



**Guidance on Local Review under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) to be considered by the Planning Committee sitting as Local Review Body: Local Review Ref: 2014/023/MAR – LR1 – To deploy a single 110m twin-headline longline for production of mussels, Swinister Voe, Yell Sound, Shetland.**

## **1 Introduction**

- 1.1 The Planning Scheme of Delegations that has been approved by the Council, as well as that which has been approved by the Scottish Ministers, identifies the appropriate level of decision making to ensure compliance with the 1997 Planning Act.
- 1.2 The Scheme of Delegations, following the hierarchy of development introduced by the Planning etc. (Scotland) Act 2006 which is at the heart of the modernised planning system, provides that where a decision on an application for planning permission for a local development (as defined in the Hierarchy of Development) is to be taken it may, subject to certain exceptions, be so by officers as have been appointed by the planning authority.
- 1.3 A decision on an application for planning permission for a local development that is taken by an officer (the appointed person) under the Scheme of Delegations has the same status as other decisions taken by the planning authority other than arrangements for reviewing the decision. Sections 43A(8) to (16) of the 1997 Act remove the right of appeal to the Scottish Ministers, and put in place arrangements for the planning authority reviewing these decisions instead.
- 1.4 The Full Council resolved on 12 May 2011 (Minute Ref: 57/11) that the remit of the Planning Committee be extended to include the functions of the Local Review Body, who would review the decision taken.

## **2 Process**

- 2.1 The procedures for requiring a review and the process that should then be followed are set out in regulations, and these have been followed in the administrative arrangements that have been carried out for support of this review in accordance with its being the intention that decision making by the Local Review Body will follow a public hearing. This however should be confirmed by the Review Body in each case before proceeding.
- 2.2 The Review Body is, where a decision has been taken that the review is to follow the public hearing procedure, required to follow Hearing Session Rules under Schedule 1 of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013. In

doing so they are to confirm the matters to be considered and the order in which persons entitled to appear are to be heard.

- 2.3 It has been the intention that such hearing sessions will be held in a similar manner to the current Planning Committee, with the Planning Service Case Officer presenting on the matters to be considered, followed by those persons entitled to appear other than the applicant, followed by the applicant, with its being the case that Members of the Review Body can ask questions throughout the process. The hearing session can similarly proceed in the absence of any person entitled to appear at it. The Review Body should confirm this order and confirm the time each person entitled to appear is to be afforded beforehand.
- 2.4 The Hearing Session Rules prescribe that the hearing shall take the form of a discussion led by the local review body and cross-examination shall not be permitted unless the local review body consider that this is required to ensure a thorough examination of the issues. Persons entitled to appear are entitled to call evidence unless the local review body consider it to be irrelevant or repetitious. The local review body may also refuse to permit the cross-examination of persons giving evidence, or the presentation of any matter where they similarly consider them to be irrelevant or repetitious.
- 2.5 The matters that are attached for the purposes of consideration by the Review Body in this case comprise: the decision in respect of the application to which the review relates, the Report on Handling and any documents referred to in that Report (including: the planning application form, and any supporting statement and additional information submitted, consultation responses and representations received prior to the decision notice by the appointed person being issued); the notice of review given in accordance with Regulation 9; all documents accompanying the notice of review in accordance with Regulation 9(4); any representations or comments made under Regulation 10(4) or (6); and any 'hearing statement' served in relation to the review.
- 2.6 In order to be able to give notice of their decision in accordance with the regulations, the local review body must be clear on the details of the development plan and any other material considerations to which it had regard in determining the application, and, where relevant: include a description of any variation made to the application in accordance with section 32A(a) of the 1997 Act; specify any conditions to which the decision is to be subject; include a statement as to the duration of any permission granted or make a direction as to an alternative (and in the case of a planning permission in principle any substitute time periods to apply to approvals of matters specified in conditions); and if any obligation is to be entered into under section 75 of the 1997 Act in connection with the application state where the terms of such obligation or a summary of such terms may be inspected.

planning committee.doc  
M Holmes  
Planning Committee: 10/03/2015

Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013

Local Review Under Section 43A(8) of the Town and Country Planning (Scotland) Act 1997 (As Amended)

Regarding Planning Application Reference: 2014/023/MAR  
To deploy a single 110m twin-headline longline for production of  
mussels, Swinister Voe, Yell Sound  
By Laxfirth Shellfish

10 March 2015

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# APPLICATION FOR MARINE FISH FARM PLANNING PERMISSION

Town and Country Planning (Scotland) Acts

Please refer to the accompanying Guidance Notes when completing this application  
Limited space is available on the form, provide additional information on a separate sheet of paper

1. Applicant's Details		2. Agent's Details (if any)	
Title	Mr	Ref No.	
Forename	DAVID	Forename	
Surname	GRUNSHAW	Surname	
Company Name	LAXFIRTH SHELLFISH	Company Name	
Building No./Name		Building No./Name	
Address	24 BEDE CLOSE SLEAFORD		
Postcode	N434 8WE	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
<b>3. Location of Proposed Development: Please identify/describe the location of the site or sites:</b>			
SWINISTER NOE, YELL SOUND			
Grid reference (at mid-point of site):		HU 4566772809	
Easting:	-1 10 19.751	Northing:	.60 26 11.448
Latitude/longitude position (at external corners or edges):		<div style="border: 1px solid black; padding: 2px;"> (NW) 60 26 11.942, -110 26.365 (NE) 60 26 11.942, -110 13.215  (SW) 60 26 10.941, -110 26.365 (SE) 60 26 10.941, -110 13.215 </div>	
<b>4. Type of Application</b>			
What is the application for? Please select one of the following:			
New site			<input checked="" type="checkbox"/>
Change of Use of Existing site (including species change)			<input type="checkbox"/>
Alterations/extension to existing site			<input type="checkbox"/>
Variation or removal of condition			<input type="checkbox"/>

\*If there have been previous planning permissions on this site please provide the reference number of the most recent one:  Date of decision:

Reference No:  Please provide details of any other consent for the site (i.e. Crown Estate, Scottish Ministers)

**4a. Species (if mixed use please indicate)**

Fin fish	<input type="checkbox"/>	Species	<input type="text"/>
Shellfish	<input checked="" type="checkbox"/>	Species	MUSSELS
Other (Please specify)	<input type="checkbox"/>	Species	<input type="text"/>

**5. Description of the Proposal**

Please describe the proposal including any change of use:

TWIN-HEADLINE LONGLINE WITH CONTINUOUS  
GROW ROPE FOR MUSSEL PRODUCTION

Please tick the relevant boxes for the type(s) of equipment which will be involved (see notes for full explanation)

Circular cages	<input type="checkbox"/>	Square/rectangular cages	<input type="checkbox"/>	Longlines	<input checked="" type="checkbox"/>
Raft/grids	<input type="checkbox"/>	Moorings	<input type="checkbox"/>	Feed barges	<input type="checkbox"/>
Feed pipes to shore	<input type="checkbox"/>	Pontoons	<input type="checkbox"/>		
Accommodation on the marine installation(s)	<input type="checkbox"/>				

Other (please specify)

Have the works already been started?

Yes ☐ No ☒

If yes, please state date and, if completion, the completion date:

Date started:

Date completed:

If yes, please explain why work has already taken place in advance of making this application

## 6. Development Area

Please state the dimensions of the site in metres and the total site area in both square metres and hectares:

	Site dimensions			Total site area
	length(m)	Width(m)	(sq.m)	(hectares)
Existing surface area:				
Proposed surface area:	110	1	110	0.011
Existing moorings area:				
Proposed moorings area:	200	1	200	0.020

Is the surface area of the site 2 hectares or above?

Yes/No

If yes please include with your application a pre application consultations report along with a design statement

## 7. Equipment

### 7a. Primary Equipment:

	Existing	Proposed
Type of units (eg cages/pens/longlines/rafts/trestles)		LONGLINE
Number of units		ONE
Shape(s) of units		LINEAR
Cage sizes/longline length		110
Number of cage/longline/raft/trestle group		ONE
Mooring grid dimensions for each unit (circular cages)		
Other equipment – specify below		

### 7b. Ancillary Equipment:

	Existing	Proposed
Barge/feeding station type (e.g. automated feed barge)		
Capacity of feed barge(tonnes)		
Number, type and colour of buoys		BLACK/RED (SAME COLOUR) GEM-TYPE 300L AS REQUIRED
Lighting (underwater/ surface)		
Navigational equipment		AS PER NLB REQUIREMENT
Other equipment		

## 8. Production Information

	Existing	Proposed
Maximum stocked biomass (tonnes)		8
Maximum production biomass per cycle (tonnes)		8
Proposed production cycle (months)		36
Stocking densities		
Fallow Periods	1 - 12 MONTHS	

## 9. Operation of Facility /Landing/Servicing

How will the site be serviced?

WORKBOAT

Where will the site be served from? Details of the shore base location(s)

TOFT OR BURRAVOE, YELL

Normal daily operational hours of site (feeding, deliveries etc)

0600 - 1800

Operational activities during harvesting and stocking periods (method of delivering stock etc)

LIMITED ACCESS REQUIRED FOR DEPLOYMENT, MONITORING,  
HUSBANDRY AND HARVESTING.

## 10. Supporting Information

Will the site be used in a rotational basis with other sites?

Yes ☐ No ☒

BUT MAY BE AT SOME TIME LATER

Are there agreements in place with other nearby fish farms and/or fishing interests? Yes ☐ No ☒

Please provide details.

What operational and management practices are to be put in place to ensure site containment and disease control? Please provide details.

WILL BE REGISTERED WITH MARINE SCOTLAND AND  
ADHERE TO EXISTING BIOSECURITY PROTOCOLS THROUGH A  
BIOSECURITY PLAN APPROVED BY MARINE SCOTLAND.

What methods will be used to control the impacts of predatory wildlife (e.g. top nets, anti-predator nets or Acoustic Deterrent Devices. With ADD's provide name of the manufacturer and the model, also the proposed pattern of use (ie continuous/ scare-response/ seasonal). Please provide details.

IF REQUIRED ANY ANTI-PREDATOR METHODS DEPLOYED  
WILL BE IN AGREEMENT WITH SNH/RSPE.

Note: site-specific strategy on predator control may be required which takes account of conservation legislation. Data on protected species in the area may also be required. These should be provided as an attachment.

What level of local employment will be generated directly as a result of the proposal?

1 PART-TIME + DOWNSTREAM SUPPORT OF CONTRACTORS,  
HAULIERS, PROCESSORS ETC.

What restoration works are proposed in the event of cessation of operations?

REMOVAL OF EQUIPMENT.

Nutrient enhancement calculations, benthic impact, water column and assimilative capacity along with impacts on biodiversity are all issues that are of interest to consultees in the planning process and it may aid their ability to comment on the application if information on these matters are included within your application.  
Please provide this information or any other relevant information below.

SHELLFISH & SEAWEED FARMING IS GENERALLY  
RECOGNISED AS HAVING A LOW ECOLOGICAL IMPACT  
OVER A LIMITED SPATIAL AREA.

#### 11. Discharges (not required for shellfish developments)

Has an application been made to SEPA under The Water Environment (Controlled Activities) (Scotland) Regulations 2005

Yes ☐ No ☒

If yes, please give the date of approval and the maximum biomass approved.

#### 12. Water Quality

Has a water quality report been prepared?

Yes ☐ No ☒

If yes, please attach a copy of the report with your application

If a shellfish proposal, please indicate status of water (e.g. is it shellfish waters)

**13. Environmental Assessment**

Has the development been the subject of a screening and or scoping opinion under the Environmental Impact Assessment (Scotland) Regulations 1999(as amended)? Yes ☐ No ☒

If yes, please provide a copy of the screening and or scoping opinion

Was an Environmental Assessment required?

Yes ☐ No ☒

If yes, please submit the environmental statement along with the application

**14. Pre-Application Discussion**

Have you received any advice from the planning authority in relation to this proposal?

Yes ☒ No ☐

If yes, in what format was the advice given?

Meeting ☐ Telephone call ☐ Letter ☐ Email ☒

Please indicate who you discussed this proposal with: name & date

JOHN ROSIE

**15. Planning Service Employee/Elected Member Interest**

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the Council? Yes ☐ No ☒

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority? Yes ☐ No ☒

If you have answered yes please provide details:

--

**16. Land Ownership Certificate (includes seabed)**

(a) I hereby certify that 21 days before the date of the application: (tick one box only)

1. No person (other than the applicant) was the owner of any of the land, including the seabed, to which the application relates, or an agricultural tenant. ☐

Or

2. The applicant does not own all the land involved, including the seabed, in the application site, but has given a copy of the requisite notice under Regulation 15(1) to the owner(s) or agricultural tenants of any of the application site. ☒

They are:

Name of Owner

Address where notification sent

Date Notified

CROWN ESTATES

6 BULLS BRAE, EDINBURGH

EH4 3BJ 02 JULY 2014

(b) I further certify that 21 days before the date of the application: (tick one box only)

1. None of the land formed part of an agricultural holding. ☒

Or

2. The applicant has given notice to every person who was a tenant of an agricultural holding, any part of which formed part of the application site. ☐

These persons are:

Name of tenant

Address where notification sent

Date Notified


### CHECKLIST

Please complete the following checklist to make sure you have provided all the necessary information in support of your application. Failure to submit all this information may result in your application being deemed invalid.

- Appropriate fee (please refer to the guidance notes or Scale of Fees) ☒
- Signed and dated Land Ownership Certificate ☒
- Location plan including north point and scale (Site boundary shown in red) ☒
- Admiralty chart showing the application site ☒
- Site plan or block plan (showing the layout of the site, equipment and grid reference and co-ordinates) ☒
- Plans and sections of the cages/cultivation equipment, including all ancillary equipment ☒
- Photographs and/or photomontages ☐
- (where these have been specified as necessary by the planning authority) ☐

Provide copies of the following documents if applicable:

- Environmental statement: ☐
- Landscape and visual impact assessment ☐
- Design statement ☐
- Pre-application consultation report (required when sites with a surface area of 2 hectares or above) ☐
- Water Quality report ☐

Other, please specify:

### DECLARATION

I, the applicant/agent certify that this is an application for planning permission. The accompanying plans/drawings and additional information are provided as part of this application.

I, the applicant/agent hereby certify that the attached Land Ownership Certificate has been completed ☒

Signature: [REDACTED] Name: DAVID GRUNSHAW Date: 2 July 2014

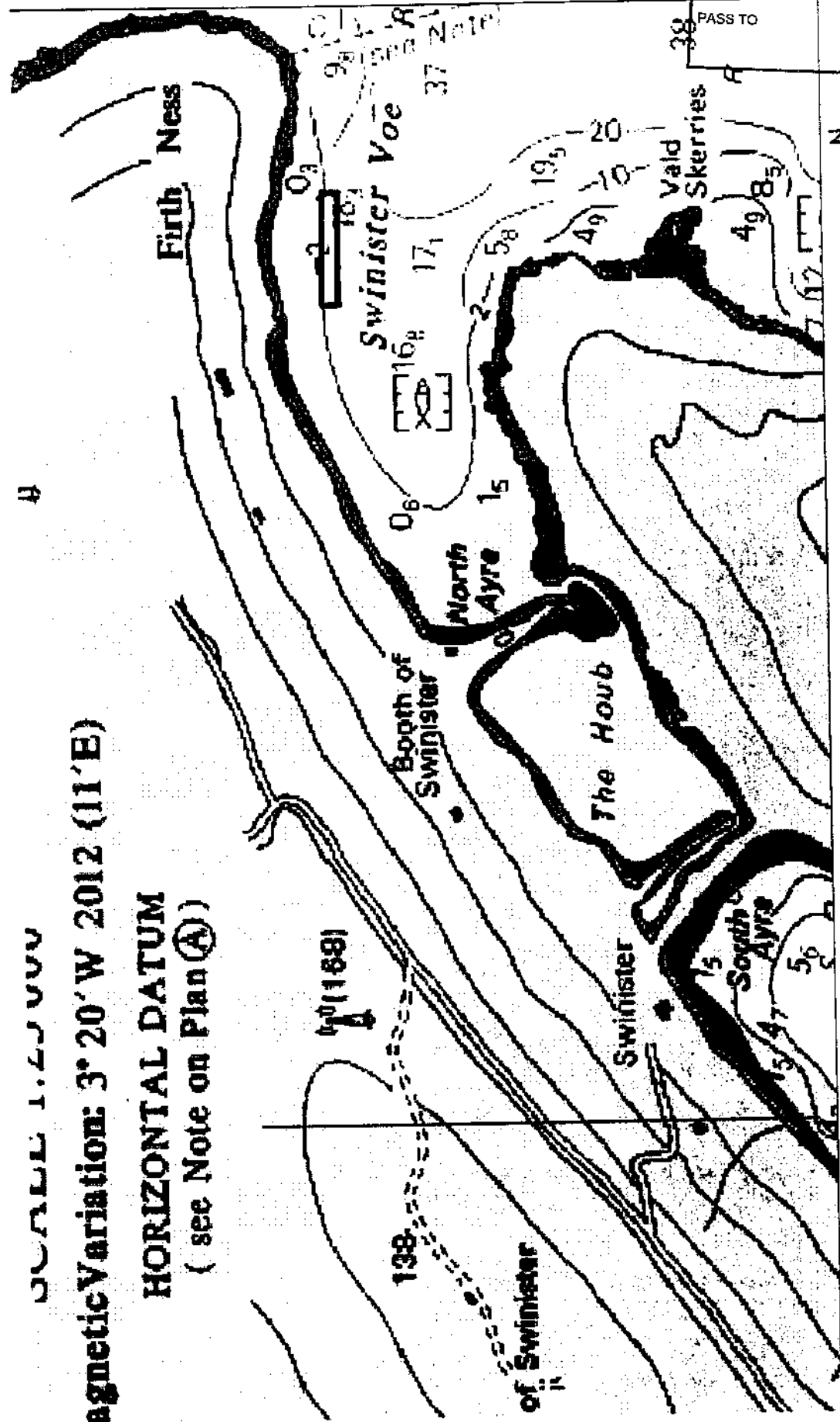
Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

2014/023/MAR-01

SCALE 1:25000

agnetic Variation: 3° 20' W 2012 (11'E)

HORIZONTAL DATUM  
( see Note on Plan (A) )





2014/023/MAR - 02

SITE PLAN

Containment Area: 6000m<sup>2</sup>

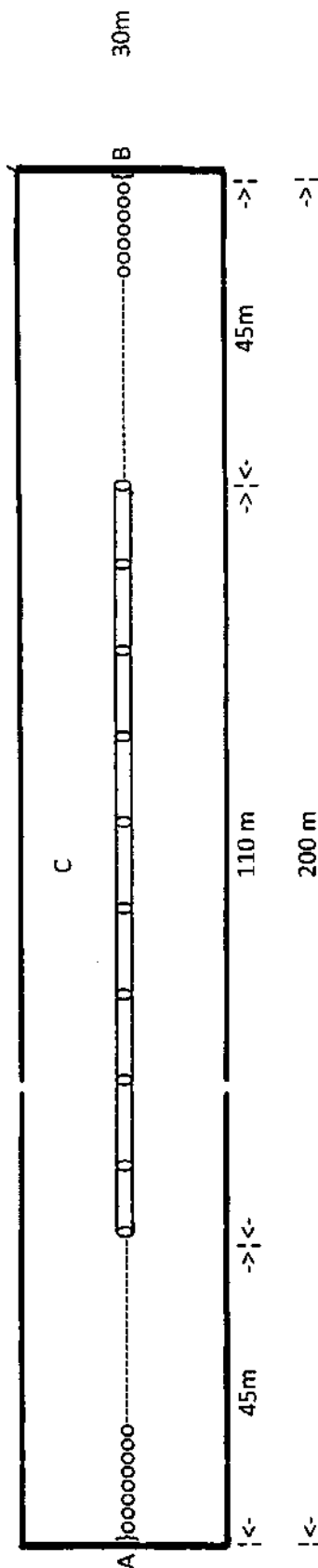
Anchor: 500-1000kg Danforth (Fluke), Samson, Manson or similar fishfarm anchor. Minimum scope 3:1. Or Screw Anchor or Sea Bolt. Minimum scope 1:1.

Rode: 32-44mm rope warp. Chain or Seaflex as required. Kellet as required.

Headline: Twinline 28-32mm rope spaced 1 m apart

Floatation Buoys: Dark Grey or Black 300L GEM or similar.

Scale: 1:1000



SHETLAND ISLANDS COUNCIL PLANNING	
- 2 JUL 2014	
PASS TO	ACTION

2014/023/MAR - 03

Site Plan Key

SWINISTER VOE, YELL SOUND

Co-ordinates:

A: 60 26 11.448, -1 10 26.365

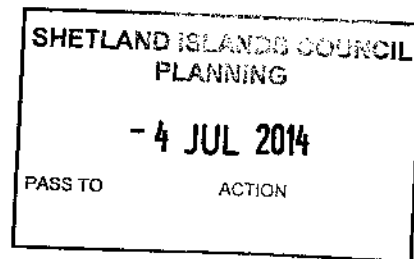
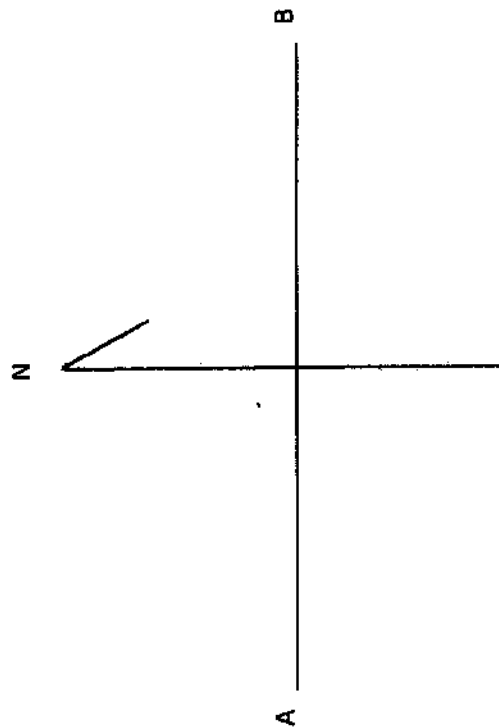
B: 60 26 11.448, -1 10 13.215

C: 60 26 11.448, -1 10 19.751

Grid Reference at Mid-Point C: HU 45667 72809

Containment Area (RED): 6000m<sup>2</sup>

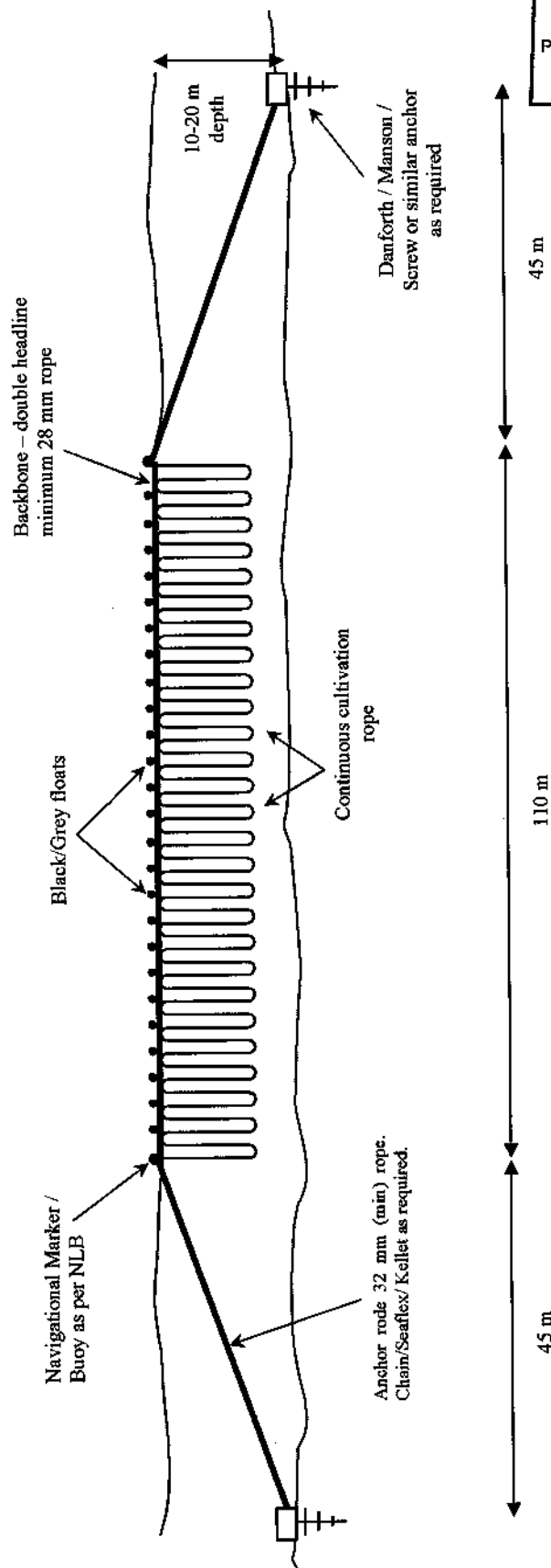
NORTH:



2014/023/MAR-04

1

**Cross Section of Proposed Marine Farm  
Surface Longline  
Scale: 1:1000**

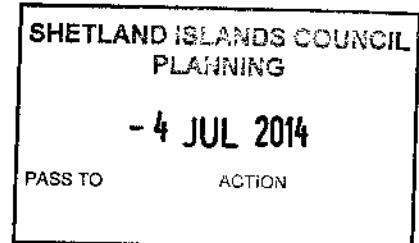


**SHETLAND ISLANDS COUNCIL  
PLANNING**

**- 2 JUL 2014**

PASS TO ACTION

2014/023/MAR - 05



## Work Plan

Yell Sound Mussel Production Site – Swinister Voe

Yell Sound SAC and SSSI:

The Yell Sound Special Area of Conservation and SSSI have been designated for the protection of the European Otter, *Lutra lutra*, and the Common Seal, *Phoca vitulina* (the listed species of interest). The SAC extends to the 10m depth contour along much of the Yell Sound coast and islands.

European Otter:

The mussel production site is situated seaward of the 10 metre bathymetric contour and so is located outside of the SAC and beyond the normal foraging range of otters and so is unlikely to have any impact on the European Otter.

Common Seal:

The Cul Ness, Setter Ness and Lunna Ness coastline of Yell Sound are important haul out areas for common seals.

Boat movements associated with servicing the proposed site has the potential to disturb seals at haul-out sites especially at the vulnerable times of moulting and pupping.

This work plan has been designed to minimise the effects of establishing, maintaining and ultimately removing the proposed mussel production site in Yell Sound so as to avoid any adverse effect on the SAC or qualifying interests of the SAC by the careful choice of shore base, access routes and the establishment of a work protocol to minimise disturbance especially at vulnerable times.

Haul-outs:

The nearest small haul-outs occur at the Isles of Linga, Wether Holm, Fish Holm and Skinna Skerry (less than 20 individuals) and Lunna Holm (more than 50 individuals).

Disturbance Mitigation:

1. Boat movements will adhere to the 'Boat Movement Map' which charts the access routes to and from the mussel production site. The route have been chosen to avoid coastal areas landward of the 10 metre bathymetric contour within the SAC and known or observed seal haul-outs.
2. A 'no go' zone during vulnerable times will be defined in conjunction with SNH around seal haul-outs in the area.
3. Boat movements are usually infrequent and of limited extent. They will be daily for a period of 2-5 days during deployment, harvesting (for re-tubing or final harvest) and decommissioning but will, apart from essential emergency maintenance, be chosen to avoid vulnerable times.
4. Boat movements during monitoring operations are typically brief and occur once or twice weekly. Monitoring operations will be kept to a minimum at vulnerable times.
5. Non-routine and non-time dependant work will take place outside of the breeding and moulting seasons to avoid disturbance.
6. Mussel farm operators will keep a record of sighted seals hauled out in the vicinity of the mussel farm and will curtail operations at vulnerable times and monitor the situation if haul-outs are observed close by.
7. Non-essential work will be suspended during the breeding season (mid June – mid July) and peak moulting season (7-21 August) to minimise the chance of disturbance.
8. During the breeding and moulting seasons boat speeds will adhere to limits agreed with SNH and vessel movements will be slow and smooth to avoid disturbing seals.

Foraging:

Common seals are known to forage up to 50km away giving them a potential foraging area of up to 10,000 square kilometres. The footprint of the mussel farm is 110m<sup>2</sup> or 0.0000001% of the potential foraging area. Moreover, seals are commonly seen in and around mussel farms. The mussels act as an artificial reef and attract small fish that in turn attract seals. Consequently it is the operator's experience that rather than displacing seals from a potential foraging area mussel farms are commonly beneficial to seal foraging.

The sites are seaward of the 10m bathymetric contour and so outside the recognised foraging range of the European Otter. No loss of foraging area for either species is expected.

#### Summary:

1. Mitigation measures will be in place to minimise potential impacts on the European Otter and the Common Seal particularly during vulnerable times.
2. The operator will adopt and abide by the recommendations in the 'Marine Wildlife Watchers Code' (SNH) and 'A Guide to Best Practice for Watching Marine Wildlife'.
3. An observational record will be kept to monitor potential impacts year in year out.

#### Boat Movement Chart:

Solid Red – To/From Toft

Broken Red – To/From Burra Voe

#### References:

1. SIC advice. (John Rosie pers. com.)
2. Yell Sound SAC and SSSI. Hjaltland Sea Farms. Planning Application 2012/002/MAR.
3. Yell Sound SAC – Advice under Regulation 33 (2) (SNH)
4. A Guide to Best Practice for Watching Marine Wildlife (SNH)
5. Scottish Marine Wildlife Watching Code (SNH)
6. A survey of moulting common seals in the Yell Sound (AISCN 2012)
7. Consultation on Seal Haul-out Sites (Scottish Government 2011)

2014/023/MAR-06



## Public Notices

## Shetland Islands Council

## REGISTER OF ALLOTMENTS

Are you interested in obtaining a small area of ground to grow food on for yourself and your family?

Do you already have an area of ground that you rent for this purpose?

Shetland Islands Council is drawing up a Register of Allotments as required by Scottish allotment legislation.

We are interested in hearing from families seeking ground anywhere in Shetland for individual food production.

We are also interested to hear from you if you currently rent ground for this purpose.

Please contact:-

Carbon Management Team  
at Estates Operations on (01595) 744818  
to register your interest.

## CONTRACTS

£3.00 per line (minimum £12.00)  
Panel £8.88 extra

Box Numbers £5.88 extra

Advertisements must be prepaid

Rates include VAT

**SHETLAND ISLANDS COUNCIL**  
Shetland Block, Kallness, Walsdale  
Heating Replacement (Phase 1)  
Shetland Islands Council propose to  
replace heating and hot water systems to  
the above sheltered accommodation  
block and three adjacent properties. The  
works comprise removal and disposal  
of the existing heating installations and  
replacement with an all electric  
installation.

It is anticipated that the works will  
commence in August 2014 and be  
completed within 10 weeks.

Businesses wishing to be considered  
for inclusion on a select list for  
competitive tendering must apply in  
writing to the Executive Manager -  
Capital Programme Service, Shetland  
Islands Council, 8 North Ness Business  
Park, Lerwick, Shetland, ZE1 0LZ (Attn:  
Colin Black, Tel: 01595 744585; Fax:  
01595 744667; e-mail: contract.admin@shetland.gov.uk) by no later than  
Wednesday 16th July 2014.

Applicants expressing interest must  
provide the following financial, technical,  
business and other information for  
selection on application:

- Details of business structure and ownership;
- List of principal contracts of similar nature carried out in the past 3 years including references;
- Three years accounts and business reports for the contracting entity;
- A current bank reference report to a minimum of £100,000;
- Evidence of current Employers and Public Liability Insurance to the minimum extent of £10 million and £5 million, respectively.

The successful contractor may be  
considered directly for Phase 2 -  
Shetland Block, Girdnabek, Skelso -  
Heating Replacement to be carried out  
in the next financial year - 2015/2016.

- These works are to be undertaken on negotiated rates based on those previously accepted.
- Any negotiation will be conditional on satisfactory completion of Phase 1.
- Neither party is legally bound to enter negotiation for further work.
- Further work will be subject to budget approval.

## SHETLAND ISLANDS COUNCIL

Construction of New Shared  
Footpaths / Cycle Routes at  
Cirkimlin

Shetland Islands Council intends to  
construct new shared footpaths / cycle  
routes to replace the existing footpaths  
on each side of Cirkimlin Loch.

The works will comprise widening and  
reconstructing the footpaths including  
earthworks, drainage, bitmac surfacing,  
street lighting and utility works.

Businesses wishing to be considered  
for inclusion on a select list for  
competitive tendering must apply in writing  
to the Executive Manager - Capital  
Programme Service, Shetland Islands  
Council, 8 North Ness Business Park,  
Lerwick, Shetland, ZE1 0LZ (Attn: Colin  
Black, Tel: 01595 744585; Fax: 01595  
744667; e-mail: contract.admin@shetland.gov.uk) by no later than  
Tuesday, 22nd July 2014.

Applicants expressing interest must  
provide the following financial, technical,  
business and other information for  
selection on application:

- Business profile/details of previous experience in carrying out similar works within the last three years including references;
- Three years accounts and business reports for the contracting entity;
- Evidence of current Employers and Public Liability Insurance to the minimum extent of £10 million and £5 million, respectively;
- A current bank reference report to a minimum of £500,000.

TAVISH SCOTT  
MSP  
CONSTITUENCY  
SURGERY

Thursday,  
17th July, 2014  
5.00pm to 6.00pm

in the  
Shetland Parliamentary Office,  
171 Commercial Street, Lerwick

If you are unable to attend  
the surgery but wish to raise  
an issue please contact the Shetland  
Parliamentary Office on  
01595 690044 or email:  
tavis.scott.msp@scottish.parliament.uk

Note: The MSP or MP will  
accept representations on behalf  
of each other at any surgery.

Shearing Shed -  
Baa Baa Shop

Will be  
CLOSED on  
Saturday 19th July  
Sorry for any  
inconvenience

CROFTING COMMISSION  
COMISEAN NA CROITEARACHD  
DECROFTING APPLICATION

Applicant, Croft, Extent/Purpose,  
Address, Croft number

Miss C. Harper  
Eynaboe, Durnessness  
0.131 ha - Site for a dwelling house  
4.86.49835  
Comments can be made to the  
Crofting Commission by any  
member of the crofting community  
within the locality of the land,  
within 28 days of the date of this  
newspaper. Crofting Commission,  
Great Glen House, Leachkin Road,  
Inverness, IV3 6NW or info@crofting.scotland.gov.uk

## FIRST REGISTRATION OF 2 CROFTS

Margaret Ann Simpson has registered  
her crofts Greenfield, Walls, Walls and  
Gruquoy, Walls, Walls on the Crofting  
Register held by the Registers of Scotland.

Any Person who wishes to challenge  
the registrations may apply to the Scottish  
Land Court by 25th March 2015.  
Details of the registrations can be  
found at [www.crofts.sc.gov.uk/register/](http://www.crofts.sc.gov.uk/register/)  
home. The Croft registration numbers  
are C213 and C197.

## URAFIRTH JUNIOR SECONDARY

AGM  
1954 to 1955  
Pupils who attended the above and  
school transport drivers of that time are  
invited to a reunion at Braekwick Cafe,  
Eshaness on the evening of Friday  
15th August. Those wishing to attend  
are asked to telephone George  
Burgess on 892898 so that the cafe is  
aware of the numbers.

## GLASGOW RANGERS

SUPPORTERS CLUB  
SHETLAND BRANCH

AGM

To be held in the Masonic Function  
Room, at 7.30pm on Monday 21st July  
2014. Members and guests most  
welcome.

## SCALLOWAY FIRE FESTIVAL

AGM  
In Scalloway Bowling Club on Sunday  
27th July 2014 at 7.30pm. Good  
attendance is required.

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If you are thinking to study an  
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Application forms are available on the SIC website at:  
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For further information please contact us at  
childrensservices-finance@shetland.gov.uk  
or call us on 01595 743844.



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or call us on 0800 010 000 or 0800 010 000

Interruption to Supply Notice  
Whiteness, Weisdale, Stromfirth,  
Nesbister & Wormadale

Due to ongoing essential upgrade work on the  
water network, customers in Kallness, Hellister,  
Haggersta, Strom, Stromfirth, Whiteness,  
Nesbister and Wormadale areas will experience  
interruption to their supply or reduced pressure  
on:

Monday 14th, Thursday 17th &  
Friday 18th July from 9am to 3pm

Scottish Water apologises for any inconvenience  
caused by this essential work.

If you have any queries regarding this matter  
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## FIRST REGISTRATION OF A CROFT

Gordon Munro has registered his croft  
Sandfield, Sandwick on the Crofting  
Register held by the Registers of Scotland.

Any person who wishes to challenge  
the registration may apply to the Scottish  
Land Court by 18th March 2015.  
Details of the registration can be  
found at [www.crofts.sc.gov.uk/register/](http://www.crofts.sc.gov.uk/register/)  
home. The Croft registration number is  
C200.

## FIRST REGISTRATION OF A CROFT

Magnus J. Irvine has registered his  
croft at Booth Park, Whalsay on the  
Crofting Register held by the Registers  
of Scotland.

Any person who wishes to challenge  
the registration may apply to the Scottish  
Land Court by 18th March 2015.  
Details of the registration can be  
found at [www.crofts.sc.gov.uk/register/](http://www.crofts.sc.gov.uk/register/)  
home. The Croft registration number is  
21135.

## FIRST REGISTRATION OF A CROFT

Mrs Leona Margaret Williamson has  
registered her croft Newpark and Penilath,  
Bressay, on the Crofting Register held by  
the Registers of Scotland.

Any person who wishes to challenge  
the registration may apply to the Scottish  
Land Court by 25th March 2015.  
Details of the registration can be  
found at [www.crofts.sc.gov.uk/register/](http://www.crofts.sc.gov.uk/register/)  
home. The Croft registration number is  
C215.

## FIRST REGISTRATION OF A CROFT

Mr Stuart Henderson and Mr Angus  
Christian Neilson Freeman have reg-  
istered the croft Longfield, Durnessness  
on the Crofting Register held by the  
Registers of Scotland.

Any person who wishes to challenge  
the registration may apply to the Scottish  
Land Court by 25th March 2015.  
Details of the registration can be  
found at [www.crofts.sc.gov.uk/register/](http://www.crofts.sc.gov.uk/register/)  
home. The Croft registration number is  
C263.

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Employment and Support Allowance
- ☐ Universal Credit
- ☐ Help under Part VI of the  
Immigration and Asylum Act 1999
- ☐ Child Tax Credit and/or  
Working Tax Credit with an  
income less than £16,010



Apply online at:

[www.shetland.gov.uk/education/ClothingGrants.asp](http://www.shetland.gov.uk/education/ClothingGrants.asp)

For further information please contact us at  
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or call us on 01595 743845.

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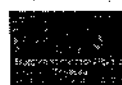
- ☐ You have a date of birth between  
1st March 1995 and 28th  
February 1999.
- ☐ Your household income is below  
£20,351 or below £22,403 for  
families with more than one child.

You may be eligible for an  
EMA of £30 per week.

Application forms are available on the SIC website at  
[www.shetland.gov.uk/education/EMA.asp](http://www.shetland.gov.uk/education/EMA.asp)

For further information please contact us at  
childrensservices-finance@shetland.gov.uk  
or call us on 01595 743845.

No applications will be accepted after 31st March, 2014.



## Shetland Islands Council

These applications, associated plans and documents can be examined,  
09.00-17.00, Mon-Fri, at: Shetland Islands Council, Development Services  
Department, 8 North Ness Business Park, Lerwick, ZE1 0LZ. Please call  
744293 to make an appointment if you wish to discuss any application.

Town and County Planning (Development Management Procedure)  
(Scotland) Regulations 2013

Format: Ref No; Proposal & Address

2014/021/MAR: To deploy a single 220m twin-headline longline for  
production of mussels, Little Ness, Dury Voe.

2014/022/MAR: To deploy a single 110m twin-headline longline for  
production of mussels; Swinister Voe, Vail Sound.

2014/024/MAR: To deploy a single 220m twin-headline longline for  
production of mussels, Northwest of Cul Houb, Swinister Voe.

2014/025/MAR: To deploy a single 220m twin-headline longline for  
production of mussels - Settemess, Luma.

Written comments may be made to Iain McDiarmid, Executive Manager,  
at the above address, email [planning.control@shetland.gov.uk](mailto:planning.control@shetland.gov.uk) by 25th  
July 2014.

# Northern Lighthouse Board

Your Ref: 2014/023/MAR  
Our Ref: SD/OPS/ML/F129-14

Iain McDiarmid  
Executive Director – Planning  
Shetland Islands Council  
Grantfield  
Lerwick  
Shetland  
ZE1 0NT

84 George Street  
Edinburgh EH2 3DA

Switchboard: [REDACTED]

Fax: [REDACTED]

Website: [www.nlb.org.uk](http://www.nlb.org.uk)

Email: [enquiries@nlb.org.uk](mailto:enquiries@nlb.org.uk)



15 July 2014

Dear Iain

## APPLICATION FOR MARINE FISH FARM PLANNING PERMISSION TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS

We are in receipt of your email correspondence dated 07 July 2014 regarding **Laxfirth Shellfish's** application for a proposed new shellfish site by deploying a single 110m twin-headline longline for the production of mussels at Swinister Voe, Yell Sound, Shetland.

We recommend that this site be marked by a special mark buoy which is yellow in colour and conical in shape and fitted with a yellow multiplication cross topmark. The buoy should have a diameter of approximately 1 metre at the waterline and the cross topmark should measure a minimum of 50cm in length by 7.5cm in width.

The buoy should be positioned at the seaward midpoint of the sites longline.

Northern Lighthouse Board wish to discourage the practice of marking outlying anchor points with buoys (unless specifically requested by local users), and recommend that alternative means to locate anchors are utilised. Allowing loose floating lines around site equipment is also strongly discouraged as this can cause serious safety implications for other mariners.

The UK Hydrographic Office should be notified by **Laxfirth Shellfish** and all information regarding site positions forwarded in order that Charts BA3284 can be correctly updated.

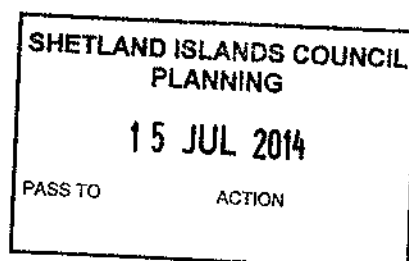
If the site does not hold an up to date Marine Licence from the Scottish Government, Northern Lighthouse Board would encourage **Laxfirth Shellfish** to rectify this situation. This consent is concerned solely with the safety of navigation and would include the information given above. For further information and application forms please go to the web site link given below.

<http://www.scotland.gov.uk/Topics/marine/Licensing/marine>

Yours sincerely

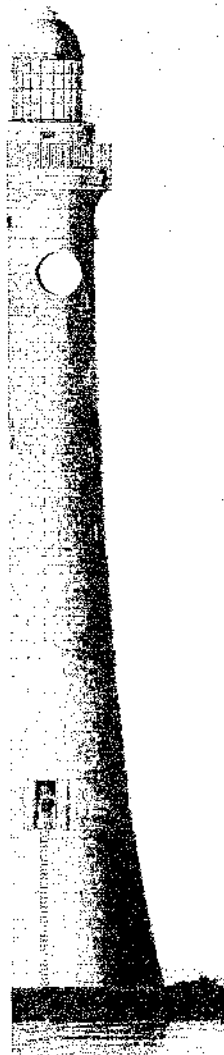
[REDACTED]

Peter Douglas  
Navigation Manager



*For the safety of all*

Certified to: ISO 9001:2000 - The International Safety Management Code (ISM) - OHSAS 18001





**Rosie John@Development Service**

**From:** Rosie John@Development Service on behalf of Marine Planning@Development Services  
**Sent:** 18 July 2014 15:22  
**To:** 'una'  
**Subject:** RE: Marine Consultation - 2014/023/MAR - To deploy a single 110m twin-headline longline for production of mussels; Swinister Voe, Yell Sound

Good afternoon Una,

I acknowledge receipt of your representation to the above application.

The effects of any equipment left behind by the operator of the previously consented Swinister Voe salmon farm will not be a material consideration in the determination of the proposed longline development.

However, we will investigate the issue of redundant equipment in Swinister Voe and revert back to you in due course.

Kind regards,  
 John

**From:** una [REDACTED]  
**Sent:** 15 July 2014 08:42  
**To:** Smith Kimberley@Development Service  
**Cc:** Marine Planning@Development Services  
**Subject:** FW: Marine Consultation - 2014/023/MAR - To deploy a single 110m twin-headline longline for production of mussels; Swinister Voe, Yell Sound

Dear Kimberley

The Shetland Fishermen's Association have concerns over the state of disrepair of the salmon site especially the ropes and buoys that have been left in this area. The Association feels that this should be dealt with before deploying any further structures.

We look forward to receiving your further observations/comments in this respect. Please also acknowledge receipt of this email, thank you.

Kind regards  
 Una

Una Simpson  
 For Leslie Tait, SFA Chairman

**From:** [REDACTED] Behalf Of [REDACTED]  
**Sent:** 08 July 2014 11:58

**Subject:** Marine Consultation - 2014/023/MAR - To deploy a single 110m twin-headline longline for production of mussels; Swinister Voe, Yell Sound

Dear Sir/Madam

**Planning Ref:** 2014/023/MAR

**Proposed Development:** To deploy a single 110m twin-headline longline for production of mussels

**Applicant:** Swinister Voe, Yell Sound

**Planning Officer:** John Rosie

Please see our online system for all of our the newest planning applications

<http://pa.shetland.gov.uk/online-applications/search.do?action=simple&searchType=Application>

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.

The consultation period is 14 days, but if you have any queries please contact the above officer.

Consultation replies should be sent, using the same Subject heading to:

[marine.planning@shetland.gov.uk](mailto:marine.planning@shetland.gov.uk)

If you require any further information on this planning application, please contact the relevant officer.

We appreciate that it may not always be possible to give a full response within the 14 days. If this is the case, please email [marine.planning@shetland.gov.uk](mailto:marine.planning@shetland.gov.uk) or contact the relevant officer to indicate your continuing interest in the proposal.

Phone numbers are:

John Rosie 74-5681

Ryan Leask 74-5682

Martin Holmes 74-4805

Please note that there may be a 24 hour delay whilst files are uploaded to the website.

If there are any problems with the e-consultation process, please get in touch.

Iain McDiarmid

Executive Director – Planning

Shetland Islands Council

Grantfield

Lerwick

ZE1 0NT

Tel 01595 744813

Fax 01595 744804

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## Smith Kimberley@Development Service

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**From:** Carole Laignel [REDACTED]  
**Sent:** 16 July 2014 16:17  
**To:** Smith Kimberley@Development Service; Marine Planning@Development Services  
**Cc:** [REDACTED]  
**Subject:** FW: applications  
**Attachments:** FW: Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna; FW: Marine Consultation - 2014/023/MAR - To deploy a single 110m twin-headline longline for production of mussels; Swinister Voe, Yell Sound; FW: Planning Consultation for application ref: 2014/021/MAR

Shetland Shellfish Management Organisation share Shetland Fishermen's Association concerns on the above Planning Applications. We would also like to add that the applicant has no track record in Shetland and the applications seem of a highly speculative nature.

Regards

*Carole Laignel*

Carole Laignel  
Inshore Co-ordinator  
SSMO  
Shetland Seafood Centre  
Stewart Building  
LERWICK  
ZE1 0LL  
Te [REDACTED]  
Fa [REDACTED]

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Our ref: PCS/134523  
Your ref: 2014/023/MAR

Mr John Rosie  
Shetland Islands Council  
Marine Planning Service  
Grantfield  
Lerwick  
Shetland  
ZE1 0UN

If telephoning ask for:  
Andrea Dilley

18 July 2014

By email only to: [marine.planning@shetland.gov.uk](mailto:marine.planning@shetland.gov.uk)

Dear Mr Rosie

**Town and Country Planning (Scotland) Acts**  
**Planning application: 2014/023/MAR**  
**To deploy a single 110m twin-headline longline for production of mussels**  
**Swinister Voe, Yell Sound, Shetland**

Thank you for your e-consultation which SEPA received on 8 July 2014.

We have **no objection** to this planning application but wish to highlight the following information and advice.

**Advice for the planning authority**

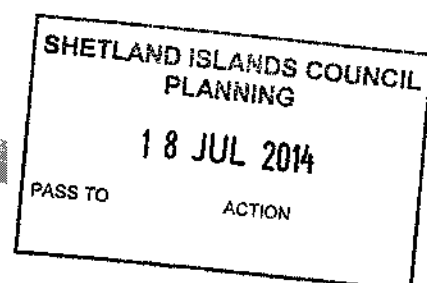
**1. Water Environment (Shellfish Water Protected Areas: Environmental Objectives, etc.) (Scotland) (Regulations) 2013**

- 1.1 Shellfish farms are dependent upon good water quality in order to produce shellfish which meet required food standards set by the Food Standards Agency (Scotland). The Water Environment (Shellfish Water Protected Areas: Designation) (Scotland) Order 2013 identifies shellfish water protected areas (SWPAs). As part of our regulatory remit we monitor waters against the standards for sewage related bacteria set out in the Regulations to ensure that discharges to the water environment will not adversely impact on the SWPAs. It is therefore our recommendation that, if possible, shellfish farms should be located within SWPAs.
- 1.2 The proposed site would not be located within a SWPA. It would be situated ~1.3km north east of the Scarvar Ayre, Dales Voe Shellfish Water Protected Area. Results from 2008 to 2013 (under the superseded EC Directive 2006/113/EC for Shellfish Growing Waters) show that the site failed to comply with the guideline standard for faecal coliforms in biota as set out in the Directive in 2009, but passed the standard all other years.



Chairman  
David Sigsworth  
Chief Executive  
James Curran

Aberdeen Office  
Inverdee House, Baxter Street  
Torry, Aberdeen AB11 9QA  
tel 01224 266600 fax 01224 896657  
[www.sepa.org.uk](http://www.sepa.org.uk)



## **2. Shellfish Harvesting Area (91/492/EEC)**

- 2.1 The site would be situated ~1.7km north east of Dales Voe - Fora Ness shellfish harvesting area which has been classified "A" from April 2014 to March 2015 in the FSA's 2005 Shellfish Classification scheme.

## **3. Benthic impacts**

- 3.1 The benthic communities within the habitat are likely to be modified as a result of this proposal, due to shading by the infrastructure and the deposition of shell debris and pseudo-faeces. However, the area affected tends to be within the immediate vicinity of the farm, which we consider to be within the Allowable Zone of Effect.

## **4. Scottish Water assets and other discharges in the area**

- 4.1 There are two Scottish Water assets ~2.2 to 2.5km north of the proposed site, and also a number of private treatment works ~2 to 2.5km north and north west of the site. However, they are in a separate water body and unlikely to have an effect on the water quality at the site.
- 4.2 The applicant should be aware that discharges from private treatment works, as well as any livestock grazing in the neighbouring area, could contribute to the potential for input of coliforms into the water body from run-off from the land, and may subsequently affect the classification of shellfish grown here.

## **5. Aquaculture in the area**

- 5.1 There are ten fish farms licensed under the Controlled Activities Regulations (CAR) within a 3km search radius and four farms within 1.5km. These are Swinnister Voe (CAR/1015764), Bight of Foraness (CAR/L/1004031), Linga (CAR/L/1015763) and West of Linga (CAR/L/1018920), although only one is currently in use, with a biomass of 2299 tonnes.

## **Good practice advice for the applicant**

We encourage waste minimisation and reuse/recycling whenever possible. There is a guidance document available "Aquaculture Waste Minimisation Guide" specifically for the aquaculture industry which the applicant may find useful and can be downloaded from our website at [www.sepa.org.uk/waste/resource\\_efficiency/sector\\_specific\\_information/aquaculture.aspx](http://www.sepa.org.uk/waste/resource_efficiency/sector_specific_information/aquaculture.aspx)

Details of other good practice advice for the applicant can be found on our website at [www.sepa.org.uk/planning.aspx](http://www.sepa.org.uk/planning.aspx). If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the operations team in your local SEPA office at: The Esplanade, Lerwick ZE1 0LL Tel:01595 696926.

If you have any queries relating to this letter, please contact me by telephone on 01349 860302 or e-mail at [planning.aberdeen@sepa.org.uk](mailto:planning.aberdeen@sepa.org.uk).

Yours sincerely

Andrea Dilley  
Planning Officer  
Planning Service

Copy to: (Applicant) Mr David Grunshaw, Laxfirth Shellfish, 24 Bede Close, Sleaford NG34 8WE

*Disclaimer*

*This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at the planning stage. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue.*

Our ref: FFP-14-081  
Your ref: 2014/023/MAR

Dear Mr Rosie,

**To deploy a single 110m twin-headline longline for production of mussels, Swinister Voe, Yell Sound.**

We have reviewed the application submitted and offer the following comment:

**Environment**

The proposed development should not result in any unacceptable environmental impacts at this location.

**Aquaculture Animal Health**

**Site Location & Authorisation**

There is currently two sites registered with Marine Scotland Science within 1000m of the proposed new site.

The first is situated ~800m south of the proposed new site and is an active Atlantic salmon site, operated by Hjaltland Seafarms Ltd.

The second is situated ~950m east of the proposed new site and is an active Atlantic salmon site, also operated by Hjaltland Seafarms Ltd.

If permission is granted for the new site, Laxfirth Shellfish must contact the FHI at Marine Scotland to apply for authorisation to operate as an Aquaculture Production Business at the proposed site prior to the commencement of farming operations.

**Summary**

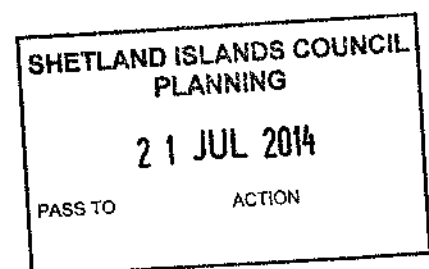
There does not appear to be any negative implications on fish or shellfish health from the proposed new mussel site at Swinister Voe, the Shetland Islands.

**Summary**

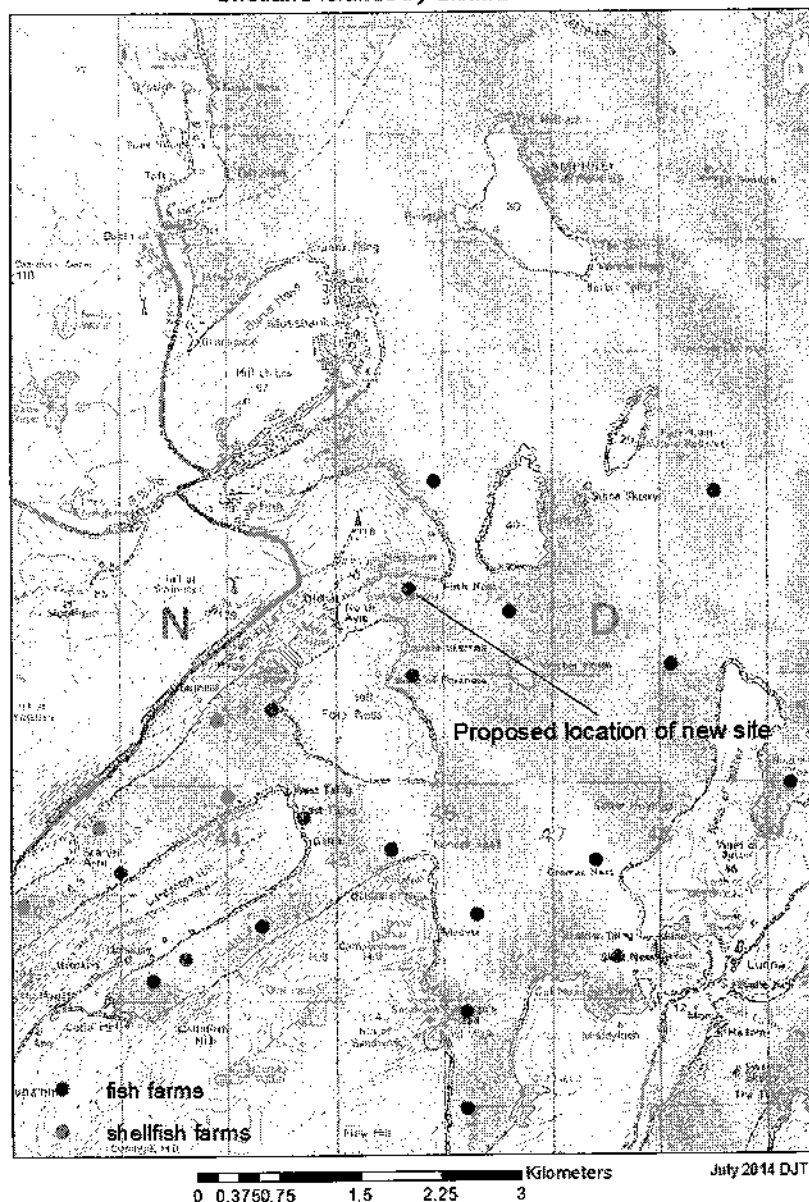
We have no objection to the proposal and no further information is required.

Yours sincerely

Anna Donald  
Marine Scotland Science  
21/07/2014



Position of proposed new site Swinister Voe, the  
Shetland Islands by Laxfirth Shellfish



Notes to applicants:

*The Aquatic Animal Health (Scotland) Regulations 2009 requires the authorisation of all Aquaculture Production Businesses (APB's) in relation to animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals. The authorisation procedure is undertaken on behalf of the Scottish Ministers by the Fish Health Inspectorate (FHI) at Marine Scotland Marine Laboratory. To apply for authorisation for an APB or to amend details of an existing APB or any site that an APB is authorised to operate at, you are advised to contact the FHI as follows: Fish Health Inspectorate, Marine Scotland Marine Laboratory, PO Box 101, 375 Victoria Road, Aberdeen, AB11 9DB. Tel:*

*mail:*

*All marine farms, whether finfish, shellfish or algal, are required to apply for a marine licence under Part 4 of the Marine (Scotland) Act 2010. To apply for a marine licence, or to amend details of an existing marine licence (formally Coast Protection Act 1949 – Section 34 consent), please visit the Scottish Government's website at <http://www.scotland.gov.uk/Topics/marine/Licensing/marine/Applications> where application forms and guidance can be found. Alternatively you can contact the Marine Scotland Licensing Operations Team (MS-LOT) by emailing or calling*

Marine Laboratory, PO Box 101, 375 Victoria Road,  
Aberdeen AB11 9DB  
[www.scotland.gov.uk/marinescotland](http://www.scotland.gov.uk/marinescotland)







## Scottish Natural Heritage

All of nature for all of Scotland

Mr Iain McDiarmid  
Marine Planning  
Shetland Islands Council  
8 North Ness Business Park  
Lerwick  
ZE1 0LZ

21 July 2014

Our ref: CNS/MFF/SI/AQUA

Dear Ian

### Town and Country Planning (Scotland) Acts

#### 2014/023-25/MAR: to deploy single twin-headed mussel longlines

Thank you for your email of 7<sup>th</sup> July consulting us on the above proposal.

#### Summary

The proposals lie close to Yell Sound Coast Special Area of Conservation (SAC) designated for its otters and common seals. In our view, it is unlikely that the proposal will have a significant effect on any qualifying interests either directly or indirectly. An appropriate assessment is therefore not required. We provide advice on other protected species below.

#### Appraisal of the impacts of the proposal and advice

##### Yell Sound Coast SAC

The proposals lie close to Yell Sound Coast Special Area of Conservation (SAC) designated for its otters and common seals.

The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended, (the "Habitats Regulations") apply. See <http://www.snh.gov.uk/docs/A423286.pdf> for a summary of the legislative requirements.

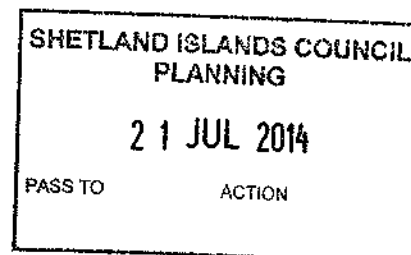
The main potential impacts of shellfish farms on otters and seals are a) loss of otter foraging habitat and b) disturbance of seals caused by boat traffic.

- a) The applicant has addressed the loss of foraging habitat by the appropriate location of sites outside the 10m depth contour.
- b) The work plan provided in support of this application gives details of how the impact of boat traffic on seals will be mitigated and we agree with the methods set out in this plan. We usually recommend a 500m exclusion zone around



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Scottish Natural Heritage, Ground Floor, Stewart Building, Alexandra Wharf, Lerwick, ZE1 0LL  
Tel 01595 693345 Fax 01595 692565 [www.snh.gov.uk](http://www.snh.gov.uk) [north@snh.gov.uk](mailto:north@snh.gov.uk)



seal haul-outs and are happy to further discuss the plan details with the applicant. Provided that the work plan is followed we are content that the risk of disturbance to seals is sufficiently low. We advise that the applicant may wish to become a signatory to the **Yell Sound Aquaculture Management plan** which sets out similar mitigation methods.

In our view, therefore, it is unlikely that the proposal will have a significant effect on any qualifying interests either directly or indirectly. An appropriate assessment is therefore not required.

#### Benthic impacts

2014/023/MAR and 2014/025/MAR: At these sites there are no known sensitive benthic species.

2014/024/MAR: There is a record of sea pens close to this proposal site. Sea pens are a Priority Marine Feature and are uncommon in Shetland. They are likely to be impacted by shellfish farms if found under or very close to the farm. This is a small proposal and any impacts as a result of a proposal of this scale are not likely to raise any significant issues, however if there were to be extensions at this site in the future then impacts on sea pens may be of greater concern.

#### Eiders

Eiders are known to use the area around these proposals as wintering and moulting grounds and are, at these times, sensitive to disturbance. As predators of mussels eiders can cause issues for mussel farms. We advise that the applicant contact SNH to discuss any proposed anti-predator methods before putting them into practice.

We are content for this proposal to progress without further reference to SNH. If you require any further information please get in touch using the contact details given below.

Yours sincerely

Afra Skene

Operations Officer  
Scottish Natural Heritage  
Northern Isles and North Highland  
Lerwick  
Shetland  
Tel [REDACTED]

## **Rosie John@Development Service**

---

**From:** Rosie John@Development Service on behalf of Marine Planning@Development Services  
**Sent:** 21 August 2014 15:29  
**To:** 'McPake, Charlene'  
**Cc:** Holmes Martin@Development Service; Leask Ryan@Development Service  
**Subject:** RE: 2014/0223/MAR

Hi Charlene,

**Planning application 2014/023/MAR, proposed longline development, Swinister Voe, Yell Sound**

Thank you for consultation response to the above planning application.

Are you in a position to provide me with a more definitive steer as to the likelihood of a seabed lease being granted for the area of seabed proposed in the planning application?

Owing to the existence of the Council's separation distance policy between consented aquaculture sites, it is unlikely we would grant planning permission for a site if we knew that a seabed lease would not be granted for the location concerned as doing so would effectively sterilise the site and its surrounding area for future aquaculture development until such time as any planning permission granted would lapse.

I am required to make a decision on this application by the end of next week so I would be grateful for a response from you by no later than Wednesday 27 August.

Kind regards,  
John

**From:** McPake, Charlene [REDACTED]  
**Sent:** 22 July 2014 10:36  
**To:** Marine Planning@Development Services  
**Subject:** 2014/0223/MAR

Dear John,

The proposed development is too close to an existing lease interest and it is likely that we would be unable to lease this area without the current Tenants permission.

Thanks

charlene

JR✓

**Smith Kimberley@Development Service**

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**From:** Alison Foyle [REDACTED]  
**Sent:** 26 August 2014 22:43  
**To:** Marine Planning@Development Services  
**Subject:** RE: Planning Consultation for application ref: 2014/023/MAR

Dear sir or madam,

Delting Community Council held their meeting tonight and have no objections to make regarding this planning application.

Yours faithfully,

Alison Foyle  
Clerk  
Delting Community Council  
Telephone: [REDACTED]  
E-mail: [REDACTED]

-----Original Message-----

**From:** [REDACTED]  
**Sent:** 14 July 2014 10:28  
**To:** [REDACTED]  
**Subject:** Planning Consultation for application ref: 2014/023/MAR

Please see attached consultation for Application for 2014/023/MAR

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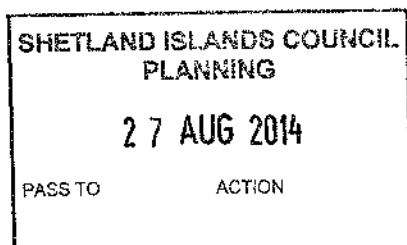
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JR

**Summers Claire@Development Service**

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**From:** Bill Johnson [REDACTED]  
**Sent:** 04 August 2014 13:38  
**To:** Development Management@Development  
**Subject:** 2014/023/MAR

With regard to the above application to deploy a single 220m twin-headline longline in Swinister Voe, Yell Sound we wish to object to this on the following grounds:

The proposed site is only a few meters away from an existing crown estate lease, issued to Hjaltland Seafarms Ltd for the production of mussels.

Regards

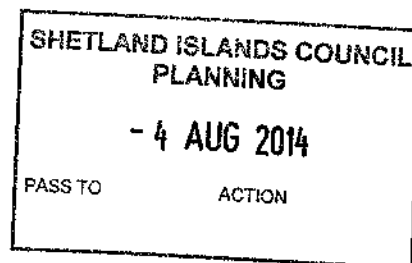
Bill Johnson  
Hjaltland Seafarms Ltd

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**Rosie John@Development Service**

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**From:** D GRUNSHAW [REDACTED]  
**Sent:** 04 September 2014 15:51  
**To:** Rosie John@Development Service  
**Subject:** FW: mussel sites

Hi John

Just sending you a copy of my email to SFA and SSMO as it does provide the information I used in identifying the impact the sites would have on fisheries.

I have just received an email from Leslie advising that the single site he was referring to was just Little Ness, Dury Voe and not the Setterness site as well.

With regards Setterness I don't think a single line would seriously negatively impact either the Scallop Fishery or Velvet Crab Fishery particularly as the site is outside both fisheries as marked on the SMSP. And the area occupied by a single line is miniscule in relation to the areal extent of the fisheries concerned.

I am of the opinion that extensive consultation with both the SFA and SSMO and especially the local skippers concerned would be needed if more lines were proposed.

Kind regards

Dave

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**From:** D GRUNSHAW [REDACTED]  
**Sent:** 14 August 2014 18:46  
**To:** [REDACTED]  
**Subject:** FW: mussel sites

For the attention of the Shetland Shellfish Management Organisation Limited and the Shetland Fisherman's Association.

Re: Swinister Voe (2014/023/MAR), Setterness (2014/025/MAR) and Little Ness (2014/021/MAR)

Dear Sirs

Firstly I must emphatically apologise for not contacting you prior to submitting these applications. I did not do that out of arrogance – I had checked the sites in depth with the Shetland Marine Spatial Plan (SMSP) and had specifically tried to choose sites that would not impact fishing in any way. As such I blindly followed the SMSP and did not realise that it was just an indicator of fishing activity in the area and could not be relied upon. In hindsight I should have checked with the Fisherman's Association and the SSMO regardless of what the SMSP said. And you have my word that should I ever submit another planning application I will consult with you beforehand even if the SMSP says there is no fishing at that location.

I do respect your concerns. I was brought up in Fleetwood when it was a fishing port and I've worked for some years dredging for scallops in Golden Bay, New Zealand. So the last thing I want to do is upset anyone in the fishing community.

I gained my experience farming mussels in New Zealand and I've just returned to the UK looking to farm mussels in Shetland. I think it's a great place to live and I'm looking forward to moving there with the family. Can't wait to be there to be honest.

If it is OK to call round I'd like to meet up when I'm back. It's easier to ask me questions face to face and I'd like to find out a lot more about fishing in Shetland.

In the mean time is it OK to run through a few of your concerns about the applications?

With regards the Setterness site (2014\_025\_MAR) I located the application outside the area that was shown on the SMSP as a shellfish dredging area and also to the north of the area marked for velvet crab. The velvet crab fishery was to the south (towards Setter Holm). I now know the SMSP is not accurate but I tried to avoid any effect on fishing. The seabed at the site is sandy gravel which is probably why the main fishing area for velvet crab is on the rockier area to the south. I'm certainly not disputing that velvet crab fishing goes on but I would have thought the site was on the periphery of the main area? I'm relying on your member's advice in that regard. And I'm happy to either position the lines close together or further apart – whichever would help fishing next to or within the site? I'm open to any suggestions that would assist. To mitigate any effect on the important scallop dredging area close by would it be OK with you to limit any development to a maximum depth of 15m? I am happy to agree to that and it would help limit any effect on scallop dredging? Again I'm open to any suggestion or comment? I did look at alternative sites to the east and west of Wether Holm but discounted them as they were in the scallop dredging area.

With regards Swinister Voe (2014\_023\_MAR) I understand your concerns are mainly with the mess left behind by the former salmon farm? Clearly from my point of view I share your concern. And I would have to sort it out myself if it was not already cleared by the salmon company.

With regards Little Ness, Dury Voe (2014\_021\_MAR). I have again tried to pick an area that the SMSP indicated would not affect fishing. I did investigate a site to the south of Green Isle but it was in a shellfish dredging area and so I did not progress it. Would it assist if I again agreed to limit any future development to the 15m depth contour to try and avoid any impact on shellfish dredging? I am happy to discuss and work with you if you have any suggestions.

I hope you now know a bit more about me and where I am coming from and what I hope to do. I must stress that I apologise for not contacting you beforehand but I hope you can see that I had tried to pick sites that did not affect fishing. Clearly that is not the case and some of your members have concerns and I would like to work with you to find a solution and allay any issues. And as I said at the start I will run through any application with you beforehand in the future before applying for planning permission.

I look forward to hearing from you.

Best regards

Dave Grunshaw

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**Rosie John@Development Service**

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**From:** D GRUNSHAW [REDACTED]  
**Sent:** 04 September 2014 12:08  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi John

Well best laid plans.... my partners broken knee has put paid to my plans for Shetland this week.

I've contacted Leslie Tait though.

Re: Swinister – his concerns were the debris left behind from the salmon farm. I sympathise with that – I'm not entirely sure but it seems to be nearly ten years since the Swinister Salmon farm had any biomass. And I think it was vacated quite a few years ago now. So it must be frustrating to the local fishermen if there is lots of debris thereabouts.

Re: Setterness – his concerns here were again debris and also impact on Scallop fishery and Velvet Crab fishery. He says he does not have a problem with just one line but may have in the future if the site was extended. I've put forward proposals in that regard – keeping the site compact should it be expanded and keeping to less than 15m (i.e. out of the normal minimum depth for scallop dredging). And I've arranged to meet with Leslie and several of the local skippers when I go up so that we can be clear about future developments and progress by consent in the future. He did mention that he would contact you to raise two points – that 2 weeks is insufficient time for consultation and that he believes that it is up to the developer to show that the site is outside fishing grounds by reference to the fishing map (which he says is the same one as given in the SMSP). I can sympathise again with his request for more time for consultation – as fishermen are not the easiest of people to contact. And for my part I'm going to contact them before applying for pp in future. With regards the fishing map – I did choose an area that was outside that shown on the plan as a scallop dredging or velvet crab fishery. (I'm not saying the plan is to be relied on – I know it is not – but just pointing out that the site is outside the designated fishing areas shown on the marine spatial plan).

In any event he seems fine with one line. And at this stage so am I.

With regards the Crown Estate Charlene has advised that they are happy with Setterness and I am still waiting to hear about Swinister.

Hjaltland have made an objection to the Swinister site. I've had quite a bit of dialogue with them some productive some not. They have no plans to develop the site which was last used I believe in 2004. Their initial response was benign in that they did not object as long as my proposal fitted in with SIC policy and they advised me to contact you. The Crown Estate asked me to seek their permission which is a bit of a different matter. It also conflicts with the CE's policy (as advised by CE) which is to terminate leases that do not have a valid planning permission in place post March 2004. But Hjaltland cannot give me their 'permission' as it may interfere with their plan to lease the site for mussel production in the future. I'd rather not comment on that at this stage other than to say I know you are fully aware of the current state of 2011/007/NS.

The key I suppose at this stage is the ultimate response from the Crown Estate – which will be interesting to say the least.

Hope to meet up soon John.

Kind regards

Dave



2.

**From:** [REDACTED]  
**Sent:** 29 August 2014 17:52  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi Dave,

I am aiming to make a decision on the Setterness and Swinister Voe applications on Thursday afternoon when I return to work from our work trip away to Skye. As such, if the objections from the SFA (to the Setterness application) and from Hjaltland (to the Swinister Voe application) are to be withdrawn, I would need confirmation from them to that effect by no later than 2pm on Thursday 4<sup>th</sup> September.

I would agree that it would seem as though the seabed area for the Setterness proposal will become available for a Crown Estate lease in the not too distant future. The situation is not so clear for Swinister Voe given the objection lodged by Hjaltland at this time.

Myself and Ryan would be happy to meet you in person although I'm guessing Thursday afternoon will be a very busy day for myself what with trying to get these applications determined on time! Perhaps you would be available to drop by on the Friday at some point instead or even into the following week?

I will be leaving the office soon and will not be back at my desk until after lunch on Thursday 4<sup>th</sup>. I should hopefully have access to my emails when I am away although I cannot be certain of this.

Best regards,  
John

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**From:** D GRUNSHAW [REDACTED]  
**Sent:** 29 August 2014 16:15  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi John

I am only going to be in Shetland on Thursday.  
I've been in contact with Leslie and will meet him and some of the small vessel fishermen on Thursday.  
If that is cutting it too fine I'll try and get an agreement with him over the phone beforehand?  
I have the impression we can work something out – but I don't want to pre-empt the outcome.

I am trying to arrange to meet with Adrian and Charlene before Thursday - it is proving a bit tight at the moment so it may have to be by telephone conference if not in person.

Setterness seems to be progressing. Hjaltland have confirmed that it does not interfere with their sites so I presume Crown Estates will view that as permission from the adjacent lease holder – though in my mind it is a moot point if permission is even required given that the leases are being relinquished and there are no farms within 500m.

Swinister is a bit more problematic in that Hjaltland considers that it interferes with their lease of the area to a third party for a mussel operation. But as far as I know the pp for a mussel operation expired in February with no development taking place. How the Crown Estate will read that I do not know – and that is one thing that will certainly be discussed with them.

There is a lot of talk about steralised sites (as you mention in your email below) – and I would have thought that having a CE lease and planning permission to develop mussels and then not doing anything about it for 3 ½ years and letting the planning permission lapse was a prime example of steralising a site and the surrounding area from aquaculture production.....

I am of course clearly biased as I have a vested interest but I will do my best to try and view it objectively – whatever the outcome is.

Anyway is it OK to call in and say hello on Thursday – about time really. Would be good to have a chat and I'd like to thank you and Ryan for all the effort and time you have put in. It is much appreciated.

And please let me know if you want me to ask Leslie for a decision before Thursday – otherwise I'll update you as soon as we have had our meeting.

Best regards

Dave

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**From:** [REDACTED]  
**Sent:** 27 August 2014 17:06  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi Dave,

**Planning Application Ref: 2014/023/MAR**

**Proposal: To deploy a single 110m twin-headline longline for production of mussels, Swinister Voe, Yell Sound**

**Planning Application Ref: 2014/025/MAR**

**Proposal: To deploy a single 220m twin-headline longline for production of mussels, Setterness, Lunna**

Just to provide an update on the above applications:

The Crown Estate consultation response to both applications is as follows:

"The proposed development is too close to an existing lease interest and it is likely that we would be unable to lease this area without the current Tenants permission."

For the Swinister Voe application (2014/023/MAR), an objection by Hjaltland Seafarms Ltd has been lodged on the following grounds:

"The proposed site is only a few meters away from an existing crown estate lease, issued to Hjaltland Seafarms Ltd for the production of mussels."

For the Setterness application (2014/025/MAR), an objection by the Shetland Fishermen's Association (SFA) has been lodged on the following grounds:

"This area has an active scallop and velvet crab fishery."

With regards the issue of seabed leases, owing to the existence of the Council's separation distance policy between consented aquaculture sites, it is unlikely we would grant planning permission for a site if we knew that a seabed lease would not be granted for the location concerned as doing so would effectively sterilise the site and its surrounding area for future aquaculture development until such time as any planning permission granted would lapse. As a result of correspondence with the Crown Estate today, it is my understanding that the area of seabed covered by your Setterness application (ref: 2014/025/MAR) is likely to become available for lease in the not too distant future due to pending modifications to the adjacent seabed lease granted to Hjaltland Seafarms Ltd. With regards your Swinister Voe application, I suggest you contact Hjaltland to establish if there is any way of addressing their concerns.

With regards the objection lodged by the SFA to your Setterness application, I understand you have agreed to meet with them in the hope of addressing their concerns.

4.

For both applications, I need to make a decision by no later than Thursday 4<sup>th</sup> September in order to meet our determination targets. As such, can I ask that any meetings or discussions involving you and any of the above relevant organisations takes place as soon as possible and certainly no later than Wednesday 3<sup>rd</sup> September such that I am hopefully in a position to be able to make fully informed decisions on the applications on 4<sup>th</sup> September.

I will be in the office tomorrow and Friday but will be away with work as of Monday and will not be back in the office until lunch time on Thursday 4<sup>th</sup> September.

Kind regards,  
John

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**From:** Rosie John@Development Service  
**Sent:** 07 August 2014 14:49  
**To:** 'D GRUNSHAW'  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi Dave,

Thank you for your email.

I'm afraid that we cannot stop the clock as a result of ongoing negotiations between the developer and consultees and/or other parties.

However, I will be seeking a more definitive steer from the Crown Estate as to whether or not they will grant you seabed leases for the developments applied for under applications 2014/023/MAR and 2014/025/MAR before making a decision on the planning applications. As it stands, I need to make a decision on the applications by no later than 04 September 2014 in order to meet our determination targets.

Regards,  
John

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**From:** D GRUNSHAW [REDACTED]  
**Sent:** 04 August 2014 23:55  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi John

Hope you are well.

Sorry for the delay in replying – I'm camping with the family in the Highlands.

With regards 2014/023/MAR and 2014/025/MAR please can you stop the clock pending further discussion with the adjacent lease holders and Crown Estates?

Thank you for your assistance.  
Kind regards  
Dave

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**From:** [REDACTED]  
**Sent:** 31 July 2014 10:25  
**To:** [REDACTED]  
**Subject:** Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Dave,

**Planning Application Ref: 2014/023/MAR**

**Proposal: To deploy a single 110m twin-headline longline for production of mussels, Swinister Voe, Yell Sound**

**Planning Application Ref: 2014/025/MAR**

**Proposal: To deploy a single 220m twin-headline longline for production of mussels, Setterness, Lunna**

Please find attached the Crown Estate's consultation responses to the above planning applications.

I can confirm that the Crown Estate have responded with no objections to the following applications:

2014/018/MAR – East of Brunt Hamersland, Catfirth

2014/019/MAR – North of Quoy, Catfirth

2014/021/MAR – Little Ness, Dury Voe

2014/022/MAR – West of Little Holm, Catfirth

2014/024/MAR – NW of Cul Houb, Swining Voe

We are yet to receive a response from the Crown Estate to the following applications:

2014/016/MAR – East of Wadbister Ness, Laxfirth

2014/017/MAR – Hawksness, Laxfirth

Regards,

John

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## **Delegated Report of Handling**

**Development:** To deploy a single 110m twin-headline longline for production of mussels

**Location:** Swinister Voe, Yell Sound

**By:** Laxfirth Shellfish

**Application Ref:** 2014/023/MAR

### **1. Introduction**

This is an application to deploy a single 110m twin-headline longline for on-growing of mussels at Swinister Voe, Yell Sound. Proposed maximum biomass is estimated at 8 tonnes. The site is to be serviced from Toft or Burravoe, Yell.

### **2. Relevant Policies**

#### **Shetland Islands Council Planning Policy for Aquaculture (2007) Policies**

PPAG1 - General Factors to be considered

PPAG2 - Views of all interested parties, including competent and relevant bodies and local communities

PPAG7 - Planning applications will be dealt with by the Council on a first come, first served basis

PPAG9 - Development adjacent to or within a Natura 2000 site

PPAS1 - Minimum Separation Distance Between Sites (Shellfish)

PPAS4 - Maximum Surface Works Area (Shellfish)

PPAS7 - Biological Carrying Capacity (Shellfish)

#### **Shetland Local Development Plan 2012 (emerging)**

CST1 - Coastal Development

#### **Marine Spatial Plan for the Shetland Islands (2013) Policies**

MSP HER1 - Developments in or near Sites of International Interest (SACs, SPAs and Ramsar)

MSP FISH1 - Safeguarding Fishing Opportunities

MSP AQ1 - Aquaculture

### **3. Safeguarding**

Locational Guidelines - Swinister Voe Category 2 Area

Marine Consultation Area - Swinister Voe and the Houb of Fora Ness

Special Area of Conservation - Yell Sound Coast

#### 4. Consultations

Delting Community Council Clerk was consulted on 14 July 2014. Their comments dated 21 July 2014 can be summarised as follows:

No objections.

Ports & Harbours Operations was consulted on 8 July 2014. There was no response from this consultee at the time of report preparation.

Environmental Health was consulted on 8 July 2014. There was no response from this consultee at the time of report preparation.

The Crown Estate was consulted on 8 July 2014. Their comments dated 22 July 2014 can be summarised as follows:

The proposed development is too close to an existing lease interest and it is likely that we would be unable to lease this area without the current tenant's permission.

Marine Scotland Science was consulted on 8 July 2014. Their comments dated 21 July 2014 can be summarised as follows:

No objections.

The NLB was consulted on 8 July 2014. Their comments dated 15 July 2014 can be summarised as follows:

The site should be marked by a special mark buoy which is yellow in colour and conical in shape and fitted with a yellow multiplication cross topmark. The buoy should have a diameter of approximately 1 metre at the waterline and the cross topmark should measure a minimum of 50cm in length by 7.5cm in width. The buoy should be positioned at the seaward midpoint of the sites longline.

RSPB was consulted on 8 July 2014. There was no response from this consultee at the time of report preparation.

SEPA Aberdeen was consulted on 8 July 2014. Their comments dated 18 July 2014 can be summarised as follows:

Shellfish farms are dependent upon good water quality in order to produce shellfish which meet required food standards set by the Food Standards Agency (Scotland). The Water Environment (Shellfish Water Protected Areas: Designation) (Scotland) Order 2013 identifies shellfish water protected areas (SWPAs). As part of our regulatory remit we monitor waters against the standards for sewage related bacteria set out in the Regulations to ensure that discharges to the water environment will not adversely impact on the SWPAs. It is therefore our recommendation that, if possible, shellfish farms should be located within SWPAs. The proposed site would not be located

within a SWPA. It would be situated ~1.3km north east of the Scarvar Ayre, Dales Voe Shellfish Water Protected Area. Results from 2008 to 2013 (under the superseded EC Directive 2006/113/EC for Shellfish Growing Waters) show that the site failed to comply with the guideline standard for faecal coliforms in biota as set out in the Directive in 2009, but passed the standard all other years.

There are two Scottish Water assets ~2.2 to 2.5km north of the proposed site, and also a number of private treatment works ~2 to 2.5km north and north west of the site. However, they are in a separate water body and unlikely to have an effect on the water quality at the site. The applicant should be aware that discharges from private treatment works, as well as any livestock grazing in the neighbouring area, could contribute to the potential for input of coliforms into the water body from run-off from the land, and may subsequently affect the classification of shellfish grown here.

The site would be situated ~1.7km north east of Dales Voe - Fora Ness shellfish harvesting area which has been classified "A" from April 2014 to March 2015 in the FSA's 2005 Shellfish Classification scheme.

The benthic communities within the habitat are likely to be modified as a result of this proposal, due to shading by the infrastructure and the deposition of shell debris and pseudo-faeces. However, the area affected tends to be within the immediate vicinity of the farm, which we consider to be within the Allowable Zone of Effect.

SNH was consulted on 8 July 2014. Their comments dated 21 July 2014 can be summarised as follows:

The proposals lie close to Yell Sound Coast Special Area of Conservation (SAC) designated for its otters and common seals. The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended, (the "Habitats Regulations") apply.

The main potential impacts of shellfish farms on otters and seals are a) loss of otter foraging habitat and b) disturbance of seals caused by boat traffic.

a) The applicant has addressed the loss of foraging habitat by the appropriate location of sites outside the 10m depth contour.

b) The work plan provided in support of this application gives details of how the impact of boat traffic on seals will be mitigated and we agree with the methods set out in this plan. We usually recommend a 500m exclusion zone around seal haul-outs and are happy to further discuss the plan details with the applicant. Provided that the work plan is followed we are content that the risk of disturbance to seals is sufficiently low. We advise that the applicant may wish to become a signatory to the Yell Sound Aquaculture Management plan which sets out similar mitigation methods.

In our view, therefore, it is unlikely that the proposal will have a significant effect on any qualifying interests either directly or indirectly. An appropriate assessment is therefore not required.

Eiders are known to use the area around these proposals as wintering and moulting grounds and are, at these times, sensitive to disturbance. As predators of mussels eiders can cause issues for mussel farms. We advise that the applicant contact SNH to discuss any proposed anti-predator methods before putting them into practice.

Shetland Amenity Trust was consulted on 8 July 2014. There was no response from this consultee at the time of report preparation.

The Shetland Fishermen's Association was consulted on 8 July 2014. Their comments dated 15 July 2014 can be summarised as follows:

The Shetland Fishermen's Association have concerns over the state of disrepair of the salmon site especially the ropes and buoys that have been left in this area. The Association feels that this should be dealt with before deploying any further structures. We look forward to receiving your further observations/comments in this respect.

Shetland Shellfish Management Organisation was consulted on 8 July 2014. Their comments dated 16 July 2014 can be summarised as follows:

Shetland Shellfish Management Organisation share Shetland Fishermen's Association concerns on the application. We would also like to add that the applicant has no track record in Shetland and the applications seem of a highly speculative nature.

The Shetland Inshore Fishermen's Association was consulted on 8 July 2014. There was no response from this consultee at the time of report preparation.

**5. Statutory Advertisements**

The application was advertised in the Shetland Times on 11.07.2014.

**6. Representations**

Hjaltland Seafarms Ltd has submitted an objection to the application on the following grounds:

The proposed site is only a few metres away from an existing Crown Estate lease, issued to Hjaltland Seafarms Ltd for the production of mussels.



## 7. Report

There are policies against which this application has to be assessed and these are listed at paragraph 2 above. The determining issues to be considered are whether the proposal complies with Council Policy, or if there are any other material considerations which would warrant the setting aside of Council Policy.

Full consultation has been undertaken with all interested parties, including competent and relevant bodies and local communities.

The application site is located immediately adjacent to the seaward boundary of the Yell Sound Coast Special Area of Conservation (SAC) designated for its otters and common seals. A work plan and boat movement plan was included in the application submission to address the potential impacts of the proposal on the SAC. Significant impacts on otters have been mitigated by ensuring all proposed equipment is to be sited seawards of the 10m contour and therefore beyond the normal foraging range of otters. With regards potential impacts on common seals, SNH are minded that if the work plan and boat movement plan is followed, then the risk of disturbance to seals is sufficiently low. An appropriate assessment is therefore not deemed to be required as it is considered that the proposal is unlikely to have a significant effect on any qualifying interests of the SAC either directly or indirectly.

The proposed development is located within the Swinister Voe and the Houb of For Ness Marine Consultation Area (MCA) designated for its voe and lagoonal natural heritage features. Proposals within an MCA, which is a non-statutory designation, require consultation with SNH. This was carried out and no comments were made on the MCA designation.

There are no known sensitive species or habitats of any significance likely to be adversely impacted by the proposal. However, the proposed development is located within the East Mainland Coast marine draft Special Protection Area (dSPA) proposed under the Birds Directive for both Annex 1 and migratory species including eider ducks. Whilst marine dSPAs have been identified they still require to be consulted on (in 2015) and as such have no statutory status at this time.

The siting of one 110m twin-headline longline as proposed will not result in any significant adverse landscape or visual impact.

The modest level of production biomass proposed will not result in any adverse impact in terms of the biological carrying capacity of the voe.

With a maximum surface works area of 110m<sup>2</sup>, the proposal complies with Policy S4.

The proposed site partly overlaps a crab and lobster fishery as identified in the Shetland Marine Spatial Plan. The Shetland Fishermen's Association and the Shetland Shellfish Management Organisation both responded to the application consultation. Whilst neither organisation objected to the proposal, both raised concerns regarding abandoned mooring equipment left at the former adjacent salmon farm in Swinister Voe. As conveyed to both organisations, the effects of any equipment left behind by the operator of the previously consented Swinister Voe salmon farm is not a material consideration in respect of the application under consideration. However, it was also highlighted that the issue of redundant equipment will be investigated and both organisations will be kept informed of any developments in this regard.

The proposed site is located approximately 40m to the east of the development site boundary of a previously consented aquaculture site (most recent planning permission ref: 2011/007/NS granted on 16 February 2011 for a mussel farm development). Marine Planning monitoring records indicate that this permission has fallen as a result of development not commencing within three years of the date of the permission. The proposed site is not located within 500m of any other consented aquaculture sites so is considered compliant with Policy S1. However, the Crown Estate seabed lease for the previously consented mussel farm remains in effect and the current lease holder, Hjaltland Seafarms Ltd, has objected to the application under consideration on the grounds that the application site is too close to their leasehold. The Crown Estate in their consultation response state that it is unlikely a seabed lease will be granted for the single longline proposed without the permission of the adjacent lease holder. The applicant has confirmed that they have been unable to obtain such agreement following discussions with Hjaltland.

The Planning Authority received a planning application (ref: 2014/028/MAR) from Hjaltland Seafarms Ltd on 03 September 2014 for a mussel farm development at the location of their current lease. The application under consideration and the recently received application are sited immediately adjacent to one another so it will not be possible to approve both applications and ensure compliance with Policy S1. For the foreseeable future, it does not appear as though the applicant will be able to secure a seabed lease for the longline applied for which would prevent development of the site even if planning permission was granted. Furthermore, approval of this application could effectively sterilise Swinister Voe for aquaculture development owing to the existence of the Council's longstanding separation distance policy which requires a minimum of 500m separation between consented shellfish farm developments. Conversely, any future approval of planning application 2014/028/MAR will allow mussel farming to take place in the voe as in doing so it is likely the existing seabed lease for that site will continue to run. Taking account of the above, I am minded that the application under consideration (ref: 2014/023/MAR) be refused. Such a decision is in accordance with policies G2 and G7,

and also with policy CST1 with regards ensuring no significant adverse impact on other users of marine resources, and/ or neighbouring land.

**8. Recommendation**

Application Refused

**Reasons for Council's decision:**

Whilst the proposal complies with Council policy, the fact that a seabed lease is unlikely to be granted at the site for the foreseeable future is a material consideration as approval of the application could effectively sterilise the surrounding area for future aquaculture development owing to the existence of the Council's policy regarding minimum separation distance between consented sites. To prevent such possible sterilisation the application is therefore refused. Such a decision is in accordance with policies G2 and G7 of the Shetland Islands Council Interim Policy for Marine Aquaculture.

**List of refused plans:**

- Admiralty Chart Location Plan 2014/023/MAR-01  
Stamped Received 05.07.2014
- Site Plan 2014/023/MAR-02  
Stamped Received 02.07.2014
- Site Plan Key 2014/023/MAR-03  
Stamped Received 04.07.2014
- Longline Section 2014/023/MAR-04  
Stamped Received 02.07.2014
- Work Plan Swinister Voe 2014/023/MAR-05  
Stamped Received 04.07.2014
- Boat Movement Map Swinister Voe 2014/023/MAR-06  
Stamped Received 02.07.2014

**9. Further Notifications Required**

Having submitted a representation, Hjaltland Seafarms Ltd is required to be notified of the Council's decision on the application.

**10. Background Information Considered**

None.

Delegated\_Report\_of\_Handling.doc  
Officer: Mr John Rosie  
Date: 4th September 2014



## **SHETLAND ISLANDS COUNCIL**

### **Town and Country Planning (Scotland) Acts**

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With reference to the application for **Planning Permission** (described below) under the above Acts, the Shetland Islands Council in exercise of these powers hereby **REFUSE Planning Permission** for the development, in accordance with the particulars given in, and the plans accompanying the application as are identified; subject to the reasons specified below.

#### **Applicant**

Laxfirth Shellfish  
C/o Mr David Grunshaw  
24 Bede Close  
Sleaford  
NG34 8WE

**Reference Number:** 2014/023/MAR

**Development:** To deploy a single 110m twin-headline longline for production of mussels

**Location:** Swinister Voe, Yell Sound

#### **Details of Refused Plans and Drawings:**

- Admiralty Chart Location Plan 2014/023/MAR-01  
Stamped Received 05.07.2014
- Site Plan 2014/023/MAR-02  
Stamped Received 02.07.2014
- Site Plan Key 2014/023/MAR-03  
Stamped Received 04.07.2014
- Longline Section 2014/023/MAR-04  
Stamped Received 02.07.2014

Development Services  
Shetland Islands Council  
8 North Ness Business Park  
Lerwick  
Shetland  
ZE1 0LZ

**PLEASE LOOK AT THE IMPORTANT INFORMATION ON THE BACK OF THIS SHEET  
AND ON THE ATTACHED SHEET**

## **IMPORTANT INFORMATION**

If you are aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, you may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to:

Shetland Islands Council  
Marine Planning Service  
Development Services  
8 North Ness Business Park  
Lerwick  
Shetland  
ZE1 0LZ

The necessary form can be obtained upon request from the same address.

- Work Plan Swinister Voe 2014/023/MAR-05  
Stamped Received 04.07.2014
- Boat Movement Map Swinister Voe 2014/023/MAR-06  
Stamped Received 02.07.2014

**Reasons for Council's decision:**

- (1.) Whilst the proposal complies with Council policy, the fact that a seabed lease is unlikely to be granted at the site for the foreseeable future is a material consideration as approval of the application could effectively sterilise the surrounding area for future aquaculture development owing to the existence of the Council's policy regarding minimum separation distance between consented sites. To prevent such possible sterilisation the application is therefore refused. Such a decision is in accordance with policies G2 and G7 of the Shetland Islands Council Interim Policy for Marine Aquaculture.

5 September 2014



Executive Manager - Planning

2014/023/MAR-01

CALL 1.43.000

agnetic Variation: 3° 20' W 2012 (11'E)

HORIZONTAL DATUM

( see Note on Plan(A) )

Coastal Zone Manager

5 SEP 2014

SIGNED: *Michael Helms*

GRANT OF PLANNING PERMISSION

~~REFUSED~~

BY THE SHETLAND ISLANDS COUNCIL AND

PLANNING AUTHORITY UNDER THE

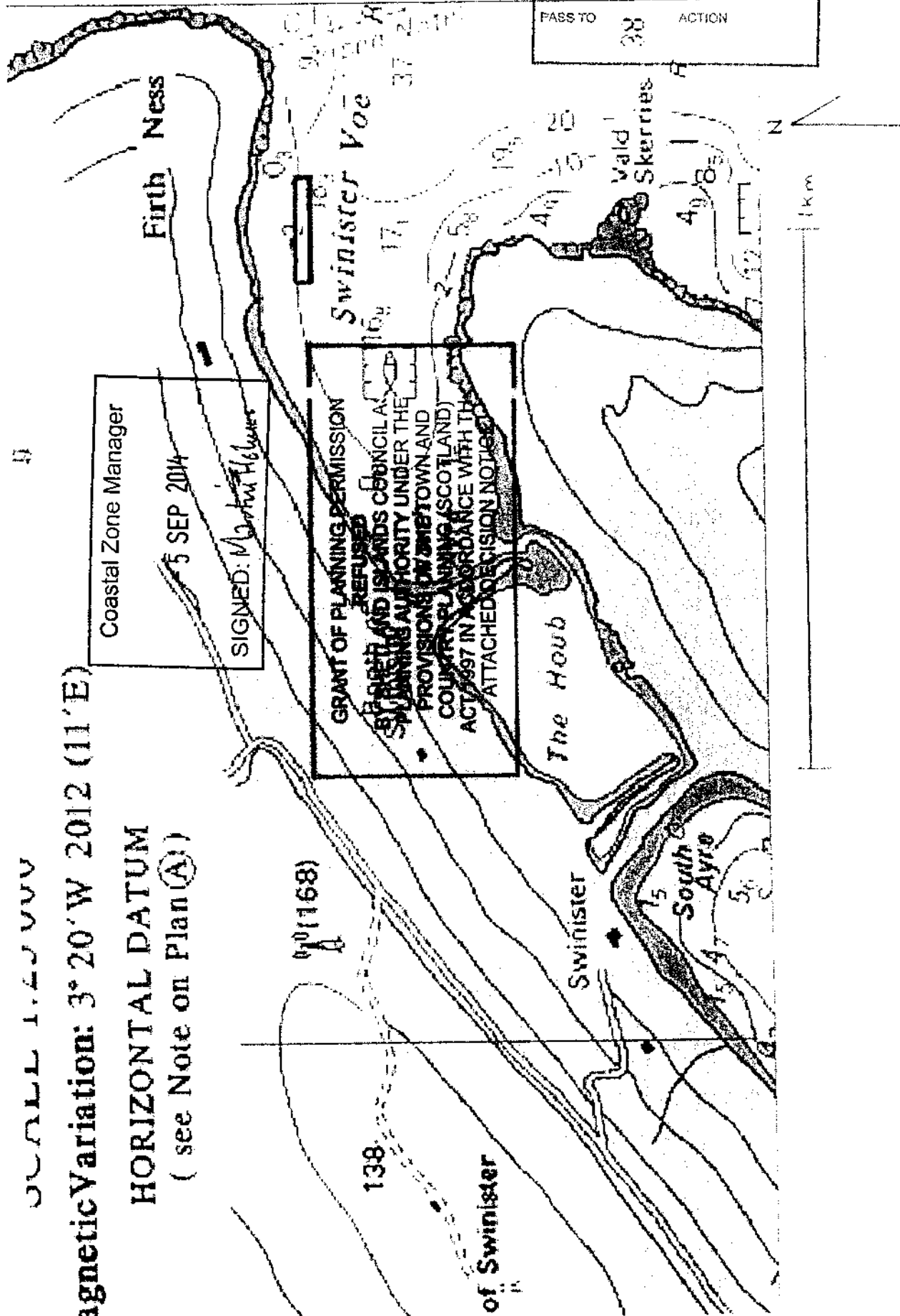
PROVISIONS OF THE TOWN AND

COUNTRY PLANNING (SCOTLAND)

ACT 1997 IN ACCORDANCE WITH THE

ATTACHED DECISION NOTICE

SHETLAND ISLANDS COUNCIL PLANNING	
- 5 JUL 2014	
PASS TO	ACTION
30	30



2014/023/MAR-02

SITE PLAN

Containment Area: 6000m<sup>2</sup>

Anchor: 500-1000kg Danforth (Fluke), Samson, Manson or similar fishfarm anchor. Minimum scope 3:1. Or Screw Anchor or Sea Bolt. Minimum scope 1:1.

Rode: 32-44mm rope warp. Chain or Seaflex as required. Kellet as required.

Headline: Twinline 28-32mm rope spaced 1 m apart

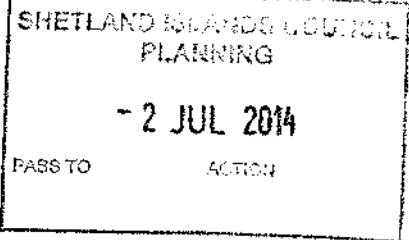
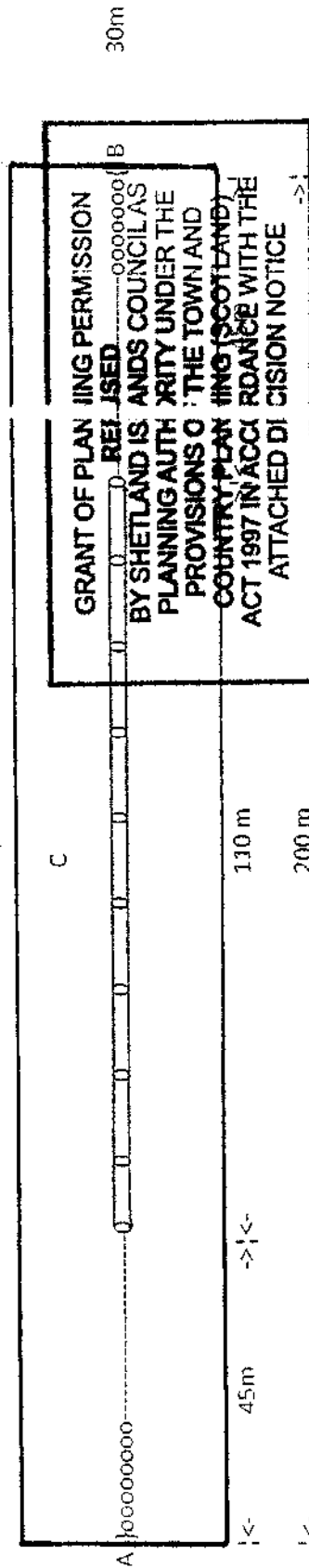
Floatation Buoys: Dark Grey or Black 300L GEM or similar.

Scale: 1:1000

Coastal Zone Manager

- 5 SEP 2014

SIGNED: *Mark Holmes*





2014/023/MAR-03

Site Plan Key

SWINISTER VOE, YELL SOUND

Co-ordinates:

A: 60 26 11.448, -1 10 26.365

B: 60 26 11.448, -1 10 13.215

C: 60 26 11.448, -1 10 19.751

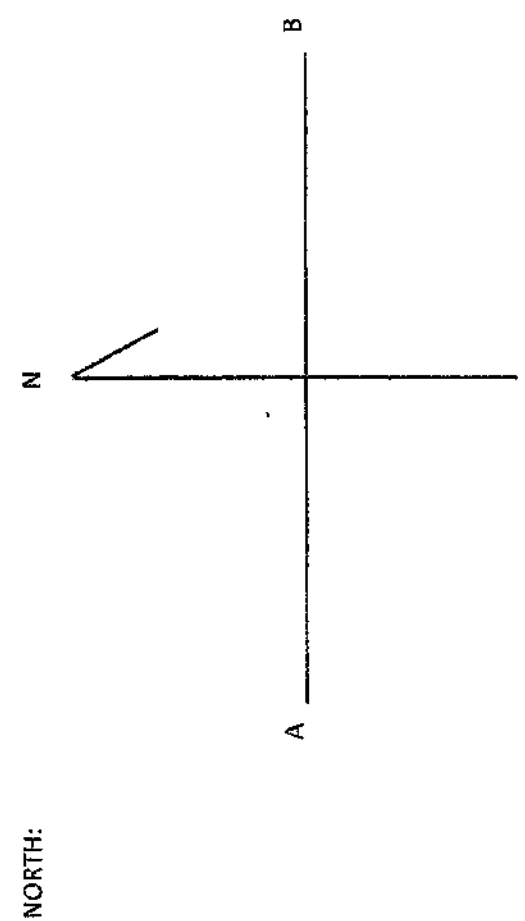
Grid Reference at Mid-Point C: HU 45667 72809

Containment Area (RED): 6000m<sup>2</sup>

Coastal Zone Manager  
- 5 SEP 2014  
SIGNED: *Martin Hughes*

GRANT OF PLANNING PERMISSION  
**REFUSED**  
BY SHETLAND ISLANDS COUNCIL AS  
PLANNING AUTHORITY UNDER THE  
PROVISIONS OF THE TOWN AND  
COUNTRY PLANNING (SCOTLAND)  
ACT 1997 IN ACCORDANCE WITH THE  
ATTACHED DECISION NOTICE

SHETLAND ISLANDS COUNCIL  
PLANNING  
- 4 JUL 2014  
PASS TO ACTION

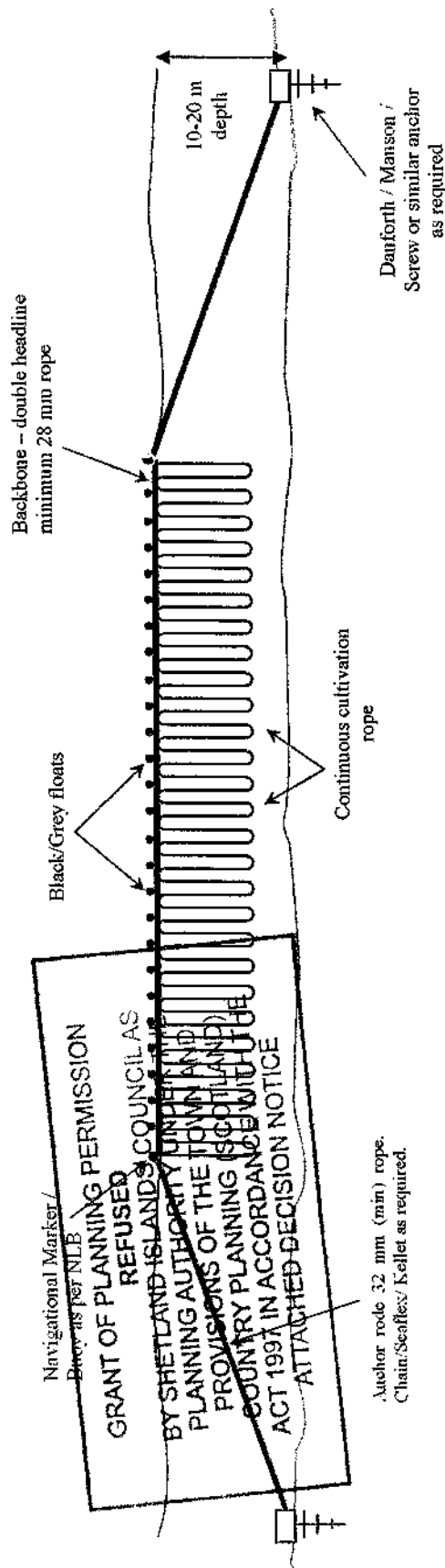


2014/023/MAR-04

1

Coastal Zone Manager  
- 5 SEP 2014  
SIGNED: *Martha Holmes*

**Cross Section of Proposed Marine Farm  
Surface Longline  
Scale: 1:1000**



45 m

110 m

45 m

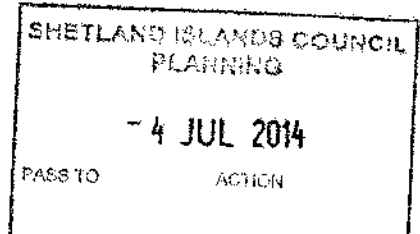
SHETLAND ISLANDS COUNCIL PLANNING	
- 2 JUL 2014	
PASS TO	ACTION

## Work Plan

Yell Sound Mussel Production Site – Swinister Voe

Yell Sound SAC and SSSI:

The Yell Sound Special Area of Conservation and SSSI have been designated for the protection of the European Otter, *Lutra lutra*, and the Common Seal, *Phoca vitulina* (the listed species of interest). The SAC extends to the 10m depth contour along much of the Yell Sound coast and islands.



European Otter:

The mussel production site is situated seaward of the 10 metre bathymetric contour and so is located outside of the SAC and beyond the normal foraging range of otters and so is unlikely to have any impact on the European Otter.

Coastal Zone Manager

- 5 SEP 2014

SIGNED: M. J. H. H. H.

Common Seal:

The Cul Ness, Setter Ness and Lunna Ness coastline of Yell Sound are important haul out areas for common seals.

Boat movements associated with servicing the proposed site have been planned to avoid seal haul-out sites especially at the vulnerable times of moulting and pupping.

This work plan has been designed to minimise the effects of establishing, maintaining and ultimately removing the proposed mussel production site in Yell Sound so as to avoid any adverse effects on the interests of the SAC by the careful choice of shore base, access routes and the establishment of a work protocol to minimise disturbance especially at vulnerable times.

GRANT OF PLANNING PERMISSION  
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ACT 1997 IN ACCORDANCE WITH THE  
ATTACHED DECISION NOTICE

Haul-outs:

The nearest small haul-outs occur at the Isles of Linga, Wether Holm, Fish Holm and Skinna Skerry (less than 20 individuals) and Lunna Holm (more than 50 individuals).

Disturbance Mitigation:

1. Boat movements will adhere to the 'Boat Movement Map' which charts the access routes to and from the mussel production site. The route have been chosen to avoid coastal areas landward of the 10 metre bathymetric contour within the SAC and known or observed seal haul-outs.
2. A 'no go' zone during vulnerable times will be defined in conjunction with SNH around seal haul-outs in the area.
3. Boat movements are usually infrequent and of limited extent. They will be daily for a period of 2-5 days during deployment, harvesting (for re-tubing or final harvest) and decommissioning but will, apart from essential emergency maintenance, be chosen to avoid vulnerable times.
4. Boat movements during monitoring operations are typically brief and occur once or twice weekly. Monitoring operations will be kept to a minimum at vulnerable times.
5. Non-routine and non-time dependant work will take place outside of the breeding and moulting seasons to avoid disturbance.
6. Mussel farm operators will keep a record of sighted seals hauled out in the vicinity of the mussel farm and will curtail operations at vulnerable times and monitor the situation if haul-outs are observed close by.
7. Non-essential work will be suspended during the breeding season (mid June – mid July) and peak moulting season (7-21 August) to minimise the chance of disturbance.
8. During the breeding and moulting seasons boat speeds will adhere to limits agreed with SNH and vessel movements will be slow and smooth to avoid disturbing seals.

Foraging:

Common seals are known to forage up to 50km away giving them a potential foraging area of up to 10,000 square kilometres. The footprint of the mussel farm is 110m<sup>2</sup> or 0.0000001% of the potential foraging area. Moreover, seals are commonly seen in and around mussel farms. The mussels act as an artificial reef and attract small fish that in turn attract seals. Consequently it is the operator's experience that rather than displacing seals from a potential foraging area mussel farms are commonly beneficial to seal foraging.

The sites are seaward of the 10m bathymetric contour and so outside the recognised foraging range of the European Otter. No loss of foraging area for either species is expected.

**Summary:**

1. Mitigation measures will be in place to minimise potential impacts on the European Otter and the Common Seal particularly during vulnerable times.
2. The operator will adopt and abide by the recommendations in the 'Marine Wildlife Watchers Code' (SNH) and 'A Guide to Best Practice for Watching Marine Wildlife'.
3. An observational record will be kept to monitor potential impacts year in year out.

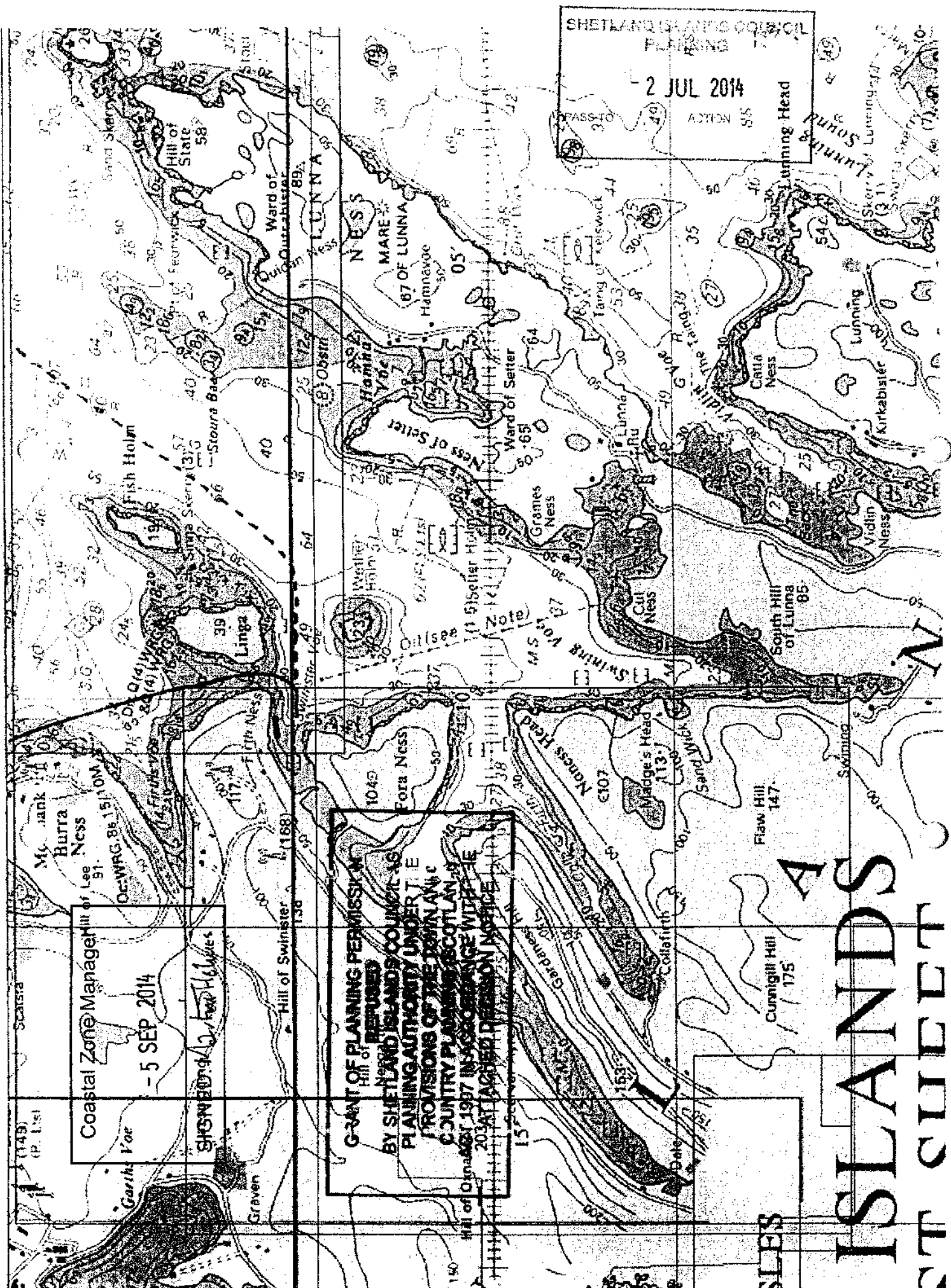
**Boat Movement Chart:**

Solid Red – To/From Toft

Broken Red – To/From Burra Voe

**References:**

1. SIC advice. (John Rosie pers. com.)
2. Yell Sound SAC and SSSI. Hjaltland Sea Farms. Planning Application 2012/002/MAR.
3. Yell Sound SAC – Advice under Regulation 33 (2) (SNH)
4. A Guide to Best Practice for Watching Marine Wildlife (SNH)
5. Scottish Marine Wildlife Watching Code (SNH)
6. A survey of moulting common seals in the Yell Sound (AISCM 2012)
7. Consultation on Seal Haul-out Sites (Scottish Government 2011)



**From:** [REDACTED]  
**Sent:** 08 September 2014 10:09  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi Dave,

The Crown Estate's official consultation response was:

*"The proposed development is too close to an existing lease interest and it is likely that we would be unable to lease this area without the current tenant's permission."*

When pushed for a more definitive steer as to the likelihood of a seabed lease being granted, I got the following response:

*"My consultation response does not say that a lease won't be granted, only that due to the close proximity of an existing lease interest, the current tenants permission would require to be sought. Basically we would request the applicant contact the existing Tenant to make them aware of their intentions and ensure agreement is reached to both parties mutual benefit if there is an issue."*

No other correspondence took place.

Best regards,  
John

---

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 05 September 2014 16:51  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi john

Re: Swinister

Unfortunately the Crown Estate seems unwilling to talk to me (or too busy) so I hope you do not mind if I ask you what exactly was their position on this application and if they gave any reason or explanation at all?

As always thanks for your help.

Kind regards

Dave

## **Rosie John@Development Service**

---

**From:** Rosie John@Development Service  
**Sent:** 11 September 2014 13:51  
**To:** 'D GRUNSHAW'  
**Subject:** RE: Crabs and Lobsters

Good afternoon Dave,

Thank you for your email.

Submission of application 2014/028/MAR in no way affects your right to appeal the refusal of application 2014/023/MAR. Should you choose to lodge an appeal, application 2014/028/MAR would not be determined until the outcome of your appeal is known.

Best regards,  
John

---

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 10 September 2014 16:01  
**To:** Rosie John@Development Service  
**Subject:** RE: Crabs and Lobsters

Hi John

Thanks for the reply and please note that if I do appeal it will certainly not be any reflection on the sterling effort and assistance that you have afforded me with these applications. All your help and advice is much appreciated.

With regards Swinister – please can you tell me how the current application (2014/028/MAR) effects an appeal of 2014/023/MAR? I would think that if the former is passed then it would prevent the latter being appealed in any event?

Thanks again.

Dave

**Rosie John@Development Service**

---

**From:** Rosie John@Development Service  
**Sent:** 01 October 2014 11:53  
**To:** 'D GRUNSHAW'  
**Cc:** Holmes Martin@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Dave,

Decisions are made based on the information available at the time. Different information may or may not have resulted in a different outcome. Given that the decision may be the subject of an appeal it would be inappropriate for the Council to comment on this or similar queries relating to the decision made.

Best regards,  
 John

---

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 01 October 2014 10:37  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi John

I take it that if an LOA had been offered 'at the time' then planning permission would not have been refused?

Kind regards

Dave

---

**From:** [REDACTED]  
**Sent:** 01 October 2014 09:30  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Good morning Dave,

The application was refused due to the Planning Authority concluding that it is unlikely a Crown Estate seabed lease would be secured for the seabed area which was the subject of the planning application. This conclusion was arrived at due to a combination of the comments received from the Crown Estate (see below) and the following objection received from the adjacent seabed leaseholder: "The proposed site is only a few metres away from an existing Crown Estate lease, issued to Hjalmland Seafarms Ltd for the production of mussels."

Further to the above, if planning permission had been granted and a seabed lease not secured, approval of the application could have had the effect of sterilising all aquaculture development in the voe and the surrounding area for a period of at least three years due to the existence of the Council's policy regarding minimum separation distance between consented aquaculture sites.

To answer your numbered questions:

1. The decision on the application has been made so the only way it can be reviewed is through appeal to the local review body.



2. That would be a decision for the Councillors who sit on the local review body. If a lease option agreement was to be secured prior to any local review taking place, you would have the opportunity to relay that information to the local review body.

Best regards,  
John

---

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 25 September 2014 10:22  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi John

Re: Swinister Voe

As I understand it the only reason why this application was refused was because of the rather unclear response below from the Crown Estate – is that correct?

1. If the Crown Estate were willing to consider or grant a lease option agreement over this site how would that effect the planning application – could it be reviewed or would there still have to be an appeal?
2. And of course, if they did grant an LOA and it was reviewed would it allow the planning application to be passed?

Thanks for your assistance.

Kind regards

Dave

---

**From:** [REDACTED]  
**Sent:** 08 September 2014 10:09  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi Dave,

The Crown Estate's official consultation response was:

*"The proposed development is too close to an existing lease interest and it is likely that we would be unable to lease this area without the current tenant's permission."*

When pushed for a more definitive steer as to the likelihood of a seabed lease being granted, I got the following response:

*"My consultation response does not say that a lease won't be granted, only that due to the close proximity of an existing lease interest, the current tenants permission would require to be sought. Basically we would request the applicant contact the existing Tenant to make them aware of their intentions and ensure agreement is reached to both parties mutual benefit if there is an issue."*

No other correspondence took place.

Best regards,  
John

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This email has been scanned by the Symantec Email Security.cloud service.

**Rosie John@Development Service**

---

**From:** Holmes Martin@Development Service  
**Sent:** 12 December 2014 14:19  
**To:** 'D GRUNSHAW'  
**Subject:** RE: Review of delegated decision.

Dear David,

In regard to the queries you raise below I would answer as follows:

1. Not in Shetland although there may be other examples from elsewhere in Scotland.
2. As for (1) above.
3. Adjacent site was operated as a salmon farm under a SIC works licence, this was deemed forfeit due to non-use. Application 2011/007/NS submitted as site no longer considered appropriate for salmon production, discussions held between Hjaltland and a shellfish developer to develop site but this did not happen within 3 years of grant of permission so permission fell hence application 2014/028/MAR.

A response to your email of 4 December will follow in due course but will be from a different source as it has been deemed to be a FoI request.

Kind regards

Martin Holmes

Martin Holmes  
 Coastal Zone Manager  
 Coastal Zone Management Services  
 Planning Service  
 8 North Ness  
 Lerwick Shetland  
 ZE1 0LZ

Email [REDACTED]

---

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 03 December 2014 14:32  
**To:** Holmes Martin@Development Service  
**Subject:** RE: Review of delegated decision.

Dear Martin

Re: Swinister Application reference 2014/023/MAR

Please can I ask you a few questions:

1. I have searched through then planning history that is online but I cannot find another case where the Crown Estate has not given a clear indication of whether they would give a lease for a planning application or not. Do you know of any other planning application where the Crown Estate has declined to give a firm decision?
2. Similarly, do you know of any other planning application where the Crown Estate has ever sought an applicant to gain 'permission' from a third party before deciding to give a lease or not?

3. Is it possible to give me a brief potted planning and development history of the adjacent site in Swinister Voe (2011/007/NS, 2014/028/MAR and earlier planning applications) since it was last used as a salmon farm?

Thank you very much for your kind assistance.

Kind regards

Dave

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For more information please visit <http://www.symanteccloud.com>

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**Rosie John@Development Service**

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**From:** Garriock Jill@Development Service  
**Sent:** 27 February 2015 12:59  
**To:** Rosie John@Development Service; Hunter Monique@Housing Services  
**Subject:** FW: Review of delegated decision 2014/023/MAR  
**Attachments:** RE: Swinister Voe; RE: Application; FOISAlaefletonappeals.docx

*Jill A Garriock*

---

**From:** Garriock Jill@Development Service  
**Sent:** 22 December 2014 15:10  
**To:** [REDACTED]  
**Subject:** FW: Review of delegated decision 2014/023/MAR

Dear Mr Grunshaw

Please see the response below and attached to your recent FOI Request.

If you are dissatisfied with the way in which the council has dealt with your request for information then you may ask the authority to review its actions and decisions in relation to your request, by submitting a formal appeal. A leaflet explaining the process is attached.

Kind Regards

*Jill A Garriock*

---

**From:** Holmes Martin@Development Service  
**Sent:** 16 December 2014 12:09  
**To:** Garriock Jill@Development Service  
**Subject:** RE: Review of delegated decision 2014/023/MAR

Jill,

In response to Monique's email below, response to the FOI request is below and the attachments also need to go with the official response. Shout if you have any questions.

Cheers

Martin

Dear Mr Grunshaw,

In response to your FOI request the following information is provided:

No meetings were held with Hjaltland in respect of their application 2014/028/MAR. There was email correspondence between Hjaltland and the Council in regard to the completion of the application and the fee that would be levied for the development being considered by Hjaltland. This correspondence is attached.

Once received applications require to be validated as soon as possible and standard practice is for this to be done within 5 days of receipt. This merely means that the application form has been completed correctly, location and

site plans are provided and the correct fee paid. It does not mean that the application is being considered as this can only start following a period of consultation with stakeholders.

Shetland Islands Council also has a policy that, where an application is being determined, any subsequent application made that is closer than the required separation distance will not be considered until the first application has been determined. So Hjaltland's application could not be considered until yours was determined and this will continue to be the case until the outcome of your application review is known.

The submission of the application by Hjaltland is not the reason for the Council's decision in respect of your application 2014/023/MAR. It is discussed in the report of handling as are the various scenarios that would subsist for Swinister Voe. The reason for the Council's decision is the unlikelihood of a sea bed lease being granted thereby negating the possibility of the planning consent being initiated and as such consent would not be appropriate. The wording of the Council's decision is as follows:

**Reasons for Council's decision:**

( 1.) Whilst the proposal complies with Council policy, the fact that a seabed lease is unlikely to be granted at the site for the foreseeable future is a material consideration as approval of the application could effectively sterilise the surrounding area for future aquaculture development owing to the existence of the Council's policy regarding minimum separation distance between consented sites. To prevent such possible sterilisation the application is therefore refused. Such a decision is in accordance with policies G2 and G7 of the Shetland Islands Council Interim Policy for Marine Aquaculture.

I trust that this has answered your request under Fol.

Martin Holmes  
Coastal Zone Manager  
Coastal Zone Management Services  
Planning Service  
8 North Ness  
Lerwick Shetland  
ZE1 0LZ

Email: [REDACTED]  
DD: [REDACTED]

---

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 04 December 2014 16:48  
**To:** Holmes Martin@Development Service  
**Subject:** RE: Review of delegated decision 2014/023/MAR

Dear Martin

The application 2014/028/MAR was dated 26/08/14 and validated on 03/09/14.

But my application (2014/023/MAR) was only refused on 05/09/14.

It would appear that Hjaltland were very confident my application would be refused and/or knew that their submission could be used as a reason for refusing my application.

Hjaltland indicated on their application form that they had a meeting, email and telephone pre-consultation with SIC.

Furthermore the actual submission of the Hjaltland application is used as a reason for refusal of planning permission in the delegated report for my application.

I really apologise for having to ask you for this but I hope you can appreciate why I need to. Please can I ask for any information and/or a copy of any pre-application communications and discussions with them?

As one was a meeting please can you provide a best recollection of the discussion and especially if anything about submitting an application before mine was decided was discussed?

If needs be please treat this as a Freedom of Information request – though I'm not sure if that is necessary?

Thanks very much.

Kind regards

Dave

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**Rosie John@Development Service**

---

**From:** Rosie John@Development Service  
**Sent:** 05 August 2014 10:49  
**To:** 'Bill Johnson'  
**Subject:** RE: Application

Hi Bill,

At section 4 of the form you will have to tick the box for a new site as that is the only box that is applicable in such a case.

At the top of the second page of the form, I would advise you complete the details for the previous planning permission now lapsed (2011/007/NS) and date of the permission (16 February 2011), as well as details of any seabed lease that exists.

At section 5, you could make it clear that the development being applied for is on the same site as previous pp 2011/007/NS which has lapsed as a result of non-commencement of development within three years of the date of the permission.

Cheers,  
John

---

**From:** Bill Johnson [REDACTED]  
**Sent:** 04 August 2014 16:45  
**To:** Rosie John@Development Service  
**Subject:** Application

Hi John

Just a question regarding an application:

When filling in the application form for a site whose Planning Permission has "expired" should I refer to the previous permission and equipment or is it a "new" application?

Cheers

Bill

P.S. The site is Swinister Voe

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**Rosie John@Development Service**

---

**From:** Bill Johnson [REDACTED]  
**Sent:** 26 August 2014 09:52  
**To:** Rosie John@Development Service  
**Subject:** RE: Swinister Voe

Thanks John

Appreciate you looking into this.

Cheers

Bill

---

**From:** [REDACTED]  
**Sent:** 26 August 2014 09:44  
**To:** Bill Johnson  
**Subject:** RE: Swinister Voe

Hi Bill,

Apologies for the delay in responding, I have been on annual leave.

The draft application looks fine. With regards the fee, the seabed fee is not based on the red line boundary (at this time) so a larger planning boundary than required does not increase the fee. The seabed fee is dictated by the extent of the equipment moorings only.

For your information, the fee for the development shown on the draft application is as follows:

Surface Area fee: 720m<sup>2</sup> (0.072 ha) @ £174 per 0.1 ha = £174.00

Seabed fee: 22,000m<sup>2</sup> - 720m<sup>2</sup> = 21,280m<sup>2</sup> (2.128 ha) @ £60 per 0.1 ha = £1,320.00

Advert fee: £145.00

**TOTAL FEE: £1,639.00**

If you intend to submit this application, I would point out the following:

- The 'Existing surface area' and 'Existing moorings area' boxes at section 6 should be blank as there is no existing consent in place;
- As above, the boxes in the 'Existing' column at sections 7a, 7b and 8 should be blank;
- Please answer yes or no at section 12;
- Please check box 2 at section 16a;
- At the declaration, please remember to check the land ownership box and sign/date the form.

Best regards,  
 John

---

**From:** Bill Johnson [REDACTED]  
**Sent:** 19 August 2014 09:56  
**To:** Rosie John@Development Service  
**Subject:** Swinister Voe

Hi John

Just wondering if you could take a look at the attached maps and draft application for Swinister Voe?



I am a bit unsure as to how the equipment fee for mussel sites is calculated so could you look at this section of the form please.

Also the red box is the area of the CE lease but perhaps there is no need for it to be this size as it will only increase the cost?

Cheers

Bill

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**Rosie John@Development Service**

---

**From:** Rosie John@Development Service  
**Sent:** 16 February 2015 09:42  
**To:** 'D GRUNSHAW'  
**Cc:** Holmes Martin@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR  
**Attachments:** RE: 2014/0223/MAR; RE: 2014/025/MAR

Good morning Dave,

Having done a search of my email records, I can't find a response to the email I sent the Crown Estate on 21/08/2014 asking for a more definitive steer as to the likelihood of a seabed lease being granted for your Swinister Voe proposal. This email I sent is attached (note the subject title is 2014/0223/MAR – it should read 2014/023/MAR).

However, having sent a similar email to the Crown Estate for your Setterness proposal also on 21/08/2014, I have found an email trail with the Crown Estate (also attached). You will see on 25/08/2014 that the Crown Estate responded and the text shown in red below is included in that response. Given the Crown Estate's initial consultation response to both planning applications was exactly the same, it is reasonable to assume that the stance taken by the Crown Estate (text shown in red below) is applicable to both the Setterness and Swinister Voe proposals. You will note however that there is no mention of the Crown Estate statement shown in red below in the Swinister Voe report of handling.

I hope this helps.

Regards,  
 John

---

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 13 February 2015 11:11  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi John

Please can you let me know when you received the second reply from the Crown Estate shown below (in red)?

Many thanks

Kind regards

Dave

---

**From:** [REDACTED]  
**Sent:** 08 September 2014 10:09  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi Dave,

The Crown Estate's official consultation response was:

*"The proposed development is too close to an existing lease interest and it is likely that we would be unable to lease this area without the current tenant's permission."*

When pushed for a more definitive steer as to the likelihood of a seabed lease being granted, I got the following response:

*"My consultation response does not say that a lease won't be granted, only that due to the close proximity of an existing lease interest, the current tenants permission would require to be sought. Basically we would request the applicant contact the existing Tenant to make them aware of their intentions and ensure agreement is reached to both parties mutual benefit if there is an issue."*

No other correspondence took place.

Best regards,  
John

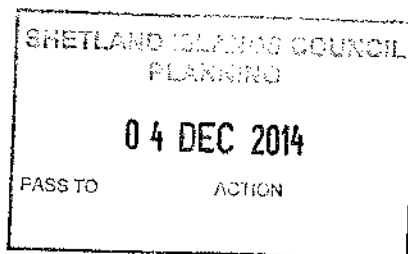
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Development Services Department  
Shetland Islands Council



Notice of Review

FOR OFFICIAL USE ONLY

Ref No:

Date of Receipt:

## NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)  
IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)  
(SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2013

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.**  
**This form is only to be used in respect of decisions on proposals in the local development**  
**category. Failure to supply all the relevant information could invalidate your notice of review.**

Use **BLOCK CAPITALS** if completing in manuscript

### 1. Applicant(s)

Name **MR DAVID GRUNSHAW**

Address **24 BEDE CLOSE  
SLEAFORD  
LINES  
NG34 8WE**

Contact Telephone 1 **[REDACTED]**  
Contact Telephone 2 **[REDACTED]**  
Fax No **[REDACTED]**

E-mail\* **[REDACTED]**

### 2. Agent (if any)

Name **[REDACTED]**

Address **[REDACTED]**  
Postcode **[REDACTED]**

Contact Telephone 1 **[REDACTED]**  
Contact Telephone 2 **[REDACTED]**  
Fax No **[REDACTED]**

E-mail\* **[REDACTED]**

Mark this box to confirm all contact should be  
through this representative: ☐

\* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

**3. Application Details**

Planning authority's application reference number

2014 / 023 / MAR

Site address

FIRTH NESS, SWINISTER VOE

Description of proposed development

TO DEPLOY A SINGLE 110M TWIN-HEADLINE  
LONGLINE FOR THE PRODUCTION OF MUSSELS

Date of application

02.07.2014

Date of decision (if any)

04.09.2014

(VALUATED 05.07.14)

(ISSUED 05.09.14)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

**4. Nature of application**

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

**5. Reasons for seeking review**

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

**6. Review procedure**

The Shetland Islands Council Planning Local Review Body will determine your review by the holding of one or more public hearing sessions.

In the event that the Local Review Body decides to inspect the review site during the determination of your review, in your opinion:

- |  | Yes                                 | No                       |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land?                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

**7. Statement of Grounds of Review**

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Shetland Islands Council Planning Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE GROUNDS FOR REVIEW.

**8. New Matters**

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☒ No ☐

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

ENCLOSED DETAILS OF LOA AS CONSIDERED RELEVANT  
ENCLOSED CORRESPONDENCE AS CONSIDERED RELEVANT.

**9. List of documents and evidence**

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

SEE DOCUMENT LIST.

**Note.** The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

**10. Checklist**

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

**Note.** Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

**Declaration**

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

4<sup>th</sup> December 2014

**Please send this completed form to:**

Shetland Islands Council Planning Local Review Body, c/o Planning, Development Services Department,  
8 North Ness Business Park, Lerwick, Shetland ZE1 0LZ

Telephone: 01595 744293 e-mail: [development.management@shetland.gov.uk](mailto:development.management@shetland.gov.uk) Visit: [www.shetland.gov.uk](http://www.shetland.gov.uk)

## Document List for Appeal

The following documents are not included in this transmission as they are already held by Shetland Island Council.

The applicant wishes them to be made available as part of the Appeal Documentation.

1. Documents listed under planning application 2014/023/MAR
  2. Documents listed under planning application 2014/028/MAR
  3. Documents listed under planning application 2011/007/NS
  4. Documents listed under planning application 2011/011/NS
- ALL RELEVANT DOCUMENTATION INCLUDED IN THIS AGENDA ITEM.
- DOCUMENTS 2-4 AVAILABLE FOR VIEWING IN MEMBERS ROOM

## Documents Enclosed:

5. Grounds for Review
  6. Email correspondence with SIC
  7. Email correspondence with Crown Estates
  8. Email correspondence with Hjaltland
  9. LOA application
- NOT INCLUDED IN NOTICE OF REVIEW SUBMISSION

SHETLAND ISLANDS COUNCIL	
04 DEC 2014	
PASS TO	ACTION

## \* NOTE - TEXT ON THIS PAGE :

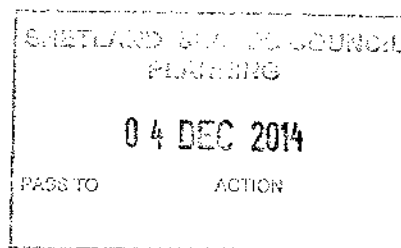
- ALL TYPED TEXT IS THE SUBMISSION OF THE APPELLANT.
- ALL HANDWRITTEN TEXT ADDED BY JOHN ROSIE, MARINE PLANNING OFFICER, SHETLAND ISLANDS COUNCIL ON 02/03/2015.



Grounds for Review:

Reason for Refusal:

The decision notice states that the reason for refusal is:-



'Whilst the proposal complies with Council policy, the fact that a seabed lease is unlikely to be granted at the site for the foreseeable future is a material consideration as approval of the application could effectively sterilise the surrounding area for future aquaculture development owing to the existence of the Council's policy regarding minimum separation distance between consented sites. To prevent such possible sterilisation the application is therefore refused. Such a decision is in accordance with G2 and G7 of the Shetland Island Council Interim Policy for Marine Aquaculture.'

The Crown Estate does not say that they will not give a lease. They say in their second email to SIC "My consultation response does not say that a lease won't be granted, only that due to the close proximity of an existing lease interest, the current tenant's permission would require to be sought. Basically, we would request the applicant contact the existing tenant to make them aware of their intentions and ensure agreement is reached to both parties mutual benefit if there is an issue."

I asked the Crown Estate about the requirement for the permission from Hjaltdland and they replied "It is not their consent exactly that we require (well not in the formal sense) as we do not demarcate lease areas according to separation distances (as SIC do) but rather just to communicate with them, as existing tenants, as a matter of courtesy so they are aware of your intended development and to ensure that there is no conflict issues. You would similarly be afforded the same courtesy."

SIC have based the assumption that a seabed lease would not be forthcoming on the basis that permission from Hjaltdland was required by the Crown Estate before they would give one. That is not the case. I do not need the consent of Hjaltdland to obtain a seabed lease. I have engaged in discussions with Hjaltdland and forwarded all correspondence to the Crown Estate and they have requested no further action in that regard. So I am of the opinion that a permission from Hjaltdland is not required and consequently that any lack of permission would not prevent a seabed lease being issued.

I also think the SIC is wrong in pre-empting the decision of the Crown Estate on issuing a lease when the Crown Estate specifically states that 'my consultation response does not say that a lease won't be granted'. Clearly they have not got an answer from the Crown Estate but I think it is wrong to prejudge that answer. The answer should come from the Crown Estate.

The decision notice is not in accordance with G7 as stated above. G7 states:

G7. Planning applications will be dealt with by the Council on a first come, first served basis. Where the Council has a pre-existing application, any subsequent applications that are made in the area of the initial application will be recommended for refusal on the basis that the application process is in train for a previous applicant.

There is no pre-existing application that effects my application and so a recommendation for refusal on this basis is wrong. The last application in the vicinity of the application is application number 2011/007/NS – an application which lapsed through none-development in February 2014, six months before I submitted my application.

The decision notice is not in accordance with G2 as stated above. G2 states:

G2. The Council will take account of the views of all interested parties, including competent and relevant bodies and local communities, in its determination of planning applications.

An objection was raised by Hjaltdland that the development is close to their lease area for mussels. However, their planning permission for the development of a mussel farm at the site had lapsed and been forfeit six months prior to

my planning application. In previous planning cases similar objections have not been upheld on the basis that the former planning permission was forfeit and so no longer valid.

The issue regarding Hjaltland's permission and the Crown Estate response has already been discussed.

So I cannot see any valid objections that would endorse a refusal of planning permission.

Delegated Report of Handling:

The delegated report of handling shed further light on the reasons for refusal.

I refer to the last paragraph page 6 of the report.

In summary SIC received an application from Hjaltland (2014/028/MAR) to develop a mussel farm adjacent to my application on 03/09/14. Policy S1 prevents both applications from being approved as they are not 500m apart. SIC considers that I cannot obtain a seabed lease and so if planning permission was granted the site could not be used and would sterilise the site for 3 years. If my application was refused and the later application by Hjaltland approved it would allow mussel farming to take place as a seabed lease already exists. On that basis they are minded to refuse planning permission for my application in accordance with G2, G7 and CST1.

Firstly, Hjaltland have submitted a planning application on 03/09/14 before any decision has been made on my application and their planning application has been then used as a reason for refusal of my planning application. That seems very wrong to me and totally against policy G7 'First come, first served'. There has as far as I can ascertain been no other incident of an applicant submitting an application over the top of another application before it has been decided – as G7 states 'any subsequent applications that are made in the area of the initial application will be recommended for refusal on the basis that the application process is in train for a previous applicant'.

I did not know of application 2014/028/MAR when I submitted my application 2014/023/MAR (as it did not exist) so it seems very unfair to use it as a reason to substantiate refusal of planning permission.

Secondly, the history of the site is worth considering. In this I am including the footprint of both my application and the adjacent application by Hjaltland in Swinister Voe as the development of one will prevent the development of the other. SIC may be able to elaborate further on this history as I have asked them for a planning history of the site.

Hjaltland previously held a salmon works licence (2006/1016/RF) but it had not been worked for more than 3 consecutive years and was considered forfeit and revoked in October 2010.

Hjaltland submitted a planning application for a mussel farm at the same site (2011/007/NS) which was granted permission on 16 February 2011. The site was not developed for more than 3 consecutive years and was considered forfeit and revoked. I assume the planning permission lapsed in February 2014.

I enquired about the site in June 2014 in pre-application discussions with John Rosie I was told that the site no longer had planning permission and so an application at my chosen location would comply with Council policy.

I submitted a planning application on 05/07/14.

Hjaltland have had at least eight years to develop the site and failed to do so. So I disagree with the assertion by SIC that granting planning permission for Hjaltland's new proposal (2014/028/MAR) will not sterilise the site – as lack of development clearly does sterilise a site and one application has lapsed already.

Hjaltland also state in their emails that they have no intention to develop the site and intend instead to rent the site to Hunter Shellfish to farm mussels. I have no details of the rental agreement of when it was entered into. But why was such a rental agreement not acted upon (if it existed) when they did have planning permission previously? If it has not been taken up in past (since February 2011 when planning permission was granted) there is certainly no

compelling that it ever will be used if planning permission is granted again? In my mind that is sterilisation of water space...

I would also like to add that I placed my application next to old lapsed site and not over it as I had discussions with the Crown Estate about inactive sites (where inactive more than 3 years and so any planning permission was forfeit) but where a CE seabed lease still existed - and they said they were actively seeking to terminate those leases but that it took some time to do so - so that it is quicker to either have the lease area relinquished by the previous lessee or to get another lease area close by. As the Hjaltland site was a seabed lease did not have any active planning permission (since February 2014) I presumed the Crown Estate was actively seeking its termination but that it would take quite some time. Hence I ensured that none of my application overlapped the old lease site - which suited me as it was my preferred location in any event.

#### Case Histories:

Similar planning applications are rare as far as I can see but planning application 2011/011/NS has many similarities. The application was by North Atlantic Shellfish Ltd for a mussel farm at Papa Little, Swarbacks Minn. There was an objection by Viking Salmon Shetland Ltd on the basis that the proposed application was within 500m of their site at Ritness, Papa Little (2006/050/VF) for which they held a Crown Lease. SIC ruled that the Viking Salmon site (2006/050/VF) was forfeit as it had not been in use for over three years, so the objection was dismissed on those grounds and the planning application was granted. I have checked the planning records and can find no comment on the application by the Crown Estate. There was no requirement to obtain 'permission' from Viking Salmon for either a lease from the Crown estate or for planning permission from SIC. Nor should there be.

#### Subject of a lease from the Crown Estate:

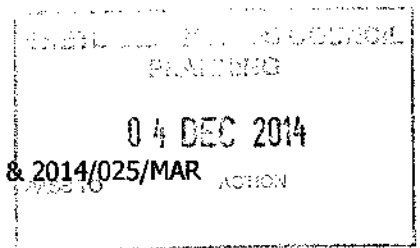
I would like to add that I applied for a LOA (Lease Option Agreement) for the Swinister application from the Crown Estate on 03/07/14. On receiving notice of a refusal of planning permission I wrote to John Rosie (SIC) to advise him that I had applied for a LOA on the site and what would be the outcome if I already had a lease? He advised that I should mention such information in this appeal.

The Crown Estate had done a conflict check of the area which had confirmed its availability and I had notified the adjacent leaseholder, as they requested, and so I confirmed to them that I wished to proceed with the LOA on 17/09/14. The Crown Estate replied on 24/09/14 that they could no longer issue the LOA as "Swinister Voe (Firth Ness) - if a submitted planning application has been rejected for this application then there is little point in granting a secure seabed interest for something that cannot proceed."

Frustratingly this is a 'Catch 22' situation. The crux of the refusal of planning permission by SIC is that a seabed lease will not be forthcoming. But the Crown Estate say they will not issue a seabed lease solely because planning permission has not been granted. That is a daft situation?

Because of the ambiguities in certain aspects of the decision to refuse planning permission I have submitted a Freedom of Information request to the Council and to the Crown Estate. I do not know at this stage if anything of any relevance will come to light but I request to reserve the right to submit additional information which may be relevant to this appeal should anything come to light.

**From:** [REDACTED]  
**Sent:** 01 October 2014 09:30  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR



Good morning Dave,

The application was refused due to the Planning Authority concluding that it is unlikely a Crown Estate seabed lease would be secured for the seabed area which was the subject of the planning application. This conclusion was arrived at due to a combination of the comments received from the Crown Estate (see below) and the following objection received from the adjacent seabed leaseholder: "The proposed site is only a few metres away from an existing Crown Estate lease, issued to Hjaltland Seafarms Ltd for the production of mussels."

Further to the above, if planning permission had been granted and a seabed lease not secured, approval of the application could have had the effect of sterilising all aquaculture development in the voe and the surrounding area for a period of at least three years due to the existence of the Council's policy regarding minimum separation distance between consented aquaculture sites.

To answer your numbered questions:

1. The decision on the application has been made so the only way it can be reviewed is through appeal to the local review body.
2. That would be a decision for the Councillors who sit on the local review body. If a lease option agreement was to be secured prior to any local review taking place, you would have the opportunity to relay that information to the local review body.

Best regards,

John

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 25 September 2014 10:22  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi John

Re: Swinister Voe

As I understand it the only reason why this application was refused was because of the rather unclear response below from the Crown Estate – is that correct?

1. If the Crown Estate were willing to consider or grant a lease option agreement over this site how would that effect the planning application – could it be reviewed or would there still have to be an appeal?
2. And of course, if they did grant an LOA and it was reviewed would it allow the planning application to be passed?

Thanks for your assistance.

Kind regards

Dave

**From:** [REDACTED]  
**Sent:** 08 September 2014 10:09  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi Dave,

The Crown Estate's official consultation response was:

*"The proposed development is too close to an existing lease interest and it is likely that we would be unable to lease this area without the current tenant's permission."*

When pushed for a more definitive steer as to the likelihood of a seabed lease being granted, I got the following response:

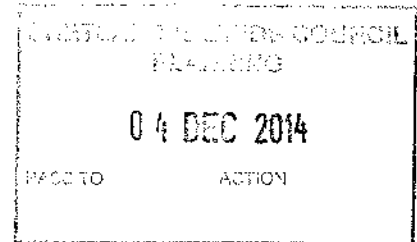
*"My consultation response does not say that a lease won't be granted, only that due to the close proximity of an existing lease interest, the current tenants permission would require to be sought. Basically we would request the applicant contact the existing Tenant to make them aware of their intentions and ensure agreement is reached to both parties mutual benefit if there is an issue."*

No other correspondence took place.

Best regards,

John

**From:** Grant Cumming [REDACTED]  
**Sent:** 15 August 2014 10:06  
**To:** D GRUNSHAW  
**Cc:** Bill Johnson  
**Subject:** RE: Swinister



Hi Dave,

We would not consent to the CE giving you a lease on the basis that this operation would interfere with Derek Hunter's use of our site which is less than 500m away. Sorry. Again, Bill is really the best person to speak to with regards to our planning permissions and CE leases. Please find his email address above.

Best regards,

Grant

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 15 August 2014 09:58  
**To:** Grant Cumming  
**Subject:** RE: Swinister

Hi Grant

Re: Swinister

Would you have any problem with me leasing the site from Crown Estates if it progressed that far?  
i.e. would I have your permission to do that?

Thanks

Dave

---

**From:** Grant Cumming [REDACTED]  
**Sent:** 15 August 2014 07:40  
**To:** D GRUNSHAW  
**Subject:** RE:

Hi Dave,

We have no plans to salmon farm in Swinister. We have rented the site to Derek Hunter from Yell for mussel production so it may have an effect on him but I don't know. My contact details are below if you would like to ring. I'll be in the office until about 10am then I'm out for the rest of the day. Mobile coverage will be patchy.

Best regards,

Grant Cumming  
Production Manager  
Hjaltland Seafarms Ltd  
Gremista  
Lerwick  
Shetland  
ZE1 0PX  
Tel. [REDACTED]  
Fax. [REDACTED]  
Mo. [REDACTED]

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 14 August 2014 16:33  
**To:** Grant Cumming  
**Subject:** RE:

Hi Grant

Re: Swinister Voe

I'm just dropping a line to discuss Swinister Voe.

I believe you said you had no plans for Swinister and that I should contact John Rosie to discuss a site in the vicinity? So I checked with the Council and positioned the application away from your site in accordance with their policies and advice – I did not think it would affect you as you had no plans for the site and it is outside the old salmon farm area in any event.

John thought that was fine and complied with their policies.

If it's OK I'd appreciate if you could just let me know?

I can be contacted anytime on this email to discuss or you can give me a call on 01529 968134.

It's probably safer using email as I'm out a lot.

Otherwise give me you number and I'll call for a chat.

Look forward to hearing from you.

Best regards

Dave

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 05 July 2014 23:03  
**To:** Grant Cumming  
**Subject:** RE:

Dear Grant

Thanks for the reply.

Please can I check about another site with you?

I was looking at a possible mussel production site in Yell Sound quite close to a former Hjaltland salmon farm in Swinister Voe.

Again I'm not sure what your intentions are in the area but I thought it best to check with you if you have a development going on that would rule the area out?

Look forward to hearing from you and thanks for your time.

Best regards,

Dave

---

**From:** Grant Cumming [REDACTED]  
**Sent:** 07 July 2014 08:16  
**To:** D GRUNSHAW  
**Subject:** RE:

Hi Dave,

The Swinister site has been rented to Derek Hunter for mussel production. We have no plans for development on that site. Again I think you would need to be 500m away from any other fish/shellfish farm. Have you been to speak to the planning department about development? If not I would suggest giving John Rosie a ring. He is very helpful and will be able to give you guidance on development.

Best regards,

Grant

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 05 July 2014 23:03  
**To:** Grant Cumming  
**Subject:** RE:

Dear Grant

Thanks for the reply.

Please can I check about another site with you?

I was looking at a possible mussel production site in Yell Sound quite close to a former Hjaltland salmon farm in Swinister Voe.

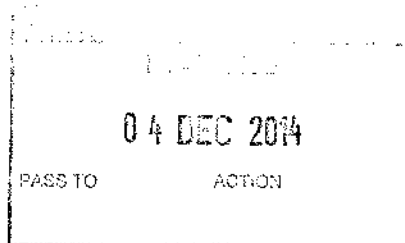
Again I'm not sure what your intentions are in the area but I thought it best to check with you if you have a development going on that would rule the area out?

Look forward to hearing from you and thanks for your time.

Best regards,

Dave





### Marine Fish Farm Lease or Lease Option Application Form - Scotland

Note: Applicants are referred to the information provided in the document "Guidance Notes for Applicants for Leases of Fish Farming Sites in Scotland" available on The Crown Estate website, prior to completing this form.

Name of Applicant	David Grunshaw
Contact Name	David Grunshaw
Tel Number:	01529 968134
E-mail:	dgrunshaw@gmail.com
Registered Office & Number	n/a
Correspondence Address (incl. post code)	24 Bede Close, Sleaford. NG34 8WE
If the fish farm is intended to be operated by a partnership or more than one party, please list any not already listed above. Provide the full name and address of each party (continue on a separate sheet if necessary)	

Site Name	FIRTH NESS, SWINISTER VOE
Species for Cultivation	Mussels, Oysters, Scallops, Seaweed
Site Location	SWINISTER VOE
New Lease/Modification to existing Lease If a modification, please provide current Lease Ref.	New

Application Type	Lease Option/ Lease * <u>Lease Option</u>
	Planning Consent Ref: not submitted for a Lease Application – please append a copy of the Planning Consent for a Lease Option Agreement Application – please indicate whether a planning application has been submitted, and if so please supply date of registration

Intended date (s) for Equipment deployment: Commencement of operation:	Autumn 2014 – Spring 2015
--	---------------------------

<b>Leased Area Co-ordinates</b>  Please also attach a plan with area required clearly indicated   (please continue on a separate sheet if required)	Please specify whether WGS84 or Chart Datum is the co-ordinate system used WGS84/Chart Datum *			
	Latitude		Longitude	
	Degrees	Decimal Min	Degrees	Decimal Min
	60	26.187	-01	10.363
	60	26.187	-01	10.216
	60	26.112	-01	10.216

Cultivation Equipment	Type	Size	Number
Cage pens *	None		
Longlines *	Double	110-230m	1-10
Shellfish Rafts *	None		
Other (specify)*	None		

<b>Ancillary Equipment Co-ordinates</b>  Feed Barge Other Barge (specify) Workboat mooring (s)	Please specify whether WGS84 or Chart Datum is the co-ordinate system used WGS84/Chart Datum *			
	Latitude		Longitude	
	Degrees	Decimal Min	Degrees	Decimal Min

Please note that ancillary equipment such as piers, jetties and or pontoons that are likely to remain in situ following cessation of fish farming may require a separate Marine Works Licence. (please contact the Edinburgh office if there are any queries in this regard)

(\*delete where not applicable)

### Additional Supporting Information Required

- Plan of area of seabed to be leased (plans should be of a scale in range 1:10,000 to 1:25,000)
- Copy of Planning Consent, where a Lease is being applied for.
- The relevant consent references and consent holder's names for other statutory consents for this site (eg. authorization by SEPA under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 and/or Marine Licence issued under part 4 of the Marine (Scotland) Act 2010)
- A brief outline of the business/production plan for the site in question to indicate:
  - Provision of financial resources for the installation and operation of the site (bank references may be requested)
  - Business/Production strategy plan (that submitted for planning consent will be acceptable)
  - Decommissioning measures in the event of renunciation/termination of the lease

### Terms & Conditions

1. At its cessation, The Crown Estate lease will require complete removal of **all equipment, including ancillary**, arising from the operation of the Fish Farm. The Applicant will be responsible for providing the resources to do so. The Crown Estate reserves the right to request a survey, at the tenant's expense, to confirm removal of such equipment.
2. Whilst financial information submitted with this application is intended to be confidential, The Crown Estate is subject to The Freedom of Information Act 2000. In the event that request for information pursuant to such Act is received The Crown Estate will act in accordance with its statutory duties and will determine what information requested should be disclosed subject to any order for disclosure that may bind The Crown Estate.
3. In processing your application and/or granting any option consequent on this application The Crown Estate expresses no view on whether or not any planning permission will be received to permit a fish farm operation to be carried on in the area or whether the seabed in the area to which the application relates is suitable for fish farming purposes.
4. This application has not been made relying on any statement or information made by or on behalf of The Crown Estate or any of its appointed agents or consultants.

5. Any Stamp Duty Land Tax or any tax of any description that may be generated by or payable consequent upon the application for the grant of Planning Permission and/or the Option and/or the Lease will be my/our responsibility.
6. The Crown Estate reserves the right to seek further information on how the commencement and continued operation of the fish farm is to be financed, and in relation to this, bank references may be required.

#### Declaration

I/we\* confirm I/we\* have read the Guidance Notes for applicants for leases or options for leases of fish farming sites in Scotland (if you require any further information on the terms of a marine fish farm lease, please contact the Edinburgh office).

I/we\* confirm the information given in this Application is true and correct.

I/we\* understand and accept that this application is made subject to the terms and conditions indicated above:

Signature of Applicant(s).

Name(s)

DAVID GRUNSHAW

On behalf of \*

Date

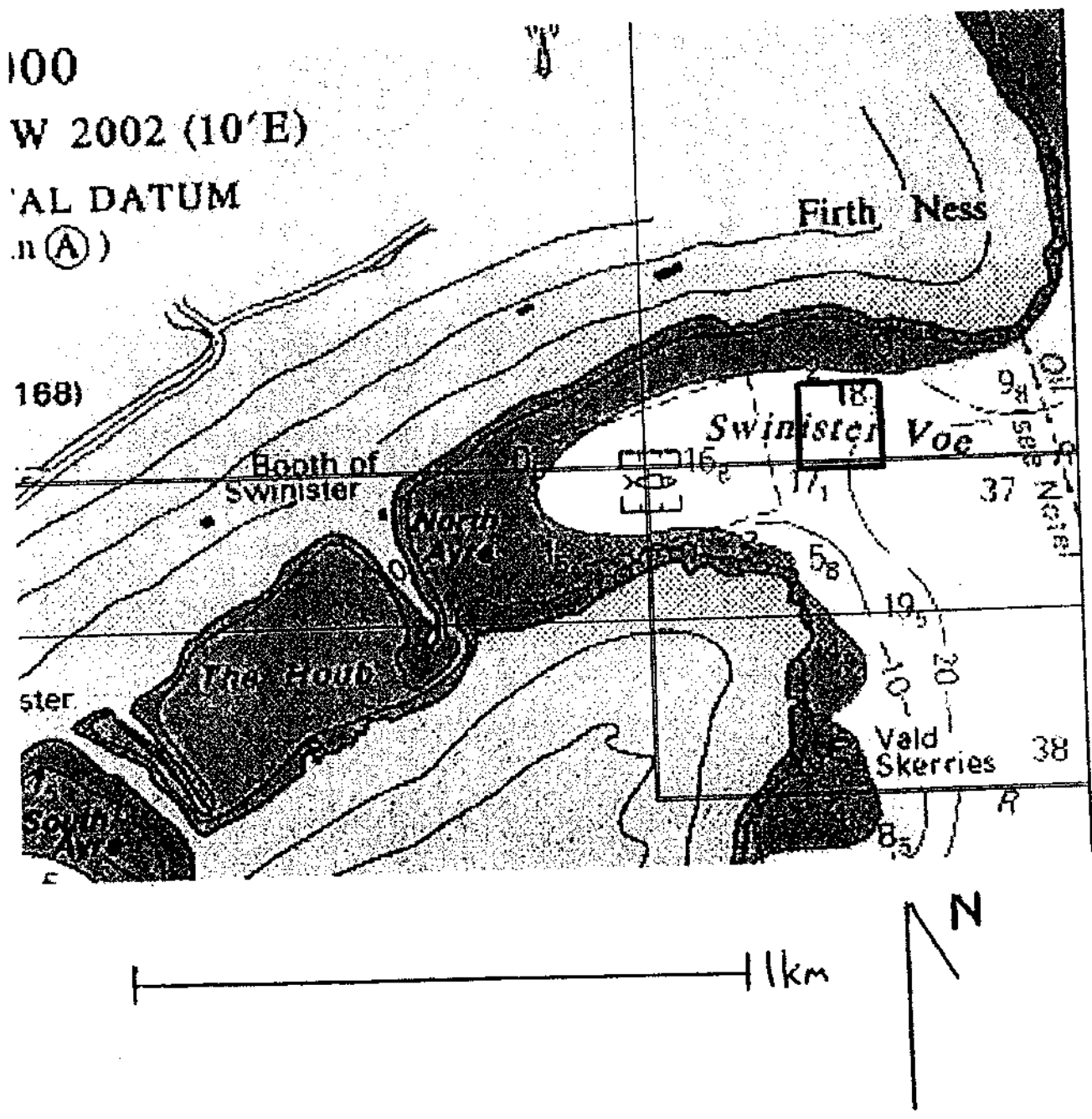
03.07.2014

Please return this form with accompanying documents to:

Aquaculture Lease Co-ordinator, The Crown Estate, 6 Bell's Brae, Edinburgh, EH4 3BJ

Or email application to: [Charlene.McPake@thecrownestate.co.uk](mailto:Charlene.McPake@thecrownestate.co.uk)

(\*delete where not applicable)



Outline of case to be put forward:

1. The Council were wrong in jumping to the assumption that a seabed lease would be unlikely to be obtained by the applicant for the foreseeable future. They had omitted to take account of further correspondence provided by a consultee which showed that was not the case.
2. As the above is the only reason given for refusal of planning permission then the decision to refuse planning permission is wrong as the application meets all planning rules.

List of Documents to be relied up on:

1. Documents already disclosed and submitted in the Statement of Review (Notice of Review).
2. Further statement from the applicant.
3. Further email correspondence with SIC.
4. Letters of support.

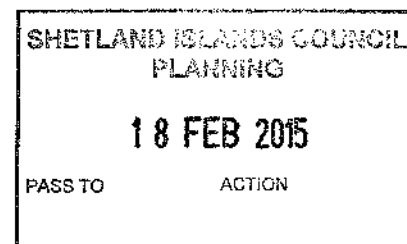
Kind regards,

[Redacted Signature]

David Grunshaw

Laxfirth Shellfish

13<sup>th</sup> February 2015



SHETLAND ISLANDS COUNCIL PLANNING	
18 FEB 2015	
PASS TO	ACTION
M/m	163098

1. The Council's reason for refusal is given as:-

**Reasons for Council's decision:**

(1.) Whilst the proposal complies with Council policy, the fact that a seabed lease is unlikely to be granted at the site for the foreseeable future is a material consideration as approval of the application could effectively sterilise the surrounding area for future aquaculture development owing to the existence of the Council's policy regarding minimum separation distance between consented sites. To prevent such possible sterilisation the application is therefore refused. Such a decision is in accordance with policies G2 and G7 of the Shetland Islands Council Interim Policy for Marine Aquaculture.

2. The Council explained in the Delegated Report that they had come to the conclusion that a seabed lease is unlikely to be granted at the site for the foreseeable future for three reasons:-

2.1. From the response to the consultation received from the Crown Estate, saying the adjacent tenant's permission was required before they could give a lease:

The Crown Estate was consulted on 8 July 2014. Their comments dated 22 July 2014 can be summarised as follows:

The proposed development is too close to an existing lease interest and it is likely that we would be unable to lease this area without the current tenant's permission.

2.2. From the objection from the adjacent leaseholder, Hjaltland:

The proposed site is located approximately 40m to the east of the development site boundary of a previously consented aquaculture site (most recent planning permission ref: 2011/007/NS granted on 16 February 2011 for a mussel farm development). Marine Planning monitoring records indicate that this permission has fallen as a result of development not commencing within three years of the date of the permission. The proposed site is not located within 500m of any other consented aquaculture sites so is considered compliant with Policy S1. However, the Crown Estate seabed lease for the previously consented mussel farm remains in effect and the current lease holder, Hjaltland Seafarms Ltd, has objected to the application under consideration on the grounds that the application site is too close to their leasehold. The Crown Estate in their consultation response state that it is unlikely a seabed lease will be granted for the single longline proposed without the permission of the adjacent lease holder. The applicant has confirmed that they have been unable to obtain such agreement following discussions with Hjaltland.

2.3. And from my comment to the Council regarding my communications with Hjalmland, where they had not given me permission (as shown at the end of the paragraph given in 2.2. above).

3. The above three reasons for refusal, which form the basis of the Council's Decision to refuse planning permission are invalid for the following reasons:-

3.1. The consultation statement from the Crown Estates is taken out of context and is incomplete as it does not take account of the second response received by the Council from the Crown Estate. The full response from the Crown Estate, including their second 'clarifying' response, should have been given in the Delegated Report.

The second response from the Crown Estate is shown in the email from John Rosie concerning the likelihood of a seabed lease for applications 2014/023/MAR (this one) and 2014/025/MAR (Setterness) (both of which required the adjacent tenant's permission to be sought):

When pushed for a more definitive steer as to the likelihood of a seabed lease being granted, I got the following response:

*"My consultation response does not say that a lease won't be granted, only that due to the close proximity of an existing lease interest, the current tenants permission would require to be sought. Basically we would request the applicant contact the existing Tenant to make them aware of their intentions and ensure agreement is reached to both parties mutual benefit if there is an issue."*

No other correspondence took place.

Best regards,  
John

The Crown Estate does not say that a lease will not be forthcoming – as alleged by the Council. In fact they go out of their way to stress that their first response 'does not say that a lease won't be granted'.

Nor is the Crown Estate asking for the adjacent tenant's permission to be obtained. They are asking for the adjacent tenant's permission to be 'sought'.

The definition of 'sought' is:

**sought** [sôt]

Use **sought** in a sentence

verb

1. The definition of sought is a person or thing has been looked for or requested.

*An example of sought is a family looking for their lost dog.*



3.

To be clear - the Crown Estate were not asking me to OBTAIN permission from Hjaltdland before they would issue a lease, they required me to contact Hjaltdland as a matter of courtesy to inform them of my intentions. There was no requirement for Hjaltdland to grant permission, just that the request had been made to them and communication established. There is a big difference between being required to communicate with someone and being required to obtain someone's permission.

This is in agreement with the response that I had received from the Crown Estate when I sought clarification regarding 'requiring the adjacent lease holder's permission'. They responded:

Dear Dave,

It's not their consent exactly we require (well not in the formal sense) as we do not demarcate lease areas according to separation distances (as SIC do) but rather just to communicate with them, as existing tenants, as a matter of courtesy so they are aware of your intended development and to ensure that there are no conflict issues. You would similarly be afforded the same courtesy. The email that you have received from Grant is therefore sufficient.

So for the Council to deduce that a lease would be unlikely from the Crown Estate they must have either considered that I had not communicated with Hjaltdland and SOUGHT their permission (and so was not complying with what the Crown Estate had asked me to do) OR they must have possibly misunderstood the meaning of sought?

Had I communicated with Hjaltdland?

I refer to the email trail between myself and Grant Cummings of Hjaltdland that is referenced in the Document List of this appeal as Document 8. 'Email correspondence with Hjaltdland'.

Firstly, it is clear that I communicated with Hjaltdland about the site even BEFORE applying for planning permission.

Secondly, the Council were fully aware of my communication with Hjaltdland. In fact I had asked the Council to delay acceptance of the proposal while I waited for a reply from Hjaltdland:

Please can you hold off validating Swinister till Monday though as I want to give Grant at Hjaltdland more time to reply - just want them to confirm that they have no plans for the site to the west of the application.

I presume that is the case as they let the planning lapse a while ago - but it is only polite to check as it would impact their site.

Thirdly, and in particular, the Council knew that I had SOUGHT Hjaltdland's permission - as one of the reasons the Council gave for refusal was that Hjaltdland had not yet given permission in relation to my request to them.

So, clearly the Council knew that I had complied with the Crown Estates requirement to communicate with Hjaltdland and notify them of my intentions.

4.

SO THE COUNCIL HAS NO REASON TO BELIEVE THAT A SEABED LEASE IS UNLIKELY TO BE GIVEN FOR MY PROPOSAL.

3.2. The objection by Hjaltland was given by the Council as a reason to believe that a seabed lease would not be forthcoming from the Crown Estate.

Firstly, as discussed above, there are no grounds to believe that an objection from Hjaltland's would determine if a seabed lease is given by the Crown Estate. The Crown Estate did not require Hjaltland to give permission before a lease was awarded.

Secondly, I had cleared the site with the Crown Estate, they had done a conflict check and had confirmed it was clear and available to lease.

Thirdly, I had cleared the site with the Council before applying and they had told me that it complied with separation distances and was available space for an application.

As confirmed previously, we are minded that planning permission 2011/007/NS has fallen as a result of development not commencing within three years of the date of the permission. As your application for a mussel longline at Swinister Voe is not sited within 500m of any extant aquaculture planning permission, it would comply with separation distance policy.

Regards,  
John

So the presence of Hjaltland's former site in the vicinity should have no affect on the decision. Their planning permission had lapsed seven months before my application was submitted as mentioned in the email from Martin Holmes:

3. Adjacent site was operated as a salmon farm under a SIC works licence, this was deemed forfeit due to non-use. Application 2011/007/NS submitted as site no longer considered appropriate for salmon production, discussions held between Hjaltland and a shellfish developer to develop site but this did not happen within 3 years of grant of permission so permission fell hence application 2014/028/MAR.

The bottom line though is that Hjaltland's objection is not relevant to the granting of a seabed lease. The Crown Estate has made no mention of not granting a lease if there is an objection to the application from Hjaltland or that any permission or consent is required from Hjaltland for the granting of a seabed lease. The only requirement was that I communicate my intentions to them.

3.3. The fact that the applicant had been unable to obtain permission from Hjaltland during discussions was also given as a reason to believe that a seabed lease would not be forthcoming from the Crown Estate.

The Crown Estate only required me to inform Hjaltland of my intentions. That I had done and so I had correctly fulfilled what I was required to do by the Crown Estate in order to obtain a lease. So the Council's assumption that I needed Hjaltland's permission for a seabed lease is incorrect.

In summary:

From the above there is nothing to suggest that a seabed lease would not be given by the Crown Estate and the Crown estate had gone out of their way to say to the Council that they were 'not saying that a seabed lease would not be given.'

Some blame must lie with the Crown Estate in providing a badly worded and potentially misleading first consultation response. The first statement is misleading and incorrect in saying permission is required from Hjaltland. I do not know if that was just an unfortunate and inappropriate use of words or a deliberate attempt by the Crown Estate to mislead the Council?

However, it was rectified by the Crown Estate in their second statement which was a little clearer about their position and what was required to grant a seabed lease.

The fact that the Council did not refer to the second statement from the Crown Estate or use it in making a decision on the application (it is not mentioned at all in the decision process detailed in the Delegated Report) is also unfortunate. Clearly if they had referred to it they would have seen error in their assumptions?

Some blame must lie with the Council in ignoring the second response from the Crown Estate. The second response should have been referenced and referred to in the decision process and I feel its omission has had a material impact on the decision. I submit the Council's decision to refuse planning permission was a flawed and incorrect decision because of not taking account of the full response from the Crown Estate.

Would a seabed lease be made available?

With the caveat that I can in no way decide if the Crown Estate will award a seabed lease – that is solely their decision - I can infer that there was no reason to suspect that one would not be forthcoming.

1. Before applying for planning permission I had enquired with the Council, Hjaltland and the Crown Estate about the site in question. The Council had confirmed that my application complied with planning policy (regarding separation distance etc.) and there were no problems there. Hjaltland had said in pre-consultation communications that they were not developing the site and would not be affected. The Crown Estate had done a conflict check on the site and confirmed its availability to lease.
2. So I submitted a planning application (to SIC) and a lease option agreement, LOA (to the Crown Estate). (See Document 9.)
3. The only requirement for a seabed lease to be granted that the Crown Estate informed me of was that I communicate my intentions to Hjaltland. As can be seen from the correspondence with the Crown Estate I was not required to obtain Hjaltland's permission. Accordingly, I communicated with Hjaltland (I had already done so before the Crown Estates request) and so the Crown Estates requirement for a lease was satisfied.
4. After the planning application was refused I contacted the Crown Estate to progress and take up the seabed lease on the site. However, the Crown Estate now said they could no longer grant me a seabed lease for the site as planning permission had been refused. The only reason for refusal of a lease was the refusal of planning permission – there was no other matter mentioned at all.
  4. Swinister Voe (Firth Ness) – if a submitted planning application has been rejected for this application then there is little point in granting a secure seabed interest for something that cannot proceed.
5. I am of the opinion that if planning permission had been granted a seabed lease would have been given by the Crown Estate as they have provided no indication to the contrary at all. In fact they confirmed that the conflict check was OK and accepted the LOA and I fulfilled their requirement to

communicate my intentions with the adjacent lease holder. Consequently, I consider that I would receive a lease as they had said nothing to the contrary and the only reason for not giving one eventually was that planning permission had been refused?

So I refute the Council's conclusion that the granting of a seabed lease was unlikely to be forthcoming and on that basis I believe that the Council's refusal of planning permission was incorrect.

There is no requirement for a lease to be in place before planning consent is given. And as detailed above there was no reason to suspect that one would not be forthcoming.

I hope the Appeal panel will note the ludicrous 'Catch 22' situation that the applicant is in - the planning permission is refused because the Council feel a seabed lease will not be granted and then the seabed lease is not granted because the planning permission has been refused?? It is obvious that had planning permission been given then the seabed lease would not have been refused for that reason.....

D Grunshaw

C Laxfirth Shellfish

13<sup>th</sup> February 2015

**From:** [REDACTED]  
**Sent:** 12 December 2014 14:19  
**To:** [REDACTED]  
**Subject:** RE: Review of delegated decision.

Dear David,

In regard to the queries you raise below I would answer as follows:

1. Not in Shetland although there may be other examples from elsewhere in Scotland.
2. As for (1) above.
3. Adjacent site was operated as a salmon farm under a SIC works licence, this was deemed forfeit due to non-use. Application 2011/007/NS submitted as site no longer considered appropriate for salmon production, discussions held between Hjaltland and a shellfish developer to develop site but this did not happen within 3 years of grant of permission so permission fell hence application 2014/028/MAR.

A response to your email of 4 December will follow in due course but will be from a different source as it has been deemed to be a FoI request.

Kind regards

Martin Holmes

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 03 December 2014 14:32  
**To:** Holmes Martin@Development Service  
**Subject:** RE: Review of delegated decision.

Dear Martin

Re: Swinister Application reference 2014/023/MAR

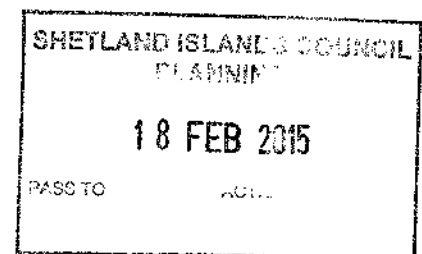
Please can I ask you a few questions:

1. I have searched through then planning history that is online but I cannot find another case where the Crown Estate has not given a clear indication of whether they would give a lease for a planning application or not. Do you know of any other planning application where the Crown Estate has declined to give a firm decision?
2. Similarly, do you know of any other planning application where the Crown Estate has ever sought an applicant to gain 'permission' from a third party before deciding to give a lease or not?
3. Is it possible to give me a brief potted planning and development history of the adjacent site in Swinister Voe (2011/007/NS, 2014/028/MAR and earlier planning applications) since it was last used as a salmon farm?

Thank you very much for your kind assistance.

Kind regards

Dave







**Guidance on Local Review under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) to be considered by the Planning Committee sitting as Local Review Body: Local Review Ref: 2014/025/MAR – LR2 – To deploy a single 220m twin-headline longline for production of mussels, Setterness, Lunna, Shetland.**

## **1 Introduction**

- 1.1 The Planning Scheme of Delegations that has been approved by the Council, as well as that which has been approved by the Scottish Ministers, identifies the appropriate level of decision making to ensure compliance with the 1997 Planning Act.
- 1.2 The Scheme of Delegations, following the hierarchy of development introduced by the Planning etc. (Scotland) Act 2006 which is at the heart of the modernised planning system, provides that where a decision on an application for planning permission for a local development (as defined in the Hierarchy of Development) is to be taken it may, subject to certain exceptions, be so by officers as have been appointed by the planning authority.
- 1.3 A decision on an application for planning permission for a local development that is taken by an officer (the appointed person) under the Scheme of Delegations has the same status as other decisions taken by the planning authority other than arrangements for reviewing the decision. Sections 43A(8) to (16) of the 1997 Act remove the right of appeal to the Scottish Ministers, and put in place arrangements for the planning authority reviewing these decisions instead.
- 1.4 The Full Council resolved on 12 May 2011 (Minute Ref: 57/11) that the remit of the Planning Committee be extended to include the functions of the Local Review Body, who would review the decision taken.

## **2 Process**

- 2.1 The procedures for requiring a review and the process that should then be followed are set out in regulations, and these have been followed in the administrative arrangements that have been carried out for support of this review in accordance with its being the intention that decision making by the Local Review Body will follow a public hearing. This however should be confirmed by the Review Body in each case before proceeding.
- 2.2 The Review Body is, where a decision has been taken that the review is to follow the public hearing procedure, required to follow Hearing Session Rules under Schedule 1 of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013. In

doing so they are to confirm the matters to be considered and the order in which persons entitled to appear are to be heard.

- 2.3 It has been the intention that such hearing sessions will be held in a similar manner to the current Planning Committee, with the Planning Service Case Officer presenting on the matters to be considered, followed by those persons entitled to appear other than the applicant, followed by the applicant, with its being the case that Members of the Review Body can ask questions throughout the process. The hearing session can similarly proceed in the absence of any person entitled to appear at it. The Review Body should confirm this order and confirm the time each person entitled to appear is to be afforded beforehand.
- 2.4 The Hearing Session Rules prescribe that the hearing shall take the form of a discussion led by the local review body and cross-examination shall not be permitted unless the local review body consider that this is required to ensure a thorough examination of the issues. Persons entitled to appear are entitled to call evidence unless the local review body consider it to be irrelevant or repetitious. The local review body may also refuse to permit the cross-examination of persons giving evidence, or the presentation of any matter where they similarly consider them to be irrelevant or repetitious.
- 2.5 The matters that are attached for the purposes of consideration by the Review Body in this case comprise: the decision in respect of the application to which the review relates, the Report on Handling and any documents referred to in that Report (including: the planning application form, and any supporting statement and additional information submitted, consultation responses and representations received prior to the decision notice by the appointed person being issued); the notice of review given in accordance with Regulation 9; all documents accompanying the notice of review in accordance with Regulation 9(4); any representations or comments made under Regulation 10(4) or (6); and any 'hearing statement' served in relation to the review.
- 2.6 In order to be able to give notice of their decision in accordance with the regulations, the local review body must be clear on the details of the development plan and any other material considerations to which it had regard in determining the application, and, where relevant: include a description of any variation made to the application in accordance with section 32A(a) of the 1997 Act; specify any conditions to which the decision is to be subject; include a statement as to the duration of any permission granted or make a direction as to an alternative (and in the case of a planning permission in principle any substitute time periods to apply to approvals of matters specified in conditions); and if any obligation is to be entered into under section 75 of the 1997 Act in connection with the application state where the terms of such obligation or a summary of such terms may be inspected.

planning committee.doc  
M Holmes  
Planning Committee: 10/03/2015



Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013

Local Review Under Section 43A(8) of the Town and Country Planning (Scotland) Act 1997 (As Amended)

Regarding Planning Application Reference: 2014/025/MAR  
To deploy a single 220m twin-headline longline for production of  
mussels, Setterness, Lunna  
By Laxfirth Shellfish

10 March 2015

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Section 8.	Relevant Post-Decision Correspondence
Section 9.	Notice of Review
Section 10.	Hearing Statements

# APPLICATION FOR MARINE FISH FARM PLANNING PERMISSION

Town and Country Planning (Scotland) Acts

Please refer to the accompanying Guidance Notes when completing this application  
Limited space is available on the form, provide additional information on a separate sheet of paper

1. Applicant's Details		2. Agent's Details (if any)	
Title	<u>Mr</u>	Ref No.	
Forename	<u>DAVID</u>	Forename	
Surname	<u>GRUNSHAW</u>	Surname	
Company Name	<u>LAXFIRTH SHELLFISH</u>	Company Name	
Building No./Name		Building No./Name	
Address	<div style="border: 1px solid black; padding: 5px; min-height: 60px;"> <u>24 BEDE CLOSE</u> <u>SLEAFORD</u> </div>		
Postcode	<u>NG34 8WE</u>	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
<div style="border: 1px solid black; padding: 5px; min-height: 60px; display: flex; justify-content: space-between;"> <div style="width: 40%;"> <u>SHETLAND ISLANDS COUNCIL</u> <u>PLANNING</u>  <u>- 4 JUL 2014</u> </div> <div style="width: 50%; text-align: right;"> <small>PASS TO</small> <small>ACTION</small> </div> </div>			
<b>3. Location of Proposed Development: Please identify/describe the location of the site or sites:</b>			
<u>SEETERNESS</u> <u>YELL SOUND</u>			
Grid reference (at mid-point of site): <u>HU 48344 71117</u>			
Easting: <u>-17.436</u>		Northing: <u>60 25.261</u>	
Latitude/longitude position (at external corners or edges):			
<u>60 25.340, -17.398</u>		<u>60 25.335, -17.367</u>	
<u>60 25.187, -17.505</u>		<u>60 25.182, -17.474</u>	
<b>4. Type of Application</b>			
What is the application for? Please select one of the following:			
New site			<input checked="" type="checkbox"/>
Change of Use of Existing site (including species change)			<input type="checkbox"/>
Alterations/extension to existing site			<input type="checkbox"/>
Variation or removal of condition			<input type="checkbox"/>

\*If there have been previous planning permissions on this site please provide the reference number of the most recent one:  Date of decision:

Reference No:  Please provide details of any other consent for the site (i.e. Crown Estate, Scottish Ministers)

#### 4a. Species (if mixed use please indicate)

Fin fish

☐

Species

Shellfish

☒

Species

MUSSELS

Other (Please specify)

☐

Species

#### 5. Description of the Proposal

Please describe the proposal including any change of use:

TWIN-HEADLINE LONGLINE WITH CONTINUOUS  
GROW ROPE FOR MUSSEL PRODUCTION

Please tick the relevant boxes for the type(s) of equipment which will be involved (see notes for full explanation)

Circular cages

☐

Square/rectangular cages

☐

Longlines

☒

Raft/grids

☐

Moorings

☐

Feed barges

☐

Feed pipes to shore

☐

Pontoons

☐

Accommodation on the marine installation(s)

☐

Other (please specify)

Have the works already been started?

Yes ☐ No ☒

If yes, please state date and, if completion, the completion date:

Date started:

Date completed:

If yes, please explain why work has already taken place in advance of making this application

## 6. Development Area

Please state the dimensions of the site in metres and the total site area in both square metres and hectares:

	Site dimensions			Total site area
	length(m)	Width(m)	(sq.m)	(hectares)
Existing surface area:				
Proposed surface area:	220	1	220	0.022
Existing moorings area:				
Proposed moorings area:	300	1	300	0.030

Is the surface area of the site 2 hectares or above?

Yes/No

If yes please include with your application a pre application consultations report along with a design statement

## 7. Equipment

### 7a. Primary Equipment:

	Existing	Proposed
Type of units (eg cages/pens/longlines/rafts/trestles)		LONGLINE
Number of units		ONE
Shape(s) of units		LINEAR
Cage sizes/longline length		220
Number of cage/longline/raft/trestle group		ONE
Moorings grid dimensions for each unit (circular cages)		
Other equipment – specify below		

### 7b. Ancillary Equipment:

	Existing	Proposed
Barge/feeding station type (e.g. automated feed barge)		
Capacity of feed barge(tonnes)		
Number, type and colour of buoys		ALL BLACK/GREY (SAME COLOUR) GEN-TYPE 300L AS REQUIRED
Lighting (underwater/ surface)		
Navigational equipment		AS PER NLB REQUIREMENT
Other equipment		

### 8. Production Information

	Existing	Proposed
Maximum stocked biomass (tonnes)		12
Maximum production biomass per cycle (tonnes)		12
Proposed production cycle (months)		36
Stocking densities		
Fallow Periods	1 - 12 MONTHS	

### 9. Operation of Facility /Landing/Servicing

How will the site be serviced?

WORKBOAT

Where will the site be served from? Details of the shore base location(s)

BURRAVOE, YELL OR TOFT

Normal daily operational hours of site (feeding, deliveries etc)

0600 - 1800

Operational activities during harvesting and stocking periods (method of delivering stock etc)

LIMITED ACCESS REQUIRED FOR DEPLOYMENT, MONITORING,  
HUSBANDRY AND HARVESTING.

### 10. Supporting Information

Will the site be used in a rotational basis with other sites?

Yes ☐ No ☒

BUT MAY BE AT SOME TIME LATER

Are there agreements in place with other nearby fish farms and/or fishing interests? Yes ☐ No ☒  
Please provide details.

What operational and management practices are to be put in place to ensure site containment and disease control? Please provide details.

WILL BE REGISTERED WITH MARINE SCOTLAND AND  
ADHERE TO EXISTING BIOSECURITY PROTOCOLS THROUGH A  
BIOSECURITY PLAN APPROVED BY MARINE SCOTLAND.

What methods will be used to control the impacts of predatory wildlife (e.g. top nets, anti-predator nets or Acoustic Deterrent Devices. With ADD's provide name of the manufacturer and the model, also the proposed pattern of use (ie continuous/ scare-response/ seasonal). Please provide details.

IF REQUIRED ANY ANTI-PREDATOR METHODS DEPLOYED  
WILL BE IN AGREEMENT WITH SNH/RSPB.

Note: site-specific strategy on predator control may be required which takes account of conservation legislation. Data on protected species in the area may also be required. These should be provided as an attachment.

What level of local employment will be generated directly as a result of the proposal?

1 PART-TIME + DOWNSTREAM SUPPORT OF CONTRACTORS,  
HAULIERS, PROCESSORS ETC.

What restoration works are proposed in the event of cessation of operations?

REMOVAL OF EQUIPMENT.

Nutrient enhancement calculations, benthic impact, water column and assimilative capacity along with impacts on biodiversity are all issues that are of interest to consultees in the planning process and it may aid their ability to comment on the application if information on these matters are included within your application.  
Please provide this information or any other relevant information below.

SHELLFISH & SEAWEED FARMING IS GENERALLY  
RECOGNISED AS HAVING A LOW ECOLOGICAL IMPACT  
OVER A LIMITED SPATIAL AREA.

#### 11. Discharges (not required for shellfish developments)

Has an application been made to SEPA under The Water Environment (Controlled Activities) (Scotland) Regulations 2005

Yes ☐ No ☒

If yes, please give the date of approval and the maximum biomass approved.

#### 12. Water Quality

Has a water quality report been prepared?

Yes ☐ No ☒

If yes, please attach a copy of the report with your application

If a shellfish proposal, please indicate status of water (e.g. is it shellfish waters)

**13. Environmental Assessment**

Has the development been the subject of a screening and or scoping opinion under the Environmental Impact Assessment (Scotland) Regulations 1999(as amended)? Yes ☐ No ☒

If yes, please provide a copy of the screening and or scoping opinion

Was an Environmental Assessment required?

Yes ☐ No ☒

If yes, please submit the environmental statement along with the application

**14. Pre-Application Discussion**

Have you received any advice from the planning authority in relation to this proposal?

Yes ☒ No ☐

If yes, in what format was the advice given?

Meeting ☐ Telephone call ☐ Letter ☐ Email ☒

Please indicate who you discussed this proposal with: name & date

JOHN ROSIE

**15. Planning Service Employee/Elected Member Interest**

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the Council? Yes ☐ No ☒

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority? Yes ☐ No ☒

If you have answered yes please provide details:

--

**16. Land Ownership Certificate (includes seabed)**

(a) I hereby certify that 21 days before the date of the application: (tick one box only)

1 No person (other than the applicant) was the owner of any of the land, including the seabed, to which the application relates, or an agricultural tenant. ☐

Or

2. The applicant does not own all the land involved, including the seabed, in the application site, but has given a copy of the requisite notice under Regulation 15(1) to the owner(s) or agricultural tenants of any of the application site. ☒

They are:

Name of Owner

Address where notification sent

Date Notified

CROWN ESTATES

6 BELLS BRAE, EDINBURGH

EH4 3BJ 04/07/2014

(b) I further certify that 21 days before the date of the application: (tick one box only)

1. None of the land formed part of an agricultural holding. ☒

Or

2. The applicant has given notice to every person who was a tenant of an agricultural holding, any part of which formed part of the application site. ☐

These persons are:

Name of tenant

Address where notification sent

Date Notified




## CHECKLIST

Please complete the following checklist to make sure you have provided all the necessary information in support of your application. Failure to submit all this information may result in your application being deemed invalid.

- |   |                                     |
|---|-------------------------------------|
| Appropriate fee (please refer to the guidance notes or Scale of Fees)                                   | <input checked="" type="checkbox"/> |
| Signed and dated Land Ownership Certificate   | <input checked="" type="checkbox"/> |
| Location plan including north point and scale (Site boundary shown in red)                              | <input checked="" type="checkbox"/> |
| Admiralty chart showing the application site  | <input checked="" type="checkbox"/> |
| Site plan or block plan (showing the layout of the site, equipment and grid reference and co-ordinates) | <input checked="" type="checkbox"/> |
| Plans and sections of the cages/cultivation equipment, including all ancillary equipment                | <input checked="" type="checkbox"/> |
| Photographs and/or photomontages  | <input type="checkbox"/>            |
| (where these have been specified as necessary by the planning authority)                                | <input type="checkbox"/>            |
| Provide copies of the following documents if applicable:  |                                     |
| Environmental statement:  | <input type="checkbox"/>            |
| Landscape and visual impact assessment  | <input type="checkbox"/>            |
| Design statement  | <input type="checkbox"/>            |
| Pre-application consultation report (required when sites with a surface area of 2 hectares or above)    | <input type="checkbox"/>            |
| Water Quality report  | <input type="checkbox"/>            |

Other, please specify:

## DECLARATION

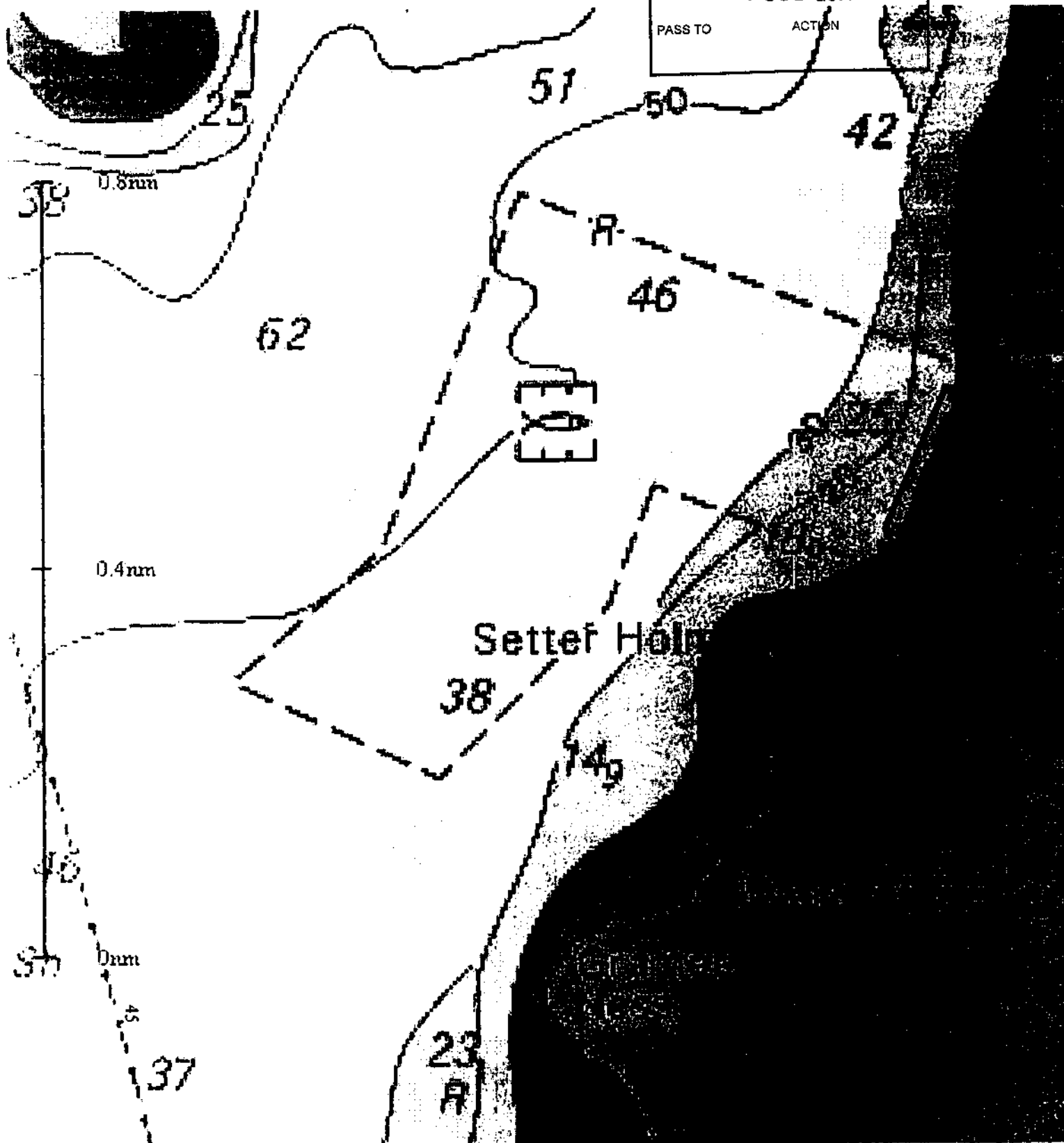
I, the applicant/agent certify that this is an application for planning permission. The accompanying plans/drawings and additional information are provided as part of this application.

I, the applicant/agent hereby certify that the attached Land Ownership Certificate has been completed ☒

Signature [REDACTED] Name: DAVID GRUNSHAW Date: 04/07/2014

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

SHETLAND ISLANDS COUNCIL	
PLANNING	
- 5 JUL 2014	
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# SITE PLAN

Containment Area: 9000 m<sup>2</sup>

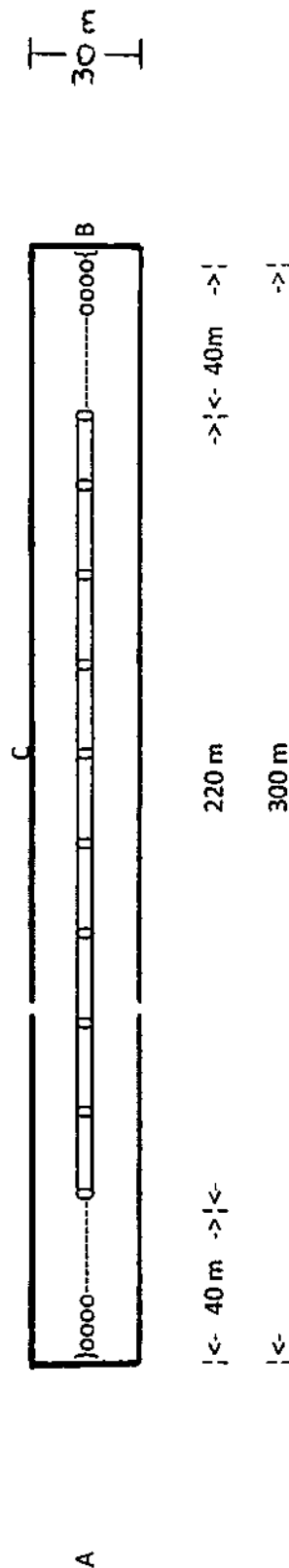
Anchor: 500-1000kg Danforth (Fluke), Samson, Manson or similar fishfarm anchor. Minimum scope 3:1. Or Screw Anchor or Sea Bolt. Minimum scope 1:1.

Rode: 32-44mm rope warp. Chain or Seaflex as required. Kellet as required.

Headline: Twinline 28-32mm rope spaced 1 m apart

Floatation Buoys: Dark Grey or Black 300L GEM or similar.

Scale: 1:2000



SHETLAND ISLANDS COUNCIL PLANNING	
- 4 JUL 2014	
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Site Plan Key

SETTERNESS, YELL SOUND

Co-ordinates:

A: 60 25.338, -17.383

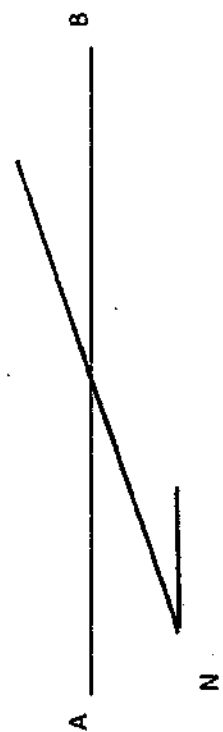
B: 60 25.183, -17.490

C: 60 25.261, -17.436

Grid Reference at Mid-Point C: HU 48344 71117

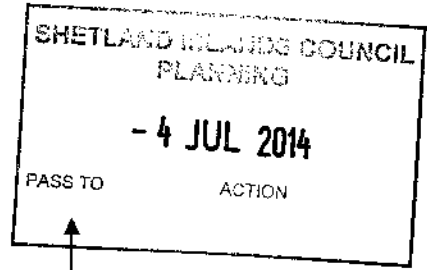
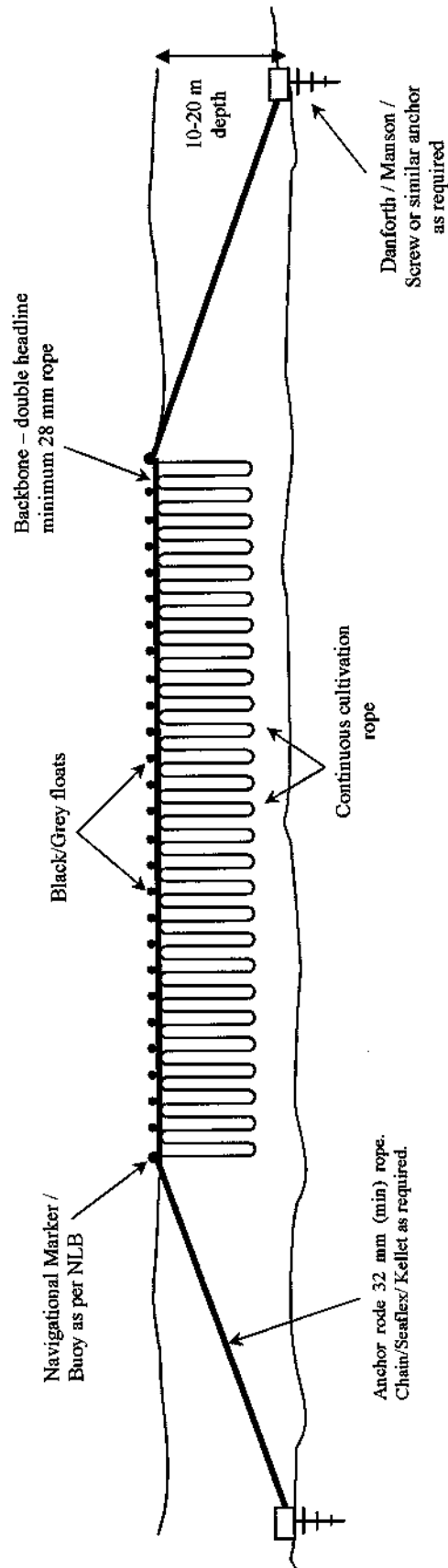
Containment Area (RED): 9000m<sup>2</sup>

NORTH:



SHETLAND ISLANDS COUNCIL FLASHING	
- 4 JUL 2014	
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# **Cross Section of Proposed Marine Farm Surface Longline Scale: 1:2000**



## Work Plan

### Yell Sound Mussel Production Site – Setter Ness, Yell Sound

#### Yell Sound SAC and SSSI:

The Yell Sound Special Area of Conservation and SSSI have been designated for the protection of the European Otter, *Lutra lutra*, and the Common Seal, *Phoca vitulina* (the listed species of interest). The SAC extends to the 10m depth contour along much of the Yell Sound coast and islands. In this area the SAC extends along the whole of the Setter Ness coastline out to the 10m bathymetric contour.

#### European Otter:

The mussel production site is situated seaward of the 10 metre bathymetric contour and so is located outside of the SAC and beyond the normal foraging range of otters and so is unlikely to have any impact on the European Otter.

#### Common Seal:

The Cul Ness, Setter Ness and Lunna Ness coastline of Yell Sound are important haul out areas for common seals.

Boat movements associated with servicing the proposed site has the potential to disturb seals at haul-out sites especially at the vulnerable times of moulting and pupping.

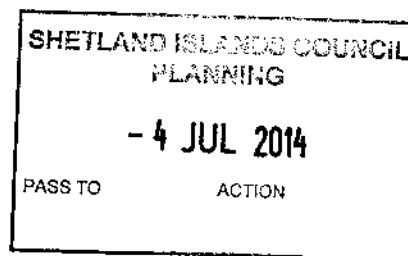
This work plan has been designed to minimise the effects of establishing, maintaining and ultimately removing the proposed mussel production site in Yell Sound so as to avoid any adverse effect on the SAC or qualifying interests of the SAC by the careful choice of shore base, access routes and the establishment of a work protocol to minimise disturbance especially at vulnerable times.

#### Haul-outs:

The nearest small haul-outs occur at the Isles of Linga, Wether Holm, Fish Holm and Skinna Skerry (less than 20 individuals) and Lunna Holm (more than 50 individuals).

#### Disturbance Mitigation:

1. Boat movements will adhere to the 'Boat Movement Map' which charts the access routes to and from the mussel production site. The route have been chosen to avoid coastal areas landward of the 10 metre bathymetric contour within the SAC and known or observed seal haul-outs.
2. A 'no go' zone during vulnerable times will be defined in conjunction with SNH around seal haul-outs in the area.
3. Boat movements are usually infrequent and of limited extent. They will be daily for a period of 2-5 days during deployment, harvesting (for re-tubing or final harvest) and decommissioning but will, apart from essential emergency maintenance, be chosen to avoid vulnerable times.
4. Boat movements during monitoring operations are typically brief and occur once or twice weekly. Monitoring operations will be kept to a minimum at vulnerable times.
5. Non-routine and non-time dependant work will take place outside of the breeding and moulting seasons to avoid disturbance.
6. Mussel farm operators will keep a record of sighted seals hauled out in the vicinity of the mussel farm and will curtail operations at vulnerable times and monitor the situation if haul-outs are observed close by.
7. Non-essential work will be suspended during the breeding season (mid June – mid July) and peak moulting season (7-21 August) to minimise the chance of disturbance.
8. During the breeding and moulting seasons boat speeds will adhere to limits agreed with SNH and vessel movements will be slow and smooth to avoid disturbing seals.



#### Foraging:

Common seals are known to forage up to 50km away giving them a potential foraging area of up to 10,000 square kilometres. The footprint of the mussel farm is 220m<sup>2</sup> or 0.0000002% of the potential foraging area. Moreover, seals are commonly seen in and around mussel farms. The mussels act as an artificial reef and attract small fish that in turn attract seals. Consequently it is the operator's experience that rather than displacing seals from a potential foraging area mussel farms are commonly beneficial to seal foraging.

The sites are seaward of the 10m bathymetric contour and so outside the recognised foraging range of the European Otter. No loss of foraging area for either species is expected.

#### Summary:

1. Mitigation measures will be in place to minimise potential impacts on the European Otter and the Common Seal particularly during vulnerable times.
2. The operator will adopt and abide by the recommendations in the 'Marine Wildlife Watchers Code' (SNH) and 'A Guide to Best Practice for Watching Marine Wildlife'.
3. An observational record will be kept to monitor potential impacts year in year out.

#### Boat Movement Chart:

Solid Red – To/From Toft

Broken Red – To/From Burra Voe

#### References:

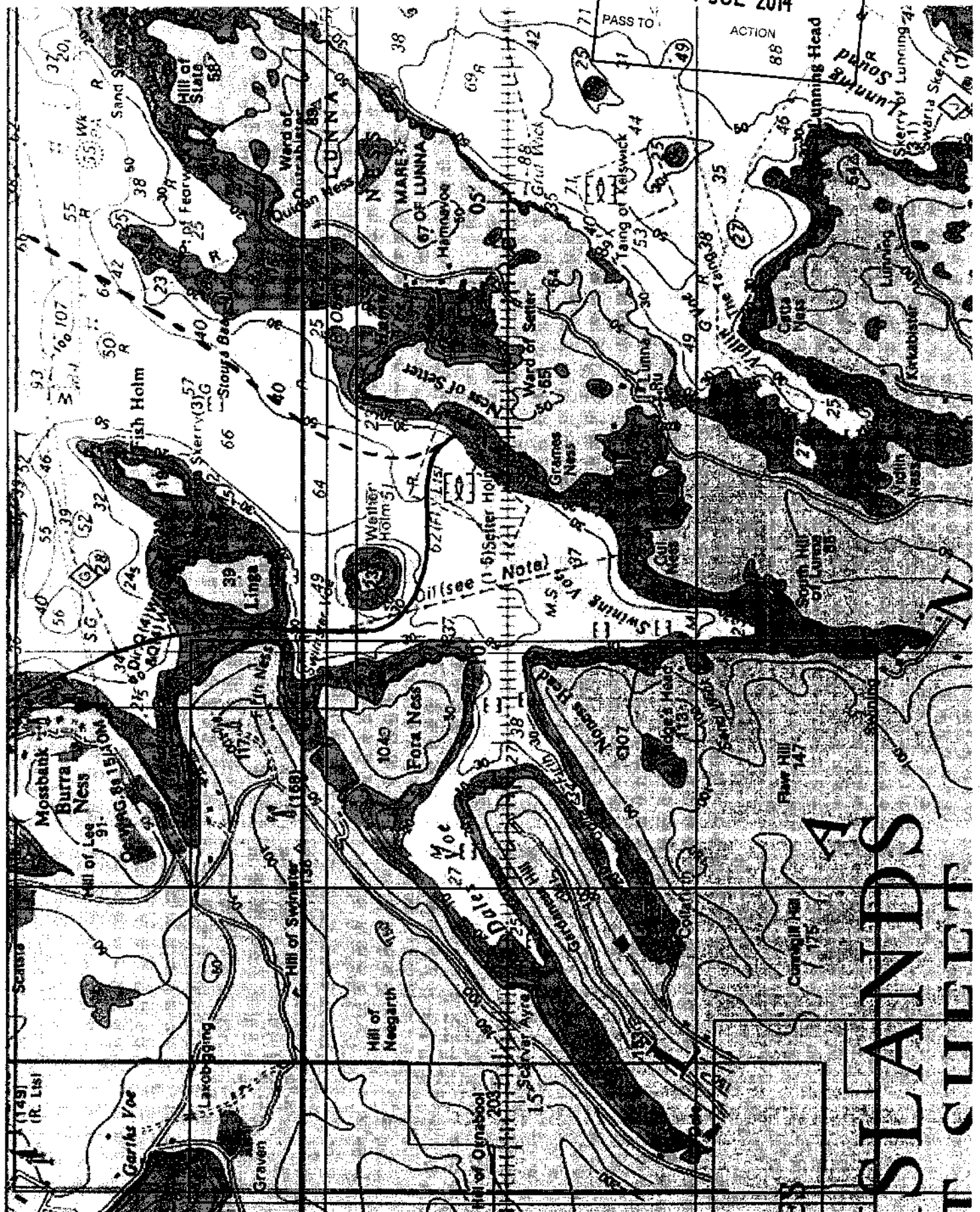
1. SIC advice. (John Rosie pers. com.)
2. Yell Sound SAC and SSSI. Hjaltland Sea Farms. Planning Application 2012/002/MAR.
3. Yell Sound SAC – Advice under Regulation 33 (2) (SNH)
4. A Guide to Best Practice for Watching Marine Wildlife (SNH)
5. Scottish Marine Wildlife Watching Code (SNH)
6. A survey of moulting common seals in the Yell Sound (AISCM 2012)
7. Consultation on Seal Haul-out Sites (Scottish Government 2011)

SHETLAND ISLANDS COUNCIL  
PLANNING

- 4 JUL 2014

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SLANDS  
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## Public Notices

## Shetland Islands Council REGISTER OF ALLOTMENTS



Are you interested in obtaining a small area of ground to grow food on for yourself and your family?

Do you already have an area of ground that you rent for this purpose?

Shetland Islands Council is drawing up a Register of Allotments as required by Scottish allotment legislation.

We are interested in hearing from families seeking ground anywhere in Shetland for individual food production.

We are also interested to hear from you if you currently rent ground for this purpose.

Please contact:-

Carbon Management Team  
at Estates Operations on (01595) 744818  
to register your interest.

### CONTRACTS

£3.00 per line (minimum £12.00)  
Panel £5.50 extra

Box Numbers £5.50 extra

Advertisements must be prepaid  
Rates include VAT

**SHETLAND ISLANDS COUNCIL -  
Sheltered Block, Kalliness, Walsdale  
Heating Replacement (Phase 1)**  
Shetland Islands Council propose to replace heating and hot water systems to the above sheltered accommodation block and three adjacent properties. The works comprise removal and disposal of the existing heating installations and replacement with an all electric installation.

It is anticipated that the works will commence in August 2014 and be completed within 10 weeks.  
Businesses wishing to be considered for inclusion on a select list for competitive tendering must apply in writing to the Executive Manager - Capital Programme Service, Shetland Islands Council, 8 North Ness Business Park, Lerwick, Shetland, ZE1 0LZ (Attn: Colin Black, Tel: 01595 744585; Fax: 01595 744567; e-mail: contract.admin@shetland.gov.uk) by no later than Wednesday 16th July 2014.

Applicants expressing interest must provide the following financial, technical, business and other information for selection on application:

- Details of business structure and ownership;
- List of principal contracts of similar nature carried out in the past 3 years including references;
- Three years accounts and business reports for the contracting entity;
- A current bank reference report to a minimum of £100,000;
- Evidence of current Employer's and Public Liability Insurance to the minimum extent of £10 million and £5 million, respectively.

The successful contractor may be considered directly for Phase 2 - Sheltered Block, Grindavik, Skye - Heating Replacement to be carried out in the next financial year - 2015/2016.

- These works are to be undertaken on negotiated rates based on those previously accepted.
- Any negotiation will be conditional on satisfactory completion of Phase 1.
- Neither party is legally bound to enter negotiation for further works.
- Further works will be subject to budget approval.

### SHETLAND ISLANDS COUNCIL Construction of New Shared Footpaths / Cycle Routes at Clicimin

Shetland Islands Council intends to construct new shared footpaths / cycle routes to replace the existing footpaths on each side of Clicimin Loch.

The works will comprise widening and reconstructing the footpaths including earthworks, drainage, kerbs, surfacing, street lighting and utility works.

Businesses wishing to be considered for inclusion on a select list for competitive tendering must apply in writing to the Executive Manager - Capital Programme Service, Shetland Islands Council, 8 North Ness Business Park, Lerwick, Shetland, ZE1 0LZ (Attn: Colin Black, Tel: 01595 744585; Fax: 01595 744567; e-mail: contract.admin@shetland.gov.uk) by no later than Tuesday, 22nd July 2014.

Applicants expressing interest must provide the following financial, technical, business and other information for selection on application:

- Business profile/details of previous experience in carrying out similar works within the last three years including references;
- Three years accounts and business reports for the contracting entity;
- Evidence of current Employer's and Public Liability Insurance to the minimum extent of £10 million and £5 million, respectively;
- A current bank reference report to a minimum of £500,000.

### TAVISH SCOTT MSP CONSTITUENCY SURGERY

Thursday,  
17th July, 2014  
5.00pm to 6.00pm

in the  
Shetland Parliamentary Office,  
171 Commercial Street, Lerwick

If you are unable to attend the surgery but wish to raise an issue please contact the Shetland Parliamentary Office on 01595 690044 or email: tavish.scott.msp@scottish.parliament.uk

Note: The MSP or MP will accept representation on behalf of each other at any surgery.

### Shearing Shed - Baa Baa Shop Will be CLOSED on Saturday 19th July Sorry for any inconvenience

### CROFTING COMMISSION COMBHEANNA CROFTBACHD DECROFTING APPLICATION

Applicant, Croft, Extant/Purpose, Case number

Miss C. Harper  
Ennaboss, Dumfriesness  
0.131 ha - Site for a dwelling house  
4.06-4985  
Comments can be made to the Crofting Commission by any member of the crofting community within the locality of the land, within 28 days of the date of this newspaper. Crofting Commission, Great Glen House, Leachin Road, Inverness, IV3 8NW or info@crofting.scotland.gov.uk

### FIRST REGISTRATION OF 2 CROFTS Margaret Ann Simpson has registered her crofts Greenfield, Walls, Walls and Grutaboy, Walls, Walls on the Crofting Register held by the Registers of Scotland.

Any Person who wishes to challenge the registration may apply to the Scottish Land Court by 25th March 2015. Details of the registration can be found at [www.crofts.sc.gov.uk/register/](http://www.crofts.sc.gov.uk/register/) home. The Croft registration numbers are C213 and C197.

### URAFIRTH JUNIOR SECONDARY

1954 to 1955  
Pupils who attended the above and school transport drivers at that time are invited to a reunion at Brewick Gate, Caithness on the evening of Friday 18th August. Those wishing to attend are asked to telephone George Burgess on 092658 so that the rate is aware of the numbers.

### GLASGOW RANGERS SUPPORTERS CLUB SHETLAND BRANCH

To be held in the Masonic Function Room, at 7.30pm on Monday 21st July 2014. Members and guests most welcome.

### SCALLOWAY FIRE FESTIVAL

In Scalloway Boating Club on Sunday 27th July 2014 at 7.30pm. Good attendance is required.

## APPLICATIONS ARE NOW AVAILABLE! Further Education Bursaries

If you are thinking to study an  
SVQ or National Certificate  
Level course at college, you  
may be entitled to a Further  
Education Bursary.

Funding is only provided for courses on the  
Scottish Mainland if the course is unavailable  
in Shetland, or there are no places left.

Courses in England will not be funded.

Application forms are available on the SIC website at:  
[www.shetland.gov.uk/education/hpc\\_bursaries.asp](http://www.shetland.gov.uk/education/hpc_bursaries.asp)

For further information please contact us at  
childrenservices-finance@shetland.gov.uk  
or call us on 01595 743844.



### Keeping you in the picture

improving services to you and your community

Publicising your views on the  
Scottish Water website  
www.shetland.gov.uk/shetlandwater  
or by email: [publicise@shetlandwater.co.uk](mailto:publicise@shetlandwater.co.uk)  
01595 743844

### Interruption to Supply Notice Whiteness, Weisdale, Stromfirth, Nesbister & Wormadale

Due to ongoing essential upgrade work on the water network, customers in Kalliness, Hellister, Haggersta, Strom, Stromfirth, Whiteness, Nesbister and Wormadale areas will experience Interruption to their supply or reduced pressure on:

Monday 14th, Thursday 17th &  
Friday 18th July from 9am to 3pm

Scottish Water apologises for any inconvenience caused by this essential work.

If you have any queries regarding this matter please call our customer enquiries number:

0845 601 8855

## ANNUAL SUBSCRIPTIONS The Shetland Times

We reserve the right to adjust expiry dates if postage rates are increased

52 weeks 1st Class	£114.92
52 weeks 2nd Class	£102.96
26 weeks 1st Class	£57.46
26 weeks 2nd Class	£51.48
Surface Mail	£221.00
Americas (Air Mail)	£280.80
Australasia (Air Mail)	£291.20
Europe (Air Mail)	£228.20

Payment by Debit Card/Visa/Mastercard.

Tel. 01595 742000

e-mail: [adverts@shetlandtimes.co.uk](mailto:adverts@shetlandtimes.co.uk)

**FIRST REGISTRATION OF A CROFT**  
Gordon Munro has registered his croft Sandfield, Sandwick on the Crofting Register held by the Registers of Scotland.

Any person who wishes to challenge the registration may apply to the Scottish Land Court by 18th March 2015. Details of the registration can be found at [www.crofts.sc.gov.uk/register/](http://www.crofts.sc.gov.uk/register/) home. The Croft registration number is C200.

**FIRST REGISTRATION OF A CROFT**  
Magnus J. Irvine has registered his croft at Booth Park, Whakay on the Crofting Register held by the Registers of Scotland.

Any person who wishes to challenge the registration may apply to the Scottish Land Court by 18th March 2015. Details of the registration can be found at [www.crofts.sc.gov.uk/register/](http://www.crofts.sc.gov.uk/register/) home. The Croft registration number is Z1135.

**FIRST REGISTRATION OF A CROFT**  
Mrs. Laura Margaret Williamson has registered her croft Newpark and Pettish, Bressay, on the Crofting Register held by the Registers of Scotland.

Any person who wishes to challenge the registration may apply to the Scottish Land Court by 24th March 2015. Details of the registration can be found at [www.crofts.sc.gov.uk/register/](http://www.crofts.sc.gov.uk/register/) home. The Croft registration number is C215.

**FIRST REGISTRATION OF A CROFT**  
Mr. Stuart Henderson and Mr. Angus Christian Neilson Freeman have registered the croft Longfield, Dumfriesness on the Crofting Register held by the Registers of Scotland.

Any person who wishes to challenge the registration may apply to the Scottish Land Court by 25th March 2015. Details of the registration can be found at [www.crofts.sc.gov.uk/register/](http://www.crofts.sc.gov.uk/register/) home. The Croft registration number is C283.

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You may be eligible for an  
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Application forms are available on the SIC website at  
[www.shetland.gov.uk/education/EMA.asp](http://www.shetland.gov.uk/education/EMA.asp)

For further information please contact us at  
childrenservices-finance@shetland.gov.uk  
or call us on 01595 743845.

No applications will be accepted after 31st March, 2014.



### Shetland Islands Council

These applications, associated plans and documents can be examined, 09.00-17.00, Mon-Fri, at: Shetland Islands Council, Development Services Department, 8 North Ness Business Park, Lerwick, ZE1 0LZ. Please call 744293 to make an appointment if you wish to discuss any application.

Town and County Planning (Development Management Procedure) (Scotland) Regulations 2013

Format: Ref No; Proposal & Address

2014/021/MAR; To deploy a single 220m twin-headline longline for production of mussels, Little Ness, Dury Voe.

2014/023/MAR; To deploy a single 110m twin-headline longline for production of mussels; Swinister Voe, Vell Sound.

2014/024/MAR; To deploy a single 220m twin-headline longline for production of mussels, Northwest of Cul Houb, Swinister Voe.

2014/025/MAR; To deploy a single 220m twin-headline longline for production of mussels - Setness, Lunn.

Written comments may be made to Iain McDiarmid, Executive Manager, at the above address, email [planning.control@shetland.gov.uk](mailto:planning.control@shetland.gov.uk) by 25th July 2014.

# Northern Lighthouse Board

Your Ref: 2014/025/MAR  
Our Ref: SD/OPS/ML/F128-14

Iain McDiarmid  
Executive Director – Planning  
Shetland Islands Council  
Grantfield  
Lerwick  
Shetland  
ZE1 0NT

84 George Street  
Edinburgh EH2 3DA  
Switchboard: [REDACTED]  
Fax: [REDACTED]  
Website: [www.nlb.org.uk](http://www.nlb.org.uk)  
Email: [enquiries@nlb.org.uk](mailto:enquiries@nlb.org.uk)



15 July 2014

Dear Iain

## APPLICATION FOR MARINE FISH FARM PLANNING PERMISSION TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS

We are in receipt of your email correspondence dated 07 July 2014 regarding **Laxfirth Shellfish's** application for a proposed new shellfish site by deploying a single 220m twin-headline longline for the production of mussels at Setterness, Lunna, Yell Sound, Shetland.

We recommend that this site be marked by a special mark buoy which is yellow in colour and conical in shape and fitted with a yellow multiplication cross topmark. The buoy should have a diameter of approximately 1 metre at the waterline and the cross topmark should measure a minimum of 50cm in length by 7.5cm in width.

The buoy should be positioned at the seaward midpoint of the sites longline.

Northern Lighthouse Board wish to discourage the practice of marking outlying anchor points with buoys (unless specifically requested by local users), and recommend that alternative means to locate anchors are utilised. Allowing loose floating lines around site equipment is also strongly discouraged as this can cause serious safety implications for other mariners.

The UK Hydrographic Office should be notified by **Laxfirth Shellfish** and all information regarding site positions forwarded in order that Charts BA3284 can be correctly updated.

If the site does not hold an up to date Marine Licence from the Scottish Government, Northern Lighthouse Board would encourage **Laxfirth Shellfish** to rectify this situation. This consent is concerned solely with the safety of navigation and would include the information given above. For further information and application forms please go to the web site link given below.

<http://www.scotland.gov.uk/Topics/marine/Licensing/marine>

Yours sincerely

[REDACTED]

Peter Douglas  
Navigation Manager

SHETLAND ISLANDS COUNCIL PLANNING	
15 JUL 2014	
PASS TO	ACTION

*For the safety of all*

*Compliant to ISO 9001:2000 - The International Safety Management Code (ISM) - OHSAS 18001*

**Smith Kimberley@Development Service**

---

**From:** Carole Laignel [REDACTED]  
**Sent:** 16 July 2014 16:17  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: applications  
**Attachments:** FW: Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna; FW: Marine Consultation - 2014/023/MAR - To deploy a single 110m twin-headline longline for production of mussels; Swinister Voe, Yell Sound; FW: Planning Consultation for application ref: 2014/021/MAR

Shetland Shellfish Management Organisation share Shetland Fishermen's Association concerns on the above Planning Applications. We would also like to add that the applicant has no track record in Shetland and the applications seem of a highly speculative nature.

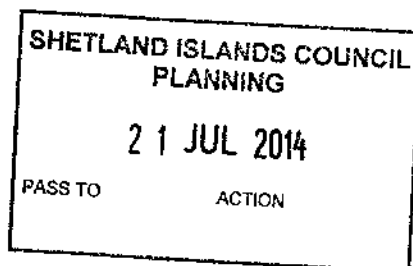
Regards

*Carole Laignel*  
Carole Laignel  
Inshore Co-ordinator  
SSMO  
Shetland Seafood Centre  
Stewart Building  
LERWICK  
ZE1 0LL  
Tel: [REDACTED]  
Fax: [REDACTED]

---

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Mr J Rosie  
 Shetland Islands Council  
 Grantfield  
 Lerwick  
 Shetland  
 ZE1 0NT

Our ref: PCS/134496  
 Your ref: 2014/025/MAR

If telephoning ask for:  
 Jessica Fraser

21 July 2014

By email only to: [marine.planning@shetland.gov.uk](mailto:marine.planning@shetland.gov.uk)

Dear Mr Rosie

**Town and Country Planning (Scotland) Acts**  
**Planning application: 2014/025/MAR**  
**To deploy a single 220m twin-headline longline for production of mussels**  
**Setterness, Luna**

Thank you for your consultation e-mail which SEPA received on 7 July 2014 specifically requesting our advice on this mussel farm proposal. We have **no objection** to this planning application but wish to highlight the following information and advice.

**Advice for the planning authority and applicant**

**1. Water Environment (Shellfish Water Protected Areas: Environmental Objectives, etc.) (Scotland) (Regulations) 2013**

- 1.1 Shellfish farms are dependent upon good water quality in order to produce shellfish which meet required food standards set by the Food Standards Agency (Scotland). The Water Environment (Shellfish Water Protected Areas: Designation) (Scotland) Order 2013 identifies shellfish water protected areas (SWPAs). As part of our regulatory remit we monitor waters against the standards for sewage related bacteria set out in the Regulations to ensure that discharges to the water environment will not adversely impact on the SWPAs. In view of this, it is generally our opinion that any new shellfish farm sites should be located within a SWPA.
- 1.2 The proposed site would be situated approximately 1.3 km north east of the Lunna SWPA which was designated in 2012. Results from 2012 and 2013 (under the superseded EC Directive 2006/113/EC for Shellfish Growing Waters) show that the site complied with the guideline standard for faecal coliforms in biota as set out in the Directive.
- 1.3 However, we would highlight in this case that the proposed site itself is not situated within a designated SWPA.



Chairman  
 David Sigsworth  
 Secretary  
 James Curran

**Aberdeen Office**  
 Inverdee House, Baxter Street  
 Torry, Aberdeen AB11 9OA  
 tel 01224 266600 fax 01224 896657  
[www.sepa.org.uk](http://www.sepa.org.uk)

## 2. Shellfish Harvesting Area (91/492/EEC)

- 2.1 The proposed site would be situated within approximately 1.3 km north east of the West of Lunna Shellfish Harvesting Area which has been classified "A" from April 2014 to March 2015 in the Food Standards Agency's 2005 Shellfish Classification scheme.

## 3. Natura 2000 designations

- 3.1 The site would be situated adjacent to the Yell Sound Coast SSSI and SAC both designated for otter (*Lutra lutra*); the latter also designated for Harbour Seal (*Phoca vitulina*). The last assessed condition of both otter and harbour seal populations was 'unfavourable declining' in 2008 and 2009 respectively.

## 4. Scottish Water Assets

- 4.1 There are no Scottish Water assets within the 3 km search area which we reviewed. There are a few private treatment works in the area around Boatsroom Voe to the north, and West Lunna Voe to the south. However, they are in a separate water body and unlikely to have an effect on the water quality at the proposed site.
- 4.2 The applicant should be aware that any private treatment works or animals grazing in the surrounding area, could contribute to the potential for input of coliforms into the water body from run-off from the land, which may subsequently affect the classification of shellfish grown there.

## 5. Other

- 5.1 The proposed site would be located in the Yell Sound water body which has been classified as "Good" in the Water Framework Directive 2012 classification scheme.
- 5.2 There are eleven fish farms licensed by SEPA under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) within the reviewed 3 km search area and three within 1.5 km. These are at Setterness East (0.35km away), Setterness North (0.7km away) and Setterness South (approximately 1km away). Three of these fish farms are currently in use with a total biomass of 4948t.
- 5.3 Mussel farms impact on the seabed due to the deposition of mussel shell debris and pseudo faeces. However, the area of impact tends to be within the immediate vicinity of the farm.

### **Good practice advice for the applicant**

We encourage waste minimisation and reuse/recycling whenever possible. There is a guidance document available "Aquaculture Waste Minimisation Guide" specifically for the aquaculture industry which the applicant may find useful and can be downloaded from our website at [http://www.sepa.org.uk/planning/marine\\_environment.aspx](http://www.sepa.org.uk/planning/marine_environment.aspx).

Details of regulatory requirements and good practice advice for the applicant can be found on our website at [www.sepa.org.uk/planning.aspx](http://www.sepa.org.uk/planning.aspx). If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the operations team in your local SEPA office at: The Esplanade, Lerwick, Shetland, ZE1 0LL. Tel: [REDACTED]

If you have any queries relating to this letter, please contact me by telephone on [REDACTED] r

e-mail at [REDACTED]

Yours sincerely

Jessica Fraser  
Planning Officer  
Planning Service

Copy to applicant: Mr D Grunshaw, Laxfirth Shellfish, 24 Bede Close, Sleaford, NG34 8WE

*Disclaimer*

*This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at the planning stage. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. If you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found in How and when to consult SEPA, and on flood risk specifically in the SEPA-Planning Authority Protocol.*

Our ref: FFP-14-080  
Your ref: 2014/025/MAR

Dear Mr Rosie,

**To deploy a single 220m twin-headline longline for production of mussels, Setterness, Luna.**

We have reviewed the application submitted and offer the following comment:

**Environment**

The proposed development should not result in any unacceptable environmental impacts at this location.

**Aquaculture Animal Health**

**Site Location & Authorisation**

There are currently no sites registered with Marine Scotland Science within 1000m of the proposed new site (see map on page 2).

If permission is granted for the new site, Laxfirth Shellfish must contact the FHI at Marine Scotland to apply for authorisation to operate as an Aquaculture Production Business at the proposed site prior to the commencement of farming operations.

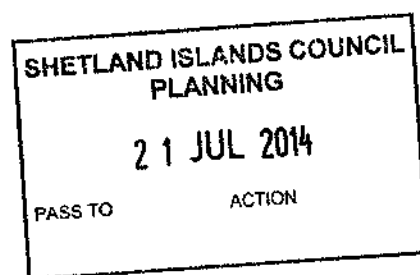
There does not appear to be any negative implications on fish or shellfish health from the proposed new mussel site at Setterness, the Shetland Islands.

**Summary**

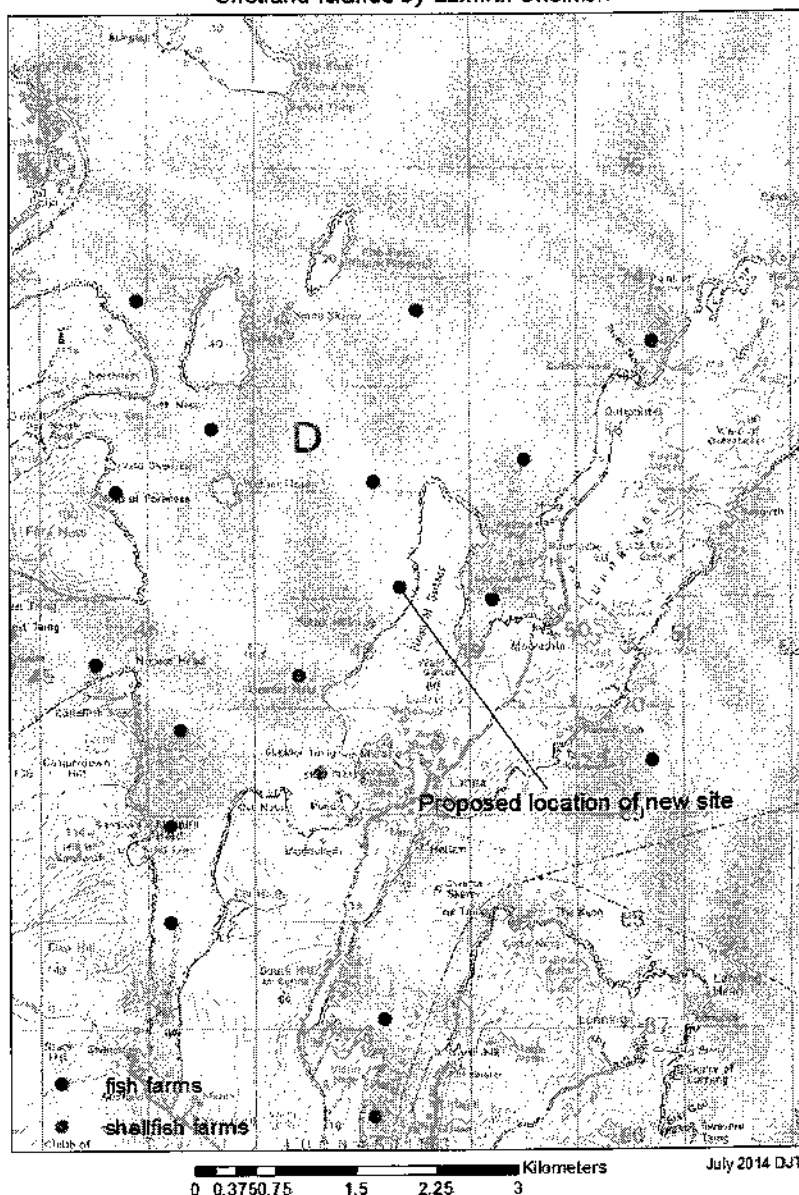
We have no objection to the proposal and no further information is required.

Yours sincerely

Anna Donald  
Marine Scotland Science  
21/07/2014



Position of proposed new site Setterness, the  
Shetland Islands by Laxfirth Shellfish



Notes to applicants:

The Aquatic Animal Health (Scotland) Regulations 2009 requires the authorisation of all Aquaculture Production Businesses (APB's) in relation to animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals. The authorisation procedure is undertaken on behalf of the Scottish Ministers by the Fish Health Inspectorate (FHI) at Marine Scotland Marine Laboratory. To apply for authorisation for an APB or to amend details of an existing APB or any site that an APB is authorised to operate at, you are advised to contact the FHI as follows: Fish Health Inspectorate, Marine Scotland Marine Laboratory, PO Box 101, 375 Victoria Road, Aberdeen, AB11 9DB. Tel: 01224 295525; Email: [ms.fishhealth@scotland.gsi.gov.uk](mailto:ms.fishhealth@scotland.gsi.gov.uk)

All marine farms, whether finfish, shellfish or algal, are required to apply for a marine licence under Part 4 of the Marine (Scotland) Act 2010. To apply for a marine licence, or to amend details of an existing marine licence (formally Coast Protection Act 1949 – Section 34 consent), please visit the Scottish Government's website at <http://www.scotland.gov.uk/Topics/marine/Licensing/marine/Applications> where application forms and guidance can be found. Alternatively you can contact the Marine Scotland Licensing Operations Team (MS-LOT) by emailing [MS.MarineLicensing@Scotland.gsi.gov.uk](mailto:MS.MarineLicensing@Scotland.gsi.gov.uk); or calling 01224 295 579.

Marine Laboratory, PO Box 101, 375 Victoria Road,  
Aberdeen AB11 9DB  
[www.scotland.gov.uk/marinescotland](http://www.scotland.gov.uk/marinescotland)







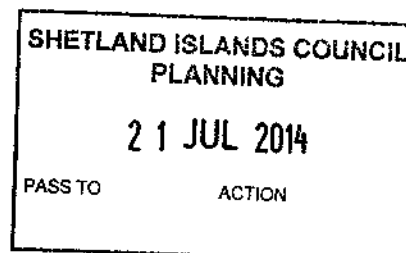
## Scottish Natural Heritage

All of nature for all of Scotland

Mr Iain McDiarmid  
Marine Planning  
Shetland Islands Council  
8 North Ness Business Park  
Lerwick  
ZE1 0LZ

21 July 2014

Our ref: CNS/MFF/SI/AQUA



Dear Ian

### Town and Country Planning (Scotland) Acts

#### 2014/023-25/MAR: to deploy single twin-headed mussel longlines

Thank you for your email of 7<sup>th</sup> July consulting us on the above proposal.

#### Summary

The proposals lie close to Yell Sound Coast Special Area of Conservation (SAC) designated for its otters and common seals. In our view, it is unlikely that the proposal will have a significant effect on any qualifying interests either directly or indirectly. An appropriate assessment is therefore not required. We provide advice on other protected species below.

#### Appraisal of the impacts of the proposal and advice

##### Yell Sound Coast SAC

The proposals lie close to Yell Sound Coast Special Area of Conservation (SAC) designated for its otters and common seals.

The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended, (the "Habitats Regulations") apply. See <http://www.snh.gov.uk/docs/A423286.pdf> for a summary of the legislative requirements.

The main potential impacts of shellfish farms on otters and seals are a) loss of otter foraging habitat and b) disturbance of seals caused by boat traffic.

- a) The applicant has addressed the loss of foraging habitat by the appropriate location of sites outside the 10m depth contour.
- b) The work plan provided in support of this application gives details of how the impact of boat traffic on seals will be mitigated and we agree with the methods set out in this plan. We usually recommend a 500m exclusion zone around



INVESTOR IN PEOPLE

Scottish Natural Heritage, Ground Floor, Stewart Building, Alexandra Wharf, Lerwick, ZE1 0LL  
Tel 01595 693345 Fax 01595 692565 [www.snh.gov.uk](http://www.snh.gov.uk) [north@snh.gov.uk](mailto:north@snh.gov.uk)

seal haul-outs and are happy to further discuss the plan details with the applicant. Provided that the work plan is followed we are content that the risk of disturbance to seals is sufficiently low. We advise that the applicant may wish to become a signatory to the **Yell Sound Aquaculture Management plan** which sets out similar mitigation methods.

In our view, therefore, it is unlikely that the proposal will have a significant effect on any qualifying interests either directly or indirectly. An appropriate assessment is therefore not required.

#### Benthic impacts

2014/023/MAR and 2014/025/MAR: At these sites there are no known sensitive benthic species.

2014/024/MAR: There is a record of sea pens close to this proposal site. Sea pens are a Priority Marine Feature and are uncommon in Shetland. They are likely to be impacted by shellfish farms if found under or very close to the farm. This is a small proposal and any impacts as a result of a proposal of this scale are not likely to raise any significant issues, however if there were to be extensions at this site in the future then impacts on sea pens may be of greater concern.

#### Eiders

Eiders are known to use the area around these proposals as wintering and moulting grounds and are, at these times, sensitive to disturbance. As predators of mussels eiders can cause issues for mussel farms. We advise that the applicant contact SNH to discuss any proposed anti-predator methods before putting them into practice.

We are content for this proposal to progress without further reference to SNH. If you require any further information please get in touch using the contact details given below.

Yours sincerely

Afra Skene

Operations Officer  
Scottish Natural Heritage  
Northern Isles and North Highland  
Lerwick  
Shetland  
Tel: [REDACTED]

**Rosie John@Development Service**

---

**From:** Rosie John@Development Service  
**Sent:** 27 August 2014 13:44  
**To:** 'McPake, Charlene'  
**Cc:** Holmes Martin@Development Service; Leask Ryan@Development Service  
**Subject:** RE: 2014/025/MAR

Hi Charlene,

From our correspondence today, it looks as though the seabed area for Mr Grunshaw's application (ref: 2014/025/MAR) will become available for lease at some point in the relatively near future (as a result of modifications to the Hjaltland seabed lease) so I think that will be enough certainty for us to be able to grant planning application 2014/025/MAR. That's assuming the objections lodged by the Shetland Fishermen's Association to the application can be resolved!

So I think you may as well wait until we know the outcome of Hjaltland's modification application at Setterness South (ref: 2014/026/MAR) before making any changes to the relevant seabed lease.

Thanks,  
John

**From:** McPake, Charlene [REDACTED]  
**Sent:** 27 August 2014 12:19  
**To:** Rosie John@Development Service  
**Subject:** FW: 2014/025/MAR

John,

Would you be content to wait until planning is granted for the equipment changes and I alter everything then, or would you prefer the lease area to be altered now? (first option is easier for me administratively, as will avoid sending out two leases)

Thanks

charlene

**Charlene McPake**  
 Aquaculture Co-ordinator

**THE CROWN  
 ESTATE**

6 Bell's Brae, Edinburgh, EH4 3BJ  
 Tel: [REDACTED]

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**From:** McPake, Charlene  
**Sent:** Wednesday, August 27, 2014 12:15 PM  
**To:** [MarinePlanning@shetland.gov.uk](mailto:MarinePlanning@shetland.gov.uk)  
**Subject:** RE: 2014/025/MAR

Thanks for this John. Essentially until Hjaltland apply to us to amend the lease area in accordance with the planning boundary (which we have asked them to do) the area remains unavailable to lease. Will let you know as soon as we received this application. However, given that they have a current planning application lodge with yourself for equipment changes, it may well be that we will altered the lease area at the time Hjaltland apply to us to amend the lease to accommodate these equipment changes. None of this prevents Dave Grunshaw for applying for planning permission – and we would expect him to liaise with Hjaltland anyway given the close proximity.

Regards

Charlene

---

**Charlene McPake**  
Aquaculture Co-ordinator

**THE CROWN  
ESTATE**

6 Bell's Brae, Edinburgh, EH4 3BJ

Tel: [REDACTED]

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**From:** [REDACTED] **On Behalf Of** [REDACTED]

**Sent:** Wednesday, August 27, 2014 11:48 AM

**To:** McPake, Charlene

**Cc:** [REDACTED]

**Subject:** RE: 2014/025/MAR

Good morning Charlene,

Thank you for your response.

The Setterness South site is consented for a total of 22 no. 20m x 20m square cages and a 35m x 18m shed barge. This is the level of development which is currently deployed on site with the equipment being consented by the following two planning permissions:

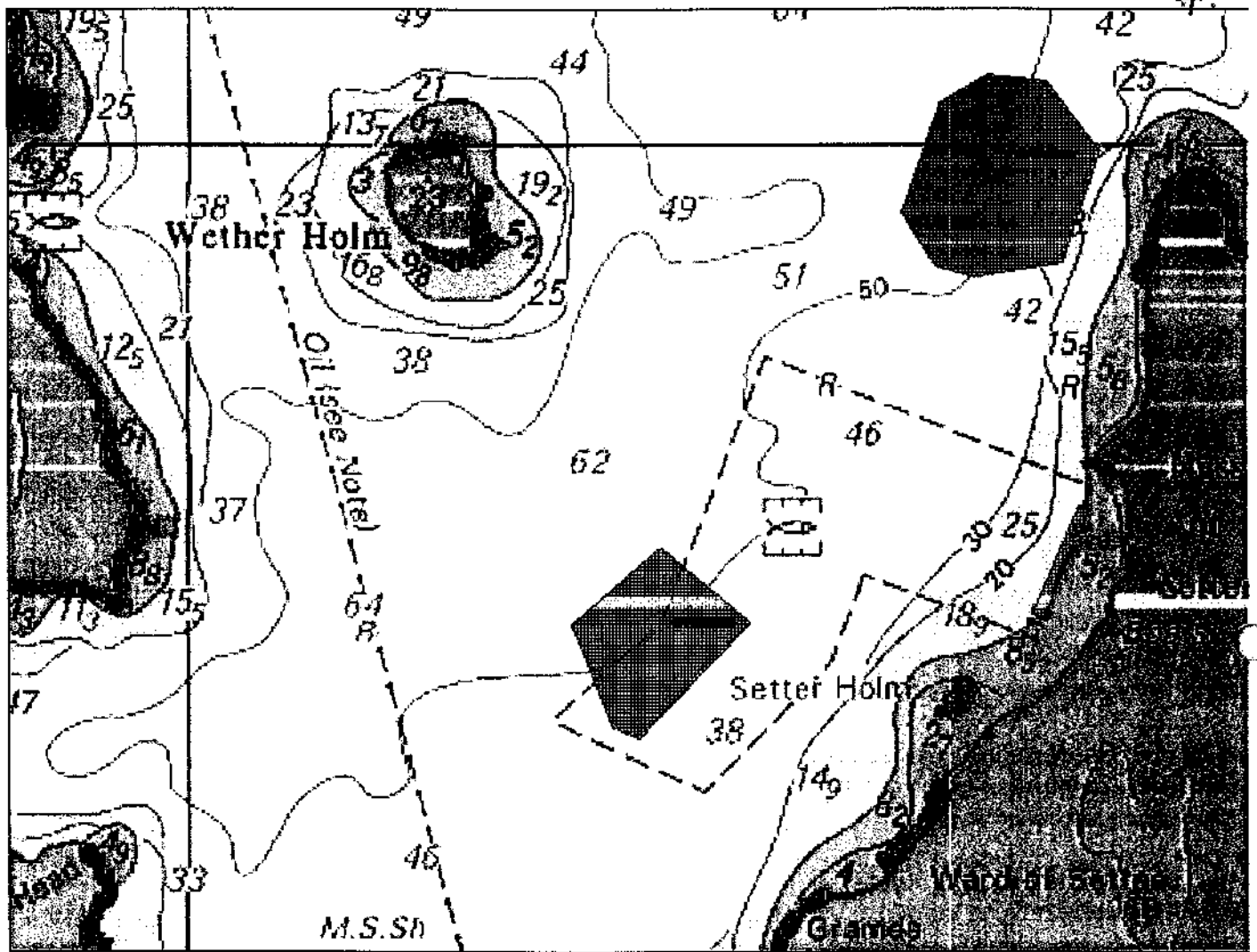
- FFR/ZET/005 granted by Scottish Ministers on 19 May 2014 (fourteen 20m x 20m cages and a 35m x 18m shed barge);
- 2009/010/VF granted by Shetland Islands Council (SIC) on 27 April 2010 (additional eight 20m x 20m cages).

The Setterness North site is consented for twelve 90m-circumference cages and a 14m x 10m feed barge under planning permission 2006/083/NF granted by SIC on 27 April 2010. Equipment currently deployed on site is in accordance with the maximum permitted by PP 2006/083/NF.

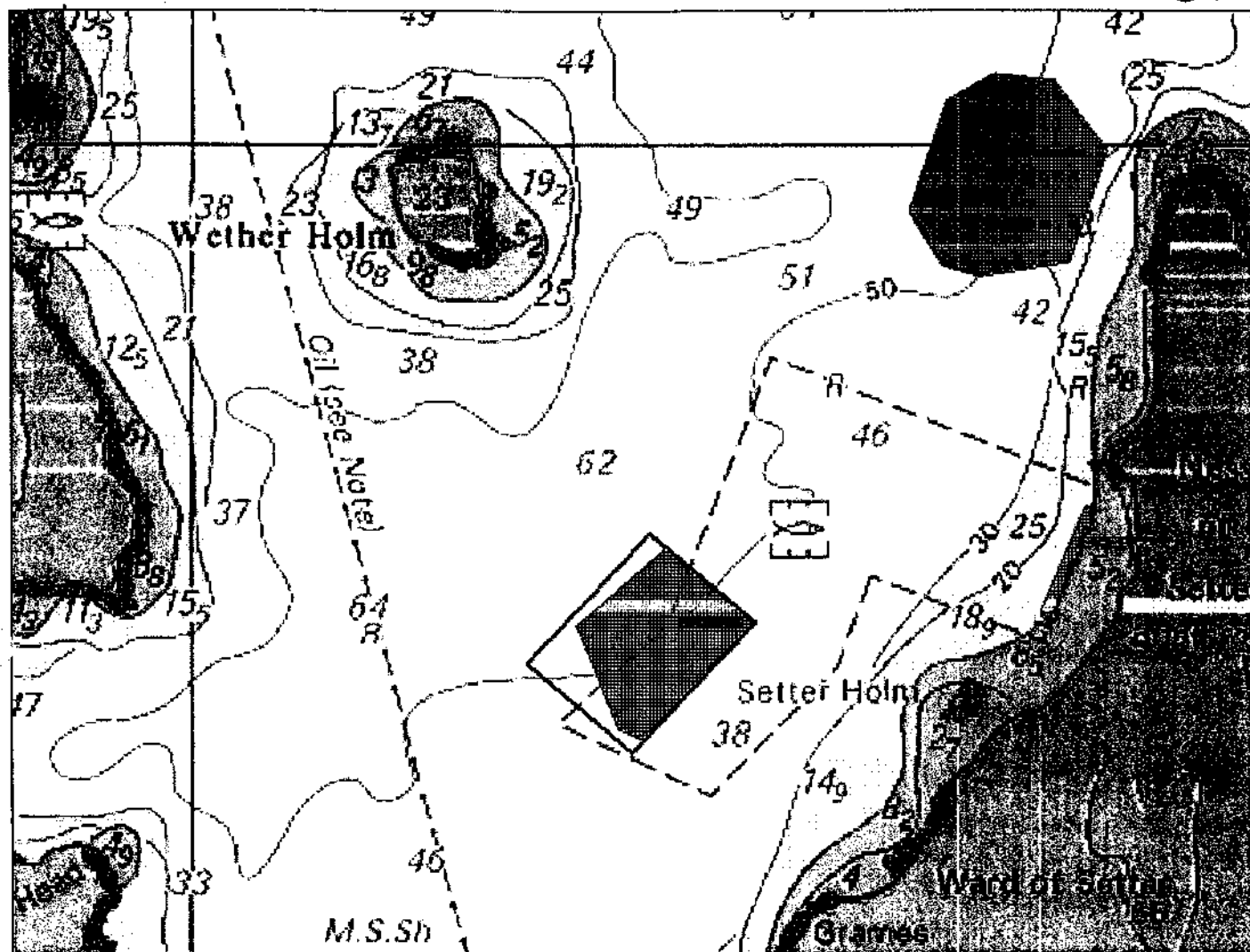
None of the three planning permissions are time limited, but as with all planning permissions, that would not prevent the permissions falling at some point in the future either as a result of site clearance or non-use of the sites for an extended period of time.

The emails sent to the Crown Estate by Marine Scotland and SIC giving notice of the granting of planning permissions FFR/ZET/005, 2009/010/VF and 2006/083/NF is attached for your information. The attachments to these emails (copies of PP's and approved plans) have been removed due to their size but I can forward those documents on to you separately if you require, just let me know.

The planning boundaries of the above planning permissions is shown below (in red) as is the planning boundary of the longline proposed under planning application 2014/025/MAR (purple):



For the Setterness South site, an application (ref: 2014/026/MAR) is currently in progress for an alternative development at the site. The application proposes the replacement of the existing equipment with ten 100m-circumference cages and a 14m x 10.5m feed barge to be used for on-growing salmon, trout, cod or halibut. Your consultation response to this application is attached. The proposed planning boundary of application 2014/026/MAR is shown in blue below:



I note you contacted Hjalmland Seafarms earlier this week inviting them to submit amended lease applications with a view to ensuring the seabed leases for these sites match up with the corresponding planning permissions. Once done, I'm guessing the seabed area proposed under application 2014/025/MAR would become leasable? In the meantime however, I am going to suggest to Mr Grunshaw that he contacts Hjalmland to establish if they have any objections to any possible future seabed lease being granted for the area of seabed proposed under application 2014/025/MAR and I will let you know if there are any developments in this regard.

Best regards,  
John

**From:** McPake, Charlene [mailto:Charlene.McPake@thecrownestate.co.uk]  
**Sent:** 25 August 2014 10:24  
**To:** Marine Planning@Development Services  
**Subject:** RE: 2014/025/MAR

Dear John,

My consultation response does not say that a lease *won't* be granted, only that due to the close proximity of an existing lease interest, the current tenants permission would require to be sought. Basically we would request the applicant contact the existing Tenant to make them aware of their intentions and ensure agreement is reached to both parties mutual benefit if there is an issue.

The current lease is to Hjalmland and is running on Tacit Relocation (having technically expired in April 2011). I am not aware that they have received planning permission via the Governments Review, so it is likely that we will seek to terminate this lease upon the next anniversary of expiry – unless they can confirm their intention to apply for

6.  
planning via SIC. You mention though that no SIC consent has been in place for the large lease extent – do Hjaltland have planning permission for something else? And if so, when does this expire?

With regard to your query as to the why the lease has not been modified in accordance with its current location, we can only alter leases upon receipt of an application from the Tenant advising us of a change in location, equipment or species etc or alternatively, if we are sent a copy of the new planning consent from the LPA informing us of any planning changes. We have no other way of determining changes. Notwithstanding, lease areas – particularly historically- did not always match planning boundaries and perhaps Hjaltland were of the opinion that as long as any location changes still occurred within the existing lease area the lease itself would not require amending (I'm just hypothesising).

Hope this helps?

Charlene

---

**Charlene McPake**  
Aquaculture Co-ordinator

**THE CROWN  
ESTATE**

6 Bell's Brae, Edinburgh, EH4 3BJ

Tel: [REDACTED]

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**From:** [REDACTED] **On Behalf Of** [REDACTED]  
**Sent:** Thursday, August 21, 2014 4:01 PM  
**To:** McPake, Charlene  
**Cc:** [REDACTED]  
**Subject:** RE: 2014/025/MAR

Hi Charlene,

Planning application 2014/025/MAR, proposed longline development, Swinister Voe, Yell Sound

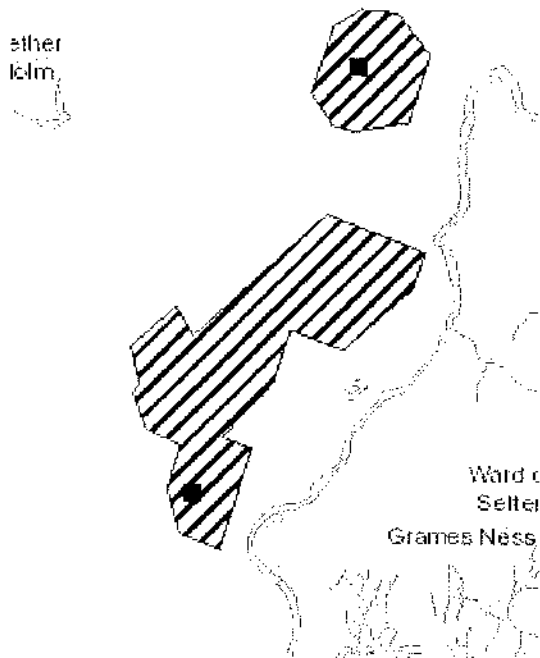


Thank you for consultation response to the above planning application.

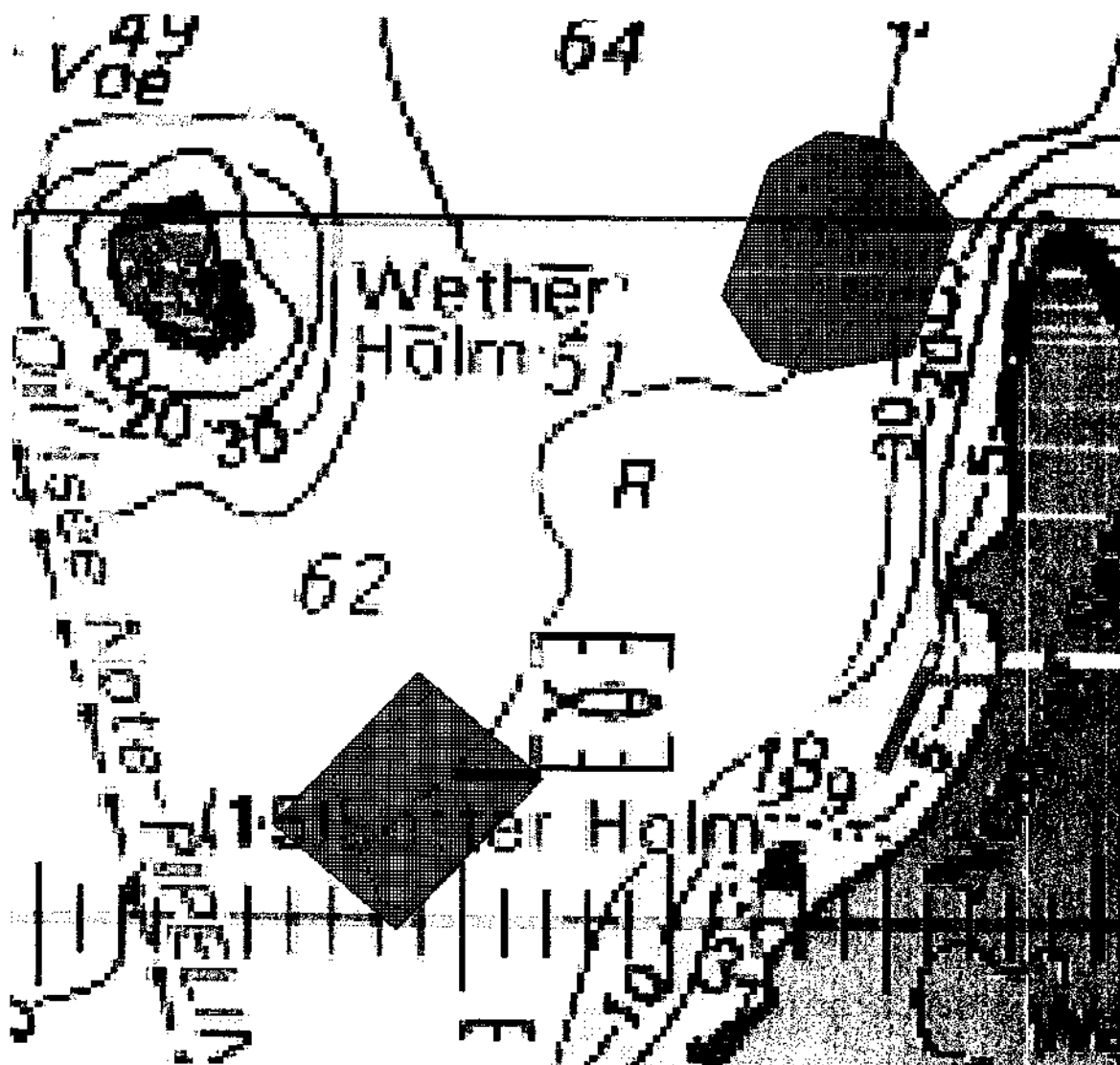
Are you in a position to provide me with a more definitive steer as to the likelihood of a seabed lease being granted for the area of seabed proposed in the planning application?

Owing to the existence of the Council's separation distance policy between consented aquaculture sites, it is unlikely we would grant planning permission for a site if we knew that a seabed lease would not be granted for the location concerned as doing so would effectively sterilise the site and its surrounding area for future aquaculture development until such time as any planning permission granted would lapse.

With regards the existing adjacent lease interest, I note the extents of the lease is as shown below (extracted from the Scotland's Aquaculture website):



There has been no SIC consent in place for the large seabed lease area for approximately 10 years and the current/proposed planning permission boundaries of the relevant Setters Ness South site is shown below:



I was wondering why the seabed lease for the Setterness South site has not been modified in the past to reflect the present location of the fish farm and that of the relevant planning permission for the site? Both Setterness sites are in operation and as such fish farming cannot take place in the part of the unused existing lease area that extends towards the longline proposed under application ref: 2014/025/MAR.

I am required to make a decision on this application by the end of next week so I would be grateful for a response from you by no later than Wednesday 27 August.

Kind regards,  
John

**From:** McPake, Charlene  
**Sent:** 22 July 2014 10:31  
**To:** Marine Planning@Development Services  
**Subject:** 2014/025/MAR

Dear John,

The proposed development is too close to an existing lease interest and it is likely that we would be unable to lease this area without the current Tenants permission.

Thanks

charlene

**Charlene McPake**  
Aquaculture Co-ordinator



6 Bell's Brae, Edinburgh, EH4 3BJ

Tel: [REDACTED]

[www.thecrownestate.co.uk](http://www.thecrownestate.co.uk)

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## Summers Claire@Development Service

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**From:** Eva Ganson [REDACTED]  
**Sent:** 27 August 2014 21:17  
**To:** Development Management@Development  
**Subject:** Planning applications- Nesting and Lunnasting Community council

Community council members have no objections to the following applications-

2014/251/PPF Erect dwellinghouse and construct access Orgill Vidlin

2014/243/PPF Erect store and compound Marine Park Vidlin

2014/219/PPF Erect dwellinghouse, Brough, South Nesting

2014/026/MAR Setter Ness south Lunna

2014/024/MAR NW of Cub, Swining, vidlin

2014/025/MAR Setter Ness, Lunna

2014/021/MAR Little Ness Dury

Regards

Eva Ganson

Clerk



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**Rosie John@Development Service**

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**From:** Leslie Tait [REDACTED]  
**Sent:** 04 September 2014 15:03  
**To:** Rosie John@Development Service  
**Cc:** Una Simpson  
**Subject:** Re: Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna

Yes John, sorry for any confusion.

Cheers  
 Leslie.

On 4 September 2014 14:58, [REDACTED] wrote:

Hi Leslie,

Thank you for clearing that up.

To remove any uncertainty, can you confirm that you wish to maintain your objection to the Setterness application (2014/025/MAR) which was lodged on 11 July 2014?

Regards,

John

**From:** Leslie Tait [mailto:[REDACTED]]  
**Sent:** 04 September 2014 14:52  
**To:** Rosie John@Development Service  
**Cc:** Una Simpson  
**Subject:** Re: Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna

Hi John

The single line I was referring to was the 2014/021/MAR site, which I perhaps did not make very clear to him as I did not have access to my chart at the time, which you explained we would be able to respond to if it were further developed, although I am not sure why anyone would wish to set out a single exploratory line without some guarantee that it could be developed further if successful ?

On the 025 application I only agreed that we could meet with hopefully one or two skippers to discuss the area if he so wished.

Regards

Leslie

On 4 September 2014 14:29, <[REDACTED]> wrote:

Hi Leslie,

Thank you for your email.

I have received an email from the applicant today. The following is an extract from that email which specifically refers to your conversation with Mr Grunshaw earlier today:

*"Re: Setterness – his concerns here were again debris and also impact on Scallop fishery and Velvet Crab fishery. He says he does not have a problem with just one line but may have in the future if the site was extended. I've put forward proposals in that regard – keeping the site compact should it be expanded and keeping to less than 15m (i.e. out of the normal minimum depth for scallop dredging). And I've arranged to meet with Leslie and several of the local skippers when I go up so that we can be clear about future developments and progress by consent in the future. He did mention that he would contact you to raise two points - that 2 weeks is insufficient time for consultation and that he believes that it is up to the developer to show that the site is outside fishing grounds by reference to the fishing map (which he says is the same one as given in the SMSP). I can sympathise again with his request for more time for consultation – as fishermen are not the easiest of people to contact. And for my part I'm going to contact them before applying for pp in future. With regards the fishing map – I did choose an area that was outside that shown on the plan as a scallop dredging or velvet crab fishery. (I'm not saying the plan is to be relied on – I know it is not – but just pointing out that the site is outside the designated fishing areas shown on the marine spatial plan).*

*In any event he seems fine with one line. And at this stage so am I."*

With regards the statement that *"the site is outside the designated fishing areas shown on the marine spatial plan"*, I can confirm that this is true for the scallop fishery identified in the marine spatial plan but not for the crab and lobster fishery identified in the plan.

**Given the applicant's account of your discussions, can you confirm if your objection to the single longline proposed is to be maintained or if it is to be withdrawn?**

I would be most grateful for a swift response as I am required to make a decision on this application today.

Kind regards,

John

**From:** Leslie Tait [mailto: [REDACTED]]  
**Sent:** 04 September 2014 12:24  
**To:** Rosie John@Development Service  
**Cc:** Una Simpson  
**Subject:** Re: Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna

HI John

I have this morning spoken to the applicant and although he still intends to come to Shetland he is not sure when.

In the meantime regarding the evidence you require on levels of fishing etc, this would take quite a lot of time and effort to submit. As i indicated in my previous e-mail the information is on the Marine Spacial Plan which you have access to, it is surely up to the developer to prove he is not imposing on other seabed users, surely that is the reason for a Marine Plan ?

It also says in the "Plan" that there should be "PRE-APPLICATION CONSULTATION WITH STAKEHOLDERS" ?

Regards

Leslie.

On 27 August 2014 15:47, [REDACTED] wrote:

Hi Leslie,

Having revisited this, I actually have until Thursday 4<sup>th</sup> September to make a decision on this application and still meet determination targets.

As such, it would be very beneficial for me if any meeting between yourself and the applicant (Mr Grunshaw) could take place by no later than Wednesday 3<sup>rd</sup> September such that you have time to get me any possible updated response on this application before 4<sup>th</sup> September. In the event your concerns cannot be addressed and your objections are to be maintained to this application, I would still require the information requested in my email below of 18<sup>th</sup> July to be submitted to me before 4<sup>th</sup> September.

I will also be contacting Mr Grunshaw to advise him that any meeting between yourselves would need to take place by no later than 3<sup>rd</sup> September if at all possible.

Kind regards,

John

---

**From:** Leslie Tait [mailto: [REDACTED]]  
**Sent:** 21 August 2014 17:27  
**To:** Rosie John@Development Service  
**Cc:** [REDACTED]  
**Subject:** Re: Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna

Hi John

The applicant has been in touch and expressed his willingness to meet with us to discuss the proposals. I will be home next week when I will try to arrange a meeting to see if we can address some of our concerns.

Cheers

Leslie

On Thursday, August 21, 2014, [REDACTED] wrote:

Good afternoon Leslie,

**Planning application 2014/025/MAR, proposed mussel longline, Setterness, Lunna**

In order to meet statutory determination targets, I will have to make a decision on the above application by 29 August 2014.

Could I ask that you submit the information requested in the attached emails by no later than 9am on Thursday 28 August.



Kind regards,

John

**From:** una [REDACTED]  
**Sent:** 07 August 2014 13:00  
**To:** Rosie John@Development Service  
**Subject:** FW: FW: Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna

**From:** Leslie Tai [REDACTED]  
**Sent:** 07 August 2014 11:26  
**Subject:** Re: FW: Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna

Hello John

I write in connection with our objection to the above application and would refer you to the Marine Spacial Plan done by the NAFC Marine Centre which shows that there has historically been a fishery of both velvet crabs and scallops in this area. Any more detailed information of individual vessels and species will take time to put together.

Our other question on the need to tidy up trip buoys, refers to the site off setter-ness.

I am having difficulty contacting the relevant fishermen but we have a small boat meeting on Thursday 14th when I will try to get more information on both these questions.

Hope this is adequate for now.

Cheers

Leslie.

**From:** [REDACTED]  
**Sent:** 18 July 2014 14:15  
**To:** una  
**Cc:** [REDACTED]

**Subject:** RE: Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna

Good afternoon Una/ Leslie,

I acknowledge receipt of your objection to the above application.

To assist us in our determination of this application, is it possible for you to submit any evidence/information to help quantify the level of fishing effort undertaken at the proposed site location including any species-specific catch data, number of vessels which fish in the area and frequency of fishing effort for each species fished for?

Kind regards,

John

**From:** una [REDACTED]  
**Sent:** 11 July 2014 10:10  
**To:** Marine Planning@Development Services  
**Cc:** Rosie John@Development Service; 'Leslie Tait'  
**Subject:** RE: Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna

Dear Kimberley

The Shetland Fishermen's Association wish to lodge an objection regarding this application.

This area has an active scallop and velvet crab fishery.

Please contact Leslie Tait, SFA Chairman, for further details regarding this objection.

I look forward to confirmation of receipt of this objection.

Kind regards

Una

*Una Simpson*

Office/Finance Manager

Shetland Fish Producers' Organisation Limited

Tel: [REDACTED]

Fax: [REDACTED]

Website: [www.shetlandfishermen.com](http://www.shetlandfishermen.com)



Shetland Seafood Centre, Stewart Building, Lerwick, Shetland, ZE1 0LL

**From:** [REDACTED] **On Behalf Of** [REDACTED]

**Sent:** 07 July 2014 12:41

**To:** Environmental Health Administration Team@shetland.gov.uk; bill.colter@shetland.gov.uk

**Subject:** Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Settemess, Luna

Dear Sir/Madam

**Planning Ref:** 2014/025/MAR

**Proposed Development:** To deploy a single 220m twin-headline longline for production of mussels

**Applicant:** Settemess, Luna

**Planning Officer:** John Rosie

Please see our online system for all of our the newest planning applications

<http://pa.shetland.gov.uk/online-applications/search.do?action=simple&searchType=Application>

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.

The consultation period is 14 days, but if you have any queries please contact the above officer.

Consultation replies should be sent, using the same Subject heading to:

[marine.planning@shetland.gov.uk](mailto:marine.planning@shetland.gov.uk)

If you require any further information on this planning application, please contact the relevant officer.

We appreciate that it may not always be possible to give a full response within the 14 days. If this is the case, please email [marine.planning@shetland.gov.uk](mailto:marine.planning@shetland.gov.uk) or contact the relevant officer to indicate your continuing interest in the proposal.

Phone numbers are:

John Rosie 74-5681

Ryan Leask 74-5682

Martin Holmes 74-4805

Please note that there may be a 24 hour delay whilst files are uploaded to the website.

If there are any problems with the e-consultation process, please get in touch.

Iain McDiarmid

Executive Director – Planning

Shetland Islands Council

Grantfield

Lerwick

ZE1 0NT

Tel 01595 744813

fax 01595 744804

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## Rosie John@Development Service

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**From:** D GRUNSHAW [REDACTED]  
**Sent:** 04 September 2014 15:30  
**To:** Rosie John@Development Service  
**Subject:** RE: Setterness

Hi John

Setterness:

I'd add that the removal of the fish farm adjacent to the site has freed up a lot more space for fishing than the mussel site takes up ☺

Kind regards

Dave

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**Rosie John@Development Service**

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**From:** D GRUNSHAW [REDACTED]  
**Sent:** 04 September 2014 15:51  
**To:** Rosie John@Development Service  
**Subject:** FW: mussel sites

Hi John

Just sending you a copy of my email to SFA and SSMO as it does provide the information I used in identifying the impact the sites would have on fisheries.

I have just received an email from Leslie advising that the single site he was referring to was just Little Ness, Dury Voe and not the Setterness site as well.

With regards Setterness I don't think a single line would seriously negatively impact either the Scallop Fishery or Velvet Crab Fishery particularly as the site is outside both fisheries as marked on the SMSP. And the area occupied by a single line is miniscule in relation to the areal extent of the fisheries concerned.

I am of the opinion that extensive consultation with both the SFA and SSMO and especially the local skippers concerned would be needed if more lines were proposed.

Kind regards

Dave

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 14 August 2014 18:46  
**To:** 'info@ssmo.shetland.co.uk'  
**Subject:** FW: mussel sites

For the attention of the Shetland Shellfish Management Organisation Limited and the Shetland Fisherman's Association.

Re: Swinister Voe (2014/023/MAR), Setterness (2014/025/MAR) and Little Ness (2014/021/MAR)

Dear Sirs

Firstly I must emphatically apologise for not contacting you prior to submitting these applications. I did not do that out of arrogance – I had checked the sites in depth with the Shetland Marine Spatial Plan (SMSP) and had specifically tried to choose sites that would not impact fishing in any way. As such I blindly followed the SMSP and did not realise that it was just an indicator of fishing activity in the area and could not be relied upon. In hindsight I should have checked with the Fisherman's Association and the SSMO regardless of what the SMSP said. And you have my word that should I ever submit another planning application I will consult with you beforehand even if the SMSP says there is no fishing at that location.

I do respect your concerns. I was brought up in Fleetwood when it was a fishing port and I've worked for some years dredging for scallops in Golden Bay, New Zealand. So the last thing I want to do is upset anyone in the fishing community.

I gained my experience farming mussels in New Zealand and I've just returned to the UK looking to farm mussels in Shetland. I think it's a great place to live and I'm looking forward to moving there with the family. Can't wait to be there to be honest.

If it is OK to call round I'd like to meet up when I'm back. It's easier to ask me questions face to face and I'd like to find out a lot more about fishing in Shetland.

In the mean time is it OK to run through a few of your concerns about the applications?

With regards the Setterness site (2014\_025\_MAR) I located the application outside the area that was shown on the SMSP as a shellfish dredging area and also to the north of the area marked for velvet crab. The velvet crab fishery was to the south (towards Setter Holm). I now know the SMSP is not accurate but I tried to avoid any effect on fishing. The seabed at the site is sandy gravel which is probably why the main fishing area for velvet crab is on the rockier area to the south. I'm certainly not disputing that velvet crab fishing goes on but I would have thought the site was on the periphery of the main area? I'm relying on your member's advice in that regard. And I'm happy to either position the lines close together or further apart – whichever would help fishing next to or within the site? I'm open to any suggestions that would assist. To mitigate any effect on the important scallop dredging area close by would it be OK with you to limit any development to a maximum depth of 15m? I am happy to agree to that and it would help limit any effect on scallop dredging? Again I'm open to any suggestion or comment? I did look at alternative sites to the east and west of Wether Holm but discounted them as they were in the scallop dredging area.

With regards Swinister Voe (2014\_023\_MAR) I understand your concerns are mainly with the mess left behind by the former salmon farm? Clearly from my point of view I share your concern. And I would have to sort it out myself if it was not already cleared by the salmon company.

With regards Little Ness, Dury Voe (2014\_021\_MAR). I have again tried to pick an area that the SMSP indicated would not affect fishing. I did investigate a site to the south of Green Isle but it was in a shellfish dredging area and so I did not progress it. Would it assist if I again agreed to limit any future development to the 15m depth contour to try and avoid any impact on shellfish dredging? I am happy to discuss and work with you if you have any suggestions.

I hope you now know a bit more about me and where I am coming from and what I hope to do. I must stress that I apologise for not contacting you beforehand but I hope you can see that I had tried to pick sites that did not affect fishing. Clearly that is not the case and some of your members have concerns and I would like to work with you to find a solution and allay any issues. And as I said at the start I will run through any application with you beforehand in the future before applying for planning permission.

I look forward to hearing from you.

Best regards

Dave Grunshaw

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**Rosie John@Development Service**

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**From:** D GRUNSHAW [REDACTED]  
**Sent:** 04 September 2014 12:08  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi John

Well best laid plans.... my partners broken knee has put paid to my plans for Shetland this week.

I've contacted Leslie Tait though.

Re: Swinister – his concerns were the debris left behind from the salmon farm. I sympathise with that – I'm not entirely sure but it seems to be nearly ten years since the Swinister Salmon farm had any biomass. And I think it was vacated quite a few years ago now. So it must be frustrating to the local fishermen if there is lots of debris thereabouts.

Re: Setterness – his concerns here were again debris and also impact on Scallop fishery and Velvet Crab fishery. He says he does not have a problem with just one line but may have in the future if the site was extended. I've put forward proposals in that regard – keeping the site compact should it be expanded and keeping to less than 15m (i.e. out of the normal minimum depth for scallop dredging). And I've arranged to meet with Leslie and several of the local skippers when I go up so that we can be clear about future developments and progress by consent in the future. He did mention that he would contact you to raise two points – that 2 weeks is insufficient time for consultation and that he believes that it is up to the developer to show that the site is outside fishing grounds by reference to the fishing map (which he says is the same one as given in the SMSF). I can sympathise again with his request for more time for consultation – as fishermen are not the easiest of people to contact. And for my part I'm going to contact them before applying for pp in future. With regards the fishing map – I did choose an area that was outside that shown on the plan as a scallop dredging or velvet crab fishery. (I'm not saying the plan is to be relied on – I know it is not – but just pointing out that the site is outside the designated fishing areas shown on the marine spatial plan).

In any event he seems fine with one line. And at this stage so am I.

With regards the Crown Estate Charlene has advised that they are happy with Setterness and I am still waiting to hear about Swinister.

Hjaltland have made an objection to the Swinister site. I've had quite a bit of dialogue with them some productive some not. They have no plans to develop the site which was last used I believe in 2004. Their initial response was benign in that they did not object as long as my proposal fitted in with SIC policy and they advised me to contact you. The Crown Estate asked me to seek their permission which is a bit of a different matter. It also conflicts with the CE's policy (as advised by CE) which is to terminate leases that do not have a valid planning permission in place post March 2004. But Hjaltland cannot give me their 'permission' as it may interfere with their plan to lease the site for mussel production in the future. I'd rather not comment on that at this stage other than to say I know you are fully aware of the current state of 2011/007/NS.

The key I suppose at this stage is the ultimate response from the Crown Estate – which will be interesting to say the least.

Hope to meet up soon John.

Kind regards

Dave



**From:** [REDACTED]  
**Sent:** 29 August 2014 17:52  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi Dave,

I am aiming to make a decision on the Setterness and Swinister Voe applications on Thursday afternoon when I return to work from our work trip away to Skye. As such, if the objections from the SFA (to the Setterness application) and from Hjaltdland (to the Swinister Voe application) are to be withdrawn, I would need confirmation from them to that effect by no later than 2pm on Thursday 4<sup>th</sup> September.

I would agree that it would seem as though the seabed area for the Setterness proposal will become available for a Crown Estate lease in the not too distant future. The situation is not so clear for Swinister Voe given the objection lodged by Hjaltdland at this time.

Myself and Ryan would be happy to meet you in person although I'm guessing Thursday afternoon will be a very busy day for myself what with trying to get these applications determined on time! Perhaps you would be available to drop by on the Friday at some point instead or even into the following week?

I will be leaving the office soon and will not be back at my desk until after lunch on Thursday 4<sup>th</sup>. I should hopefully have access to my emails when I am away although I cannot be certain of this.

Best regards,  
John

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 29 August 2014 16:15  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi John

I am only going to be in Shetland on Thursday.

I've been in contact with Leslie and will meet him and some of the small vessel fishermen on Thursday.

If that is cutting it too fine I'll try and get an agreement with him over the phone beforehand?

I have the impression we can work something out – but I don't want to pre-empt the outcome.

I am trying to arrange to meet with Adrian and Charlene before Thursday – it is proving a bit tight at the moment so it may have to be by telephone conference if not in person.

Setterness seems to be progressing. Hjaltdland have confirmed that it does not interfere with their sites so I presume Crown Estates will view that as permission from the adjacent lease holder – though in my mind it is a moot point if permission is even required given that the leases are being relinquished and there are no farms within 500m.

Swinister is a bit more problematic in that Hjaltdland considers that it interferes with their lease of the area to a third party for a mussel operation. But as far as I know the pp for a mussel operation expired in February with no development taking place. How the Crown Estate will read that I do not know – and that is one thing that will certainly be discussed with them.

There is a lot of talk about steralised sites (as you mention in your email below) – and I would have thought that having a CE lease and planning permission to develop mussels and then not doing anything about it for 3 ½ years and letting the planning permission lapse was a prime example of steralising a site and the surrounding area from aquaculture production.....

I am of course clearly biased as I have a vested interest but I will do my best to try and view it objectively – whatever the outcome is.

Anyway is it OK to call in and say hello on Thursday – about time really. Would be good to have a chat and I'd like to thank you and Ryan for all the effort and time you have put in. It is much appreciated.

And please let me know if you want me to ask Leslie for a decision before Thursday – otherwise I'll update you as soon as we have had our meeting.

Best regards

Dave

---

**From:** [REDACTED]  
**Sent:** 27 August 2014 17:06  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi Dave,

**Planning Application Ref: 2014/023/MAR**

**Proposal: To deploy a single 110m twin-headline longline for production of mussels, Swinister Voe, Yell Sound**

**Planning Application Ref: 2014/025/MAR**

**Proposal: To deploy a single 220m twin-headline longline for production of mussels, Setterness, Lunna**

Just to provide an update on the above applications:

The Crown Estate consultation response to both applications is as follows:

"The proposed development is too close to an existing lease interest and it is likely that we would be unable to lease this area without the current Tenants permission."

For the Swinister Voe application (2014/023/MAR), an objection by Hjaltland Seafarms Ltd has been lodged on the following grounds:

"The proposed site is only a few meters away from an existing crown estate lease, issued to Hjaltland Seafarms Ltd for the production of mussels."

For the Setterness application (2014/025/MAR), an objection by the Shetland Fishermen's Association (SFA) has been lodged on the following grounds:

"This area has an active scallop and velvet crab fishery."

With regards the issue of seabed leases, owing to the existence of the Council's separation distance policy between consented aquaculture sites, it is unlikely we would grant planning permission for a site if we knew that a seabed lease would not be granted for the location concerned as doing so would effectively sterilise the site and its surrounding area for future aquaculture development until such time as any planning permission granted would lapse. As a result of correspondence with the Crown Estate today, it is my understanding that the area of seabed covered by your Setterness application (ref: 2014/025/MAR) is likely to become available for lease in the not too distant future due to pending modifications to the adjacent seabed lease granted to Hjaltland Seafarms Ltd. With regards your Swinister Voe application, I suggest you contact Hjaltland to establish if there is any way of addressing their concerns.

With regards the objection lodged by the SFA to your Setterness application, I understand you have agreed to meet with them in the hope of addressing their concerns.

4.

For both applications, I need to make a decision by no later than Thursday 4<sup>th</sup> September in order to meet our determination targets. As such, can I ask that any meetings or discussions involving you and any of the above relevant organisations takes place as soon as possible and certainly no later than Wednesday 3<sup>rd</sup> September such that I am hopefully in a position to be able to make fully informed decisions on the applications on 4<sup>th</sup> September.

I will be in the office tomorrow and Friday but will be away with work as of Monday and will not be back in the office until lunch time on Thursday 4<sup>th</sup> September.

Kind regards,  
John

---

**From:** Rosie John@Development Service  
**Sent:** 07 August 2014 14:49  
**To:** 'D GRUNSHAW'  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi Dave,

Thank you for your email.

I'm afraid that we cannot stop the clock as a result of ongoing negotiations between the developer and consultees and/or other parties.

However, I will be seeking a more definitive steer from the Crown Estate as to whether or not they will grant you seabed leases for the developments applied for under applications 2014/023/MAR and 2014/025/MAR before making a decision on the planning applications. As it stands, I need to make a decision on the applications by no later than 04 September 2014 in order to meet our determination targets.

Regards,  
John

---

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 04 August 2014 23:55  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi John

Hope you are well.

Sorry for the delay in replying – I'm camping with the family in the Highlands.

With regards 2014/023/MAR and 2014/025/MAR please can you stop the clock pending further discussion with the adjacent lease holders and Crown Estates?

Thank you for your assistance.  
Kind regards  
Dave

---

**From:** [REDACTED]  
**Sent:** 31 July 2014 10:25  
**To:** [REDACTED]  
**Subject:** Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Dave,

**Planning Application Ref: 2014/023/MAR**

**Proposal: To deploy a single 110m twin-headline longline for production of mussels, Swinister Voe, Yell Sound**

**Planning Application Ref: 2014/025/MAR**

**Proposal: To deploy a single 220m twin-headline longline for production of mussels, Setterness, Lunna**

Please find attached the Crown Estate's consultation responses to the above planning applications.

I can confirm that the Crown Estate have responded with no objections to the following applications:

2014/018/MAR – East of Brunt Hamersland, Catfirth

2014/019/MAR – North of Quoy, Catfirth

2014/021/MAR – Little Ness, Dury Voe

2014/022/MAR – West of Little Holm, Catfirth

2014/024/MAR – NW of Cul Houb, Swining Voe

We are yet to receive a response from the Crown Estate to the following applications:

2014/016/MAR – East of Wadbister Ness, Laxfirth

2014/017/MAR – Hawksness, Laxfirth

Regards,  
John

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**Rosie John@Development Service**

**From:** Rosie John@Development Service on behalf of Marine Planning@Development Services  
**Sent:** 18 July 2014 17:09  
**To:** 'una'; 'Leslie Tait'  
**Cc:** Marine Planning@Development Services  
**Subject:** RE: Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna  
**Attachments:** Setterness area.pdf

Good afternoon Una/ Leslie,

I acknowledge receipt of your email.

I have attached a screenshot of the consented and proposed aquaculture sites in the area. Could you please confirm which fish farm site you have concerns with in respect of trip buoys?

Kind regards,  
 John

---

**From:** una [REDACTED]  
**Sent:** 15 July 2014 08:42  
**To:** Smith Kimberley@Development Service  
**Cc:** Marine Planning@Development Services  
**Subject:** FW: Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna

Dear Kimberley

The Shetland Fishermen's Association have concerns over the trip buoys that have been left at Setterness. The Association feels that this should be dealt with before deploying any further structures.

We look forward to receiving your further observations/comments in this respect. Please also acknowledge receipt of this email, thank you.

Kind regards  
 Una

Una Simpson  
 For Leslie Tait, SFA Chairman

---

**From:** [REDACTED] **On Behalf Of**

**Sent:** 07 July 2014 12:41

**To:** [REDACTED]

**Subject:** Marine Consultation - 2014/025/MAR - To deploy a single 220m twin-headline longline for production of mussels - Setterness, Luna

Dear Sir/Madam

**Planning Ref:** 2014/025/MAR

**Proposed Development:** To deploy a single 220m twin-headline longline for production of mussels

**Applicant:** Setterness, Luna

**Planning Officer:** John Rosie

Please see our online system for all of our the newest planning applications

<http://pa.shetland.gov.uk/online-applications/search.do?action=simple&searchType=Application>

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.

The consultation period is 14 days, but if you have any queries please contact the above officer.

Consultation replies should be sent, using the same Subject heading to:

[marine.planning@shetland.gov.uk](mailto:marine.planning@shetland.gov.uk)

If you require any further information on this planning application, please contact the relevant officer.

We appreciate that it may not always be possible to give a full response within the 14 days. If this is the case, please email [marine.planning@shetland.gov.uk](mailto:marine.planning@shetland.gov.uk) or contact the relevant officer to indicate your continuing interest in the proposal.

Phone numbers are:

John Rosie 74-5681

Ryan Leask 74-5682

Martin Holmes 74-4805

Please note that there may be a 24 hour delay whilst files are uploaded to the website.

If there are any problems with the e-consultation process, please get in touch.

Iain McDiarmid

Executive Director – Planning

Shetland Islands Council

Grantfield

Lerwick

ZE1 0NT

Tel 01595 744813

fax 01595 744804

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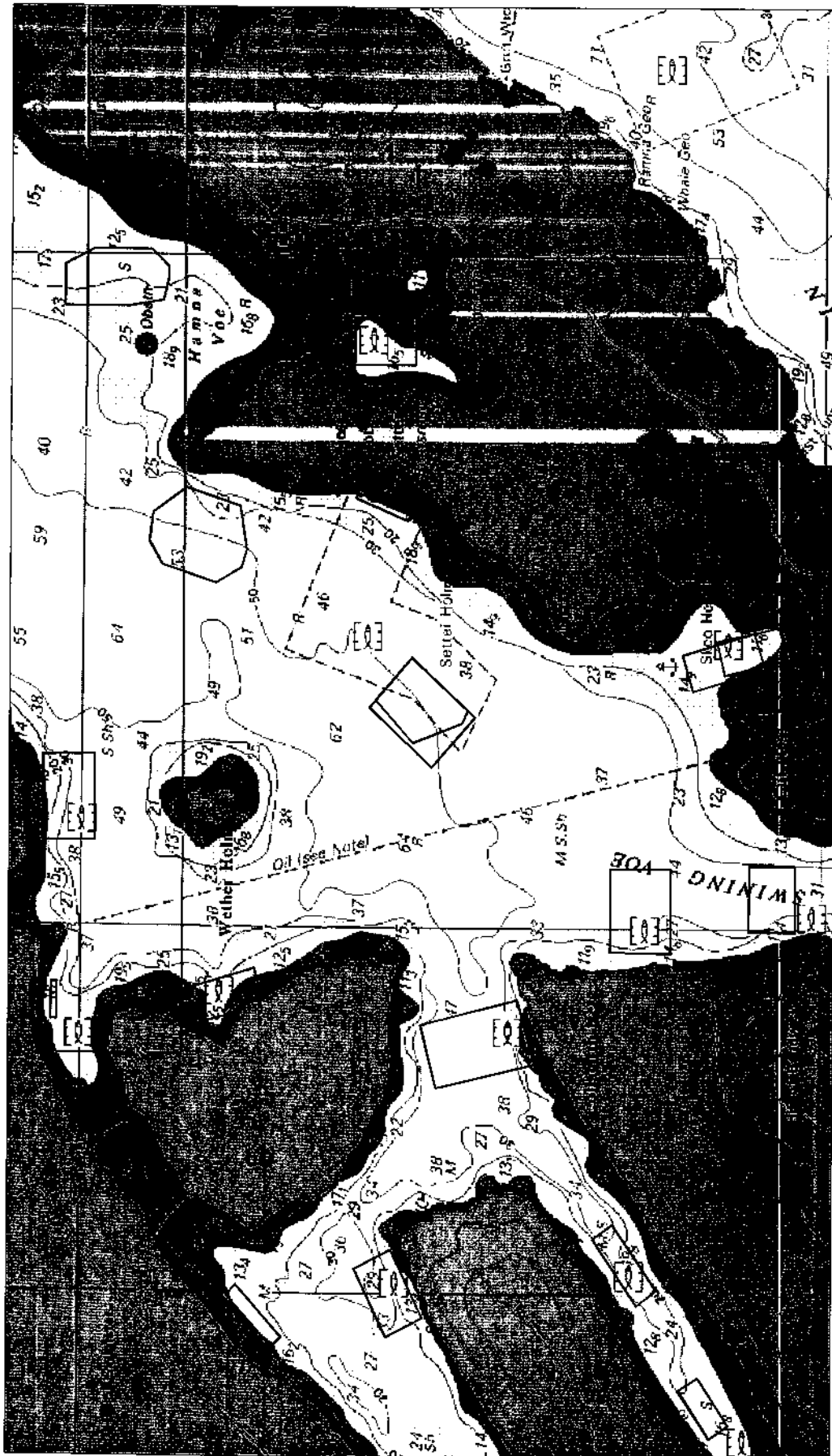
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**Rosie John@Development Service**

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**From:** Rosie John@Development Service  
**Sent:** 19 July 2014 18:04  
**To:** 'D GRUNSHAW'  
**Subject:** RE: Setterness

Hi Dave,

I went out to Setterness yesterday and observed that the squares and barge are still in position.

I have asked the SFA to confirm which site they have concerns with in respect of trip buoys. I shall get in touch with you when I get a response.

Regards,  
 John

---

**From:** Rosie John@Development Service  
**Sent:** 17 July 2014 17:30  
**To:** 'D GRUNSHAW'  
**Subject:** RE: Setterness

Hi Dave,

I am hoping to undertake a site visit of the area tomorrow.

We recently received an application (ref: 2014/026/MAR) for an equipment modification at the Setterness South salmon farm (existing pp's FFR/ZET/005 & 2009/010/VF) for a change from square cages to round cages and a change of feed barge. Our last visit to the area was on 9<sup>th</sup> June and the square cages and barge permitted under the existing pp's was still deployed at the Setterness South site at that time. Since the Shetland Fishermen's Association representation to your mussel farm application at Setterness mentions trip buoys being left at Setterness, I can only assume the square cages and barge has been removed from the Setterness South site but the anchors have been left in situ (marked by trip buoys) in preparation for deployment of the new equipment should planning permission be granted for application 2014/026/MAR. I will need to undertake a site visit to confirm this however and I shall be in touch with you in due course.

Regards,  
 John

---

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 15 July 2014 10:28  
**To:** Rosie John@Development Service  
**Subject:** RE: Setterness

Hi John

Do you know anything about trip buoys in the Setterness area?

I did not see any anchor buoys near the site – neither potting buoys nor anchor buoys?  
 That was March/April – but I would not have thought it had changed much.

I am going to arrange a meeting with Leslie to discuss his other points.

Kind regards



## **Delegated Report of Handling**

**Development:** To deploy a single 220m twin-headline longline for production of mussels

**Location:** Setterness, Lunna

**By:** Laxfirth Shellfish

**Application Ref:** 2014/025/MAR

### **1. Introduction**

This is an application to deploy a single 220m twin-headline longline for on-growing of mussels at Setterness, Lunna. Proposed maximum biomass is estimated at 8 tonnes. The site is to be serviced from Toft or Burravoe, Yell.

### **2. Relevant Policies**

#### **Shetland Islands Council Planning Policy for Aquaculture (2007) Policies**

PPAG1 - General Factors to be considered

PPAG2 - Views of all interested parties, including competent and relevant bodies and local communities

PPAG9 - Development adjacent to or within a Natura 2000 site

PPAS1 - Minimum Separation Distance Between Sites (Shellfish)

PPAS4 - Maximum Surface Works Area (Shellfish)

PPAS7 - Biological Carrying Capacity (Shellfish)

#### **Shetland Local Development Plan 2012 (emerging)**

CST1 - Coastal Development

#### **Marine Spatial Plan for the Shetland Islands (2013) Policies**

MSP HER1 - Developments in or near Sites of International Interest (SACs, SPAs and Ramsar)

MSP FISH1 - Safeguarding Fishing Opportunities

MSP AQ1 - Aquaculture

### **3. Safeguarding**

Locational Guidelines - Swinister Voe Category 2 Area

Special Area of Conservation - Yell Sound Coast

#### **4. Consultations**

Environmental Health was consulted on 7 July 2014. There was no response from this consultee at the time of report preparation.

Ports & Harbours Operations was consulted on 7 July 2014. There was no response from this consultee at the time of report preparation.

Nesting And Lunnasting Community Council Clerk was consulted on 7 July 2014. Their comments dated 27 August 2014 can be summarised as follows:

No objections.

The Crown Estate was consulted on 7 July 2014. Their comments dated 22 July 2014 can be summarised as follows:

The proposed development is too close to an existing lease interest and it is likely that we would be unable to lease this area without the current tenant's permission.

Marine Scotland Science was consulted on 7 July 2014. Their comments dated 21 July 2014 can be summarised as follows:

No objections.

The NLB was consulted on 7 July 2014. Their comments dated 15 July 2014 can be summarised as follows:

The site should be marked by a special mark buoy which is yellow in colour and conical in shape and fitted with a yellow multiplication cross topmark. The buoy should have a diameter of approximately 1 metre at the waterline and the cross topmark should measure a minimum of 50cm in length by 7.5cm in width. The buoy should be positioned at the seaward midpoint of the sites longline.

RSPB was consulted on 7 July 2014. There was no response from this consultee at the time of report preparation.

SEPA Aberdeen was consulted on 7 July 2014. Their comments dated 21 July 2014 can be summarised as follows:

Shellfish farms are dependent upon good water quality in order to produce shellfish which meet required food standards set by the Food Standards Agency (Scotland). The Water Environment (Shellfish Water Protected Areas: Designation) (Scotland) Order 2013 identifies shellfish water protected areas (SWPAs). As part of our regulatory remit we monitor waters against the standards for sewage related bacteria set out in the Regulations to ensure that discharges to the water environment will not adversely impact on the SWPAs. In view of this, it is generally our opinion that any new shellfish farm sites should

be located within a SWPA. The proposed site would be situated approximately 1.3 km north east of the Lunna SWPA which was designated in 2012. Results from 2012 and 2013 (under the superseded EC Directive 2006/113/EC for Shellfish Growing Waters) show that the site complied with the guideline standard for faecal coliforms in biota as set out in the Directive. However, we would highlight in this case that the proposed site itself is not situated within a designated SWPA.

There are no Scottish Water assets within the 3 km search area which we reviewed. There are a few private treatment works in the area around Boatsroom Voe to the north, and West Lunna Voe to the south. However, they are in a separate water body and unlikely to have an effect on the water quality at the proposed site. The applicant should be aware that any private treatment works or animals grazing in the surrounding area, could contribute to the potential for input of coliforms into the water body from run-off from the land, which may subsequently affect the classification of shellfish grown there.

The proposed site would be situated within approximately 1.3 km north east of the West of Lunna Shellfish Harvesting Area which has been classified "A" from April 2014 to March 2015 in the Food Standards Agency's 2005 Shellfish Classification scheme.

The site would be situated adjacent to the Yell Sound Coast SSSI and SAC both designated for otter (*Lutra lutra*); the latter also designated for Harbour Seal (*Phoca vitulina*). The last assessed condition of both otter and harbour seal populations was 'unfavourable declining' in 2008 and 2009 respectively.

The proposed site would be located in the Yell Sound water body which has been classified as "Good" in the Water Framework Directive 2012 classification scheme.

Mussel farms impact on the seabed due to the deposition of mussel shell debris and pseudo faeces. However, the area of impact tends to be within the immediate vicinity of the farm.

SNH was consulted on 7 July 2014. Their comments dated 21 July 2014 can be summarised as follows:

The proposals lie close to Yell Sound Coast Special Area of Conservation (SAC) designated for its otters and common seals. The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended, (the "Habitats Regulations") apply.

The main potential impacts of shellfish farms on otters and seals are a) loss of otter foraging habitat and b) disturbance of seals caused by boat traffic.

- a) The applicant has addressed the loss of foraging habitat by the appropriate location of sites outside the 10m depth contour.
- b) The work plan provided in support of this application gives details of how the impact of boat traffic on seals will be mitigated and we agree with the methods set out in this plan. We usually recommend a 500m exclusion zone around seal haul-outs and are happy to further discuss the plan details with the applicant. Provided that the work plan is followed we are content that the risk of disturbance to seals is sufficiently low. We advise that the applicant may wish to become a signatory to the Yell Sound Aquaculture Management plan which sets out similar mitigation methods.

In our view, therefore, it is unlikely that the proposal will have a significant effect on any qualifying interests either directly or indirectly. An appropriate assessment is therefore not required.

Eiders are known to use the area around these proposals as wintering and moulting grounds and are, at these times, sensitive to disturbance. As predators of mussels eiders can cause issues for mussel farms. We advise that the applicant contact SNH to discuss any proposed anti-predator methods before putting them into practice.

Shetland Amenity Trust was consulted on 7 July 2014. There was no response from this consultee at the time of report preparation.

The Shetland Fishermen's Association was consulted on 7 July 2014. Their comments dated 11 July 2014 can be summarised as follows:

The Shetland Fishermen's Association wish to lodge an objection regarding this application. This area has an active scallop and velvet crab fishery.

Also concerned about the trip buoys that have been left at Setterness and feel that this should be dealt with before any other structures are deployed in the area.

The Shetland Inshore Fishermen's Association was consulted on 7 July 2014. Their comments dated 21 July 2014 can be summarised as follows:

Shetland Shellfish Management Organisation was consulted on 7 July 2014. Their comments dated 16 July 2014 can be summarised as follows:

Shetland Shellfish Management Organisation share Shetland Fishermen's Association concerns on the application. We would also like to add that the applicant has no track record in Shetland and the applications seem of a highly speculative nature.

## **5. Statutory Advertisements**

The application was advertised in the Shetland Times on 11.07.2014.

## 6. **Representations**

The Shetland Fishermen's Association has objected to the application as summarised above.

## 7. **Report**

There are policies against which this application has to be assessed and these are listed at paragraph 2 above. The determining issues to be considered are whether the proposal complies with Council Policy, or if there are any other material considerations which would warrant the setting aside of Council Policy.

Full consultation has been undertaken with all interested parties, including competent and relevant bodies and local communities.

The application site is located immediately adjacent to the seaward boundary of the Yell Sound Coast Special Area of Conservation (SAC) designated for its otters and common seals. A work plan and boat movement plan was included in the application submission to address the potential impacts of the proposal on the SAC. Significant impacts on otters have been mitigated by ensuring all proposed equipment is to be sited seawards of the 10m contour and therefore beyond the normal foraging range of otters. With regards potential impacts on common seals, SNH are minded that if the work plan and boat movement plan is followed, then the risk of disturbance to seals is sufficiently low. An appropriate assessment is therefore not deemed to be required as it is considered that the proposal is unlikely to have a significant effect on any qualifying interests of the SAC either directly or indirectly.

There are no known sensitive species or habitats of any significance likely to be adversely impacted by the proposal. However, the proposed development is located within the East Mainland Coast marine draft Special Protection Area (dSPA) proposed under the Birds Directive for both Annex 1 and migratory species including eider ducks. Whilst marine dSPAs have been identified they still require to be consulted on (in 2015) and as such have no statutory status at this time.

The siting of one 220m twin-headline longline as proposed will not result in any significant adverse landscape or visual impact.

The modest level of production biomass proposed will not result in any adverse impact in terms of the biological carrying capacity of the area.

With a maximum surface works area of 220m<sup>2</sup>, the proposal complies with Policy S4.

The proposed development site is not located within 500m of the extents of any consented aquaculture farm. The proposal therefore complies with Policy S1. Although the Crown Estate originally stated

that it is likely they would be unable to lease the area of seabed proposed in the application due to the proximity of an adjacent seabed lease, they later confirmed that the area is likely to become leasable in the near future due to impending amendments to be made to the existing adjacent lease that will significantly increase the distance between the existing lease and the area of seabed which is the subject of this application.

The proposed development is sited immediately adjacent to a scallop fishery as identified in the Shetland Marine Spatial Plan and also within a crab and lobster fishery identified in the plan. The Shetland Fishermen's Association (SFA) submitted an objection to the application on this basis whilst the Shetland Shellfish Management Organisation (SSMO) responded to their consultation by stating they shared the concerns of the SFA. A meeting was to take place between the applicant and the fishing organisations in an effort to find a compromise that would suit all parties but that meeting was unable to take place due to unforeseen circumstances. To help assess the importance, in terms of inshore fishing, of the area of seabed that would be lost by deployment of the proposed longline, a request for submission of evidence and information was made to the SFA including any species-specific catch data, number of vessels which fish in the area and frequency of fishing effort for each species fished for. The SFA has been unable to provide this information due to the difficulties in acquiring it and the time it would take to collate.

The applicant contends that the proposed site is outside the designated fishing areas shown on the marine spatial plan. Whilst this is true for the scallop fishery identified in the plan, it is not so for the identified crab and lobster fisheries. The applicant also contends that the seabed composition at the application site is sandy gravel whilst the seabed to the south, towards Setter Holm and where he considers the crab fishery to be, is of a more rocky composition which would be more suited for such species. This is however at odds with the predictive habitat mapping contained in the marine spatial plan which indicates that the entire seabed in the inshore waters along the Ness of Setter is likely to consist of gravel/pebble which would mean that the seabed at the application site would be no less suited to creel fishing than that of the area to the south around Setter Holm. A site visit was undertaken and at that time, there was no sign of any surface buoys in and around the application site, which would be indicative of creeling activity. With regards to the comments made by the SFA in relation to the effects of trip buoys at the adjacent salmon farm, whilst worthy of further investigation by the Marine Planning Service, such an issue is not a material consideration in respect of the application under consideration. In conclusion, I am minded that there is insufficient information available at this time that could be used to quantify the level of impact on inshore fishing activity that would occur should the longline be deployed as proposed. As such, I consider the precautionary principle is appropriate in this instance and the application should be refused accordingly. Such a decision is in accordance with policies G1 and G2,

and also with policy CST1 with regards ensuring no significant adverse impact on other users of marine resources, and/ or neighbouring land.

**8. Recommendation**

Application Refused

**Reasons for Council's decision:**

The proposal is located within an inshore shellfish fishery as identified in the Shetland Marine Spatial Plan and objections have been lodged to the application on those grounds. The lack of available information that could be used to quantify the level of impact on inshore fishing activity that would occur should the longline be deployed as proposed means that the precautionary principle is appropriate in this instance and the application is therefore refused accordingly. Such a decision is in accordance with policies G1 and G2 of the Shetland Islands Council Interim Policy for Marine Aquaculture.

**List of refused plans:**

- Admiralty Chart Location Plan 2014/025/MAR-01  
Stamped Received 05.07.2014
- Site Plan 2014/025/MAR-02  
Stamped Received 04.07.2014
- Site Plan Key 2014/025/MAR-03  
Stamped Received 04.07.2014
- Longline Section 2014/025/MAR-04  
Stamped Received 04.07.2014
- Work Plan Setterness, Yell Sound 2014/025/MAR-05  
Stamped Received 04.07.2014
- Boat Movement Map Setterness, Yell Sound 2014/025/MAR-06  
Stamped Received 04.07.2014

**9. Further Notifications Required**

Having submitted a representation, The Shetland Fishermen's Association is required to be notified of the Council's decision on the application.

**10. Background Information Considered**

None.

Delegated\_Report\_of\_Handling.doc  
Officer: Mr John Rosie  
Date: 4th September 2014



## **SHETLAND ISLANDS COUNCIL**

### **Town and Country Planning (Scotland) Acts**

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With reference to the application for **Planning Permission** (described below) under the above Acts, the Shetland Islands Council in exercise of these powers hereby **REFUSE Planning Permission** for the development, in accordance with the particulars given in, and the plans accompanying the application as are identified; subject to the reasons specified below.

#### **Applicant**

Laxfirth Shellfish  
C/o Mr David Grunshaw  
24 Bede Close  
Sleaford  
NG34 8WE

**Reference Number:** 2014/025/MAR

**Development:** To deploy a single 220m twin-headline longline for production of mussels

**Location:** Setterness, Lunna

#### **Details of Refused Plans and Drawings:**

- Admiralty Chart Location Plan 2014/025/MAR-01  
Stamped Received 05.07.2014
- Site Plan 2014/025/MAR-02  
Stamped Received 04.07.2014
- Site Plan Key 2014/025/MAR-03  
Stamped Received 04.07.2014
- Longline Section 2014/025/MAR-04  
Stamped Received 04.07.2014
- Work Plan Setterness, Yell Sound 2014/025/MAR-05

Development Services  
Shetland Islands Council  
8 North Ness Business Park  
Lerwick  
Shetland  
ZE1 0LZ

<p><b>PLEASE LOOK AT THE IMPORTANT INFORMATION ON THE BACK OF THIS SHEET AND ON THE ATTACHED SHEET</b></p>
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**Executive Manager - Planning**  
Page 1 of 3



## **IMPORTANT INFORMATION**

If you are aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, you may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to:

Shetland Islands Council  
Marine Planning Service  
Development Services  
8 North Ness Business Park  
Lerwick  
Shetland  
ZE1 0LZ

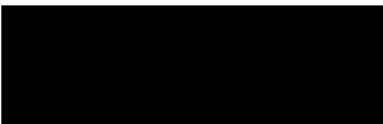
The necessary form can be obtained upon request from the same address.

- Stamped Received 04.07.2014  
Boat Movement Map Setterness, Yell Sound 2014/025/MAR-06  
Stamped Received 04.07.2014

**Reasons for Council's decision:**

- ( 1.) The proposal is located within an inshore shellfish fishery as identified in the Shetland Marine Spatial Plan and objections have been lodged to the application on those grounds. The lack of available information that could be used to quantify the level of impact on inshore fishing activity that would occur should the longline be deployed as proposed means that the precautionary principle is appropriate in this instance and the application is therefore refused accordingly. Such a decision is in accordance with policies G1 and G2 of the Shetland Islands Council Interim Policy for Marine Aquaculture.

8 September 2014

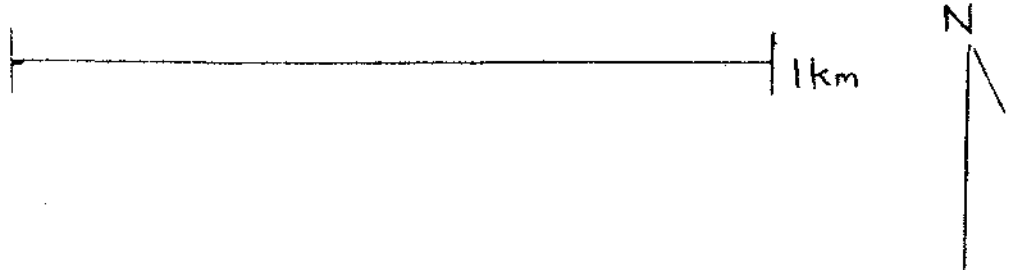
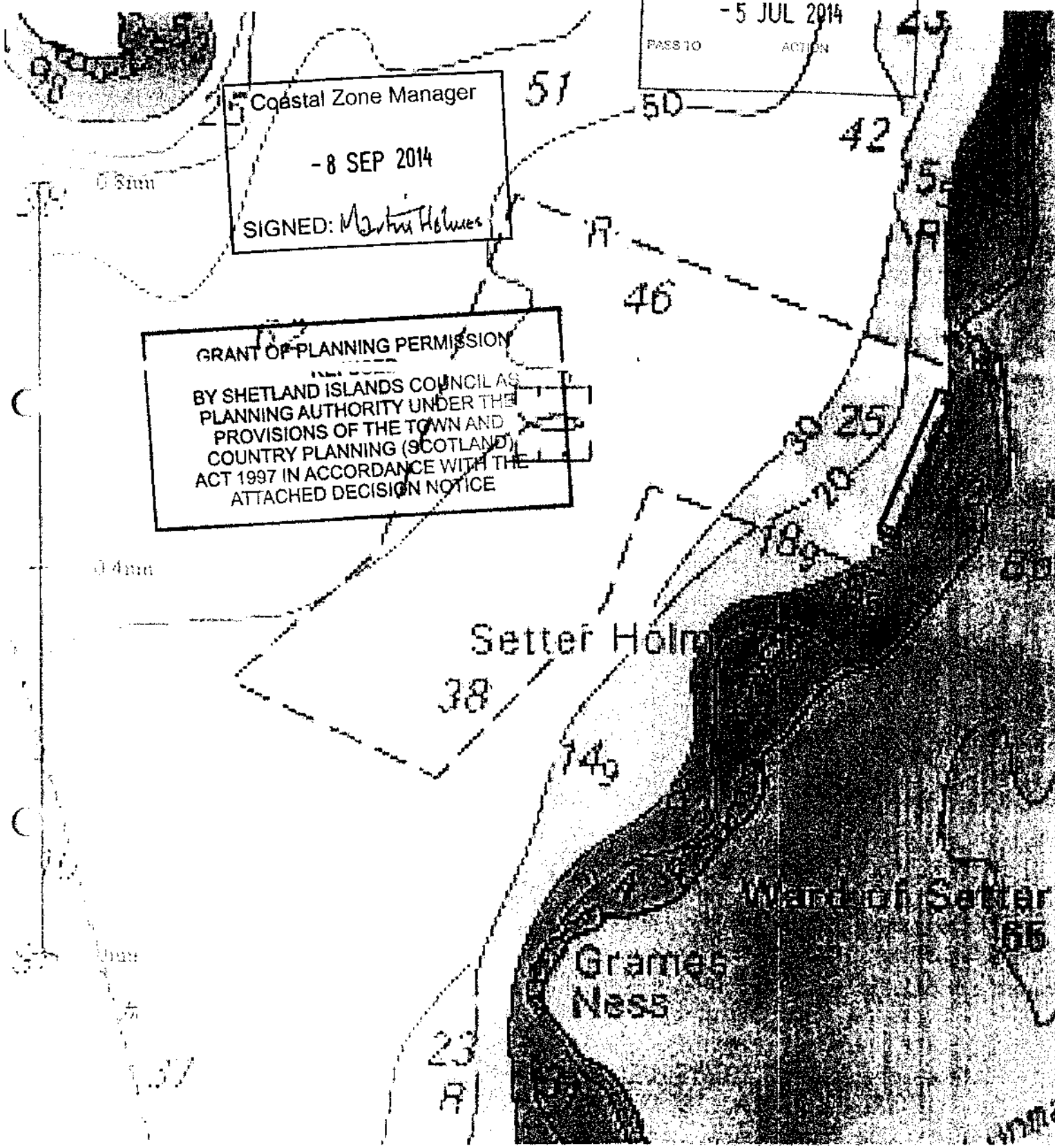


Executive Manager - Planning

SHETLAND ISLANDS COUNCIL  
PLANNING  
- 5 JUL 2014  
PASS TO ACTION

Coastal Zone Manager  
- 8 SEP 2014  
SIGNED: *Martin Holmes*

GRANT OF PLANNING PERMISSION  
BY SHETLAND ISLANDS COUNCIL AS  
PLANNING AUTHORITY UNDER THE  
PROVISIONS OF THE TOWN AND  
COUNTRY PLANNING (SCOTLAND)  
ACT 1997 IN ACCORDANCE WITH THE  
ATTACHED DECISION NOTICE



2014/024/MAR-02

Coastal Zone Manager

- 8 SEI 2014

SIGNED: *Mark Holmes*

Containment Area:  $9000 m^2$

Anchor: 500-1000kg Danforth (Fluke), Samson, Manson or similar fishfarm anchor. Minimum scope 3:1. **GRANT OF FULFILLING PERMISSION scope 1:1.**

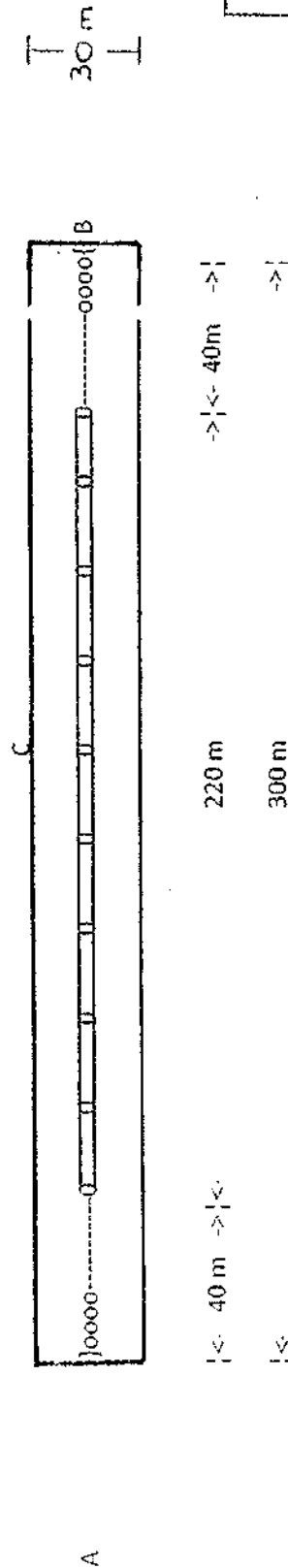
Rode: 32-44mm rope warp. Chain or Seaflex as required. Kelllet as required.

Headline: Twinline 28-32mm rope spaced 1 m apart

Floatation Buoys: Dark Grey or Black 300L GEM or similar.

Scale: 1:2000

**RE USED**  
BY SHETLAND ISLANDS COUNCIL AS  
PLANNING AUTHORITY UNDER THE  
PROVISIONS OF THE TOWN AND  
COUNTRY PLANNING (SCOTLAND)  
ACT 1997 IN ACCORDANCE WITH THE  
ATTACHED DECISION NOTICE



SHETLAND ISLANDS COUNCIL  
PLANNING  
- 4 JUL 2014  
PASS TO ACTION

2014/025/MAR-03

Site Plan Key

SETTERNESS, YELL SOUND

Co-ordinates:

A: 60 25.338, -17.383

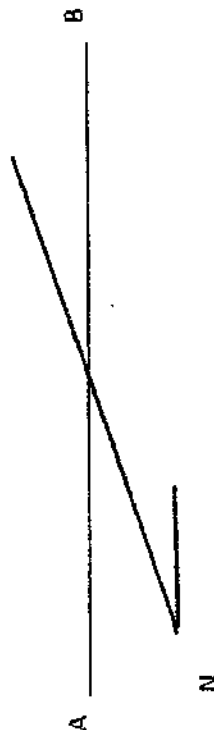
B: 60 25.183, -17.490

C: 60 25.261, -17.436

Grid Reference at Mid-Point C: HU 48344 71117

Containment Area (RED): 9000m<sup>2</sup>

NORTH:

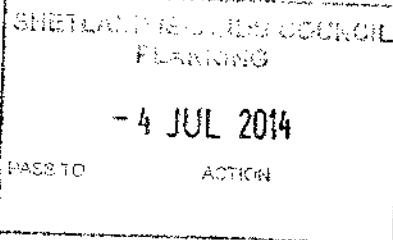


Coastal Zone Manager

- 8 SEP 2014

SIGNED: *Martin H. H. H.*

GRANT OF PLANNING PERMISSION  
**REFUSED**  
BY SHETLAND ISLANDS COUNCIL AS  
PLANNING AUTHORITY UNDER THE  
PROVISIONS OF THE TOWN AND  
COUNTRY PLANNING (SCOTLAND)  
ACT 1997 IN ACCORDANCE WITH THE  
ATTACHED DECISION NOTICE



2014/025/1112-04

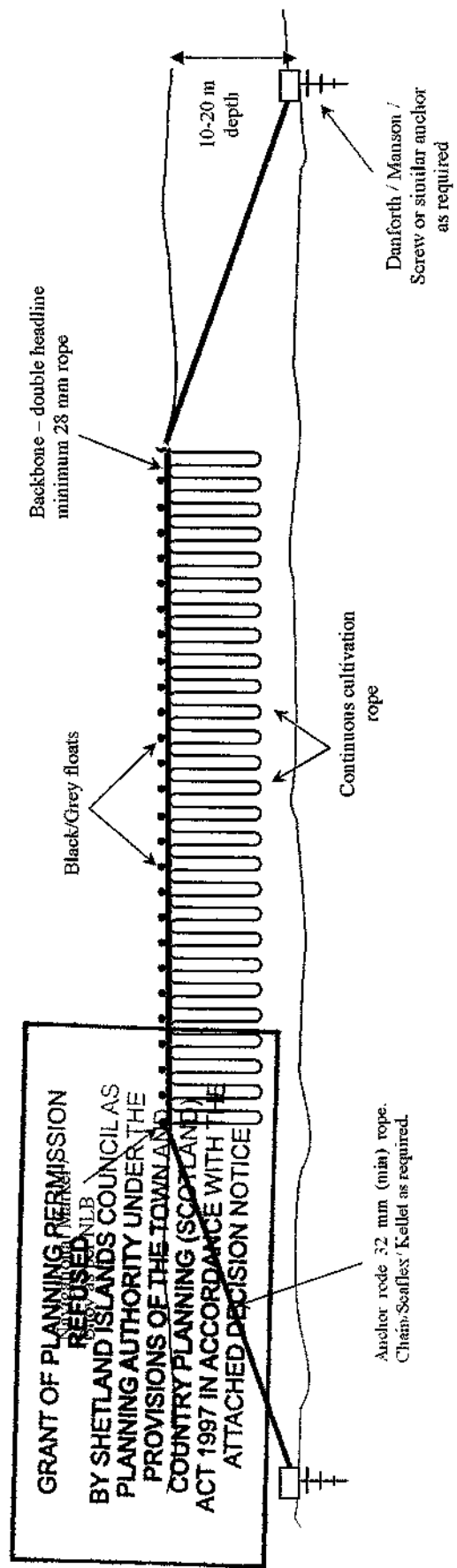
1

Coastal Zone Manager

- 8 SEP 2014

SIGNED: *M. J. H. Holmes*

**Cross Section of Proposed Marine Farm  
Surface Longline  
Scale: 1:2000**



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SHETLAND ISLANDS COUNCIL  
PLANNING

- 4 JUL 2014

PASS TO ACTION

40 m

220 m

40 m

## Work Plan

Yell Sound Mussel Production Site – Setter Ness, Yell Sound

Yell Sound SAC and SSSI:

The Yell Sound Special Area of Conservation and SSSI have been designated for the protection of the European Otter, *Lutra lutra*, and the Common Seal, *Phoca vitulina* (the listed species of interest). The SAC extends to the 10m depth contour along much of the Yell Sound coast and islands. In this area the SAC extends along the whole of the Setter Ness coastline out to the 10m bathymetric contour.

European Otter:

The mussel production site is situated seaward of the 10 metre bathymetric contour and so is located outside of the SAC and beyond the normal foraging range of otters and so is unlikely to have any impact on the European Otter.

Common Seal:

The Cul Ness, Setter Ness and Lunna Ness coastline of Yell Sound are important haul-out areas for common seals.

Boat movements associated with servicing the proposed site has the potential to disturb seals at haul-out sites especially at the vulnerable times of moulting and pupping.

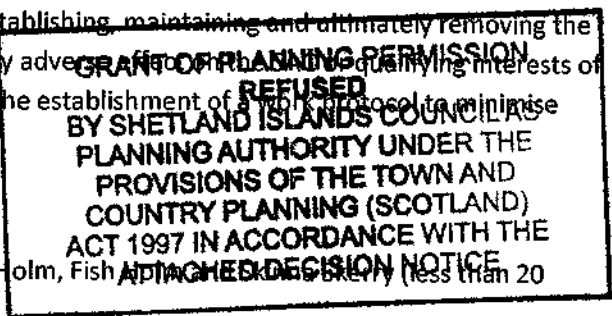
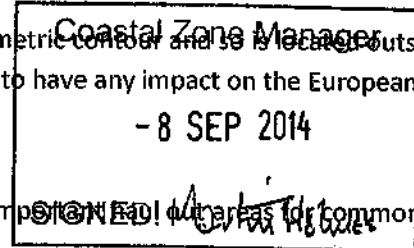
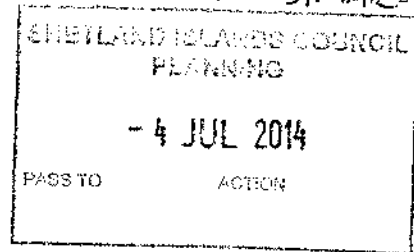
This work plan has been designed to minimise the effects of establishing, maintaining and ultimately removing the proposed mussel production site in Yell Sound so as to avoid any adverse impacts on the qualifying interests of the SAC by the careful choice of shore base, access routes and the establishment of a work protocol to minimise disturbance especially at vulnerable times.

Haul-outs:

The nearest small haul-outs occur at the Isles of Linga, Wether Holm, Fish Holm and Cul Ness (less than 20 individuals) and Lunna Holm (more than 50 individuals).

Disturbance Mitigation:

1. Boat movements will adhere to the 'Boat Movement Map' which charts the access routes to and from the mussel production site. The route have been chosen to avoid coastal areas landward of the 10 metre bathymetric contour within the SAC and known or observed seal haul-outs.
2. A 'no go' zone during vulnerable times will be defined in conjunction with SNH around seal haul-outs in the area.
3. Boat movements are usually infrequent and of limited extent. They will be daily for a period of 2-5 days during deployment, harvesting (for re-tubing or final harvest) and decommissioning but will, apart from essential emergency maintenance, be chosen to avoid vulnerable times.
4. Boat movements during monitoring operations are typically brief and occur once or twice weekly. Monitoring operations will be kept to a minimum at vulnerable times.
5. Non-routine and non-time dependant work will take place outside of the breeding and moulting seasons to avoid disturbance.
6. Mussel farm operators will keep a record of sighted seals hauled out in the vicinity of the mussel farm and will curtail operations at vulnerable times and monitor the situation if haul-outs are observed close by.
7. Non-essential work will be suspended during the breeding season (mid June – mid July) and peak moulting season (7-21 August) to minimise the chance of disturbance.
8. During the breeding and moulting seasons boat speeds will adhere to limits agreed with SNH and vessel movements will be slow and smooth to avoid disturbing seals.



#### Foraging:

Common seals are known to forage up to 50km away giving them a potential foraging area of up to 10,000 square kilometres. The footprint of the mussel farm is 220m<sup>2</sup> or 0.0000002% of the potential foraging area. Moreover, seals are commonly seen in and around mussel farms. The mussels act as an artificial reef and attract small fish that in turn attract seals. Consequently it is the operator's experience that rather than displacing seals from a potential foraging area mussel farms are commonly beneficial to seal foraging.

The sites are seaward of the 10m bathymetric contour and so outside the recognised foraging range of the European Otter. No loss of foraging area for either species is expected.

#### Summary:

1. Mitigation measures will be in place to minimise potential impacts on the European Otter and the Common Seal particularly during vulnerable times.
2. The operator will adopt and abide by the recommendations in the 'Marine Wildlife Watchers Code' (SNH) and 'A Guide to Best Practice for Watching Marine Wildlife'.
3. An observational record will be kept to monitor potential impacts year in year out.

#### Boat Movement Chart:

Solid Red – To/From Toft

Broken Red – To/From Burra Voe

#### References:

1. SIC advice. (John Rosie pers. com.)
2. Yell Sound SAC and SSSI. Hjaltsland Sea Farms. Planning Application 2012/002/MAR.
3. Yell Sound SAC – Advice under Regulation 33 (2) (SNH)
4. A Guide to Best Practice for Watching Marine Wildlife (SNH)
5. Scottish Marine Wildlife Watching Code (SNH)
6. A survey of moulting common seals in the Yell Sound (AISCM 2012)
7. Consultation on Seal Haul-out Sites (Scottish Government 2011)



SKETLAND ISLANDS COUNCIL  
PLANNING

- 4 JUL. 2014

PASS TO ACTION



Coastal Zone Manager

- 8 SEP 2014

SIGNED: M. J. Holmes

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COUNTRY PLANNING (SCOTLAND)  
ACT 1997 IN ACCORDANCE WITH THE  
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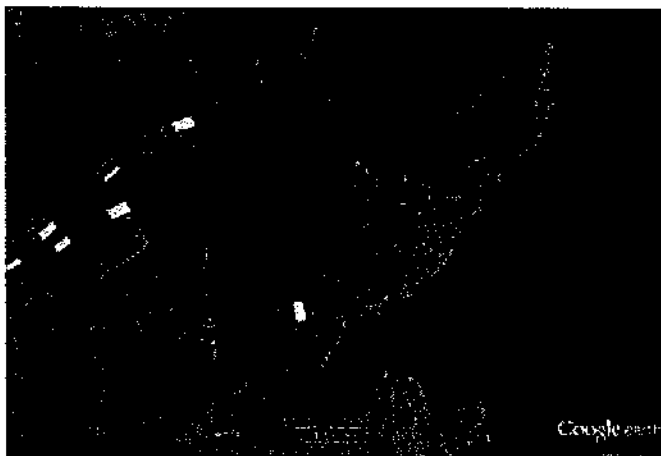
**Rosie John@Development Service**

**From:** Rachel Shucksmith [REDACTED]  
**Sent:** 09 September 2014 12:55  
**To:** D GRUNSHAW  
**Subject:** RE: Creeling Information

Hi Dave, I have checked the information in the drop box, and the google earth map appears to me to include the data in the map you attached, so I am a little confused by your query. The pdf of the map is also available in the google earth folder on the drop box. The pdf for each map is available in each GIS folder (map info, Arc, google earth), and the pdf includes the data shown in the maps you attached.

Below is a screen grab when I open the google earth file from the drop box (I have also added the aquaculture sites in for ease of viewing), are you seeing anything different? The reason John Rosie can easily break down the data to show individual polygons is because Map Info is a true GIS package, you can do this in Google Earth too but it is more difficult to do. However if you click on the area you wish to identify it will tell which polygon is which, so you should be able to tease out the polygons on the map John has sent you.

To explain the data set further, the creel data, as stated on the map and in the metadata, comprises two components, data collected by interview and data collected through predictive mapping which has been checked by fishermen. The later approach was initiated to prevent having to interview every creel fishermen (there are around 100 I believe) and because for some species their habitat requirements are quite specific so these predictive approaches can be utilised. John is only showing the former (data collected only by interview), with the predictive mapping mainly adding some grounds around Yell Sound islands. The data sets should be used together.



The meta data states (in the google earth dropbox folder):

'Locations within Shetland important for shellfish creeling, as plotted in Map5c(iii) of the Shetland Marine Spatial Plan. Locally compiled and validated dataset. Data supplied from two sources: interviews with Shetland fishermen, where fishing grounds were drawn on maps; and predictive mapping (contracted to Envision Mapping Ltd). The contractor created a broadscale seabed habitat (with biotope codes) and then cross-referenced with shellfish preference information to show the likelihood of the habitat distribution. These areas were validated by local fishermen. Data set may be incomplete. Consultation with fishermen / SFA is strongly advised.'

Whereas the pdf map states: 'Note: This map is based on shellfish fishermen's knowledge, combined with modelled habitat distributions. Please use this map with the caveat that it is incomplete- it has not been possible to interview all fishermen. Consultation with the SFA is strongly advised'.

As every fisher was not interviewed the data in this layer should not be used as an indication of intensity (which is why no intensity data is given), whereas the whitefish data map does have intensity data associated with (as shown in the whitefish map). The maps therefore show fishing grounds only, and it is the developers responsibility to ensure they collect additional data as required (as it is for environmental data).

Best wishes

Rachel

Rachel Shucksmith  
Marine Spatial Planning Manager

DDI [REDACTED]

NAFC Marine Centre, Port Arthur, SCALLOWAY, Shetland, ZE1 0UN, UK  
[REDACTED]

NAFC Marine Centre is the trading name of the Shetland Fisheries Centre Trust.  
Scottish Charity Number SC003715

The Trust is a Management Agent for the Shetland Islands Council, Town Hall, Lerwick

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**From:** D GRUNSHAW [REDACTED]  
**Sent:** 09 September 2014 11:47  
**To:** NAFC Marine Plan  
**Subject:** Creeling Information

Hi Rachel

John Rosie at Shetland Island Council has downloaded the above two items from Drop Box.

I tried down loading the data on creeling in section c for Google Earth but it does not include the data sourced from the local fishermen as shown above? In fact the creeling info is quite different from that shown in the attachments?

John says he downloaded it for MapInfo – which I do not have (I only have Google Earth).

Is it possible to get a copy of the local fishermen sourced information for Google Earth?  
Or a PDF?

PS – I have downloaded the PDF from Drop Box but again it does not show the local fishermen sourced information as per the above attachments.

Regards

Dave Grunshaw

**From:** [REDACTED]  
**Sent:** 09 September 2014 11:26  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi Dave,

I have never attempted to download the Google Earth dataset as we have a GIS (MapInfo) so opt for that option. I can only suggest you contact Rachel Shucksmith at the NAFC Marine Centre to see if she can help, her contact

details can be found at: <http://www.nafc.uhi.ac.uk/study-at-nafc/marine-science-and-technology/staff/rachel-shucksmith>

With regards the scallop fishery, given the location of the proposed longline just beyond the 10m contour and not being located with the fishery identified in the SMSP, I would be minded that the impact of such a development on scallop dredging is not likely to be significant.

With regards the identity of individual fishermen, we only consult the associations who represent them. So unless the fishermen themselves lodge an objection as individuals, which did not happen in this case, I'm afraid we are in the dark as much as you are with regards knowing who those individuals are.

Regards,  
John

**From:** [REDACTED]  
**Sent:** 09 September 2014 10:13  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Good morning Dave,

The delegated reports for both applications are attached, however they should now be available to view online.

With regards Setterness, the site you applied for does not overlap with the scallop fishery but does with the crab and lobster fishery. I downloaded the SMSP Marine Atlas fishery data from the NAFC website via Dropbox to view as an overlay on our MapInfo GIS, see <http://www.nafc.uhi.ac.uk/study-at-nafc/marine-science-and-technology/marine-atlas-data-downloads>

The pdf attachments to this email show the identified fisheries relative to the application site. You will note there are three different crab/lobster areas.

Regards,  
John

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This email has been scanned by the Symantec Email Security.cloud service.  
For more information please visit <http://www.symanteccloud.com>

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**Rosie John@Development Service**

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**From:** Rosie John@Development Service  
**Sent:** 11 September 2014 13:51  
**To:** 'D GRUNSHAW'  
**Subject:** RE: Crabs and Lobsters

Good afternoon Dave,

Thank you for your email.

Submission of application 2014/028/MAR in no way affects your right to appeal the refusal of application 2014/023/MAR. Should you choose to lodge an appeal, application 2014/028/MAR would not be determined until the outcome of your appeal is known.

Best regards,  
John

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 10 September 2014 16:01  
**To:** Rosie John@Development Service  
**Subject:** RE: Crabs and Lobsters

Hi John

Thanks for the reply and please note that if I do appeal it will certainly not be any reflection on the sterling effort and assistance that you have afforded me with these applications. All your help and advice is much appreciated.

With regards Swinister – please can you tell me how the current application (2014/028/MAR) effects an appeal of 2014/023/MAR? I would think that if the former is passed then it would prevent the latter being appealed in any event?

Thanks again.

Dave

**From:** [REDACTED]  
**Sent:** 10 September 2014 12:06  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Crabs and Lobsters

Good afternoon Dave,

The reality is the Shetland experience is very different to the New Zealand one you describe. To the best of my knowledge, there is no such positive cooperation and collaboration between the fish farming and shellfish fishing sectors up here with regards joint-use of sea space. Put simply, inshore fishermen, including creel fishermen, avoid the areas of seabed taken up by aquaculture installations (surface equipment and moorings and no doubt an appropriate surrounding safety buffer zone) and fish farm operators are glad that they do so as to prevent potential entanglement and safety issues.

Whilst, as you rightly point out, the operation of a consented aquaculture farm does not give the relevant operator exclusive use of that water space, such development in Shetland does have the effect of displacing inshore fishing activity if that area of seabed has been previously fished. I would agree that the impact of fishing displacement from

an aquaculture installation is less for creel fishing than for scallop dredging but there is still an impact, albeit difficult to measure.

The South Yell Sound area and Lunna Ness coastline is important for inshore fishing and it also happens to be quite heavily developed in terms of aquaculture so the potential for conflict with regards competing use of available sea space is inevitable. In the case of your application at Setterness, we requested additional information from the objector (SFA) which could be used to help quantify the level of impact the proposal would have on inshore fishing activity. That information was not forthcoming and attempts at a meeting between yourself and the SFA did not materialise so we took the decision to refuse the application on the grounds identified in the report which was in accordance with policy.

My line manager Martin Holmes, who is copied into this email, has instructed me to not engage in any further discussions regarding the decision to refuse this application on the grounds that the decision has been made and if you feel aggrieved, you can exercise your right of appeal. If you have any concerns regarding the handling of the application could you please direct those to Martin.

I am of course quite happy to engage in any future pre-application discussions you may wish to pursue at alternative sites.

Kind regards,  
John

**From:** D GRUNSHAW [mailto:dgrunshaw@gmail.com]  
**Sent:** 09 September 2014 15:07  
**To:** Rosie John@Development Service  
**Subject:** RE: Crabs and Lobsters

Hi John

Bit of a culture shock.

Never really considered creeling for crabs/lobster as a problem before.

In NZ potting is actively encouraged in and around mussel lines – as is angling too. Mussel drop off encourages benthic scavengers – crabs, whelks, starfish etc. So local fishermen who use pots or rods are delighted when a mussel farm is proposed and you usually can count on a rush of positive endorsements. The view is that it is positive for potting and that is very much endorsed by the fishing community there. The local councils there who administer the mussel farms actively encourage static fishing (rods/pots) in the mussel farms stressing that the farms do not have exclusive use of the water space and it's a good spot for anyone to fish.

I've seen potting boys tied to mussel lines with a line of pots directly below the line and in the bigger farms they often put a small pontoon at one of the corners – just for local anglers and 'potters'. The spin off for anglers is the reef effect – the mussel attracting small fish, which attract bigger fish, which attract the anglers.

Difficult to see a negative impact? – The line is suspended so the only contact with the seabed that can affect the crabs/lobster fishery are the anchors – a m2 for standard fish farm anchors and effectively point contacts for screw anchors. Would they be considered to have a negative effect? A single line would only have about 2 m2 of actual contact with the seafloor? Considering the positive spin off from the increase in food supply for crabs etc., caused by mussel drop-off I can't visualise how losing a couple of meters to anchors would be detrimental? Am I missing something?

Scallop dredging I can see can be a problem. In NZ there is a lot of consultation between scallop fishermen and mussel farms because clearly it is difficult to do both in the same space. The larger mussel farms there have spaced the lines further apart to create 'lane ways' to be used by scallop dredgers and they use seaflex sleeves on anchor

warps to prevent scallop dredges snaring anchors etc. So multiple use of the same space is possible if designed for in the first place.

No criticism on your part - if there is an objection you clearly have to consider it. But I would be grateful if you could let me know how a mussel line is detrimental to a crab/lobster fishery (when honestly all my experience has been the opposite?).

Thanks John.

Kind regards

Dave

**From:** [REDACTED]  
**Sent:** 09 September 2014 11:26  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi Dave,

I have never attempted to download the Google Earth dataset as we have a GIS (MapInfo) so opt for that option. I can only suggest you contact Rachel Shucksmith at the NAFC Marine Centre to see if she can help, her contact details can be found at: <http://www.nafc.uhi.ac.uk/study-at-nafc/marine-science-and-technology/staff/rachel-shucksmith>

With regards the scallop fishery, given the location of the proposed longline just beyond the 10m contour and not being located with the fishery identified in the SMSP, I would be minded that the impact of such a development on scallop dredging is not likely to be significant.

With regards the identity of individual fishermen, we only consult the associations who represent them. So unless the fishermen themselves lodge an objection as individuals, which did not happen in this case, I'm afraid we are in the dark as much as you are with regards knowing who those individuals are.

Regards,  
 John

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 09 September 2014 10:51  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi John

I've downloaded the Dropbox data for Google Earth but it doesn't have the first two datasets for Crab and Lobster fisheries (source local fishermen 1 and 2)?  
 Are they available somewhere else in Dropbox?

Also, is the problem there (Setterness) with the Crab/Lobster fishery only i.e. are you satisfied that the Scallop Dredging Fishery is unlikely to be affected?

And finally, have you been able to ascertain anything more about the complaint about fishing – I keep asking for the details of the fishermen affected but the SFA and SSMO seem very reluctant to provide any?  
 I'd just like to talk to the fishermen that objected but I'm struggling to find out who they are?

You may have more sway than me with these organisations so if you can possibly find out who has objected it would be of great assistance!!

Kind regards

Dave

---

**From:** [REDACTED]  
**Sent:** 09 September 2014 10:13  
**To:** [REDACTED]  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Good morning Dave,

The delegated reports for both applications are attached, however they should now be available to view online.

With regards Setterness, the site you applied for does not overlap with the scallop fishery but does with the crab and lobster fishery. I downloaded the SMSP Marine Atlas fishery data from the NAFC website via Dropbox to view as an overlay on our MapInfo GIS, see <http://www.nafc.uhi.ac.uk/study-at-nafc/marine-science-and-technology/marine-atlas-data-downloads>

The pdf attachments to this email show the identified fisheries relative to the application site. You will note there are three different crab/lobster areas.

Regards,  
John

---

**From:** D GRUNSHAW [REDACTED]  
**Sent:** 08 September 2014 16:45  
**To:** Rosie John@Development Service  
**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR

Hi John

Thanks for the information.

Please can you pop over a copy of the delegated planning report for 025 (Setterness) if it is available? When you get a chance please can you possibly do an overlay of the scallop shellfishery over the planning application area – to the best of my ability I thought I had placed it outside the shellfishery area marked in the SMSP?

Many thanks for your help.

Regards

Dave

---

**From:** [john.rosie@shetland.gov.uk](mailto:john.rosie@shetland.gov.uk) [mailto:[john.rosie@shetland.gov.uk](mailto:john.rosie@shetland.gov.uk)]  
**Sent:** 08 September 2014 10:09





Development Services Department  
Shetland Islands Council

SHETLAND ISLANDS COUNCIL PLANNING	
07 DEC 2014	
PASS TO	ACTION

Notice of Review

FOR OFFICIAL USE ONLY

Ref No:

Date of Receipt:

## NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)  
IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)  
(SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2013

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.**  
**This form is only to be used in respect of decisions on proposals in the local development**  
**category. Failure to supply all the relevant information could invalidate your notice of review.**

Use BLOCK CAPITALS if completing in manuscript

### 1. Applicant(s)

Name M. DAVID GRUNSHAW

Address 24 BEDE CLOSE  
SLEAFORD LINES

Postcode NG34 8WE

Contact Telephone 1 [REDACTED]

Contact Telephone 2 [REDACTED]

Fax No [REDACTED]

E-mail\* [REDACTED]

### 2. Agent (if any)

Name [REDACTED]

Address [REDACTED]

Postcode [REDACTED]

Contact Telephone 1 [REDACTED]

Contact Telephone 2 [REDACTED]

Fax No [REDACTED]

E-mail\* [REDACTED]

Mark this box to confirm all contact should be  
through this representative: ☐

Yes ☒ No ☐

\* Do you agree to correspondence regarding your review being sent by e-mail?

**3. Application Details**

Planning authority's application reference number

2014/025/MAR

Site address

SETTERNESS, LUNNA, YELL SOUND

Description of proposed development

TO DEPLOY A SINGLE 220M TWIN-HEADLINE  
LONGLINE FOR THE PRODUCTION OF MUSSELS

Date of application

05/07/2014

Date of decision (if any)

04/09/2014

ISSUED 05/09/2014

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

**4. Nature of application**

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

**5. Reasons for seeking review**

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

**6. Review procedure**

The Shetland Islands Council Planning Local Review Body will determine your review by the holding of one or more public hearing sessions.

In the event that the Local Review Body decides to inspect the review site during the determination of your review, in your opinion:

- |  | Yes                                 | No                       |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land?                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

**7. Statement of Grounds of Review**

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Shetland Islands Council Planning Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE GROUNDS FOR REVIEW

**8. New Matters**

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☐ No ☒

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

BUT I HAVE INCLUDED EMAILS OMITTED FROM THE APPLICATION RECORD  
AND SEPA DATA THAT WAS AVAILABLE FROM SEPA. (TO CORRECT GROUND SURVEY FROM PREDICTIVE MAPPING)

**9. List of documents and evidence**

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

SEE LIST OF DOCUMENTS.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

**10. Checklist**

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

**Declaration**

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

06/12/2014

**Please send this completed form to:**

Shetland Islands Council Planning Local Review Body, c/o Planning, Development Services Department,  
8 North Ness Business Park, Lerwick, Shetland ZE1 0LZ

Telephone: 01595 744293 e-mail: [development.management@shetland.gov.uk](mailto:development.management@shetland.gov.uk) Visit: [www.shetland.gov.uk](http://www.shetland.gov.uk)

## Document List for Appeal

The following documents are not included in this transmission as they are already held by Shetland Island Council.

The applicant wishes them to be made available as part of the Appeal Documentation.

1. Documents listed under planning application 2014/025/MAR
2. Documents listed under planning application 2006/083/NF
3. Documents listed under planning application 2014/026/MAR
4. Documents listed under planning application 2002/068/VF
5. Documents listed under planning application 2011/025/NS
6. Documents listed under planning application 2011/021/NS
7. Documents listed under planning application 2011/022/NS
8. Documents listed under planning application 2011/020/NS
9. Documents listed under planning application 2003/124/NF
10. Documents listed under planning application 2013/009/MAR
11. Documents listed under planning application 2013/016/MAR
12. Documents listed under planning application 2006/082/NF

ALL RELEVANT DOCUMENTATION INCLUDED IN THIS AGENDA ITEM.

DOCUMENTS 2 - 12  
AVAILABLE FOR VIEWING  
IN MEMBERS ROOM

### Documents Enclosed:

13. Grounds for Review Part A – Case Histories
14. Grounds for Review Part B
15. Missing Email correspondence with SIC
16. Velvet Crab
17. Bomlo site (Google Earth)
18. SEPA data – seabed surveys Bomlo

SHETLAND ISLANDS COUNCIL PLANNING	
07 DEC 2014	
PASS TO	ACTION

→ 18. THE LARGE QUANTITY OF SEABED SURVEY DATA SUBMITTED ALL RELATES TO THE FORMER "SETTERNESS EAST - BOMLO" FISH FARM WHICH WAS SITED APPROXIMATELY 250M TO THE WEST OF THE APPLICATION SITE. ONLY ONE SUCH SURVEY HAS BEEN INCLUDED IN THIS AGENDA AS IT IS CONSIDERED TO BE TYPICAL AND REPRESENTATIVE OF ALL THE SURVEYS SUBMITTED IN TERMS OF SURVEY TRANSECT / GRAB SAMPLE LOCATIONS. A DISK CONTAINING ALL SUBMITTED SEABED SURVEYS IS AVAILABLE FOR VIEWING IN THE MEMBERS ROOM.

\* NOTE - TEXT ON THIS PAGE:

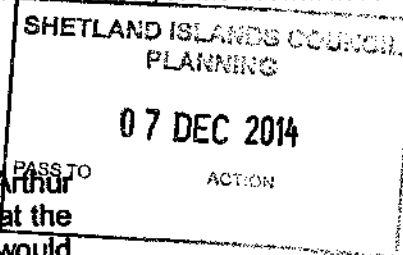
- ALL TYPED TEXT IS THE SUBMISSION OF THE APPELLANT,
- ALL HANDWRITTEN TEXT ADDED BY JOHN ROSIE, MARINE PLANNING OFFICER, SHETLAND ISLANDS COUNCIL ON 02/03/2015.

## Past case histories:

2011/025/NS To develop a new mussel farm, North West Green Isle, Dury Voe Shetland

An objection was received from a local creel fisherman but the Council determined that 'As the proposal is only for one 100m double-headrope longline the area that will be removed from access to creel fishermen is not significant, as creels may be placed right up to the longline.'

It is important to note that an actual fisherman is identified and has made a representation and yet the Council have still clearly determined there is insignificant impact on creeling.



## 6. Representations

- 6.1 A letter of representation was received from a Mr Alex Arthur who is a creel fisherman in the area. He was concerned that the proposal would impact on his velvet crab creel fishing and would rather the site was farther to the North or West.

## 7. Report

- 7.1 There are policies against which this application has to be assessed and these are listed at paragraph 2 above. The determining issues to be considered are whether the proposal:
- complies with Council Policy; or
  - if there are any other material considerations which would warrant the setting aside of Council Policy.
- 7.2 There is a representation that the proposed development would impact on fishing interests unless it was moved to another location. The applicant was informed of the representation but wished to continue the application as proposed. As the proposal is only for one 100m double-headrope longline the area that will be removed from access to creel fishermen is not significant, as creels may be placed right up to the longline. If the site was for a larger site then it could impact on creel fishing, but the impact of this one 100m line is not thought to be significant, thus the proposal complies with Policy G1.

2011/021/NS To develop a new mussel farm, SE Catfirth Voe, Nesting.

The development was identified as being in a scallop and creel fishing area as identified by the Shetland Marine Spatial Plan. The Council determined it would be unreasonable to refuse the application on the grounds of conflict with local fishing grounds, particularly in light of the modest longline development proposed and therefore the small area of seabed to be lost.

It is noted that the Council say that an objection by the local fishing organisations would require 'resulting factual evidence to support it'.

In the absence of any objection from the various fishing organisations consulted and subsequent factual evidence which would be required to qualify the importance of the area for shellfish fishing following any such objection, it would be unreasonable to refuse the application on the grounds of conflict with local fishing grounds, particularly in light of the very modest longline development proposed and therefore small area of seabed to be lost.

In summary, full consultation has been undertaken with all interested parties, including competent and relevant bodies and local communities. The proposal therefore complies with Policy G2 and also with Policy G1 in respect of taking account of the 'implications for fishing interests'. Furthermore, the proposal is not deemed to conflict with Policy MSP F1 as it has not been demonstrated that the proposal will obstruct an 'important fishing ground' due to the lack of any objection from the local fishing organisations consulted and any resulting factual evidence which would be required to support it.

2011/022/NS To develop a new mussel farm, SW Catfirth Voe, Nesting.

The development was identified as being in a scallop and creel fishing area as identified by the Shetland Marine Spatial Plan. The Council determined it would be unreasonable to refuse the application on the grounds of conflict with local fishing grounds, particularly in light of the modest longline development proposed and therefore the small area of seabed to be lost. It is noted that the Council say that an objection by the local fishing organisations would require 'resulting factual evidence to support it'.

shellfish landing statistics. In the absence of any objection from the various fishing organisations consulted and subsequent factual evidence which would be required to qualify the importance of the area for shellfish fishing following any such objection, it would be unreasonable to refuse the application on the grounds of conflict with local fishing grounds, particularly in light of the very modest longline development proposed and therefore small area of seabed to be lost.

In summary, full consultation has been undertaken with all interested parties, including competent and relevant bodies and local communities. The proposal therefore complies with Policy G2 and also with Policy G1 in respect of taking account of the 'implications for fishing interests'. Furthermore, the proposal is not deemed to conflict with Policy MSP F1 as it has not been demonstrated that the proposal will obstruct an 'important fishing ground' due to the lack of any objection from the local fishing organisations consulted and any resulting factual evidence which would be required to support it.

2011/020/NS To develop a new mussel farm, Cuning Holm, South Nesting Bay.

The development was identified as being in a scallop and creel fishing area as identified by the Shetland Marine Spatial Plan. The Council determined it would be unreasonable to refuse the application on the grounds of conflict with local fishing grounds.

The Council considered that although the development was within the scallop dredging area it was close to the coast and not in the centre of the bay so it allowed the remainder of the bay to be available to scallop dredging. The present application is similarly located adjacent to the coast and even outside the area marked on the SMSP for scallop dredging.

The Council considered that 'the fact that only one longline is proposed means that the area to be lost to creel fishermen is not deemed to be significant'.

Again it was noted that any objection from the local fishing organisations would require resulting factual evidence to support it.

shellfish fishing following any such objection, it would be unreasonable to refuse the application on the grounds of conflict with local fishing grounds, particularly in light of the very modest longline development proposed and therefore small area of seabed to be lost. The site being located close in to the mainland at Ling Ness and to the shore side of Cuning Holm and Corn Holm means that practically the whole of South Nesting Bay will remain available for scallop dredging. Furthermore, the fact that only one longline is proposed means that the area of seabed to be lost to creel fishermen is not deemed to be significant.

In summary, full consultation has been undertaken with all interested parties, including competent and relevant bodies and local communities. The proposal therefore complies with Policy G2 and also with Policy G1 in respect of taking account of the 'implications for fishing interests'. Furthermore, the proposal is not deemed to conflict with Policy MSP F1 as it has not been demonstrated that the proposal will obstruct an 'important fishing ground' due to the lack of any objection from the local fishing organisations consulted and any resulting factual evidence which would be required to support it.

2003/124/NF To develop a new fish farm for the production of salmon or cod. Bruse Holm, Lunning Sound.

An objection was received from Whalsay Community Council that the area was used by creel fishermen. And the area was identified on the SMSP as used for velvet crab, lobster and buckie fishing.

Although a salmon farm would clearly have a much larger area effect on creel fishing compared to a single mussel line the Council nonetheless concluded that 'in the absence of any factual evidence from the fishing associations or individual fishermen which would assist in qualifying the importance of the area for shellfish fishing it would be unreasonable to refuse the application on the grounds of conflict with fishing grounds'.



The Whalsay Community Council does not support the proposal as they consider the site to be located in an area which is used by creel fishermen. Whilst the Shetland Marine Spatial Plan identifies the area as being used for velvet crab, lobster and buckie fishing, the Shetland Fishermen's Association did not respond to being consulted and no objections from individual fishermen was lodged in response to advertisement of the application. The data contained in the Marine Spatial Plan relating to shellfish fishing grounds is based on anecdotal evidence collected from local fishermen combined with approved habitat distribution mapping, not from actual shellfish landing statistics. In the absence of any factual evidence from local fishing associations or individual fishermen which would assist in qualifying the importance of the area for shellfish fishing, it would be unreasonable to refuse the application on the grounds of conflict with local fishing grounds.

2013/009/MAR To develop a new mussel farm. Nothra Voe, Vementry.

The area was identified in the SMSP for both creel and scallop fishing. Objections were received from the fishing associations, as the site was identified as being used by several scallop boats for hauling and shooting gear. SSMO logbooks indicated the site was used for scallop, lobster and velvet crab fishing.

Despite the evidence provided that the site was used for creel fishing the Council considered that 'the small area taken up by a single 220m longline will not cause any significant disruption to the intermittent setting of creels'.

The Council did consider that it would have a significant impact on the scallop fisheries as it would hamper the ability to haul and shoot gear and the application was refused on that basis. There is no such assertion at the site under appeal.

There was an objection- from the Shetland Fishermen's Association on the impact of the proposal on scallop and queen fisheries in the area through the loss of space to haul and shoot gear in bad weather, the proposal causing a danger to navigation through equipment damage due to bad weather conditions and the area being historically fished for scallops, queen scallops, lobster and velvet crabs as shown in SSMO logbooks used to inform the Shetland Marine Spatial Plan.

The Shetland Marine Spatial Plan indicates that the area occupied by the proposed development is used for lobster and velvet crab fishing and straddles the area fished for scallops and queen scallops and the surrounding area has a moderate to high fishing effort for these species. The small area of the seabed taken up by the single 220m longline will not cause any significant disruption to the intermittent setting of creels in the area, but would have a significant impact on the scallop and queen scallop fisheries as the proposal would stop or hamper the ability to haul and shoot gear. The deployment of the one line would thus negatively impact the fishing ability for several vessels.

2013/016/MAR To deploy a single 220m twin-headline mussel longline, Moo Ness, Papa Little.

An objection was received from the SFA on the impact of the proposal on creel fishing. The site is not identified in the SMSP as a creel fishing area.

The applicant pointed out that a single longline would exclude a minimum amount of seabed and that the species caught in creels move around.

The Council concluded 'The small area of seabed taken up by a single 220m longline will not cause any significant disruption to the intermittent setting of creels in the area' and granted the application.

There was an objection received from the Shetland Fishermen's Association on the impact of the proposal on creel fishing, anchors on the shoreline and suitability of the site due to weather conditions. The applicant responded to these objections in that the area was not designated in the Shetland Marine Spatial Plan, any species caught by creels move around and the single longline will exclude a minimum amount of seabed, the application has no anchor points onshore and many existing aquaculture sites are subject to the same weather on weaker moorings and have shown their resistance to the weather.

The Shetland Marine Spatial Plan indicates that the area is not subject to any significant level of creel or other form of shellfish fishery. The small area of the seabed taken up by the single 220m longline will not cause any significant disruption to the intermittent setting of creels in the area. None of the moorings will be on the shoreline as shown in the

2006/082/NF Salmon Farm, West of Linga, Yell Sound.

The application was for the relocation of a salmon farm to an adjacent site.

Delting Community Council and SIFA objected on the grounds that the area was used by local fishermen for scallop and velvet crab fishing. The Council visited the site and noted buoys, most likely marking creels, adjacent to the site. So although the site was not identified on the SMSP maps for velvet crab fishing fishermen were seen to be using the area.

The Council noted that the location of the site close to shore it is less likely to be regarded as an 'important fishing area for scallops'. But that scallop fishing could occur as the water depth (20-30m) was sufficient for scallop fishing.

The Council noted that at the location of the present farm 'with regards to velvet crabs the 2005 seabed survey confirms that the seabed beneath the existing fishfarm is not particularly suited to this species given they tend to be found in seabed composed of bedrock and boulders'.

The Council recommended the application for refusal due to the conflict with fishing interests but under review the application was granted 'as there was no evidence that the proposed site would result in the loss of inshore fishing grounds'

#### 6.7 Shetland Inshore Fishermen's Association (SIFA): Object on the following grounds:

- From September until February, two of our member vessels fish in this area with creels for velvet crabs;
- In West or Southwest gales, three of our member vessels use these grounds to dredge for scallops;
- Members have expressed concerns about navigating through this area in dark winter months when making passage to the Lunna Basin.

### Local fishing grounds

- 8.10 Both the Delting Community Council and the SIFA have objected to the proposal on the grounds that the site applied for conflicts with an area of seabed which is used by local fishermen. As indicated by the applicant, neither the existing nor the proposed site falls within areas identified as fishing grounds in the SSMEI Marine Spatial Plan for Shetland (see Figure 1 below). However, it should be noted that Policy MSP F1 'Safeguarding Fishing Opportunities' of the Marine Spatial Plan states that "the maps of local grounds in the Marine Atlas are currently incomplete and pre-application consultation is strongly advised".
- 8.11 The objections relate to the potential loss of inshore fishing grounds for velvet crab and scallops. In an attempt to quantify the importance of the area as a shellfish fishery, contact was made with the Shetland Shellfish Management Organisation (SSMO), the body responsible for managing Shetland's commercial shellfish fisheries out to the six mile limit. Whilst it was confirmed there is activity in relation to shellfish catching in the area concerned, the landings per species information held is not particularly useful for the purposes of this application given the logsheet data is compiled in terms of landings made in grid squares measuring 25 nautical square miles. Such information is much too general to provide any meaningful assistance in terms of concluding if the site-specific area in question is an important fishing ground.
- 8.12 The proposed site is located just outside an area identified by the Marine Spatial Plan as a velvet crab fishery. A recent site visit confirmed the presence of surface buoys, most likely marking creels, immediately adjacent to but not within the area of the proposed mooring containment area applied for. Observed off the Northeast corner of Firth Ness and into Firths Voe, the buoys were located outwith the velvet crab fishing grounds identified in the Marine Spatial Plan at the time of the site visit, indicating that the general area is used by creel fishermen. If creels are indeed set along Firth Ness, it is likely that a fish farm at the proposed location will exclude fishermen from part of the area given the proposed moorings extend up to and shoreward of the 10m contour along Firths Ness. Velvet crab fishing typically occurs in shallow inshore waters in depths of less than 20m. The presence of anchors and mooring chains/ropes so close in to the shore has the potential to make creel vessel operation difficult in such shallow waters.
- 8.13 Given its location close into the shore, it is less likely the area of seabed beneath the proposed site could be regarded as an 'important fishing ground' for scallops. The SIFA state that three of their member vessels use the area to dredge for scallops during periods of Westerty or Southwesterly gales, perhaps suggesting

that the area is only fished when inclement weather prevents fishing from occurring further offshore. Nevertheless, the charts for the area indicate that the centre of the proposed site is situated in water depths in the range of 20-30m which would enable scallop dredging to occur.

- 8.14 In their letter of response to the objections, the applicant contends that the area of seabed which would be released by relocation of the fish farm would be more suitable for scallop dredging than the seabed beneath the proposed site. Being migratory bivalves, scallops can be found in most types of seabed, but their preferred habitat is fine sediment such as a sandy or muddy bottom as it allows easy burrowing. A seabed survey at the existing site undertaken in March 2005 illustrates that the seabed beneath the existing fish farm is largely lacking in fine sediment, most likely due to the extreme currents experienced there. Given the still fast but much lower current speeds indicated at the proposed site, it is conceivable that the seabed in this area may be more sediment-based than the existing site and therefore more suited to scallops. It is not possible to confirm this however as there is no seabed survey data available for the proposed site. With regard to velvet crabs, the 2005 seabed survey confirms that the seabed beneath the existing fish farm is not particularly suited to this species given they tend to be found in seabed composed of bedrock and boulders.

In response to a question from the Chairperson, Ms Baisley confirmed her reasons for approving the application contrary to officer recommendation, which were that the Community Council's objections could not be justified, the figures and mapping of the seabed in the area was uncertain, and there was no evidence that the proposed site would result in a loss of inshore fishing grounds. Regarding separation policy she said that it should be possible to make a robust condition that the existing permission cannot be used and the applicant must abide by that condition.

The Council on all previous occasions have recognised that the development of a single longline does not have a significant effect on creel fishing regardless of whether fishing associations have provided evidence or not or if individual fishermen can be identified and have objected or not. And they have recognised that if objections are received from fishing associations then resulting factual evidence should be provided to back up those objections.

In no other planning application determination has the precautionary principle been evoked in this manner. It has never even been mentioned in any of these planning applications where conflict with fishing interests has been identified?

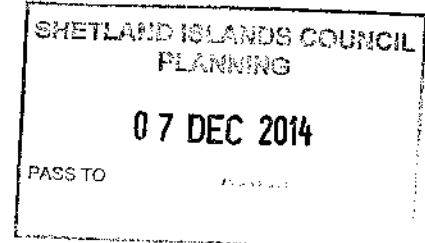
It is unclear what makes this application so unusual that for the first time the Council is unable to determine that the development of a single mussel line will not have a significant effect on creel fishing when it has ALWAYS been able to make that determination in the past?

## Grounds for Review B.

Important note: An objection was raised on the basis of the application area being an important scallop and velvet crab fishery. Mr. Rosie has confirmed in his email of 09/09/2014:

With regards the scallop fishery, given the location of the proposed longline just beyond the 10m contour and not being located with the fishery identified in the SMSP, I would be minded that the impact of such a development on scallop dredging is not likely to be significant.

Accordingly, as the Council have accepted that the effect of the application on the scallop fishery is not significant I will not mention it further and will address the impact on the velvet crab (creel) fishery. However, if the stance on the scallop fishery changes I reserve the right to address the matter.



## Grounds for review Part B.

### 1. Communication with SFA/SMO

I contacted Mr. Leslie Tait by phone as the representative of the SFA and SSMO.

I called specifically about and spoke at length about the Swinister (2014/023/MAR) and Setterness (2014/025/MAR) applications. I will confine comments here to the discussion on the Setterness site.

I discussed the location of the site behind the Hjaltland salmon farms mentioning that it is difficult for fishing vessels to access the site as it is hemmed in by the coast on one side and the salmon farms seaward. I discussed the trip lines left on the site from the former Bomlo salmon farm anchors and debris from the salmon farms here and at Swinister and commented that I shared his concerns.

I mentioned that the site was outside the area marked on the SMSP for scallop fishing and that in any case I would ensure no future development went deeper than 15m (into areas that could be dredged for scallops). The present development being at the 10m contour.

I mentioned that the fishfarm workers at the site had not noticed any fishing activity at that location in the past 30 years.

I mentioned with regards creeling that it had a sandy bottom and I thought creeling for velvet crab would occur more likely to the south were the seabed was rockier. I pointed out that although I had not contacted the SFA and SSMO prior to submitting the application I had taken note and purposefully tried to avoid conflict with fishing interests.

I said I would like to meet and discuss the site with any affected fisherman. And that I would be more than happy to adjust any future plans to minimise any future conflict by moving lines closer together or reducing length etc.

Mr. Tait said he was not so much bothered about one site but rather the number of sites that I was applying for.

He could not identify any fishermen affected but said in the area concerned it was not a matter that it had not been fished in the past or at present but it may be fished at sometime in the future (and so should remain available to fishing).

He said it was not up to the SFA/SSMO to justify that it was a fishing ground it should be up to the developer to show that it was not.

Nonetheless he said unequivocally that he would not have any objection to the development of a single longline at the site.

I said that was acceptable to me and that I would of course contact him in advance of any future development at the site (i.e. any future application for more longlines at the site).

Mr. Tait went on to express his concerns at the limited time to contact fishermen when consulted on planning applications.

I conveyed the outcome of my discussion with Mr. Tait to John Rosie saying he had agreed to the development of a single longline at this site. (See email dated 12.08pm 04/09/2014).

I called John Rosie at approximately 3.30pm on 04/09/2014 to check that he had received the confirmation from Mr. Tait that the SFA/SSMO was happy with the development of one line at Setterness. John informed me that Mr. Tait had informed him that he had got the site confused with another application (an application for a single mussel line at Little Ness, Dury Voe that had already been approved) and in fact still objected to the Setterness application.

This left me with very little time to comment as the application was being decided that day and it was now 3.30pm in the afternoon.

I did however manage to fire a quick email off to John enclosing a copy of my correspondence with the SFA/SSMO where I discussed the fishing conflict and offered some mitigation measures and a further email where I mentioned that the removal of the adjacent salmon farm a Bomlo had freed up much more space for fishing than was taken up by my application - so there was a significant net gain in that area available for fishing. (see additional emails).

I have been in touch with Mr. Tait since the refusal of planning permission but he has still not been able to identify or arrange a meeting with any fishermen affected by the proposal (although a meeting was suggested for the fisherman who was affected by the Little Ness, Dury Voe application). I am still willing to meet and discuss the application at any stage with any affected party that is identified.

## 2. Suitability of the location for Velvet Crab fishing.

I commented that the seabed at the site was sandy gravel and so less suited to the rockier substrates that are generally considered as velvet crab habitats (see enclosed reports on velvet crabs). My assertion was based on a brief dive at the site to determine the substrate for the purposes of seeing if screw anchors could be used at the site.

In the delegated handling report Mr. Rosie states that the predictive habitat mapping contained in the marine spatial plan indicates that the entire seabed in the inshore waters along the Ness of Setter is likely to consist of gravel/pebble which would mean that the area of seabed at the application site would be no less suited to creel fishing than that of the area to the south around Setter Holm.

The site is located at the periphery of but within the lease area of the Setterness cluster of salmon farms. A fish farm (Bomlo) existed until very recently just west of the site and indeed the SFA/SSMO complained about the trip lines left behind at the site when the fish farm was vacated. The current salmon farms are Setterness North (to the northwest) and Setterness South (to the southwest). The lease areas and location of the current farms can be seen on the enclosed charts (see charts in emails between SIC and Crown Estates on application file).

Detailed seabed surveys have accompanied the environmental impact assessments that were submitted for each of the salmon farms applications and further seabed surveys have been carried out as the sites have altered through

subsequent planning applications. All this information is available to the Council as it forms part of the planning applications associated with the salmon farms (FFR/ZET/005, 2006/083/NF, 2014/026/MAR, 2002/068/VF etc.)

Yearly seabed surveys have been carried out at Bomlo as part of the SEPA monitoring program. The application site forms part of the Bomlo leased area and the survey points have been located within a few meters of the application site (see enclosed SEPA reports).

The seabed surveys indicate a seabed composed of sand, sandy-gravel and some areas of shell fragments at the location. No pebbles or bedrock.

Further, in seabed surveys going back many years there has been no record of scallops or velvet crabs.

The predictive mapping may suggest a pebble substrate but this area has been ground truthed over an extensive period. The seabed as evidenced from the surveys is not what is generally accepted as a velvet crab habitat. While that does not preclude the possibility of velvet crab being present it does make it unlikely to be a viable velvet crab fishery.

### 3. Scale of operation too small to have a significant effect on creel fishing.

Hjaltland made an assessment of the fishing effort in Yell Sound in application 2006/082/NF

#### Fishing

The impact on the fishing industry is considered in the context of the south Yell Sound fishing grounds. This area is defined from Mio Ness (mainland) to Ness of Sound (Yell) in middle Yell Sound to Lunna Holm (Lunna Ness) to Heoga Ness (Yell). This is an area 65 km<sup>2</sup> and is just under 10 km<sup>2</sup> in length. It is not considered unreasonable to suggest that fishing vessels travel over an area at least of this size, with the SSMEI fishing data indicating that scallop boats will travel over 10 km offshore to fish.

The SSMEI data provides an indication of the minimum area fished. It is accepted that some additional areas will also be used by the fishing industry, but as yet have not been mapped. As such the SSMEI data did not indicate that this area was used by fishermen. This is supported by the existing aquaculture developers in the area, who, in 20 years, have not seen this area used by scallop dredgers.

The SSMEI data indicates that there is possibly a very small area fished for velvet crabs at the existing location, the re-positioning of the cages moves the site away from this area. It is accepted that some additional areas may be used by the fishing industry; however this will have minimal impact on fishing for this species or lobsters.

Using the existing data collected by the SSMEI project 12.6 km<sup>2</sup> is used for lobsters fishing, 26.54 km<sup>2</sup> for velvet crab fishing and 49.2 km<sup>2</sup> for scallop dredging. This licence area will occupy 0.12 km<sup>2</sup> and the grid area will occupy 0.02 km<sup>2</sup>. Using the grid area the lost fishing potential will be 0.16% for lobster fishing and 0.08% for crab fishing. Using the works licence (which includes the area occupied by anchors) the lost fishing potential will be 0.25% for scallop dredging.

It should also be considered that this is not an application for a new site but an application to move an existing site. The new site location will release the current area of seabed used by this development. For scallop dredging this is likely to improve fishing potential as the current site location would seem to be more suitable for scallop dredging in terms of seabed type and depth. Additionally it would allow easier dredging of Linga Sound.

From the above calculation it was determined by the Council under review that the above application did not have a significant effect on fishing interests.

Using the same calculation the present application has a surface area of 220m<sup>2</sup> or 0.00022 km<sup>2</sup> – or less than 1/500<sup>th</sup> of the above application i.e. the impact on the fishing grounds will be less than 1/500<sup>th</sup> of an effect that has been already considered by the Council as insignificant.

Using the same calculation the area lost to lobster fishing will be 0.0003%, for crab 0.00015% and for scallop fishing 0.00045%.

The Council also acknowledges that creel fishing can come right up to a single line so that the area effectively lost is zero (see past case histories).

The Council could have estimated this effect as the information is readily available from previous planning applications – so the requirement of a 'precautionary approach' is not needed.

4. Creel species are highly mobile and so unlikely to be significantly impacted by the development, the size of which is small compared to a typical creel run.

Blueshell mussels discussed the effect of a single longline on creel fishing in planning application 2013/016/MAR:

Whilst it would be good to have a small protected area effectively conserved by this line, all species caught by creels have been extensively surveyed and scientifically recorded by multiple surveys (including those carried out at NAFC), both locally and nationally, of travelling large distances. If they are not caught one day under the line, the chances are they will be caught a distance from the line the following day.

For instance:

Brown (edible) Crab: surveys have been carried out over the years with suture tags which persist through moulting have shown brown crabs, for instance, can travel from 2 to 3 km per day with migrations of up to 200 miles.

Lobster: surveys have shown distribution from 3 to 15km over 6 months. Can swim up to 5 metres per second. The mussel line proposed is one metre wide, so it could theoretically be crossed in two tenths of a second.

Velvet crabs: Also known as 'swimming crabs' (they do not swim on the spot).

Whelks (buckies): Surveys on whelks have where divers have measured whelks moving at 9.7 centimetres per minute towards a baited pot, so it will take all of 10 minutes to cross underneath the line.

The spacing between creels is typically over ten times the actual width of the line and some leaders can be over seven times its length, so there is little argument with the above facts and overall area occupied, that this will have any adverse effect on the overall fishing results from the area. Apart for the anchor points at each end, the whole line is suspended in the water and free movement of species prosecuted by creel fishing will remain unimpaired.

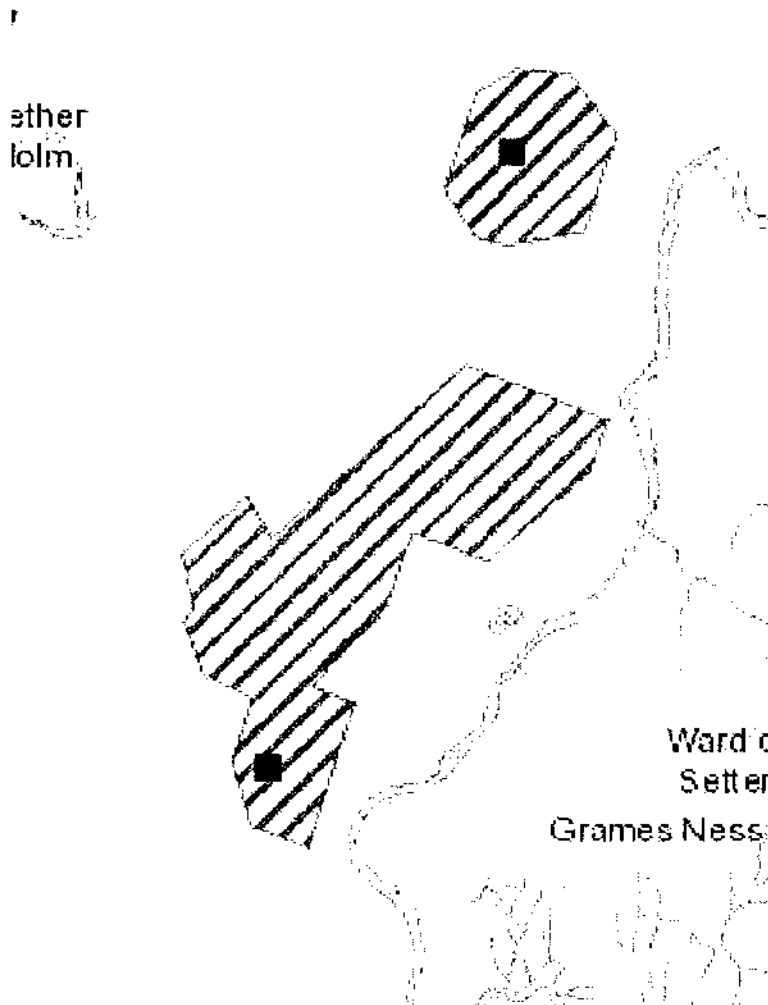
They concluded it is unlikely that a single longline would have any impact on a creel fishing operation.



5. Inaccessibility of site to fishing effort – hemmed in by marine farms and coast.

As can be seen from the location chart of the site it is bounded to the east by the Setterness coast and to the west by the Setterness marine farms. Certainly for as long as the Setterness salmon farms have been developed (and they were some of the first to be developed in Shetland about 35 Yrs ago) it has been very difficult for any fishing vessel to access the area due to an effective blockade of salmon farms around the site.

(extracted from the Scotland's Aquaculture website):



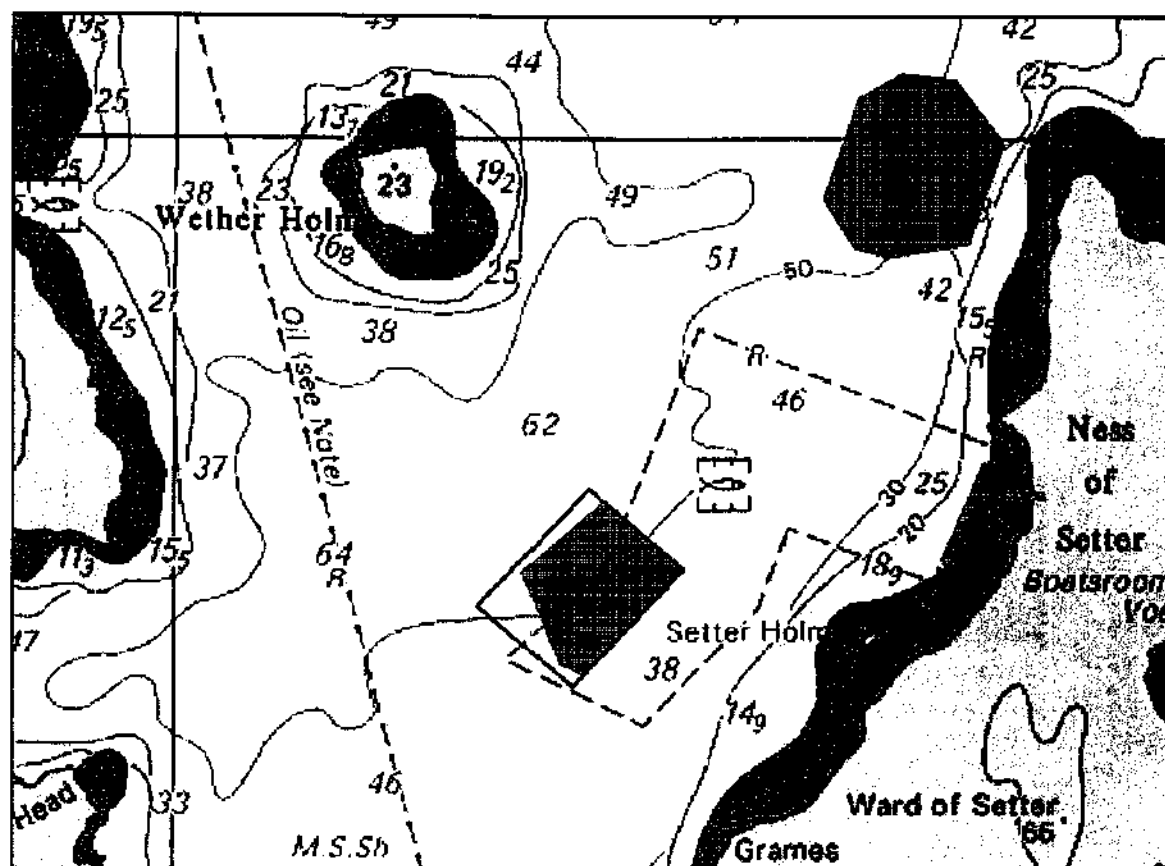
6. Infrequency of fishing effort – never seen by marine farms workers for 35 years.

Probably as a result of the salmon farm development along the coast and the resulting inaccessibility mentioned above there has been no fishing effort observed at the site by current or historic salmon farm workers or operators since salmon operations began in the early 1980's.

When the Council visited the site as part of this planning application they similarly observed no signs of fishing – no creel buoys could be seen in the vicinity.

7. Space being given up by vacating salmon farms is far in excess of the area applied for in the application.

I have not done a formal calculation but it can be seen graphically from the chart below that the area released for fishing is of the order of two orders of magnitude greater than the area occupied by the application.



8. The SFA/SSMO has provided no factual evidence of fishing effort, extent or landings for the application area.

The Council have requested factual evidence from the SFA/SSMO to support their objection but it has not been forthcoming.

Numerous planning applications mention that any objection by the fishing associations should be corroborated by 'resulting factual evidence' which would be required to support it. In the absence of this information the Council has always previously determined that it would be unfair to refuse the application.

**This application stands out as the single exception to that determination?**

And as the Council have determined in other planning applications as the SFA/SSMO have not demonstrated that the proposal will obstruct an important fishing ground so the application does not conflict with Policy MSP F1.

9. The SFA/SSMO objection is more a personal attack and not necessarily site specific.

The comment 'the applicant has no track record in Shetland and the applications seem of a highly speculative nature' is a personal comment about the applicant not the site.

Mr. Tait's assertion that it is not the site in particular but rather the number of sites that is the problem suggest that the objection could have arisen because it was the last site applied for – so it was its position in the application cue not its relevance as a site for fishing that led to an objection being lodged?

10. Precautionary Approach:

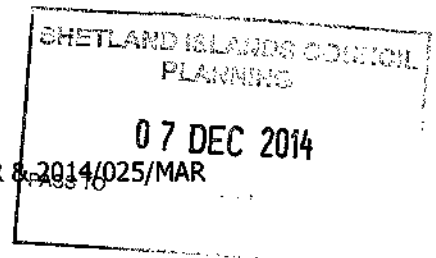
The precautionary approach has not been used in the determination of previous planning applications for mussel longlines where a conflict with creel fishing has been identified. That is unusual in itself. If the scale of the operation was taken into account it should have been clear that there could only be an insignificant effect on creel fishing whether it occurred or not. The information was at hand to make that determination so there was no need to apply a precautionary approach. The scale of operation, the release of space from the salmon farms, the mitigation measure mentioned in my emails, past evidence from numerous planning applications could all have been used to assess an impact on the creel fishery. And the Council had already determined in other applications that creel fishing could take place right up to the line itself. So I do not understand in this case why they could not ascertain that any effect would be insignificant as they have always done previously?

**From:** D GRUNSHAW [REDACTED]

**Sent:** 04 September 2014 12:08

**To:** [REDACTED]

**Subject:** RE: Crown Estate consultation responses to applications 2014/023/MAR & 2014/025/MAR



Hi John

Well best laid plans.... my partners broken knee has put paid to my plans for Shetland this week.

I've contacted Leslie Tait though.

Re: Swinister – his concerns were the debris left behind from the salmon farm. I sympathise with that – I'm not entirely sure but it seems to be nearly ten years since the Swinister Salmon farm had any biomass. And I think it was vacated quite a few years ago now. So it must be frustrating to the local fishermen if there is lots of debris thereabouts.

Re: Setterness – his concerns here were again debris and also impact on Scallop fishery and Velvet Crab fishery. He says he does not have a problem with just one line but may have in the future if the site was extended. I've put forward proposals in that regard – keeping the site compact should it be expanded and keeping to less than 15m (i.e. out of the normal minimum depth for scallop dredging). And I've arranged to meet with Leslie and several of the local skippers when I go up so that we can be clear about future developments and progress by consent in the future. He did mention that he would contact you to raise two points - that 2 weeks is insufficient time for consultation and that he believes that it is up to the developer to show that the site is outside fishing grounds by reference to the fishing map (which he says is the same one as given in the SMSP). I can sympathise again with his request for more time for consultation – as fishermen are not the easiest of people to contact. And for my part I'm going to contact them before applying for pp in future. With regards the fishing map – I did choose an area that was outside that shown on the plan as a scallop dredging or velvet crab fishery. (I'm not saying the plan is to be relied on – I know it is not – but just pointing out that the site is outside the designated fishing areas shown on the marine spatial plan).

In any event he seems fine with one line. And at this stage so am I.

With regards the Crown Estate Charlene has advised that they are happy with Setterness and I am still waiting to hear about Swinister.

Hjaltland have made an objection to the Swinister site. I've had quite a bit of dialogue with them some productive some not. They have no plans to develop the site which was last used I believe in 2004. Their initial response was benign in that they did not object as long as my proposal fitted in with SIC policy and they advised me to contact you. The Crown Estate asked me to seek their permission which is a bit of a different matter.

It also conflicts with the CE's policy (as advised by CE) which is to terminate leases that do not have a valid planning permission in place post March 2004. But Hjaltland cannot give me their 'permission' as it may interfere with their plan to lease the site for mussel production in the future. I'd rather not comment on that at this stage other than to say I know you are fully aware of the current state of 2011/007/NS.

The key I suppose at this stage is the ultimate response from the Crown Estate – which will be interesting to say the least.

Hope to meet up soon John.

Kind regards

Dave

**VELVET CRAB****Latin name :** *Necora puber***Common names :** Velvet swimming crab, devil crabSHETLAND ISLANDS COUNCIL  
PLANNING

07 DEC 2014

PASS TO

NAME

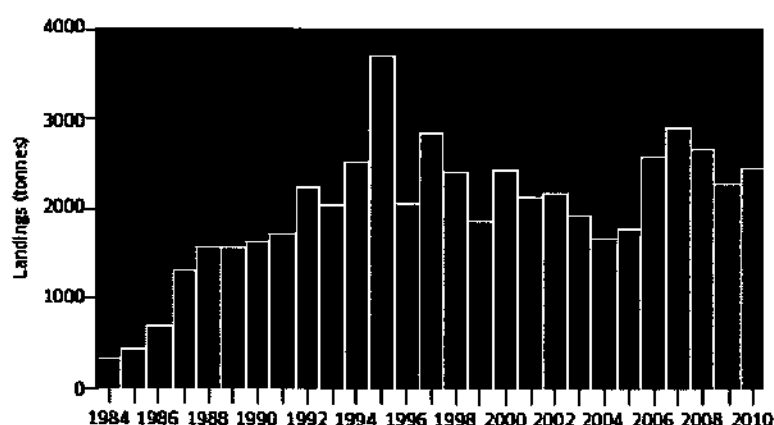
**Introduction**

The velvet crab fishery in Scottish waters is a relatively recent development; velvet crabs were once considered a 'pest' species, and only taken in a small scale fishery for a few months in the winter. With the collapse of the Spanish fishery in the early 1980s, the Scottish fishery expanded rapidly to supply southern European markets and became the largest velvet crab fishery in Europe. In 2010, the fishery landed 2,500 tonnes of velvet crab into Scotland with a value of £6.4 million. Velvet crabs are caught in the inshore creel fishery along with lobster and brown crab. Very few fishermen fish solely for 'velvets'. Previously the fishery was associated mainly with the west coast (Hebrides and South Minch assessment units) and Orkney, but since 2002 landings on the east coast of Scotland have increased substantially. It is not clear whether this is due to an increase in the velvet crab population in this area or to more specific targeting of the species. In 2010, the majority of landings came from Orkney, South Minch, Shetland, East Coast, Hebrides and Clyde. Most velvet crabs are landed between July and November.

**Biology and life cycle**

The velvet crab is a member of the family *Portunidae* (swimming crabs) and is found in waters all around the British Isles. It is a fast moving and aggressive species, most commonly found on rocky substrates down to depths of about 25 m. Velvet crabs feed on both animal and algal material, with brown algae being the dominant item found in gut content analysis.

Females grow more slowly and to a smaller maximum size than males, differences which are likely to be due to reduced growth during the females' egg bearing phase. Growth is highly seasonal and males and females moult at different times of the year; the main moult for males is between April and July whereas females moult between May and August. Velvet crabs typically live for four to six years and recruit to the fishery at around age 3 (65 mm carapace width (CW)). They reach maturity at a carapace width of approximately 40 mm (approximately 1.5 years), although size at maturity varies according to location. This variation may be due to differences in water temperature or other factors such as population density, genetic makeup and fishing pressure. Mating occurs after females have moulted, when the shell is still soft. Studies carried out in Orkney and Shetland provide fecundity estimates of between 5,000 and 278,000 eggs per female. In contrast to brown crabs, there is no evidence that velvet crabs undertake extensive migrations. Their movements are thought to be restricted to a few hundred metres.

**Landings (tonnes) of velvet crab into Scotland by Scottish vessels 1974 -2010****Management advice**

The velvet crab fishery is not subject to EU TAC regulations or national quotas. In Scotland, vessels landing velvet crabs are required to hold a licence with a shellfish entitlement. Vessels without this entitlement are only allowed to land limited amounts (25 crabs per day). The main regulatory mechanism is a minimum landing size of 65 mm CW in all areas except Shetland (70 mm CW, under the Shetland Regulating Order)

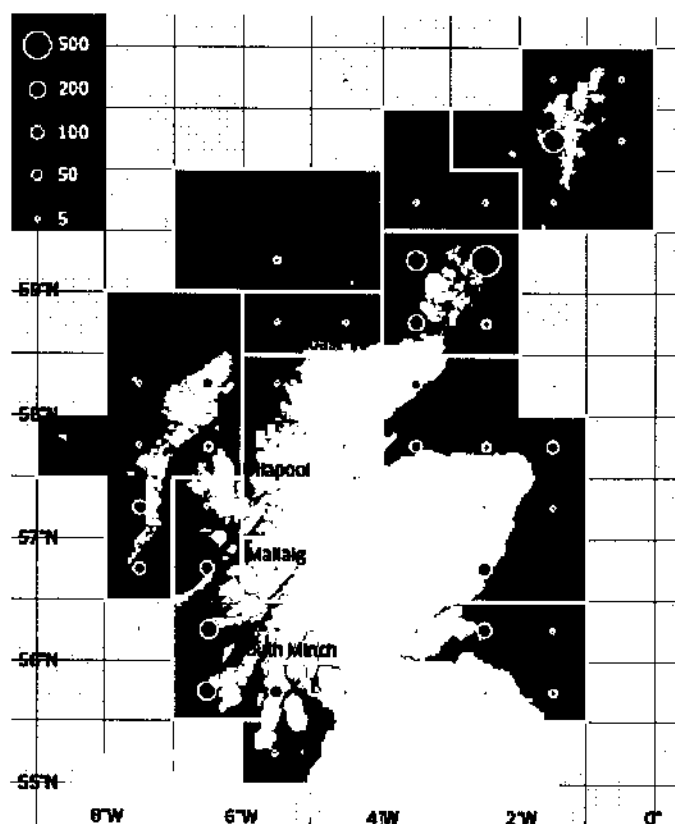
**Assessment**

Age determination is generally not possible for animals which moult, and application of age-structured assessment methods to crustacean stocks is problematic. Length Cohort Analysis (LCA) is the method used for assessing velvet crab stocks. It uses official landings and length frequency data collected as part of the Marine Scotland Science market sampling programme<sup>4</sup>. LCA results are calculated in terms of yield-per-recruit and biomass-per-recruit relative to changes in fishing mortality, providing a framework for evaluation of management measures. Assuming a direct relationship between fishing mortality and effort, generally, lower levels of fishing effort will result in an increase in stock size and a reduction in landings. A higher level of fishing effort will reduce total stock biomass but landings may also fall, as animals are caught before they have had time to grow to a size that would contribute much weight to the yield (growth overfishing). In between these lies  $F_{MAX}$ , the fishing mortality rate that maximizes yield per recruit. The changes that the LCA predicts are long term (equilibrium). The method does not provide any indication of short-term stock dynamics or recruitment over-fishing. Assessments are performed on a regional basis for males and females separately.

### State of the stocks

Results of assessments based on LCAs for the period 2006-2008 for seven of the twelve assessment units, summarising estimates of fishing mortality in relation to the reference point  $F_{MAX}$ , are shown on the map (below). There were insufficient sampling data from the Mallaig, Ullapool, North Coast, Sule and Papa areas to conduct LCAs. Of the assessed areas, velvet crabs in the Hebrides, Shetland, East Coast, and South East were fished at approximately  $F_{MAX}$  whilst both males and females in Clyde, Orkney and South Minch were fished at levels significantly above  $F_{MAX}$ . The stock assessment for velvet crab in Scottish waters will be updated in 2012.

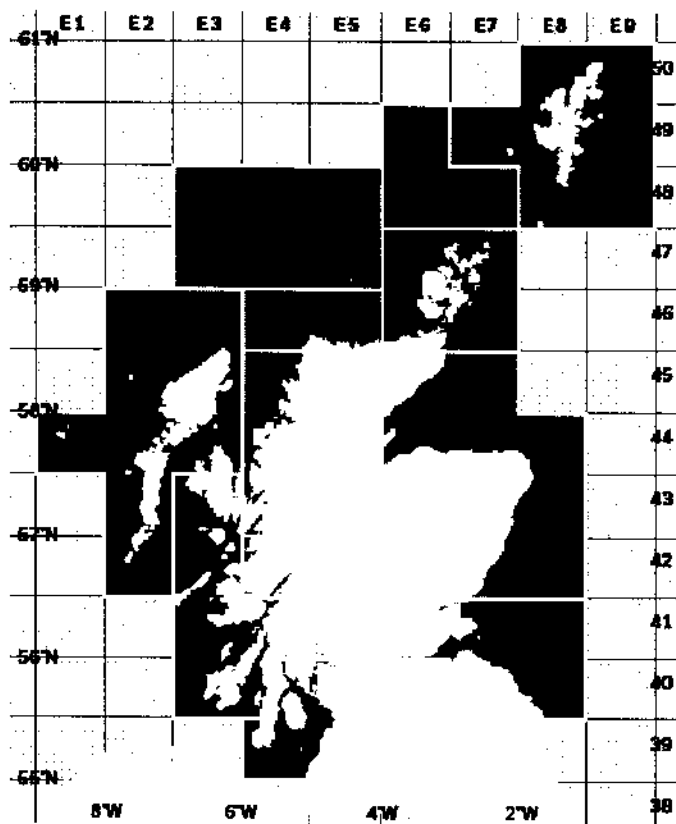
### Creel fishery assessment areas and Scottish velvet crab landings (tonnes) in 2010.



### Management advice

Overall, assessments for the period 2006-2008 showed that most velvet crab assessment units in Scotland were being fished close to or above  $F_{MAX}$ , which is above the optimum level to achieve the maximum yield-per-recruit. In some assessment units, a higher yield and biomass per recruit in the long term could potentially be obtained by reducing the level of fishing mortality (effort).

### Creel fishery assessment areas and estimated fishing mortality, 2006 -2008.



- Fishing mortality at or around  $F_{MAX}$
- Fishing mortality significantly above  $F_{MAX}$  for either males or females
- Fishing mortality significantly above  $F_{MAX}$  for both males and females
- Not assessed

07 DEC 2014

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Image © 2014 DigitalGlobe  
Image © 2014 GeoEye





**Shetland Seafood  
Quality Control**

SETE1  
North Atlantic Fisheries College  
Port Arthur  
Scalloway  
Shetland Isles ZE1 0UN  
Tel: [REDACTED]

## **Benthic Assessment Report For**

### **Annual Monitoring**

**Setterness Salmon Ltd.**

**Setterness East**

SHETLAND ISLANDS COUNCIL PLANNING	
07 DEC 2014	
PASS TO	ACTION

Client/Agent:	Setterness Salmon Ltd.
Site:	Setterness East
National Grid Reference (NGR)	HU 4801 7124
SEPA Consent Reference	WPC/N/62058(02)
Maximum Consented Biomass (tonnes)	3500
Sampling Date:	24, 25, 27 June 2003
Report Date:	20 February 2004

Report prepared by..

[REDACTED]  
Ingram, Marine Farm Services, SSQC.

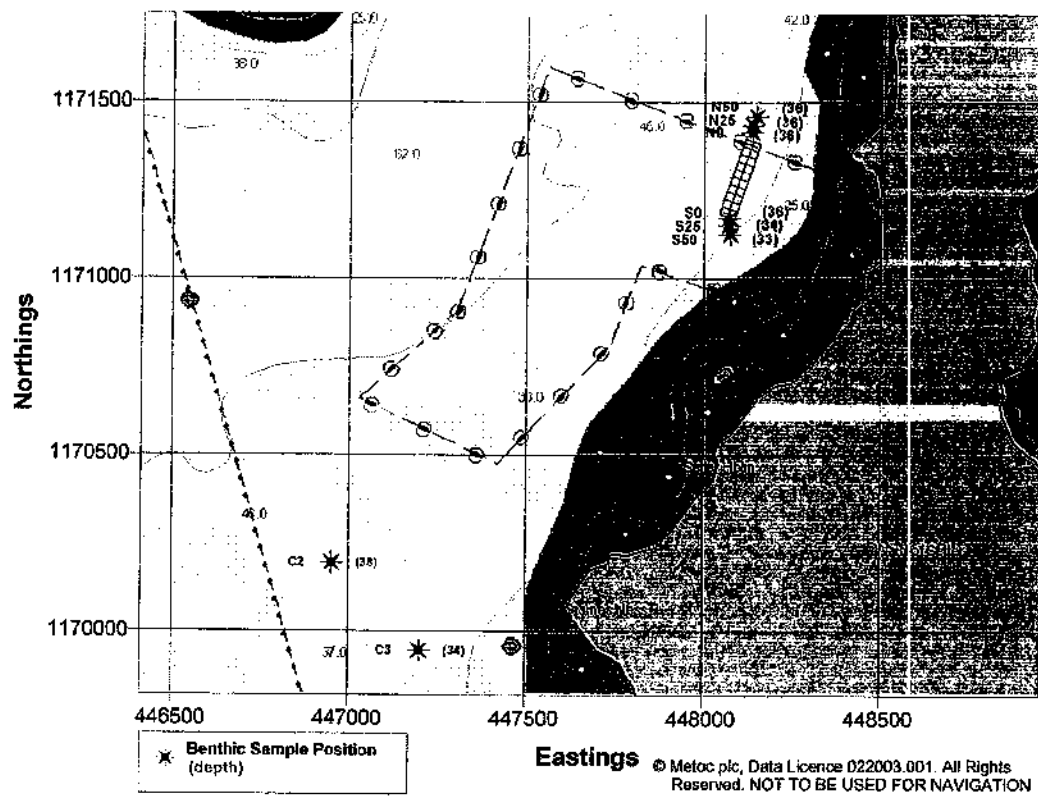
Date: 20/2/04

## **Introduction**

Shetland Seafood Quality Control Ltd. were contracted by Setterness Salmon Ltd. to undertake a benthic fauna assessment around the cages of the fish farm site Setterness East (Shetland).

### **1 Sampling information**

Sampling work was carried out on 24, 25 and 27 June 2003, using a 0.02 m<sup>2</sup> offset Day grab deployed from the work boat "Moder-Dy". Site details were documented and sample collection procedures were followed according to SEPA requirements. 5 replicate samples were collected from 6 stations at Setterness East fish farm (N0, N25, N50, S0, S25, S50) at distances of 0m, 25m, and 50m, in line with the cage position and local hydrography, and two control stations (C2, C3) for reference. The sediment collected was washed through a 1.0 mm sieve and the material retained on the sieve was fixed in buffered formal saline (ca 10 -15%) to which the vital stain, Rose Bengal, had been added. In addition, cores were collected for assessment of redox potential (2 replicates) and particle size analysis (1 replicate). Site information from Setterness East and control stations is shown in Figure 1 and sampling data are presented in Table 1.



**Figure 1 GIS map showing Settiness East site location, cage layout and transect details**

Table 1 Sampling information at Setterness East site, based on 5 replicates per station.

Station	Latitude (WGS 84)	Longitude (WGS 84)	Depth (m)	% Grab filled	Description of sediment	Colour	Surface smell	Beggiatoa spp.	Faeces	Waste feed
N0	60 25.421	001 07.661	36	FULL	VERY FINE SAND	MEDIUM GREY	NONE	YES (all 5 reps)	YES (all 5 reps)	NONE
N25	60 25.432	001 07.659	36	FULL	VERY FINE SAND/BROKEN SHELLS	DARK GREY/BROWN	YES (all 5 reps)	NONE	YES (all 5 reps)	NONE
N50	60 25.445	001 07.647	36	FULL	VERY FINE SAND/BROKEN SHELLS	DARK GREY/BROWN	NONE	NONE	TRACES all 5 reps	NONE
S0	60 25.291	001 07.735	36	FULL	VERY FINE SAND	MEDIUM GREY/BROWN	NONE	TRACE (2 reps)	YES (4 reps)	NONE
S25	60 25.280	001 07.737	34	FULL	VERY FINE SAND	MEDIUM GREY/BROWN	NONE	NONE	NONE	NONE
S50	60 25.266	001 07.733	33	FULL	VERY FINE SAND/STONES	MEDIUM BROWN	NONE	NONE	NONE	NONE
C2	60 24.772	001 08.969	38	FULL	FIRM, VERY FINE SAND/SOME SHELLS	MEDIUM GREY/BROWN	NONE	NONE	NONE	NONE
C3	60 24.637	001 08.700	34	FULL	VERY FINE SAND/MUD	MEDIUM BROWN	NONE	NONE	NONE	NONE

Additional sampling information: 4 controls taken – were shared between 3 Setterness sites (Setterness North, Setterness west and Setterness East). Controls 2 and 3 were used in this survey.

## 2 Sample analyses

### 2.1 Benthic fauna

The species found in the grab samples are presented in Table 2.1.

Table 2.1. Faunal matrix from the Setterness East site and control stations.

MCS Code	Genus/Species	S50	S25	S0	N0	N25	N50	C2	C3
D612	Pennatulacea	0	0	0	0	0	0	0	3
D618	<i>Virgularia mirabilis</i>	0	0	0	0	0	0	2	2
D662	Actiniaria indet.	1	0	0	0	0	0	0	0
G1	Nemertea	0	0	0	0	0	0	10	5
HD1	Nematoda	39	895	1996	347	234	512	10	19
J7	<i>Priapulus caudatus</i>	0	0	0	0	0	0	1	0
N1	Sipuncula indet.	0	0	0	0	0	0	1	0
N34	<i>Phascolion strombus</i>	0	0	0	0	0	0	0	1
P25	Polynoidae indet.	0	0	0	0	0	0	1	2
P92	<i>Pholoe inornata</i>	0	0	0	0	0	0	8	2
P117	<i>Eteone flava</i>	0	0	0	0	0	0	2	2
P145	<i>Anaitides mucosa</i>	5	0	0	0	0	1	0	0
P178	<i>Phyllodoce</i> sp.	0	0	0	0	0	0	0	1
P256	<i>Glycera alba</i>	0	0	0	0	0	0	4	4
P271	<i>Goniada maculata</i>	0	0	0	0	0	0	8	9
P313	<i>Ophiodromus flexuosus</i>	2	0	0	0	0	0	0	1
P349	<i>Ehlersia cornuta</i>	0	0	0	0	0	0	1	1
P421	<i>Exogone hebes</i>	0	0	0	0	0	0	0	1
P422	<i>Exogone naidina</i>	0	0	0	0	0	0	9	48
P425	<i>Sphaerosyllis bulbosa</i>	0	0	0	0	0	0	2	4
P494	<i>Nephtys</i> juv. indet.	1	0	0	0	0	0	3	12
P499	<i>Nephtys hombergii</i>	1	0	0	0	0	0	0	1
P502	<i>Nephtys kersivalensis</i>	1	0	0	0	0	0	4	2
P579	<i>Lumbrineris gracilis</i>	12	1	0	0	0	0	18	13
P619	<i>Ophryotrocha hartmanni</i>	0	0	0	0	0	0	0	1
P638	<i>Protodorvillea kefersteini</i>	0	0	0	0	0	0	3	3
P672	<i>Scoloplos armiger</i>	20	0	0	0	0	0	0	0
P699	<i>Paradoneis lyra</i>	0	0	0	0	0	0	7	31
P722	<i>Aonides oxycephala</i>	0	0	0	0	0	1	0	0
P737	<i>Malacoceros fuliginosus</i>	106	671	557	498	75	28	0	0
P745	<i>Minuspio</i> sp.	0	0	0	0	0	0	1	0
P748	<i>Polydora</i> sp.	0	0	0	0	0	0	4	11
P760	<i>Polydora quadrilobata</i>	1	0	0	0	0	0	0	4
P762	<i>Polydora socialis</i>	0	0	0	0	0	0	1	4
P765	<i>Prionospio fallax</i>	0	0	0	0	0	0	50	31
P766	<i>Prionospio banyulensis</i>	0	0	0	0	0	0	0	2
P773	<i>Pseudopolydora pauchibranchiata</i>	0	0	0	0	0	0	0	9
P789	<i>Spio decorata</i>	0	0	0	0	0	0	1	2
P794	<i>Spiophanes bombyx</i>	0	0	0	0	0	0	2	1
P831	<i>Caulleriella zetlandica</i>	0	0	0	0	0	0	4	0
P834	<i>Chaetozone setosa</i>	1	0	0	0	0	0	0	3
P839	<i>Cirriiformia tentaculata</i>	1	23	2	0	0	3	0	0
P885	<i>Pherusa plumosa</i>	0	0	0	0	0	0	5	7
P907	<i>Capitella capitata</i>	110	591	294	144	28	62	0	0
P919	<i>Mediomastus fragilis</i>	17	0	0	0	0	11	1	0

Table 2.1 Faunal matrix from the Setterness East site and control stations  
Continued.

MCS Code	Genus/Species	S50	S25	S0	N0	N25	N50	C2	C3
P921	<i>Notomastus latericeus</i>	2	0	0	0	0	0	1	1
P938	Maldanidae indet.	0	0	0	0	0	0	7	0
P963	<i>Euclymene lumbricoides</i>	0	0	0	0	0	0	1	0
P980	<i>Nicomache lumbricalis</i>	0	0	0	0	0	0	1	0
P990	<i>Rhodine gracillor</i>	0	0	0	0	0	0	47	26
P1027	<i>Scalibregma inflatum</i>	0	1	0	0	0	0	5	1
P1093	<i>Galathowenia oculata</i>	0	0	0	0	0	0	7	35
P1098	<i>Owenia fusiformis</i>	0	0	0	0	0	0	8	1
P1099	Terebellida indet.	0	0	0	0	0	0	1	1
P1107	<i>Lagis koreni</i>	0	0	0	0	0	0	0	2
P1118	Ampharetidae indet. juv	0	0	0	0	0	0	1	0
P1139	<i>Ampharete lindstroemi</i>	0	0	0	0	0	0	1	1
P1175	<i>Terebellides stroemi</i>	0	0	0	0	0	0	11	2
P1195	<i>Lanice conchilega</i>	0	0	0	0	0	0	0	1
P1257	Sabellidae indet.	0	0	0	0	0	0	8	19
P1280	<i>Euchone rubrocincta</i>	0	0	0	0	0	0	2	0
P1490	<i>Tubificoides benedii</i>	0	1	1	0	0	21	0	0
S254	<i>Harpinia antennaria</i>	0	0	0	0	0	0	1	0
S790	Isopoda indet	0	0	0	0	0	0	0	1
S1099	Tanaidacea indet	0	0	0	0	0	0	3	3
S1454	<i>Pagurus</i> sp.	0	0	0	0	0	0	1	0
W9	<i>Chaetoderma nitidulum</i>	0	0	0	0	0	0	1	0
W270	<i>Turritella communis</i>	0	0	0	0	0	0	9	0
W992	<i>Eulimella laevis</i>	0	0	0	0	0	0	1	0
W1028	<i>Cylichna cyclindracea</i>	0	0	0	0	0	0	2	2
W1089	<i>Rhizorus acuminatus</i>	0	0	0	0	0	0	0	1
W1400	<i>Armina loveni</i>	0	0	0	0	0	0	2	0
W1568	<i>Nucula hanleyi</i>	0	0	0	0	0	0	2	23
W1827	<i>Myrtea spinifera</i>	0	0	0	0	0	0	4	2
W1829	<i>Lucinoma borealis</i>	0	0	0	0	0	0	1	0
W1837	<i>Thyasira flexuosa</i>	1	0	0	0	0	0	105	95
W1906	<i>Mysella bidentata</i>	0	0	0	0	0	0	3	0
W2006	<i>Phaxas pellucidus</i>	0	0	0	0	0	0	8	9
W2048	<i>Gari costulata</i>	0	0	0	0	0	0	1	1
W2059	<i>Abra alba</i>	14	0	0	0	0	0	61	42
W2098	<i>Chamelea gallina</i>	0	0	0	0	0	0	2	3
W2104	<i>Timoclea ovata</i>	0	0	0	0	0	0	2	7
W2130	<i>Dosinia exoleta</i>	0	0	0	0	0	0	1	0
W2128	<i>Dosinia lupinus</i>	0	0	0	0	0	0	6	5
W2152	<i>Sphenia binghami</i>	0	0	0	0	0	0	1	1
W2157	<i>Corbula gibba</i>	0	0	0	0	0	0	5	3
W2239	<i>Cochlodesma praetenu</i>	0	0	0	0	0	0	2	0
ZA3	<i>Phoronis muelleri</i>	0	0	0	0	0	0	24	84
ZB166	<i>Ophiura</i> sp. juv.	0	0	0	0	0	0	0	3
ZB170	<i>Ophiura ophiura</i>	0	0	0	0	0	0	1	0
ZB195	<i>Echinus</i> sp.	0	0	0	0	0	0	0	1
ZB229	Holothurioidea sp. juv	0	0	0	0	0	0	1	0
ZB290	Synaptidae indet	0	0	0	0	0	0	1	1
	Totals	335	2183	2850	989	337	639	515	619

## 2.2 Data analysis

Diversity indices are employed as tools to analyse and compare faunal communities. For the purposes of this report, two such indices are used:

1. Shannon-Weiner ( $H'$ ) combines two quantifiable measures, namely species richness (number of species,  $S$ ) and abundance. For data contained in these reports,  $\log_2$  transformation is used, giving:

$$H' = -\sum_i p_i (\log_2 p_i)$$

Where  $p_i$  is the proportion of the total count arising from the  $i$ th species.

2. Pielou's Evenness Index ( $J'$ ) is a measure of equitability and is calculated from the above index as follows:

$$J' = H'_{(\text{observed})} / H'_{(\text{max})}$$

where  $H'_{(\text{max})}$  is the maximum possible diversity i.e. if all species were equally abundant. Pielou's Index always varies between  $>0$  and 1.

Statistical information and species densities for Setterness East and control stations are presented in Table 2.2. Polychaete and total faunal densities are calculated as abundance per square metre, based on counts from  $5 \times 0.02 \text{ m}^2$  grab samples ( $0.10 \text{ m}^2$ ). Percent polychaetes is calculated from these densities.

**Table 2.2. Setterness East and control stations benthic community structure analysis.**

Samples	No. taxa	Shannon-Wiener	Pielou's	Polychaete Density ( $\text{m}^{-2}$ )	Total Faunal Density ( $\text{m}^{-2}$ )	Percent Polychaetes
S50	18	2.62	0.63	2800	3350	84
S25	7	1.65	0.59	12870	21830	59
S0	5	1.17	0.50	8530	28500	30
N0	3	1.43	0.90	6420	9890	65
N25	3	1.15	0.72	1030	3370	31
N50	8	1.11	0.37	1060	6390	17
C2	68	4.61	0.76	2400	5150	47
C3	63	4.60	0.77	3020	6190	49

### 2.3 Trophic status

The infaunal trophic index (ITI) gives an indication of the degree of disturbance of a site by classifying the organisms present in the sample according to four feeding groups as follows:

- 1 Filter/suspension feeders
- 2 Detritus feeders
- 3 Deposit feeders
- 4 Sub-surface deposit feeders

ITI values ranging from 0 to 30 are classed as degraded, from 30 to 60 are classed as changed and those from 60 to 100 are classed as normal. The ITI values for the Setterness East and control stations are shown in Table 2.3.

**Table 2.3. Infaunal Trophic Index from the Setterness East samples and control stations.**

Station	ITI Index	Classification
S50	10	Degraded
S25	1	Degraded
S0	<1	Degraded
N0	<1	Degraded
N25	<1	Degraded
N50	1	Degraded
C2	56	Changed
C3	60	Normal



## 2.4 Physico-chemical parameters: Particle size analysis.

Samples from all stations were taken for particle size analysis, which was performed by the Macaulay Institute, using laser diffractrometry (Mastersizer 2000). Results are summarised in Table 2.4 and the complete data set for particle size distribution is given in Appendix I.

**Table 2.4. Particle size analysis from Setterness East and control stations. Classification is according to the Wentworth scale.**

Stations	>2mm (%)	<63 $\mu$ m(%)	Mean (mm)	Std Dev (mm)	Phi	Classification
N0	14.38	2.26	0.48	0.33	1.06	Medium Sand
N25	13.14	2.67	0.45	0.36	1.17	Medium Sand
N50	10.33	11.69	0.25	0.25	2.03	Fine Sand
S0	17.75	5.67	0.31	0.26	1.67	Medium Sand
S25	7.78	14.08	0.26	0.29	1.94	Medium Sand
S50	6.88	17.00	0.23	0.27	2.14	Fine Sand
C2	5.84	19.21	0.25	0.28	2.01	Fine Sand
C3	4.45	17.26	0.35	0.38	1.51	Medium Sand

## 2.5. Physico-chemical parameters: Redox potential.

Measured in millivolts, redox potential is a quantitative means of determining a given system in terms of how oxidising or reducing it is. It is an important factor in determining the stability and transformation of organic matter. In marine sediments it is accepted that, in general, well oxygenated coarse sediments which are poor in organic matter yield positive redox values, whilst negative redox values are characteristic of bottom deposits which are rich in organic matter and frequently composed of fine material. Such reducing conditions are attributable to the activity of bacteria and allied micro-organisms consuming oxygen in the processing of organic matter. Conditions are commonly found to be more reducing with increasing organic input and also with core depth. Bacterial decomposition of sulpho-proteins results in the production of hydrogen sulphide ( $H_2S$ ), which contributes to reducing conditions and is readily apparent in highly reduced sediments by its characteristic smell.

The redox potential was measured as soon as the sediment core was collected, to minimise any effects of atmospheric oxygen. The redox probe was calibrated using Zobells standard solution and gave a value of 237 mV at 11 °C at both site stations and controls (sampled on different days). All results were corrected to Normal Hydrogen Electrode (NHE) values by the addition of the appropriate correction factor to the raw data (+228 mV).

A smell of fish oil was detected in the cores at N0 and N25 and a slight smell was noted at N50. Faeces were present at N0. *Beggiatoa* spp. were present at N50 and traces were found at S25.

Results of redox measurements at Setterness East and control samples are presented in Tables 2.5.1 to 2.5.3.

Table 2.5.1 Redox potentials mV (corrected) from north transect - Setterness East site.

DEPTH (cm)	N0A	N0B	N25A	N25B	N50A	N50B	
Water	32		76		393	348	N0 – 12 attempts. Slipped off 2x. Limited success.
Surface 0.0	-127		70		388	319	
-0.5	-136		25		386	290	
-1.0	-153		9		376	277	
-1.5	-162		0		348	181	
-2.0	-170		-89		298	113	N25 – 11 attempts
-2.5	-173		-123		193	52	
-3.0	-176		-141		105	18	Hard packed sand and shell fragments
-3.5	-183		-153		28	0	
-4.0	-220		-160		-30	-18	
-4.5			-166		-64	-52	
-5.0			-169		-83	-76	
-5.5			-172		-110	-88	

Table 2.5.2 Redox potentials mV (corrected) from south transect - Setterness East site.

DEPTH (cm)	S0A	S0B	S25A	S25B	S50A	S50B	
Water			408	436	418		S0 – 8 attempts. No success.
Surface 0.0			403	422	416		
-0.5			397	328	413		S50 – 8 attempts
-1.0			373	219	408		
-1.5			271	148	406		Hard packed sand and shell fragments
-2.0			230	82	270		
-2.5			181	53	129		
-3.0			136	-12	50		
-3.5			101	-20	-7		
-4.0			32	-48	-46		
-4.5			-21	-78	-77		
-5.0			-62	-103	-105		
-5.5			-90	-120	-107		

Table 2.5.3 Redox potentials mV (corrected) from control stations.

DEPTH (cm)	C2A	C2B	C3A	C3B
Water	437	412	462	439
Surface 0.0	434	405	457	435
-0.5	428	387	278	419
-1.0	426	286	243	244
-1.5	423	208	213	203
-2.0	423	143	183	180
-2.5	420	126	160	152
-3.0	359	104	132	103
-3.5	258	84	109	67
-4.0	214	62	90	55
-4.5	181	47	56	44
-5.0	156	17	44	18
-5.5	109	10	30	9

## 2.6 Multivariate analysis.

MDS (multidimensional scaling) is an ordination analysis, which is used to represent the rank order of similarities from the Bray-Curtis coefficient. The relative distances of the plot represent the similarity between stations: stations situated near to each other are more similar than those situated far apart. The accuracy of the analysis is shown as stress level, of which values between 0 and 0.05 have the best representation.

Results from Setterness East and control stations are analysed using MDS. Data are square root transformed and the Bray-Curtis coefficient is used to calculate the similarities between stations. The purpose of this data transformation is to increase the contribution of rare species and decrease the effect of the dominant species. The MDS for Setterness East and control stations is shown in Figure 2.1 and Bray-Curtis similarities are represented by dendrogram in Figure 2.2.

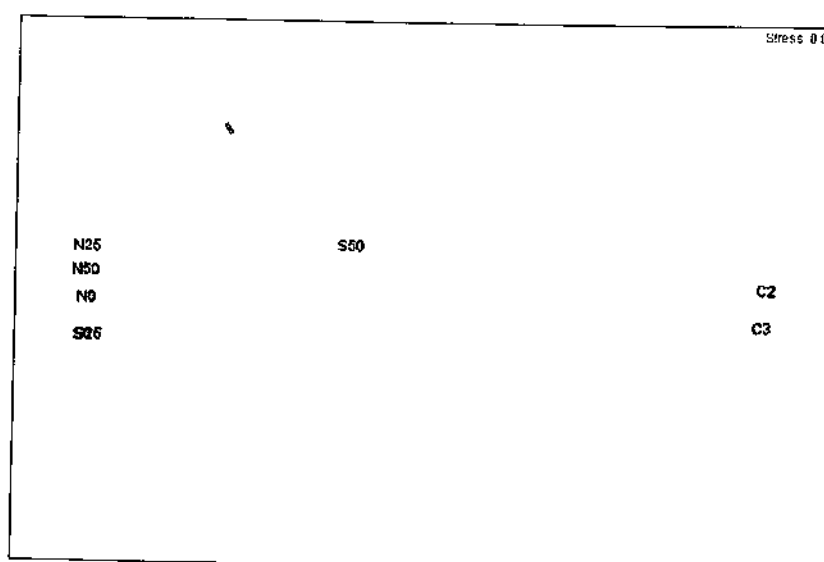
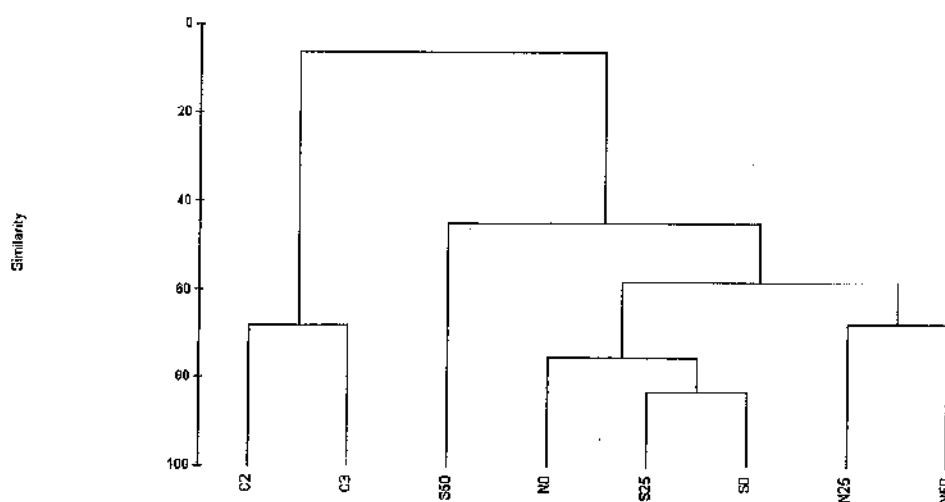


Figure 2.1 MDS ordination plot of samples from Setterness East and control stations.



**Figure 2.2 Dendrogram depicting similarity between samples from Setterness East and control stations (based on  $\sqrt{\phantom{x}}$  transformation of data).**

## **Discussion**

From the data collected at Setterness East and control stations, the following observations were made:

### **Faunal Matrix (Table 2.1)**

A total of 93 species have been identified making a count of 8467 specimens. For the Setterness East stations, polychaetes are the best group represented with 53 species. Other groups include molluscs (21 species) and crustaceans (4 species). The station with the largest number of individuals is S0 (2850 specimens), followed closely by S25 (2183 specimens). None of the Setterness East stations was species rich, with most yielding less than 10 species, however S50 was composed of 18.

### **Multivariate analyses (Figures 2.1, 2.2)**

MDS analysis of the data shows excellent representation with a stress level of 0.01. The plot clearly reflects a gradient of organic enrichment, with stations associated with the cages separated from those outwith the site area (controls).

### **Particle size analysis (Table 2.4)**

The sediment from the Setterness East stations and controls classifies as fine sand or medium sand. There are no striking differences between any of the sediment types found at different stations, although those nearer to the cages had less mud (2-6% particles <63µm) than those further away (12-17%).

### **Redox potential and sensory evaluation of sediments (Tables 1, 2.5.1, 2.5.2, 2.5.3)**

Negative values, indicating hypoxia, were recorded at all stations associated with the cages. This was particularly evident at the northern cage edge, where

redox was strongly negative at the sediment surface (-127mV) and the station fails to meet relevant SEPA standards on this count. No cores were achieved at the southern cage edge for comparison, although negative values were recorded at 3-3.5cm at the outer stations along this transect. Negative values were also recorded at 2cm at N25 and 4cm at N50. Sensory observations at the time of sampling also highlighted a state of degradation at some of the stations, where various combinations of faeces, sulphide smell and *Beggiatoa* spp. were noted at all but the outer two south stations. The smell of rancid fish oil was noted in cores at N0 and N25. No waste feed pellets were observed at any of the stations.

### **The North Transect**

All stations are experiencing organic enrichment and are characterised by species indicating this. There is a gradual reduction in contribution by polychaetes in favour of nematodes, with distance from the cages. Diversity and ITI are low throughout the transect and SEPA sediment quality criteria (diversity, ITI, number of species) are not met at any of the stations.

#### Station N0

The northern cage edge is characterised by only 3 species: *Malacoceros fuliginosus* (50% of total individuals), nematodes (35%) and *Capitella capitata* (15%). All three are associated with organic enrichment. Resultant diversity is low (Table 2.2). ITI is very low, at <1, as all species are sub-surface deposit feeders. Polychaete density is, however, relatively high (Table 2.2) and more than exceeds the amount regarded as being necessary for successful sediment reworking (1000 per square metre).

#### Station N25

There is a significant drop in the faunal density with 25m distance from the cage edge and polychaete density drops to 1030 per square metre. Again, the same 3 taxa are recognised but the dominant group changes to nematodes (69%). The increase in contribution by nematode species means that

polychaetes only account for 31% of specimens found. Diversity and ITI remain very low (Tables 2.2, 2.3).

#### Station N50

Nematode species remain the dominant taxa at N50 and their contribution increases to 80%. Several more species are recognised (8 in total) but diversity actually falls with the increase in dominance (Table 2.2). Faunal densities are almost double the value found at N25, but this is due to an increase in abundance of nematodes and polychaete density remains static at 1060 per square metre, with polychaetes accounting for only 17% overall. ITI remains at "degraded" status (Table 2.3).

#### **The South Transect**

The inner stations are characterised by extremely high abundances of nematodes and, to a lesser degree, organic enrichment polychaetes. Diversity and ITI are low at all stations. The outer station demonstrates an improvement in terms of statistics and densities but this is not sufficient to meet requisite standards required by SEPA and none of the stations along the transect achieve these.

#### Station S0

This station is characterised by extremely high densities of nematodes, which account for 70% of all specimens found. Faunal densities attain almost 29,000 per square metre, with polychaetes accounting for 30%. The species next best represented is *M. fuliginosus* (20%), followed by *C. capitata* (10%). Only 5 taxa are recognised overall and resultant diversity and ITI are very low (Table 2.2, 2.3).

#### Station S25

In common with the cage edge, S25 yields high abundances of nematodes, but their contribution falls to 41%, polychaetes making up the remaining 59%. 7 taxa are found but diversity remains low and ITI still scores as "degraded" (Tables 2.2, 2.3). *M. fuliginosus* accounts for 31% and *C. capitata* 27%.



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Station S50

There is a change in community structure at the outer station and, although the same 3 species dominate the population, 18 taxa are recognised overall. Nematodes account for only 12%, with *C. capitata* and *M. fuliginosus* co-dominating the assemblage (33%, 32% respectively). Diversity shows an increase (Table 2.2) and so does ITI, although remains at "degraded" status (Table 2.3). Most obvious is the marked reduction in faunal densities which drop to approximately one sixth of that found at S25 and the increase in polychaete contribution (84%).

**Control Stations**

Controls are both characterised by more than 60 species and data show strong similarities between the two populations in terms of faunal make up, derived statistics and faunal densities (Tables 2.1, 2.2, 2.3). The species best represented at both controls is the bivalve *Thyasira flexuosa*. Other notable contributors are *Abra alba*, *P. muelleri*, *P. fallax*. None of the transect stations show any similarity with either of the controls.

**Summary**

The fish farm at Setterness East is situated in waters of between 33-36m deep. Analysis of benthic infauna indicates that communities found up to 50m north and south of the cages are experiencing a strong degree of organic enrichment. There is some indication that the benthos is showing improvement to the south at the distant station, but as samples were not taken beyond this, no further conclusions can be made.

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## Result Analysis Report

**Laboratory Code / Customer Code:**  
766678 Setter Ness East N0

**Sample Source & type:**  
Marine Sediment = SSQC

**Sample bulk lot ref:**  
766678 = 1

**Measured by:**  
jo0425

**Result Source:**  
Measurement

**Measured:**  
31 July 2003 16:20:52

**Analysed:**  
31 July 2003 16:20:53

<b>Particle Name:</b> Default	<b>Accessory Name:</b> Hydro 2000G (A)	<b>Analysis model:</b> General purpose	<b>Sensitivity:</b> Normal
<b>Particle RI:</b> 1.520	<b>Absorption:</b> 0.1	<b>Size range:</b> 0.020 to 2000.000 $\mu\text{m}$	<b>Obscuration:</b> 4.27 %
<b>Dispersant Name:</b> Water	<b>Dispersant RI:</b> 1.330	<b>Weighted Residual:</b> 1.767 %	<b>Result Emulation:</b> Off

<b>Concentration:</b> 1.1518 %Vol	<b>Span :</b> 2.044	<b>Uniformity:</b> 0.629	<b>Result units:</b> Volume
--------------------------------------	------------------------	-----------------------------	--------------------------------

**Specific Surface Area:**  
0.0243  $\text{m}^2/\text{g}$

**Surface Weighted Mean D[3,2]:**  
247.104  $\mu\text{m}$

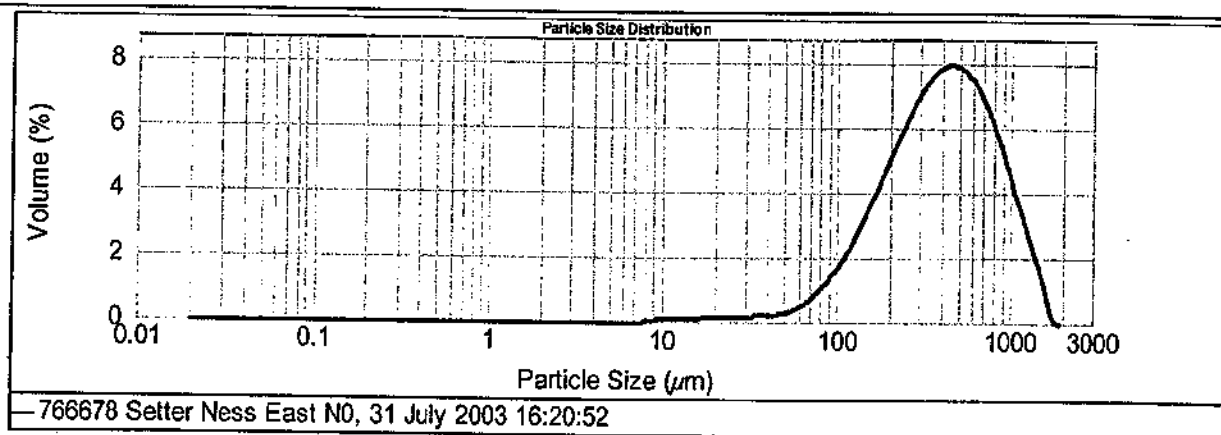
**Vol. Weighted Mean D[4,3]:** 480.766  $\mu\text{m}$

**Standard Deviation:** 327.944  $\mu\text{m}$

**d(0.1):** 136.854  $\mu\text{m}$

**d(0.5):** 399.835  $\mu\text{m}$

**d(0.9):** 954.158  $\mu\text{m}$



Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %
0.100	0.00	15.000	0.34	45.000	0.76	125.000	8.32	355.000	17.56	1000.000	8.58
3.680	0.00	22.000	0.43	63.000	1.12	180.000	11.44	500.000	17.12		
7.750	0.29	32.000	0.45	80.000	4.96	250.000	15.90	710.000	12.74		
15.000		45.000		125.000		355.000		1000.000			

**Operator notes:** Job: 2003-1176C



## Result Analysis Report

**Laboratory Code / Customer Code:**  
766679 Setter Ness East N25

**Sample Source & type:**  
Marine Sediment = SSQC

**Sample bulk lot ref:**  
766679 = 1

**Measured by:**  
jo0425

**Result Source:**  
Measurement

**Measured:**  
31 July 2003 16:25:45

**Analysed:**  
31 July 2003 16:25:46

**Particle Name:**  
Default

**Particle Rf:**  
1.520

**Dispersant Name:**  
Water

**Accessory Name:**  
Hydro 2000G (A)

**Absorption:**  
0.1

**Dispersant Rf:**  
1.330

**Analysis model:**  
General purpose

**Size range:**  
0.020 to 2000.000  $\mu\text{m}$

**Weighted Residual:**  
1.495 %

**Sensitivity:**  
Normal

**Obscuration:**  
4.55 %

**Result Emulation:**  
Off

**Concentration:**  
0.1383 %Vol

**Span :**  
2.613

**Uniformity:**  
0.806

**Result units:**  
Volume

**Specific Surface Area:**  
0.0285  $\text{m}^2/\text{g}$

**Surface Weighted Mean D[3,2]:**  
210.836  $\mu\text{m}$

**Vol. Weighted Mean D[4,3]:**

**Standard Deviation:**

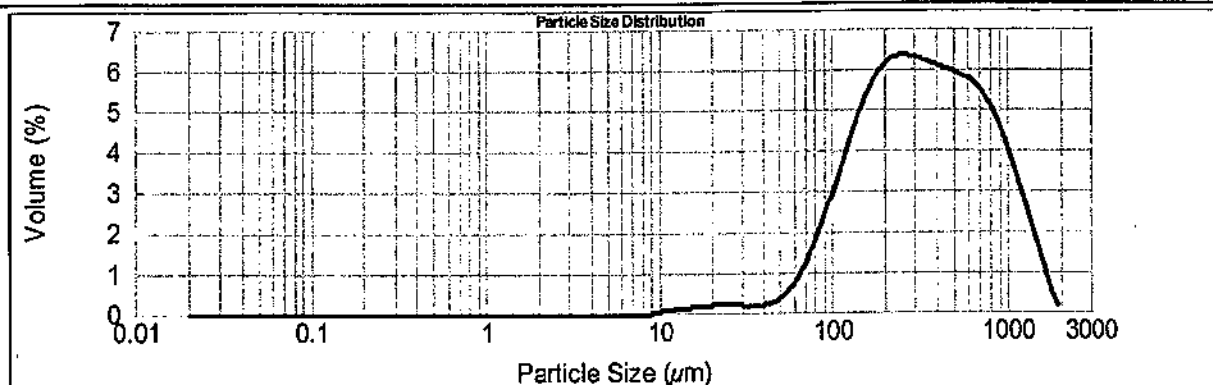
445.392  $\mu\text{m}$

355.795  $\mu\text{m}$

**d(0.1):** 110.291  $\mu\text{m}$

**d(0.5):** 327.943  $\mu\text{m}$

**d(0.9):** 967.269  $\mu\text{m}$



— 766679 Setter Ness East N25, 31 July 2003 16:25:45

Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %
0.100	0.00	15.000	0.45	45.000	1.01	125.000	12.28	355.000	13.80	1000.000	9.10
3.880	0.00	22.000	0.51	63.000	1.91	180.000	13.32	500.000	13.21	2000.000	
7.750	0.26	32.000	0.44	80.000	8.59	250.000	14.46	710.000	10.87		
15.000		45.000		125.000		355.000		1000.000			

**Operator notes:** Job: 2003-1176C

## Result Analysis Report

**Laboratory Code / Customer Code:**

766680 Setter Ness East N50

**Sample Source & type:**

Marine Sediment = SSQC

**Sample bulk lot ref:**

766680 = 1

**Measured by:**

jo0425

**Result Source:**

Measurement

**Measured:**

31 July 2003 16:30:45

**Analysed:**

31 July 2003 16:30:46

**Particle Name:**

Default

**Accessory Name:**

Hydro 2000G (A)

**Analysis model:**

General purpose

**Sensitivity:**

Normal

**Particle RI:**

1.520

**Absorption:**

0.1

**Size range:**

0.020 to 2000.000  $\mu\text{m}$ 
**Obscuration:**

3.49 %

**Dispersant Name:**

Water

**Dispersant RI:**

1.330

**Weighted Residual:**

0.740 %

**Result Emulation:**

Off

**Concentration:**

0.0461 %Vol

**Span :**

3.160

**Uniformity:**

0.966

**Result units:**

Volume

**Specific Surface Area:**

0.064  $\text{m}^2/\text{g}$ 
**Surface Weighted Mean D[3,2]:**

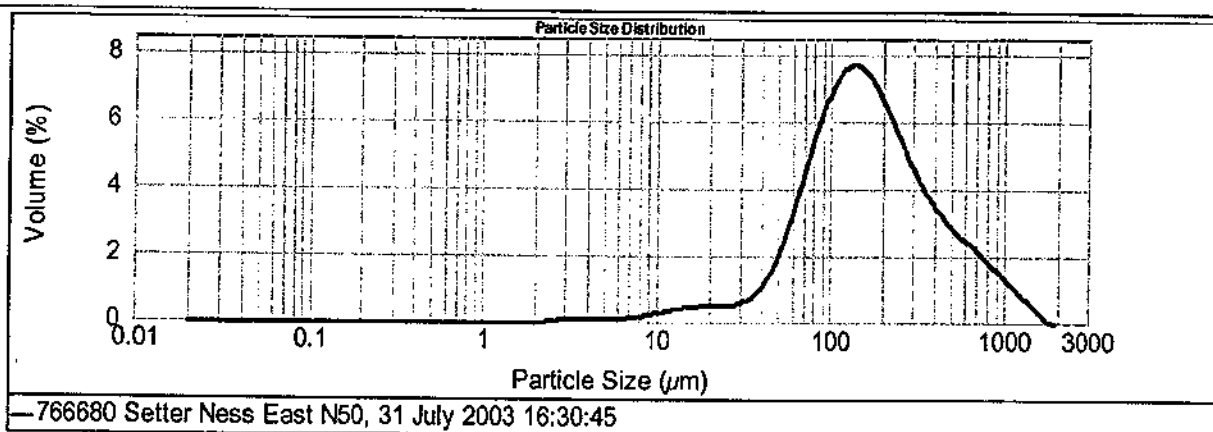
93.820  $\mu\text{m}$ 
**Vol. Weighted Mean D[4,3]:**

245.456  $\mu\text{m}$ 
**Standard Deviation:**

248.729  $\mu\text{m}$ 

d(0.1): 58.001  $\mu\text{m}$ 

d(0.5): 158.679  $\mu\text{m}$ 

d(0.9): 559.444  $\mu\text{m}$ 


Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %
0.100	0.19	15.000	1.21	45.000	5.16	125.000	18.03	355.000	7.53	1000.000	2.53
3.880	0.44	22.000	1.31	63.000	6.81	180.000	13.67	500.000	5.88		
7.750	1.26	32.000	2.11	80.000	19.53	250.000	10.72	710.000	3.81		
15.000		45.000		125.000		355.000		1000.000			

**Operator notes:** Job: 2003-1176C

## Result Analysis Report

**Laboratory Code / Customer Code:**

766681 Setter Ness East S0

**Measured:**

31 July 2003 16:35:47

**Sample Source & type:**

Marine Sediment = SSQC

**Measured by:**

jo0425

**Analysed:**

31 July 2003 16:35:48

**Sample bulk lot ref:**

766681 = 1

**Result Source:**

Measurement

<b>Particle Name:</b> Default	<b>Accessory Name:</b> Hydro 2000G (A)	<b>Analysis model:</b> General purpose	<b>Sensitivity:</b> Normal
<b>Particle RI:</b> 1.520	<b>Absorption:</b> 0.1	<b>Size range:</b> 0.020 to 2000.000 um	<b>Obscuration:</b> 3.79 %
<b>Dispersant Name:</b> Water	<b>Dispersant RI:</b> 1.330	<b>Weighted Residual:</b> 1.045 %	<b>Result Emulation:</b> Off

<b>Concentration:</b> 0.0809 %Vol	<b>Span :</b> 2.631	<b>Uniformity:</b> 0.805	<b>Result units:</b> Volume
--------------------------------------	------------------------	-----------------------------	--------------------------------

<b>Specific Surface Area:</b> 0.0402 m <sup>2</sup> /g	<b>Surface Weighted Mean D[3,2]:</b> 149.232 um
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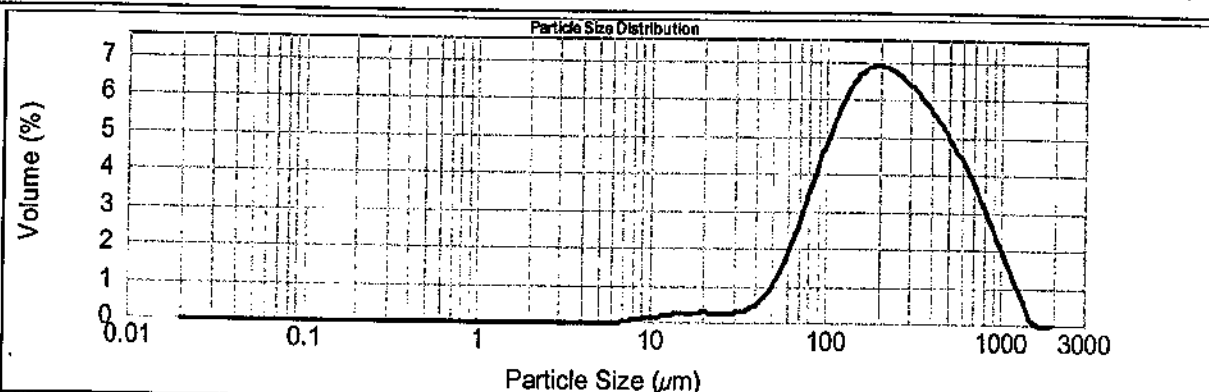
**Vol. Weighted Mean D[4,3]:**      **Standard Deviation:**

314.972 um

257.897 um

**d(0.1):** 80.737 um

**d(0.5):** 229.554 um

**d(0.9):** 684.677 um


766681 Setter Ness East S0, 31 July 2003 16:35:47

Size (µm)	Volume In %	Size (µm)	Volume In %	Size (µm)	Volume In %	Size (µm)	Volume In %	Size (µm)	Volume In %	Size (µm)	Volume In %
0.100	0.00	15.000	0.66	45.000	2.74	125.000	15.51	355.000	12.46	1000.000	2.79
3.880	0.02	22.000	0.64	63.000	4.13	180.000	14.67	500.000	10.08	2000.000	
7.750	0.66	32.000	0.96	80.000	13.79	250.000	14.64	710.000	6.33		
15.000		45.000		125.000		355.000		1000.000			

**Operator notes:**      Job: 2003-1176C

## Result Analysis Report

**Laboratory Code / Customer Code:**  
766682 Setter Ness East S25

**Sample Source & type:**  
Marine Sediment = SSQC

**Sample bulk lot ref:**  
766682 = 1

**Measured by:**  
jc0425

**Result Source:**  
Measurement

**Measured:**  
01 August 2003 09:03:47

**Analysed:**  
01 August 2003 09:03:48

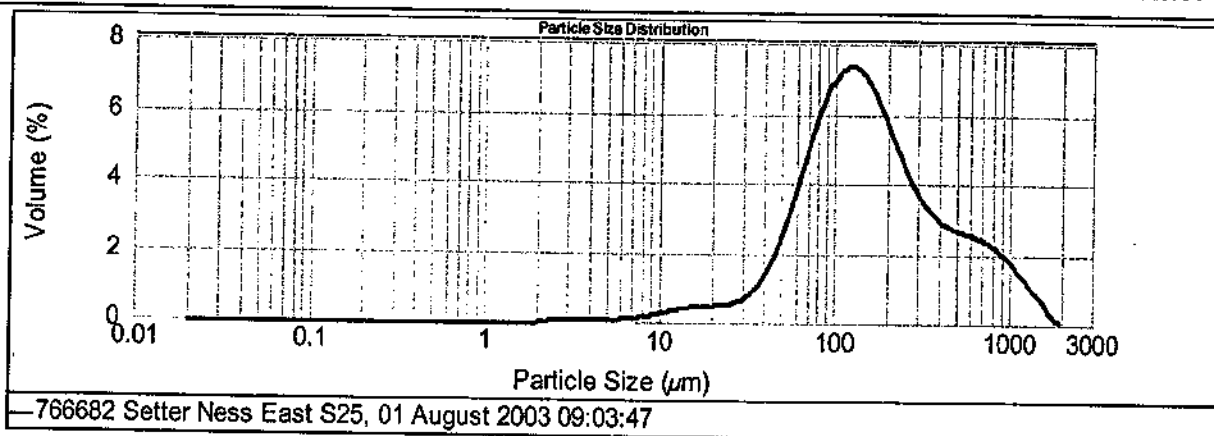
<b>Particle Name:</b> Default	<b>Accessory Name:</b> Hydro 2000G (A)	<b>Analysis model:</b> General purpose	<b>Sensitivity:</b> Normal
<b>Particle RI:</b> 1.520	<b>Absorption:</b> 0.1	<b>Size range:</b> 0.020 to 2000.000 $\mu\text{m}$	<b>Obscuration:</b> 7.45 %
<b>Dispersant Name:</b> Water	<b>Dispersant RI:</b> 1.330	<b>Weighted Residual:</b> 0.909 %	<b>Result Emulation:</b> Off

<b>Concentration:</b> 0.0914 %Vol	<b>Span :</b> 4.060	<b>Uniformity:</b> 1.18	<b>Result units:</b> Volume
--------------------------------------	------------------------	----------------------------	--------------------------------

<b>Specific Surface Area:</b> 0.0699 $\text{m}^2/\text{g}$	<b>Surface Weighted Mean D[3,2]:</b> 85.796 $\mu\text{m}$
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<b>Vol. Weighted Mean D[4,3]:</b> 259.750 $\mu\text{m}$	<b>Standard Deviation:</b> 291.361 $\mu\text{m}$
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d(0.1): 52.382  $\mu\text{m}$       d(0.5): 148.454  $\mu\text{m}$       d(0.9): 655.101  $\mu\text{m}$



Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %
0.100	0.27	15.000	1.25	45.000	6.36	125.000	16.69	355.000	6.51	1000.000	3.97
3.880	0.52	22.000	1.51	63.000	7.70	180.000	11.68	500.000	5.84	2000.000	
7.750	1.38	32.000	2.78	80.000	20.02	250.000	8.75	710.000	4.75		
15.000		45.000		125.000		355.000		1000.000			

**Operator notes:** Job: 2003-1176C

## Result Analysis Report

**Laboratory Code / Customer Code:**  
766683 Setter Ness East S50

**Sample Source & type:**  
Marine Sediment = SSQC

**Sample bulk lot ref:**  
766683 = 1

**Measured by:**  
jo0425

**Result Source:**  
Measurement

**Measured:**  
01 August 2003 09:08:28

**Analysed:**  
01 August 2003 09:08:29

<b>Particle Name:</b> Default	<b>Accessory Name:</b> Hydro 2000G (A)	<b>Analysis model:</b> General purpose	<b>Sensitivity:</b> Normal
<b>Particle RI:</b> 1.520	<b>Absorption:</b> 0.1	<b>Size range:</b> 0.020 to 2000.000 $\mu\text{m}$	<b>Obscuration:</b> 6.51 %
<b>Dispersant Name:</b> Water	<b>Dispersant RI:</b> 1.330	<b>Weighted Residual:</b> 0.775 %	<b>Result Emulation:</b> Off

<b>Concentration:</b> 0.0705 %Vol	<b>Span :</b> 3.945	<b>Uniformity:</b> 1.16	<b>Result units:</b> Volume
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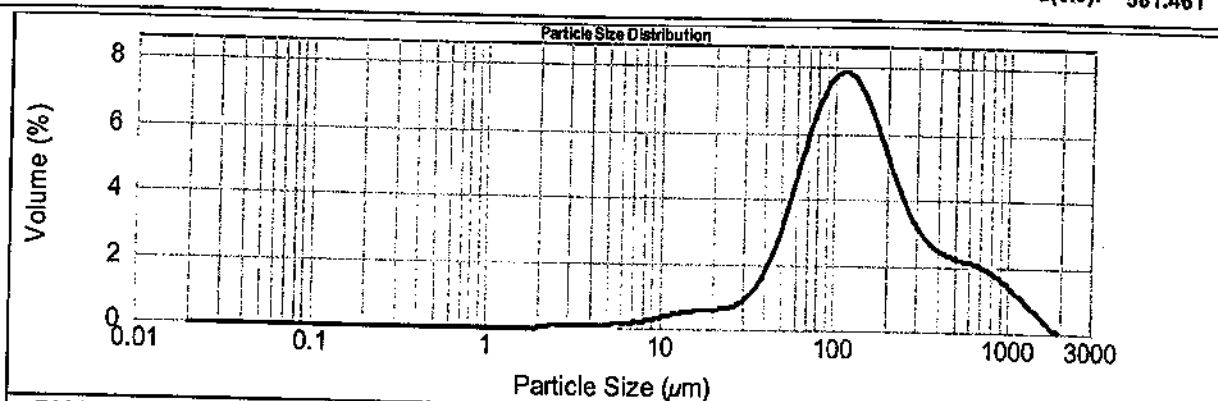
<b>Specific Surface Area:</b> 0.0787 $\text{m}^2/\text{g}$	<b>Surface Weighted Mean D[3,2]:</b> 76.278 $\mu\text{m}$
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<b>Vol. Weighted Mean D[4,3]:</b> 226.862 $\mu\text{m}$	<b>Standard Deviation:</b> 265.105 $\mu\text{m}$
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**d(0.1):** 46.943  $\mu\text{m}$

**d(0.5):** 130.439  $\mu\text{m}$

**d(0.9):** 561.461  $\mu\text{m}$



— 766683 Setter Ness East S50, 01 August 2003 09:08:28

Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %
0.100	0.32	15.000	1.45	45.000	7.68	125.000	16.63	355.000	5.41	1000.000	3.00
3.880	0.62	22.000	1.82	63.000	8.94	180.000	10.78	500.000	4.84	2000.000	
7.750	1.65	32.000	3.47	80.000	21.90	250.000	7.47	710.000	3.83		
15.000		45.000		125.000		355.000		1000.000			

**Operator notes:** Job: 2003-1176C

## Result Analysis Report

**Laboratory Code / Customer Code:**

766696 Setter Ness C2

**Sample Source & type:**

Marine Sediment = SSQC

**Sample bulk lot ref:**

766696 = 1

**Measured by:**

jo0425

**Result Source:**

Measurement

**Measured:**

01 August 2003 11:00:51

**Analysed:**

01 August 2003 11:00:52

**Particle Name:**

Default

**Accessory Name:**

Hydro 2000G (A)

**Analysis model:**

General purpose

**Sensitivity:**

Normal

**Particle RI:**

1.520

**Absorption:**

0.1

**Size range:**

0.020 to 2000.000  $\mu\text{m}$ 
**Obscuration:**

9.54 %

**Dispersant Name:**

Water

**Dispersant RI:**

1.330

**Weighted Residual:**

0.783 %

**Result Emulation:**

Off

**Concentration:**

0.0954 %Vol

**Span :**

4.464

**Uniformity:**

1.29

**Result units:**

Volume

**Specific Surface Area:**

0.0859  $\text{m}^2/\text{g}$ 
**Surface Weighted Mean D[3,2]:**

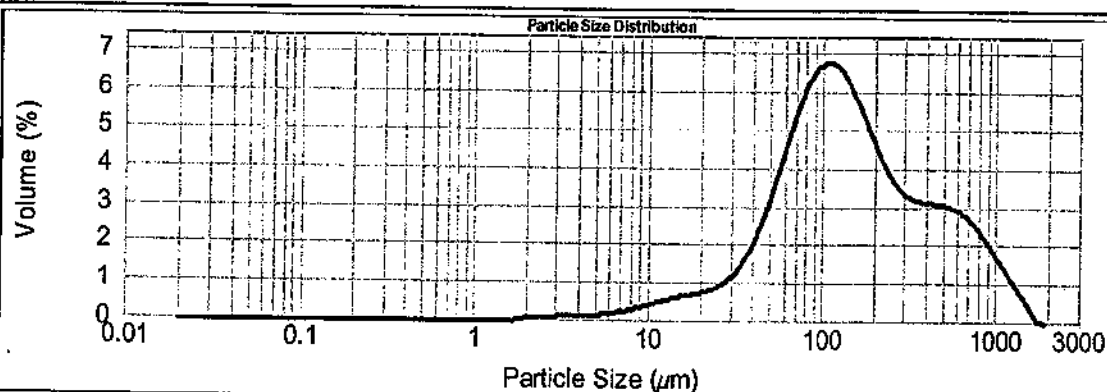
69.833  $\mu\text{m}$ 
**Vol. Weighted Mean D[4,3]:**

247.528  $\mu\text{m}$ 
**Standard Deviation:**

278.898  $\mu\text{m}$ 

d(0.1): 40.957  $\mu\text{m}$ 

d(0.5): 134.905  $\mu\text{m}$ 

d(0.9): 643.232  $\mu\text{m}$ 


— 766696 Setter Ness C2, 01 August 2003 11:00:51

Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %	Size ( $\mu\text{m}$ )	Volume In %
0.100	0.45	15.000	1.77	45.000	7.78	125.000	14.23	355.000	6.99	1000.000	3.28
3.980	0.80	22.000	2.40	63.000	8.34	180.000	9.47	500.000	6.63		
7.750	1.94	32.000	4.07	80.000	19.20	250.000	7.75	710.000	4.96		
15.000		45.000		125.000		355.000		1000.000			

Operator notes: Job: 2003-1176C



## Result Analysis Report

**Laboratory Code / Customer Code:**

766697 Setter Ness C3

**Measured:**

01 August 2003 11:05:33

**Sample Source & type:**

Marine Sediment = SSQC

**Measured by:**

jo0425

**Analysed:**

01 August 2003 11:05:34

**Sample bulk lot ref:**

766697 = 1

**Result Source:**

Measurement

**Particle Name:**

Default

**Accessory Name:**

Hydro 2000G (A)

**Analysis model:**

General purpose

**Sensitivity:**

Normal

**Particle RI:**

1.520

**Absorption:**

0.1

**Size range:**

0.020 to 2000.000  $\mu\text{m}$ 
**Obscuration:**

12.82 %

**Dispersant Name:**

Water

**Dispersant RI:**

1.330

**Weighted Residual:**

1.104 %

**Result Emulation:**

Off

**Concentration:**

1.1474 %Vol

**Span :**

5.333

**Uniformity:**

1.61

**Result units:**

Volume

**Specific Surface Area:**

0.0761  $\text{m}^2/\text{g}$ 
**Surface Weighted Mean D[3,2]:**

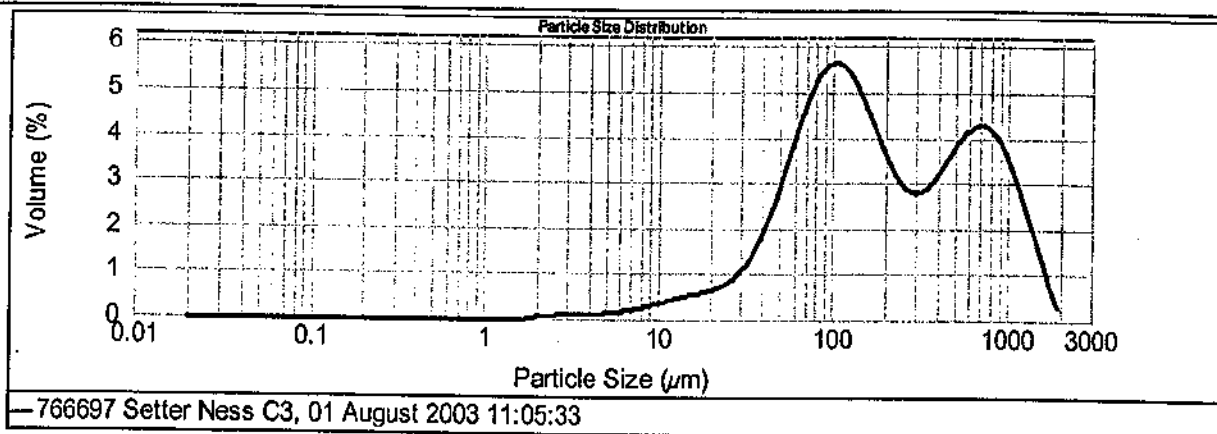
78.811  $\mu\text{m}$ 
**Vol. Weighted Mean D[4,3]:**

352.221  $\mu\text{m}$ 
**Standard Deviation:**

383.872  $\mu\text{m}$ 

d(0.1): 44.328  $\mu\text{m}$ 

d(0.5): 167.362  $\mu\text{m}$ 

d(0.9): 936.910  $\mu\text{m}$ 


Size ( $\mu\text{m}$ )	Volume In %
0.100	0.41
3.880	0.72
7.750	1.66
15.000	

Size ( $\mu\text{m}$ )	Volume In %
15.000	1.50
22.000	2.16
32.000	3.78
45.000	

Size ( $\mu\text{m}$ )	Volume In %
45.000	7.03
63.000	7.28
80.000	16.08
125.000	

Size ( $\mu\text{m}$ )	Volume In %
125.000	11.38
180.000	7.37
250.000	6.48
355.000	

Size ( $\mu\text{m}$ )	Volume In %
355.000	7.37
500.000	9.35
710.000	9.00
1000.000	

Size ( $\mu\text{m}$ )	Volume In %
1000.000	6.44
2000.000	

Operator notes: Job: 2003-1176C

Outline of case to be put forward:

1. The Council were wrong in stating that there was insufficient information that could quantify the level of impact on inshore fishing activity that would occur should the longline be deployed as proposed.
2. For the reasons given in the Statement of Review that accompanied the Notice of Review the applicant considers that the Council should have been able to determine that the application would have had little impact on inshore fishing activity at the location.
3. The applicant would also like to state that static fishing methods and aquaculture can coexist and the existence of either should not preclude the other from using the same location. Fishing activity and aquaculture do coexist elsewhere in Scotland and in the rest of the world.
4. As the impact of fishing activity is the only reason given for refusal of planning permission then the decision to refuse planning permission is wrong as the application meets all planning rules.

List of Documents to be relied up on:

1. Documents already disclosed and submitted in the Statement of Review (Notice of Review).
2. Examples of the coexistence of fishing and aquaculture.
3. Letters of support.

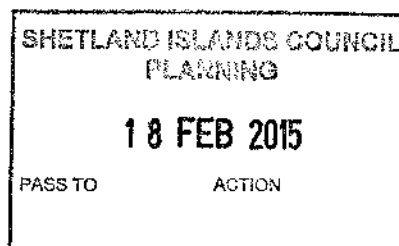
Kind regards,



David Grunshaw

Laxfirth Shellfish

13<sup>th</sup> February 2015



**Planning Committee****10 March 2015****2014/197/PPP – Proposed Housing (Planning Permission in Principle), North Staney Hill, Lerwick****Report Number : PL-02-15-F****Report Presented by Planning Officer –  
Development Management, Planning****Development Services Department  
Planning Service**

## **1.0 Summary**

- 1.1 Planning Permission in Principle (PPP) is sought for the residential development of an area of land extending to 28.94ha at North Staney Hill, Lerwick.
- 1.2 The proposed site is currently undeveloped hill land used as rough grazing and located to the north west of Lerwick town centre. This is moderate to steeply sloping land with an undulating landform. It has some more level areas, and contains exposed rock outcrops in parts, particularly along the eastern side of the site and route of the proposed principal access.
- 1.3 The site is bounded by residential development to the north, north west, and the east, with Clickimin sports fields and open land to the south, and undeveloped land beyond the Staney Hill Road to the west. As the Committee is aware the development of the new High School and Halls of Residence is consented to the south and south-west of the site. It is proposed that the main principal point of access to the residential development would be from the south east of the site area via North Lochside and the newly consented roundabout, with a secondary access from the north-west. The development being proposed includes affordable homes provision and associated infrastructure such as roadways, footpaths, drainage works, and amenity provisions etc.
- 1.4 A request for a Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 (2011 Regulations) was submitted to the Planning Service on 10 February 2014. It was determined that the proposed development would require to be the subject of a formal Environmental Impact Assessment (EIA). Consequently the planning application was received accompanied by an Environmental Statement (ES).

- 1.5 The development proposal is also classed as a Major Development under The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 given that the development comprises 50 or more dwellings, and that the area of the site exceeds 2 hectares. As a result of this the planning application was subject to the statutory Pre Application Consultation (PAC) process prior to submission.
- 1.6 On account of the application being for Planning Permission in Principle (PPP), no design detail for the site has been provided. However, the planning application, having been subject to EIA is accompanied by an ES; this includes a suite of technical assessments to demonstrate the technical feasibility of the site to accommodate the major housing proposal. The ES identifies the characteristics of the development and the potential impacts under 11 chapters with associated technical appendices. This forms a substantial document and is based on a number of assumptions about the design which were set by the applicant's project team.
- 1.7 The results of the EIA as reported in the ES have led to the creation of a development framework (simple spatial plan) that is in response to a number of good practice design objectives. The applicant considers that the site is potentially capable of accommodating between 300 and up to possibly 400 dwellinghouses. The development framework is intended to direct development within the site to those areas with the potential capacity to accept the components of the development in an environmentally acceptable manner. It should however be noted that this would be subject to further survey and detailed assessment at the detailed design stage for each component of the development. In this case, as the application is for PPP, the detailed design work would be as part of the planning applications for the Approval of Matters Specified in Conditions (AMSC) and the required masterplanning for the site.
- 1.8 The planning application and associated ES has been assessed against the relevant provisions of the Shetland Local Development Plan (2014) (LDP). The application has been subject to consultation with statutory bodies and via the Scottish Government as part of the Planning and EIA processes. Advertisements were placed in the Shetland Times and Edinburgh Gazette and notifications were issued to neighbouring property in accordance with the relevant Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and 2011 Regulations. As previously stated the project was subject to PAC being a Major Development. The content of the ES has been taken into account in reporting on the application.
- 1.9 Consultation responses and written representations have been received. There are objections from 7 households within Lerwick, and 3 Community Councils outwith Lerwick. The Lerwick Community Council is supportive of the planning application. A summary of the consultation responses can be viewed in section 5.0 to this Report, with all responses being available in full on the planning application file and on the Council's website.

- 1.10 During the course of the assessment of the merits of the proposal, the Planning Service sought further information to clarify and demonstrate that the site has the capacity to accept the proposed level of development. The agent engaged with the Planning Service and useful and constructive negotiations led to the development framework being revised. This allows for the proper control of any required future planning submissions by enabling clear parameters to be set based on the outcomes of the ES, and to ensure that an unacceptable impact, including upon the Clickimin Broch Scheduled Monument, is avoided. An area of the principal access route is especially highlighted as requiring a cautious approach to development in order to avoid unacceptable and intrusive rock cuts, and to allow for appropriate amenity, drainage, and access provisions into the wider site whilst protecting the amenities of the existing residents, and safeguarding or mitigating for impacts upon the attractive 'arboretum' initiative and green corridor proposals for within the site. This is particularly important given limited 'vehicular access' options exist for a development of this scale.
- 1.11 Having carefully considered the planning application, Environmental Statement, consultation responses, and written representations from members of the public and Community Councils, it is determined by the Planning Service that the planning application for the principle of the residential development of the North Stanley Hill site, as defined in the submitted plans and ES, accords with the relevant provisions of the Shetland Local Development Plan (2014) and there are no other material considerations that would warrant the setting aside of Council Policy.
- 1.12 It should be noted that it is for the Planning Authority in granting a planning permission in principle to impose conditions to ensure that the process of evolution of the built development proposals concerned during what will be a multi stage consent process keeps within the parameters applied for and assessed, and to determine what degree of flexibility can be permitted in this particular case, having regard to the specific facts of the application. Therefore Masterplanning and other conditions as are considered required are recommended.

## **2.0 Decision Required**

- 2.1 The Planning Committee is asked to determine the application. It is recommended that the application be approved subject to conditions.

## **3.0 Determination**

- 3.1 Section 25 of the Town and Country Planning (Scotland) Act (as amended) 1997 states that:

*Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan.*

There are statutory development plan policies against which this application has to be assessed. Those policies of significance are listed below. Unless material considerations indicate otherwise, the determining issue to be considered is whether the proposal complies with development plan policies.

### **Statutory Development Plan Policies:**

#### **Shetland Local Development Plan (2014)**

GP1 – Sustainable Development  
GP2 – General Requirements for All Development  
GP3 – All Development: Layout and Design  
HE1 – Historic Environment  
HE4 – Archaeology  
HE6 – Trees and Woodland  
NH3 – Furthering the Conservation of Biodiversity  
NH4 – Local Designations  
NH5 – Soils  
NH7 – Water Environment  
H2 – Areas of Best Fit  
H3 – All Housing Development  
H4 – Affordable Housing  
H5 – Siting and Design  
H6 – Amenity Space in Housing Developments  
TRANS1 – Integrated Transport  
TRANS3 – Access and Parking Standards  
WD2 – Waste Water  
WD3 – SUDs  
CF2 – Open Space

#### **Safeguarding**

- Area of Best Fit (AOBF)
- Core Paths
- SEPA Surface Water
- SIC Flood Priority Area
- HSE Holmsgarth Terminal

## **4.0 Report**

- 4.1 Planning Permission in Principle (PPP) is sought for the residential development of an area of land extending to 28.94ha at North Staney Hill, Lerwick. As the application is Environmental Impact Assessment (EIA) development it is accompanied by an Environmental Statement (ES). This is a large area of land on the periphery of the built Lerwick area. The land is largely undeveloped, but containing Scottish Water infrastructure, and mature planting as part of the Shetland strategy for an arboretum initiative. The land comprises moderate to steep slopes, with some rocky outcrops, and more level ground in parts, being enclosed by fencing and dry stone dykes to the boundaries.

- 4.2 The main issues for consideration are the site's capacity to accommodate the proposed development without compromising the environmental and general amenity of the wider area. At the time of the EIA screening, the Planning Service considered that the proposal would introduce a large number of housing units and create new roads and infrastructure within an undeveloped area of land. There was also a potential for the development to have a significant negative impact on the setting of the Clickimin Broch being a nationally important Scheduled Ancient Monument. There were also likely to be impacts upon the surrounding residential areas from the construction to the operating phase of the development. Therefore under Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011, the planning service advised by letter that the development would require to be the subject of a formal EIA. The development, being in excess of 2 hectares in area, is also classed as a Major Development under The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, and so was subject to the Pre Application Consultation (PAC) requirements of early consultation.
- 4.3 As the applicant seeks PPP only, the proposal is submitted with no design or layout detail. However, given the significant scale of the development and as the development is subject to EIA, the planning application is accompanied by an ES containing 11 chapters, with associated technical appendices provided in a separate volume. The ES enables an assessment of the likely impacts arising from such a development to be undertaken and to set mitigation measures where necessary. Whilst this is based on a number of assumptions, the applicant indicates that the site has the capacity to accommodate 300 to as many as 400 dwelling-houses. An assessment needs properly to be based on a worst case (maximum development capacity) scenario. It is disappointing that a Masterplan, being a plan that describes and maps an overall development concept, including present and future land use, urban design and landscaping, built form, infrastructure, circulation and service provision, did not form part of the submission, particularly given the scale and potential prominence of the development. However, as an applicant does not necessarily end up being the developer this is not unusual. Nevertheless a Masterplan can be submitted in support of an application for PPP in advance of detailed design work, as in general terms going through a Masterplanning process for a large scale complex site can help satisfy many of the aspects of a proposal that an applicant is required to demonstrate at the PPP stage. This can then present what would be a hybrid of a PPP and Full Application for Planning Permission.
- 4.4 Whilst a Masterplan did not form part of the submission, on account of the scale of the development, and as the proposal was subject to EIA, a detailed assessment of the proposal as outlined in the ES, being based on the assumptions and surveys as presented, was possible. This assessment was undertaken to ensure that the site has the capacity to accept the proposed development in an environmentally acceptable manner, thus enabling the Planning Authority, if satisfied about the impacts, to set the parameters requiring to be met in the subsequent submission of details as part of the Approval of Matters Specified in Conditions and to ensure that any environmental impacts arising are as has been projected.

- 4.5 This Report shall briefly outline the findings of the socio-economic impact assessment and the summary of effects from the development with the proposed mitigation; this is ordered to allow for ease of reference to the submitted ES and consultation responses. A substantial amount of information is available via the planning application file and the Council's website for members of the Committee to review.

#### Socio Economic Impact

- 4.6 The development impact appraisal for the proposal projects that a planned capital investment of £48 million would create an average of 68 full time equivalent jobs for a 10 year duration of the project. Retail and leisure expenditure would be £5.7 million per annum, with additional Council Tax revenue of at least £283,959 per annum. The creation of around 30 additional local service jobs, and support for the vitality and vibrancy of the town centre would be a further projected benefit. The ES also states that the scheme will expand the housing stock of Shetland, making a positive contribution to the quality of life the area has to offer. It should be noted that these projections have not been corroborated as part of the planning assessment but are of relevance to the consideration of the proposal in respect of the viability of the development and the town centre.

#### Land Use and Property

- 4.7 The proposed site is currently undeveloped hill land used as rough grazing and located to the north west of Lerwick town centre. The site is bounded by residential development to the north west, north, and the east, with the Clickimin sports fields and open land to the south, and undeveloped land to the west. As the Planning Committee is aware the development of the new High School and Halls of Residence is consented to the south and south-west of the site. It is proposed that the main principal vehicular point of access to the residential development would be from the south via North Lochside with the development being proposed to include affordable homes provision, associated infrastructure including roadways, footpaths, drainage improvements, and amenity provisions etc.
- 4.8 In terms of general location Local Development Plan Policy requires that new residential, employment, cultural, educational and community developments be in or adjacent to existing settlements that have basic services and infrastructure in order to enhance their viability and vitality and facilitate ease of access for all. In this particular instance the development proposal is within the Lerwick Area of Best Fit (AoBF) and is also recognised in the Local Development Plan (LDP) as being mostly within a Site with Development Potential for residential use (LK012). Therefore the general location of such residential development is in accordance with LDP Policy.
- 4.9 It is accepted that there would be a significant change to the existing land use, but one which is generally compatible with surrounding land uses, being residential, recreational, and open moorland. Mitigation would be in the form of a properly designed development, and the



managed construction of the development by way of Masterplanning, phasing, and Construction Environmental Management Planning. This will enable the protection and/or enhancement of amenity, planting, and land cover to manage the change. Appropriate planning conditions should be applied to ensure that the 'developed' extent of Lerwick is modified in the best possible manner.

- 4.10 There is a concern expressed by some Community Councils in their written representations that the proposed development may have a negative impact upon rural areas. It should be recognised that the status of most of the site as a Site with Development Potential, and the designation of the Areas of Best Fit, was arrived at through extensive consultation on the Main Issues Report. The Council has opted for a developer-led allocations based system. Between March 2010 and April 2012, the 'Call for Sites' process invited developers and landowners to submit potential development sites for consideration. Many landowners have come forward with their aspirations for development throughout Shetland in both urban and rural areas. These areas have been assessed as 'Sites with Development Potential' and will progress to an allocation status through the Action Programme when more detailed proposals are established. It should also be noted that there are Areas of Best Fit outwith Lerwick, including locations within Yell, Unst, Brae etc. The Areas of Best Fit have been identified to provide a focus for growth within and adjacent to the largest community in each locality and the large islands in Shetland, whilst recognising the dispersed settlement pattern of Shetland. Within an AoBF amenities such as schools, shops, employment and essential infrastructure are all readily available through a range of sustainable transport options; and will support large, medium and small scale developments.
- 4.11 A function of the LDP is to meet the requirements of the Local Housing Strategy (LHS) in providing a generous and developable land supply for housing. The LDP has identified sufficient land throughout Shetland to meet the requirements of the LHS.

#### Landscape and Visual Effects

- 4.12 The proposed development would have a range of impacts on the landscape and visual character of the site and wider area. The changes would be significant from some surrounding areas, with the development, including the buildings, drainage works, and access routes requiring cutting in and displacement of moorland, rock and rough grazing. However, significant landscape effects would be limited to a comparatively small area around the development on Staney Hill.
- 4.13 The proposed development area would appear as a logical extension to the built form of Lerwick. Mitigation by design, through the application of the design objectives when drafting up a Masterplan, including appropriate landscape design, would serve to ensure a high standard of development with the least impacts. This will for example, include the avoidance of skyline developments, and access routes carefully designed to avoid intrusive rock cuts, and working, wherever possible, with the natural topography of the site. This would allow for the landform and setting of Lerwick and the Clickimin area to be maintained.

- 4.14 In respect of the potential for intrusive rock cuts and landform modifications as part of the access arrangements to the site, the implications of the placement of a significant principal access road taken from the newly consented roundabout on North Lochside and running up the North Staney Hill behind Bruce Crescent, Burgess Street, and North Road have been discussed with the agent and further clarification, with modifications to the development framework, have been made. It has been agreed that any cuts into the hillside required to facilitate development would be undertaken as sensitively as possible, and would be designed to encourage regeneration and re-vegetation in hollows and undulations in the resultant rock face. In light of this the development framework has evolved to reflect the discussions and negotiations with the Planning Service and to confirm an 'indicative' vehicle access following the topography in this part of the site which would result in less intrusive rock cuts.
- 4.15 In respect of the change to light levels and possible light pollution, as raised in representation, the lighting of the built development area would require to be carefully designed and positioned so as not to contribute unnecessarily to light pollution/glare to the surrounding residential properties, sky, or to disrupt the horizon in the longer distance views of the site. It is considered that suitable mitigation both during construction and subsequent operation is possible with careful design and management. This would be controlled via conditions and detailed by the Masterplanning for the site.
- 4.16 Of significant concern during the assessment was the potential visual impact of the proposal upon the setting of the Clickimin Broch; this led to the development of draft visualisations following the design principles defined in the ES leading to a revised development framework specifically excluding an area of the application site for development. This is discussed more fully in the Archaeology and Cultural Heritage Section to this Report below.

#### Ecology and Nature Conservation

- 4.17 The ES states that no sites designated for their statutory nature conservation interests would be directly affected by construction. Indirect impacts on the candidate Clickimin Loch Local Nature Conservation Site would be avoided by implementation of design mitigation measures to reduce the risk of pollution. Habitat loss and change from construction of the proposal is identified. However, whilst there may be local interests or local value, none of the habitats that would be lost were identified as being of particular wider interest. The ES states that the loss of these habitats has some significance at the site level but is not considered to be significant in the wider context of Shetland. It is proposed that a landscaping plan, once implemented on restoration of the site, would target an enhancement of local biodiversity in the longer term and may serve to avoid the loss of local interests and amenities. There is the potential to improve and enhance the habitat interest of the site which should be fully investigated at the detailed design stage.

- 4.18 It is proposed to protect the majority of the existing amenity planting, being the arboretum initiative, and strengthen this as part of the site landscape proposals and proposed green corridor behind Burgess Street and the North Road. The importance of avoiding any loss, and enhancement and consolidation of this amenity was highlighted in the negotiations for further information that have taken place to demonstrate that the principal access route, and associated infrastructure, would not conflict with the existing amenity.
- 4.19 The ES states that breeding birds and other interests would be protected by the implementation of agreed protection measures with further checks made prior to construction. The requirement for an Environmental Management Plan is needed. Breeding bird interests would be reduced in the areas of development but may continue outwith once the species have habituated to the increased activity on the hill. Other bird species may increase as a result of the amenity improvements/change. Further survey work prior to development is advised.
- 4.20 Scottish Natural Heritage (SNH) do not object to the proposal, stating that the proposal is unlikely to affect any natural heritage interests of significant importance and they are content that the mitigation measures outlined in the ES are adequate. SNH strongly encourage that the developer of the land retains and, if possible, enhances the existing green corridor of amenity planting as it has the potential to become a valuable habitat for wildlife as well as acting as a buffer between the proposed development and adjacent housing, and has the potential to be an area of great amenity value to local residents and a green corridor connecting to the new High School.
- 4.21 Notwithstanding the assertion in the ES that no important Groundwater Dependent Terrestrial Ecosystems (GWTE) would be lost, SEPA objected to the proposal when consulted due to lack of information relating to the potential wetlands on the site. This related to GWTE which are types of wetlands that are specifically protected under the Water Framework Directive. The applicant provided additional information to SEPA to address their concerns and seek the withdrawal of their objection. On the basis of the additional information submitted SEPA has withdrawn their objection subject to the imposition of strict planning conditions requiring further survey work and assessment. These are recommended to be applied to any consent.

#### Archaeology and Cultural Heritage

- 4.22 LDP policy requires that development is sited to harmonise with the key features of the surrounding area with particular attention being made to massing, form and design details, particularly within sensitive areas where the setting of Listed Buildings and Scheduled Ancient Monuments may be affected. The development framework and design objectives proposed, whilst enabling a general spatial arrangement for development of the site to be defined, is able to be subject to broad interpretation and has the potential for a range of applications at the design stage. During the assessment of the planning application this made it difficult to determine with confidence what the likely impacts upon the setting of the Clickimin Broch would be. In that respect Historic Scotland objected to the planning application when consulted at the start.

- 4.23 Between the 15 August 2014 and 1 December 2014, and in response to the objection by Historic Scotland and concerns of the Planning Service that the setting of the Clickimin Broch would be compromised, a productive dialogue to negotiate revisions to the development framework was completed. This has led to the specific exclusion of a development area that may compromise the setting of the Clickimin Broch. A 'No Development Zone' is now proposed to be applied to the area immediately west of the newly consented school building as viewed from the gateway to the Clickimin Broch in a revised development framework. As a consequence of this Historic Scotland has formally withdrawn its planning objection.
- 4.24 The Shetland Regional Archaeologist was consulted in respect of the archaeology identified within the application site area as part of preliminary archaeological work including the screening report and a walkover and instrument survey carried out by EASE Archaeology. They concur that a programme of invasive investigation will be required in order to evaluate the remains. This should be carried out to a brief agreed with the Planning Authority in consultation with the Regional Archaeology Service and suitable mitigation arrived at prior to the commencement of any ground breaking works. It is possible that the appropriate mitigation for some features may be either by means of excavation in full or preservation, but that cannot be determined in advance of the next phase of evaluation. A planning condition to be attached to an approval is therefore proposed.

#### Ground Conditions and Water Resource

- 4.25 In respect of ground conditions and water resource it is proposed that an Environmental Management Plan (EMP) will be implemented and best working practices observed throughout the construction of the development. The ES states that the likely residual impact on the water environment (flood risk, contamination and sedimentation) is considered to be at worst, temporary, site wide, adverse and of minor significance.
- 4.26 In respect of the impacts to soils and peat, the implementation of the mitigation strategy as set out in the Preliminary Peat Management Plan (PPMP) submitted as part of the ES and the enforcement of the EMP throughout the construction phase of the works, will limit the effects to temporary, site wide adverse impacts of minor significance.
- 4.27 SEPA have proposed conditions for further details and assessment to be carried out prior to the construction stage for engineering works in the water environment, pollution prevention and environmental management, and for a full Peat Management Plan to be provided. Detailed advice is provided to the applicant in the full SEPA response. This is considered suitable to ensure impact avoidance and mitigation. Conditions should be applied to any consent given at this stage.

### Flood Risk Assessment

- 4.28 The Council's Drainage Engineer and SEPA require that drainage issues are addressed in a further submission (being the AMSC). This is to ensure that the drainage measures protect the existing and proposed developments in the area and are compatible with other consented developments nearby. It is considered that a careful development of the site will ensure that the existing drainage impacts are not worsened, and can indeed be mitigated or improved. There would appear to be sufficient space on site, and the potential in the scheme for development to ensure that a collaborative design which delivers access roads, cycle ways, footpaths and green corridors etc. would give best opportunities to address all of the flooding issues.

Suitable conditions covering the issues set down by the Council's Drainage Engineer and SEPA are proposed to allow for the detailed design process to take account of existing and consented developments.

### Noise and Vibration Assessment

- 4.29 The noise and vibration effects of the proposed North Staney Hill development have been established in accordance with published guidelines and best practice. The assessment has included comprehensive baseline noise and vibration monitoring surveys of the site which would be sensitive to noise and vibration. The dominant continuous sources of existing noise at the site are that of road traffic associated with the surrounding local highway network and industrial noise from Gremista Industrial Estate and Holmsgarth Ferry Terminal.
- 4.30 During construction works a number of measures would be taken to minimise the amount of noise and vibration arising from the site. These are to be included in a site specific Environmental Management Plan (EMP) and would include: the careful selection of modern plant and machinery; the erection of suitable hoardings around development activity to screen noise generating equipment on site, adherence to pre-agreed working hours; the setting of noise and vibration limit levels which would be previously agreed with SIC; and, the selection of specific construction techniques which would minimise levels of vibration.
- 4.31 It is accepted there would be some impact from noise and vibration during construction activities and noise during the operation of the development. However, this would be mitigated and short lived during construction and able to be managed through adherence to the EMP and phasing of the development.

### Air Quality

- 4.32 The main likely effects on local air quality during construction relate to dust. However, nuisance caused from dust is only likely to be experienced by those living within 200m of the site boundary. A range of measures to minimise or prevent dust emissions would be implemented through the construction works. Particular attention would be given to working areas closest to residential properties (north and east of the site boundary).

- 4.33 The results of the assessment demonstrate that the completed and operational development would not have any significant detrimental effect upon local air quality. Similarly, it has been demonstrated that with the development in place, its operation would not give rise to any air quality effect that would adversely affect the occupants of existing sensitive locations surrounding the site or the occupants of the proposed residential units of the development itself.
- 4.34 SEPA offer recommendations that minimum impact upon receptors is assured. This can be detailed in the EMP and conditioned submissions as part of the multi stage consent.

#### Transport Assessment

- 4.35 The proposed site includes scope for the establishment of an extensive network of footpaths and a cycleway, ensuring convenient routes between core areas of the site and wider network. The intention is for the development to be designed to encourage the use of walking, cycling, and use of public transport. The site would be accessed by a primary route from North Lochside which could potentially use the newly approved roundabout and roadway intended to serve the consented new High School and Halls of Residence development.
- 4.36 Well designed footpaths, cycleway, and road layouts, with the potential for shared use and public transport provision, and a significant enhancement to public access across and outwith the area, can be developed as part of the Masterplanning of the site being subject to detailed design and assessment at the AMSC stage. The indicative routes as presented at this stage are not considered to be the preferred options and do not follow, for example, desire lines, or least exposed routes.
- 4.37 The site contains some challenging topography with steep slopes and rocky outcrops, and careful design will be required to minimise the impacts and connect the distinct development areas within the site with the surrounding existing networks.
- 4.38 The Council's Roads Service has offered observations, together with advice and recommendations from the Planning Engineer and Public Access Officer. These can all be fed into the Masterplanning and detailed design of the proposal. The access routes being presented in the ES are indicative only, and do not take account of the site specific constraints or as yet undefined layout and design.
- 4.39 The principal access for the site is proposed to be from North Lochside, with a secondary access taken via Ladies Drive and Cunningham Way. A consideration of alternative access points via the existing roads around the site was undertaken. However, it is thought that there are capacity and standards issues. This is consistent with some of the concerns that local residents have raised in representations, and so the proposed principal access option, with perhaps some other connectivity for vehicles, pedestrians, cyclists etc is the most viable option. This does however raise a concern over the level of engineering works to provide the required platforms for roads and services, particularly to the

rear of Bruce Crescent and Burgess Street. This was highlighted by the Planning Service following a close walkover inspection. The applicant has modified the development framework in response and particular care will need to be taken during the detailed design stage.

#### Cumulative Effects

- 4.40 The potential for combined and cumulative environmental effects from the proposals has been considered. The identification of a wide variety of mitigation measures, implemented during all phases of development of the proposals, would reduce the likelihood of cumulative impacts in any location on or near the site, but these could not be completely avoided.
- 4.41 The new High School and Halls of Residence development in particular has the potential for cumulative effects with the North Staney Hill proposal. The potential for such impacts has been considered in developing the design objectives and Design Framework for the proposals, which have sought to guide a high level of future design with consideration of impacts on properties in proximity to the site, including the Broch. This has been subject to modification during the course of the assessment.

Such cumulative impacts will require to be carefully managed through appropriate phasing and consideration given to timing of operations on site, with assessment being at the AMSC stage. Lines of effective communication and protocols between the developer(s) of the site (should approval be given), and those carrying out any neighbouring development (which could include the new High School and Halls of Residence development) could form part of the EMP..

#### Representations

- 4.42 Written representations from 7 households near to the proposed development, and the Northmaven, Yell, and Dunrossness Community Councils have been received. The content of each of these has been considered during the course of the assessment of this application for Planning Permission in Principle (PPP). Concerns relate to some design matters, but also wider issues in relation to development location. In that respect, and as previously discussed in paragraph 4.10, this application, being submitted by the landowner who had engaged in the LDP call for sites process, is appropriately located within an Area of Best Fit, and is mostly within a site with development potential.

#### Conclusion

- 4.43 It has been demonstrated that the site has the capacity to accept a residential development with all associated infrastructure with no unacceptable detrimental impacts on surrounding land uses and other interests subject to the final design and controlling conditions. Design details will be further assessed as part of the multi stage consent.

- 4.44 Local Development Plan Policy requires that all new development should be sited and designed to respect the character and local distinctiveness of the site and its surroundings.  
The proposed development should make a positive contribution to:
- maintaining identity and character
  - ensuring a safe and pleasant space
  - ensuring ease of movement and access for all
  - a sense of welcome
  - long term adaptability, and
  - good use of resources
- 4.45 It is recognised that this application is for Planning Permission in Principle only, and that any subsequent Masterplanning and design work would be a suitable tool to achieve an inclusive design process. The Masterplan process will be a conditioned requirement for this large-scale housing development on the urban fringe of Lerwick and any future development of the site should follow the step by step process towards achieving healthy, inclusive and sustainable communities.
- 4.46 Whilst in this case the application contains limited spatial detail, the results of the assessment of the substantial ES and the resultant development framework should be used to direct any future Masterplanning exercise. Whilst it is disappointing that a Masterplan did not form part of the submission, the agent has encouraged the Planning Service to apply a requirement for Masterplanning approval prior to any AMSC submission as part of the multi stage consent process. The Planning Service consider this to be an appropriate direction, and in this respect the requirement for a Masterplan should be made a condition of any Planning Permission in Principle granted, to ensure that the detailed design of the development proceeds within the parameters set by the ES. Any significant deviation from this may require a re-application and subsequent re-assessment, or new EIA.

## **5.0 Implications (of Decision)**

### Strategic

- 5.1 Delivery on Corporate Priorities – A decision made on the planning application that accords with the development plan would contribute directly to the Single Outcome Agreement through the outcome that we live in well designed, sustainable places.
- 5.2 Community/Stakeholder Issues – Standard consultations were sent during the processing of the application and the application was advertised in the Shetland Times and the Edinburgh Gazette on 25<sup>th</sup> July 2014.

#### **5.2.1 Historic Scotland**

**Consultation response 15 August 2014** – While we are content with the principle of a housing development in this location, we do not consider that the level of detail of the proposal is sufficient to enable an adequate assessment of the likely environmental effects, and any mitigation measures that might be required, on the setting of Clickimin



Broch. Consequently we offer a **holding objection** to the proposal pending the receipt of further information. I attach detailed comments on this as an appendix.

**Re-consultation response 17 September 2014** – In response to the letter submitted by the applicant, as no new material has been provided with this additional consultation, other than the response letter from the applicant, we can confirm that we wish to carry forward our previous advice and recommendations. **Holding objection.** We consider that the uncertainty with regards to the number, final design and layout of the proposed houses to be fitted within this large allocation are too great to be able to make an informed judgement on this proposal at this stage. Whilst we accept that this is an application for a planning permission in principle and that decisions on some elements of the development have not been made yet, the proposal's impacts on the setting of the nearby Clickimin Broch will ultimately rest on these elements.

**Re-consultation Response 13 November 2014** (and email confirmation 18 November 2014) – Thank you for consulting Historic Scotland on the additional materials, including example layouts and working visualisations. We have found them very helpful as they show how you envisage the design principles set in the Environmental Statement (ES) could be realised on the ground. The indicative layout confirms our earlier concerns with regards to the difficulty of accommodating 400 houses within the proposed site boundary without having a significant impact on the setting of Clickimin Broch. We consider that there is still a high degree of uncertainty with regards to the actual impacts of the proposed development on the scheduled Broch. Every effort should therefore be made to reduce it to a satisfactory level. **Historic Scotland maintains its objection to the proposed development as submitted.** However the latest drawings have shown that we are moving in a positive direction with this consultation. We hope that they (applicant/agent) now better understand our position and that they will come back with a new version of the drawings that limits the development envelope particularly beyond the school.

**Re-consultation response 28 November 2014 (email)** – Following the submission of further additional draft visualisations and amended Design Framework Historic Scotland is now in a position to **withdraw its objection** to the planning application in principle for the proposed housing development at North Staneyhill.

#### 5.2.2 SEPA

**Consultation response 15 August 2014** – We understand from the non-technical summary submitted that no detail is available at this stage and that this application for planning permission in principle seeks to establish the physical land use principle for housing on the site. In addition no specific housing figures have been included. The environmental considerations set out below should be taken into consideration when finalising the development.

We **object** to this planning application on the grounds of a **lack of information** relating to the potential wetlands on the site. We will be happy to review this objection if the issues detailed in section 1 are adequately addressed.

Should the objections be overcome we ask that the planning conditions in sections 2.3 Flood Risk, 4.2 Surface Water Drainage, 5.2 Pollution Prevention and Environmental Management, and 7.1 Waste Water Drainage be attached to the consent. If any of these will not be applied, then please consider this representation to be an **objection**.

**Re-consultation response 18 September 2014** – On the basis of the additional information (supplied by the agent) we **remove our objection** to this planning application on the grounds of a lack of information relating to potential wetlands on the site subject to the **conditions** detailed in section 1.3 being attached to any grant of planning consent. If conditions to address these matters are not to be attached, please consider this to be an objection from us. We continue to request that the planning conditions in 2.1 Water Environment, 3.1 Surface Water Drainage, 4.1 Construction and Environmental Management Plan, be attached to the consent. If any of these will not be applied then please consider this representation as an **objection**.

Regulatory advice for the applicant is also attached.

5.2.3 **SNH** – The proposal is unlikely to affect any natural heritage interests of significant importance and we are content that the mitigation measures outlined in the Environmental Statement are adequate.

We strongly encourage that the developer retains and, if possible, enhances the existing green corridor of amenity planting as it has the potential to become a valuable habitat for wildlife as well as act as a buffer between the proposed development and adjacent housing. It also has the potential to be an area of great amenity value to local residents and a green corridor connecting to the new high school.

5.2.4 **Scottish Water** – Has no objection to this planning application. This response is based on the information available to us at this time and does not guarantee a connection to Scottish Waters infrastructure.

*(Comment: Standard response submitted. The full response is available to view online at the Council's website or in the planning application file.)*

5.2.5 **Shetland Archaeologist** – We note that Chapter 7 of the Environmental Statement includes the results of some preliminary archaeological work including the screening report and a walkover and instrument survey carried out by EASE Archaeology.

We concur with the statement in the 'Further Evaluation' section of chapter 7 that a programme of invasive investigation will be required in order to evaluate these remains. This should be carried out to a brief agreed with the Regional Archaeology Service on behalf of the Planning Authority and suitable mitigation arrived at prior to the

commencement of any ground breaking works. It is possible that the appropriate mitigation for some features may be either excavation in full or preservation, but that cannot be determined in advance of the next phase of evaluation.

Issues relating to the Clickimin Broch view-shed will need to take account of any comment made by Historic Scotland.

**5.2.6 Lerwick Community Council** – Members were in agreement about the dire need for additional housing and noted the need for a mixed development to cope with various numbers of occupants. The positive addition of a series of connecting paths and cycle ways would be welcomed, to establish a complete network of connectivity with the surrounding areas.

The main concerns of the community council with the development are as follows. They would ask that they are taken into serious consideration with regard to the detailed planning of the site.

- Access to the proposed site should be restricted to limit the amount of through traffic. It would be highly undesirable for the new development to allow a through-road with the danger of it becoming a rat run.
- Concern for the mature trees at the end of Burgess Street was expressed and it is essential to conserve these, or at least require off-setting of 2 to 1 within any proposals.
- The increase in traffic on the surrounding area should be looked at bearing in mind the future development of the new High School and Halls of Residence. The need for the planning department to take a holistic view of all these future developments with the inevitable increase in the volume of traffic.

**5.2.7 Shetland Islands Council Roads Traffic Service** – This application for development in principle is for some 400 dwelling units within a single site area adjacent to the existing development area of Lerwick.

It is to have one primary point of entry from A970 North Lochside, but with a secondary vehicular link to Ladies Drive via Cunningham Way. This connection will also provide an important bus route opportunity as a route through would form part of a circular route encompassing the north part of Lerwick.

There are no purely commercially operated bus routes in Shetland. All routes are let under subsidised public transport service contracts with the routes being determined by the local Transport Authority Partnership ZeTrans and as such this bus route opportunity should be discussed with them.

Other connections into housing streets surrounding the development site have not been considered at this time, particularly as concerns have been raised by residents in the surrounding areas regarding increased traffic movements if the development is connected into existing streets.

However, the application stated that “The development will provide an urban design solution for Lerwick that will help better connect the residential areas to the north of the town with the town centre”

This will necessitate the creation of multiple pedestrian and cycle links into the existing North Staneyhill housing developments if the aspiration to “promote active travel” and “a modal shift towards sustainable modes of transport” are to be achieved. This is identified in the submission as a “key requirement”.

It is likely that at least one vehicular connection into the existing north Staneyhill area will be required to properly integrate this new development area into the existing street pattern as required under the national policy expressed in Designing Streets.

In line with the national policy Designing Street the use of cul-de-sacs should be limited to those areas where development could not otherwise proceed. Any cul-de-sacs should be limited in physical length and in the number of properties served.

It is proposed that the internal street layout of the development will “comprise a network of shared surface routes and links in line with the requirement of Designing Streets”. It should be noted that Designing Streets does not require shared surface routes; rather it is an option that can help achieve the ‘place’ and ‘movement’ requirements of the policy. Shared surfaces are also not necessarily the most suitable street format for bus routes.

PAN75 identifies acceptable walking distances to public transport and local facilities it does so in a well developed mainland context. In Shetland poor weather conditions and a less sheltered built environment can lead to increased car usage if distances are not minimised. The locations of existing bus stops in relation to this development site mean that in a local context they will not be attractive at all.

Integrating a bus route with the overall site design is therefore considered essential, and should be planned for even in the early stages of the development given the proposed development timescale.

While access by large vehicles should not necessarily dictate the site layout out with any bus routes, refuse collection and deliveries are a significant consideration and care must be exercised to minimise the requirement for reversing manoeuvres and limiting reversing distances.

The transport impact assessment for construction activities has considered a phased approach to the site over a number of years, with each phase being some 30 to 40 units built in a 12 month period. This is a conservative approach which maximises impacts by considering a compressed construction time frame. Normally 30-40 units would be a 12 to 18 month construction period.

The impact of the development construction traffic is noted by the applicant as being “negligible on the haulage road” and of only a

“temporary minor adverse effect on the local road network”. This will only be the case where the overall development scheme is phased sympathetically and with due consideration to the impacts of construction traffic, particularly their routing choices.

Prior to starting the first part of the development I would expect the developer to provide a Masterplan for the site indicating phasing, construction haulage routes, approximate timescales and quantities. This will allow the developer to demonstrate that the impacts are negligible and minor as stated.

The trip rates used to analyse and quantify the impact of the proposed development are based on those measured for similar development types within Lerwick and were agreed with Roads Service.

The difficulty in modelling traffic flows and patterns at the North Lochside roundabout identified by the applicant's consultants was not unexpected. This is because the junction layout is non-standard due to the limitations placed on the location by surrounding development. However, the observed behaviour and outcome of their analysis matches our experience and knowledge of the junction and adjacent links.

The North Lochside roundabout is currently operating at a demand level above that which should work without significant delays. However, due to the particular on-site layout and local characteristics of the approach links there is rarely any lengthy build-up of static queues.

Where static queues do occur they are either short lived or due to other factors on the local road network.

Regardless of the difficulty in modelling the North Lochside roundabout there is no doubt that post-development traffic volumes through the junction will increase at all times, but particularly on North Lochside during the peak period where there will be in the order of a 25% increase over the existing flows. This additional flow along North Lochside will re-balance the turning movements through the junction and it is likely that we will see the regular occurrence of static queues of traffic on all legs at peak times.

However, much of this theoretical impact may be offset by changes in driver behaviour as there are alternative routes from both the town centre and north Lerwick industrial areas for the additional traffic generated by the development. I would therefore consider the submitted analysis to be conservative in its approach, thus giving a 'worst case' outcome.

In summary I have little comment to make on this 'in principle' application other than to highlight the obvious outcome of increased traffic movements along A970 Lochside and the likelihood of regular static queues at the North Lochside roundabout where currently these are infrequent.

I look forward to more detailed proposals for the site.

5.2.8 Shetland Islands Council **Planning Engineer** – Standard flooding and drainage requirements related to water quantity are provided (*Comment - The full response is available to view online at the Council's website or in the planning application file*)

There are further specific drainage issues to be addressed in a submission. The site currently drains partly to the south and partly to the north and both receiving catchments have drained and flooding issues. Surface water flows to the east of the site towards existing housing also need consideration.

Drainage to the south of the site. Existing land drainage to the south is collected by the un-named burn which runs north to south between this site and the new AHS site, drainage to the Clickimin Loch.

As part of the Flood Risk Assessment and drainage design for the Staney Hill site a check should be carried out to ensure that flooding of buildings would not occur at the 1 in 1000 year return period level for the new AHS school building, and at the 1 in 200 year level for all other buildings. The return period for checking flood risk to the new school building, and at the 1 in 200 year level for all other buildings. The return period for checking flood risk to the new school building has been set at 1 in 1000 years (rather than the standard 1 in 200 years) in accordance with national planning policy, to reflect the importance of the infrastructure.

*(Comment – Written at the time of the consultation on submission)* The planning application for the new AHS is currently under consideration and a full Flood Risk Assessment and full details of the drainage proposals have not yet been submitted but the details contained in those will impact on the requirements of a suitable drainage design for this proposal. Early discussions with the AHS project team on their proposals, the drainage design requirements and the potential for joint working would be recommended.

Drainage to the north of the site. Existing land drainage of the part of the site draining to the north is to the South Burn of Gremista, which has existing undersized culverts in two locations, which are an identified flood risk to property. As a result of the known flooding issues, the standard requirements for attenuation in this catchment have been raised to include a requirement for SUDs proposals which attenuate flows to Greenfield levels for rainfall events of up to 1 in 200 year return periods.

The majority of the Scottish Water surface water sewers to the north of the site also discharge to the South Burn of Gremista, so the same 1 in 200 year attenuation requirements set by Scottish Water for connection and/or adoption of the proposed drainage system.

The potential routes to drain water from the proposed site northwards, to the burn or existing drainage features, appear to be restricted and some care may be required to achieve a suitable route and design.

Surface water flows to the east of the site. The hillside on the east edge of the site drains eastwards to the existing houses at Staney Hill,

Burgess Street, Bruce Crescent and North Road. Drainage is largely by way of overland surface flows, with no notable watercourses. Surface water drainage associated with the existing houses also appears to be limited and to consist of small scale works at individual property level.

Careful thought may be required in carrying out the drainage design for any development in this area, both to provide drainage infrastructure or overland routes which prevent potential flooding of the existing houses, and also in achieving a suitable route for collected flows to discharge to a suitable place. The proposed drainage should ensure that no flood risk to existing property is created during rainfall events of up to 1 in 200 year return periods.

As mentioned in my previous comments on walking and cycling connections associated with this development, there would appear to be potential in the scheme design to combine green space, walking and cycling path, access road and site surface and piped drainage infrastructure in this corridor to the east of the site. A collaborative design approach to proposals in this area from an early stage would appear to give the best opportunities to address all of the issues.

In the submitted Environmental Statement – Technical Appendices – 4.0 Land Use and Property, Fig 4.1 shows some possible walking and cycling routes.

The indicated walking and cycling route running from the new access road adjacent to the proposed AHS hostel, north to the connection with the existing “Staney Hill” street is a strategic route for the whole Lerwick area, and forms a link in a north-south connection through Lerwick which cannot be replaced practically if the opportunity to use the Staney Hill route is not safeguarded now.

The importance of the Staney Hill access route (being the proposed access at the east of the site) to the wider network is clear. A walking and cycling route on that connection would be expected to attract much greater numbers of users than just from the development and adjacent areas and should be designed accordingly. It is important that the route should run to the lower of the 2 “Staney Hill” streets and be designed to rise at a constant gradient which is minimised as far as possible in order to make it as attractive as a route as possible, to encourage greater active travel usage over a wider number of the public.

The path should be constructed of a bound dbm surface and a minimum of 3m wide (assuming a shared use path design is chosen), following the “Cycle by Design” standards for a 30kph design speed. This would match the standards chosen for the paths associated with the new AHS site, to which it would connect directly, as well as those intended for future routes.

While construction of a path on the route indicated may make some constraints on the development, I would suggest that it also offers an opportunity to use the same strip of land to accommodate the surface water ditches/drains which appear to be required both to protect existing houses during extreme rainfall (see separate drainage comments), give a suitable service route for drainage of sites built on

the downhill side of the access route indicated and also to act as a wild planted/landscaped area to separate the proposed development from the existing Old North Road houses, if this was felt to be desirable.

The most suitable and useful routes for other connections and internal routes will largely depend on the proposed layout of roads and houses and this should be considered as an integral part of the site design. The layout should certainly have a complete internal network of walking and cycling connections, beyond the road network, and take full advantage of possibilities to the adjacent streets and routes.

The plan does not indicate any routes across the hill (SW-NE), which offer good possibilities for useful connections. A route joining the Staney Hill road somewhere immediately north of the new AHS car park and running to the developed area could offer a useful network link and also tie to the existing route used by walkers, running from the Clickimin Loch path NE behind the proposed School and car park.

The possible walking routes, shown running SE-NW, up the hill, are particularly steep and not part of the current desire lines. I would suggest that proposals should be discussed with the SIC Outdoor Access Officer as a broad consideration of the overall network of routes and connections throughout the development area and adjacent land, with a wider consideration of the intended use of some routes if they are general “transport” use, or if they are more for “outdoor recreation”, where a different balance of design features might be chosen.

5.2.9 Shetland Islands Council **Outdoor Access** – The proposed development does not appear to affect any core paths or recorded public rights of way. However, there are 3 well used routes that access the development area from the northern edge of the site. Access to these routes is via two stiles and a hand gate, they are defined routes visible on the ground and there are no signs that use is being restricted to the public at large (see the attached plan). Without further investigation it cannot be said that these are public rights of way, but it would seem there would be a strong case for the rights to exist and so they should be given consideration in any development that might affect them, not least in the sense of creating or maintaining existing linkages. The development should also consider new and existing linkages to other open spaces and recreational facilities nearby, such as the Clickimin Centre, Clickimin Loch and upper Staney Hill.

A development of this scale over a large area that presently enjoys informal access, the Planning Authority should expect the developers to preserve public access to sites of conservation and amenity interest (such as viewpoints, natural history, archaeological sites) in addition to protecting existing public access routes or providing suitable alternative routes. Additionally the Council should expect the developer to provide new and enhanced green networks along with a means to manage and maintain them.

The transport assessment does state that:

- Additional pedestrian/cycle facilities will be introduced to promote connectivity with the surrounding area



- Additional footway/cycleway links through the site will be investigated
- There is potential to create traffic free walk and cycle links within the site connecting to neighbouring residential area

Figure 4.1 of the Constraints Plan and Land Use shows an indicative green corridor along with 3 proposed pedestrian/cycle paths running roughly north-west to south-east. However, a large area of the green corridor on figure 5.2 of the Development Framework is identified as 'Preferred Development Area'. Also, the north-west to south-east suggested routes run directly down the steep hill face and away from what is likely to be a major desire line to access the proposed new Anderson High School and Clickimin Leisure Centre.

I feel that the indicative green corridor with a cycle route connecting Staney Hill to the proposed school site is essential and that other cycle and pedestrian routes into the site should reflect both the existing informal access to the site and the likely desire from residents to link with the proposed new Anderson High School, Clickimin Loch and Leisure Centre. Consultation with local communities and recreational users groups would identify the needs and wishes for access.

**5.2.10 Written representations** have been received as follows:

- 38 North Lochside. Lerwick.
- 4 Staneyhill. Lerwick.
- 13 Burnside. Lerwick.
- 115, 117, 119, 121 North Road. Lerwick.

Representations citing concerns that are deemed to be an objection relating to the following matters:

- Design and Siting
- Hours of Operation
- Overdevelopment
- Overshadowing
- Residential Amenity
- Traffic Movement and Access both during and after construction
- Impact upon ecology.
- Loss of peat
- Light pollution
- Flooding
- Construction disturbance

**5.2.11 Northmaven Community Council – object** to the application for planning permission in principle for the following reasons:

- Consideration should be given to rural policy and new build social housing in landward areas, in addition to a smaller development in Lerwick.
- The application contains very little detail to allow an informed decision on such a large development.
- Rural businesses find it difficult to recruit staff, often exacerbated by a lack of housing in rural areas.

- Such a development will accelerate out-migration from rural areas in Shetland and discourage in-migration.
- Such a large development needs to be looked at in the round. The effects on current residents and infrastructure needs to be considered.
- Current infrastructure cannot support such a large development; Lerwick Health Centre already struggles to cope and the two primary schools could not cope with the influx of new families.

**5.2.12 Yell Community Council – object** to the planning application for the following reasons:

- Such a development will accelerate out-migration from rural areas in Shetland and discourage in-migration.
- Consideration should be given to rural policy and new-build social housing in landward areas, in addition to a smaller development in Lerwick.
- Rural businesses find it difficult to recruit staff, often exacerbated by a lack of housing in rural areas.
- Such a large development needs to be looked at in the round. The effects on current residents and infrastructure needs to be considered.
- Current infrastructure cannot support such a large development; Lerwick Health Centre already struggles to cope and the two primary schools could not cope with the influx of new families.
- The application contains very little detail to allow an informed decision on such a large development.
- It appears that Yell has as good or better case than Lerwick in respect of housing lists and the number of properties and applications.

**5.2.13 Dunrossness Community Council – object** to the planning application for the following reasons:

- Consideration should be given to rural policy and new build social housing in landward areas, in addition to a smaller development in Lerwick.
- The application contains very little detail to allow an informed decision on such a large development.
- Rural businesses find it difficult to recruit staff, often exacerbated by a lack of housing in rural areas.
- Such a development will accelerate out-migration from rural areas in Shetland and discourage in-migration.
- Such a large development needs to be looked at in the round. The effects on current residents and infrastructure needs to be considered.
- Current infrastructure cannot support such a large development; Lerwick Health Centre already struggles to cope and the two primary schools could not cope with the influx of new families.
- Sumburgh Airport is currently experiencing a surge in business creating employment opportunities in the area. However, there is a distinct lack of available social housing in Dunrossness to accommodate anyone wishing to work and live in the area, something which could easily be improved on when the fact that the SIC already owns a plot of land in Virkie next to Horseshoe Close which could easily be developed is taken into consideration. In addition to this, the educational requirements

of new families moving into the area could easily be fulfilled by the local school, unlike the potential situation in Lerwick.

- 5.3 Policy and/or Delegated Authority – The application is for a development falling within the category of Major Development and which the Council have an interest. By virtue of S43A of The Town and Country Planning Scotland Act 1997 (as amended) the decision to determine the application is delegated to the Planning Committee.
- 5.4 Risk Management – If Members are minded to refuse the application, it is imperative that clear reasons for proposing the refusal of planning permission contrary to the development plan policy and the officer's recommendation be given and minuted. This is in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. Furthermore, it provides clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.

## **6.0 Conclusions**

- 6.1 Taking the comments and representations received and content of the ES submitted with the application into account, and having assessed the proposed development against Shetland Local Development Plan (2014), policies listed in paragraph 3.1, the proposal is found to be compliant with their aims.
- 6.2 For the reasons set out in section 4 above the proposal complies with development plan policy and is recommended for approval. Therefore the proposal accords with the relevant provisions of the Shetland Local Development Plan (2014).
- 6.3 Therefore, subject to the conditions listed in the schedule appended to this Report this application is recommended for approval.

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For further information please contact:  
Matthew Taylor, Planning Officer – Development Management  
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27 February 2015

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### List of Appendices

1. Location Plan
2. Constraints Plan and Land Use
3. Staney Hill Development Framework
4. Schedule of Recommended Conditions
5. Area of Best Fit plan (Extract from Shetland Local Development Plan (2014))
6. Site with Development Potential plan (Extract from Shetland Local Development Plan (2014))

Background documents:

- Shetland Local Development Plan (2014)
- Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011
- Planning Circular 3 2011: The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011



Proposed Planning Permission  
in Principle for Residential  
Development at North Staney  
Hill, Lerwick

Shetland Leasing and  
Property Developments Ltd  
and Hjaltsland Housing  
Association  
May 2014

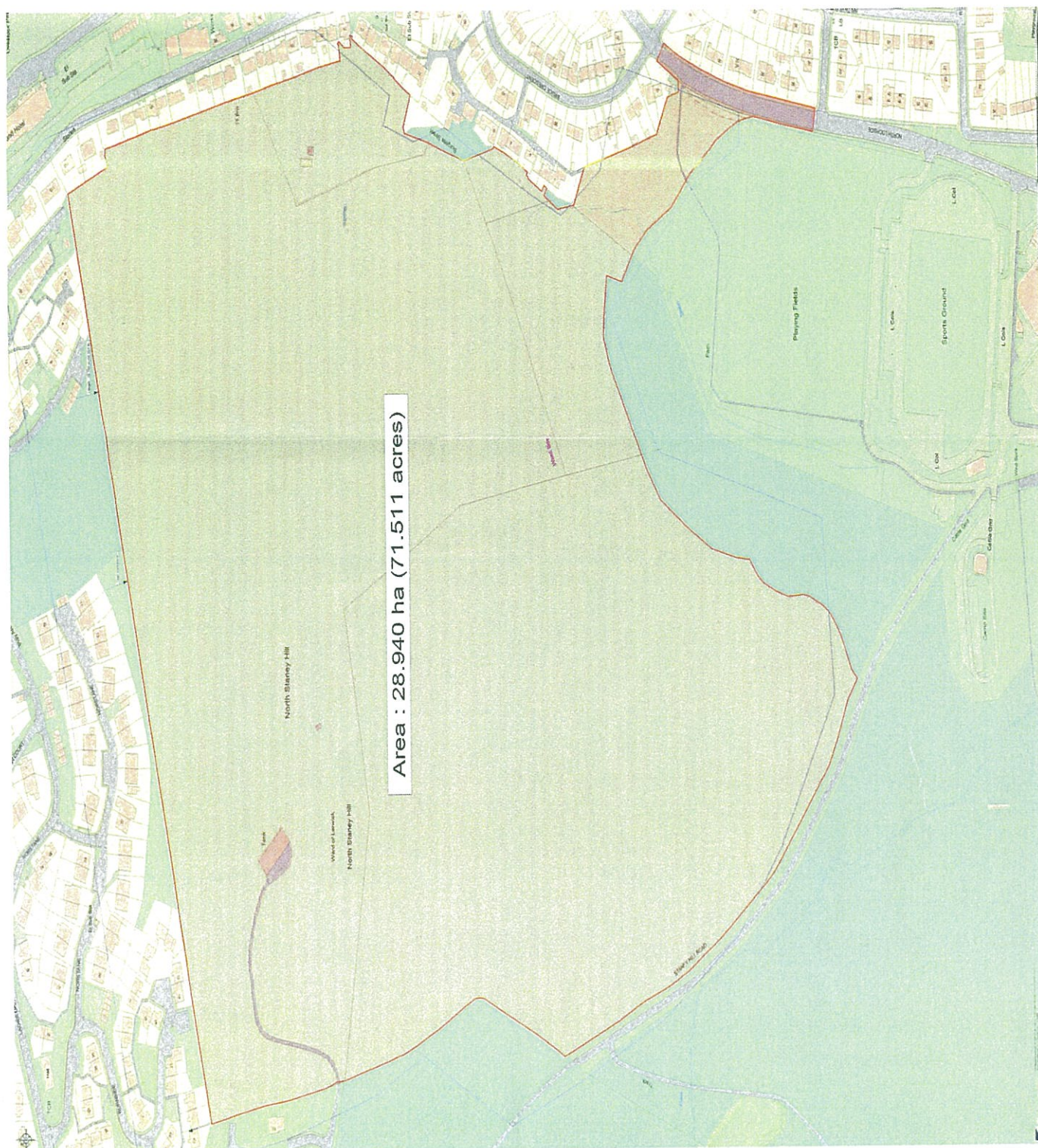
**Figure 1.1**  
**Site Location Plan**



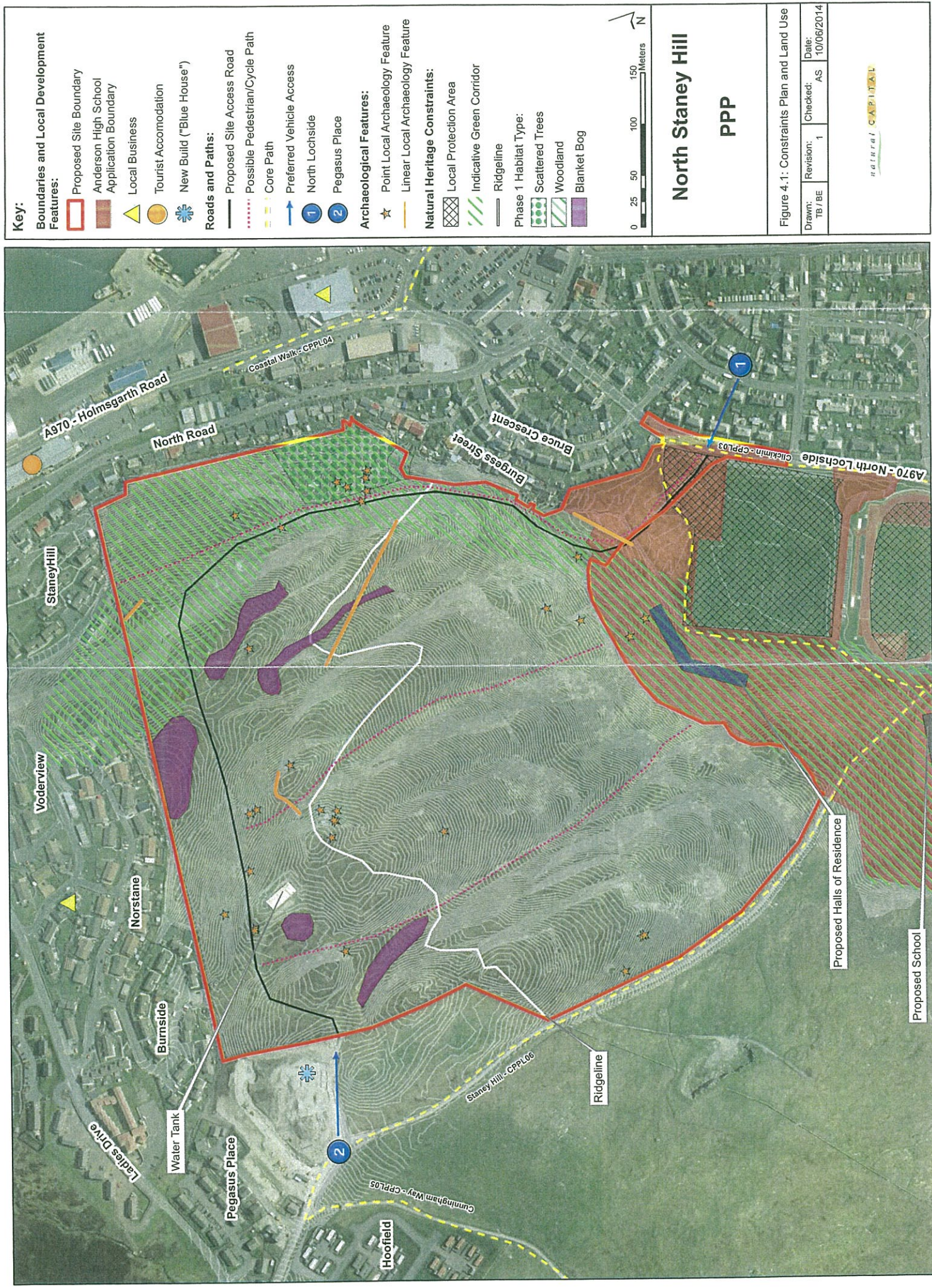
**FARNINGHAM PLANNING THE BOURSE, SUITE 107, 47 TIMBER BUSH,  
T: 0131 555 7578 F: 0131 555 7786  
DIRECTOR ALAN R FARNINGHAM BSc (Hons) MRTPI  
REGISTERED IN SCOTLAND NO. SC44765**

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Scale A1:1/1250











Key:

- Proposed Site Boundary
- Preferred Development Area  
(local constraints to be taken into account)
- Development to Proceed with Caution  
(further checks required to ensure no impact on setting of the broch and surrounding landscape)
- No Development Zone  
(constrained by visual impact on the setting of the broch and surrounding landscape)
- No Development Zone  
(constrained by visual impact on the setting of the broch and surrounding landscape - Historic Scotland Feedback)
- Caution Required (Access)  
(any road design in this area would need to be designed with particular care to not cause large, unacceptable rock cuts and faces - as requested by SIC)

**Please Note:**

The white dotted line denotes main Stoney Hill ridge line based on 2m contours. This is a key feature in the local landscape and should be kept free from development to reduce impacts on setting of the broch and the wider landscape

The red hatch boundary is based on understood visibility of a 9m building on ridge line using a 50m ZTV and a 2m contour plan. Detailed work would be required to ensure no skylining of buildings occurs within this area



## North Stoney Hill PPP

Figure 5.2: Development Framework  
(updated following SIC discussion)

Drawn:	AG	Revision:	1	Checked:	AS	Date:	09/01/2015
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## **2014/197/PPP – Proposed Housing, North Staney Hill, Lerwick.**

### **Schedule of Recommended Planning Conditions**

#### **Reasons for Council's decision:**

( 1.) The residential development proposal is located within the Lerwick Area of Best Fit, and is part identified as a Site with Development Potential in the Shetland Local Development Plan (2014). It has been demonstrated that the site has the capacity to accept the proposed development in a manner that would respect the character and local distinctiveness of the site and its surroundings. Furthermore, and subject to the Masterplanning and detailed design of the development to be controlled by conditions, the proposed development will make a positive contribution and maintain identity and character, and ensure a safe and pleasant space. Archaeological, Heritage, Ecological, and Environmental interests are capable of safeguarding or mitigation through design, to avoid unacceptable impacts, minimise other impacts, or enhance amenity and other provisions to the area. Therefore, the proposal complies with the relevant provisions and intent of Shetland Local Development Plan (2014) policies GP1, GP3, NH2, NH3, NH4, NH5, NH7, HE1, HE4, HE6, H2, H3, and TRANS1. There are no other material considerations that would warrant the refusal of planning permission.

#### **Conditions:**

(1) The development hereby permitted shall not be carried out other than wholly in accordance with the approved plans and details (as may be amended and/or expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this permission.

(2) Notwithstanding the provisions of Section 59 of the Town and Country Planning (Scotland) Act 1997, an application for approval of all Matters Specified in Conditions (MSC) for any part of the development shall be made to the Planning Authority within five years of the date of this permission. Thereafter, further MSC applications shall be submitted in accordance with the phasing agreed under Condition 4, and each MSC application shall be submitted within 3 years of the date of the preceding MSC approval.

Reason: Pursuant to Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 21 of the Planning etc (Scotland) Act 2006; to allow a reasonable period of time to implement the permission.



(3) The development hereby permitted shall be commenced within two years from the date of the approval of the Planning Authority of the last of the matters specified in conditions, or in the case of approval on different dates, the final approval of the last such matters to be approved.

Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 21 of the Planning etc (Scotland) Act 2006.

(4) Concurrently with the submission of the first application for the approval of Matters Specified in Conditions (MSC), a 'Masterplan' for the Staney Hill residential development, contained within the extent of the development area as defined on the approved 'Development Framework', shall be submitted to and approved in writing by the Planning Authority.

The masterplan shall include:

- A detailed layout of the site including:
  - residential plot size and distribution;
  - route and means of access for vehicles, cyclists, and pedestrians;
  - provision and distribution of car parking areas;
  - landscape framework showing existing landforms and proposed landforms, landscaping and amenity planting.
- Sustainable design considerations including energy conservation by layout and design;
- Water management and Sustainable Urban Drainage Systems;
- Boundary treatments;
- Public Amenity Space;
- And, the proposed phasing of the development of the site, to include the construction of each residential phase of the development, the provision of open space, structural landscaping, SUDS provision and transportation infrastructure.

The Masterplan shall demonstrate that it has considered and taken account of the requirements of the Planning Authority and all other statutory consultees as identified

and documented at the Planning Permission in Principle stage and as detailed under the terms of this planning permission.

Development shall thereafter be carried out in accordance with the approved phasing.

Reason: To accord with the provisions of the Town and Country Planning (Scotland) Acts because this planning permission is for Planning Permission in Principle only and the layout details (which were not submitted) are required to be detailed to ensure compliance with the terms of this permission and the Shetland Local Development Plan (2014) policies GP1, GP2, GP3, TRANS1, H5, and H6; to ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.

(5) No development in connection with each respective phase of the development hereby approved, as approved under condition 4, shall take place until full details of the siting, design, external appearance and landscaping within the relevant phase of the development and the means of access serving the relevant phase of development, as an application for approval of Matters Specified in Conditions (MSC), have been submitted to and approved in writing by the Planning Authority. The development shall then be implemented in complete accordance with the approved details. Details to be submitted and covered by Matters Specified in Conditions (MSC) for each phase shall include:

- a) full details of site access, roads, footpaths, cycle ways, parking provision and transportation movements within the relevant phase of development;
- b) detailed plans, sections and elevations of the siting, design and external appearance of all buildings and other structures within the relevant phase of development;
- c) a scheme of hard and soft landscaping works associated with the relevant phase of the development;
- d) full details of the works in or in the vicinity of the water environment in the relevant phase of development;
- e) the details of all excavations and cut and fill operations associated with the relevant phase of the development;
- f) details of any contractors working areas and set down areas including details of site security, any lighting proposed and any buildings, plant and machinery proposed associated with the relevant phase of development;
- g) details of wheel cleaning facilities for construction traffic to be generated by

the relevant phase of development.

Reason: To accord with the provisions of the Town and Country Planning (Scotland) Acts as this planning permission is for Planning Permission in Principle only and the details (which were not submitted) are required to be detailed to ensure compliance with the terms of this permission and the Shetland Local Development Plan (2014) policies GP1, GP2, GP3, TRANS1, H5, and H6

(6) No development shall take place until full details of the design and construction of the access to be taken from North Lochside, principal access road to lead to the 'Caution Required (Access)' area as defined on the approved 'Development Framework' and associated landscaping, including the extent to be considered the public highway, have been submitted to and approved in writing by the Planning Authority. Thereafter the development of the principal access leading to the 'Caution Required (Access)' area as defined on the approved 'Development Framework' shall only take place in accordance with the approved details.

Reason: To ensure that the infrastructure serving the development site is completed, both in the interests of visual amenity and to provide a safe access for vehicles, with a clear view, in the interests of public and road safety in compliance with Shetland Local Development Plan (2014) policies GP2, GP3, TRANS1 and TRANS3.

(7) The details of the siting, design and external appearance of all buildings and other structures to be submitted pursuant to Condition 5 for each respective phase of development as approved under Condition 4 shall follow the general principles set out in the Masterplan approved under Condition 4 and shall demonstrate that no buildings will breach the skyline from the viewpoints detailed at the Planning Permission in Principle stage as contained in the submitted Environmental Statement, as attached to this permission.

Development shall thereafter be carried out using the approved designs and materials or such alternatives as may be agreed to in writing by the Planning Authority.

Reason: To accord with the provisions of the Town and Country Planning (Scotland) Acts because this planning permission is in principle only and the design details (which were not submitted) are required to be detailed to ensure compliance with the terms of this permission and the Shetland Local Development Plan (2014) policies GP1, GP2, GP3, H5.

(8) The details of site access, roads, footpaths, cycle ways, parking provision and transportation movements to be submitted pursuant to Condition 5 for each respective phase of development as approved under Condition 4 shall include:

- existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
- proposed vehicular, cycle and pedestrian accesses;
- proposed roads (including turning facilities), footpaths and cycle ways;
- proposed visibility splays, traffic calming measures, lighting and signage;
- proposed construction traffic access and haulage routes;
- a green travel plan designed to minimise the use of private transport and to promote walking, cycling, safe routes to school and the use of public transport;
- proposed car parking arrangements (including surface finishes);
- proposed bus stops/lay-bys and other public transport infrastructure;

a programme for completion for the construction of access, roads, footpaths and cycle paths, and parking provision in accordance with the proposed phasing of development.

The development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed to in writing by the Planning Authority.

Reason: To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site. And to promote sustainable travel options and safe occupation of the site for all road users, visitors, and residents, to accord with the Shetland Local Development Plan (2014) policies GP1, GP2, GP3 and TRANS1.

(9) The scheme of hard and soft landscaping works to be submitted pursuant to Condition 5 for each respective phase of the development approved under Condition 4 shall include:

- Existing and finished ground levels and floor levels for all buildings and roads in relation to a fixed datum;
- Existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;

- Proposed new planting in communal areas and open space, including trees, shrubs, hedging and grassed areas, and to include precise details of measures to consolidate, protect or enhance the arboretum initiative and green corridor;
- Location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- Schedule of plants to comprise species, plant sizes and proposed numbers/density;
- Programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses on adjoining plots are occupied;
- Drainage details and sustainable urban drainage systems to manage water runoff;
- Proposed car and cycle parking configuration and surfacing;
- Proposed footpaths and cycle paths;
- Proposed play areas and equipment.

All hard and soft landscaping shall be carried out in accordance with the approved scheme. Any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

Reason: To accord with the provisions of the Town and Country Planning (Scotland) Acts because this planning permission is in principle only and the design details (which were not submitted) are required to be detailed to ensure compliance with the terms of this permission and the Shetland Local Development Plan (2014) policies GP1, GP2, GP3, H6, H5 and HE6; to ensure the implementation of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

(10) Concurrently with the submissions of the first application for the approval of Matters Specified in Conditions (MSC), and also the 'Masterplan' under Condition 4, the following shall be submitted to the Planning Authority for approval in writing in consultation with SEPA:

- Survey information to allow detailed assessment of the detailed hydrology (including peat pipes and groundwater levels) and the vegetation (to NVC standard) within the site to inform the detailed site layout;

- Details to demonstrate that areas of high groundwater dependence, Annex 1 quality and active blanket mire are protected from development but may be incorporated as part of the landscaping of the development within the detailed site layout;
- A peat management plan which includes a peat depth survey to provide an understanding of the volumes of peat which will be excavated, volumes and types of peat available for re-use as part of site restoration/landscaping and any remaining balance which may have to be considered under a waste licence;

Detailed information on how any potential impacts on the hydrological function of the site including wetland areas will be mitigated for and how the quantity and quality of groundwater will be sustained through construction techniques, areas of avoidance etc (this should include considerations such as excavation depth and likely impact on groundwater drawdown, as well as construction techniques and site drainage).

The development shall thereafter take place in accordance with the approved details unless otherwise agreed in writing by the Planning Authority in consultation with SEPA.

Reason: In order to protect GWDTE and Annex 1 quality habitat, and in order to manage the generation of peat and waste on site, to accord with the Shetland Local Development Plan (2014) policies NH3, NH5 and NH7.

(11) Concurrently with the submission of the first application for the approval of Matters Specified in Conditions (MSC), and also the 'Masterplan' under Condition 4 details of the works proposed to be carried out in or in the vicinity of the water environment shall be submitted to the Planning Authority for approval in writing in consultation with SEPA. s a minimum the details shall include the following:

- Confirmation of the location of any watercourses on the site and demonstration that appropriate buffer zones have been included within the site layout;
- Full details relating to any proposed engineering activities in the water environment including the location and type of any proposed watercourse crossings. Any proposed watercourse crossings shall be designed to accept the 1 in 200 year flow unless otherwise agreed with the Planning Authority in consultation with SEPA.

The development shall thereafter take place in accordance with the approved details unless otherwise agreed in writing by the Planning Authority in consultation with SEPA.

Reason: To protect the water environment and to protect people and property from flood risk in accordance with Shetland Islands Council Local Development Plan (2014) policies NH7 and GP2.

(12) Concurrently with the submission of the first application for the approval of Matters Specified in Conditions (MSC), and also the 'Masterplan' under Condition 4, a detailed scheme for surface water drainage shall be submitted to the Planning Authority for approval in writing in consultation with SEPA. The scheme shall detail an appropriate level of SUDS treatment for all areas of the development. Thereafter the development shall proceed in accordance with the approved details.

The scheme shall be developed in accordance with the technical guidance contained in the SUDS Manual (C697) and should incorporate source control.

Reason: To ensure adequate protection of the water environment and to control flooding to the site and surrounding property, in accordance with Shetland Local Development Plan (2014) policies NH7, WD3 and GP2.

(13) No development shall take place until a site specific Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Planning Authority in consultation with SEPA and SNH. The submission of the proposed CEMP shall take place at least 2 months ahead of the proposed intended start to the development of the site. Following approval all works on site shall be undertaken in accordance with the approved CEMP(s) unless otherwise agreed in writing with the Planning Authority.

Reason: In order to minimise the impacts of necessary construction works on the environment and to protect amenity interests in the site and wider area, in accordance with the Shetland Local Development Plan (2014) policies NH5, NH7 and GP2.

(14) No development shall take place until a detailed scheme of archaeological evaluation has been submitted to and approved in writing by the Planning Authority in consultation with the Regional Archaeologist. The scheme should be sufficient to confirm the significance of all known sites and the most appropriate mitigation strategy.

Reason: To safeguard or record the archaeological and cultural heritage of Shetland in accordance with the Shetland Local Development Plan (2014) policies GP2, HE1 and HE4.

(15) There shall be no development on any part of the approved site area until a detailed bird and otter survey proposal has been submitted to and approved in writing by the Planning Authority. Thereafter a pre-development survey shall be undertaken for each respective phase of the development approved under Condition 4 (to a schedule agreed to in writing by the Planning Authority beforehand), the results of which, along with detailed mitigation measures, shall be submitted to the Planning Authority for written approval prior to any site set up and development commencement in the related phase of development. Unless otherwise agreed in writing by the Planning Authority.

Reason: In order to avoid or minimise the impacts upon species of local or national importance in accordance with Shetland Local Development Plan (2014) policies NH2 and NH3.

(16) Unless otherwise agreed in writing with the Planning Authority, operations and working on the construction of the development hereby permitted shall only take place 0700h to 1900h Monday to Friday and 0700h to 1300h on Saturday. There shall be no working on Sundays and local public holidays.

Reason: In order to safeguard the amenity of existing properties in the area during the construction phase, in compliance with Shetland Local Development Plan (2014) Policy GP2.

(17) The approved wheel cleaning facilities for the related phase of development must be installed and maintained throughout that phase of the development, unless any variation has been approved in writing by the Planning Authority.

All construction traffic leaving the related phase of development must, prior to leaving, pass through the wheel cleaning facilities unless otherwise approved in writing by the Planning Authority.

Reason: To ensure that satisfactory measures are in force to minimise the impact of mud on the public road and to comply Shetland Local Development Plan (2014) Policy GP2

(18) Prior to the occupancy of any dwellinghouse constructed in any phase of the development hereby permitted, the associated parking space provision shall be provided in a completed condition, and the route to be taken by the occupiers to reach a public road shall have been completed to the standard approved under Condition 8. Unless otherwise approved in writing by the Planning Authority.



Reason: In the interests of road safety. In compliance with Shetland Local Development Plan (2014) policies GP2 and TRANS1.

(19) In association with Condition 4 above, following the completion of each individual phase, as specified in the approved phasing of the development of the site, a notification of the completion of that said phase and the completion of each phase thereafter, other than the last phase of development, shall as soon as practicable, and prior to the commencement of each phase following, be submitted to the Planning Authority.

Reason: Pursuant to Section 27B(2) of the Town and Country Planning (Scotland) Act 1997.

(20) Prior to the commencement of any works in any phase of development, a site waste management plan shall be submitted to and approved in writing by the Planning Authority, in consultation with SEPA. Thereafter all work in the relevant phase of the development shall be carried out in accordance with the approved plan for that phase.

Reason: To ensure waste on the site is managed in a sustainable manner. In compliance with Shetland Local Development Plan (2014) policies GP1, GP3 and W5.

(21) The developer shall submit a written 'Notice of Initiation of Development' to the Planning Authority at least 7 days prior to the intended date of commencement of development. Such a notice shall:

(a) include the full name and address of the person intending to carry out the development;

(b) state if that person is the owner of the land to which the development relates and if that person is not the owner provide the full name and address of the owner;

(c) where a person is, or is to be, appointed to oversee the carrying out of the development on site, include the name of that person and details of how that person may be contacted; and

(d) include the date of issue and reference number of the notice of the decision to grant planning permission for such development.

Reason: To ensure that the developer has complied with the pre-commencement conditions applying to the consent, and that the development is carried out in

accordance with the approved documents, in compliance with Section 27A of The Town and Country Planning (Scotland) Act 1997 (as amended).

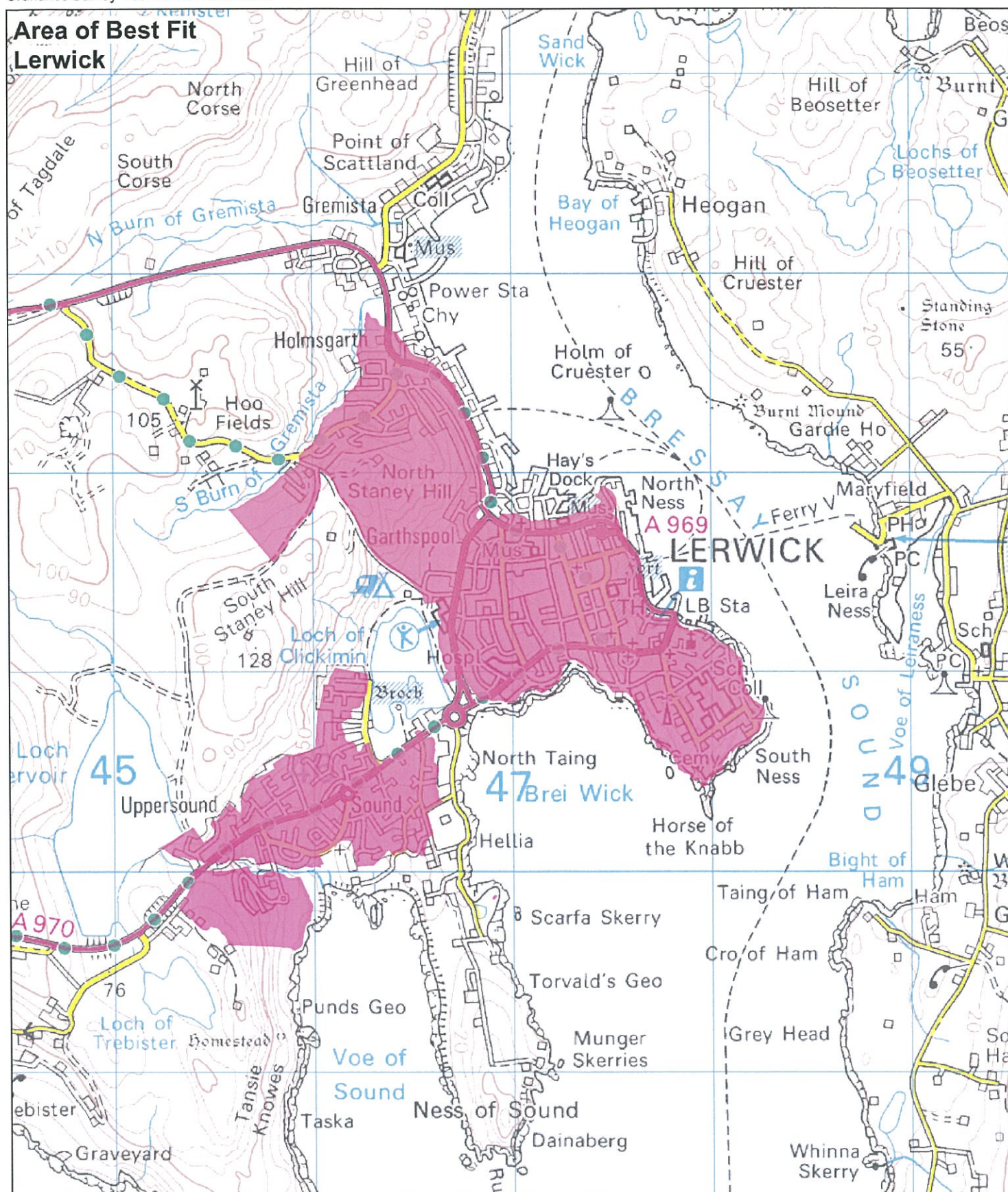
### **Notes to applicant**

#### **Notice of Completion of Development**

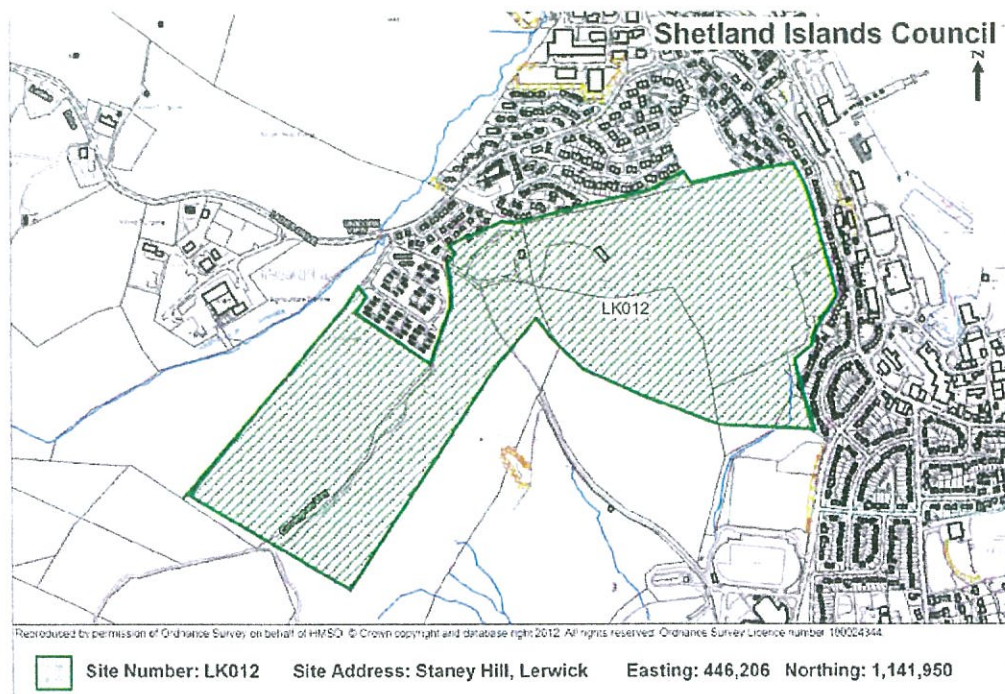
To ensure both that the development is carried out in accordance with the approved documents, and compliance with Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended). Upon the completion of the development hereby permitted, and as soon as practicable, the person carrying out the development shall provide the Planning Authority with a written notice of that completion.



### Area of Best Fit Lerwick







This site is proposed for housing.

All development must conform to the appropriate policies set out in the Shetland Local Development Plan and related Supplementary Guidance when approved.

A buffer will be required around watercourses.

Any development in this area must connect to the public sewer.

Details of water supply availability and sewerage infrastructure should be sought from Scottish Water.

Any development on this site will be required to have adequate access, parking and circulation layout. Contact the Council Roads Service for information.

A full Design Statement including details of development phasing will be required for this site.

There is low risk of archaeology in this area, please contact the Shetland Archaeologist at the Shetland Amenity Trust for further information.

Major new (or significant upgrading of) wastewater infrastructure may be required in order to accommodate development on this site.

There is water infrastructure running through this site, please contact Scottish Water for advice.

Views from the summit of North Staney Hill must be protected.