Aftercare | Commencement of Aftercare

Ref:

Please see Annex AC3 for supporting information, and the "Introduction" for Health and Safety considerations and advice on the use of the guidance.

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1. **Has the Restoration Condition Been Completed on the Relevant Part of the Site**
   Before aftercare on the site (or smaller manageable blocks of land as may be agreed between the MPA and operator) can commence, checks need to be made that all of the restoration conditions have been fully discharged. (See Town & Country Planning Act 1990, Schedule 5 Sec. 3 (7) and MPG7 The Reclamation of Mineral Workings (DoE 1996) Para. 58 iv.)

2. **Aftercare on Parts of the Site**
   Where only part of the site has been restored, a judgement has to be made as to whether it is appropriate for formal aftercare to commence or not. The 'rule of thumb' should be that the block of land must be capable of being managed in its own right and not dependent on other pieces of land still to be fully restored. If it is agreed that it would not be appropriate for a block of land to commence formal aftercare, then it should be managed on a 'care and maintenance' basis until aftercare can proceed. Unless otherwise agreed with the MPA, the period of time that land is managed on a 'care and maintenance' basis should not count towards the aftercare period (normally 5 years where agriculture is an after-use)?

3. **Date of Commencement of Aftercare**
   To avoid confusion and misunderstanding, it is important that all parties agree the commencement date for formal aftercare of the site. If individual blocks of land commence aftercare at different stages, commencement dates should be given for each block?

**COMMENTS**
For more detailed information see:

- [MPG7 The Reclamation of Mineral Workings](DoE 1996) (Paragraphs 56-74, 97-102 and Annex A)
- Guidance on Good Practice for the Reclamation of Mineral Workings to Agriculture (DoE 1996) (Pages 28-33, Annex A (MPA's) & Annex B (Operators))

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1. Has the Restoration Condition Been Completed on the Relevant Part of the Site

Aftercare normally begins when the restoration condition(s) have been fully discharged. On sites where progressive restoration is being undertaken, aftercare will commence once the restoration condition(s) has been fully discharged for the relevant part of the site. Most restoration conditions where agriculture is a proposed after-use, will cover aspects such as:

- landform
- replacement of overburden
- replacement of subsoil
- replacement of topsoil
- stonepicking, and
- provision of surface features (e.g. water supplies, ditching, stock-proof fencing or walls). **NB.** For some planning permissions, ‘surface features’ may appear in the aftercare conditions or in the aftercare scheme.

Therefore, before approving the commencement of aftercare, the MPA needs to be satisfied that all the relevant conditions have been satisfactorily completed. It should be borne in mind that depending on the exact nature of the problem, any problems arising from poor restoration, can be difficult to rectify once aftercare has commenced.

2. Aftercare on Parts of the Site

Past experience has shown that one of the most difficult areas for the MPA and operator to agree upon is whether a small area of the site, which has been restored, should commence formal aftercare. Legally, the aftercare should commence once the MPA is satisfied that the restoration condition(s) has been satisfactorily discharged (See the **1990 Act**, Schedule 5, Sec.3 (7)). However, for practical reasons, if the area restored forms only a small part of the site, or lies isolated amongst areas still to be restored, it may be sensible to delay the start of formal aftercare until the rest of the site, or a larger area, has been restored. Examples of practical problems which might arise where only a small or isolated area has been restored could include the following. It may not be possible to:

- enclose the land
- provide access for agricultural machinery or livestock, or
- install the underdrainage for some time, until adjoining areas of land have been restored.

Therefore, Defra would advise that for an area to commence formal aftercare, it should be capable of being managed as an agricultural enclosure on its own. For restored areas, where it is not appropriate for aftercare to commence, the land should be managed on a ‘care and maintenance’ basis. If possible, a cover crop (preferably grass) should be sown and maintained with periodic cutting. The main aim should be to ensure that soil is not left exposed and liable to erosion, by wind or surface water run-off. It is also important that the established crop is managed to avoid excessive growth and a build up of weeds. The period of time that land is managed on a care and maintenance basis should **not** count towards the formal aftercare period. Otherwise, you could have a
situation where different parts of the same agricultural enclosure are at very different stages of aftercare. The period of care and maintenance may range from just a few months to several years. However, it is acceptable to have complete agricultural enclosures within the same site at different stages of aftercare. If this is the case, each field should have a clear reference number on an accurate site plan, which can then be used in subsequent aftercare reports to help avoid confusion.

3. Date of Commencement of Aftercare

To avoid confusion and misunderstanding, it is important that all parties agree the commencement date for formal aftercare of the site. If individual blocks of land commence aftercare at different stages, commencement dates should be given for each block. In such situations, an accurate plan giving clear field reference numbers should ideally be produced, with an accompanying schedule providing the commencement date alongside each field reference number. Such a plan and schedule would also be useful for annual aftercare reports.