

Agenda item	6.1
Report no	PLN/003/20

THE HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 21 January 2020

Report Title: Supplementary Report:
19/03093/FUL: Organic Sea Harvest
Land 1520M NE Of Bridgend Cottage, Flodigarry, Portree

Report By: Acting Head of Development Management

1. Purpose/Executive Summary

1.1 **Description:** New Marine Fish Farm for Atlantic Salmon consisting of 12 x 120m circumference circular cages in an 80m mooring grid with associated feed barge.

1.2 **Ward:** 10 - Eilean A' Cheò

Development category: Local

Reasons Referred to Committee:

- Objection form Skye District Salmon Fishery Board as statutory consultee
- Number of third party objections
- Member interest

Deferral at 26 November 2019 NPAC meeting to allow for a discretionary pre-determination hearing to be held.

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

2. Recommendation

2.1 Members are asked to agree the recommendation to **GRANT** planning permission as set out in section 8 of the report.

3. BACKGROUND

3.1 Members will recall that this application was reported to the North Planning Applications Committee meeting on 26 November 2019 with a recommendation to grant planning permission subject to conditions. At the outset of proceedings, Members were informed that a request for a Discretionary Pre-determination Hearing to be held had been received from a third-party objector. After discussion, Members agreed to defer determination of the application to first allow a Hearing to take place and specifically sought the following information as part of that process;

- Objectors to confirm on what basis the area is of crucial importance/sensitivity;
- Applicant to provide detail and examples of how they have interacted with statutory consultees and have taken on board feedback through the application process;
- Objector to produce evidence of how fish farms affect tourism (if available);
- Applicant to produce evidence of how fish farming benefits the economy (particularly the local economy);
- Objectors to evidence their concerns about noise, smell and light from the development and Applicant to evidence what how measures can address these issues.

In addition, clarification of the position of the Community Council, Marine Scotland Science, Skye District Salmon Fishery Board, RSPB and SNH was requested in order that this could be reported back to Committee by the case officer.

Members also sought an update from the case officer regarding the round table discussion on fish farming being led by the Scottish Government.

3.2 This report should be read alongside the Committee report and plans circulated with the agenda for the 26th November 2019 NPAC meeting.

4. UPDATE

4.1 Additional correspondence has been received since the 26th November meeting:

- 1) an email from the agent addressing some issues raised during the application process including the rewording of proposed condition 1;
- 2) a letter from the Staffin Community Trust clarifying the position in respect of the Staffin pier modernisation project and its potential use by the applicant and other parties.
- 3) a joint letter from the Mallaig and North-West Fishermen's Association, Scottish White Fish Producers Association and the Scottish Fishermen Federation

- 4.2 The issue of the recommended wording of condition 1 is dealt with at paragraph 5.1 below. In terms of new information, the agent's email has confirmed the following:
- an application for a CAR licence has now been submitted to SEPA;
 - the proposed surface equipment will utilise a dark matt colour scheme in common with other proposals;
 - contact was made with fishing organisations at the pre-application stage and advice provided that there was unlikely to be a significant fishing interest in this site; and
 - the tourism survey results quoted by third parties is the same survey referenced in the applicant's submission. It was carried out by the Scottish Aquaculture Research Forum and, at the time of publication, was considered by Scottish Government to demonstrate a relatively low level of impact of the Aquaculture industry on tourism
- 4.3 The agent has also made several other observations regarding information within the officer recommendation report;
- Concern about the reference to a large number of objections referred to in the report when there were multiple submissions
 - Concern that a number of observations made by third parties were in some cases inaccurate and misleading
 - Some aspects raised by the Skye District Fisheries Board are erroneous and not based on the most up to date Environmental Statement and Draft Environmental Management Plan submitted by the applicant
 - The RSPB is a non-governmental organisation and is not a statutory consultee. The submission of information regarding raptors was based on advice both from SNH and RSPB
 - The applicant advises that it is intended to harvest fish on site to food grade containers and then transfer to tanker trailers as development matures with fish transported in ice water to landing points
 - Note SNH's comments regarding Black Guillemot but consider these concerns to be overstated
- 4.4 Staffin Community Trust have submitted a letter describing the £3m Staffin Slipway redevelopment and improvement plan.
- The pier is currently owned by The Highland Council and the adjoining land by the Scottish Government.
- 4.5 Although the Trust makes a connection between this proposal and the prospects for success of the slipway project, this is on the basis that the applicant has indicated that it will pay a community benefit levy for landing fish at the Slipway. Community benefit is not a material planning consideration and cannot be taken into account in the determination of this application.
- 4.6 The correspondence from the fishermen's associations confirms that a meeting between them and the applicant has now taken place and that this "has cleared the air". However they remain concerned generally about the loss of fishing grounds and shelter points to fin-fish farms and the consequent financial and environmental impacts upon their business.

5. ASSESSMENT

- 5.1 In terms of the wording of condition 1, it is considered that the trigger point for the submission of a revised ADD plan should be "*No deployment or use of any ADD equipment shall take place until...*" rather than the "*No commencement of development...*" wording suggested in the report. This is the same wording used on the previous permissions granted to this operator at the sites further south and will allow the farm to operate without the use of ADDs if the operator wishes.
- 5.2 The comments from the agent raise several points of detail. However, none are considered to have a level of significance that would suggest a change to the recommendation and conditions contained in the main officer recommendation report. The applicants may wish to raise these points of detail as part of their presentation at the Hearing.
- 5.3 A very important point of planning principle applies in respect of the letter from the Trust. Payment of community benefit is not a material planning consideration in the determination of a planning application. So, notwithstanding any other arguments concerning the likelihood and timescales of the slipway project being completed and the levy from the fish farm operators being triggered, no weight should be given to these matters in the determination of this fish farm application.
- 5.4 In respect of the general concerns of the fishery associations, reference is made to paragraph 10.67 of the main officer recommendation report. The decision of the Crown Estates to offer an area of seabed for lease to aquaculture is the critical decision in this regard, rather than any planning decision subsequently taken.
- 5.5 At the time of writing, there have been no indications from any of the statutory consultees that they wish to augment or clarify their original submissions.
- 5.6 Equally, the case officer is due to meet with Scottish Government officials during the week preceding the Hearing and therefore will be able to update Members on the current state of play in respect of the reform of the aquaculture regulatory structures as part of the Hearing presentation.

6. CONCLUSION

- 6.1 No matters have been raised since the original report that require any change to the recommendation to grant planning permission.

7. IMPLICATIONS

- 7.1 Resource – Not applicable
- 7.2 Legal – Not applicable
- 7.3 Community (Equality, Poverty and Rural) – Not applicable
- 7.4 Climate Change/Carbon Clever – Not applicable
- 7.5 Risk – Not applicable

7.6 Gaelic – Not applicable

8. RECOMMENDATION

Action required before decision issued	N
Notification to Scottish Ministers	N
Notification to Historic Scotland	N
Conclusion of Section 75 Agreement	N
Revocation of previous permission	N

It is recommended that planning permission be GRANTED subject to conditions as per the previous report, and with the following rewording of condition 1:

Condition 1

1. No deployment or use of any ADD equipment shall take place until a revised ADD use plan, based upon the plan accompanying this application as part of the Environmental Statement, has been submitted to and approved in writing by the planning authority. The revised plan shall address the issues raised by SNH in their consultation response, namely;

- confirmation that ‘fish panic’ triggering will work at low stocking density
- confirmation of the mode of use (power level) of the transducers
- confirmation that hydrophone sensing of cetaceans will be effective

Thereafter the fish farm shall not be operated other than in strict accordance with the approved ADD plan.

Reason: In recognition of the legal responsibilities of the planning authority in respect of the Inner Hebrides and the Minches Special Area of Conservation selected for harbour porpoise.

Designation:	Acting Head of Development Management
Author:	Mark Harvey
Background Papers:	Documents referred to in report and in case file.
Relevant Plans:	Plan 1 - Location Plan
	Plan 2 - Site Layout Plan
	Plan 3 - Cage elevations – snorkel tube
	Plan 4 - Cage elevations – top net
	Plan 5 - Feed barge elevations
	Plan 6 - Feed barge deck plans
	Plan 7 - Feed barge sections