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Mr M McLoughlin  
Highland Council  
Sent By E-mail

Our ref: PPA-270-2245  
Planning Authority ref:20/00097/FUL

7 October 2021

Dear Mr Michael McLoughlin

**PLANNING PERMISSION APPEAL: LAND 1600M EAST OF BALMAQUEEN IV51**

Please find attached a copy of the decision on this appeal.

The reporter's decision is final. However you may wish to know that individuals unhappy with the decision made by the reporter may have the right to appeal to the Court of Session, Parliament House, Parliament Square, Edinburgh, EH1 1RQ. An appeal **must** be made within six weeks of the date of the appeal decision. Please note though, that an appeal to the Court of Session can only be made on a point of law and it may be useful to seek professional advice before taking this course of action. For more information on challenging decisions made by DPEA please see <https://beta.gov.scot/publications/challenging-planning-decisions-guidance/>.

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I trust this information is clear. Please do not hesitate to contact me if you require any further information.

Yours sincerely

*Jayne Anderson*

**JAYNE ANDERSON**  
**Case Officer**  
**Planning And Environmental Appeals Division**





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Decision by Sue Bell, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2245
- Site address: Land 1600 m East of Balmaqueen
- Appeal by Organic Sea Harvest Limited against the decision by The Highland Council
- Application for planning permission 20/00097/FUL dated 20 January 2020 refused by notice dated 2 February 2021
- The development proposed: New marine fish farm for Atlantic salmon consisting of 12 x 120 m circumference circular cages in an 80 m mooring grid with associated feed barge, land 1,600 m east of Balmaqueen, Portree
- Date of site visit by Reporter: 16, 17 and 18 June 2021

Date of appeal decision: 07 October 2021

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## Decision

I dismiss the appeal and refuse planning permission.

## Environmental impact assessment

The proposed development is described as above, and at Chapter 3 of the Environmental Statement (ES). It is EIA development. The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 EIA regulations”) came into force on 16 May 2017 and replaced The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 (“the 2011 EIA regulations”). Where an application for a scoping opinion was submitted before 16 May 2017, the transitional arrangements allow for the proposal to be assessed under the 2011 EIA regulations.

The appellant sought a scoping opinion from The Highland Council in respect of this proposal on 15 May 2017. Thus, the ES was prepared under the 2011 EIA regulations.

The Highland Council issued its screening opinion on 19<sup>th</sup> June 2017. The council identified four broad areas where it considered that there was potential for the proposal to generate significant effects. These were: landscape and visual effects; benthic impacts resulting from the seabed deposition of fish waste and uneaten feed; impacts on wild salmonids through discharges of sea lice and the possibility of fish escapes from the site; and cultural heritage impacts.

I am required to examine the environmental information, reach a reasoned conclusion on the significant environmental effects of the proposed development and integrate that conclusion into this decision notice. In that respect I have taken the following into account:

- the Environmental Statement (ES) submitted on 8 January 2020;



- the Environmental Management Plan dated January 2020;
- the Waste Minimisation and Management Plan dated 2 October 2017;
- letter of Net Attestation dated 19 July 2019;
- letter of Attestation from Gael Force dated 8 January 2020;
- consultation responses from NatureScot dated 22 January 2021; Scottish Environment Protection Agency (SEPA) dated 19 March 2020; Historic Environment Scotland dated 25 March 2020; Transport Planning dated 25 March 2020; Northern Lighthouse Board dated 23 March 2020; Marine Scotland Science dated 9 April 2020; and Highland Council Environmental Health dated 6 May 2020 and 10 June 2020.;
- SEPA CAR Licence dated 5 August 2020; and
- representations from members of the public.

At Schedule A below, I set out the opportunities available to the public to participate in the decision-making procedure. My conclusions on the significant environmental effects of the proposal are set out at paragraphs 7 - 110 below.

## Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The relevant development plan comprises The Highland-wide Local Development Plan (HwLDP) 2012 and the West Highland and Islands Local Development Plan 2019 (WestPlan). The council's report of handling states that there are no specific policies within WestPlan, which apply to the current proposal. Whilst the appellant has referenced WestPlan in relation to describing the economic context for the proposal, I agree with the council that the determining policies for this proposal are contained within HwLDP.

2. Having regard to the provisions of the development plan, I consider the main issues in this appeal are:

- the landscape, seascape and visual effects of the proposal;
- impacts on benthic habitats;
- impacts on wild salmonids;
- impacts on cultural heritage;
- effects on European Sites, habitats and species of conservation importance;
- impacts on users of the sea;
- noise impacts; and
- economic and community effects, including effects on traffic, roads and tourism;

3. Policy 50 Aquaculture of the HwLDP "supports 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 activities. The policy specifies various aspects of the natural, built and cultural heritage that should be assessed including: landscape character, scenic and visual amenity; wild fish populations; biological carrying capacity; and cumulative benthic and water column impacts.

4. Assessment of existing activity should include consideration of commercial inshore fishing grounds; existing and consented aquaculture sites; and established harbours and natural anchorages and navigation (including recreational).

5. Scottish Planning Policy (SPP) 2014 and the Scottish Government's National Marine Plan also provide support for the development of aquaculture. Paragraph 250 of SPP sets out key principles for aquaculture, including the need to "guide development to coastal locations that best suit industry needs with due regard to the marine environment". It also sets a presumption against further marine finfish developments on the north and east coasts. Paragraph 251 sets out those factors that should be considered when assessing specific proposals. These include consideration of effects on a variety of receptors, including landscape and visual impact. These elements are encapsulated within the relevant policies of the development plan.

6. The National Marine Plan establishes objectives for a "sustainable, diverse, competitive" aquaculture industry and sets targets for the production of marine finfish, with due regard to the marine environment. It also sets out an objective of achieving "quality employment and sustainable economic activity in remote and rural areas, as well as more widely in Scotland." It includes 8 policies guiding aquaculture development including that "Aquaculture developments should avoid and/or mitigate adverse impacts upon the seascape, landscape and visual amenity of an area, following SNH guidance on the siting and design of aquaculture." These elements are also encapsulated within the relevant policies of the development plan.

#### Landscape, seascape and visual effects

##### *Landscape, seascape, and viewpoints*

7. As I noted above, Policy 50 of the HwLDP provides support for aquaculture, providing there are no significant adverse effects on landscape character, scenic and visual amenity. In assessing the suitability of proposals, Policy 50 requires reference to SNH (now NatureScot) commissioned report: "Landscape/seascape carrying capacity for aquaculture".

8. Policy 57 Natural, Built and Cultural Heritage sets out the safeguarding criteria for designated features that will be applied in considering development. For features of local/regional importance, the planning authority "will allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource."

9. Protection of landscape is also addressed through Policy 28, Policy 36 and Policy 61 of HwLDP. Policy 28 Sustainable Design requires impacts on landscape, scenery and individual and community residential amenity to be considered, along with an assessment as to whether proposals demonstrate sensitive siting. Policy 36 requires an assessment of whether the siting and design of a development are acceptable and compatible with landscape character and capacity. Policy 61 requires new development to "reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed."

10. Section 6.3 of the ES Part One (B) and its supporting Annex 3, comprises a detailed Seascape, Landscape, and Visual Impact Assessment (SLVIA) of the proposals. This has been informed by scoping advice from the council, SNH and Historic Environment Scotland.

11. The SLVIA has assessed the potential impacts of the proposals upon Seascape and Landscape Character Areas and key viewpoints. Specific receptors identified as components of the seascape and landscape character are: wildness, tranquillity; dark skies/

sky glow; cultural heritage; settlement and dwellings; roads; and tourism. Twelve key viewpoints were identified, although I note that some of these were selected for assessment of a second proposed site, which has not been consented and hence does not require to be considered in terms of its cumulative effects with the current proposal

12. The SLVIA classifies the coast by reference to SNH (now NatureScot) guidance for the siting and design of aquaculture “as containing the characteristics of an ‘Open and Expansive Coast’, possessing features of expansive openness, a more regular coastline, without deep indentations, and featuring elevated roads which may follow the coastline, enabling panoramic views.” The coast between Flodigarry and Kilmaluag is described as being of ‘moderate’ wildness in SNH’s maps of relative wildness. This is described in the ES as “reflecting the inaccessible nature of much of the coast and adjacent landscape.” The coastal path is considered to enjoy a high level of tranquillity.

13. Nine Seascape Character Areas (SCA) within three Seascape Character Types (SCT) were identified as seascape receptors for the SLVIA. Significant adverse effects were identified for SCA 1.1 Rubha Bheanachain to Creag na h-Eiginn within c.1 km of the proposed development and further northwards towards the SCA boundary. Locally significant effects were identified for SCA 1.3 Kilmaluag Bag on the north side of the bay. Significant adverse effects were also identified for SCA 1.4 Rubha Bheanachain to Rubha na h-Aiseig in the south of the SCA and SCA 2.1 Rubha na h-Aiseigh to En Flodigarry at under c. 1 km from the proposed development.

14. Fifteen Local Landscape Character Areas (LLCA) within six Landscape Character Types were identified as landscape receptors. Significant adverse effects were identified for LLLCA 1A.3 Bodha Ruadh to Steall a’Ghreip LLCA in the north of the LLCA, with the magnitude of the effect reducing further south within the LLCA. These effects would also be experienced during periods of darkness as a result of lighting.

15. In terms of other receptors, the ES concluded that the proposed fish farm could erode perception of wildness within LLCA 1A.3 Bodha Ruadh to Steall a’Ghreip, where the inaccessible cliffs add to the feeling of wildness. Tranquillity could also be eroded on occasions within SCA1.1 Rubha Bheanachain to Creag na h-Eighinn, SCA2.1 Rubha na h-Aiseig to En Flodigarry, SCA1.2 Poldorais and Staffin Bay and LLCA 1A.3 Bodha Ruadh to Steall a’Ghreip. Whilst the ES assessed that the impacts would be temporary and variable, the effects would be locally significant.

16. The ES predicts that effects on dark skies/ sky glow from submerged lighting would have a high impact at close proximity, both from the sea and when viewed from the cliffs and coastal path in LLCA 1A.3. However, the numbers who would be on the cliffs and coastal path or at sea during the periods of darkness are considered to be very low.

17. No significant effects were identified for specific dwellings, minor clusters of dwellings, townships or the settlement of Staffin or for roads. Users of the coastal path would also be adversely affected. Effects on cultural heritage and further comments in relation to tourism are considered in paragraphs 63 - 68 and 88 - 101 respectively.

18. In terms of visual impacts on viewpoints, significant effects were noted for VP02 Coast path at Radar Station, VP03 Coast path at Galta Mor, and VP04 coast path south of Steall a’Ghreip. The proposal would be visible from VP01 Kilmaluag Bay and VP08 Sron Vourlin, but the SLVIA considers there would not be a significant impact at either viewpoint.

19. Large impacts were also noted for vessels passing between 0.6km and 1.1 km to seaward of the pens (VP10).

20. During my site inspection I walked the coastal path towards and past the proposed site in both directions (i.e. north to south and south to north). I viewed the proposal area from various viewpoints further afield and inland including public roads. I also viewed existing fish farm developments elsewhere on Skye, which had been suggested by the appellant. I also saw the appellant's consented fish farms at Culnacnoc, just to the south of Rubha nam Brathairean and to the south of Inver Tote.

21. I observed that the coastal edge is poorly visible from along the A855 in the vicinity of the proposal site. Whilst elements of sea are visible, these tend to be of offshore areas, with the inshore areas shielded by topography. Views north along the coast are possible from the vicinity of Staffin, but at this distance and elevation, I consider that whilst the proposed site would be visible under most conditions, it would not feature as a significant element in the panoramic views.

22. In terms of the viewpoints selected for the ES, I accept that the proposal would be distantly visible from the parking area at Kilmaluag Bay (viewpoint 01), but that there would be some shielding of this by elevation and the distances involved.

23. I saw that there would be significant visual effects at viewpoints 02, 03 and 04, particularly for those using the coastal footpath. Nevertheless, I do not consider that these significant effects are restricted to just those specific viewpoints. Based on my observations, these effects would be apparent along much of this stretch of the path.

24. I found the coastal footpath lying between Kilmaluag Bay and Flodigarry provides a dramatic and scenic panorama, which encompasses both inland views towards the Trotternish Ridge and offshore views towards Wester Ross, the Shiantas and the Western Isles. The narrow nature of the path and its location, adjacent to the cliff edge, means that the observer's attention is inevitably drawn more towards the cliffs and sea, than inland towards the Trotternish Ridge. Whilst the SLVIA classifies the area as characteristic of an 'open and expansive' coast, I saw that the coastline did have small indentations and headlands, which the footpath mirrors for the most part. This results in those using the path experiencing changes in the angle at which they view the sea and the length of coastline that is visible.

25. The council's Report of Handling identifies that the coastline adjacent to the proposal site is classified as 'undeveloped' in the Highland Coastal Development Strategy (May 2010), but cannot be considered to be uninhabited or isolated, although some sections may create a localised sense of isolation and tranquillity.

26. I saw that the tall cliffs, indented coastline and coastal erosion features, including stacks, create a feeling of wildness and unmanaged landscape at the edge of the sea, which is at contrast with the more managed inland slopes and settlements lying between the coast and the Trotternish Ridge. The feeling of isolation and remoteness is enhanced by the vast backdrop of open sea and distant land, with no permanent signs of human activity, other than the transitory experience of the occasional boat passing offshore.

27. During my site inspection I saw that the indented nature of the coastline would mean that the proposed fish farm would not appear parallel to all parts of it. NatureScot considered in its consultation response, whether the proposal satisfied its locational guidance for fish farms, commenting “Our conclusion is that it generally does: this coast would be considered ‘Open and expansive’ making it suitable for a development of this scale. However, this particular stretch of coast is not especially straight and, while the farm aligns with the dominant orientation of the coast, bays and indentations mean that from some viewpoints the farm would appear less well aligned. Siting the structures well offshore mitigates this effect to some degree.” I accept NatureScot’s assessment on this point.

28. I saw that the position of the path in relation to the coastline, coupled with topography means that the fish farm would be visible when walking along much of this section of the path. Although the proposed fish farm would be located a little around 1 km offshore, I consider that it would be sufficiently close to the cliffs to appear as a conspicuous feature within the foreground views from the coastal path. Whilst I note that the ES estimates that effects would only occur for viewers over a distance of 1 – 2 km of the path, I find that such a distance would form an appreciable part of the walk along this stretch of the Skye Trail and that the fish farm would be prominent over much of this distance.

29. I am conscious that the length of coastal footpath between Balmaqueen and Flodigarry needs to be considered within the wider context of its inclusion as part of the Skye Trail. From my observations, there are other opportunities at various points further south along the Trail, where walkers and visitors can enjoy wide panoramas and views of dramatic coastal and mountain scenery. However, at the locations I visited, I saw that these views also included signs of human development and structures. By contrast, I saw that the coastal and sea views from the path between Balmaqueen and Flodigarry are uninfluenced by static man-made structures in the sea. This adds to the feeling of ‘naturalness’ and ‘wildness’ of this stretch of coast and adjoining sea. I find that the proposed fish farm, with its introduction of static structures, including the feed barge, would significantly detract from that impression.

30. The ES states that the clifftop path between Balmaqueen to Flodigarry “is used infrequently when compared to other paths and viewpoints to the south of Staffin”. It considers that as parts of the possible route run either close to the edge of a crumbling cliff, or require travel through a field with cattle, this may discourage walkers from using it. Whether or not that is the case, during my site inspection I encountered several other walkers on the path, who appeared to be a mixture of local residents and visitors to Skye (including those carrying camping equipment), suggesting that it is used frequently, if not intensively. The numbers that I observed were broadly consistent with the estimates of daily visitor numbers set out in the ES. Based on use of static cameras, the ES states that an average of 5.4 visitors per day were recorded on the southerly camera, with a minimum of one and a maximum of 15 user per day. Similar numbers were recorded from the northerly camera.

31. Whilst numbers using the path may be relatively low compared to visitor numbers to some other coastal areas of the Island, I do not consider them to be unimportant. Walkers are generally considered to be sensitive to visual impacts. As I stated above, the nature of the path means that attention is inevitably drawn to views of the cliff edge and near-sea areas where the proposed fish farm would be located. I conclude that its proximity and hence prominence in the foreground, in a seascape that is otherwise free of permanent

man-made structures would detract significantly from the feelings of wildness and tranquillity that can currently be experienced.

32. I did not view the proposal site from the sea, but accept that there would be localised effects, both during the day and during night time.

33. Overall, I conclude that there would be significant adverse effects on seascape, landscape and visual receptors. These effects would be particularly experienced by users of the coastal footpath.

34. I have considered the appellant's aspiration to be able to operate this fish farm as part of a larger operation, which would allow for temporary removal of cages and visible infrastructure during periods between production cycles, when the cages would be left fallow. However, I do not consider that this would alter the assessment of significance. In reaching that conclusion I am mindful that there is no certainty that the fish farm would be able to be operated in that way. Even if cages are removed for short periods, that would not alter the scale of impact during the times when they were in situ.

### *Protected landscapes*

35. The Zone of Theoretical Visibility (ZTV) for the proposed development overlaps the boundaries of both the Trotternish National Scenic Area (NSA) and the Trotternish and Tianavaig Special Landscape Area (SLA).

36. The proposal would lie beyond the northern boundary of the nationally important Trotternish National Scenic Area (NSA). The Special Qualities of the NSA relate to the Trotternish ridge itself and the contrast between different landforms. "Dramatic sea-cliffs of basaltic columns" and "Distant views over the sea" are also identified as Special Qualities of the NSA. Whilst I saw that the proposal site would be visible from certain locations within the NSA, I do not consider that it would be especially prominent in these views, or detract from the Special Qualities of the NSA. In reaching this conclusion, I have considered the findings of the SLVIA contained within the ES and the views of NatureScot as statutory consultee.

37. The proposal site sits just to the east, but close to the boundary of the Trotternish and Tianavaig Special Landscape Area (SLA). The coastal footpath lies within the boundary of the SLA. The Key Landscape and Visual Characteristics of the SLA relate to the Trotternish ridge and associated geological features, but also mention the extensive lengths of the coastline in the east. The sensitivity to change of the SLA is set out in Highland Council's assessment of the SLA. "Development on remote uninhabited areas of coastline could detract from the feeling of tranquillity and isolation or which would impinge on views out to sea or inland towards the ridge"; and "Introduction of marine-based installations in nearshore waters could fall within important coastal views or introduce built elements in areas remote from habitation" are both identified as factors that could detract from the special interest of the SLA.

38. I note that in its consultation response, NatureScot states that "the location of the seaward boundary [of the SLA] is arbitrary in terms of seascape impacts and should be a secondary consideration compared to the impacts of the proposal on the special qualities of the SLA." It further notes that this stretch of coastline is classified as 'undeveloped' within the Highland Coastal Development Strategy. In addition, NatureScot considers that the



coast creates a “localised sense of isolation and tranquillity on some sections.” Overall, NatureScot considers that some of the special qualities of the SLA would be eroded as a result of the proposals, but makes no value judgement as to what weight should be afforded to this in the decision-making process.

*Conclusions in relation to landscape, seascape and visual effects*

39. Bringing these points together; as described above, I find the proposals would have significant adverse effects on landscape and seascape through impacts on wildness, tranquillity, dark skies/ sky glow and tourism in the form of users of the coastal path, which contributes to the Skye Trail. Significant visual impacts would also be experienced from a number of viewpoints along the coastal path, between Balmaqueen and Flodigarry and from the sea. As I set out above, this area is considered within the Landscape Character Assessment to be sensitive to the introduction of marine installations, introducing the built form into isolated stretches of coastline. Whilst the area over which impacts would be experienced is relatively restricted, the development would introduce prominent structures into an area which is currently free from any obvious signs of built development along the coast or at sea. It would also introduce a greater degree of anthropogenic activity and noise than is currently experienced. Whilst I accept that the cages would be viewed against an extensive backdrop, and hence only occupy part of the view, I consider that their proximity to the shore would mean that they appear as a prominent and conspicuous feature in the foreground. As such, they would be difficult to overlook.

40. I am content that the proposals would be sufficiently remote and unobtrusive in distant views as to avoid any significant adverse effect upon the special interest of the NSA. I am less persuaded that this would be the case for the SLA. Whilst the proposal sits just to the outside of the seaward boundary of the SLA, I accept NatureScot’s advice that this boundary is arbitrary in nature. Certainly, the casual observer looking out to sea from the SLA would not be able to distinguish any discernible change in seascape character coincident with that boundary or identify a change in the quality of the scenery. The location of the proposed fish farm would still be fairly close to shore and hence prominent in views within this part of the NSA. Built structures are clearly identified as an aspect that would undermine the special interest of the SLA. I therefore conclude that the proposal would detract from the special interest of the SLA, albeit over a relatively small area.

41. The measures taken by the appellant to minimise or mitigate the visual impacts of the proposals are noted, including the reduced scale of the application and changes to the feed barge. Nevertheless, I do not consider that these mitigate the adverse impact sufficiently to avoid significant effects.

42. I therefore conclude that the proposed development, through the introduction of man-made structures into this area of coastline, and at the proposed distance from shore, would have a significant adverse effect on the landscape character, scenic and visual amenity, contrary to the requirements of Policy 50 of the HwLDP. I also find that it would be contrary to the requirements of Policy 61, through failing to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment. For similar reasons, I conclude that it would also fail to fully satisfy the requirements of policies 28 and 36.

43. In relation to Policy 57.1 of the HwLDP, the policy test is that proposals will be allowed if it is demonstrated that they will not have an unacceptable impact on the special qualities of the SLA. I have identified that there would be an impact on the special qualities of the

SLA. The acceptability of this impact needs to be assessed within the context of the benefits that would be delivered by the scheme. I make this assessment in my overall conclusions below.

### *Impacts on Benthic impacts*

44. Benthic impacts resulting from the deposition of fish faeces and uneaten food on the seabed are addressed in Section 5.1 and 6.1 of the ES.

45. The ES considered the effects of nutrient releases within the water column and deposited below the cage footprint. Similar changes can occur following deposition of medicines used to treat sea lice. The assessment was informed by a variety of baseline surveys including video footage, collection of benthic grab samples and hydrographic surveys. These identified that the proposal site is characterised by high tidal energy and low shear – that is similar current velocity and direction at all depths. The high velocity means that any released material is likely to be carried away from the site, rather than deposited beneath it.

46. In general, the seabed of the proposal site comprises rocky habitat to the southern end and the shoreward side. Mixed sediment with cobbles and boulders is present towards the centre of the site. The most extensive habitat was identified as indicative of the Scottish Priority Marine Feature habitat “Tide-swept coarse sands with burrowing bivalves.”

47. The assessment of deposition was based on “worst case” discharges associated with the peak anticipated biomass of 2,500T and assuming use of medicinal treatments, which would be used if the site were to be farmed as a conventional rather than organic farm. Modelling was based on SEPA’s AutoDepomod model.

48. The proposals include mitigation measures to minimise benthic impacts and to ensure that Environmental Quality Standards would not be breached. The assessment concluded that the site is well flushed and able to support the intended peak biomass of 2,500T without making a significant contribution to nutrient enhancement in the receiving waters or to algal blooms.

49. The surveys to inform the ES identified the presence of a Priority Marine Feature: *Tide swept coarse sands with burrowing bivalves*. Priority Marine Features have been identified by Scottish Government as marine nature conservation priorities in Scottish waters. NatureScot notes that the proposal could affect this habitat but did not consider that it raised any issues of national interest. I am therefore content that the effects on the Priority Marine Feature would not be unacceptable.

50. I note that on 8 August 2020, SEPA issued a CAR licence (CAR/L/1191011) for the proposed development. Hence, I conclude that the effects on benthic communities were considered by them to be acceptable.

### Impacts on wild salmonids

51. Effects on wild salmonids as a result of discharges of sea lice or escapes of fish from the cages are addressed in section 5.4 and 6.2 of the ES.

52. The assessment of baseline conditions was based on advice from Marine Scotland Science and historical surveys conducted by the Skye Fisheries Trust, in addition to new surveys carried out to support the proposal.

53. The appellant commissioned predictive modelling of possible sea lice dispersion from the proposal site (and other sites that the appellant was promoting). Given the exposed nature of the site, it was predicted that sea lice may be dispersed over a wide area, but at low densities to the north east of the site and with higher densities around the north coast of Trotternish.

54. The ES identifies a range of measures aimed at avoiding sea lice infestations (e.g. lice skirts), reducing the level of sea lice infections (e.g. through promotion of fish health); and use of organic methods to control infestations (e.g. use of cleaner fish). It also includes a protocol for monitoring lice numbers on a weekly basis and defines trigger levels at which different interventions to control sea lice would be introduced. A Sea Lice Control Strategy and Action Plan has also been produced to guide integrated sea lice management across all the appellant's sites. If control methods in line with organic principles fail, the developer proposes to use sea lice medicines permitted by SEPA. In its consultation response, Marine Scotland provided advice about Disease Management Areas and how these would relate to the proposed development. It also sought some further information about specific aspects of the sea lice control methods, but did not object to the proposals.

55. The risk of escapes of farmed fish is to be managed by containment and mitigation measures, which are detailed in The Containment & Escapes Contingency Plan. Farming in line with the Soil Association's Organic Farming Standard requires that the risk of escapes is minimised, that where appropriate, measures are taken to recapture fish and that records of losses are maintained. The cages and moorings have been designed to minimise the risk of loss of fish and take account of the tidal and expected wave conditions at the site. Moorings would be checked regularly. Letters of attestation concerning the suitability of the nets and moorings have been provided.

56. The appellant has reached agreement with the Skye and Wester Ross District Salmon Fishery Board to carry out pre-development surveys of certain rivers on Skye, which would be repeated as part of ongoing monitoring. Details of this are included within the Environmental Management Plan.

57. Risks of predation by seals and birds, which can also lead to escapes of farmed fish, have been considered and methods to mitigate these risks are listed within the ES.

58. Measures to reduce predation by seals include maintaining the tension on the grower nets using a weighted ring at the foot of the cage, low stocking densities, regular removal of any mortalities and use of Acoustic Deterrent Devices (ADDs) in line with a strict protocol. Seal blinds would also be incorporated into the cage design. A licence for control of seals would be sought from Marine Scotland for the specific circumstances set out in the Containment & Escapes Contingency Plan.

59. To avoid risk of bird predation, the appellant proposes to use top nets, which are supported on flexible fibreglass poles 4.5 – 5 metres in height above the water surface. Mesh size would be selected to reduce the risk of entanglement of birds. In addition, the appellant is proposing to use underwater feeding systems, which in addition to reducing the

time that fish are exposed to sea lice, would also reduce the risk of food debris on the surface attracting birds.

60. The appellant does not propose to use separate anti-predator netting owing to the practical difficulties this presents and that it would not be consistent with Organic Standards.

61. The ES has also assessed the risk of work boats or other maritime users causing a breach in the nets as a result of collisions. These risks would be managed through use of appropriately trained staff and use of vehicles with waterjet propulsions systems, reducing the risk of propellers damaging nets. The location of the site would also be marked in line with the requirements of the Northern Lighthouse Board.

62. In conclusion, I accept that the mitigation measures proposed are sufficient to safeguard stocks of wild salmonids.

### Cultural heritage

63. The safeguarding provisions for designated sites set out in Policy 57 of the HwLDP also apply to cultural heritage features. Potential impacts on cultural heritage assets are addressed in section 5.9 and section 6.5 of the ES. There are no known features of marine cultural heritage interest within the proposal area and following consultation with the Highland Council and Historic Environment Scotland, this element was scoped out of the ES.

64. A number of Scheduled Monuments were identified within the sea, landscape and visual impact assessment as occurring within 5 km of the proposal site. As these were all considered to be distant or outwith the Zone of Theoretical Visibility, they were not considered further. Effects on the Canmore site, Druim Nan Slochd, were screened out on the basis of distance and landform. Likewise, effects on the two listed buildings within 2 km of the proposal were scoped out as these do not have seaward views to the proposed site.

65. Potential impacts on the Chain Home Low WW2 Radar Station were considered as part of the SLVIA. Effects have been assessed as slight to negligible (non-significant). In addition, the proposal is not anticipated to have any effect on the Balmaqueen Crofting Township as it would not be visible from there.

66. A moderate – major (significant) impact was been identified for Tom na h-Uraich, a defensive dun site on the cliff top, which is a Canmore site. Although the site is poorly maintained and difficult to find, it would be possible to view the proposed fish farm site from here at a distance of around 1 km.

67. I note that Historic Environment Scotland is content that there would be no significant effects on cultural heritage resources for which they have an interest and did not object to the proposals and that the council's Historic Environment Team – Archaeology also confirmed that "there are no sensitive historic environment issues with regard to this application."

68. In conclusion, I find that the proposals would satisfy the requirements of Policy 57 of HwLDP in respect of designated cultural heritage sites.

## Effects on European Sites, habitats and species of conservation importance

69. The provisions of Policy 57 of the HwLDP apply to all natural heritage features, including sites identified as of international, national or local/regional importance. This includes European sites identified as Special Areas of Conservation (SAC) and Special Protection Areas (SPA). Policy 58 sets out measures to safeguard protected species, whilst Policy 59 includes measures for the protection of other important species. Additional protection for other important habitats not enjoying protection through Policy 57 is provided through Policy 60.

### *European Sites*

70. The provisions of Policy 57 in respect of European sites, substantially mirror the requirements of The Conservation (Natural Habitats, &c.) Regulations 1994 as amended (“the Habitats Regulations”). These regulations provide for the identification and protection of habitats and species considered to be of European importance.

71. Schedule 48 requires that before a competent authority gives permission or consent for a project which is likely to have a significant effect on a European site (either alone or in combination with other projects or plans); and that project is not directly connected to the management of the site, the competent authority should make an appropriate assessment of the implications for the site in view of that site’s conservation objectives.

72. The council, as competent authority under the regulations, identified likely significant effects on a number of European sites. Likely significant effects on the Inner Hebrides and the Minches Special Area of Conservation (SAC) were identified for porpoise arising from the use of Acoustic Deterrent Devices (ADD). Likely significant effects were also identified for St Kilda Special Protection Area (SPA) and other SPAs where gannet is a qualifying interest as a result of the proposed top net design, which has been shown at other sites to create a risk of entanglement for this species.

73. The council undertook an appropriate assessment in respect of each of these identified likely significant effects. Having sought advice from NatureScot, the council concluded for each European site that provided appropriate mitigation were included, the proposals, either alone or in combination with other projects and plans would not have an adverse effect on the integrity of any of the named sites, in light of that site’s conservation objectives. This mitigation includes an agreed protocol for the use of ADDs to avoid adverse effects on porpoise, which would require to be secured by condition. Mitigation measures to safeguard gannets were also identified.

74. I note that the likelihood of significant effects upon a number of other European sites were also considered (Shiant Isles SPA, River Kerry SAC) but following advice from NatureScot were screened out of the need for appropriate assessment.

75. Had I been minded to allow the appeal I would have been required to conduct my own appropriate assessment of the proposals in line with the requirements of the Habitats Regulations. There is no requirement to conduct an appropriate assessment where a proposal is refused.

### *Habitats and Species of Conservation Importance*

76. Effects on species and habitats of conservation importance and natural heritage designations have been considered in section 5.5.1 of the ES. In paragraph 49 above, I have already summarised the effects on the Priority Marine Feature: Tide swept coarse sands with burrowing bivalves.

77. Potential effects upon European Protected Species are set out in section 5.5.2 of the ES as:

- Harbour porpoise *Phocoena phocoena* – is a qualifying feature of the Inner Hebrides and the Minches SAC. Potential impacts on this species were identified as loss of habitat to the fish cages; underwater noise arising from boat use and the use of ADD, entanglement in nets and marine litter, disturbance and collision/ boat strike with the fish farm cages and vessel activity. The area of habitat to be lost is not considered to be significant.
- Other cetacean species – these include bottlenose dolphin *Tursiops truncatus*, which have been recorded in the area between Trotternish and Wester Ross and minke whale *Balaenoptera acutorostrata*, for which there are above average predicted and observed densities, particularly between July-September. The predicted impacts for these species and suitable mitigation measures are similar to those for harbour porpoise.
- Grey seal *Halichoerus grypus* and Harbour seal *Phoca vitulina* – the proposed site is considered to be around 3 km from the closest designated seal haul-out area, which is a grey seal breeding colony to the north at Trodday. Potential impacts include underwater noise, entanglement and disturbance.
- Otter *Lutra lutra* – although otters are present along the shoreline, there is no designation for otter in the vicinity of the site. As the proposed cages would be over 900 m from the closest point on shore and in depths exceeding 35 m, it is considered unlikely that the site would have any impact on otters.
- Breeding seabirds –the proposal site is within the known foraging distance of seabird species that are a qualifying interest of the Shiant Isles SPA, which includes fulmar *Fulmarus glacialis*, common guillemot *Uria aalge*, puffin *Fratercula arctica*, kittiwake *Rissa tridactyla*, razorbill *Alca tordo* and shag *Phalacrocorax aristotells*. Potential impacts on these species could arise as a result of loss of habitat, entanglement with nets and disturbance. Given the large potential foraging areas of these species and the area of the proposed fish farm, the loss of foraging habitat is not considered to be a potentially significant effect. The appropriate assessment conducted by the council concluded no adverse effects on site integrity of the SPA as a result of the proposals.
- Fulmar, common guillemot, kittiwake, and razorbill have been observed nesting on the Trotternish cliffs and the seawards cliffs of Flodigarry Island and razorbill, common guillemot and great skua have been observed at sea within the proposed site area. The proposal would lead to a loss of less than 0.05% of the foraging area of these species and is not considered to be significant. The appropriate

assessment conducted by the council concluded no adverse effects on site integrity of the SPA as a result of the proposals.

- White-tailed eagle *Haliaeetus albicilla* - entanglement and disturbance are the main potential impacts, but providing mitigation measures were introduced, the effects were not identified as significant.
- Basking shark *Cetorhinus maximus* – potential impacts could arise as a result of habitat loss, entanglement and disturbance/ collisions with small craft. As the area of potential habitat within the summer range of basking shark to be affected is small and the proposal site is located at some distance from the nearest basking shark hotspot, the loss of habitat is not considered to be significant.
- Marine turtles – four species are occasional visitors to Scottish waters (Leatherback turtle *Dermochelys coriacea*, Loggerhead turtle *Caretta caretta*, Green turtle *Chelonia mydas*, Kemp's ridley turtle *Lepidochelys kempii*). Potential impacts have been identified as entanglement in nets; collisions with boats; damage caused by propellers; and ingestion of marine litter.

78. The proposed smaller work boats would be fitted with jet drives, which would remove the potential for propeller strike with cetaceans and turtles. All boats would be fitted with Automated Information Systems, which would allow for real-time checking of proximity of boats to the shore and wildlife. Staff would also be trained in accordance with SNH's Scottish Marine Wildlife Watching Code and Guide to Best Practice for Watching Marine Wildlife.

79. Taking all these points together, I am content that provided mitigation measures were included, and that these were secured by condition, the proposals would not have unacceptable adverse effects on protected habitats or species, or other habitats or species of conservation importance. Consequently, I conclude that the proposals would be consistent with the requirements of Policy 57 of the HwLDP.

### Impacts on users of the sea

80. Section 5.6 of the ES considers the effects of the proposal on non-recreational uses of the sea. There are no recognised anchorages in the vicinity of the proposed development and the recognised sailing route lies over 1 km east of the proposed site. Analysis of Automatic Identification System (AIS) data has shown a low level of use of the proposal area for fishing and by creel fishermen. There is no known use of the area by military vessels and the MoD did not respond to the request for pre-application advice. The Northern Lighthouse Board has made recommendations in terms of the lighting requirements of the proposal. The ES concludes that effects on navigation are not significant and I concur with that view.

### Noise

81. Noise impacts are addressed in section 5.5.3 and section 6.4 of the ES, in addition to being considered as part of the SLVIA. The main source of noise associated with the proposal would be the operation of various items of machinery on the feed barge. These include generators, cranes, hydraulic systems and the feed blowers. Noise would also

arise from vessel movements, pumps on well-boats and equipment used in non-medicinal treatment of fish. Noise would generally be intermittent and confined to the working hours of the site.

82. Measures would be introduced to minimise noise from boat traffic, including maintenance of engines to reduce noise and switching off echo-sounders when using pre-set routes in the GPS.

83. The impacts of noise from the feed barge have been assessed by comparison with BS 4142:2014. The northernmost house at Balmaqueen has been identified as the closest noise sensitive property, where background noise levels are considered to be typical of a quiet rural area. Effects on users of the coastal path have also been considered. Having considered potential sources of noise and distance to receptors, the ES concludes that given the distance to receptors, there would be no significant effects on residential properties. There would, however, be adverse impacts on the closest sections of the cliff path.

84. The council's Environmental Health team originally submitted an objection to the proposal pending submission of additional information relating to noise sources on the barge and details of operating times. Following receipt of further information, Environmental Health concluded that whilst the proposal still lacked detail and that the assessment assumed background noise levels higher than typical for a rural location, it was satisfied that the noise assessment was based on a very conservative estimate of predicted noise. It therefore removed its objection and provided details for a condition to control noise, should the scheme be consented. I am therefore content that with the necessary mitigation, noise impacts would be acceptable.

#### Economic and community effects including effects on traffic, roads & tourism

##### Economic and community effects

85. The appellant has provided copies of reports that set out the contribution made by salmon aquaculture to the economy of Scotland in general and rural areas in particular. It has referred to the current reliance of the Skye economy on tourism and referred to research that promotes wider diversification of the local economy.

86. Against this background, the appellant predicts that the proposal would lead to the creation of seven full time equivalent jobs at the fish farm, in addition to two boat workers. It would increase opportunities for contract work from businesses located locally and throughout the Highlands, including accommodation providers. In this regard, I note that the appellant has stated that it has already invested over £13 million in the local economy. I also note the links between the appellant's and other companies based in the Highlands, for supply of the nets and fish stock.

87. The appellant also proposes to make a direct financial contribution to community funds, based on fish sales. The ES documents this contribution as being five pence per kilo based on annual production (head on gutted weight) from the site. I appreciate that such a contribution to the community may be welcomed and, in that regard, I note the positive statements made by the Staffin Community Trust concerning the appellant's economic contributions to date. Nevertheless, the proposed payments would be a voluntary contribution, and hence is not a material planning consideration. Therefore, I do not



consider that it has a particular bearing on the decision as to whether or not permission should be granted.

88. A number of the objections raise concerns about the effect of the proposals on tourism, which is an important element of the Skye economy. The impacts of the proposal on tourism including a range of visitor activities are considered in section 5.11.1 of the ES. The numbers participating in different activities partly draws on the heatmaps prepared as outputs of the Scottish Marine Recreation and Tourism Survey 2015, which were used to inform Scotland's Marine Plan 2015.

89. In terms of vehicle users, the SLVIA identified low to negligible effects for visitors on the A855 road corridor and no significant effects for those using minor roads in the study area. The coastal viewpoint at the former Chain Low Radar Station was identified as a stop-off point for those participating in tour trips by car/ bike, but was considered to be rarely used by those on bus tours. The ES estimated that the numbers using the viewpoint is likely to be in the region of 10's per day rather than the 100's per hour using viewpoints south of Staffin and that visitors would only spend a short time at the site.

90. The appellant has also undertaken a cumulative assessment of views of new and consented fish farms for visitors travelling around Skye for a day trip. It has concluded that the proposed farms would contribute to a small increase in the distance over which fish farms would be visible from the public road network.

91. Walkers are considered to be sensitive to visual impacts. Numbers using the Skye Trail in the vicinity of the proposal were considered as part of the seascape, landscape and visual assessment above.

92. Impacts on marine tourism considered those engaged in sea kayaking, sailing and marine tourism vessels. It was not possible to obtain numbers of people who visit the area in kayaks, but the stretch of coast between Staffin and Rubha Hunish is featured in sea kayaking guidebooks. As the proposed site is offshore, kayakers would be able to continue to use the inshore areas and view the cliffs and stacks. Some more distant views out to sea could be compromised over a short distance by fish farm structures and there could be low levels of noise. Nevertheless, it is not considered likely that the proposal would have a significant adverse impact on those undertaking sea kayaking in the area.

93. Numbers of recreational sailors have been estimated from the Automatic Identification System (AIS) dataset, although it is recognised that not all recreational vessels will carry such systems. Based on these data, most sailing tracks pass to the east of the proposal site, but in the order of seven vessels per year would be displaced if the proposal were approved. As noted in the SLVIA, there would be a large visual impact for vessels passing close to the proposed development. Nevertheless, given the low numbers of sailing vessels and limited distance over which effects would be experienced, it is concluded that the proposed development would not adversely impact on recreational sailing to any significant extent.

94. The number of wildlife tour boats and cruise ships passing near the proposal site was assessed as very low, with a low residence time. No significant effects were predicted. Nor are there any predicted effects for those involved in SCUBA diving or shore angling.

95. In reaching views about the effects of the proposals on visitors, the ES draws on published research (“Assessment of tourists’ impressions of fish farming and the Scottish Coastline” SARF, 2012) that found that the response of tourists to fish farming is mixed. Respondents overall were neutral to the expansion of fish farming, with 8% stating that expansion would negatively affect their key recreational activities and a further 14% stating that expansion would negatively affect their willingness to travel.

96. Based on the above, the ES concludes that the proposal would have an at worst neutral impact on tourism businesses, but with potential for improvements to the overall visitor experience as a result of direct community funding.

97. Notwithstanding my summary of the findings of the ES above, I note the number of strongly expressed concerns within representations about the effect of the proposal on the visitor experience and whether this would lead to a decline in tourist numbers and tourism income. I also note the significant contribution that tourism makes to the Skye economy. In addition, the proposal site falls within the definition of a Fragile Area. Policy 36 of the HwLDP requires me to have regard to the extent to which the proposal would help to support communities in Fragile Areas.

98. Considering all these points together, I accept that salmon farming has an important role to play in providing employment in rural areas. I also accept that it provides diversification to the economy of Skye. The proposal would generate new jobs in an area that has been identified as having a fragile rural economy. Tourism also forms an important element in sustaining this local economy. The estimates within the ES suggest that the numbers of tourists who would be directly affected by the proposals would be fairly low. Nevertheless, data about the contribution that these visitors may make to the local economy is lacking.

99. In addition, there is some ambiguity about whether the presence of a fish farm would have an appreciable effect on overall visitor numbers to Skye or influence their choice about where to visit or what to do. I have been directed to various reports which purport to investigate this matter, but these do not appear to reach any clear conclusions that would be directly applicable to the current situation.

100. I note that tourism numbers on Skye have grown against a backdrop of established fish farm development around the Island. Given this experience, I consider it unlikely that the proposal would influence overall visitor numbers to Skye. I am less clear about the effect of the proposal on users of the Skye Trail. The proposal would result in a down grading of the quality of the walking experience in the section between Balmaqueen and Flodigarry. Whilst I do not consider that the presence of the proposed fish farm would detract walkers from completing the full route, given the choice of long-distance routes that are now available to walkers, it could influence the numbers of people who choose this route over other options elsewhere.

101. The extent and nature of these uncertainties and ambiguities are such that I find it is difficult to reach a definitive conclusion about the net economic benefits of the proposal. On balance, I consider that it is more likely to have a positive as opposed to a negative benefit, but I am not able to reach any conclusions about the scale or significance of any such benefit.

102. Human population effects were also considered in the ES. Positive impacts are anticipated through provision of new jobs, direct income to the local community and creation of downstream jobs. There is an anticipation that the proposal has the potential to result in younger families moving to the area. Nevertheless, I find the evidence in support of these claims to be lacking. Whilst the proposal may create some new jobs, as highlighted above, it is not clear to what extent (if any) the proposals would have an adverse effect on tourism and hence tourism-related employment. Consequently, I do not consider that effects on human populations is a determining issue in this appeal.

### *Traffic and Transport*

103. Effects on traffic and transport effects are considered in Section 5.12 of the ES. The proposal site would be accessed, each day by boat, from Staffin Jetty. This is expected to involve one large workboat and one smaller boat.

104. Moorings, feed barge and cages would be brought to the site by boat. Smolts would also be delivered to the site by well-boat. Additional boat movements would be generated to allow visits by well boats for sea lice and other treatments (if required), and visits by dive teams, net cleaning teams and non-medicinal treatment vessels. Feed and waste would also be delivered to or removed from the site by boat.

105. Harvested fish would be brought to Staffin for transport to the processing facility. The ES estimates this as “around 24T of salmon per trip over five days a week at peak harvest, taking in the region of 4 months to harvest a site. Harvesting frequency may be higher towards the end of the production cycle.”

106. Vehicle movements to Staffin Pier are estimated as two vehicle movements to and from the pier each day by van/bus to bring staff to the work boats. During harvesting there would be up to three additional vehicle movements to and from the pier to transport the fish to the processing plant.

107. I note the strong concerns raised in representations about the effect of the proposal on traffic and roads, and in particular the comments about the ability of the road to Staffin Pier to accommodate predicted traffic levels. The consultation response from Transport Planning sought further clarification on the amount of road traffic to be generated both during the construction and operation phases of the development. It identified that a Construction Traffic Management Plan (CTMP) would most likely be required and that the developer may be required to enter into a Wear and Tear Agreement with the council as roads authority, in accordance with Section 96 of Road (Scotland) Act 1984.

108. The council’s report of handling notes that the only reason for landing fish at Staffin Pier would be to process these fish for market. That would only occur in the event that a fish processing plant were constructed. Such a plant would be subject to a separate planning application, which would allow the issue of the suitability of the road to be considered at that time. In the absence of a fish processing plant, fish would be harvested to a well-boat and taken elsewhere. As such, I accept that the current proposals do not represent concerns in relation to traffic generation.

### Other impacts

109. The ES was informed by the EIA Scoping Opinion issued by The Highland Council and prepared in line with the requirements set out in the 2011 EIA regulations. In addition to the topics considered above, section 5.10 of the ES addressed the issue of waste.

110. The ES documents that a Waste Minimisation & Management Plan has been prepared in line with the provisions of the National Marine Plan, Scottish Planning Policy and the Organic Standard. It sets out how waste from the site would be reduced, reused or recycled in line with the principles of the waste hierarchy.

### Conclusions in respect of EIA

111. Other than in relation to seascape, landscape and visual impacts, the council has not founded its refusal on any of the environmental impacts considered within the ES. There are no outstanding concerns on the part of key agencies, subject to the imposition of appropriate conditions. I am therefore content that the main outstanding issue arising from the ES relates to effects of the scheme on seascape, landscape and visual receptors.

### Other matters

112. The appellant has stressed the intention that the fish farm would be operated on organic principles, which would result in a lower stocking density and consequential benefits for the environment. Whilst that may be the case, there are no guarantees that would be the case. Nevertheless, I consider that the ES has given a fair assessment of the impacts of the proposals under the 'worst case' i.e. non organic conditions. Other than in respect to seascape, landscape and visual effects no unacceptable significant adverse impacts have been identified.

113. I note the concerns raised in some representations about the exposed nature of the site and the associated risks of damage to cages with consequent loss of fish. The appellant has provided an attestation for the nets at the site. Marine Scotland requested a similar attestation in relation of cages and moorings. This was supplied via letter dated 9<sup>th</sup> January, 2020. Therefore, I am satisfied that the appellant has considered these risks and chosen appropriate equipment able to withstand the anticipated sea conditions.

114. The council's report of handling refers to inquiries into fish farms held by two Scottish parliamentary committees and subsequent reports which recommend (amongst other things) that regulatory bodies should employ the precautionary principle on a more regular basis. I am content that the assessment of effects of the proposals on features of international and national importance has reached robust conclusions supported by appropriate evidence.

## **Conclusions**

### Local development plan

115. Policies within the local development plan support proposals for aquaculture, provided that they would not have a significant adverse effect, directly, indirectly or cumulatively on the natural environment.

116. The proposed location is considered suitable from an aquaculture perspective. The council's Habitats Regulations Appraisal and appropriate assessment support the conclusion that the proposals would not have an adverse effect on the integrity of any sites of international or national importance for their habitats or species. The effects of the proposals on environmental receptors have been assessed within the ES and generally found to be not significant, other than for effects on seascape, landscape and visual receptors.

117. Nevertheless, the ES does identify significant adverse impacts on seascape, landscape and visual receptors, including those walking the Skye Trail and users of the coastal waters.

118. Although the proposal would lie just outside the boundary of the SLA, I attach importance to NatureScot's opinion that the seaward boundary is somewhat arbitrary and that in its view the proposals would undermine/ damage the special features of the SLA.

119. Whilst I accept that these effects are fairly localised, in terms of the greatest effects occurring within a 1 - 2 km radius of the site, they are none the less significant. The undeveloped nature of the stretch of coast, where the proposal would be located, is an important characteristic of the seascape character area and the SLA. The proposal would remove these characteristics. In addition, I consider that the distance over which visual effects would be significant needs to be considered within the context of the activities of viewers. For those walking the Skye Trail, effects would be apparent over an appreciable portion of this stage of the walk. The proposed location would appear visually close inshore and would be a dominant feature within the foreground of views, competing with and detracting from the dramatic natural coastline.

120. Policy 50 of the HwLDP accepts that development will inevitably lead to change in landscapes, but does not support development that would have unacceptable impacts. In this case, the significant landscape and visual impacts of the proposal need to be assessed against the benefits of the proposal to determine its acceptability.

121. It is anticipated that the proposal would provide for non-tourism related employment in the north of the island, equivalent to the creation of seven jobs, with an additional two posts for boat handlers. The appellant also identifies potential downstream benefits for local suppliers and businesses, but has not quantified these. I also note that some of these suppliers are located elsewhere in the Highlands, not just on Skye. As I set out above, it is not possible to quantify the net economic benefit of the proposals, but I accept that these are more likely to be positive than negative.

122. When considered together, I am not persuaded that the benefits of the scheme, some of which are uncertain or unquantified justify the associated significant adverse effects on seascape, landscape and visual receptors, which were outlined above. That is, I find that the proposals would have significant adverse effects on landscape character, scenic and visual amenity, contrary to the requirements of Policy 50 of HwLDP. I also consider that the effects of the proposal on the SLA, a feature of local/regional importance, would be unacceptable, contrary to the requirements of Policy 57 of the HwLDP. The effects on seascape and landscape demonstrate a lack of sensitive siting and fail to reflect the special qualities identified in the Landscape Character area in which they are proposed and hence also fail to meet the requirements of Policies 28, 36 and 61 of the HwLDP. Thus, overall, I conclude that the proposals fail to accord with the local development plan.

### Other material considerations

123. National policy, including SPP and the National Marine Plan is also generally supportive of aquaculture development, provided that the proposed locations would not have adverse effects on the environment. In particular, I note that Policy Aquaculture 5 of the National Marine Plan requires that aquaculture proposals should avoid and/ or mitigate adverse impacts upon the seascape, landscape and visual amenity of an area.” As I have already set out above, I find that the proposal would generate significant, adverse impacts on landscape, seascape and visual receptors and that the proposed mitigation is not sufficient to reduce these to an acceptable level.

124. The adverse effects of the proposal on seascape, landscape and visual receptors also lead me to conclude that the proposal does not represent the right development in the right place, which is a central aim of SPP.

### Overall conclusions

125. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission.

126. I have considered the economic benefits of the scheme. As stated above, whilst I am satisfied that these are likely to be generally positive, there is insufficient evidence to quantify those benefits and hence be reassured that they would justify the adverse impacts on seascape, landscape and visual receptors.

127. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

*Sue Bell*  
Reporter

## Schedule A: Opportunities for public participation in decision-making

There is the following evidence before me of opportunities the public had to take part in decision-making procedures on the application before I was appointed to this appeal:

- the appellant has provided a report on pre-application consultation (Annex 4 to the Environmental Statement). This indicates that 2 public exhibitions were held, at Staffin Community Hall on 15<sup>th</sup> February 2019 and Kilmuir Hall on 16<sup>th</sup> February 2019, and the public had an opportunity to comment to the appellant on the proposed development;
- an advertisement of the application in the West Highland Free Press dated 16 March 2020 and Edinburgh Gazette 18 March 2020 has been provided. It advertised the opportunity for the public to make representations upon the proposal for the development and the accompanying EIA report;
- the planning authority received 41 public representations from 35 households within time in respect of the application. An additional 6 representations from 5 households were received after the date. The main points raised in those representations are summarised in in the council's report of handling as follows:

### “Against;

- a) Use of the term ‘organic’ is misleading
- b) The proposal significantly disrupts the open-seascape views – raises similar issues to the Flodigarry proposal to the south. Particular impact on the Skye Trail coastal footpath
- c) High risk of north-westerly storm damage to the cages resulting in escaped fish and pollution. Pollution will also result from the operation of the farm
- d) Negative impact on tourism
- e) Will disrupt views and amenity when seen from the Trotternish Ridge
- f) Coastal swimming, kayaking and sailing should be protected from such development
- g) Acoustic Deterrent Device (ADD) use will harm cetaceans and disturb local colonies of seals
- h) Will impact upon wild salmon from the Brogaig, Kilmartin and Lealt rivers and the wider surrounding waters
- i) Recent sightings of basking sharks in Kilmaluag Bay
- j) Precautionary principle is not being applied as it should
- k) Protected species in the area should be surveyed as required by Policy 58
- l) Given previous consents are up and running and employing staff it is unlikely that this farm would require to create 7 new jobs
- m) Fish farms introduce micro plastics into the maritime environment

### For;

- a) The farm will create steady, permanent jobs in the area
- b) Current Covid-19 lockdown indicates the importance of a wide employment base and not just tourism
- c) Pens and mooring systems have been designed specifically for this site taking into account local conditions. No reason to expect them to fail.
- d) No evidence that existing ADD use is causing cetaceans to leave the waters around aquaculture farms – plenty of sightings from those farms
- e) Organic certification will follow successful organic production at the existing sites
- f) No evidence that fish farms damage tourism

- g) Open location, rather than enclosed sea loch, should minimise sea lice impact on migratory fish
- h) Position 2km north of Flodigarry site means visual objections to that site do not apply to this one
- i) Fish farms create employment in other sectors too

**Neutral;**

- a) Staffin Community Trust confirms discussions with applicant regarding a community benefit levy for use of any redeveloped Staffin Slipway”

Those who made representations upon the application have been treated as interested parties in the appeal. They have had the opportunity to make representations on matters that they raised, by written response to the appeal.