

Minute

Planning Committee

Thursday, 8 September 2022, 14:00.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

Councillors Owen Tierney, Kristopher D Leask, Graham A Bevan, Alexander G Cowie, P Lindsay Hall, James R Moar, Raymond S Peace, John A R Scott, Jean E Stevenson, Ivan A Taylor, Mellissa-Louise Thomson and Duncan A Tullock.

Clerk

- Angela Kingston, Committees Officer.

In Attendance

- Hazel Flett, Service Manager (Governance).
- Jamie Macvie, Service Manager (Development Management).
- Susan Shearer, Service Manager (Development and Marine Planning).
- Paul Maxton, Solicitor.
- James Green, Senior Policy Planner (Development and Marine Planning).

Observing

- Kirsty Groundwater, Communications Team Leader.
- Lauren Pring, Graduate Planner.

Declaration of Interest

- Councillor Kristopher D Leask – Item 1.

Chair

- Councillor Owen Tierney.

1. Planning Application 21/495/MAR

Proposed Creation of Salmon Farming Site with Feed Barge near East Moclett, Papa Westray

Councillor Kristopher D Leask declared a non-financial interest in this item, in that his employer, Arianne Burgess MSP, had objected to the planning application, and left the meeting at this point.

Naomi Dempsey and Chris Webb, representing the applicant, Cooke Aquaculture, and Catherine Chattington, Wendy Elves, Joanne Porter and Chris Rutterford, objectors, were present during consideration of this item.

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Service Manager (Development Management), the Committee:

Noted:

1.1. That letters of objection, comments and letters of support, relating to the application for planning permission in respect of the proposal for the creation of a salmon farming site with feed barge near East Moclett, Papa Westray, had been received from those persons listed in Appendix 1 to this Minute.

After hearing representations from Wendy Elves, Joanne Porter, Catherine Chattington and Chris Rutterford, objectors, and from Naomi Dempsey, representing the applicant, Cooke Aquaculture, on the motion of Councillor Duncan A Tullock, seconded by Councillor Graham A Bevan, the Committee:

Resolved, in terms of delegated powers:

1.2. That planning permission be granted in respect of the proposal for the creation of a salmon farming site with feed barge near East Moclett, Papa Westray, subject to the conditions attached as Appendix 2 to this Minute.

2. Conclusion of Meeting

At 15:34 the Chair declared the meeting concluded.

Signed: Owen Tierney.

Appendix 1.**Proposed Creation of Salmon Farming Site with Feed Barge near East Moclett, Papa Westray (21/495/MAR)****Objections:**

- Ms Cheryl Abraham, 1 Cape View Drive, Wolfville, B4P 1M3.
- Dr Nicola Abraham, Lagganbeag House, Kilninver, Oban, PA34 4UU.
- Mrs Kate Rogers, 258 Forest Drive, Oriental, North Carolina, USA, 28571.
- Daniel and Wendy Elves, Vestness, Papa Westray, KW17 2BU.
- Mrs Sheila Pledger, Holm View, Papa Westray, KW17 2BU.
- Mr John Harper, Nouster, Papa Westray, KW17 2BU.
- Mr Maximilian Campbell, Kelvin House, Kelvinhead, Glasgow, G65 0QJ.
- Mr James Finlayson, 43 Maryknowe, Gauldry.
- Taya, Tim and Cassia Dodman, Hundland, Papa Westray, Orkney, KW17 2BU.
- Miss Laurel Renton, 65/2 Spottiswoode Street, Edinburgh, EH9 1DL.
- Miss Rebecca Crawford, 46 Meadowbank, Kirkwall, KW15 1QJ.
- Karen Edwards, Summer Hill, Halesowen, B63 3BU.
- Ms Owens Emer, 15 Cassels Lane, Edinburgh, EH6 5EU.
- Mrs Sophie Etheridge, 8 Manor Barns, The Street, Little Snoring, NR21 0fFD.
- Kathy Baker, 1825 Riddlesworth Dr, Virginia Beach, Virginia 23456, USA.
- Christopher and Mara Bell, South Rendall, Central Road, Papa Westray, KW17 2BU.
- Mr Christopher Rutterford, 50 Croft Street, Dalkeith, EH22 3BA.
- Ms Christiana Walcher, Hunoldsgaben 50, Augsburg, Germany, 86150.
- Dr Joanne Porter, 1 Suleskerry Shorestation, Ness Road, Stromness, KW16 3DL.
- Angela Williamson, Rosemay Cottage. Leadburn, West Linton, EH46 7BE.
- Mr Brian Lewis, 76 Holme Lane, Sheffield, S6 4JW.
- Ms Gina Breck, 16, Soulisquoy Place, Kirkwall, KW15 1TJ.
- L and A Sharp, Ness, Papa Westray, KW17 2BU.
- Mrs Ann Lopeman, 28 Beauty Bank, Old Hill, Cradley Heath, B64 7HZ.
- Gerald McKillop, 93 Kings Road, Kings Heath, Birmingham, B14 6TN.
- Mr David Shepherdson, 8 Springfield Crescent, Stromness, KW16 3AS.
- Orkney Marine Mammal Research Initiative, C/o Mrs Imogen Sawyer, Little Isegarth, Sanday, Orkney, KW17 2BL.
- Dennis Archer, Sealladh Breagha, Gallanach Road, Oban, PA34 4PD.
- Ms Lubica Bystricka, Gowrie, Papa Westray, KW17 2BU.
- Mike and Susan Rutterford, 22/14 Kinellan Road, Murrayfield, Edinburgh, EH12 6ES.
- Dr Simon Rudland, 15 Ipswich Road, Woodbridge, IP12 4BS.
- Jane Jones, 15 Devonshire Road, Aberdeen, AB10 6XN.

- Neill and Gillian Renton, The Green, Roadside, Papa Westray, KW17 2BU.
- Susan and Tony Curtis, Links, Papa Westray, Orkney, KW17 2BU.
- Melanie Gardner, 560 N St., SW #N403, Washington, DC, 20024.
- Dr Samantha Clark, Hunto, Birsay, KW17 2LS.
- Brian McClave and Olive Carr, 78 Denmark Villas, Hove, BN3 3TJ.
- Ms Lucy Carr-McClave, 19 Estcourt Terrace, Leeds, LS6 3EX.
- I and M Cursiter, Charleston, Papa Westray, KW17 2BU.
- Mr Jim Aird, 11 Skeltiemuir Grove, Bonnyrigg, EH19 3QL.
- Mrs Verity Branscombe, Lenteverne Cottage, St Mary's, Isles of Scilly, TR21 0NS.
- David and Niki Smith, 76 Compton Road, Brighton, BN1 5AN.
- Mrs Karen Johnson, Little Logaston, Hereford, HR3 6QH.
- Ms Susan Kinnear, 1, Netherwells Farm Cottages, Netherwells, Jedburgh, TD8 6QU.
- Jo Koszel, 33 Potterton Lane, Barwick in Elmet, Leeds, LS15 4DU.
- Joanne Mitchinson, 2 Picton Grove, Wavertree, Liverpool, L15 1HL.
- Margaret Leplar, Flat 1, Falls View Apartments, North Connel, PA371QX.
- Mr Michael Hannam, 8 Flat 3, Piershill Terrace, Piershill Terrace, Edinburgh, EH8 7EU.
- Mr Paul Baker, Clestrain, Papa Westray, Orkney, KW17 2BU.
- Dr Sarah Fennell, 100 Westover Road, Bristol, BS9 3LP.
- Miss Jade Jones-Elves, 138, Fore Hamlet, Ipswich, IP3 8AF.
- Miss Francesca Woolley, 38 Thornhill Square, London, N1 1BE.
- Miss Roise Blaney, 1/2 3 Caird Drive, Glasgow, G11 5DZ.
- Ms Rosey Priestman, 4 Stove, Sanday, KW17 2BA.
- Mr Paul Geiffiths, Breckaskaill, Papa Westray, Orkney, KW17 2BU.
- Mr Filip Esau, Kleine Helle 42-43, Bremen, Germany, D-28195.
- Mrs Elizabeth Rachel Bond, 50 City Road, Norwich, NR1 2HS.
- A and R Wakeham, North Rendall, Papa Westray, KW17 2BU.
- Ms Sarah Cox, 1 Cussies Row, Petersfield Road, Midhurst, GU29 9JH.
- Mr Jonathan Ford, Ms Saoirse Higgins and No East Moclett Group, Midhouse, Papa Westray, KW17 2BU.
- Mr Bruce Cheney, 402 Freemason Street PO Box 461, St Thomas Episcopal Church, Oriental, North Carolina, USA, 28571.
- Ms Margaret Rinder, 23 Howard Park, Greystoke, Penrith, CA11 0TU.
- Catherine, Frederick, Laurie and Sophie Chattington, Skennist, Papa Westray, KW17 2BU.
- Mr David Roche, Aalsker, Papa Westray, Orkney, KW17 2BU.
- Miss Amy Harrison, 1 Basset Street, Redruth, TR15 2EA.
- Ariane Burgess MSP C/o Claire Filer, The Scottish Parliament, Edinburgh, EH99 1SP.
- Sylvan and Stephane Jenaer, Quoys, Papa Westray, KW17 2BU.

- Miss Flora Williams, 2/2 1 Turnberry Road, Glasgow, G11 5AF.
- Rob Parry and Annie Greent, Y Fron, Tanysgafell, Bethesda, LL57 4AJ.
- Ms Amy Liptrot, Hebden Bridge, West Yorkshire, HX7 8DF.
- Mr Osian Jenaer, 24b, Gowlett Road, London, SE15 4HY.
- Mr Joseph Gilman, 9 Hermaness, Kirkwall, KW15 1XA.
- Mr Jamie Murphy, 7 Rupert Street, Glasgow, G4 9AP.
- Miss Frances Scott, Flat 2/2, 28 Mansionhouse Road, Glasgow, G41 3DN.
- H Owens, The Grove, Pembridge, Leominster, HR6 9HP.
- Gabriel Smith and Hannah Renton, 12/7 Dean Park Street, Edinburgh, EH4 1JW.
- Ms Rebecca Cottrell, 13 Holland Street, Brighton, BN2 9WB.
- Daisy Mayers and Joseph Lawrence, 388 Great Western Road, Flat 2/1, Glasgow, G4 9HZ.
- Mrs Margit Fassbender, Daybreak, Papa Westray, KW17 2BU.
- Mr Fin Renton, 30 Belgrave Terrace, Aberdeen, AB25 2NS.
- Mr Alan Dawson, Sun Cottage, Scar Hill, Minchinhampton, Stroud, GL6 9AH.
- Kamila Kaniski and Sarah McKinnon, East Bank House, Kirkwall, KW15 1LX.

Comments:

- Mr Derek Harper, Marstone, Cricketfield Road, Torquay, TQ2 7NP.
- Mr Daniel Wise, 14 Hillside Road, Stromness, KW16 3AH.
- Mrs Gillian Jamieson, 18 Woodcroft Street, Rawtenstall, Rissendale, BB4 8LG.
- Mr David Gabra, 521 Duke Street, Glasgow, G31 1DL.
- Gordon William Aitken, 11 Northcrofts Road, Biggar, ML12 6EL.
- Miss Abbie Cameron, 2/1 15 Willowbank Street, Glasgow, G3 6LY.

Support:

- Mr Leslie Sinclair, 31A Broad Street, Kirkwall, KW15 1DH.

Appendix 2.

Proposed Creation of Salmon Farming Site with Feed Barge near East Moclett, Papa Westray (21/495/MAR)

Grant subject to the following conditions:

01. No other development shall commence until an adaptive site specific Environmental Management Plan (EMP) for monitoring and managing the interactions between the operation of the farm and the wild fish environment is submitted to, and agreed in writing by, the Planning Authority, in consultation with Marine Scotland Science and NatureScot. The EMP shall include, but not be limited to, the following information:

- Details of the monitoring scheme which shall report on the level of lice released into the environment to include both farmed fish numbers and adult female lice numbers.
- Identification of the likely area(s) of sea lice dispersal from the fish farm.
- Details of how and what monitoring will be collected to assess potential interaction with wild fish.
- Details on how this monitoring information will feed back to management practice.
- Detail of a regular review process to ensure that the EMP remains fit for purpose.
- Details of any changes proposed as a result of any collaboration with other fish farms operated with FMA 01.

Thereafter, the site shall be operated, monitored and managed in accordance with the duly approved EMP, or any subsequently approved variation thereof.

Reason: In the interests of conservation of wild salmonids.

Note: The applicant will require to obtain necessary permissions for the collection of wild salmonids.

02. The adaptive EMP as required by condition 01 shall include a strategy for wildlife entanglement/entrapment management, monitoring and reporting, which shall be subject to the same agreement, in writing, by the Planning Authority, in consultation with NatureScot. All agreed measures within this strategy shall be implemented no later than the date of installation of the pole mounted top nets. This strategy shall include, but not be limited to, the following measures:

- There will be no associated use of gill or other static or drift nets in the water column.
- Operators to maintain daily records of wildlife entanglement / entrapment using a standardised NatureScot proforma and to submit regular (typically six-monthly) returns of these records to the relevant Planning Authority, copied to NatureScot.
- Immediate notification by the site operator to both the Planning Authority and NatureScot in event of any significant entrapment or entanglement in any infrastructure, including cage, top and sub-surface anti-predator nets, of great

black-backed gulls, gannets, auks (any species) cormorants, or other single bird species. Specifically for this site, significant should be interpreted as involving:

- three or more birds of any one or more species on any one day and/or
- a total of six or more birds of any one or more species in the space of any seven day period and/or
- repeat incidents involving one or more birds of any one or more species on three or more consecutive days) and/or
- a cumulative total of three or more great black-backed gulls over any period from commencement of site operation.

Should an event or events be notified in accordance with the above conditions, the Planning Authority should consult with NatureScot and the applicant to agree any mitigation measures required, and any such mitigation measures should be implemented within a timescale determined by the Planning Authority and be retained throughout the life of the top nets unless otherwise agreed, in writing, by the Planning Authority.

Reason: In the interests of protecting shags, gannets and other aerial diving birds from entanglement in the nets and to limit impacts to the natural environment.

03. No development shall commence until details of cage top nets to be installed at this site, including mesh size and colour, are submitted to, and approved in writing by, the Planning Authority, in consultation with NatureScot. Thereafter, the development shall be carried out in accordance with those agreed details.

Reason: To ensure that birds do not become entangled in such nets and for the avoidance of doubt.

04. At all times when equipment is on site, the following navigational marks shall be provided:

- The site should be marked with 2 lit yellow poles fitted with yellow 'X' topmarks.
- The lights should display a character of one yellow flash every five seconds (FI Y 5s) with a nominal range of 2 nautical miles and be installed above the 'X' topmark.
- The poles should be positioned at the Northeast and Southwest corners of the cage group.
- Each light should be 1 metre above the site equipment handrails and installed so as to be clearly seen by vessels approaching from all navigable directions.
- Poles should be ≥ 75 mm diameter, the 'X' topmark should be ≥ 75 cm length by 15cm width.
- The feed barge should exhibit an all-round fixed white light with a nominal range of 2 nautical miles from a point at least 1 metre above any other obstruction.

In addition:

- A weekly check of the site's marking equipment shall be performed and records kept of its physical and working status for audit purposes.

- Outlying anchor points should not be marked with buoys, unless specifically requested by local users, and alternative means to locate anchors should be utilised.
- Loose floating lines around site equipment are strongly discouraged as this can cause serious safety implications for other mariners.
- On completion of the development the UK Hydrographic Office (sdr@ukho.gov.uk) must be notified and supplied with the mooring grid co-ordinates in order that the appropriate chart can be revised accordingly.

Reason: In the interests of navigational safety.

05. All lighting above the water surface and not required for safe navigation or security purposes should be directed downwards by shielding and be extinguished when not required for the purpose for which it is installed on the site. The maturing lights on site shall only be used between 1 December and 31 March each year, unless otherwise agreed, in writing, by the Planning Authority. Details of light shielding or baffels shall be submitted to, and agreed in writing by, the Planning Authority prior to being installed, and thereafter retained throughout the lifetime of the development in accordance with agreed details, unless otherwise agreed, in writing, by the Planning Authority.

Reason: In the interest of visual amenity.

06. If lighting is required for security purposes on site, only infra-red lights and cameras shall be used, unless otherwise agreed, in writing, in advance of installation, by the Planning Authority.

Reason: To avoid unnecessary lighting in the interests of visual amenity and to limit impacts to the natural environment.

07. The finished surface of all equipment above the water surface, including surface floats and buoys associated with the development, but excluding those required to comply with navigational requirements, shall be non-reflective and finished in black or a dark muted grey (except for the feed barge controlled by condition 09), unless otherwise agreed, in writing, by the Planning Authority.

Reason: To minimise the visual impact of the development.

08. All equipment and associated moorings hereby approved shall be wholly contained within the area identified within the Location Plan attached to and forming part of this decision notice which confirms the mooring containment area, cage grid, site centre and barge. On first installation, the position of the corners of the cage group, corner anchors of the development and the location of the feed barge shall be recorded using Global Positioning System. These positions should be re-measured and recorded regularly, at least once every six months, and immediately following storm events. A record of all positional information must be maintained and made available on request to the Planning Authority.

Reason: To prevent the equipment moving beyond the location approved by this planning permission and to ensure the safety of maritime traffic.

09. Prior to the feed barge being brought onto site, details of the colours the feed barge shall be painted shall be submitted to, and agreed in writing by, the Planning Authority. Thereafter the barge shall be installed and retained throughout the lifetime of the development in accordance with agreed details, unless otherwise agreed, in writing, by the Planning Authority.

Reason: In the interest of visual amenity.

10. Upon the first use of the development hereby approved and thereafter, the maximum stocked biomass of the East Moclett fish farm shall not exceed 3,850 tonnes, with a maximum production biomass per cycle not exceeding 5,571 tonnes.

Reason: To ensure that the development is operated in accordance with the parameters as applied for and in the interests of the marine environment, to ensure that no unacceptable burden is placed on existing infrastructure.

11. The development shall be constructed, implemented and managed in accordance with the following documents, all forming part of the Environmental Impact Assessment Report:

- Predator Defence and Mitigation Policy.
- Containment and Escape Response.
- Sea Lice Management Plan.
- Vessel Management Plan.
- Fish Health and Welfare Manual.
- Daily and Weekly Cage and Barge Checks.
- Work Instruction Routine Mort Removal and Disposal.
- Mass Mortality Procedure.
- Equipment Attestation.
- Fish Health and Welfare Manual.

The development shall thereafter be operated and maintained in accordance with these documents throughout the lifetime of the development, unless otherwise agreed, in writing, by the Planning Authority.

For the avoidance of doubt all modifications, amendments or revocations of these Policies and Plans shall be submitted to, and agreed in writing by, the Planning Authority, in advance of any such changes occurring on site.

Reason: To safeguard the natural heritage and biodiversity interests in the area and to protect the health of wild fish.

12. If any use of Acoustic Deterrent Devices (ADDs) is proposed at this site, prior consultation shall be carried out with the Planning Authority. This consultation shall include the submission of information regarding the specifics of the ADD system and any mitigation measures to be implemented on site. The Planning Authority, in consultation with NatureScot, will review the information supplied to determine the significance of any issues affecting natural heritage interests which may arise due to the ADD deployment at this site. Written guidance through site protocols and ADD usage shall be agreed, in writing, by the Planning Authority. The use of ADDs shall be carried out only in accordance with approved details.

For the avoidance of doubt this planning condition has no bearing on whether additional licence requirements require to be addressed for the deployment of ADDs, such as European Protected Species licensing, which is considered under separate legislation.

Reason: To protect internationally and nationally important natural heritage interests.

13. Static gill nets should not be deployed at this site, unless otherwise agreed, in writing, by the Planning Authority, in conjunction with NatureScot.

Reason: To reduce the chance of entanglement of wildlife.

14. 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 developer shall carry out, or make suitable arrangements for the carrying out of, all measures necessary for lighting, buoying, raising, repairing, moving or destroying the whole or any part of the equipment, as agreed, in writing, by the Planning Authority.

Reason: To ensure that the development does not cause a danger to other users of the area.

15. Not less than 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 by, the Planning Authority. Upon cessation the approved scheme shall be implemented within an agreed timescale.

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.

16. In the event that the fish cages or associated equipment approved by this permission cease to be in operational use for the growing of finfish for a period exceeding three years, those cages and associated equipment shall be wholly removed, and the site restored to the satisfaction of the Planning Authority, within four months of being notified by the Planning Authority.

Reason: To ensure the development is removed, in full, from the site once operational use has ceased ensuring the development will not adversely affect the area.

17. No development shall commence until the Waste Management Plan is updated to include a biannual shore clean-up of waste materials, with full details of the extent of the clean-up to be submitted to, and approved in writing by, the Planning Authority. In addition, the Plan shall include details of measures to clear any equipment or cages that are damaged or displaced due to storm damage.

Reason: To ensure waste is minimised in the interest of public health and visual amenity.

18. Additional voluntary environmental monitoring to inform far-field or indirect effects on species and habitats of conservation concern from the hereby approved site at East Moclett shall be carried out, and results provided, by the applicant in relation to:

- Far field benthic monitoring.
- Vestness Sea Grass Bed Monitoring.
- Skate Monitoring.

No development shall commence until full details of the monitoring strategies, including reporting results, are submitted to, and approved in writing by, the Planning Authority. These details shall include evidence of correspondence with the Orkney Skate Trust in relation to the methodology of monitoring.

Reason: To further inform potential impacts on far-field or indirect significant effects on species and habitats of conservation concern, as confirmed in email correspondence from the applicant dated 22 August 2022.

Informatives

01. The Aquatic Animal Health (Scotland) Regulations 2009 requires the authorisation of all Aquaculture Production Businesses (APBs) in relation to animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals. The authorisation procedure is undertaken on behalf of the Scottish Ministers by the Fish Health Inspectorate (FHI) at Marine Scotland Marine Laboratory. To apply for authorisation for an APB or to amend details of an existing APB or any site that an APB is authorised to operate at, you are advised to contact the FHI as follows: Fish Health Inspectorate, Marine Scotland Marine Laboratory, 375 Victoria Road, Aberdeen, AB11 9DB. Tel: 0131 244 3498; Email: ms.fishhealth@gov.scot

02. All marine farms, whether finfish, shellfish or algal, are required to apply for a marine licence under Part 4 of the Marine (Scotland) Act 2010. To apply for a marine licence, or to amend details of an existing marine licence (formally Coast Protection Act 1949 – Section 34 consent), please visit the Scottish Government's [website](#) where application forms and guidance can be found. Alternatively, you can contact the Marine Scotland Licensing Operations Team (MS-LOT) by emailing MS.MarineLicensing@gov.scot or calling 0300 244 5046.

03. It is an offence under Section 56 of the Roads (Scotland) Act 1984 to carry out any excavations within the boundary of the public road without written permission of the Roads Authority. Therefore, one or more separate consents will be required from the Council's Roads Services to carry out any works within the road boundary, prior to any works commencing. These consents may require additional work and/or introduce additional specifications. You are therefore advised to contact Roads Services for further advice as early as possible. Any damage caused to the existing road infrastructure during construction of the development shall be repaired to the satisfaction of the Planning Authority, in conjunction with Roads Services. It is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain beyond the working day, on a public road from any vehicle or development site.