

MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the MAIN HALL, CORRAN HALLS, THE ESPLANADE, OBAN
on WEDNESDAY, 24 APRIL 2013

Present: Councillor Sandy Taylor (Chair)

Councillor Gordon Blair	Councillor Iain MacDonald
Councillor Rory Colville	Councillor Alistair MacDougall
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor George Freeman	Councillor James McQueen
Councillor Fred Hall	

Attending: Charles Reppke, Head of Governance and Law
Richard Kerr, Area Team Leader, Major Applications
Mark Steward, Marine and Coastal Manager
Angus Mathieson, Applicant
Colin Blair, Applicant
John Webster, Applicant
Antoinette Mitchell, Kilninver and Kilmelford Community Council
Michael Shaw, Seil and Easdale Community Council
Craig MacIntyre, Argyll and Salmon District Fishery Board
Ben Wilson, Supporter
Iain Forbes, Supporter
Peter MacKerral, Supporter
David Ainsley, Objector
Ewan Kennedy, Objector
Richard Pierce, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors David Kinniburgh, Robert G MacIntyre and Richard Trail.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. LAKELAND MARINE FARMS LTD: RELOCATION OF ARDMADDY FISH FARM COMPRISING 12 NO. 100M CIRCUMFERENCE CAGES PLUS INSTALLATION OF FEED BARGE: PORT NA MORACHD, SEIL SOUND (REF: 11/01066/MFF)

The Chair welcomed everyone to the meeting and introductions were made.

Charles Reppke, Head of Governance and Law, outlined the hearing procedure that would be followed and invited anyone who wished to speak at the meeting to identify themselves.

The Chair then invited the Planning Officer to set out his recommendations.

PLANNING

Richard Kerr presented the case on behalf of the Head of Planning and Regulatory Services advising that this was a detailed application for the establishment of a new marine fish farm in Seil Sound. He advised that it was proposed as a replacement facility for a smaller fish farm operated by the Applicant 900m north of the proposed site. Although the production capacity of the proposed site represents a substantial enlargement of that provided by the existing site, the proposal is described as a relocation to indicate that the current site would be surrendered should this new site be permitted and therefore would remain a single, albeit expanded site, within Seil Sound. The Application site lies inshore and parallel to the mainland coast close to the southern entrance to the Sound, opposite the island of Torsa. In terms of the Local Plan the site lies off the 'sensitive countryside' zone which triggers the undeveloped coast policy CST2. It also lies within a wider Area of Panoramic Quality which accords the locality a scenic designation of regional status. Mr Kerr referred to a number of plans showing the location and layout of the existing fish farm and the proposed site some 900m further south of the equipment to be removed. The existing site due to hydrographical conditions, does not lend itself to expansion in terms of pollution control, hence the intention to relocate to a more favourable site which has had better prospects for a larger discharge consent being obtained from SEPA. Mr Kerr also referred to plans showing the proposed location and configuration of the proposed equipment and the extent of moorings. He advised that this represents the area of the sea bed affected, but does not indicate that navigation would be precluded from this area. He advised that the construction of the moorings and the navigational marking requirements are such that boat traffic is only excluded from an area close in to the surface equipment. Mr Kerr also referred to a plan showing the site in the context of the Admiralty Chart with water depths shown and to a plan showing the equipment layout and cage schematics. He advised that the site currently has consent for mussel rafts with a mooring area about $\frac{1}{4}$ of that now proposed. The site is not currently equipped for shellfish production and if this proposal is consented it would supersede any use for shellfish. The proposed maximum biomass for the site is 2,500 tonnes which is almost double the biomass licensed to be held at the existing fin fish site. He advised that the nets are to be held in tension to minimise risk of them being breached by predators and are to be fitted with false bottoms to resist any attacks from below. They are specified, and are to be maintained, in accordance with the Scottish Salmon Producers Organisation (SSPO) Code of Good Practice. Mr Kerr referred to a photograph showing the type of feed barge to be installed at the north end of the cage group. He advised that SNH had expressed a preference in landscape terms for this to be sited at the south end. The Applicant's operational practice is to site barges on the least exposed sides of their sites, so their response has been to reduce the scale of the model to be employed, from a 26m long barge, as originally proposed, to a 14m long model. Mr Kerr advised that a major consideration of this case is the acceptability of the development relative to the Firth of Lorn European Special Area of Conservation (SAC) designated for its rocky reef habitat. The Application site lies out with the SAC, the closest point of which is Cuan Sound some 2km to the west. As the operation of the site would contribute to solid waste and chemical residues being transported through the water body into the designated area, given the possibility of significant environmental effects arising as a consequence, it has been necessary to carry out a Habitats Regulations Appropriate Assessment, the conclusions of which are set out in an Appendix to

the report of handling. He advised that it should be noted that whilst both the existing site and the proposed site have similar relationships with the SAC, the doubling of biomass by the proposed site represents a materially enhanced risk requiring assessment. Consideration has also been given to the White Cluster Anemone population in Seil Sound given its proximity to the site and its status as a Priority Marine feature. Mr Kerr advised that this Application attracted a high volume of objection founded predominantly upon the concerns objectors have with the scale of the development, the consequent level of pollution the site would produce, and, in turn, the likely adverse effects upon marine habitats and species, both locally and further afield within the SAC. As pollution control is the responsibility of SEPA and not the planning process, the Applicant's accepted Officer's advice that it would be appropriate for the planning application to be held in abeyance for them to be able to pursue a CAR licence application with SEPA. In so doing that enables the acceptability or otherwise of the pollution implications of the development to be put beyond doubt, along with the nature conservation consequences given the need for SEPA to carry out their own Habitats Regulations Appropriate Assessment as part of their CAR licensing process. Mr Kerr advised that despite significant objection to the CAR application and a review of SEPA's intended decision to grant by the Scottish Ministers, a CAR licence was granted by SEPA at the end of 2012 thereby prompting the resuscitation of this planning application. It now falls to the Council as Planning Authority to consider the planning merits of the development, in the knowledge that the pollution consequences of the development and its implications for the national environment within the SAC, have been accepted by SEPA as part of their separate regulatory powers. Mr Kerr advised that there have been no objections raised by key consultees including Marine Scotland Science, SEPA and SNH. Objections have, however, been raised by the Clyde Fishermen's Association, the Scottish Wildlife Trust and the Community Councils surrounding the Seil Sound and Mr Kerr referred to the concerns raised by these Objectors. He advised that in terms of representations received from third parties there have been 816 objections, 44 expressions of support and 2 making observations and that these representations were summarised in the report of handling and supplementary planning report. He advised that the primary issue in this case is the extent to which the increase in biomass, which would be enabled by this relocation of the site, would contribute to pollution in the Sound and beyond out into the SAC, and the acceptability of this in terms of nature conservation interests, both local to the site and further afield within the SAC. Other than the implications of the development for wild fish, which is a material planning consideration, the pollution consequences of the development are controlled by SEPA under the CAR licencing process which is an entirely separate regulatory regime to that of planning. In view of its importance in this case a CAR licence has been sought and obtained from SEPA for the proposed biomass to be held on this site, so that the pollution consequences of the development could be assessed and conclusions reached in advance of the determination of this Application. He advised that whilst SEPA are content with the proposal and are not present today, in response to the proposed hearing they have commented as follows: "SEPA's position is one of record and we have issued a CAR licence for a marine cage fish farm operation at Ardmaddy South (Port na Morachd). The application for this licence was subject to consultation, including public notice adverts which attracted a number of objections. These objections and additional comments from consultees including SNH and Marine Scotland were taken into consideration when assessing the CAR application. SEPA's proposed

determination to grant this CAR licence was notified to the objectors, some of whom exercised their statutory right to refer our decision to the Scottish Ministers and request that they direct SEPA to refer the application to them for their own determination. The Scottish Ministers subsequently considered it to be inappropriate to issue such a direction and a licence was thereafter issued on 2 November 2012". In view of the possibility of adverse consequences for the integrity of the nearby SAC designation SEPA undertook a Habitats Regulations Appropriate Assessment to inform their decision. In turn, following consultation with SNH and with SEPA, Officers have also carried out a further Appropriate Assessment for the purposes of this planning application. This is appended to the main report along with that produced by SEPA. Having given consideration to the distance of the proposal to the SAC boundary and its qualifying rocky reef habitat, the proposed changes to the deposition of solid waste and the use of chemical treatment from those associated with the existing site at Ardmaddy North, and having regard to cumulative nutrient enrichment associated with other fish farming sites, it has been concluded that the proposal will not affect the integrity of the Firth of Lorn SAC in the light of its conservation objectives. Having regard to the various criteria set out in local plan policy LP AQUA 1, and other relevant development plan policies, and having taken into account other material considerations including views expressed by consultees and third parties, Mr Kerr advised that it is concluded that there is no justifiable reason for withholding planning permission in this case subject to the imposition of conditions recommended on page 19 of the main report of handling and he recommended approval of this Application on that basis.

APPLICANT

Angus Mathieson spoke on behalf of the Applicant which was part of the Meridian Salmon Group and provided some background information for the Committee. He advised that in 1990 9% of seafood was farmed and that by 2011 almost 50% was farmed with 120 million tonnes of seafood consumed globally. He advised that farming is the only sustainable way to meet growing demand for seafood. He advised that salmon farming in Scotland was a major economic success story and that Scotland was the largest producer of farmed Atlantic Salmon in the EU and the 3rd largest in the world, representing 8% of the global market. He referred to the economic contribution of Scottish salmon farming, advising that 2124 people were directly employed and that 90% of new jobs were full time with 489 of these jobs in Argyll and Bute. In terms of capital investment, he advised that from 2006 – 2011 this was £206 million for Scotland (£36 million for Argyll and Bute). In terms of the future, he advised that the Scottish industry wishes to grow production sustainably at 3-5% per year to increase salmon production by 50% by 2020. He advised that the Scottish Government supports the aquaculture sector's targets for sustainable grow. He advised that increasing production helps the Scottish industry remain competitive in a global market and helps meet the growing demand for seafood in a sustainable way. He referred to a number of accreditations and certifications Meridian Salmon Group had obtained. He also advised that 26,000 tonnes of salmon were produced in Scotland by Meridian per year, 8,000 in Argyll on 10 sea sites, 6,000 in Orkney on 16 sea sites and 12,000 in Shetland on 17 sea sites. He also referred to a number of maps showing the marine and freshwater production sites operated by the Meridian Salmon Group. He advised that in Argyll Meridian employed 44 full time and 10 part time staff across 8 marine, 5 freshwater and 2 broodstock sites. He also advised of Meridian's contribution to

Argyll and Bute's economy. In terms of the proposal, he advised that the existing site would be closed and the farm would be relocated 900m south. He advised of the change of design from 18 x 24 square metal cages to 12 x 34m diameter circular cages, the addition of a 14m x 10m feed barge and an increase in production from 1,300 tonne to 2,500 tonne. He advised that 3 extra jobs would be created and that the additional capacity and lower production costs will help safeguard existing jobs and make the company more competitive on the world stage. He advised of £2.4 million capital investment with equipment from Argyll, Inverness and Ayrshire companies and increased supply and services business for local companies. He referred to the areas of concern raised by objectors including impacts on the landscape, noise levels, light levels, tourism, other marine users, wildlife and wild fisheries and responded to each of these in turn.

CONSULTEES

Antoinette Mitchell spoke on behalf of Kilninver and Kilmelford Community Council and advised that to her knowledge 24 letters of objection and 1 letter of support had been submitted by the community of Kilninver and Kilmelford. She referred to the concerns raised by the Community Council and advised that there were more than enough marine installations in the area and that there was no need for another. She advised that this relocated farm 900m south would be bigger, with bigger cage dimensions and increase in tonnage of fish produced. She advised that at a meeting of the Community Council on 9 August 2011 it was quite clear from the floor that an Environmental Impact Assessment (EIA) should be undertaken. She advised that fish farms were self-regulatory and referred to SEPA concerns that they did not have enough manpower to carry out inspections as often as they would like. She advised that due to the growth in fish farms this situation could only get worse. She advised that a major concern of the Community Council was that there was no pre application consultation and that the community feel they were not consulted sufficiently. She advised that this area depends on tourism and that tourism and not fish farming were the drivers for the area's economy. She advised that there was the potential for pollution production to destroy wildlife in the area. She advised that this area was a playground for locals and tourists alike and that this was not a suitable site for a large fish farm. She referred to pollution from fish faeces and suffocation of fish due to the depth of the fish cages. She also advised of concerns regarding the disposal of dead fish. She advised that the community support small scale developments like shellfish. She advised that proper procedures had not been carried out due to there being no EIA and no pre application consultation and that this was a breach in the Aarhus Convention.

Michael Shaw advised that he was representing Seil and Easdale Community Council. He advised that the Community Council did not write a letter of outright objection to the Application. He advised that theirs was a balanced letter recognising the importance of fish farming to the community which, he advised, had been ably demonstrated by the Applicant. He advised that he was not concerned with discharge consents, pollution and technology of wildlife. He advised that 80 objections had been submitted by Community Council representatives which was around 10% of the total objections and that some of these were a criticism of fish farming. He advised that most of the objections were unscientific and that the community seen this as another assault on a small scale landscape. He referred to having heard that there were not many houses

overlooking the site and advised that this was true but that this was the advantage of this area. He referred to people being on the water and to walkers and that this was an area of recreation for all and that people care out it. He referred to concerns about the type of feed barge that would be used and that the Applicant was not certain which type would be used. He advised that if this Application was for a building on dry land more detail would have been required. He advised that the Community Council don't have an overall objection to fish farms but that there had been some astonishment that no EIA was required. He advised that Argyll and Bute Council has a clear responsibility to protect our local scenery. He advised that it was a matter of the operators acting very responsibly and that they should enjoy the benefits with the least mitigation. He advised that the community should be protected by Planning from any operations and that it was not unreasonable to ask for conditions and enforcement of these conditions in respect of this Application in the same way as others.

Craig MacIntyre spoke on behalf of the Argyll and District Salmon Fishery Board. He advised that Mr Kerr had stated that biomass was not a material planning consideration other than in respect of implications for the development of wild fish. Mr MacIntyre advised that his main concern was the size of the biomass. He advised that he did not object to the relocation of this but that he would feel better of the biomass could be limited initially to 1,300 tonnes so that monitoring of sea lice could be undertaken. He advised that in terms of the SSPO Code of Good Practice sea lice were considered in the context of the welfare of farmed fish and not wild fish.

SUPPORTERS

Ben Wilson advised that he has worked all over Argyll to support the fish farming industry. He advised that it was important to look after the Marine environment but it was also important to look after the people ashore and that there was a need to provide good opportunities for fish farming careers for people.

Iain Forbes advised that he represented Fusion Marine, a local company based in Barcaldine which has supplied locally to fish farms and globally to the industry for 22 years, specialising in aquaculture equipment with an annual turnover of £500,000 with much of that contained in Argyll. He advised that he was extremely supportive of this Application which will bring sustainability to businesses in the area. He advised that he currently employs 14 people and has a close working relationship with Meridian. He advised that aquaculture gives opportunities for real economic growth. He advised that he supplies cages to this company and would be happy to answer any questions regarding the cages.

Peter MacKerral advised that he represented a haulage company from Campbeltown which employs 53 staff throughout Argyll in Campbeltown, Lochgilphead and Strachur and that wages were £500,000 per year. He advised that his company transport fish, fish food, nets and various equipment and advised that it was alarming that the relocation of this fish farm was under scrutiny and might not get approved. He advised that any threat to fish farming in this area would be a threat to jobs in his company. He referred to being in the process of applying for planning permission to overhaul and improve the firm's workshop in Campbeltown and that if this proposal was under threat he was not sure if they could continue with their own proposals. He advised that every job in the area was worth a lot to the economy of Argyll.

OBJECTORS

David Ainsley advised that he represented the Scottish Wildlife Trust and Sealife Adventures, and has been a wildlife tourism charter skipper for over 25 years and took out 18,000 tourists a year and that they were one of 10 boats in the area. He advised that tourists stay in the area and spend money in local accommodation, restaurants and shops. He also advised that he had a Marine Zoology degree. He referred to the biomass tonnage at the site of 2,500 tonnes and advised that this was the biggest biomass allowance, twice the size of most existing farms including the existing site. He advised that a recent study found the nearby Sound of Jura to be one of the two most important areas in Scotland for porpoise. He advised that 25 years ago we used to see wild salmon jumping and that now we don't. He referred to a map showing sites of some of the old salmon fisheries which have almost all closed during the period of growth in fish farms. He referred to a number of photographs showing the different types of wildlife that can be found at the proposed site and advised that this was an important wildlife corridor. He advised that no one disputed the importance of jobs in fish farming. He advised that wildlife tourism in this area was also important and that jobs could be protected in both industries if farms were sensibly located. He advised that from the start of the planning process the Scottish Wildlife Trust has maintained that an EIA should have been carried out. He referred to a flow chart showing the Environmental Impact Assessment Critical Guidelines Toolkit for Marine Fish Farming and advised on what the EIA would have considered. He advised that the Appropriate Assessment carried out by SEPA was unreliable and could not prove "beyond reasonable scientific doubt" that there would be no adverse effect on the integrity of the SAC. He advised that risks to wildlife and tourism would be partly mitigated by insisting on double nets and no seal scarers or shooting of seals. He advised that the best option would be to relocate the farm to an area of low conservation and landscape importance and that fish farms and tourism can both exist and flourish with sensible farm location and controls.

Ewan Kennedy advised that he has lived in Kilmelford for many years and has been involved with Argyll since 1974 and has always been involved in some way with small boats in this area. He advised that he would like to focus his comments on the local economy in this area and advised that it was dependent on tourism, water tourism and leisure recreation. He advised that he was not trying to argue that fish farming should be stopped as that was not a planning issue. He advised that the general public had a right to use the surface of the sea for many purposes such as leisure, recreation and navigation. He advised that to grant planning permission to this Application would exclude people from an area covering 30 hectares. He advised that it would be extremely imprudent to navigate small boats in between the cages of most fish farms. He advised that we may have a good operator now but if consent was granted this would be almost creating a new right of property and that it could be operated in the future by a bad operator. He advised that there were a significant number of holiday visitors coming to Scotland for the first time to kayak, to canoe and to operate small boats. He referred to Historic Scotland's comments about Dun Fadaidh and whilst they did not formally object they would have liked the site moved further north. He also referred to the Castle of the Dogs on the other side of the Sound. He referred to 2 dozen kayaks on the Sound the previous weekend and that visitors played a significant part in the micro economy of Seil. He referred to

the granting of £300,000 of LEADER money to assist the establishment of an Argyll Kayak Trail from Oban to Helensburgh. He referred to the May holiday weekend when there would be 30 small vessels visiting Toberonochy for a 3 day annual event and that this will be the 11th year this has happened with visitors living in local bed and breakfast establishments. He referred to an Open Sea Sailing Group from the Lake District which also visited the area every year and to the Waverly Paddle Steamer's spring cruise through this area. He also advised of several trips made by the Hebridean Princess which in the past has moored at Port Na Morachd and that it would no longer be able to do so if consent was granted. He advised that this was not a blanket opposition to fish farms but it was a concern about the effect this will have on this micro economy for tourism and leisure recreation and that jobs were being put at risk if this massive industrial installation was allowed on the Sound. He advised that the future of this community of Argyll was entirely dependent on tourism and leisure.

Richard Pierce advised that his objection was on the basis that this was an industrial encroachment on an unspoilt area. He advised that there has been a change in the vessels navigating these waters with an increase in shore huggers like canoes and dinghies. He advised that the local economy of Luing was predominantly retired and the reason for this was that the area was unspoilt. He referred to a number of photographs taken around the proposed site and advised that it was wrong to suggest that the area was for the intrepid hiker. He advised that you could see quite regularly people walking in this area. He referred to plans showing where it was difficult to navigate on the Sound and advised that the fish farm would force boats away from the natural passage west towards Torsa. He also referred to a plan showing areas which were excluded from anchorage and advised that this area of anchorage would be dramatically reduced if planning permission was granted as the proposed site is the only area where boats could berth for respite before entering the Cuan Sound. He advised that the proposed barge would be relocated 50m from the only beach where you could actually land. Mr Pierce also showed some photographs of the fish farm at the north end of Shuna.

MEMBERS' QUESTIONS

Councillor Currie asked why there had been objection to enlargement of the fish farm when there was a reduction in cages from 18 to 12.

Mr Kerr advised that there would be an increase in biomass. He advised that when comparing the 2 sites the aggregate surface of the equipment was not much different but the capacity to hold fish was a lot greater at the new site.

Councillor Currie referred to wild salmon fishing and asked how many jobs were in the area.

Mr MacIntyre advised that there were no jobs anymore in the area and that these were quite badly affected by a number of factors with aquaculture being a contributor. He advised there were indirect jobs with people coming to fish for sea trout.

Councillor Currie asked Mr Ainsley if seal scarers were like goose scarers and advised that when goose scarers were implemented on Islay this still increased the population of geese. He also asked Mr Ainsley if he agreed that seals had a

devastating detrimental effect on commercial fishing.

Mr Ainsley advised that seal scarers had a major impact on dolphins and porpoises and advised that it was illegal to disturb cetaceans and that three farms on the Sound of Mull had managed to close that area off to dolphins and porpoises. He advised that in America it was illegal to sell fish farmed in anyway which harmed animals. He advised that he was in no doubt that the common seal was in serious decline and that he did not believe they had an effect on commercial fishing.

Councillor Devon referred to the determination that an EIA was not required and asked was she not correct in saying that the CAR licence was a valid record and would have covered all aspects of an EIA.

Mr Kerr advised there was no mandatory requirement for an EIA in this case. He advised that this Application came under the category of a Schedule 2 development in terms of the EIA Regulations, where the Council has discretion to ask for an EIA or not. The Applicants had submitted at pre-application stage an EIA screening request which was the subject of consultation with Marine Scotland, Scottish Natural Heritage, SEPA, and the Salmon Fishery Board, and the conclusion was that an EIA was not necessary in the circumstances of this case. One consideration in the reaching of that conclusion was the fact that the Council would be required to carry out a Habitats Regulation 'appropriate assessment' as part of the determination process, and that would deal with the implications of the proposal for the integrity of the qualifying interests of the nearby Firth of Lorn SAC.

Councillor Devon referred to objectors concerns about the impact this fish farm would have on tourism and asked how many existing jobs would be impacted on.

Mr Kennedy advised that of those working around Seil and Loch Melfort almost everyone was involved in some way with tourism and leisure.

Councillor Devon referred to Mr Ainsley's comment that 900 seals were killed and asked if this happened on these waters.

Mr Ainsley advised that the figures were produced by Marine Scotland and that the 900 seals were from around Scotland. He advised that even a small number of seals shot was significant.

Councillor Hall referred to a couple of companies now using natural methods for sea lice treatments and asked the Applicant if they were one of these companies or did they solely use chemicals.

Mr Blair confirmed that they were one of the companies now using natural methods and when asked advised that approximately 90% of the treatments were still with chemicals as other methods were at an early stage.

Councillor Hall referred to the natural landscape and advised that Scotland was once covered in natural woodland. He asked if housing impacted on the natural landscape.

Mr Kerr advised that landscape character is defined by physical attributes of the

landscape and that it was also influenced by land use and the presence of development. He advised that buildings, fish farming and agriculture all resulted in physical features in the landscape, and that the incidence of development was a component of landscape character.

Councillor Hall advised that a view from a house over a landscape could be impacted on and asked if a view of a landscape could be impacted by a house.

Mr Kerr advised that views from properties were not planning considerations but that views afforded to the public as a whole could be. He advised that the visual amenity of an area was a planning consideration. He advised that it was the presence of development in the landscape that was important rather than the view obtained from a specific house to a particular location.

Mr Shaw advised that it was his view and he suspected it was the view of the Community Council that yes indeed a house could impinge on a landscape. He advised that all they were asking was for the layout of the fish farm, the lighting and the feed barge to be treated in the same way as a house.

Councillor Colville asked for assurance that condition 6 could be enforced.

Mr Kerr referred to it being implied earlier that there was doubt to what type of feed barge would be used. He advised that the Applicants had started off with a large barge and that this had been reduced in size and that the amended design submitted would be the type which would be consented. He advised that if the Applicants wished to move the barge to another location or use another type of feed barge then this would require another planning application to be submitted. He advised that the appearance would be as shown on the plan and that it was only the colour that would be agreed afterwards and that it would be enforceable. He advised that there were different types of barge out there and that this was a concrete one and he invited the applicants to comment on their selection of barge design.

Mr Blair advised that confusion has arisen around dialogue about the barge. He advised that the concern was about the height of the barge rather than the width. He confirmed that he knew it would not be possible to change the barge from the one applied for but if given the opportunity to purchase a new barge of improved design this would be looked into. He advised that they wished to be seen as good neighbours.

The Chair ruled, and the Committee agreed, to adjourn the hearing at 1.00 pm for lunch.

The Committee reconvened at 1.40 pm and the hearing continued.

MEMBERS' QUESTIONS (CONTINUED)

Councillor McNaughton sought more information on sea lice and asked Mr MacIntyre if he considered the amount of pollution and the amount of chemicals used to control sea lice an area of concern.

Mr MacIntyre advised that enough chemicals will be used to control sea lice as stated in the Code of Practice. He advised that doubling the size of the fish farm

will lead to double the amount of sea lice being released into the environment. He advised that the Code of Practice looks at the average number of sea lice per fish. He advised that he was trying to protect the fish that are left and advised that salmon and sea trout numbers in the area were massively suppressed. He advised that the fish in Loch Melfort was in a disastrous state with low numbers. He advised that he believed the biggest reason for this was inappropriate hydro development. He advised that at Loch Feodan the fish there were in a reasonable state of health. He advised that he would like to see if Meridian can demonstrate they can adequately control sea lice at this site and that he would have no objection if there was ½ a lice per fish.

Councillor MacDonald referred to noise from generators and other aspects of operation of the fish farm and asked if this had been taken into account.

Mr Kerr confirmed that this was taken into account. He advised that the generator would be accommodated in the service barge below the water level and that in his experience given the noise generated from the water and waves the generator would be barely audible on deck unless the hatch cover was opened. He advised that there would be some noise from the pneumatic feed equipment which would not be running all the time. He also advised that there would be some noise from boat traffic to and from the site and from more intensive periods of activity associated with well boat visits. He advised that the site was a long way off from occupied properties, some 2km from the nearest dwelling. He advised that whilst noise did travel across water and even from that distance could potentially be audible, it would not be such as to give rise to a statutory noise nuisance.

Councillor MacDonald referred to industries working in rural areas and that other type of industries had best practice codes of practice. He asked if there was a mechanism for the Applicant to monitor situations as they arise and report back to the community such as a community engagement strategy.

Mr Blair advised that they would not have a mechanism for that and that they would need to take advice. He advised that he would like to improve communication with the three Community Councils whatever happened.

Councillor MacDonald asked if there was a bond or similar mechanism in place to ensure removal of equipment if the business was to go out of operation.

Mr Steward advised that bonds were not used for aquaculture and that it would be the responsibility of the Applicant to remove any equipment and that there was a planning condition to cover this.

Councillor Freeman referred to the fish farm being serviced from Loch Craignish and Croabh Haven and asked how far away this was from the site.

Mr Mathieson advised that it was about 1½ hours travel time.

Councillor Freeman referred to the number of representations made and advised that he was amazed some of these representations were received globally and well out with Argyll. He advised that he thought about 25% of the representations received were from within Argyll and asked if this was a correct approximation.

Mr Kerr advised that he had not carried out an analysis of split and that these days with the internet it was not uncommon to get representations from far and wide. He advised that it was for Members to give weight to the representations received as they saw fit.

Councillor Freeman referred to 18 cages being reduced down to 12 cages which was a reduction of 33% and asked what the difference in capacity was for holding fish.

Mr Mathieson advised that there would be double the capacity of the existing cages.

Councillor Blair asked if double netting was a possibility.

Mr Webster advised that this issue has been discussed for a number of years. He advised that he has been in the industry for about 30 years and any attempts to trial this have failed. He advised that double netting tends to trap young seals and sea birds and that seals can die if they become trapped. He advised that there was also a difficulty for fish as nets become fouled by mussels. He advised that double netting was very bad for fish and very bad for the wildlife and if they worked they would be used.

Councillor Blair asked if monitoring of the sea bed was carried out at the same time as nets were repaired.

Mr Blair referred to the CAR licensing and advised that benthic sampling was taken during the production cycle every two years.

Councillor Blair referred to decommissioning of the site and asked if monitoring analysis was undertaken to see what the effects are on the sea bed at the end of the life of a fish farm.

Mr Blair advised that in terms of removal of equipment they would do that. He advised that the sea bed would recover.

Councillor Blair asked how long the existing fish farm had been there and Mr Blair advised almost 25 years.

Mr Webster advised that the sea bed maintained a good state because of the CAR consent. He advised that the principle rate of deposits of feed and faeces onto the seabed was the same rate as what is broken down and dispersed. He advised that anything left after a fish farm was removed would disappear from the sea bed within 6 – 9 months and that this was all built into the consents process.

Councillor Blair referred to the status and look of the barge and asked if there was any way of making it more aesthetically pleasing for the tourist.

Mr Mathieson advised that they were always looking for ways to improve the site and would welcome any suggestions and that they wished to be good neighbours.

SUM UP

Planning

Richard Kerr advised that the Scottish Salmon farming industry has stated its intention to seek to expand its production by 50% by 2020, and growth in the sector is being actively promoted by the Scottish Government, given that it is one of the only growth sectors in the economy, and because it is of importance not only in terms of exports, but also in terms of providing full time employment opportunities in rural areas. The aquaculture sector is of particular importance to the economy of Argyll, both in terms of direct employment, and also indirect jobs in fish processing, servicing of sites and so on. It is therefore incumbent upon us to help the industry find sites which enables the sector to grow sustainably in locations where they can do so without giving rise to unacceptable environmental impacts. As with all planning applications, in determining this proposal there are two primary things which we are required to do. Firstly, to confine ourselves to material planning considerations and to exclude irrelevancies, and secondly, to determine the application in accordance with the development plan policies unless those other relevant material considerations indicate otherwise. The starting point is therefore to turn to local plan policy LP AQUA 1 which indicates those matters to be taken into consideration, which reflect the government's advice on aquaculture as set out in Scottish Planning Policy. As with all aquaculture applications, there are a wide range of matters which pertain, including landscape, amenity, nature conservation, historic environment, wild fish, sea fishing and navigation considerations. Conversely, there are other aspects of the proposal which ought not to be taken into account, as they are subject to an entirely separate regulatory regime administered by SEPA, notably the licensing of biomass and the administration of medicines and chemicals, in the interests of pollution control. SEPA have granted a licence for this development, having undertaken a Habitats Regulations Appropriate Assessment in order to satisfy themselves that solid and chemical discharges from the site will not threaten the integrity of the nearby Firth of Lorn Special Area of Conservation. He advised that Members should therefore discount pollution and biomass considerations, other than for any implications that the enlargement of the capacity of the relocated site may have for wild salmonoids, given that SEPA has no remit to protect the interests of wild fish. In line with legislative requirements Planning have also carried out an Appropriate Assessment under the Habitats Regulations following on from that conducted by SEPA as part of their licensing process, and further to consultation which was carried out with SNH and SEPA on the matter. That has concluded that the proposal will not undermine the integrity of the rocky reef habitat within the SAC out to the west of Seil Sound. SNH have not objected to the Application either in terms of its consequences for the SAC, or in terms of its local nature conservation consequences within the Sound itself. In terms of remaining considerations which are material to the Application, and having regard to the presence of and the proposed removal of the existing farm, there have not been identified any adverse landscape, noise, lighting, wild fish, sea fishing, navigation or recreational interests identified which indicate that it would be justifiable to withhold consent on planning grounds. Criticism has been levelled that an Environmental Impact Assessment has not been required in this case. The type and scale of the development is such that there is no mandatory requirement for an EIA in this case. There is, however, a requirement for the development to be screened by the Council, to determine whether it should nonetheless exercise its

discretion and ask for an Environmental Statement. A screening request was made by the Applicants to the Council in advance of the submission of the Application to determine whether it ought to be accompanied by an Environmental Statement. That was in turn subject to consultation with key consultees including Marine Scotland, SEPA, SNH and the District Salmon Fishery Board, none of which considered that an Environmental Statement should be required in this case, particularly in the knowledge that it would be a requirement that the Council as the competent body under the Habitats Regulations would be required to complete its own Appropriate Assessment as part of its adjudication of the Application, in order to satisfy itself that the integrity of the nearby Special Area of Conservation would not be prejudiced. Criticism has also been levelled at the science behind SEPA's Appropriate Assessment, which in turn underpins the conclusion of the Appropriate Assessment accompanying the planning assessment. That is not a matter for us here given that the Scottish Ministers have already considered such criticism in their review of SEPA's intended decision and that they have not decided to intervene, and a CAR licence has been issued by SEPA on the basis of that Appropriate Assessment, which is therefore a matter of record. Criticism has also been raised in terms of the ability to navigate Seil Sound. Neither the Northern Lighthouse Board nor the Royal Yachting Association has objected to this proposal. Although as part of the planning process it is necessary to take into account other marine users, such as commercial fishing and recreational boating, the detailed implications of the siting of the equipment and its implications for navigation will be considered separately outside the planning process, as part of the Marine Licence which the Applicants will need to obtain from Marine Scotland for the placement of their equipment and moorings in this area. That is a separate public process and there is opportunity for yachting interests to express a view at that point. Objections in relation to obstruction and potential difficulties for the ability of those to navigate the Sound are therefore more properly addressed by Marine Scotland's licensing process. In the event that planning permission is granted, such a permission would be of no influence on Marine Scotland's decision whether or not to issue a Marine licence, which would be assessed separately on its own merits and in the light of any representations received. Having taken into account Development Plan Policy, Government Policy on aquaculture, and all other considerations relevant to planning, it is recommended that planning permission should be granted subject to the conditions recommended in the main report.

Applicant

Angus Mathieson advised that Marine Scotland, SNH, SEPA, the Fishery Board, Lighthouse Board and Royal Yachting Association had no objection to this proposal and that SEPA has granted a CAR licence. He advised that they wish to be seen as good neighbours and good employers and would be happy to engage with the local community.

Consultees

Antoinette Mitchell referred to overwhelming and significant objection to this proposal from the community that will be affected by it. She expressed her concern about the level of pollution and its effect on the marine environment and that no answer was given to how dead fish would be disposed of and where.

Michael Shaw and Craig MacIntyre advised they had nothing further to add.

Supporters

Ben Wilson, Iain Forbes and Peter MacKerral advised that they had nothing further to add.

Objectors

David Ainsley advised that in 2006 the existing site had to have an Environmental Impact Assessment when the biomass was increased from 800 to 1,300 tonnes and no relocation so asked why an EIA was not required now. He advised that it was unsatisfactory to rely on the science of the Appropriate Assessment. He advised that the existing nets don't trap wildlife. He referred to doubling the size of the net mesh. He referred to 2 full time and 1 part job being created by the farm and advised that those jobs would still be created if the farm was moved somewhere else. He advised that wildlife tourism brought a lot of money into the area. He asked that a condition be added to require double netting.

Ewan Kennedy advised that he had not heard anything to change his view and asked that the Application be refused on the grounds that he had set out earlier.

Richard Pierce advised that he had nothing further to add.

The Chair asked those present to confirm they had received a fair hearing and after clarification of the purpose they all confirmed this to be the case.

DEBATE

Councillor Devon thanked everyone for their very informative presentations. She advised that the Council encouraged development whilst protecting the natural environment and that in this case all the Local Plan policies had been adhered to. She advised that concerns regarding the EIA had, in her opinion, been addressed. She advised that in Argyll there was a tradition of farming, forestry, fishing and tourism and that all sectors were facing difficulties. She advised that if we want the rural community to prosper we need to allow new opportunities. She advised that she would be proposing that planning permission be granted subject to the conditions detailed in the main report.

Councillor Hall advised that of the 816 objections received, 229 of these were from residents of Argyll. He referred to the cost of sending letters to the objectors and advised that Argyll and Bute Council needed to make representation to the Scottish Government to advise that only representations received from the Council area should be taken into consideration. He advised that every interaction by a human being on the planet has an impact and that it was all a question of balance. He advised that he agreed with Councillor Devon and that the planning department had taken a balanced view that he would be supporting the recommendation to grant planning permission.

Councillor Currie advised that the planning reasons for granting were overwhelming in favour to grant and that there was no case to answer to. He advised that he supported the Application and supported the reasons and

conditions.

Councillor Colville advised that he supported the Application.

Councillor Freeman advised that he was more than happy to second Councillor Devon's Motion to approve.

Councillor MacDonald thanked everyone for their contribution. He advised that he was aware fish farms were undergoing change to meet Scottish Government targets. He advised that the arguments were laid out very well. He advised that the barge concerned him slightly but that he was happy to support the Application.

Councillor Taylor asked if anyone was otherwise minded than to approve this Application and it was confirmed that everyone was in support of the Application.

DECISION

It was unanimously agreed to grant planning permission subject to the following conditions and reasons:-

1. The development hereby permitted shall not be carried out other than wholly in accordance with the following plans and details unless previously approved in writing by the Planning Authority:
 - Application Form dated 13.06.11;
 - Plan 1 of 9 – current and proposed site locations and layout;
 - Plan 2 of 9 – location plan 1:10,000;
 - Plan 3 of 9 – location plan 1:25,000;
 - Plan 4 of 9 – Admiralty chart indicating mooring containment area;
 - Plan 5 of 9 – site layout plan;
 - Plan 6 of 9 – cage sections;
 - Plan 7 of 9 – net specifications;
 - Plan 8 of 9 – feed barge specifications (amended 18.12.12);
 - Plan 9 of 9 – feed barge appearance (amended 18.12.12).

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. The stocking of the farm hereby approved with fish shall not take place until the fish pens walkways, associated structures and moorings have been removed from the existing site at Ardmaddy North (0.9km north of the consented site) and evidence has been presented to the Planning Authority that the existing Crown Estate lease has been relinquished in order to prevent subsequent re-equipping of that site.

Reason: Consent for this development is granted solely on the basis that this development will replace the existing operation. Occupation of this site in association with the existing site would produce unacceptable cumulative impacts as a result of the presence and operation of multiple sites in inappropriately close proximity which would exceed the carrying capacity of the receiving environment.

3. In the event that the development or any associated equipment approved by this permission ceases to be in operational use for a period exceeding three years, the equipment shall be wholly removed from the site thereafter unless otherwise agreed

in writing by the Planning Authority.

Reason: In the interest of visual amenity and to ensure that redundant development does not sterilise capacity for future development within the same water body.

4. 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, as appropriate, the whole or any part of the equipment.

Reason: In the interest of visual amenity.

5. All lighting above the water surface and not required for safe navigation purposes should be directed downwards by shielding and be extinguished when not required for the purpose for which it is installed on the site.

Reason: In the interest of visual amenity.

6. The finished surfaces of all equipment above the water surface including the feed barge and surface floats and buoys associated with the development hereby permitted (excluding those required to comply with navigational requirements) shall be non-reflective and finished in a dark recessive colour in accordance with colour schemes to be agreed in advance in writing by the Planning Authority (by way of BS numbers or manufacturer's specifications) unless otherwise agreed in advance in writing by the Planning Authority.

Reason: In the interest of visual amenity.

7. No deployment of Acoustic Deterrent Devices shall be permitted at the site unless the model intended for use and the means of its use have been submitted to and approved in writing by the Planning Authority, following consultation with Scottish Natural Heritage. Thereafter deployment shall only take place in accordance with the duly approved details unless any subsequent variation thereof is agreed in writing by the Planning Authority.

Reason: In the interests of nature conservation.

(Reference: Report by Head of Planning and Regulatory Services dated 29 February 2013 and Supplementary Planning Report No. 1 dated 19 April 2013, submitted)