

Scottish Government consultation on a proposed Aquaculture and Fisheries Bill

1. SUMMARY

- 1.1 Aquaculture production and salmon and freshwater fisheries were estimated to be worth over £650m to Scotland in 2010. The Scottish Government wants to ensure both sectors and their interactions are managed effectively, as part of the wider marine and freshwater environment and to maximise their combined contribution to sustainable economic growth in Scotland. The Scottish Government are consulting on a draft Aquaculture and Fisheries Bill which aims to address key issues and build on best practice and voluntary arrangements, providing statutory underpinning and a legislative backstop, where necessary, to protect the interests of those who have invested in the highest standards of management and husbandry.
- 1.2 The full consultation document can be viewed at <http://www.scotland.gov.uk/Resource/Doc/364253/0123790.pdf>.
- 1.3 The deadline for responses to the consultation is 2 March 2013 which means that it has not been possible for a response to be considered by the Executive Committee prior to the end of the consultation period. This report therefore presents the officer response (Annex 1) that was submitted to the Scottish Government on 2 March 2012 on the strict understanding that it was still subject to further comment and approval by the Executive on 8 March.

2. RECOMMENDATION

It is recommended that Members:

- (i) Consider the content of the report; and
- (ii) Approve the officers response detailed in Annex 1 of this report as the Council's formal response to the Scottish Government proposals for an Aquaculture and Fisheries Bill.

3. BACKGROUND

- 3.1 Aquaculture and freshwater fisheries are critical to the economies of many remote and rural communities and make important contributions to the wider Scottish economy, between them estimated to be worth over £650m in 2010.
- 3.2 The Scottish Government are currently consulting on a proposed Aquaculture and Fisheries Bill which includes a number of proposals aiming to improve the sustainability of aquaculture production and salmon and freshwater fisheries.
- 3.3 The consultation highlights a number of working groups, including the Ministerial Working Group on Aquaculture and existing management frameworks such as the Strategic Framework for Scottish Aquaculture, which have informed the proposals outlined in the consultation.
- 3.4 The consultation document includes the following seven chapters covering a wide range of topics:
- (i) Sustainable development of aquaculture

- (ii) Protection of Shellfish Growing Waters
- (iii) Fish farming and wild salmonids interactions
- (iv) Salmon and freshwater fisheries management
- (v) Modernising enforcement provisions
- (vi) Paying for progress

The sections most relevant to the Council's planning responsibilities for aquaculture and wider biodiversity duty, are chapters one and three.

4. SCOPE AND KEY PROPOSALS OF THE BILL

The key proposals summarised below relate primarily to the Council's planning responsibilities for aquaculture development. The full response to each consultation question is provided in Annex 1 of this report.

4.1 Farm Management Agreements

These agreements should cover and ensure consistent management approaches in a given area including, stocking, fallowing, husbandry and biosecurity and management of sea lice. The consultation proposes to create a legal requirement that all finfish operators must participate in a Farm Management Agreement, as recommended by the Healthier Fish Working Group.

4.2 Unused consents

Unused aquaculture consents can unnecessarily reduce capacity for development in certain areas and unused sites with equipment in place can become a hazard to navigation. Unused sites have been an issue in Argyll and Bute which is a complex issue with many different reasons for operators holding onto unused consents. The consultation considers whether it is appropriate that Scottish Ministers are given powers to revoke unused consents.

4.3 Publication of data on sea lice control

Access to data on sea lice management has been a contentious issue between aquaculture and freshwater fisheries. There are arguments for the provision and publication of more detailed data in the interests of openness and transparency, to aid understanding of potential impacts and for assessing the need and options for management measures. This is a complex issue and there is a clear need to ensure any data made available is properly presented, explained and understood. The consultation seeks views on the most appropriate approach to collection of sea lice data.

4.4 Biomass Control

Currently SEPA can only reduce the biomass consented at a fish farm as a result of impacts from the discharge of waste on the seabed. This means there is no link between licenced biomass and sea lice treatment/management. The consultation proposes an option to give Scottish Ministers powers to reduce biomass where it is considered necessary to assist management and control of sea lice.

4.5 Seaweed cultivation

A few small-scale seaweed cultivation sites have recently been established in Scotland, with product potentially being used for food, animal feed, nutraceuticals, fuel for aerobic digestion plants, and fertilisers. This sector is expected to grow as product demand increases and as integrated multi-trophic aquaculture benefits are realised.

Seaweed farming developments do not come under planning control and are caught by the marine licensing system, operated by Marine Scotland. While the marine licensing process will consider similar aspects in the determination of development applications, it is not as transparent, locally accountable or democratic as planning. As a system of statutory marine planning is still to be developed there is currently no policy framework to guide decision

making for the marine licensing process. The consultation proposes that seaweed farming development should be regulated through the marine licencing system.

4.6 Sea lice thresholds

The Fish Farming Industry Code of Good Practice and national strategy for sea lice control include thresholds for triggering sea lice treatments on sites, with the key objective being to minimise the number of egg bearing lice on farmed fish during the period when wild salmon and sea trout smolts run to sea. The consultation proposes that Scottish Ministers should have powers to determine lower treatment thresholds above which remedial action needs to be taken in appropriate circumstances.

4.7 Containment and escapes

Tackling the problem of fish farm escapes is identified as a key priority in the renewed Strategic Framework for Scottish Aquaculture. Concerns relate to perceived impacts on wild salmonids through behavioural and ecological interactions and through competition for food and habitat. The consultation proposes the establishment of a Scottish Technical Standard for Fish Farming Equipment covering nets, cages and mooring systems. In addition the consultation proposes additional powers for Scottish Ministers to take or require genetic samples of fish from fish farms for tracing purposes, to enable identification of escaped farmed fish.

4.8 Modernising enforcement provision

The consultation document considers improvements to enforcement provision in relation to Aquaculture, wider marine-related offences and the enforcement of sea fisheries regulations. Provisions include making certain aquaculture offences subject to strict liability, providing for fixed penalty notices as an alternative prosecution and increasing the maximum sum available as fixed penalty notices.

Strict liability proposals provide a simpler model for enforcement of aquaculture offences in that company managers become liable for matters of non-compliance, and this reduces the need to find out who on site actually committed such an offence. It is also proposed that the scope of fixed penalty notices be widened to include marine, aquaculture and other regulatory issues. The consultation proposes to increase the maximum penalty on fixed penalty notices to £10,000.

4.9 Paying for progress

The consultation suggests provisions for direct charges for public services from which individuals/businesses gain a direct benefit, and more generic charges which may be applied at a broader more sectoral level. It also seeks views on how new work to assist in the management and development of the aquaculture and fisheries sectors should be resourced, including what areas of investment might be stopped in order to free up necessary funding.

4.10 Other issues

The consultation document invites comments on any other issue that consultees feel may need further consideration. The draft response in Annex 1 highlights concern about the Scottish Government Review and Audit of fish farm sites issued development Consent by The Crown Estate prior to 1 April 2007.

Central to this concern is the issue of The Town and Country Planning (Marine Fish Farms Permitted Development) (Scotland) Order 2011 in March last year, which granted permanent Planning Permission to a large number of sites in Argyll and Bute. Almost a year after its introduction Scottish Government have not, as yet, been able to provide information to the Council as to which sites have been approved, what equipment has been approved, or the planning boundaries of these sites. To date the Council is unable to include these sites on the planning register and is therefore unable if required, to carry out any enforcement action on these sites.

5. CONCLUSION

The consultation covers a wide range of issues in aquaculture and freshwater fisheries which aim to improve the sustainability of aquaculture production and salmon and freshwater fisheries in Scotland. The draft response detailed in Annex 1 welcomes the majority of proposals outlined in the consultation, the main exception being the Council's view that seaweed cultivation should be consented under the planning regime.

6. IMPLICATIONS

Legal: None.

Policy: The Council seeks through its Corporate policy, Structure Plan and Argyll and Bute Local Plan to support the sustainable management of our marine and coastal area. The Argyll and Bute Structure Plan 2002 outlines the Council's objectives for coastal planning and emphasises the necessity of working with all the relevant sectors to fully harness the productive capacity of the marine and coastal areas whilst safeguarding its unique environmental qualities through sustainable development.

Positively influencing proposals for the future sustainable management of the aquaculture industry and wild salmonid fisheries assists the Council deliver its commitments for the environment and SOA local outcomes for the economy, communities and environment.

Personnel: None.

Financial: None.

Equal Opportunities: None.

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Annex 1 – AQUACULTURE AND FISHERIES BILL CONSULTATION QUESTIONS

SECTION 1 - THE SUSTAINABLE DEVELOPMENT OF AQUACULTURE

Farm Management Agreements (FMAs)

1. *Do you agree that we should, subject to appropriate safeguards, make it a legal requirement for marine finfish operators to participate in an appropriate Farm Management Agreement (FMA), with sanctions for failure to do so, or to adhere to the terms of the agreement?*

YES

~~**NO**~~

Support the proposal to create a legal requirement that all finfish operators in the marine environment must participate in a Farm Management Agreement, subject to suitable safeguards which recognise practical production differences between operators e.g. different growing cycles of different fish species. This would encourage operators to reach agreement on appropriate management arrangements and offer greater security to those who currently manage their operations with the code of good practice.

It is considered that where there are significant wild migratory salmonid interests and/or Area Management Agreements in place that it should also be a legal requirement that finfish operators participate and adhere to the agreement. The relationship between Area Management Agreements and Farm Management Agreements and their respective areas should be clarified by the Scottish Government.

Appropriate Scale Management Areas (MAs)

2. *Do you agree that operators should have primary responsibility for determining the boundaries (and other management arrangements) for Management Areas, but with Scottish Ministers having a fallback power to specify alternative areas?*

~~**YES**~~

NO

The consultation document identifies the need for further scientific work and evidence on which to base decisions on the boundaries of Management Areas. To allow a consistent science based approach to defining boundaries, it is considered that Marine Scotland should have primary responsibility for determining boundaries but in doing so should consider relevant information from operators.

Management Measures and Dispute Resolution

3. *Do you agree that an independent arbitration process should be put in place (with statutory underpinning) to resolve disputes related to Farm Management Agreements?*

YES

~~**NO**~~

4. *How do you think such a system might best be developed?*

The suggestion that SSPO take responsibility for developing arrangements for access to an independent arbitration process, is considered appropriate.

Unused Consents

5. *Do you agree we ought to review the question of unused consents?*

YES

~~**NO**~~

Unused aquaculture consents have unnecessarily reduced capacity for development in certain areas of Argyll and Bute and unused sites with equipment in place can become a hazard to navigation. The option of Scottish Ministers having the power to revoke unused consents is therefore supported which could help free up appropriate sites for development.

6. *What do you consider are suitable options to promote use or relinquishment of unused consents?*

It is the Council's understanding that once all existing aquaculture sites are either transferred over to planning or not given planning consent then any sites not given consent should have to rescind their Crown Estate Seabed lease as an operator cannot have a full lease without all relevant consents. This should effectively remove the seabed lease from the issue of unused consents. The Scottish Government Review/Audit of Crown Estate Leases granted prior to 1st April 2007 provided an opportunity to deal with unused sites, however following the issue of The Town and Country Planning (Marine Fish Farms Permitted Development) (Scotland) Order 2011, it is not clear which sites have been granted planning and therefore whether this process has assisted in tackling unused sites.

Any new planning applications granted for aquaculture development have to start development within three years but there does not appear to be any requirement for completion of development, or for it to remain in use. This allows sites to remain unused as long as development has started within three years. The suggested proposal for Scottish Ministers to be given powers to revoke or require others to revoke consents would allow undeveloped and/or unused consents to be revoked and free up unused capacity.

It is suggested that where operators hold a number of SEPA CAR licences without planning consent and a marine licence, this consented biomass should not be considered in the Locational Guidelines calculations as these consents cannot be used without the other relevant consents being granted. This would prevent restrictions on capacity as a result of unused CAR consents and allow operators to keep hold of existing CAR consents while applying for other permissions.

Where unused consents are being used as firebreaks or a buffer between finfish developments, the Scottish Government should consider options for Farm Management Agreements to include suitable measures that would ensure these firebreaks remain if the unused consents are given up. This may then free up capacity for other types of aquaculture development such as seaweed or shellfish farming that would not affect finfish farm management.

The following options are considered suitable for promoting use or relinquishment of unused consents:

- withdraw consents for sites where they have not been used for 3 years, or if they have fallen derelict;
- placing conditions on consents to develop sites within 3 years; and
- revoking unused consents.

7. *Do you agree that Scottish Ministers should be given powers, ultimately, to revoke, or to require or request others to revoke, consents?*

YES

~~**NO**~~

8. *Should any such power relate to all or to particular consents (and if the latter, which)?*

This power should relate to all consents, including planning permission, SEPA CAR licence and marine licences.

Collection and Publication of Sea-lice Data

9. *What in your view is the most appropriate approach to be taken to the collection and publication of sea-lice data?*

The effective management of sea lice is essential for the health and welfare of farmed and wild salmonids and is one of the most significant pressures currently faced by the industry. Openness and transparency is key to the success of an integrated strategy for sea lice management and it is considered that data should be collected and published on a site by site basis rather than aggregated across regions. In addition to aiding understanding of the incidence and potential impacts of sea-lice and the consequent need and options for management measures, this information will assist regulators in guiding development to the most appropriate areas.

Surveillance, Biosecurity, Mortality and Disease Data

10. *Do you agree that aquaculture businesses ought to be required to provide additional information on fish mortality, movements, disease, treatment and production as set out above?*

YES

~~NO~~

11. *What are your views on the timing and frequency of submission of such data?*

The Council has no views on this matter.

Biomass Control

12. *Do you agree that Scottish Ministers should have powers to require SEPA to reduce a biomass consent where it appears to them necessary and appropriate – for example to address concerns about fish health and welfare?*

YES

~~NO~~

Currently SEPA can only reduce the biomass consented at a fish farm as a result of impacts from the discharge of waste on the seabed. This means there is no link between the amount of biomass farmed and the ability to effectively treat sea lice. The option to reduce biomass is also needed if a fish farm is unable to control sea lice at a certain level of biomass. An option to give Scottish Ministers powers to reduce biomass where it is considered necessary to assist management of sea lice is strongly supported and would act as a final additional mitigation measure to reduce the risk of salmon farming on wild salmonids, that could be taken into account in planning applications for new or modified sites.

Wellboats

13. *Do you agree we should make enabling legislation giving Scottish Ministers powers to place additional control requirements on wellboats?*

YES

~~NO~~

Processing Facilities

14. *Do you think Scottish Ministers should be given additional powers to place controls on processing plants?*

YES

~~NO~~

Seaweed Cultivation

15. *Do you agree that the regulatory framework should be the same for all seaweed farms?*

YES

~~NO~~

The Council welcomes the opportunity to comment on future options for the regulatory framework for seaweed cultivation. The Council has concerns about this kind of aquaculture development lying outwith planning control and accordingly made a representation to the Minister for the Environment and Scottish Government officials in December 2011.

The Council considers that all types of aquaculture development should be covered by the same regulatory framework and therefore seaweed farming should be brought under planning control.

16. *Do you agree that the most appropriate approach to regulation of this sector would be through marine licensing?*

~~YES~~

NO

Given that all aquaculture development other than seaweed farming is under planning control and local authorities have the appropriate experience and policy framework to deal with this type of development, it is considered that seaweed farming should be brought under planning control as a matter of urgency. The proposal in the consultation document for seaweed farming development to stay within the marine licensing system is therefore not supported.

17. *If not, what alternative arrangements would you suggest?*

While the marine licensing process will consider similar aspects in the determination of development applications, it is not as transparent, locally accountable or democratic as planning. As a system of statutory marine planning is still in the process of being developed there is currently no detailed policy framework to guide decision making for the marine licensing process.

Argyll and Bute Council and other local authorities have existing policy frameworks that are appropriate to guide future seaweed farm development. Council planning officers are also experienced in considering applications for finfish and shellfish farming developments which are similar to seaweed developments in terms of environmental effects and interactions with other activities.

There are significant benefits in terms of transparency and local accountability for aquaculture development applications considered under planning compared to marine licensing. Where there are conflicting issues on a development application the marine licence process does not benefit from local accountability and democracy in terms of decision making.

Recent marine licence applications for seaweed farming have caused concern for local communities and marine users in Argyll and Bute who are concerned that similar aquaculture developments are currently considered by two different consenting regimes. This anomaly presents difficulties for developers and those with an interest in the seaweed application in understanding the differences in policy and process of the two consenting regimes. It also presents difficulties in dealing with potential cumulative impacts with other aquaculture developments consented under the planning system.

Integrated multi-trophic aquaculture involves the cultivation of seaweed in combination with shellfish and/or finfish aquaculture. Given that finfish and shellfish are regulated through the planning system, it makes sense for the seaweed aspects to also be subject to the same consenting regime. This would also allow seaweed cultivation to be considered under permitted development rights.

Commercially Damaging Species

18. *Do you agree that we should provide for additional powers for Scottish Ministers in relation to commercially damaging native species?*

YES

~~**NO**~~

SECTION 2 - PROTECTION OF SHELLFISH GROWING WATERS

19. *Do you agree with the introduction of provisions to protect shellfish growing waters and support the sustainable growth of the shellfish industry?*

YES

~~**NO**~~

Shellfish farming is a significant industry in Argyll and Bute, focussed mainly on the growing of mussels and oysters and has potential for sustainable growth. The industry relies heavily on a high standard of water quality and needs adequate protection of existing Shellfish Growing Waters to continue beyond 2013, under the Water Framework Directive.

The proposals to continue the protection of water quality for the growing of shellfish beyond 2013 and to align the requirements of the EU food hygiene regulations and the Water Framework Directive are welcomed and should assist the shellfish farming industry develop sustainably. There are however some concerns that need to be addressed regarding the proposed criteria for designation and environmental objectives of shellfish protected areas. These concerns were expressed in detail within the Council's response to the recent consultation on the 'Protection of Shellfish Growing Waters' in December 2011.

SECTION 3 - FISH FARMING AND WILD SALMONID INTERACTIONS

Sea-lice

20. *Do you agree that there is a case for giving Scottish Ministers powers to determine a lower threshold above which remedial action needs to be taken, in appropriate circumstances and potentially as part of a wider suite of protection measures?*

YES

~~**NO**~~

The Council welcomes the proposal to give Scottish Ministers powers to determine a lower threshold above which remedial action needs to be taken. Current thresholds focus on the period of the spring smolt migration. However, as sea trout can be present in inshore waters all year round suitable thresholds to safeguard sea trout should be considered out with the spring migration period.

Containment and Escapes

21. *Do you agree we should provide powers for Scottish Ministers to require all finfish farms operating in Scotland to use equipment that conforms to a Scottish Technical Standard?*

YES

~~**NO**~~

Containment and escapes are still a significant issue for fish farmers and those with an interest in wild salmonids, particularly in light of the recent trend of companies looking for more exposed sites. The proposed requirement for all finfish farms to use equipment that conforms to a Scottish Technical Standard is supported. While shellfish farms do not pose a risk in terms of containment and escapes, it is just as important that equipment including moorings and anchors are of a high standard

to ensure farms do not pose a navigational risk. The proposed Scottish Technical Standard should therefore include shellfish development.

Tracing Escapes

22. *Do you agree that there should be additional powers for Scottish Ministers to take or require samples of fish from fish farms, for tracing purposes?*

YES

~~NO~~

SECTION 4 - SALMON AND FRESHWATER FISHERIES MANAGEMENT

Modernising the Operation of District Salmon Fishery Boards

23. *Do you agree that we should introduce a specific duty on Boards to act fairly and transparently?*

YES

~~NO~~

24. *Do you agree that there should be a Code of Good Practice for wild salmon and freshwater fisheries? (Page 29)*

YES

~~NO~~

25. *If yes, should such Code of Good Practice be statutory or non–statutory?*

YES

NO

A Code of Good Practice for Wild Salmon and Freshwater Fisheries should be afforded the same status as the industry codes for finfish and shellfish farming.

Statutory Carcass Tagging

26. *Do you agree that Scottish Ministers should have powers to introduce a statutory system of carcass tagging for wild Atlantic salmon and sea trout?*

YES

~~NO~~

Fish Sampling

27. *Do you agree that Scottish Ministers should have powers to take or require fish and/or samples for genetic or other analysis? (Page 32)*

YES

~~NO~~

Management and Salmon Conservation Measures

28. *Do you agree that Scottish Ministers should have powers to initiate changes to Salmon District Annual Close Time Orders?*

No comment.

29. *Do you agree that Scottish Ministers should be able to promote combined salmon conservation measures at their own hand?*

No comment.

30. *Do you agree that Scottish Ministers should be able to attach conditions, such as monitoring and reporting requirements, to statutory conservation measures?*

No comment.

Dispute Resolution

31. *Do you agree that we should introduce statutory provisions related to mediation and dispute resolution, to help resolve disputes around salmon conservation, management and any related compensation measures?*

No comment.

Improved Information on Fish and Fisheries

32. *Do you agree that there should be a legal requirement to provide comprehensive effort data for rod fisheries?*

No comment.

33. *What additional information on the fish or fisheries should proprietors and/or Boards be required to collect and provide; and should this be provided routinely and/or in specific circumstances?*

No comment

34. *Should Scottish Ministers have powers to require Boards and/or proprietors or their tenants to investigate and report on salmon and sea trout and the fisheries in their district?*

YES

~~NO~~

Licensing of Fish Introductions to Freshwater

35. *Do you agree that Scottish Ministers should have powers to recall, restrict or exclude the jurisdiction of Boards in relation to fish introductions, in certain circumstances?*

YES

~~NO~~

36. *If so, why and in what circumstances?*

In the circumstances outlined in the consultation document e.g. where a Salmon Fishery Board is authorising its own actions.

SECTION 5 - MODERNISING ENFORCEMENT PROVISIONS

Strict Liability for Certain Aquaculture Offences

37. *Do you agree that strict liability criteria should apply – where they capable of being applied – for offences related to Marine Licensing requirements insofar as the apply to aquaculture operations and, potentially, in other situations?*

YES

~~NO~~

Widening the Scope of Fixed Penalty Notices

38. *Do you agree that we should extend the use of fixed financial penalties as alternatives to prosecution in relation to marine, aquaculture and other regulatory issues for which Marine Scotland has responsibility?*

YES

~~NO~~

39. *Do you agree that we should increase the maximum sum that can be levied through a fixed penalty notice to £10,000?*

YES

~~NO~~

40. *Are there particular regulatory areas that merit a higher or lower maximum sum?*

~~YES~~

NO

Enforcement of EU Obligations Beyond British Fisheries Limits

41. *Do you agree that we should amend section 30(1) of the Fisheries Act 1981 as proposed?*

YES

~~NO~~

Powers to Detain Vessels in Port

42. *Do you agree that sea fisheries enforcement officers should be given specific power to allow vessels to be detained in port for the purposes of court proceedings?*

YES

~~NO~~

Disposal of Property/Forfeiture of Prohibited Items

43. *Do you agree that sea fisheries enforcement officers should be able to dispose of property seized as evidence when it is no longer required, or forfeit items which would be illegal to use?*

YES

~~NO~~

Power to Inspect Objects

44. *Do you agree that sea fisheries enforcement officers should have the power to inspect objects in the sea and elsewhere that are not obviously associated with a vessel, vehicle or relevant premises?*

YES

~~NO~~

Sea Fisheries (Shellfish) Act 1967

45. *Do you have any views on the proposals to amend the Sea Fisheries (Shellfish) Act 1967 to help make its application clearer?*

YES

~~NO~~

The opportunity should be taken to ensure that the definition of 'Shellfish' is consistent across all regulatory regimes in the Marine Environment and any amendments to the Act should support the application of Regulating Orders as a means of implementing regional management systems within Scottish inshore waters.

SECTION 6 - PAYING FOR PROGRESS

46. Do you agree that there should be enabling provisions for Scottish Ministers to provide, through secondary legislation, for both direct and more generic charges for services/benefits arising from public sector services and activities?

YES

~~NO~~

47. If you do not agree that there should be charging provisions, how do you envisage ongoing and new work to assist in management and development of the aquaculture and fisheries sectors should be resourced?

N/A

48. If no new way of resourcing such activity can be found, what activities do you suggest might be stopped to free up necessary funds?

N/A

SECTION 7 – ANY OTHER ISSUES

The consultation document invites comments on any other issue that consultees feel may need further consideration. Argyll and Bute Council and other Local Authorities have recently expressed concern to Scottish Government about the Review and Audit of those fish farm sites issued development Consent by The Crown Estate prior to 1 April 2007.

In March last year the Scottish Government issued The Town and Country Planning (Marine Fish Farms Permitted Development) (Scotland) Order 2011 which granted permanent Planning Permission to a large number of sites in Argyll and Bute. Almost a year after its introduction Scottish Government have not, as yet, been able to provide information on which sites have been approved, what equipment has been approved, or the planning boundaries of these sites. To date the Council is unable to include these sites on the planning register, and is unable if required to carry out any enforcement action on these sites.

It is essential that information on approved sites is made available as soon as possible so that local authorities can proceed with their statutory duties. If not, serious consideration must be given to repealing the Order and undertaking meaningful consultation with local authorities and other stakeholders prior to granting planning permission for sites.