

Item: 3.1

Planning Committee: 7 March 2018.

Create Salmon Farming Site, including Feed Barge, (redevelopment and enlargement of the existing fish farm site), South Cava, Scapa Flow

Report by Executive Director of Development and Infrastructure.

1. Summary

1.1.

This is a planning application with an Environmental Statement for the redevelopment and enlargement of an existing Atlantic salmon fish farming site at South Cava, Scapa Flow. The proposed farm would comprise 16 circular cages, each with a 120 metre circumference (19 metre radius), arranged in two groups of 8 cages in a 2 x 4 formation, and a 200 tonne feed barge. Three objections have been received. The development has been assessed in relation to all relevant policies of the Orkney Local Development Plan 2017 and other relevant material planning considerations. Where unacceptable impacts have been identified, mitigation has been provided.

Application Number	17/134/MAR.
Application Type	Marine Fish Farm.
Proposal	Create a salmon farming site comprising 16 x 120 metre circumference cages in a 70 metre grid with a 200 tonne feed barge (redevelopment and enlargement of exiting fish farm site).
Applicant	Cooke Aquaculture Scotland, Crowness Road, Hatston Industrial Estate, Kirkwall, KW15 1RG.

1.2.

All application documents (including plans, consultation responses and representations) are available for members to view at the following website address:

http://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm
(then enter the application number given above).

2. Statutory Consultations

2.1.

Statutory consultation bodies are listed below:

- Historic Environment Scotland.
- Marine Scotland (on behalf of Scottish Ministers).
- Scottish Water.
- Scottish Environment Protection Agency.
- Scottish Natural Heritage.

2.2.

Agencies were consulted on 6 April 2017 following receipt of the application. During consideration of the application further information was submitted, with the application being subject to re-consultation on 21 November 2017.

2.3.

No objections have been received from any statutory consultation body. It is considered that matters included in consultation responses from statutory consultation bodies can be adequately addressed by mitigation and planning conditions. Consultation responses are attached as Appendix 1 to this report.

3. Representations

3.1.

Two objections have been received from non-statutory consultees:

- Orkney Trout Fishing Association, c/o Malcolm Russell, Caolilla, Heddle Road, Finstown, KW17 2EG.
- The Royal Society for the Protection of Birds, Orkney Office, 12-14 North End Road, Stromness, KW16 3AG.

3.2.

A key extract from Orkney Trout Fishing Association's objection is as follows: "OTFA is deeply concerned at the scale and location of this development and the ES fails to adequately address these concerns. We maintain that the only effective way to mitigate for the potential impact of sea lice is to locate salmon farms much further away from sea trout spawning burns. Furthermore, we would urge the OIC to address the unprecedented development pressure by the salmon farming industry in Orkney, particularly in Scapa Flow. The handling of applications on a case by case basis fails to adequately protect Orkney's wider marine environment - the sustainable use of which is key to all users, recreational and commercial."

3.3.

A key extract from The Royal Society for the Protection of Birds' objection is as follows: "Our primary concern of the in isolation and in-combination effects on the SPA/pSPA have not been adequately addressed to enable a robust Appropriate Assessment to be undertaken by Orkney Islands Council. Specifically there exists, within the assessment, a reliance on adherence to the quality standards and monitoring requirements set by the Controlled Activities Regulations as a means to

justify the environmental assessment conclusions. We cannot support this approach as it has led to environmental matters of material consideration being left out of the process.”

3.4.

One further objection has been received from:

- Janie Bowman and Anabel Farnell-Watson, The Pit, Itchel Lane, Crondall, Near Farnham, Surrey, GU10 5PU.

3.5.

The objection is on the following grounds: “We feel this will have an enormous impact on the wild species, both marine and mammal in this area through the discharge of nutrients - solid waste - medicines and antifoulants disrupting the natural balance of these waters. It is also known that Scotland has some of the worst cases of salmon louse infestations in the world.”

4. Relevant Planning Policy and Guidance

4.1.

The full text of the Orkney Local Development Plan 2017 and supplementary guidance can be read on the Council website at:

<http://www.orkney.gov.uk/Service-Directory/D/Planning-Policies-and-Guidance.htm>

The policies, supplementary guidance and planning policy advice listed below are relevant to this application:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 8 Historic Environment and Cultural Heritage.
 - Policy 9 Natural Heritage and Landscape.
 - Policy 12 Coastal Development.
- Supplementary Guidance Natural Environment (2017):
 - Policy 9A - Natural Heritage Designations: Internationally Designated Sites.
 - Policy 9B - Protected Species.
 - Policy 9C - Wider Biodiversity and Geodiversity.
 - Policy 9D - The Water Environment.
- Supplementary Guidance Aquaculture (2017):
 - DC1 Landscape, coast, siting and design.
 - DC2 Natural heritage designations, protected species and the wider biodiversity.

- DC3 Predator control and interaction with other species.
- DC4 Wild salmonid fish populations.
- DC5 Water quality and benthic impacts.
- DC6 Historic environment.
- DC6 Historic Environment.
- DC7 Social and economic impacts.
- DC8 Other marine users.
- DC9 Construction and Operational Impacts.
- DC10 Decommissioning and Reinstatement.

4.2. Scotland's National Marine Plan (2015)

4.2.1.

The National Marine Plan states: "Aquaculture contributes to sustainable economic growth in rural and coastal communities, especially in the Highlands and Islands. Many communities depend on the employment and revenue it provides and, as a growing industry, it has potential to contribute to future community cohesion by providing quality jobs in rural areas and helping to maintain community infrastructures such as schools, ferries and other services subject to the continued management of risk".

4.2.2.

The National Marine Plan contains 14 Policies related specifically to Aquaculture:

- AQUACULTURE 1: Marine planners and decision makers should seek to identify appropriate locations for future aquaculture development and use, including the potential use of development planning briefs as appropriate. System carrying capacity (at the scale of a water body or loch system) should be a key consideration.
- AQUACULTURE 2: Marine and terrestrial development plans should jointly identify areas which are potentially suitable and sensitive areas which are unlikely to be appropriate for such development, reflecting Scottish Planning Policy and any Scottish Government guidance on the issue. There is a continuing presumption against further marine finfish farm developments on the north and east coasts to safeguard migratory fish species.
- AQUACULTURE 3: In relation to nutrient enhancement and benthic impacts, as set out under Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters, fish farm development is likely to be acceptable in Category 3 areas, subject to other criteria being satisfied. A degree of precaution should be applied to consideration of further fish farming development in Category 2 areas and there will be a presumption against further fish farm development in Category 1 areas.

- AQUACULTURE 4: There is a presumption that further sustainable expansion of shellfish farms should be located in designated shellfish waters these have sufficient capacity to support such development.
- AQUACULTURE 5: 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.
- AQUACULTURE 6: New aquaculture sites should not bridge Disease Management Areas although boundaries may be revised by Marine Scotland to take account of any changes in fish farm location, subject to the continued management of risk.
- AQUACULTURE 7: Operators and regulators should continue to utilise a risk based approach to the location of fish farms and potential impacts on wild fish.
- AQUACULTURE 8: Guidance on harassment at designated seal haul out sites should be taken into account and seal conservation areas should also be taken into account in site selection and operation. Seal licences will only be granted where other management options are precluded or have proven unsuccessful in deterrence.
- AQUACULTURE 9: Consenting and licensing authorities should be satisfied that appropriate emergency response plans are in place.
- AQUACULTURE 10: Operators should carry out pre-application discussion and consultation, and engage with local communities and others who may be affected, to identify and, where possible, address any concerns in advance of submitting an application.
- AQUACULTURE 11: Aquaculture equipment, including but not limited to installations, facilities, moorings, pens and nets must be fit for purpose for the site conditions, subject to future climate change. Any statutory technical standard must be adhered to. Equipment and activities should be optimised in order to reduce greenhouse gas emissions.
- AQUACULTURE 12: Applications which promote the use of sustainable biological controls for sea lice (such as farmed wrasse) will be encouraged.
- AQUACULTURE 13: Proposals that contribute to the diversification of farmed species will be supported, subject to other objectives and policies being satisfied.
- AQUACULTURE 14: The Scottish Government, aquaculture companies and Local Authorities should work together to maximise benefit to communities from aquaculture development.

4.2.3.

The National Marine Policy also contains seven policies related specifically to shipping, Ports, Harbours and Ferries.

4.3. Scottish Planning Policy (2014)

4.3.1. Supporting Aquaculture: Policy Principles

The planning system should:

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

4.3.2. Development Management

Applications should be supported, where necessary, by sufficient information to demonstrate:

- Operational arrangements (including noise, light, access, waste and odour) are satisfactory and sufficient mitigation plans are in place.
- The siting and design of cages, lines and associated facilities are appropriate for the location.

This should be done through the provision of information on the extent of the site; the type, number and physical scale of structures; the distribution of the structures across the planning area; on-shore facilities; and ancillary equipment.

Any land-based facilities required for the proposal should, where possible, be considered at the same time. The planning system should not duplicate other control regimes such as controlled activities regulation licences from SEPA or fish health, sea lice and containment regulation by Marine Scotland.

4.4. Other Relevant Policy and Guidance

- Circular 6/1995 'European Protected Species, Development Sites and the Planning.
- The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.
- The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011.
- Circular 1/2007 'Planning Controls for Marine Fish Farming' 'Marine Fish Farming and the Environment' (SEERAD 2003).
- Planning Advice Note (PAN) 51- 'Planning, Environmental Protection and Regulation'.
- Scottish Executive – 'Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters' (2003 and updated June 2009 and December 2012).
- 'A Fresh Start – the Renewed Strategic Framework for Scottish Aquaculture' (2009).
- 'Guidance on Landscape/Seascape Capacity for Aquaculture' (SNH 2008).
- 'The Orkney landscape capacity for Aquaculture: Scapa Flow and Wide Firth' (SNH 2011).

- ‘Siting and Design of Marine Aquaculture Developments in the Landscape’ (SNH 2011).
- NPF3 highlights the Scottish Governments support the sustainable growth of the aquaculture sector and the significant contribution it makes to the Scottish economy, particularly for coastal and island communities.
- Pilot Pentland Firth and Orkney Waters Marine Spatial Plan (2016).

5. Legal Aspects

5.1.

Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the 3 Act) states “Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise...to be made in accordance with that plan...”

5.2.

Where a decision to refuse an application is made, the applicant may appeal under section 47 of the Act. Scottish Ministers are empowered to make an award of expenses on appeal where one party’s conduct is deemed to be unreasonable. Examples of such unreasonable conduct are given in Circular 6/1990 and include:

- Failing to give complete, precise and relevant reasons for refusal of an application.
- Reaching a decision without reasonable planning grounds for doing so.
- Not taking into account material considerations.
- Refusing an application because of local opposition, where that opposition is not founded upon valid planning grounds.

5.3.

An award of expenses may be substantial where an appeal is conducted either by way of written submissions or a local inquiry.

6. Environmental Impact Assessment

6.1.

Regulation 60 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 describes transitional provisions whereby the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 continue to have effect for consideration of the current application.

6.2.

The proposed development is a Schedule 2 Development – Category: 1(d) Intensive fish farming as defined in the 2011 Regulations.

6.3.

Having assessed the characteristics and location of the development and the characteristics of the potential impact as set out in Schedule 3 to the 2011 Regulations, the Council issued a Screening/Scoping Opinion on 16 May 2016 stating that, in its opinion, the proposed development is considered likely to have a significant impact on the environment and that submission of an Environmental Statement (ES) was required.

6.4.

Accordingly, this application is accompanied by an ES in accordance with the 2011 Regulations, as confirmed by the transitional provisions set out in the 2017 Regulations. The ES addresses all expected environmental effects associated with the proposed development and any proposed mitigation. The ES includes the matters listed below, which fall within the regulatory control of other bodies therefore limited weight can be given to those matters as part of any planning decision.

- Benthic (seabed) impacts due to feed and faeces falling to the sea floor are covered by the CAR license regime and the allowable zone of effects (AZE) calculations regulated by SEPA with ecological advice provided by SNH. Any impacts on seabed protected species are a material planning consideration but are part of the CAR assessment first and foremost.
- Water column impacts from nutrient enrichment and use of medicinal chemicals are also part of the SEPA's CAR licence regime.
- The health, handling and medicinal treatment of the farmed fish, the control of predators and the physical quality of nets and moorings are all matters regulated by Marine Scotland.
- Depositions from fish farms, to enable monitoring of benthic impacts is covered by SEPA under the Water Environment (Controlled Activities) (Scotland) Regulations 2011.
- Registration and authorisation is required from Marine Scotland under the Aquaculture and Fisheries (Scotland) Act 2007, covering fish health standards and containment, including power to monitor for sea lice infestation.

6.5.

Where crossover exists with local planning authority regulation, to the extent that these matters and associated measures could have an impact on protected species in the wider environment, the matters are assessed below.

7. Assessment

7.1. Proposal

7.1.1.

The proposed development involves the redevelopment and enlargement of an existing fish farm site at South Cava, located off the east coast of Cava lying in the south of Scapa Flow, as indicated on the location plan attached as Appendix 2 to this

report. The existing farm is made up of 12 x 90 metre circumference cages, set in 2 groups of 6. All existing equipment would be removed from the site. The proposal includes the existing farm area within the enlarged site, with the surface area of the cages increasing from 7,751 square metres to 18,594 square metres. The proposed fish farm is 16 x 120 metre circumference cages arranged in two groups of 8 cages, in a 2 x 4 layout. The two groups and cages would be secured in place using 70 x 70 metre square cage grids, and a 70 metre separation distance would be established between the groups. A 200 tonne boat style feed barge would be located between the two cage groups, offset to the north-west. All equipment would be situated within the proposed mooring containment area of 830 x 340 metres (282,200 square metres). The application also includes the use of underwater lights, used to slow the maturing process and increase yields, comprising three 400 watt lights suspended below the surface of each cage. Lighting would be used during the months December to April.

7.1.2.

The maximum stocking biomass of the site is 2,500 tonnes, with a production biomass of 3,125 tonnes per cycle and a stocking density of 20 kilogrammes per cubic metre. The production plan is 24 months with a minimum fallow period of 2 months between production cycles.

7.1.3.

The site would be serviced from Stromness, with harvesting on site and delivered to Stromness for transporting to the company's site at Hatston, Kirkwall, for processing.

7.1.4.

The existing fish farm at South Cava employs four full-time staff and it is proposed to maintain this level.

7.2. Interaction with predators

7.2.1.

The Hoy Special Protection Area (SPA), which includes a marine element, lies 2.7 miles to the west of the site at its closest point. The qualifying species are: Arctic skua, Fulmar, Great black-backed gull, Great skua, Guillemot, Kittiwake, Peregrine, Puffin, Red-throated diver and a seabird assemblage. The conservation objectives listed below are to ensure that the qualifying species are maintained in the long term:

- Population of the species as a viable component of the site.
- Distribution of the species within site.
- Distribution and extent of habitats supporting the species.
- Structure, function and supporting processes of habitats supporting the species.
- No significant disturbance of the species.

7.2.2.

Scapa Flow is a proposed Special Protection Area (pSPA), identified as an important area for marine birds including a number of wintering and breeding populations. These qualifying species include breeding Red-throated diver and aggregations of non-breeding wintering waterfowl, including Black-throated diver, Common eider, Common goldeneye, Great northern diver, Long-tailed duck, Red-breasted merganser, European shag and Slavonian grebe. Scapa Flow, including areas around Cava, is a foraging area for avian species, such as Red-throated divers which are the qualifying interests of the Hoy SPA. Seabird species from the Hoy SPA and SPAs further afield may also use this area.

7.2.3.

The ES and additional information identifies the impacts and risks to the qualifying interests of the Scapa Flow pSPA, the Hoy SPA and those further afield. The most significant have been identified as:

- Disturbance along vessel transit route.
- Direct displacement from cage area.
- Entanglement.
- Loss of or damage to supporting habitats.

Mitigation has been provided within the ES and supporting information including: good operation procedures; design of top nets; tensioned nets; monitoring; and a vessel management plan (VMP). It is concluded within the ES that the mitigation measures would minimise the risk of bird attack, entanglement, disturbance and displacement. In relation to the proposed scale of the development, as the redevelopment and extension to an existing site, the additional impact is 10,844 square metres of surface area and 9,500 square metres of mooring area.

7.2.4.

SNH is a statutory consultation body and has a remit to provide advice in respect of impacts on natural heritage. SNH has advised that it is satisfied that the likely loss of feeding habitat at the South Cava site in isolation will be small and unlikely to have an adverse effect on integrity of Scapa Flow pSPA. SNH concludes that the risk of bird entanglement associated with the proposed development is insignificant. SNH advises that the proposal is unlikely to have a significant effect, either directly or indirectly, on any qualifying interests of the Scapa Flow pSPA and the Hoy SPA, and advises that an appropriate assessment is not required.

7.2.5.

Given the location of this proposed development SNH recommend systematic and context specific wildlife entanglement monitoring and reporting, and continuation of the protocol agreed by SNH and the Council in August 2015. This would facilitate future adaptive management (eg adjustments to cage net tensioning) to ensure adequate safeguard of (inter)nationally important natural heritage interests in the event of unanticipated levels of entanglement. The information presently obtained from the existing entanglement monitoring has informed the ES.

7.2.6.

RSPB (a non-statutory consultee) has objected to the proposal on the basis that the environmental information does not adequately address the isolation and in-combination effects on the integrity of the Scapa Flow pSPA and Hoy SPA and has not adequately enabled a robust appropriate assessment to be carried out. RSPB states that the environmental carrying capacity must be understood to ensure aquaculture proposals are appropriately located and avoid significant adverse effect. These matters relate to disturbance/displacement, loss or damage to supporting habitat prey species.

7.2.7.

Both common and grey seals, and otters, are present in and around Cava and the wider area of Scapa Flow. Seals are listed in Annex II of the Habitats Directive, and protected under that designation. Cava is a designated seal haul out site, which is protected from intentional or reckless harassment of seals. Ten designed seal haul out sites are located within Scapa Flow. The entanglement data collected at the existing South Cava site shows no record of seal entanglement.

7.2.8.

The applicant has indicated that the use of Acoustic Deterrent Devices (ADDs) would only be deployed at the South Cava site if all other methods of predator control had been unsuccessful. Concerns exist regarding the use of ADDs due to the risk of disturbance and disorientation posed to cetacean species. A European Protected Species licence to disturb would be required from MS, and a condition would be attached requiring agreement from the Council and SNH for any deployment of ADDs on this farm.

7.2.9.

A Vessel Management Plan (VMP) forms part of the ES and sets out objectives and measures to minimise disturbance to natural heritage interests and seals within the seal haul out sites along with other conservation features.

7.2.10.

The ES sets out management measures to mitigate predation by seals. These are included within the site specific Predator Defence and Mitigation Policy, and include well maintained tensioning of nets, regular monitoring and inspection of cages and nets both by underwater cameras and by divers, efficient husbandry and frequent removal of mortalities, anti-predator nets and ADDs. A measure of last resort would be to cull a persistent seal which is not deterred by the primary predator control measures; that would be subject to obtaining the appropriate licence.

7.2.11.

Advice has been sought from the statutory consultees, in assessing the effect on the qualifying interests of SPA and pSPAs, and, on the basis of the mitigation proposed, it is concluded that the proposed development would not adversely affect the integrity of these designated sites.

7.2.12.

The proposal has been fully assessed individually and cumulatively, taking account of statutory consultation body advice in relation to present designations, policy considerations, relevant supplementary guidance criteria relating to nature conservation designations (DC2), and potential effects on protected species (DC2 and DC3). With the mitigation measures proposed, it is considered that this development would not have an unacceptable impact on the natural heritage interests of the area.

7.3. Carrying capacity and cumulative benthic and water column impacts

7.3.1.

Fish farms have an impact on the seabed through the settlement of fish feed and faeces; however the details of this deposition are a matter for wider assessment by SEPA in relation to an application for a CAR licence under the Water Environment (Controlled Activities) Scotland Regulation 2011. Under this licence, SEPA has the ability, if there is significant environmental stress from the biomass level on the site, to require the situation to be improved, through mitigation or reduction in biomass. The redevelopment and extension to the fish farm at the site required a technical variation to the existing CAR licence which was approved and issued on 9 January 2018.

7.3.2.

Modelling and visual surveys of the site were undertaken, the information from which predict that this site would be suitable to hold a maximum stocking biomass of 2,500 tonnes, which is consistent with the maximum biomass proposed by this development. The CAR licence also controls the discharges of licensed medicines for the site.

7.3.3.

The Equilibrium Concentration Enhancement (ECE) assessment for this site and existing fish farms in the surrounding water body has estimated the input of dissolved inorganic nitrogen, and advises that it would be unlikely that this development would result in a downgrade to the status of the water body under the Water Framework Directive.

7.3.4.

SEPA confirms that the seabed surveys of the immediate area surrounding the site have not identified any Priority Marine Features (PMF) or any habitats of significant conservation concern. In addition, a Habitats Regulation Appraisal was carried out by SEPA, which concluded “that the proposed changes would not result in any likely significant effects on the protected bird species or flame shells. However, please note that this only considered those aspects which are controlled through CAR for example deposition of organic waste and chemical residues”.

7.3.5.

SEPA advises that it has no objection to this planning application. It should be noted that SEPA controls the maximum biomass for the site and discharges of licensed medicines through CAR. As these matters are controlled under separate regulation, planning conditions relating to these aspects are not necessary.

7.3.6.

Neither Marine Scotland Science (MSS) nor SEPA has raised objection to the proposal in respect of the predicted impact upon water quality. SEPA, SNH and MSS have all indicated satisfaction with the information provided in relation to the water column and benthic impacts. It is considered that the proposal would comply with Development Criterion 5 (Water Quality and Benthic Impacts) of the Aquaculture supplementary guidance.

7.3.7.

It should be noted that the Council has committed to undertaking a modelling project of water quality and benthic impacts, with particular reference to nutrient enrichment, in Scapa Flow, to assess the impact of existing and proposed fish farms and other development. The modelling would take account of interaction between developments within Scapa Flow, and cumulative impacts. It is anticipated that the modelling would identify areas that are more suitable and less suitable for fish farm development from the perspective of nutrient enrichment/pollution/benthic effects. It is anticipated that results in the form of planning policy/guidance will be available by late 2018 following the appropriate consultation and adoption processes. However, all impacts that will be included in that modelling are already routinely assessed by SEPA and MSS, including cumulative impact where necessary and, in this case, there are no objections.

7.4. Navigation

7.4.1.

No issues associated with navigation have been raised. The Northern Lighthouse Board has provided specifications for the lighting requirements at this site and raises no objections provided the site is marked accordingly. Marine Scotland is satisfied that the cages and moorings meet the technical standard and are suitable for the conditions at this specific site. Marine Services has no objections.

7.4.2.

Taking account of the information supplied within the ES it is considered that the development would accord with Orkney Local Development Plan 2017 policy 12, and supplementary guidance 'Aquaculture', criteria DC7 and DC8.

7.5. Interaction with Wild Salmonids

7.5.1.

The Planning Authority has a duty in the conservation of biodiversity, which includes interaction with wild fish. Sea trout is a UK Biodiversity Action Plan (UKBAP) priority species and included within the draft Marine Priority Species.

7.5.2.

Cava lies in the southwest of Scapa Flow. The fish farm site is approximately 2 kilometres from the nearest sea trout spawning burn at Lyrawa, and the enlargement would have a negligible impact on that distance. There are 5 known trout spawning burns along the north coast of Hoy and a further 5 on the mainland which run into Scapa Flow. MSS advises that there is no history of sea lice affecting the health of the fish on this site or within the farm management area 03. In respect of interactions with wild fish, MSS highlights scientific evidence from Norway and Ireland, but cannot provide clear scientific information for Scottish waters as similar research is yet to be completed in Scottish waters. However information presently available from the west coast of Scotland suggests lice from fish farming may cause a risk to local salmon and sea trout. Although it appears likely that numbers of sea lice in open water are likely to have an adverse effect on populations of wild salmonids in some circumstances, the impact on overall mortality in these waters is still not known. MSS advises that, from data provided by the applicant, sea lice data for the applicant's site within this farm management area, including the existing South Cava fish farm, have been consistently low over this period.

7.5.3.

The applicant is aware of the potential impacts of sea lice on wild salmonids and identifies this within the ES and the 'Sea Lice Management Strategy - South Cava, Scapa Flow' (SLMS). The ES and SLMS detail a range of sea lice preventative measures, as listed below:

- Farm Management Statement/Agreement.
- Following.
- Lice Counts.
- Treatment Strategy.
- Disease Management.
- Preventing Escapes.

7.5.4.

These measures are also included within the following documentation all submitted with and forming part of this application:

- Statement of the Efficacy of Sea Lice Treatment;
- Escape Response Plan.
- Predator Defence and Mitigation Policy.
- Predator Control.

- Fish Health and Welfare.
- Veterinary Health and Welfare Plan.
- Farm Management Agreement.
- A suite of Standard Operating Procedures for the site.

7.5.5.

The Orkney Trout Fishing Association (OTFA) has objected to this application due to the potential impact on the wild sea trout population and the general marine environment of Scapa Flow. It is highlighted that there are 5 trout spawning burns on Hoy and 10 trout spawning burns are within Scapa Flow, and the objection states that the size of the development would increase the risk of sea lice infestation on local sea trout populations, particularly those that spawn in the Hoy burns. Concerns are also raised that there is an increased risk of a disease outbreak along the east side of Hoy and the potential for a cumulative impact on the whole of Scapa Flow. Further comments are made in respect of the data gaps on the information of potential impacts on sea trout.

7.5.6.

The applicant submitted a site-specific SLMS and the parameters that will determine when sea lice interventions will be undertaken. The developer has advised that preferred treatment for sea lice would be the use of a hydrolicer, with chemical treatment only being to supplement if necessary. Marine Scotland has stated that these measures are deemed satisfactory as far as can reasonably be foreseen. Marine Scotland's revised sea lice policy, The Regulation of Sea Lice in Scotland (2017), introduced a new enforcement regime through MSS's Fish Health Inspectorate (FHI), which triggers enforcement action. It should be noted that these trigger levels are higher than those required under the industry Code of Good practice (CoGP). The applicant acknowledges the importance of adherence to strict sea lice control and within the SLMS the applicant indicates that it is intended to maintain sea lice numbers at or below the CoGP suggested criteria.

7.5.7.

Given the above concerns, and existing triggers for enforcement action, when considering planning applications for fish farms the planning authority must be satisfied that the mitigation would establish a robust control mechanism within the planning consent to ensure sea lice numbers remain low throughout the lifetime of the permission, thereby ensuring that any consent would not conflict with the planning authority's development plan policies and biodiversity duty as set out in the Nature Conservation (Scotland) Act 2004.

7.5.8.

The advice received and mitigation proposed provide sufficient assurance that measures put in place would be sufficient to ensure that action would be taken should the operations of the farm be considered to be causing material harm to wild salmonids.

7.5.9.

SEPA and SNH have raised no objections to the development and Marine Scotland has stated that it considers the measures to be satisfactory as far as can reasonably be foreseen. It is therefore considered acceptable in relation to relevant policy considerations and criterion DC4 of the supplementary guidance 'Aquaculture'.

7.6. Landscape and Visual Impact

7.6.1.

The ES for the development included a Landscape and Visual Impact Assessment which identifies the level of impacts on key receptors. In this instance there is an existing fish farm on site therefore the main impact considered is the magnitude of visual change between what is presently on site and what is proposed. Cava is an uninhabited island; therefore most of the main views at close proximity will be from marine users, such as the inter-island ferry, recreational marine users and commercial marine users. These are likely to be in-transit passing the site. Terrestrial views from Hoy and the mainland are more distant and, due to the nature of the landscape and the location of the fish farm, the site is often screened or partially screened from public viewpoints. The location of the site within Scapa Flow is such that the site would usually be seen in context with the wider activities that take place within Scapa Flow.

7.6.2.

The feed barge would be the most significant structure above water, as the low-lying and dark colour of the cages would have the backdrop of Cava when viewed from a number of locations. The application site is not itself subject to any landscape designation, and within the terms of the SNH document 'The Orkney Landscape Capacity for Aquaculture' it is stated that the area has capacity for small to medium scale aquaculture development. The back drop of the islands and the nature of the harbour area of Scapa Flow mean that the seascape in this area is regularly changing, therefore the proposed form of development is considered acceptable.

7.6.3.

Overall, the magnitude of visual change that would occur from the existing fish farm to the proposed fish farm is not considered to be significant, both in its own right and cumulatively with other existing development, particularly in the context of the landscape/seascape of Scapa Flow and the activities that take place within the area.

7.7. Socio Economic Impact

7.7.1.

Commercial fishing occurs around the South Cava site, principally creel fishing, scallop diving and trawling. The current fish farm is located to allow access between the cages and the foreshore of Cava, which would be maintained. Therefore the increased surface/mooring area of the site should have minimal impact on fishing and diving in the area. The additional area taken up by the redevelopment of the fish farm site is small relative to the whole Scapa Flow area, therefore the impact on

commercial fishing and diving grounds in terms of displacement, employment and loss of fishing/diving grounds is not considered to be significant.

7.7.2.

OTFA raises concern that aquaculture development is putting pressure on Orkney's wider marine environment, and the assessment of aquaculture developments are not being undertaken collectively to ensure the sustainable use of Scapa Flow for all users, recreation and commercial.

7.7.3.

The applicant has stated that the development would maintain the four existing permanent jobs on the site, and it is anticipated that an additional 1-2 full time jobs would be created. These posts holders will all receive training to a minimum of modern apprentice SVQ level 4.

7.7.4.

The Scottish Government's National Marine Plan and Scottish Planning Policy together recognise the contribution of the aquaculture sector to the rural economy, and seek to support sustainable economic development. The National Marine Plan and Scottish Planning Policy both support the expansion of marine fish farming where it can take place in environmentally sustainable locations, where it does not exceed the carrying capacity of the water body within which it is to be located, and where it does not give rise to significant adverse effects upon nature conservation, wild fish, historic environment or other commercial or recreational water users.

7.7.5.

In considering the competing socio-economic impacts, the benefits created by the development would outweigh any impact caused by change to the area, which is considered insignificant.

7.8. Noise and light pollution

7.8.1.

As the proposal is a redevelopment and extension to an existing fish farm, there is noise already associated with the existing operations and practices. The development would have minimal impact on noise producing operations and practices, therefore the main concerns result from removal of the existing farm and construction of the new farm. The developer has submitted a site-specific Vessel Management Plan (VMP) which requires that, during the period 1 July 1 to 31 August inclusive, when the Red-throated divers are most vulnerable, certain routes are avoided and key measures would be put in place for regular transit to the site.

7.8.2.

There will be other noise from the fish farm operations; however this will generally be during normal working hours of 08:00 to 17:00. Outwith these times noise would result from the equipment on the feed barge and occasional work that is required to take place during these hours such as harvesting. The applicant has indicated that noise insulation will be added to the equipment within the fed barge therefore the on-

board generator should not be audible beyond the immediate vicinity of the barge. When considered with the mitigation, including the VMP, it is considered that the noise associated with the activities of the fish farm would not have a significant effect on the interests of the Hoy SPA and Scapa Flow pSPA.

7.8.3.

Artificial sources of light include the navigational lighting which will be installed on the fish farm and required for navigational safety, and also when work is being undertaken on the feed barge during hours of darkness. There would also be underwater maturation lights fitted to each cage. These would only be in use during the winter months of October to April. The effects of maturation lighting associated with the proposed farm would be localised, given that the submerged artificial lights are mainly confined to the cage structures. As stated in the ES, the applicant undertakes to reduce the use of lighting to minimise any possible adverse interaction with protected species. When seen in context with the general activities in Scapa Flow and the existing activities on the site, it is considered that the noise and lighting associated with this development will be acceptable and in accordance with criterion DC9 of supplementary guidance 'Aquaculture'.

7.9. Historic Environment

It has been assessed by Historic Environment Scotland and the County Archaeologist that the redevelopment and expansion of the existing fish farm site would have no significant adverse impacts on the historic environment. Therefore is considered acceptable in terms of Orkney Local Development Plan 2017 policy, and criterion DC6 of supplementary guidance 'Aquaculture'.

8. Conclusion and Recommendation

8.1.

The Orkney Local Development Plan 2017 supports finfish development where it can be demonstrated, "with regard to SG and through appropriate mitigation where necessary, that there will not be unacceptable effects, directly, indirectly or cumulatively". Supplementary guidance 'Aquaculture', Spatial Policy 1 sets out the spatial sensitivities that have potential to be affected by aquaculture developments, as well as the 10 development criteria that all aquaculture development will be assessed against. In addition the National Marine Plan supports sustainable growth of aquaculture subject to the proposal complying with the relevant policies of the NMP and the 14 Policies which relate specifically to Aquaculture.

8.2.

The Planning Authority takes into account the content of any ES submitted with an application but that content can only influence its decision insofar as they are material planning considerations.

8.3.

The ES identifies and assesses the potential areas of interaction between the proposed development and the environment. It is concluded that the details

contained in the ES cover the issues that could result in a significant effect on the environment in terms of the designations.

8.4.

Objections submitted have been considered in conjunction with the assessments undertaken by the statutory consultation bodies. SNH has provided clear advice on the impacts on natural environment and concludes that the proposed development is acceptable, subject to the mitigation proposed.

8.5.

The support of the Orkney Local Development Plan 2017 and National Marine Plan for sustainable growth of aquaculture in principle is a material consideration of significant weight in support of this application. The proposed increase in development area is acceptable subject to mitigation and would comply with relevant policies of the Orkney Local Development Plan 2017, Supplementary Guidance 'Aquaculture', and the aims of the National Marine Plan. It is considered that the objections do not carry sufficient weight to justify refusal of the application and accordingly the application is **recommended for approval**, subject to the conditions listed in Appendix 3.

9. Contact Officer

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10. Appendices

Appendix 1: Consultation Responses.

Appendix 2: Location Plan.

Appendix 3: Planning Conditions.