aftercare period will normally run for 5 years, experience has shown that it is highly unlikely that the same people will attend throughout the aftercare period. It is important therefore, that each party understands its role and records sufficient information to enable new parties to be properly briefed concerning their respective responsibilities etc.
   Also, where it is agreed at an aftercare meeting that certain remedial works may be necessary during the next annual aftercare period, e.g., dealing with differential settlement, weed growth, stone picking, reseeding etc, then a change in personnel should not affect the awareness or the assessment of the need to carry out such works. A lack of continuity in carrying out agreed actions, or in the acceptance of responsibility, can have an adverse affect on the stated objective of the aftercare period.

b. record keeping
   At the annual aftercare meeting, the previous year’s site/phase management will be discussed, as will the proposals for the forthcoming year. Sometime prior to the meeting, the operator (or other party by agreement), will have submitted the detailed annual aftercare programme which will cover all these aspects.
   It is important that a record is kept and circulated of the issues raised and discussed, so that each party is clear on what actions are necessary prior to the next meeting. It may be that certain actions need to be carried out within a specified timescale, e.g., weed control measures, seeding, cultivations etc. Specialist advice may need to be sought from, for example, an underdrainage contractor, agronomist and so on.

2. Following the meeting a formal record should be circulated to the relevant aftercare parties. This should include

a. record of the names (and job titles) of those present at the meeting
   It is important to recognise those who were present at the meeting and the contribution they made. If decisions were made requiring specific actions to be undertaken, it is essential that the record identifies those person(s) responsible.

b. ground and weather conditions on the day of the meeting, and prior to the meeting if considered relevant
   Weather conditions can have a major impact on the progress of a site and the agreed timetable of agricultural operations.
   Timing is a crucial element when carrying out cultivations. Where land has been returned to the farmer, who is on site and able to react quickly when favourable
ground and weather conditions are present, the successful completion of essential works is far more likely than when the land is managed from a distance and agricultural contractors are called in to do the necessary works. Conditions can be so severe that to abandon or cancel proposed operations is a good management decision. This aspect of land management has to be fully understood.

If there has been heavy rainfall in the days leading up to the meeting, it may be quite normal to observe surface ponding on the site. To be aware of this will help avoid assuming a drainage problem where one may not exist. Indeed, a look over the hedge onto undisturbed ground may well show exactly the same symptoms. Site conditions need to be put into context.

c. the remedial actions to be taken and by whom
The meeting needs to agree not only what remedial/normal site operations are required to be carried out, but agreement has to be reached on who will be responsible for carrying out that work and ensuring it is completed to a satisfactory standard. This can often lead to problems on site when the farmer/landowner does not appreciate their own responsibilities in this matter, particularly when they were not involved in the preparation of the aftercare scheme.

In this respect, it is worth noting that MPG7 The Reclamation of Mineral Workings (DoE 1996) (para.70) states the ‘1990 Act provides for the person last using the land for the winning and working of minerals to be financially responsible for aftercare of the land, unless an alternative, legally binding agreement with another party has been made (Schedule 5 paragraph 6).’ It is important that the likely aftercare requirements are made clear at the outset, so that operators are aware of the cost implications involved and can make provision for them.

d. agree the management of the site to date
Generally speaking, this will confirm that the detailed annual aftercare proposals submitted 12 months or so earlier have been successfully completed. Any agreed actions not undertaken, or actions taken which were not on the agreed scheme, should be fully recorded.

e. agree the management of the site for the next year of aftercare
The ‘look forward’ also needs to be recorded in detail. This will normally follow the outline aftercare scheme, usually submitted with the planning application. Amendments to the outline proposals are quite common, and provided they are sensible within the objectives of aftercare as a whole, should be considered sympathetically.

f. comment on crop growth
It is important to record the state of the crop or grass sward. Although specialist knowledge may not be available at the meeting, the general appearance of the crop and evenness of growth can easily be assessed. If there are patchy areas,
these should be identified on a plan and specialist knowledge sought if the cause is unexplained or the problem persists.

3. Has a certificate of compliance been requested

Schedule 5 paragraph 5 of the 1990 Act states: ‘If, on the application of any person with an interest in land in respect of which an aftercare condition has been imposed, the mineral planning authority are satisfied the condition has been complied with, they shall issue a certificate to that effect.’

It is important to note that the issuing of such a certificate only confirms that the aftercare condition has been complied with, and it does not automatically mean that the standards set out in Schedule 5, paragraph 3(1) to (4) have been attained.

The ‘certificate’ itself need only be a short letter from the MPA confirming that the condition has been complied with. When considering whether to issue such a certificate, a simple check of the agreed aftercare scheme and the annual aftercare records should show whether the main requirements have been complied with. Where certain actions could not be carried out due to circumstances beyond the applicant’s control, e.g. adverse weather conditions, failure of machinery etc., common sense should be used in coming to an overall view.