

**Argyll and Bute Council**

**Development and Infrastructure Services**

**Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle**

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**Reference No:** 18/01813/MFF

**Planning Hierarchy:** Local Application

**Applicant:** Scottish Salmon Company

**Proposal:** Variation to planning condition 2 relative to planning permission 17/00427/MFF (Modification of existing fin fish farm site to include 1 additional cage and increase in extent of mooring area) Proposed deletion of biomass limit in favour of obligation to operate in accordance with an approved Environmental Management Plan

**Site Address:** Ardcastle Fish Farm Lochgair Argyll and Bute

**SUPPLEMENTARY REPORT NO. 1**

**1.0 INTRODUCTION**

The purpose of this report is to advise Members of the contents of a late consultee response from the Argyll District Salmon Fishery Board (ADSFB) and a subsequent response to this from the applicant. It should be noted that the ADSFB are a statutory consultee in marine fish farm applications. The current response supplements a previous objection made to this application.

**2.0 SUMMARY OF ISSUES RAISED**

In an email dated 16<sup>th</sup> March 2019 the ADSFB has highlighted the following concerns in relation to the above proposal:

- The ADSFB was of the view that the applicant would make contact with the Board to discuss and agree the terms of the proposed Environmental Management Plan (EMP) prior to the application being moved forward. This has not happened and the ADSFB find this unusual as the proposed replacement condition requires their co-operation.  
**Scottish Salmon Company Response:** A meeting was held on 25th May 2018 (minutes attached) to discuss the proposed approach to the EMPs. The discussions had

a number of positive aspects and due to time limitations it was decided to submit the Section 42 applications with the EMPs and monitoring plans for consultation. The biologist for the fisheries trust noted that the lice management strategy appeared to be robust.

ADSFB are statutory consultees, therefore the Planning Authority has a duty to consult with ADSFB on the application. However there is no requirement for SSC to agree the detail of the EMP with ADSFB and the Planning Authority must instead be satisfied that the actions in the EMP are proportionate. ADSFB has no obligation to consider anything other than conservation of wild salmon and so it is to be expected that the views expressed are heavily weighted towards this and do not balance other material considerations. Following on from this MSS, have responded confirming the EMPs are satisfactory.

Should the Council approve the Section 42 Applications it will become a requirement to engage with the ADSFB again, at this stage as described in the EMP, and there is an ongoing commitment on SSC to review the strategies within the EMP in consultation with the Council, MSS and ADSFB to ensure any improvements are captured.

- It is not considered that the EMP is fit for purpose in terms of mitigation. It is considered that the increase in tonnage is potentially very damaging to wild salmonids especially given the poor conservation status of wild salmon in Loch Fyne and the poor record of lice control on these farms. The ADSFB do not take any comfort from the fact that the company had a better record of lice control in 2017-2018 as we believe this was the first year of production when lice control is less of an issue. In any event we do not believe it is appropriate to conclude that the company is capable of controlling lice on its Loch Fyne farms after only one year of improved lice control on existing tonnage let alone increased tonnage. The company should be required to demonstrate that it can control lice below their strategic intervention level across the whole production cycle as a minimum.

**Scottish Salmon Company Response:** The EMP is robust and details the comprehensive mitigation actions that SSC will be committed to implementing. This commitment to act in a way that is known to, can be anticipated by the Planning Authority and which the Planning Authority can force, results in actions which are tangible, measurable and enforceable.

Sea lice trigger levels should be challenging and set a threshold that is comparable with the highest international industry standards. The SSC EMP sets sea lice trigger thresholds which are lower than SSPO trigger levels and so the obligation to act is triggered well before industry trigger levels are met.

Planning Authority decisions must of course have regard to the protection of Atlantic salmon and mitigate against potentially adverse effects, and this is something which a robust EMP can do effectively. The consideration afforded to wild salmon must however be viewed in context as this is not a species which demands the highest level of protection in sea-water.

Any limit on biomass is arbitrary and not scientific. There is no evidence that the biomass limit for each of these sites has been calculated in such a way that it reflects a safe carrying capacity of the environment in relation to sea lice. The current biomass limit for these sites is the former biomass limit set by SEPA under the CAR regime. This continues to be the relevant reference point and is based on an assessment of the

benthic impact, but not on potential impact of sea lice. In addition there is currently no requirement to take any action regarding the control of sea lice. A biomass restriction does not control sea lice numbers.

- Following the REC committee report on aquaculture the Scottish Government advise that a pragmatic approach should be taken to ensure that arrangements for regulating fish farm developments are strengthened to provide proportionate and precautionary management of the risk to wild fish based on an adaptive management approach. Marine Scotland now expect an EMP to be delivered as a condition for any aquaculture consent and that these EMPs will 'inform an ongoing process of adaptive management'.

**Scottish Salmon Company Response:** The REC Inquiry Report made a number of recommendations which an EMP can help to achieve, including:-  
That the highest possible environmental and fish health regulatory standards apply to the farmed salmon sector in Scotland. An EMP is instrumental in achieving this.

Sea lice trigger levels should be challenging and set a threshold that is comparable with the highest international industry standards. The EMP sets sea lice trigger thresholds which are lower than SSPO trigger levels and, through the monitoring strategy, ensures that the most appropriate and effective trigger thresholds are employed at individual sites.

A precautionary approach should be taken which will seek to minimise the potential risk of sea lice infestation to wild salmon stocks wherever possible. An EMP is a way of effectively managing risks to wild salmon through the sea lice action plan which commits SSC to proven preventative and remedial measures.

- The ADSFB note Marine Scotland Science's comments on the EMPs that they are satisfactory 'in terms of measures in place for the control and reduction of parasites on site with regards to aquaculture animal health'. This carefully worded comment does not suggest that the EMPs provide any mitigation in terms of wild salmon and should not be taken as doing so.

**Scottish Salmon Company Response:** The EMP describes in detail how SSC can effectively manage sea lice on the farms and how off-site monitoring can be triggered and managed. An EMP offers Argyll and Bute Council a set of clear and enforceable control measures that will provide greater protection of the wild salmon of which ADSFB is custodian.

ADSFB are inclined to require actions even where there is no causal link. This cannot be appropriate when the issue is not related to just one site, nor indeed is it necessarily attributable to the aquaculture industry generally.

Scottish Government guidance on the use of planning conditions states that they should be tailored to tackle specific problems, rather than impose unjustified controls. The biomass condition is not tailored to tackle sea lice and in so far as a condition is wider in its scope than is necessary to achieve the desired objective, it will fail the test of need. As a result the biomass condition is arguably unreasonable and according to the guidance unreasonable conditions do not become reasonable because an applicant consents to its terms, as SSC have in these cases. The condition must always be justified on its planning merits.

- The Council will be aware of the ongoing work by ADSFB, FMS, Mowi, Kames, to develop an EMP for the BDNC site off Shuna that is capable of delivering mitigation, and good progress is being made. It is our hope that this model will provide a minimum standard for EMPs.

**Scottish Salmon Company Response:** Without having sight of this EMP, SSC cannot comment on the appropriateness and reasonableness of the proposal. However, the current biomass condition is of limited value as it does not demand any actions regarding the control of sea lice.

- Fisheries Management Scotland was contacted by the planning service in October 2018 inviting Fisheries Management Scotland to participate in a meeting between the local authorities involved in fish farming with the purpose of agreeing a standard planning condition which can be used for wild fish EMP's associated with finfish planning permissions. This was in recognition of the different expectations from various fish farm companies as to what is likely to be required, and different approaches being adopted from one planning authority to another. As far as the ADSFB is aware, this meeting has yet to happen and it is considered that the significant issues with the proposed EMPs demonstrate that the current variability needs to be addressed with some urgency.

**Scottish Salmon Company Response:** The EMPs being proposed by SSC are based on best available knowledge and are intended to evolve over time in accordance with the terms of the planning condition.

- The ADSFB request that the determination of this application is delayed until the ongoing process to develop a workable model EMP model has been completed. It is believed that this will be no more than a few months at most. Until a workable EMP model is agreed we do not believe that the Council can have any confidence that the current proposals are sufficient to provide mitigation, indeed it is the ADSFB's firm view that they do not.

Scottish Salmon Company Response: The current version of the EMP has been confirmed as satisfactory by MSS. Specifically, information that has been provided within the EMP's for Ardcastle, Ardgadden, Tarbert South, Quarry Point is satisfactory with regard to there being sufficient measures in place for the control and reduction of parasites on sites with regards to aquaculture animal health. The ADSFB will inevitably focus on EMP aspects associated with 'cause & effect'. The aim of the EMP and associated monitoring is to ensure there are measures in place for the control and reduction of parasites on sites. This will provide greater protection for the wild salmon of which DSFBs are custodian rather than a biomass condition which requires no actions and monitoring. Once the conditions are approved SSC must engage with the DSFB as stipulated and must comply with the EMP. Following the consultation and various meetings which are required under the condition and EMP if it is deemed necessary the EMP will be reviewed and updated with input from DSFB and MSS.

Note: The full text of this consultee response and the applicant's response can be viewed on the Council's public access system [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

*Officer Comment: It is understood that a meeting has not yet taken place between Fisheries Management Scotland and the Local Authorities involved in fin fish aquaculture. This is because the Scottish Government is currently engaged in a wild fish interactions work stream and it seemed prudent to await the outcome of this prior to the meeting.*

*The proposed EMP is considered by Marine Scotland Science to be acceptable in terms of sea lice control on the farm. Should sea lice figures rise, there is a point at which this could result in the removal of the fish from this fish farm. It is considered that the restriction in biomass is not a good indicator of sea lice levels for reasons given in the main Report on Handling. The EMP will provide data and a commitment to wild fish monitoring. There is no moratorium on fin fish planning applications and it would seem unreasonable to delay the determination of this application in these circumstances.*

*Within the EMP there are safeguards to ensure that should sea lice numbers rise beyond control, the site would be destocked. In addition, the biannual meetings proposed with the ADFSB, MSS and the planning authority will allow data to be shared and the operation of the EMP to be discussed. This should facilitate the continuous improvement of the EMP in the light of innovation and operating experience.*

### **3.0 CONCLUSION**

Marine Scotland Science has advised that the proposed EMP is fit for purpose in terms of sea lice control. Wild fish interactions are matter for the planning authority to consider. If sea lice levels are under control through the operation of the EMP and there are safeguards in place should this not be the case, the officers would take the view that this provides acceptable mitigation for the risks to wild salmonids.

### **4.0 RECOMMENDATION**

It is recommended that planning permission be granted subject to the conditions and reasons listed on the main Report on Handling.

**Author of Report:** Sandra Davies

**Date:** 18/3/19

**Angus Gilmour**

**Head of Planning, Housing and Regulatory Services**