

Agenda Item	6.4
Report No	PLN/006/21

HIGHLAND COUNCIL

Committee: North Planning Applications Committee
Date: 26 January 2021
Report Title: 20/01745/S42: Mowi Scotland Ltd
Upper Loch Torridon, Shieldaig, Strathcarron
Report By: Acting Head of Development Management

Purpose/Executive Summary

Description: Section 42 to amend condition 1 of planning permission 11/04695/FUL at Torridon Salmon Farm
Ward: 05 - Wester Ross, Strathpeffer And Lochalsh
Development category: Local

Reason referred to Committee: Discretion of Area Planning Manager in light of Community Council representations

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.

Recommendation

Members are asked to agree the recommendation to Grant as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 This is an application made under s.42 of the Planning Act to allow the continued operation of a marine fish farm without compliance with condition 1 of the planning permission it is currently operating under - 11/04695/FUL.

Condition 1 of 11/04695/FUL states;

“...Permission for this change of cage configuration and layout is granted for a limited period to 16th March 2021.

Reason: to retain consistency with the temporary consent which was issued for this site on 17th March 2011 (reference 10/03954/FUL) to allow the relationships between on-farm lice levels and infection pressures for the local wild salmon and sea trout populations to become better understood prior to consideration of a longer-term consent for the expanded production facility...”

- 1.2 The farm in question consists of 10 x 120m circumference pens arranged in a 2 x 5 formation. There is also a 200 tonne C-cap feed-barge on site and the farm is serviced from a shore base at Shieldaig. The current SEPA CAR license is for a maximum biomass of 2500 tonnes. The application does not seek to change any physical or general operational aspects of the current farm.

- 1.3 This proposal seeks a permanent permission. It suggests replacing the current time limit condition – imposed to allow further knowledge of the impact of the farm on local wild salmonid populations to build up over its 10 year lifetime – with a condition requiring the adoption of an Environmental Management Plan that would require the farm to operate under adaptive management principles.

- 1.4 Pre-Application Consultation: no formal pre-application advice provided. Officers clarified that the application would not be regarded as EIA development.

- 1.5 Supporting Information:

- A draft Environmental Management Plan
- Farm Management Statement
- Torridon Sea Lice Management and Efficacy Statement
- Torridon Interaction with Wild Salmonids Report

- 1.6 Variations: The following documents relating to noise were submitted during the course of the application;

- Noise Impact Assessment Report – September 2020 – carried out by Arcus on behalf of the applicants
- Noise Action Plan summary
- Further email dated 03.12.2020 related to the above

- 1.7 It should be noted that as a result of the provisions of The Coronavirus (Scotland) Act 2020 and SSI 2020/254 the current planning permission will not expire on 17th March 2011 but will in fact remain extant until 30 September 2021.

2. SITE DESCRIPTION

- 2.1 The farm is situated at the western end of Upper Loch Torridon close to the relatively narrow connection with Loch Shieldaig. It is visible, at distance, from both the A.896 running along the southern side of the loch and from the 'Alligin' settlements on the northern shore. The nearest dwellings to the proposal are in these settlements and are some 1500m from the centre of the farm.
- 2.2 There are three other marine fish farms in the Torridon loch system – Aird in Loch Shieldaig, Kenmore and Sgeir Dughall in Loch Torridon. These are all operated by the Scottish Salmon Company and their relevant details have been included in the planning history below.
- 2.3 Aird and Sgeir Dughall have both been subject to recent appeal decisions in which EMP conditions were imposed by the Reporter. The Sgeir Dughall appeal related to a s.42 application to remove a time limit condition - similar to the circumstances of this application.

3. PLANNING HISTORY

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|-----|------------|---|--------------------|
| 3.1 | 21.11.2008 | 08/00581/FULRC: Modification of finfish farm site (expansion) | Permission Granted |
| 3.2 | 17.03.2011 | 10/03954/FUL: Expansion of fish farm - 128% increase in moorings area and spacing out of existing fish pens. | Permission Granted |
| 3.3 | 29.02.2012 | 11/04695/FUL: Proposed expansion of cage area and reduction of moorings area at salmon farm at Camas an Leim, Loch Torridon | Permission Granted |

Sgeir Dughall site:

- | | | | |
|-----|------------|--|---------|
| 3.4 | 05.08.2014 | 14/01868/S42: Section 42 application for non-compliance with condition 5 of permission 11/04228/FUL - ten year time limit - Marine fish farm - Atlantic salmon | Refused |
| 3.5 | 17.02.2017 | 14/00042/REFRC: Appeal in respect of above refusal | Allowed |

Aird site:

- | | | | |
|-----|------------|--|---------|
| 3.6 | 31.07.2019 | 19/01413/FUL: Marine Fish Farm - Atlantic salmon: new site consisting of 4 x 100m circumference circular cages | Refused |
| 3.7 | 26.10.2020 | 19/00054/REFRC: Appeal in respect of above refusal | Allowed |

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour

Date Advertised: 22 May 2020

Representation deadline: 30 June 2020

Timeous representations: 5 from 3 households (including 3 from community council though not as a statutory consultee)

Late representations: 4 from 4 households (including 1 from the CC)

4.2 Material considerations raised are summarised as follows:

- a) Pulsing low frequency noise from the farm is harmful to amenity over a wide area
- b) Noise problems have been reported to Council previously. Appears to be engine noise from machinery running almost all day
- c) Farm repaired exhaust last year but this did not resolve the issue
- d) A further time limit should be imposed as the Environmental Management Plan is profoundly inadequate – suggest 3-5 years with clear research metrics and minimum standards set
- e) Mowi has not used last 10 years to research the farm's impact on wild fish and prove acceptable effect.
- f) No evidence that the Skye and Wester Ross Fisheries Trust will work in partnership with Mowi on the Environmental Management Plan (EMP) research and monitoring
- g) EMP only addresses sea lice issues and does not include connectivity with wild fish information. It should also address Seabed pollution, water pollution, escapees, fish feed sustainability, predator controls in respect of seals and fish mortality.
- h) EMP features inadequate feedback mechanisms to ensure unacceptable impacts cease
- i) A sustainability plan should be required
- j) The farm plays an important role in sustaining local services and local employment that is not only reliant on tourism
- k) Aquaculture is one of the major employers in this rural community

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

5.1 Environmental Health:

- 17 June 2020 – recommend a condition requiring a Noise Impact Assessment be carried out

- 9 October 2020 – (following submission of Noise Impact Assessment Report) – Objection until measures in report put in place and satisfactory compliance monitoring has been completed – no objection if this is secured by condition

5.2 **Development Plans:** No policy concerns other than compliance with Policy 50 in respect of impacts on wild fish

5.3 **Historic Environment Team:** No specific comment

5.4 **Marine Scotland Science:**

- Confirm improved sea-lice performance since 2011-2015 period of high adult female numbers
- Similar pattern seen in neighbouring sites
- Synchronous operations within the Torridon farm management area (FMA), better sea-lice monitoring, earlier treatments, greater use of cleaner fish, hydrolicers and thermolicers have all contributed
- No escapes reported or suspected
- Submitted EMP includes all the criteria recommended by Marine Scotland
- The Loch Shildaig field station data set shows a notable biennial structure corresponding to local fish farm production cycles and sea lice numbers
- “...Current, ongoing analysis of the data collected at the field station suggests that sea lice produced by the local farms has a significant impact on the local sea trout population in the river Shildaig. Therefore, any future increase of biomass in the area, with no reduction in sea lice numbers per fish, will likely impact on the local sea trout population.

As the proposal is for the removal of an existing planning condition, and there will be no increase in maximum stocked biomass, it is unlikely to increase any potential risks to wild salmonids other than those already manifest by the original scheme. However, this assertion assumes adequate control of sea lice in the proposed development...”

- Require further information on cleaner fish health and welfare
- Require further information on practical treatment times on site for bath chemotherapeutants

5.5 **Marine Scotland - Licensing Operations Team (MS-LOT):** No comment

5.6 **SEPA:** Reminder that the EQS allowances for Emamectin Benzoate are under review

5.7 **NatureScot (SNH):** No formal comment

5.8 **Historic Environment Scotland:** No comments

5.9 **Transport Scotland:** Does not advise against the granting of permission

5.10 **Scottish Water:** No specific comment

5.11 **Wester Ross Area Salmon Fishery Board: (WRASFB)**

- In declining order of preference WRASFB positions is;
 - Application should be refused as adverse interactions with wild fish are unlikely to be adequately managed by an EMP
 - A 5-year permission should be granted to give Mowi the opportunity to relocate the farm to a more suitable location with operations controlled with an EMP for the 5 years
 - Application approved with an EMP
- Site is positioned close to migratory routes for salmon from the rivers Shieldaig, Balgy and Torridon. Salmonid populations in the latter two are low and fragile.
- Do not agree that improvements in lice control since 2013-2016 are as clear as suggested – 2018-2019 production cycle saw high lice levels towards the end. The biennial pattern of raised sea lice levels continues to be seen.
- Mowi have indicated an intention to move production away from their Loch Ewe and Loch Duich sites. Many of the reasons given would apply equally to Torridon and a 5-year permission would encourage a similar relocation from the Torridon site. Production should still be subject to EMP controls.
- As with the site at Aird, the Board do not think that biomass reduction requirements within the EMP should be based upon causation-based criteria (i.e. monitored harm to wild fish from raised lice levels) but, rather on set thresholds of number of lice per farmed fish.
- Final terms of any EMP still need to be discussed and agreed.
- An EMP covering the whole loch system is clearly necessary.

6. **DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

6.1 **Highland Wide Local Development Plan 2012**

36 - Development in the Wider Countryside
49 - Coastal Development
50 - Aquaculture
57 - Natural, Built and Cultural Heritage
58 - Protected Species
59 - Other important Species
60 - Other Importance Habitats
72 – Pollution

6.2 **West Highland and Islands Local Development Plan 2019**

No specific policies apply

7. OTHER MATERIAL CONSIDERATIONS

7.1 Highland Council Supplementary Planning Policy Guidance

Highland's Statutorily Protected Species (March 2013)

7.2 Scottish Government Planning Policy and Guidance

SPP (2014) paragraph 204 states;

"...Planning authorities should apply the precautionary principle where the impacts of a proposed development on nationally or internationally significant landscape or natural heritage resources are uncertain but there is sound evidence indicating that significant irreversible damage could occur. The precautionary principle should not be used to impede development without justification. If there is any likelihood that significant irreversible damage could occur, modifications to the proposal to eliminate the risk of such damage should be considered. If there is uncertainty, the potential for research, surveys or assessments to remove or reduce uncertainty should be considered..."

SPP (2014) paragraph 250 states;

"...The planning system should:

- play a supporting role in the sustainable growth of the finfish and shellfish sectors to ensure that the aquaculture industry is diverse, competitive and economically viable;
- guide development to coastal locations that best suit industry needs with due regard to the marine environment;
- maintain a presumption against further marine finfish farm developments on the north and east coasts to safeguard migratory fish species..."

SPP (2014) paragraph 253 states;

"...The planning system should not duplicate other control regimes such as controlled activities regulation licences from SEPA or fish health, sea lice and containment regulation by Marine Scotland..."

National Marine Plan

8. PLANNING APPRAISAL

- 8.1 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.

Determining Issues

- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

8.3 Section 42 of the Planning Act sets some limiting parameters in respect of the material considerations for planning applications such as this. It states,

“...On such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly;

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application...”

Planning Circular 3/2013 provides further clarification,

“...In determining a Section 42 application, authorities may consider only the issue of the conditions to be attached to any resulting permission. However, in some cases this does not preclude the consideration of the overall effect of granting a new planning permission, primarily where the previous permission has lapsed or is incapable of being implemented...”

In this case, as identified at paragraph 1.1, the time limited condition which is the subject of this application was imposed in respect of a specific material consideration – the impact of the farm on wild salmonid populations. This, then, is the main material consideration.

However, during the course of the application the issue of noise from the operations of the farm has been raised by several third parties. This is a material planning consideration as well as a matter for Environmental Health if statutory noise nuisance is identified. The applicants have chosen to respond to the concerns as part of this application and have submitted a noise impact assessment and noise action plan.

Consequently, the key considerations in this case are:

- a) compliance with the development plan and other planning policy
- b) whether the proposed adaptive management EMP provides sufficient control in respect of the protection of local wild salmonid populations
- c) whether the noise action plan and other measures can achieve an acceptable level of noise impact on the nearest residential receptors

Other matters that would normally be material considerations for a fish farm application such as visual impact or benthic and water column effects will not be considered as this application does not suggest any change in these matters from the current situation.

Development plan/other planning policy

- 8.4 Policy 50 (Aquaculture) of the Highland-wide Local Development Plan (HwLDP) is considered to be the key development plan policy for this application. It states that the Council will support the sustainable development of finfish and shellfish farming subject to there being no significant adverse effect, directly, indirectly or cumulatively on the natural, built and cultural heritage and existing activity.
- 8.5 Policy 59 (Other Important Species) of the HwLDP - requires the council to have regard to the presence of, and any adverse effect of development proposals, either individually and/or cumulatively on species including the multi-sea-winter component of the Atlantic salmon population (included in the UK Biodiversity Action Plan Priority Species List and as a Priority Marine Feature). Trout (*Salmo trutta*) are also a PMF and are on the UK Biodiversity Action Plan Priority Species List.
- 8.6 Policy 57 (Natural, Built and Cultural Heritage) of the HwLDP supports the above in respect of natural features of national importance stating that the Council will allow developments that can be shown not to compromise the natural environment, amenity and heritage resource. Where there may be any significant adverse effects, these must be clearly outweighed by social or economic benefits of national importance. It must also be shown that the development will support communities in fragile areas who are having difficulties in keeping their population and services.
- 8.7 Policy 28 (Sustainable Design) of the HwLDP - identifies considerations that must be assessed including;
- impact on individual and community residential amenity
- 8.8 Policy 72 (Pollution) of the HwLDP – states that proposals that may result in significant pollution [including noise]...will only be approved where a detailed assessment report on the levels, character and transmission and receiving environment of the potential pollution is provided by the applicant to show how the pollution can be appropriately avoided and if necessary mitigated.

Impacts upon wild fish

- 8.9 In the context of the reason for the original ten-year time limit condition being imposed, the key questions posed by this application are;
- Given what is now understood about the interactions between marine fish farms and wild salmonids, will the proposed adaptive management EMP provide sufficient protection and mitigation over the lifetime of the permission?
 - Will the imposition of an EMP allow the authority to conclude that the requirements of Policies 50, 57 and 59 will be met and local wild fish populations adequately protected?
- 8.10 The background for these concerns is as follows.
- The overall numbers of wild salmonids in Scottish coastal waters has declined dramatically over the last few decades. Whilst there is no definitive evidence to suggest this has been caused by fish farming, it has created a situation where

planning authorities need to satisfy themselves that new fish farm consents will not add to the environmental pressures on an already struggling species and make a bad situation even worse.

The MSS consultation response stresses that there is now plenty of evidence from Norway and other producer states showing that sea lice emissions from fish farms can result in increased mortality among wild salmon and sea trout.

- 8.11 Sea lice: The key sea louse species of concern is *Lepeophtheirus salmonis*. These are parasites found in the wild, which can infect farmed salmon. They feed on the fish mucus and flesh. Given the high numbers of fish in fin fish cages, the population of the lice can rapidly increase and affect both the farmed fish and infect/re-infect the wild population. In addition, numerous studies have shown that sea lice in the receiving environment tend to be higher during second years of production of a fish farm and therefore pose a greater risk to wild salmonids at that time. For clarity, marine fish farms tend to operate on roughly two year production cycles, at the end of which all remaining fish are harvested out and the site is left fallow for several weeks or months prior to re-stocking. Once restocked, the lice levels are generally low for at least the first few months, then, if there is a sea lice issue in the area, the numbers can build up as the farmed fish grow bigger.
- 8.12 The industry's Code of Good Practice (CoGP) states that average levels of 0.5 adult female lice per fish between February and June and 1.0 adult female lice per fish between July and January should be sought. If these levels are reached or exceeded, they are the suggested criteria for sea lice treatment. The MSS consultation response notes that the applicant's sea lice strategy states an intention to improve upon and go beyond the CoGP monitoring and intervention thresholds.
- 8.13 However, MSS also state that adherence to the suggested criteria for treatment of sea lice stipulated in the industry CoGP may not necessarily prevent release of substantial numbers of sea lice from aquaculture installations.
- The issue here relates to the very large numbers of fish reared within the pens of a farm relative to the much smaller number of wild salmonids inhabiting and/or transiting the waters in its vicinity. The 500,000 to 750,000 fish in the farm will exceed local wild fish populations to a very large extent. Consequently, even when the numbers of sea lice per farmed fish is relatively low, the total number of adult and planktonic sea lice entering the local receiving environment may still be many times greater than the naturally occurring level associated with the wild fish population. This increases the risk of infection for wild fish to a corresponding degree.
- 8.14 It's clear that the level of understanding in respect of the interactions between fish farms and wild salmonid populations has greatly improved since the permission was granted in 2011. In the unique case of the Torridon loch system, the MS field station on the Shieldaig river has continued to build up a wild fish monitoring database going back to 1999 and specifically addressing the interactions issue.

- 8.15 In more recent years growing public concern about the environmental impacts of fish farming encouraged parliamentary committees to revisit the issue in 2018. Their critical reports stimulated a greatly increased level of scrutiny of fish farming in general and an on-going flurry of activity within both government and industry to address the environmental criticisms made.
- 8.16 In terms of regulatory reform, a number of 'working groups' have been set up to examine specific environmental impacts. The Salmon Interactions Working Group published their findings in April 2020 and made a wide-ranging set of recommendations covering data reporting, research, farm management and a proposal for wild fish interactions to be the subject of a separate licensing regime outside the planning process.
- 8.17 Meanwhile SEPA have invested much time and effort in developing a spatial mapping project to predict where potential interactions between sea lice and wild fish are theoretically at their highest. This promises to provide a system of logical guidance as to where future farms should be located depending on their sea lice emissions potential. There is also funding being directed at research into salmon migratory route tracking which will help augment the SEPA mapping.
- 8.18 Marine Scotland formally endorsed the use of adaptive management EMPs in 2019 and has provided a set of minimum criteria to ensure that they achieve adaptive management aims. That is, the results of monitored impacts on wild fish can be fed back into production management to improve environmental performance over time and also identify if fundamental problems with a farm's impacts exist and provide a mechanism to resolve them.
- 8.19 In fact, it is probably true to say that the increased use of EMPs across farms consented in the last few years has also contributed a great deal to improved wild fish interactions knowledge. Active monitoring of wild fish numbers and health by the industry in partnership with Fishery Boards and Trusts has expanded and the industry has also pushed forward research into sea lice dispersion modelling. There has also been a focussed effort to reduce reliance upon medicinal sea lice treatments and this has seen investment and an expansion in the use of cleaner fish, wellboat based freshwater treatments and innovative cage designs to reduce on-farm sea lice levels and their planktonic emissions into the wider environment.
- 8.20 As was noted earlier in this report, the other two farms in the Torridon loch system – Aird (19/00054/REFRC) and Sgeir Dughall (14/00042/REFRC) have both been consented at Appeal with adaptive management EMP requirements. Kenmore is due to close to allow the Aird expansion. In both cases, the Reporter was satisfied that there was now sufficient knowledge in respect of adaptive management of production levels and techniques to be confident that local salmonid populations would be adequately protected from sea lice emissions.
- 8.21 In this regard, the consultation responses of Marine Scotland Science and the WRASFB are particularly significant. Both identify, within the Shieldaig monitoring data, the existence of a "notable biennial pattern" to the level of sea lice on sea trout in the river. The trout show a much greater level of infestation during the second year of fish farm production cycles, corresponding to higher levels of

infestation on farmed fish as they approach harvest maturity – see paragraph 8.11 above. It is difficult to explain this other than as a manifestation of the direct impact of fish farm sea lice emissions on local wild fish.

- 8.22 WRASFB conclude that this impact negatively affects the health of local wild fish and is a direct cause of the low and fragile salmonid populations in the Balgy and Torridon rivers, pointing out that these two and the Shieldaig river are all migratory salmon spawning habitat with routes running close to the farm. WRASFB are not confident that adaptive management EMPs can do enough to resolve this problem and that is why their preference is for the application to be refused. This is consistent with the position they argued at both the Aird and Sgeir Dughall appeals.
- If granted, they would still prefer to see a time limit placed on the permission to encourage the operator to ‘relocate’ the farm out of the Torridon system. As a least preferred option they are willing to accept an EMP and have indicated a willingness to play an active role in the monitoring activity that will support it.
- 8.23 Marine Scotland Science also make a direct connection between biennial pattern of infestation and the health of wild fish populations. However, their position is notably more positive than the Fishery Board’s in that they suggest that it is any further increase in biomass within the loch system that would almost certainly have a detrimental impact. However, they do not suggest that current production levels are unsustainable or unacceptable.
- 8.24 In support of this conclusion MSS identify a generally improved sea lice control picture within the loch system since a problematic period between 2011 and 2015. This suggests that the introduction of new methods of control in the form of cleaner fish and increased availability of hydrolicer and thermolicer equipped wellboats can be seen to have had a positive impact and that there is good reason to believe that this is likely to continue in the future.
- 8.25 However, WRASFB dispute this, pointing out that in 2018-2019 sea lice levels still rose towards the end of the production cycle and the biennial impact on wild fish was still evident.
- 8.26 In coming to a recommendation amid these competing positions and analyses, officers consider that weight must be placed upon the appeal decision at the neighbouring farms at Aird and Sgeir Dughall. In both cases, as a conclusion to exactly the same debate as précised above, Reporters decided that adaptive management controls secured through an EMP condition, would be sufficient to protect local salmonid populations from the external impacts of the farms.
- 8.27 It is not considered that there are any specific circumstances related to this site that would justify coming to an alternative conclusion. In terms of the ‘test’ set by the wording of condition 1 of 11/04695/FUL (see paragraph 8.9), it can now be reasonably concluded that the level of understanding of wild fish interactions has improved to a level where the use an adaptive management EMP will protect those populations from significant harm and so meet the requirements of Policies 50, 57 and 50 of the development plan.

- 8.28 In terms of the specific draft EMP submitted by the applicants for this site, Marine Scotland have confirmed that it meets the minimum criteria they have recommended. The form and wording of the document follow those approved in other locations and amounts to an agreement between the operator and the local Fishery Board/Trust with the planning authority in the role of mediator where disputes arise.
- 8.29 Officers are satisfied that this draft EMP will be able to deliver adaptive management improvements over time. However, the formal agreement of the local Board and Trust has not yet taken place. Officers also note that in the recent Aird appeal, the Reporter chose to use an EMP condition wording drawn from the previous Sgeir Dughall decision notice. This wording calls in an EMP rather than approving one already submitted and this allows more flexibility if amendments to the draft EMP are ultimately considered necessary. The other potential advantage of this approach is that it means all three sites are developing their EMP submissions from the same starting point. This may assist in creating compatible EMPs which, in reality, will operate as a single area EMP. Both Mowi, SSC and the Fishery Board have indicated that this is a goal they would support.
- The condition wording includes a requirement for an escape management plan. Although there is no record of escapes from this farm, recent escape events elsewhere have renewed concern about the impact of escaped farmed fish on wild fish populations through habitat competition and genetic introgression. In light of this an EMP condition based on the Aird appeal decision is recommended.
- 8.30 In conclusion, it is considered that an adaptive management EMP required by condition is an acceptable alternative to the time limited condition in the interests of protecting local wild salmonid populations in the long term.

Operational Noise

- 8.31 Noise from the farm was not identified as a consideration during the determination of the previous permission. However, the third-party comments received for this application indicate that a number of individuals living to the north of the farm have experienced levels of noise that they find unacceptable. Environmental Health complaints have also been received although these have proved difficult to investigate with Covid-related restrictions.
- 8.32 However, the decision of the operator to commission a noise impact assessment of current farm operations is very welcome and provides an evidential basis for action. Measurements were made of various noise generating equipment at the farm – the net washer, the crane, the feed generator and the compressors on the feed barge.
- 8.33 The Highland Council standard is to avoid noise levels (measured at noise sensitive premises) that are 5dB(A) above background noise levels. The results of the assessment indicated that the net washer exceeded this level by up to 9dB(A) and was also the source of a low frequency tone experienced by one of the complainants.
- 8.34 In response to these findings the applicant has adopted the following noise action plan;

Mowi Loch Torridon Fish Farm: Noise Action Plan			
Equipment Item	Mitigation Measure Proposed	Timescale for Completion	Status
Site Net Washer	Acoustic lagging will be fitted to the internal canopy of the net washer to reduce the risk of breakout noise emissions.	9 November 2020	Open
Site Net Washer	To mitigate noise emissions from net washer operation a new uprated exhaust silencer will be fitted.	21 December 2020 (to account for specialist fabrication and lead delivery time)	Open
Compressor	A secondary exhaust silencer will be fitted to mitigate noise emissions.	Completed	Closed
Site workboat / crane	To mitigate noise emissions from crane operation a new uprated exhaust silencer will be fitted.	21 December 2020 (to account for specialist fabrication and lead delivery time)	Open

The intention is to carry out a further noise assessment once all these mitigations have been completed to indicate whether any further actions are required. This is scheduled for the Spring.

- 8.35 In a follow-up email the applicant also indicated that they were actively assessing other noise complaints relating to the operations of support vessels at the farm outwith normal daytime hours. The noise profile of these vessels will be included in the follow-up noise assessment mentioned above and used to help identify the most suitable locations for these vessels should they have to occasionally operate at night for unavoidable operational and fish health reasons.

The company is also looking at the potential use of 'enviro-nets' which do not need the services of a mechanical net washer.

- 8.36 In their second consultation response Environmental Health have indicated that they no longer have an objection so long as a condition is imposed on any permission which secures the above mitigation and also the promised compliance monitoring. This condition can be in a suspensive form requiring approval of the outcomes of the compliance monitoring prior to the commencement of the new planning permission.

- 8.37 In terms of noise as a planning consideration this is considered to be a satisfactory outcome. Of course, individual noise nuisance occurrences can still be addressed through Environmental Health legislation.

Other material considerations

- 8.38 There are no other material considerations.

Non-material considerations

- 8.39 None

Matters to be secured by Section 75 Agreement

- 8.40 None

9. CONCLUSION

- 9.1 The key consideration raised by this application is whether a permanent permission is justified on the grounds that adaptive management of the farm's sea lice control measures can genuinely protect local wild fish populations during the lifetime of the permission. Notwithstanding the acknowledged concerns of the local Fishery Board, taking account of the advice of Marine Scotland, recognising that this proposal involves no increase in biomass at the farm and giving due weight to recent appeal decisions at neighbouring farms, it is concluded that an adaptive management EMP secured by condition will achieve the above aim.
- 9.2 Operational noise from the farm was also raised as a consideration during the course of the application. The noise impact assessment carried out by the applicant in response to these concerns is considered to have identified the main sources of noise. A noise action plan and further confirmatory noise assessment is considered to satisfactorily address the identified problems.
- 9.3 The s.42 application is therefore recommended for approval.
- 9.4 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.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued N

Subject to the above, it is recommended that planning permission be **GRANTED**, subject to the following **Conditions and Reasons**;

1. No fish shall be stocked or farmed on the site until an Environmental Management Plan (EMP) has been submitted to and approved in writing by the Planning Authority (in consultation with Marine Scotland Science and the Wester Ross Area Salmon Fishery Board). The EMP shall be submitted at

least one month prior to the intended first stocking date of the site, the date of which shall be notified to the Planning Authority. The EMP shall be prepared as a single, stand-alone document, which shall include the following:

(1) **Sea Lice Management Plan** which shall include:

- (a) details of site-specific operational practices that will be carried out following the stocking of the site in order to manage sea lice;
- (b) details of site-specific operational practices that will be carried out in order to manage the incidence of sea lice being shed to the wider environment through routine farming operations such as mort removal, harvesting, grading, sea lice bath treatments and well boat operations;
- (c) identification of likely area(s) of sea lice dispersal from the site;
- (d) details of the specification and methodology for the monitoring, recording, and auditing of sea lice numbers on the farmed fish and the environment. This shall include:
 - details of the qualifications and job title of the competent person(s) responsible for such monitoring activities;
 - provision of site-specific summary trends from such monitoring to the Planning Authority on request;
 - details of the form in which such summary data will be provided;
 - details of how and where raw data obtained from sea lice monitoring will be retained, by whom, for how long, and in what form; and
 - an undertaking to provide this raw data to the Planning Authority on request and to meet with the Planning Authority at agreed intervals to discuss the data and monitoring results;
- (e) a method statement for the regular monitoring of local wild fish populations based on available information and/or best practice approaches to sampling;
- (f) details how and what monitoring data will be collected to assess potential interaction with wild fish;
- (g) details of site-specific sea lice thresholds, the breach of which shall require the implementation of specified mitigation actions, including treatment with sea lice medicines. Details shall include the specific sea lice threshold at which it will be considered necessary to treat on-farm lice during sensitive periods for wild fish;
- (h) details of the site-specific criteria which need to be met for mitigation action / sea lice treatment to be considered successful;

- (i) details of who will be notified in the event that mitigation action / sea lice treatment is not successful;
- (j) details of the specified mitigation actions / sea lice treatments referred to in (g). The specified mitigation actions shall include provision for biomass reduction in the event that monitoring demonstrates that prior specified mitigation actions have not addressed a breach of the relevant sea lice threshold; and
- (k) details of what action will be taken during the next and subsequent production cycles in the event that mitigation actions / sea lice treatment are not successful.

(2) An Escape Management Plan which shall include:

- (a) details of how escapes will be managed during each production cycle;
- (b) details of the counting technology or counting method used for calculating stocking and harvest numbers;
- (c) details of how unexplained losses or escapes of farmed salmon will be notified to the planning authority;
- (d) details of an escape prevention plan. This shall include:
 - net strength testing;
 - details of net mesh size;
 - net traceability;
 - system robustness;
 - predator management; and
 - record-keeping methodologies for reporting of risk events. Risk events may include but are not limited to holes, infrastructure issues, handling errors and follow-up of escape events; and
- (e) details of worker training on escape prevention and counting technologies.

(3) Requirement for implementation, update and review

The development and operation of the site shall be carried out in accordance with the approved EMP unless changes to the operation of the site or good practice dictate that the EMP requires amendment. In such an eventuality, a revised EMP will require to be submitted to, and approved in writing by, the Planning Authority (in consultation with Marine Scotland Science and the Wester Ross Area Salmon Fishery Board) before implementation of the proposed change.

Notwithstanding, a revised EMP shall be submitted to and approved in writing by the Planning Authority (in consultation with Marine Scotland Science and the Wester Ross Area Salmon Fishery Board) as a minimum every four years following the date of first stocking of the site, to ensure the EMP remains up to date and in line with good practice.

Reason: To ensure that good practice is followed to mitigate the potential impacts of sea lice loading in the marine environment in general and on wild salmonids in particular; this in accordance with the planning authority's biodiversity duty and to ensure the development does not have an adverse impact on local wild fish populations.

2. The development hereby approved shall not be stocked with fish until a report detailing the results of a further noise impact assessment has been submitted to and approved in writing by the planning authority. The report shall;
 - i. include a noise assessment of vessels servicing the farm,
 - ii. detail how the measures identified in the submitted Noise Impact Assessment Report and Noise Action Plan have been implemented,
 - iii. show that the measures have resolved the previously identified noise impact problems at noise sensitive premises to the north of the farm,
or
 - iv. identify further measures to be taken to achieve such resolution.

For the avoidance of doubt, the Noise Impact Assessment Report referred to above is the one prepared by Arcus Consultancy Services titled "MOWI, LOCH TORRIDON FISH FARM NOISE REPORT, SEPTEMBER 2020 submitted to the Planning Authority on 28th September 2020. The Noise Action Plan is that attached as Annex 1 to the accompanying email.

Reason: In the interests of residential amenity

3. All surface equipment, with the exception of navigational markers, shall be finished in a dark matt neutral colour unless alternative finishes are agreed in advance in writing with the Planning Authority. In particular, the feed barge, top nets, and netting along walkways shall be matt grey. Feed pipes between the barge and the cages shall be neatly bundled to minimise clutter and routed below water where it is practical to do so.

Reason: To minimise the visual impact of the installation.

4. All lighting above the water surface and not required for safe navigation purposes should be directed downwards by shielding. It should be extinguished when not required for the purpose for which it has been installed. If lighting is required for security purposes, infra-red lights and cameras should be used.

Reason: To minimise the visual impact of the installation and safeguard the landscape/seascape character of this part of the Wester Ross National Scenic Area; to ensure that lights left on in the daytime do not draw the eye towards the site and at night do not present unnecessary sources of light pollution.

5. In the event of equipment falling into disrepair or becoming damaged, adrift, stranded, abandoned or sunk in such a manner as to cause an obstruction or danger to navigation, the site operator shall carry out or make suitable arrangements for the carrying out of all measures necessary for lighting, buoying, raising, repairing, moving or destroying, as appropriate, the whole or any part of the equipment so as to remove the obstruction or danger to navigation.

Reason: In the interests of navigational safety.

6. At least three months prior to cessation of use of the site for fish farming, a scheme for the decommissioning and removal of all equipment shall be submitted to and agreed in writing with the Planning Authority. Upon cessation the approved scheme shall be implemented.

Reason: To ensure that decommissioning of the site takes place in an orderly manner and to ensure proper storage and disposal of redundant equipment in the interest of amenity and navigational safety.

REASON FOR DECISION

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.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans and Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

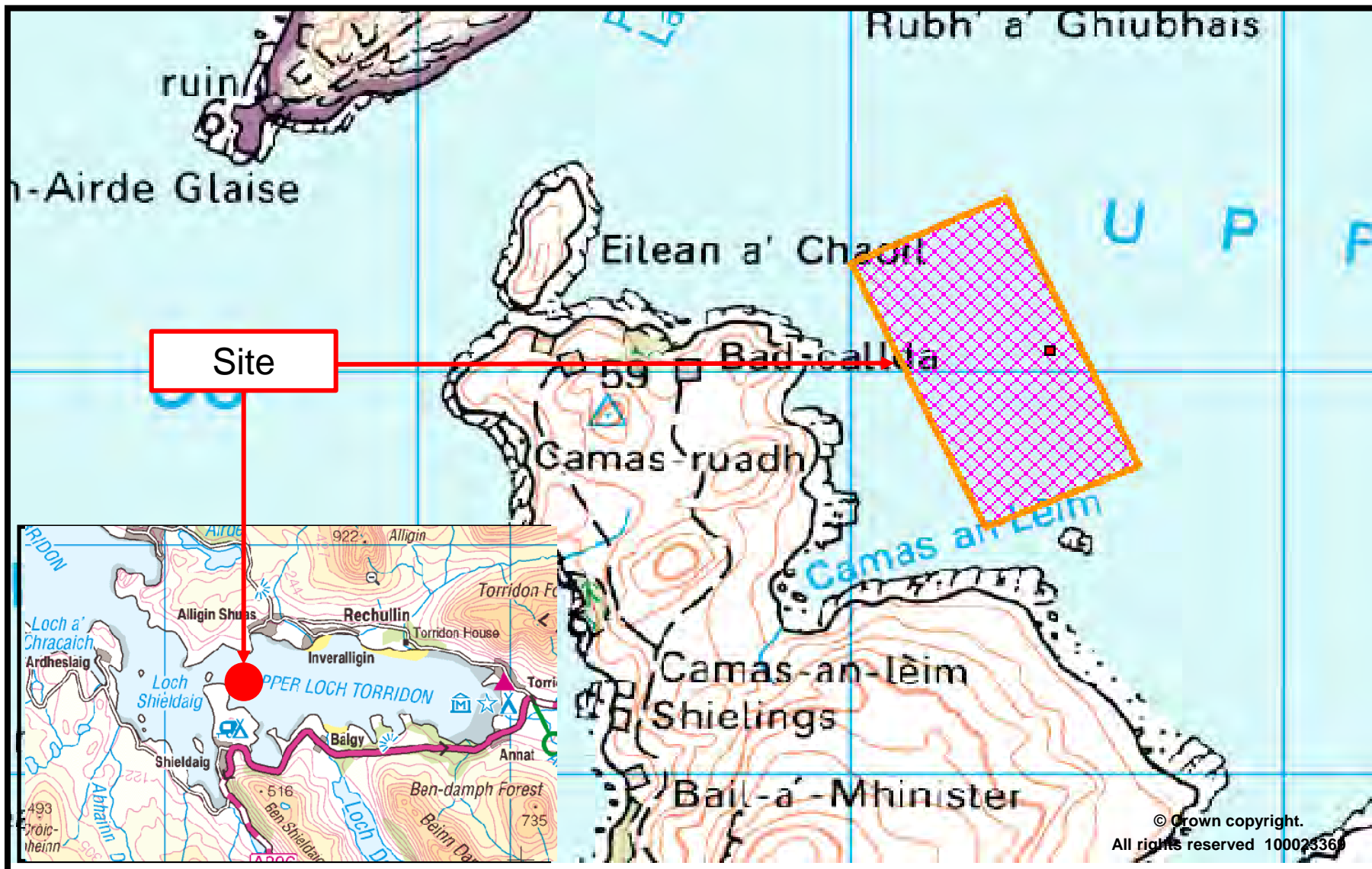
Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

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



Planning and
Development Service

Location Plan
20/01745/S42

Section 42 to amend condition 1 of planning permission 11/04695/FUL at
Torridon Salmon Farm
January 2021



Scale: