

THE HIGHLAND COUNCIL
CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING
APPLICATIONS AND REVIEW COMMITTEE
9 December 2008

Agenda Item	3.10
Report No	65/08

06/00473/FULSU – To continue using the site for fish farming and fish transportation operations at Jubilee Site, Loch Shin

Report by Area Planning and Building Standards Manager

SUMMARY

The application is in detail to continue using a site for fish farming and fish transportation operations at Jubilee Site, Loch Shin. The site lies to the north end of the Loch towards the east bank. The application has taken a considerable time to be presented to Committee due to technical assessment of the proposal by the Council's Fisheries Officer.

The application is reported to Committee as the Kyle of Sutherland District Salmon Fisheries Board has objected to the application.

The application was advertised under s34 of the Act, with the advert expiring on 22nd December 2006.

The Recommendation is to GRANT planning permission.

Ward Number 1 – North West and Central Sutherland

Applicant – Migdale Smolt Ltd

1. PROPOSAL

1.1 The application is in detail for the continued siting of the existing hatchery in the Loch. The site consists of a shore base with several agricultural type sheds to house equipment, and a slipway. There are 30No. 40m diameter black plastic cages tethered together in the Loch. These are spread around a central feeding barge (10m x10m) run from two walkways. The whole caged structure has an area of approximately 6500sqm.

1.2 The proposal is to continue the siting of this structure in the Loch. The **applicants have provided supporting information** with the application which provides an overview of operations on the site:

There are 6 employees based directly at the Loch Shin operation. The total number of Company employees is 15, plus 6 casual, having started with only 2 in 1989. The annual turnover is now £3-4 million. The site produces salmon smolts which

are grown from small fry (approx 3-4 cm) to 1 year old smolts (approx 10-14 cm). The fry come from hatcheries at Kintail and Cairndhu at Loch Fyne. The end-product smolts are shipped from Kinlochbervie to the two main markets of Shetland and the Western Isles.

The existing annual production of 30 tonnes has remained unchanged. The tonnage is measured by the weight gain (from fry to smolt) of the fish on-site, referred to technically as the biomass. The Company acknowledges that any proposals to increase this in the future would require a planning application, in addition to meeting the rigorous controls of the other regulatory bodies including SEPA, Fisheries Research Service and SNH. All operations are subject to meeting the Industry Standard ISO 14001 Audit which is highly onerous. Water at the Loch Shin site is tested annually by the Institute of Aquaculture at Stirling University. In addition, the Company monitor natural fish stocks and birdlife.

Originally the Shin site contained 36 cages. This has, over time and with improvements in cage material and design, been reduced to 30 in number with a consequent reduction in the overall footprint, approximately a third smaller than that originally approved. The cage groups are moved locally on a regular basis to minimise the impact on their location. This is necessary due to their being in freshwater, which has no tidal influence.

The site has been operation since 1996 currently producing 1.3 million smolts per year and employs 6 people.

2. PLANNING HISTORY

- 2.1 SU/1995/275 – Smolt rearing unit to produce 30 tonnes of salmon smolts (or arctic char) with shore base with storage / staff building and facilities at Jubilee Plantation, Corriekinloch, Loch Shin (Amended site for cage installation). Approved 14 November 1996.

3. PUBLIC PARTICIPATION

- 3.1 Three letters of representation have been received and relate to the following matters:

- Level of proposed increase in production
- Increased number of cages
- Increase in overall area of fish farm
- Disease and pollution
- Containment and escape of fish
- Narrow area of loch, present size of boats will restrict movement of fishing boats
- Impact on Overscaig Hotel, local angling club and riparian interests
- Increased traffic on A838
- Potential impact of proposal on River Shin which shares common estuary catchment with River Oykel SAC

- Impact of proposal on employment in wild fisheries in area
- Increased nutrification of loch

3.2 The letters of representation are available in the Area Office and will be available at the Committee meeting. The names of those making representation are listed at the end of this report.

4. CONSULTATIONS

4.1 **Lairg Community Council** – No objections

4.2 **Internal Consultees**

Aquaculture Officer - It is clear that the Migdale Smolt operations on Loch Shin offer a key source of employment in an area where in general employment opportunities are limited. The continued employment of 6 staff at the site as highlighted by the applicant, as well as the use of the site as a base for the operation of a specialist fish transport company, are to be welcomed.

I note that the objections received from both the Kyle of Sutherland District Salmon Fishery Board and the Association of District Salmon Fishery Boards mention a moratorium on fish farm developments in catchments running onto the North and East Coasts of Scotland. As far as I am able to ascertain the moratorium, as repeated in the now published SPP22 (Planning for Fish Farming), relates to fish farming in the Marine Environment rather than within the freshwater catchments. There is not, therefore, a Scottish Government policy provision against fresh water fish farming in north and east flowing catchments.

Issues raised in relation to escapes are probably made with some justification although they appear to relate to general principles rather than being evidenced in relation to the ongoing operations of the site. There is broad acceptance within both the salmon farming industry and within the sport fishing community that fish escapes from farm sites represent a significant risk for wild salmonid stocks. In specific relation to cage farming in fresh water there is relatively recent research which indicates that sexually mature male salmon parr escaping from freshwater fish farms can fertilise female fish returning to a freshwater catchment to spawn.

I note that the applicant addresses the issue of escapes in his response to the objections, in which the industry Code of Good Practice (CoGP) is highlighted. The CoGP is a welcome step forward and does set out some guidance on fish containment and the prevention of escapes. However, despite the CoGP, fish do still escape in considerable numbers from Scottish fish farms. These escapes may occur as a result of accidents during boat handling, net handling operations or storm events. Also of particular relevance to smolt rearing operations, there may be a continual small scale loss of fish through small holes in containment nets. The containment elements of the CoGP are backed up by mandatory reporting of escapes and in the near future fish health inspectors from the FRS marine labs will be given the powers to inspect cage and net infrastructure on farms under the Aquaculture and Fisheries (Scotland) Act 2007. This should help to ensure that the

highest standards of containment are maintained throughout the Scottish aquaculture industry. It cannot, however, guarantee that escapes will not occur.

A number of the representations highlight a risk of the parasite *Gyrodactylus salaris* being introduced as a result of fish farming operations. Whilst it would undoubtedly be disastrous to native salmon populations if *G. salaris* entered the Scottish freshwater environment, movements of live fish between Norway and Scotland are heavily controlled and are licensed by Scottish Ministers through Fisheries Research Services. Although the importation of fish from Norway is a possible route for *G. Salaris* to be introduced from Norway to Scotland other routes include anglers using fishing equipment in an infected area and not properly disinfecting it prior to use in a non infected area. It is for this reason that information posters are displayed at ports and airports. In my view, at this stage, it would be unreasonable to suggest that consent for the site should not be renewed due to a possible threat of *G. Salaris* posed by the ongoing operation of the site, particularly when there are other possible vectors for this parasite which cannot be eliminated.

A number of the representations note navigational impacts as a result of the fish farm infrastructure on the loch. There also seems to be some suggestion that cages have been moved around in order to reduce fish farm impacts on the bed of the loch. These issues are not unique to the freshwater environment and it is fair to say that cage movements and navigational access are amongst the more common complaints regarding marine fish farms. Historically as you will be aware marine fish farms have been consented by the Crown Estate. In many cases the cages could be placed anywhere within a large lease area and could be moved about. I am not party to the original planning consent for this site but I would have imagined that the impacts on small boat navigation would have been considered in determining the earlier application. Presumably the previous permission on the site would have been for a specific cage configuration in a specific area. Has the applicant been in breach of any existing conditions in moving the cages around on the loch?

Not being aware of the monitoring requirements of the original permission I am not in a position to comment on this issue.

Having considered the information provided I would suggest that the planning consent for this site should be renewed, however my feeling is that the permission should be time limited for a further ten years. There should also be conditions to ensure that navigational access around the cages is maintained, so that the operation of angling boats is not restricted. In addition, I would suggest that the cage position as set out in the application be accepted as the position of the site and there should be an expectation that the cages should remain in this position and not be moved around. This would bring the site in line with marine fish farm sites that will in due course be subject to review by Scottish Government.

External Consultees

SEPA – No objections

SNH – No objections

Kyle of Sutherland District Salmon Fishery Board – Object, highlighting the following main issues:

- Presumption against commercial salmon rearing near or within east coast salmon river systems.
- River Shin shares common estuary with the River Oykel Special Area of Conservation (SAC) – the Council has a duty not to permit any activity that could have a negative impact on the SAC.
- Importance of the wild fishery in the Kyle of Sutherland to the local economy.
- Problems around smolt production units in still water which have a negative impact on wild fishery.
- Large numbers of caged fish carries the risk of escapes which will impact on the wild fishery (negative genetic material intergression into the wild stock).
- Increased nutrification of the loch water.

5. POLICY

5.1 The following policies are relevant to the assessment of the proposal

Highland Structure Plan:

- G2 Design for Sustainability
- FA6 Fish farming developments
- FA8 Freshwater fish farming

Golspie and Lairg Local Plan

The site is not allocated for any specific purpose, with applications being assessed on their individual merits.

Material to the consideration of the application is the **Pre-Deposit Draft Sutherland Local Plan** policies 3, 4.1.

5.2 The proposal also requires to be assessed against the following relevant Scottish Planning Policies (SPP); National Planning Policy Guidelines (NPPG); and Planning Advice Notes (PAN).

- Scottish Planning Policy (October 2008)
- SPP 22: Planning for Fish Farming

6. PLANNING APPRAISAL

6.1 **Determining issues** – Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

- 6.2 The proposal requires to be assessed against the appropriate policies of the Development Plan, supplementary guidance and National Planning Policy and Guidelines as referred to in the Policy section. In particular, the proposal requires detailed assessment of the following fundamental issues:
- whether the principle of development is appropriate in terms of policy
 - whether the layout of development is appropriate
 - the impact on the amenity of the area and residents
 - other material issues raised by the objectors
- 6.3 The proposal seeks to continue using the site for fish farming and fish transportation operations. There are 30 No. 40m diameter black plastic cages tethered together in the Loch which are spread around a central feeding barge run from two walkways. The whole caged structure has an area of approximately 6500sqm. The site has operated since the mid 1990s and provides employment in the economically fragile area of Lairg.
- 6.4 Members will note that the original planning permission was granted for a time limited period (10 years) in 1996. The current application is to update this original permission and it allows the Planning Authority to assess the working of the site to date and consider whether a further permission is acceptable. Furthermore, it allows the re-consideration and adjustment of the original planning conditions.
- 6.5 The application has to be assessed against the planning policies set out at section 5 above. The principle of using the site for fish farming has already been established. However, the current application offers an opportunity to re-assess this.
- 6.6 No technical difficulties have been highlighted by statutory consultees with the exception of the Kyle of Sutherland District Salmon Fishery Board (KOSDSFB). Their comments are set out at section 4.2 above.
- 6.7 The Council's Aquaculture Officer has been consulted on the application and his detailed response is set out at section 4.2 above. This assessment indicates that the proposal is broadly acceptable, subject to various conditions including:
- Time limiting the permission to 10 years only
 - Navigation of boats around the cages being unrestricted
 - Cage position should be maintained and not moved around the loch (bringing the site into line with practice at marine fish farms)
- 6.8 The Aquaculture Officer has assessed the comments made by the KOSDSFB and other parties making. In summary the **representations** relate to the following broad issues:
- Level of proposed increase in production – The existing production of 30 tonnes has remained unchanged. The applicant has acknowledged that any proposals to increase this in the future would require planning permission.

- Increased number of cages / Increase in overall area of fish farm – The applicant has confirmed that the fish were contained in 36 cages. Over time and with improvements in cage material and design, this has been reduced to 30 with a consequent reduction in the overall footprint, approximately a third smaller than that originally approved.
- Disease – this is a matter for the Fisheries Research Service and is not a material planning consideration.
- Pollution – Water quality and the prevention of pollution is a matter for SEPA to assess. SEPA have not objected to the planning application.
- Containment and escape of fish – A containment net is deployed if any escape is detected.
- Narrow area of loch, present size of boats will restrict movement of fishing boats – The movement and positioning of both boats and the cages on the Loch can be controlled by conditions
- Impact on Overscaig Hotel, local angling club and riparian interests - The impact of one business on another with respect to employment and commercial competition is not a material planning consideration.
- Increased traffic on A838 – TEC Services have indicated that there are no technical difficulties with the proposal.
- Potential impact of proposal on River Shin which shares common estuary catchment with River Oykel SAC – SNH have indicated that there are no technical difficulties with the proposal and that the site is not in close proximity to any designated site.
- Impact of proposal on employment in wild fisheries in area – The impact of one business on another with respect to employment and commercial competition is not a material planning consideration.
- Increased nutrification of loch - SNH have indicated that there are no technical difficulties with the proposal and that the site is not in close proximity to any designated site. Furthermore, SEPA have advised that they have no objection to the continued use of the site. The site is currently subject to separate regulation by SEPA under the Controlled Activities Regulations.

6.9 I consider that the proposal is acceptable and that it accords with Structure Plan policies G2, FA6 and FA8. The issues raised by third parties in representation are matters which can be dealt with by other competent authorities such as SEPA, or are matters which can be controlled by planning conditions.

7. CONCLUSION

7.1 The proposal is for the continued use of the site for a fish farm and associated transportation operations. The proposal is considered to accord with the Development Plan policies for the area. Whilst representations have been received, I am satisfied that following assessment of the proposal by the Council's Aquaculture Officer, the representations can be addressed by the use of conditions, or are matters that can be controlled by other competent authorities.

RECOMMENDATION

Grant planning permission subject to conditions:

- 1 Except as otherwise provided by the terms of this permission, the developer shall construct and operate the development in accordance with the plans and supporting information submitted with the application and docketed as relative hereto with no deviation therefrom unless otherwise approved in writing by the Planning Authority.

In order to clarify the terms of the permission hereby granted and to ensure that the development is implemented as approved.

- 2 Permission, in so far as it relates to the floating cage installation for rearing of salmon smolt within the area indicated and defined on plan 1 docketed to this permission, is granted for a period of ten years only, at the expiration of which all cages, moorings and any ancillary material within the site shall have been removed from the site, unless application is made for renewal.
- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, and the Town and Country Planning (Use Classes) (Scotland) Order 1997 and any subsequent amendments thereof, permission is granted for the production of salmon smolts only, held within a maximum of 30No. 40m diameter cages, or as may otherwise be agreed, in writing, between the Planning Authority, the Scottish Environment Protection Agency, and the applicants or their agents.
- 4 No cages shall be installed at the site hereby approved until such time as Consent to Discharge has been granted by the Scottish Environment Protection Agency.
- 5 Prior to installation of fish cages at the site, the applicants shall enter into a formal and ongoing monitoring arrangement to be approved, in writing, by the Planning Authority, in consultation with the Scottish Environment Protection Agency, and any other Agency deemed by the Planning Authority to have a relevant interest. For the avoidance of doubt, the monitoring arrangement shall provide for monitoring of:
 - i. Ongoing water quality;
 - ii. Native fish stocks within the loch system, including structural changes within the population of wild fish; and
 - iii. The impact on the bird population and, in particular, Black Throated and Red Throated Divers;

and the base-line for which has been provided by the Environmental Assessment submitted in support of the application (SU/1995/275).

Furthermore, the monitoring arrangement shall include for monitoring at the application site and at any other location within the loch system deemed necessary by the Planning Authority, with a view to establishing information to:

- i. confirm the timing of rotation of cages between any approved sites;

- ii. allow for a full and proper assessment of the wild fish and bird populations described above; and
- iii. assess the impact of expansion of Fish Farm activity within the Loch Shin catchment.

6 Operations at the site shall have regard to the requirement of any other regulatory and statutory authority having an interest in the operations, and the sites shall be operated in compliance with these requirements at all times. For the avoidance of doubt, in the event that any monitoring arrangement or management agreement referred to in conditions above show, in the opinion of any party to the monitoring arrangement or management agreement, sufficient evidence of a marked deterioration in water quality in the loch, or an outbreak of disease at the Fish Farm, the applicants shall modify their operations to the satisfaction of any regulating authorities involved or the parties to the monitoring arrangement or management agreement, within the required timescale or a reasonable timescale set by the Planning Authority.

Where necessary, operations shall cease, with stock removed or destroyed to allow an agreed period of recovery of the water system, to the satisfaction of the relevant regulatory authorities.

7 All reasonable and practical efforts shall be made to: contain any outbreak of disease at the site; treat it quickly and effectively in line with good practice; and where necessary, comply with any obligatory action which may be required within the terms of Registration of the Fish Farm with the Fisheries Research Service.

8 The feed to be used at the Fish Farm site shall be a low phosphate feed, the phosphorous content of which shall not exceed 1%, or as may otherwise be agreed in writing by the Planning Authority.

9 The cages shall be moored as close inshore as is reasonably practicable and shall allow for a rotation of siting within the application site boundaries.

10 All nets, mooring buoys and other equipment shall be a muted colour, either dark grey, brown or black or near equivalent to be approved, in writing, with the Planning Authority prior to installation.

11 All drainage arrangements shall be provided to the satisfaction of the Planning Authority in consultation with the Scottish Environment Protection Agency.

12 The applicants shall take all reasonable steps to maintain the site and the shores of the loch in the vicinity of the cage installations free from litter deriving from the site, and shall provide for routine monitoring and collection of any such litter to the satisfaction of the Environmental Health Authority.

13 There shall be no external storage of materials or other Fish Farm related gear outwith the building and area of hardstanding to be created, and on the foreshore of the loch (with the exception of boats required for the day-to-day husbandry of fish stocks) nor on adjacent land between the foreshore and track. In the event of a requirement for longer term storage of equipment in the open, then suitable steps

shall be taken to provide appropriate storage facilities and screening, in consultation with, and to the satisfaction of, the Planning Authority.

- 14 In the event of transfer of fish by helicopter, all reasonable steps shall be taken to minimise nuisance to residents around the loch and to minimise disturbance to wildlife during the breeding season. For the avoidance of doubt, there shall be no use of helicopters on a Sunday, and outwith normally accepted social hours, being between the hours of 8.00pm to 8.00am daily, other than in exceptional circumstances and subject to the prior written approval of the Planning Authority.
- 15 The disposal of any solid or liquid wastes arising from the site, including any dead or diseased smolts, shall be undertaken in consultation with, and to the satisfaction of Scottish Environment Protection Agency and the Environmental Health Authority.
- 16 Any chemicals or fuels to be stored at the site shall comply with the requirements of Scottish Environment Protection Agency at all times.
- 17 Navigational access around the cages shall be maintained at all times, so that the operation of angling boats is not restricted.

Reasons: To allow the Planning Authority to retain ongoing and effective control over Fish Farm operations at the site and the Loch Shin and river catchment, and in the interests of amenity.

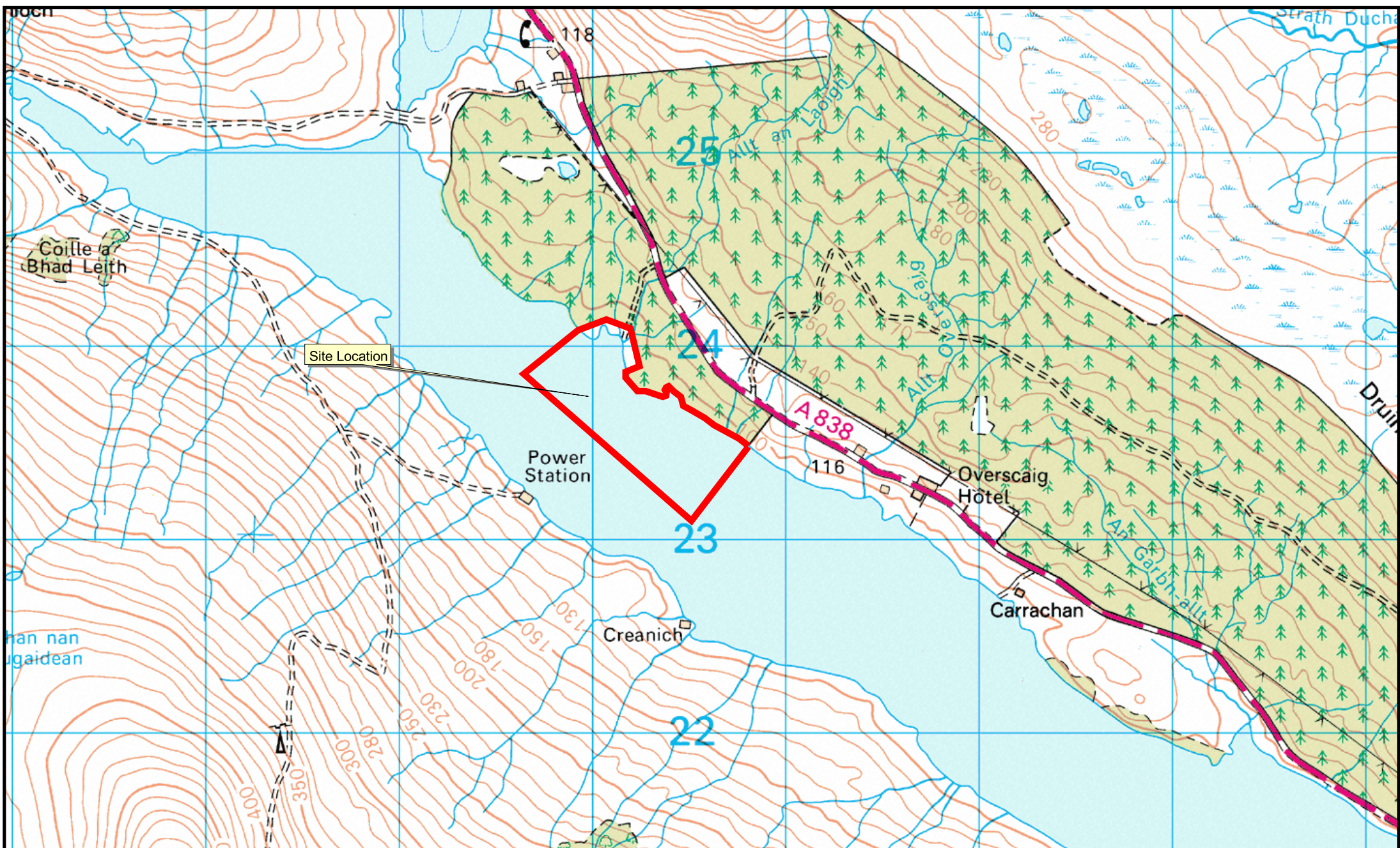
Signature: Allan J Todd

Designation: Area Planning & Building Standards Manager

Author: Bob Robertson 01408 635371

Background Papers: As referred to in the report above and case file reference number 06/00473/FULSU

Date: 25 November 2008



06/00473/FULSU
 Continuation of use of the site for fish farming and fish transportation operations at Jubilee Site, Loch Shin, Lairg.

SUPPLIED BY THE HIGHLAND COUNCIL

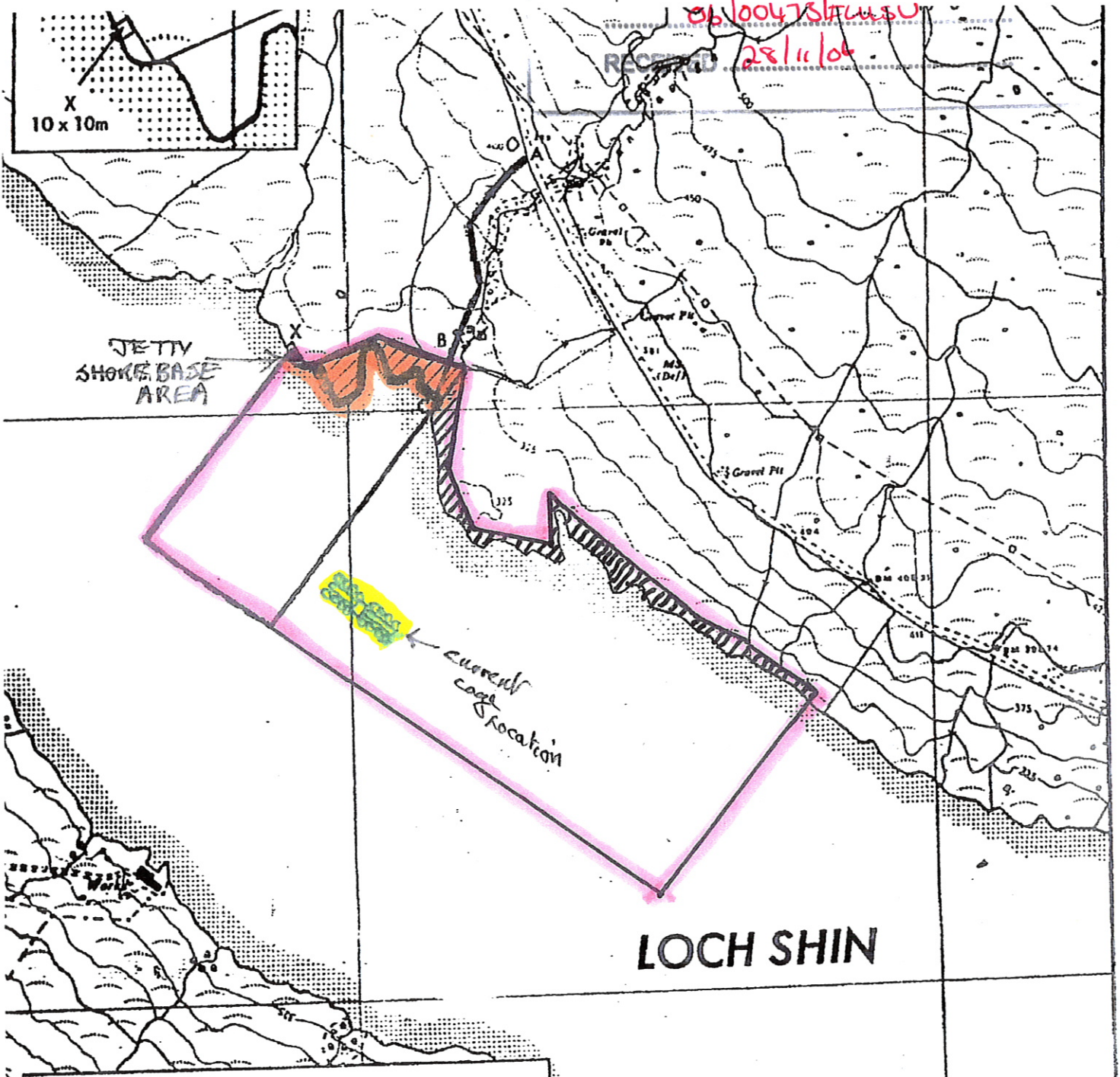
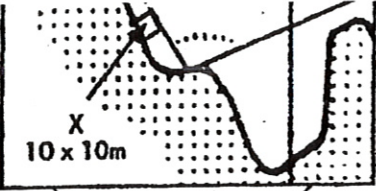
Migdale Smolts Ltd
 Dornoch Road
 Bonar Bridge
 Sutherland



Date: 19 November 2008

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JETTY SHORE BASE AREA

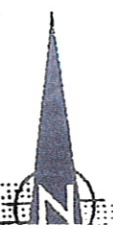
LOCH SHIN

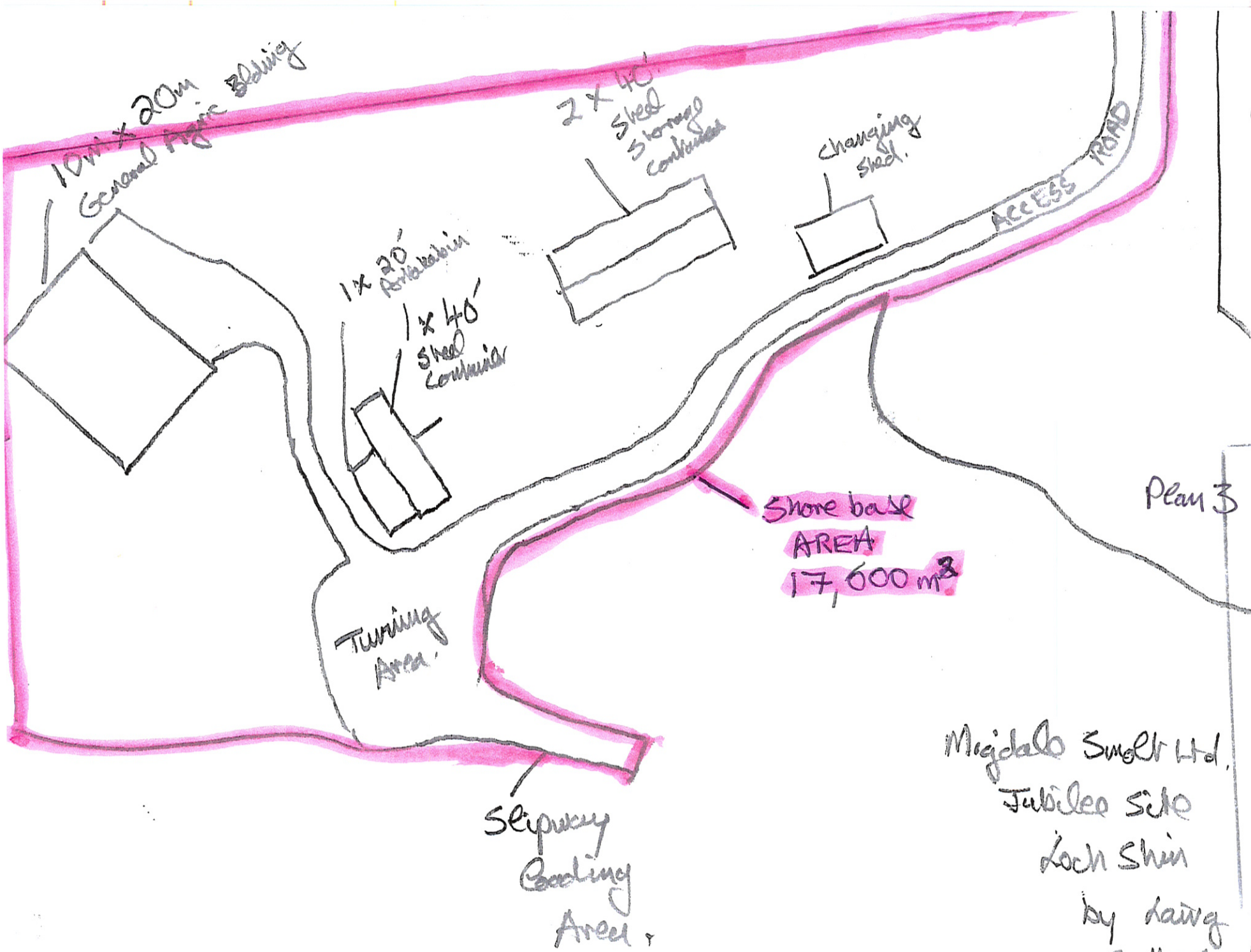
LAND AT LOCH SHIN

Scale 1:10,000

Migdale Smolck hvd.
Jubilee Sthd
Loch Shin

Plan 2



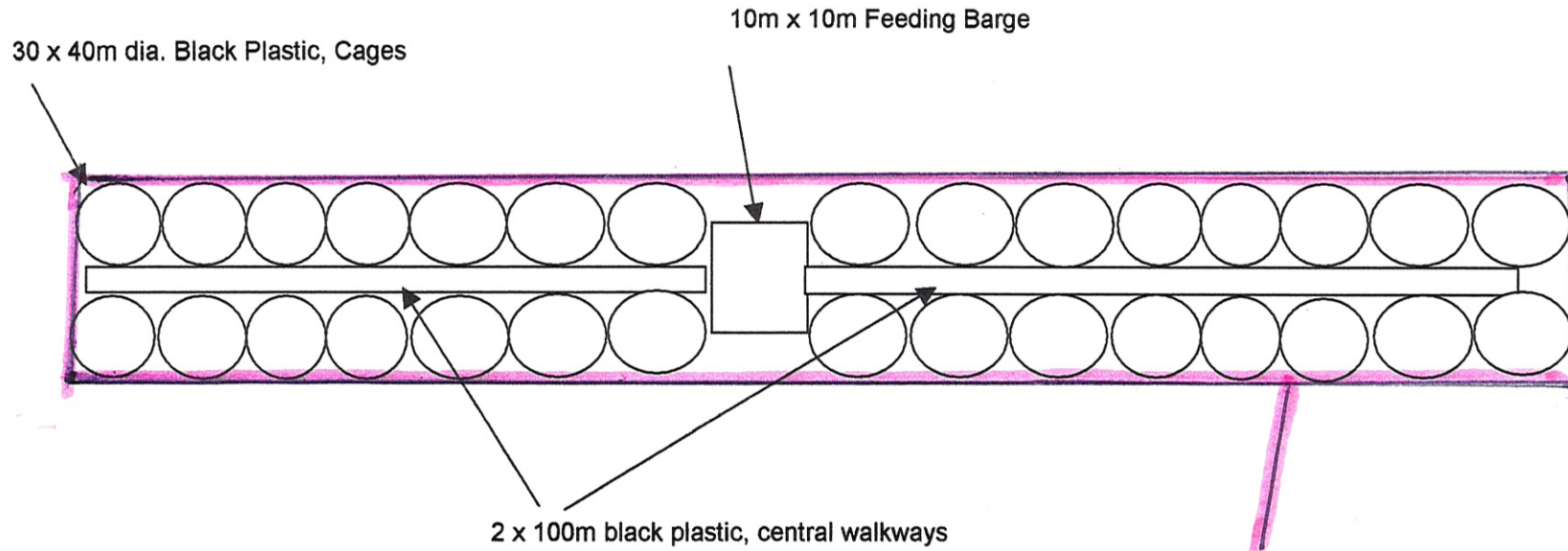


Plan 3

Migdale Smelt Ltd.
Jubilee site
Loch Shin
by railway
Summerland

THE FORTH AND GERRARD
PLAN 3 OF 4
06/00/L73/FUSSO
RECEIVED 28/11/02

Plan 4



Total Cage Area
= 6,510 m²

THE HIGHLAND COUNCIL
PLAN 4 OF 4
RECEIVED 28/11/06
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