



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: 2015/008/MAR – LR3 – To extend an existing shellfish site by increasing four 200m twin head line longlines to 220m and adding two extra 220m longlines (part retrospective), Whalsies Ayre, Stream Sound, South of Trondra, 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 it 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. During the administrative arrangements that have been carried out the persons entitled to appear have been informed that they will each be given a maximum of 5 minutes.
- 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.

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: 2015/008/MAR
To extend an existing shellfish site by increasing four 200m twin head line longlines to 220m and adding two extra 220m longlines (part retrospective), Whalsies Ayre, Stream Sound, South of Trondra
By East Voe Shellfish Ltd

13 October 2015

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Section 1. Planning Submission – 2015/008/MAR

13 October 2015

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>KENNY</u>	Forename	
Surname	<u>POTTINGER</u>	Surname	
Company Name	<u>EASTVOE SHELLFISH LTD</u>	Company Name	
Building No./Name		Building No./Name	
Address	<div style="border: 1px solid black; padding: 5px; min-height: 80px;"> <u>SAINED</u> <u>EASTVOE</u> <u>SCALLOWAY</u> <u>SHETLAND</u> </div>		
Postcode	<u>ZF10US</u>	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	

**SHETLAND ISLANDS COUNCIL
PLANNING**

12 MAR 2015

PASS TO _____ ACTION _____

3. Location of Proposed Development: Please identify/describe the location of the site or sites:	
<div style="border: 1px solid black; padding: 5px;"> <u>WHALESIES AYRE</u> <u>STREAM SOUND</u> <u>SOUTH OF TRONDRA</u> </div>	
Grid reference (at mid-point of site):	
Easting:	Northing:
<u>60° 5' 48.012" N</u>	<u>1° 18' 39.428" W</u>
Latitude/longitude position (at external corners or edges):	
<div style="border: 1px solid black; padding: 5px;"> <u>60° 5' 48.127" N 1° 18' 49.752" W</u> <u>60° 5' 51.987" N 1° 18' 39.614" W</u> <u>60° 5' 48.127" N 1° 18' 29.084" W</u> <u>60° 5' 44.369" N 1° 18' 39.614" W</u> </div>	

4. Type of Application	
What is the application for? Please select one of the following:	
New site	<input type="checkbox"/>
Change of Use of Existing site (including species change)	<input type="checkbox"/>
Alterations/extension to existing site	<input checked="" 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:

Reference No:

2008/020/VF

Date of decision:

22/05/08

Please provide details of any other consent for the site (i.e. Crown Estate, Scottish Ministers)

CROWN ESTATE LEASE

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:

TO INCREASE NUMBER OF LONGLINES FROM 4 TO 6
AND INCREASE LENGTH OF EXISTING LINES FROM
200m TO 220m

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:	200	45	9000	0.9
Proposed surface area:	220	75	16500	1.65
Existing moorings area:	280	45	12600	1.26
Proposed moorings area:	324/290	75	23775	2.3775

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)	LONG LINES	LONG LINES
Number of units	4	6
Shape(s) of units	LONG LINES	LONG LINES
Cage sizes/longline length	200	220
Number of cage/longline/raft/trestle group		
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		
Lighting (underwater/ surface)		
Navigational equipment		
Other equipment		

8. Production Information

	Existing	Proposed
Maximum stocked biomass (tonnes)	30	45
Maximum production biomass per cycle (tonnes)	20	30
Proposed production cycle (months)	36	36
Stocking densities		
Fallow Periods		

9. Operation of Facility /Landing/Servicing

How will the site be serviced?

BY BOAT

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

EAST VOE SCAUWAY

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

0800 - 1600

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

0800 - 1600

10. Supporting Information

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

Yes ☒ No ☐

STOCK WILL BE EVENLY SPREAD OVER ALL MY SITES IN THIS AREA

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.*

BIOSECURITY MEASURES PLAN

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.*

NONE

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?

1/2 FULL TIME POST

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

ALL EQUIPMENT WILL BE REMOVED

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.

N/A

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

RYAN LEASK

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

THE CROWN ESTATE

BELLS BRAE

EDINBURGH

(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: Name: KENNY POTTINGER Date: 6/3/15

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.

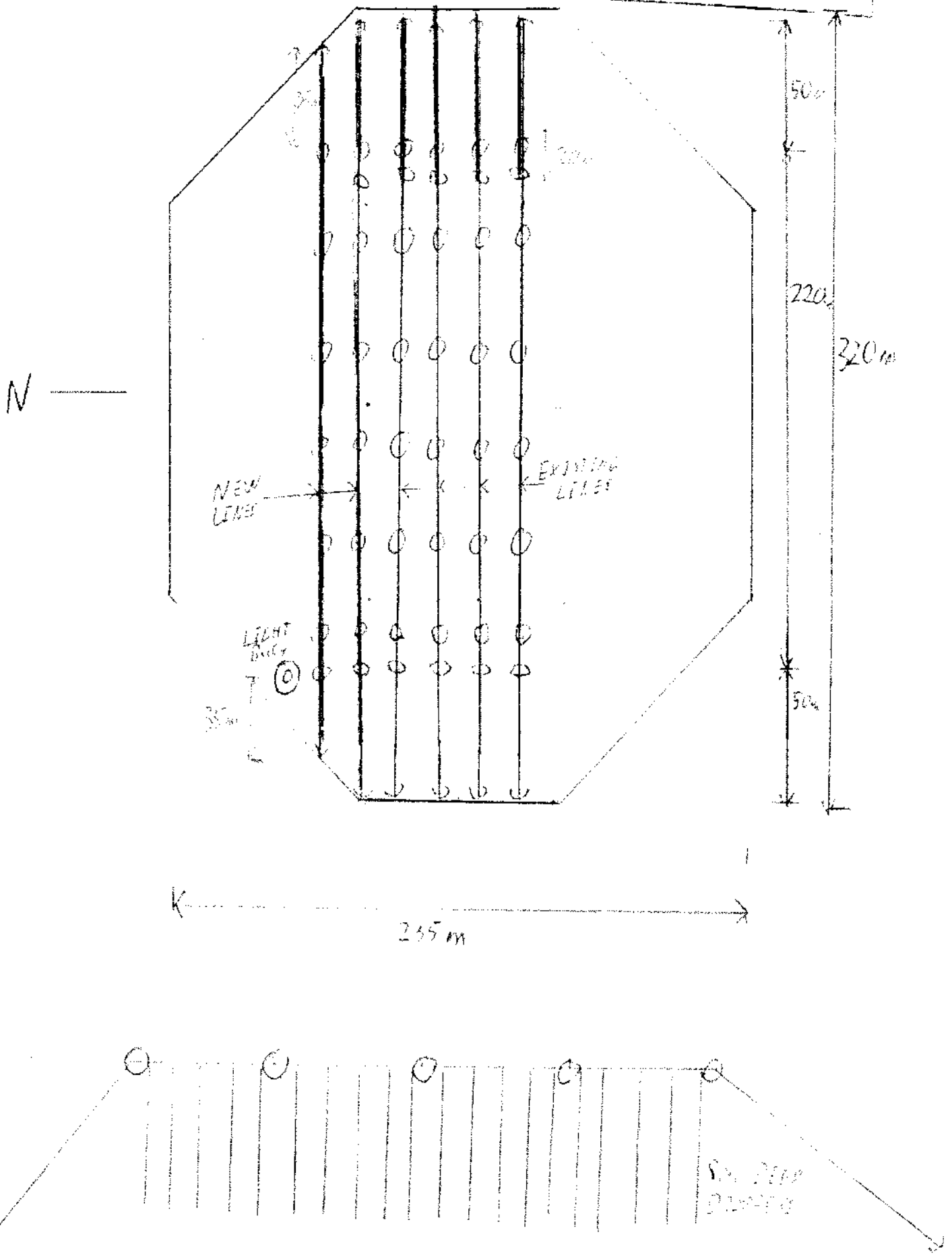
2015/008/MAR 01

SKETLAND ISLANDS COUNCIL
PLAN

12 MAR 2015

ASSET

ACT



2015/008/HAC-03

WG584 PROJECTION

RECEIVED
PROVIDED
COUNCIL
MAY 1997
THE ATTORNEY GENERAL

DATE: 22 MAY 2000

SIGNED: [Signature]

POSTAL MANAGER

RECEIVED
16 MAR 2005
DEVELOPMENT DEPT.

RECEIVED
06 JUL 2005
DEVELOPMENT DEPT.

SHETLAND ISLANDS COUNCIL
1974 IN ACCORDANCE WITH THE
ATTACHED LICENCE
24 AUG 2005

SHETLAND ISLANDS COUNCIL
PLANNING
12 MAR 2005
PASS TO

HOOVE SALMON CO.
STREAM SOUND, GURRA

GRANT OF WORKS LICENCE
APPROVED BY SHETLAND ISLANDS COUNCIL
UNDER THE PROVISIONS OF THE
1974 ACT IN ACCORDANCE WITH THE
ATTACHED LICENCE
12 MAR 2005
COSTAL ZONE MANAGER

GRANT OF WORKS LICENCE
APPROVED BY SHETLAND ISLANDS COUNCIL
UNDER THE PROVISIONS OF THE
1974 ACT IN ACCORDANCE WITH THE
ATTACHED LICENCE
12 MAR 2005
COSTAL ZONE MANAGER

is the Location Plan referred to in the foregoing
s Licence granted by Shetland Islands Council to
e Salmon Limited.

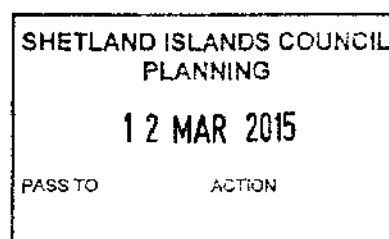
RECEIVED
1 APR 2008



East Voe Shellfish Ltd

Equipment to be deployed at Whalsies Ayre,
Stream Sound.

500kg plough anchors
26m of 32mm chain
40mm mooring rope, seasteel
32mm headlines, seasteel
Grey 300 litre Gem floats



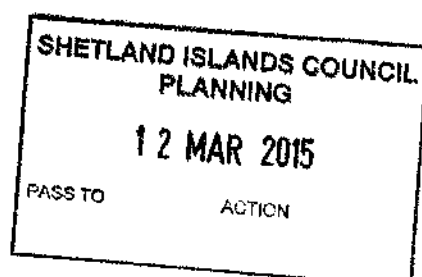


2015/008/MAR-04

5.3 Summary statistics

Table 4 Summary statistics of hydrographic survey for Lang Sound from 24th November 2007 to 9th December 2007 with 1441 data records.

Data Summary				
	Unit	Height above seabed		
		Near-surface 12.1 m	Cage-bottom 6.9 m	Near-bottom 3.0 m
Mean speed	m/s	0.080	0.083	0.079
Ranked percentage of mean speed	%	54.5%	55.9%	55.4%
Ranked percentage of 3 cm/s	%	12.7%	16.4%	15.3%
Minimum speed	m/s	0.001	0.000	0.001
Maximum speed	m/s	0.312	0.315	0.318
Mean 3-hour mean speed	m/s	0.080	0.082	0.078
Minimum 3-hour mean speed	m/s	0.031	0.025	0.029
Maximum 3-hour mean speed	m/s	0.184	0.227	0.221
Mean easting	m/s	-0.0207	-0.0290	-0.0291
Mean northing	m/s	-0.0060	-0.0209	-0.0282
Mean temperature	°C			7.5
Residual direction	° Grid	254.0	234.2	225.9
Residual speed	m/s	0.022	0.036	0.041
Major axis of tidal ellipse	° Grid	258	241	244
Parallel Residual (U)	m	0.022	0.036	0.039
Normal Residual (V)	m	-0.002	-0.004	-0.013
Parallel tidal amplitude (U)	m	0.075	0.105	0.097
Normal tidal amplitude (V)	m	0.103	0.074	0.066



East Voe Shellfish Ltd

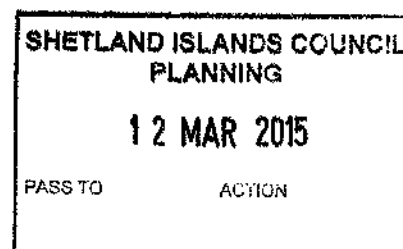
Planning application for Whalsies Ayre, Stream Sound.

I do not anticipate any negative impact on carrying capacity in this area. As you can see from the hydrographic report prepared by NAFC, the whole body of water is being exchanged continually due to the strong tide which is flowing at the same speed at all depths. As I understand the SIC carrying capacity just presumes the top few meters will be exchanged and is designed for voes, rather as in this case a sound. The mean speed of tide is at the higher end of the moderately flushed category.

I have farmed mussels in this area for 11 years and feel I know the area well and have never suffered any issues with carrying capacity. The only complaints I receive is that the mussels are too big.

I now operate all four mussel sites in this area so any detrimental effect would be limited to my own farms. If I was to suffer any effects from this small increase in tonnage I plan to move the seeded droppers to another site at Whaleback Skerry west off Scalloway where I never catch sufficient spat.

Kenny Pottinger
East Voe Shellfish Ltd



Section 2. Statutory Advert

13 October 2015

your
essential

les:

ds
es
ards
t Slips
ationery
s and Books

next
act

OPX
im co.uk
i.co.uk

from 9.30am to 3.30pm

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

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The Shetland Times

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Payment by Debit Card/Visa/Mastercard.

Tel. 01595 742000

e-mail: adverts@shetlandtimes.co.uk

Shetland Islands Council

These applications, associated plans and documents can be examined, 9.00am-5.00pm, 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

2015/0004: To extend an existing shellfish site by increasing four 220m width headline longlines to 220m & adding two extra 220m longlines; Whalesies Ayre, Stream Sound, South Of Trondra.

Written comments may be made to Iain McDiarmid, Executive Manager, at the above address, email development.management@shetland.gov.uk by 03/04/2015.

LUNNASTING PUBLIC HALL AGM

Will be held on Tuesday, 24th March at 7pm in the Hall lounge. All welcome.

FRASER PARK TRUST TRIENNIAL GENERAL MEETING

Wednesday 1st April, 2015, 8.30pm at Fraser Park new changing rooms.

ECO funding.

MARINE (SCOTLAND) ACT 2010 SALMON FARM, HAMNAVOE, LUNNANESS, SHETLAND

Notice is hereby given that Hjalteand Seafarms Ltd has applied to the Scottish Ministers of the Scottish Government, under Part 4 of the Marine (Scotland) Act 2010, in respect of Salmon Farm, Hamnavoe, Lunnaness, Shetland:

Cost: £400,000

Location: Hamnavoe, Lunnaness, Shetland

Latitude	Longitude
Co-ordinates	Co-ordinates
60° 26.175'N	001° 06.299'W
60° 26.175'N	001° 06.060'W
60° 26.069'N	001° 05.969'W
60° 26.927'N	001° 05.969'W
60° 26.878'N	001° 06.067'W
60° 26.878'N	001° 06.136'W
60° 26.891'N	001° 06.261'W
60° 26.991'N	001° 06.299'W

(WGS84)

Plans showing the position of the works may be inspected at Shetland Library, Lower Hillhead, Lerwick, Shetland, ZE1 0EL.

Objections relating to safety of navigation or environmental issues in respect of the application should be made in writing to:

Licensing Operations Team, Marine Scotland, Marine Laboratory, 375 Victoria Road, Aberdeen, AB11 9DB within 28 days of the date of this notice or by email: MS.MarineLicensing@scotland.gsi.gov.uk, quoting reference:

05478

Hjalteand Seafarms Ltd

ZETLAND COUNTY COUNCIL ACT 1974

WORKS LICENCE APPLICATION

'Jackville', Binna Ness,
Stromness Voe

NOTICE is hereby given that application is being made to Shetland Islands Council in terms of Section 11 of the above Act to repair and upgrade an existing pier and deploy a pontoon at the above location by Northern Lights Property Holdings Ltd.

All plans and particulars of the proposed works may be seen during normal working hours at the Marine Planning Service, Shetland Islands Council, 8 North Ness Business Park, Lerwick, ZE1 0LZ. Any person who desires to object to the Council to the granting of the application should do so in writing stating the grounds of their objection to the above address before the expiration of a period of 28 days from the date of this notice.

SHETLAND HORTICULTURAL SOCIETY AGM

Will be held on Friday 20th March, 2015 in Room 12, Islesburgh Community Centre, at 7pm. Followed by a talk on garden safety with refreshments. New members welcome.

ESHANESS COMMUNITY CENTRE AGM

Monday, 23rd March, 2015, at 7.30pm. All welcome.

Section 3. Consultation Responses

1 e

Smith Kimberley@Development Service

From: Sutherland, Jenny [REDACTED]
Sent: 25 March 2015 12:21
To: Marine Planning@Development Services
Subject: RE: Planning application comments

Hello Ryan

Thanks for letting me know.

As this application is over the carrying capacity for the Stream Sound area, we would wish to formally object.

Kindest regards

Jenny Sutherland
Casework Administrator

Shetland Office, Sumburgh Head Lighthouse, Virkie, Shetland, ZE3 9JN
Te [REDACTED]

rspb.org.uk

Let's give nature a home in Scotland



RSPB Scotland is part of the RSPB, the country's largest nature conservation charity, inspiring everyone to give nature a home. Together with our partners, we protect threatened birds and wildlife so our towns, coast and countryside will teem with life once again. We play a leading role in BirdLife International, a worldwide partnership of nature conservation organisations.

The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654

From: [REDACTED] **On Behalf Of**
MarinePlanning@shetland.gov.uk
Sent: 20 March 2015 08:59
To: Sutherland, Jenny
Subject: RE: Planning application comments

Dear Jenny,

2015/008/MAR To Extend an existing shellfish site by increasing four 200m twin head longlines to 220m & adding 2 extra 220m longlines, Whalsies Ayre, Stream Sound, South of Trondra by East Voe Shellfish Ltd.

Thank you for your response to the above application. The application is over carrying capacity for the Stream Sound area, thus from your response I acknowledge your objection due to this factor. Do you wish to submit more details?

Regards

Ryan

From: Sutherland, Jenny [REDACTED]
Sent: 17 March 2015 14:23
To: Development Management@Development
Subject: Planning application comments

Please find attached comments for the following applications:-

2015/002/MAR
2015/003/MAR
2015/004/MAR
2015/005/MAR
2015/006/MAR
2015/007/MAR
2015/008/MAR

I hope all is in order

Best wishes

Jenny Sutherland
Administrator

Shetland Office, Sumburgh Head Lighthouse, Virkie, Shetland, ZE3 9JN
Tel 01950 460800

rspb.org.uk

Let's give nature a home in Scotland



RSPB Scotland is part of the RSPB, the country's largest nature conservation charity, inspiring everyone to give nature a home. Together with our partners, we protect threatened birds and wildlife so our towns, coast and countryside will teem with life once again. We play a leading role in BirdLife International, a worldwide partnership of nature conservation organisations.

The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654

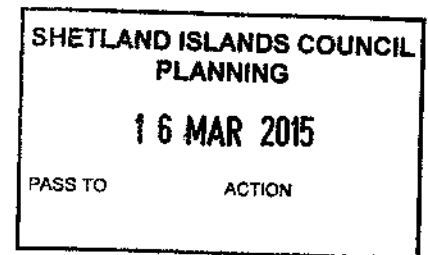
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RSPB Scotland

16 March 2015

Mr Ryan Leask
Shetland Islands Council
Office Headquarters
8 North Ness Business Park
Lerwick
Shetland
ZE1 0LZ



jenny.sutherland@rspb.org.uk

Dear Ryan

Planning Application Ref: 2015/008/MAR

Proposal: To extend an existing shellfish site by increasing four 200m twin head longlines to 220m & adding 2 extra 220m longlines Whalsies Ayre, Stream Sound, South Of Trondra

Applicant: East Voe Shellfish Ltd.

Thank you for consulting us about this application. We have no objection to the above development, so long as these changes would not result in the carrying capacity of the areas concerned being exceeded. We should like to make the following comments:

1. Introduction

- 1.1 The RSPB is a registered charity incorporated by Royal Charter. Its principal objective is the conservation of wild birds and their habitats. It is the largest voluntary nature conservation organisation in Europe with a membership of over 1,010,000, of which 70,000 are in Scotland, and manages 93,000 ha of nature reserves in the UK.
- 1.2 Mussels are one of the main foods of the eider duck (dunter). This area can hold significant numbers of eiders.

RSPB Scotland
Shetland Office
Sumburgh Head Lighthouse
Virkie
Shetland

Tel: [REDACTED]
Fax: [REDACTED]
Facebook: RSPB Shetland
Twitter: @RSPBScotland
rspb.org.uk

 BirdLife
INTERNATIONAL

The RSPB is part of BirdLife International
a partnership of conservation organisations
working to give nature a home around the world

Patron: Her Majesty the Queen Chairman of Council: Professor Steve Ormerod, FIEEM President: Miranda Krastovnikoff
Chairman, Committee for Scotland: Professor Colin Galbraith Director, RSPB Scotland: Stuart Housden OBE Regional Director: Martin Auld
The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037664

- 1.3. The Shetland population of the eider is isolated from those in the rest of Britain. Since 1977, the Shetland eider population has declined by about 65% to a current population of about 5,700 individuals.
- 1.4. Eiders are fully protected under the Wildlife and Countryside Act 1981 and Nature Conservation (Scotland) Act 2004.

2. Recommendations

- 2.1. **This Society recommends that no lethal methods (including shooting and the use of anti-predator nets, deployed in such a way that eiders may become entangled) of reducing eider predation of mussels should be used at this or any other mussel farm in Shetland.**
- 2.2. **The developer should consider the use of properly installed anti-predator nets. Any anti-predator nets should comply with the following guidelines:**
 1. **The anti-predator netting should hang vertically in the water and must be properly tensioned. Nets that are not properly installed and maintained and horizontal nets pose a potential hazard to wildlife; in particular diving birds such as eiders may become entangled and drown.**
 2. **The anti-predator netting must have a mesh size of 70mm to avoid entangling and drowning diving birds.**
 3. **Brightly coloured, thick mesh netting (as opposed to monofilament netting) should be used in order to make the netting visible to diving birds and minimise the risk of entanglement and drowning.**
 4. **The operator should keep records of any animals that are by-caught in the anti-predator netting and submit an annual report on this to SIC and SNH.**

I hope you find these comments helpful. I will pass this letter on to the developer and I should be grateful if you would let me know the outcome of this application.

Yours sincerely



Jenny Sutherland
Casework Administrator

Cc; K Pottinger, East Voe Shellfish.

Leask Ryan@Development Service

From: Carole Laignel [REDACTED]
Sent: 15 April 2015 09:20
To: Leask Ryan@Development Service
Cc: una
Subject: RE: Marine Planning Application 2015/008/MAR

Dear Mr Leask

After further consultation both with Mr Pottinger and with our members, Shetland Shellfish Management Organisation is withdrawing their objection to Marine Planning Application 2015/008/MAR. Mr Pottinger has assured us that the extension will only be to the East of his existing site with no expansion to the West or to the North so access to the Toogs pier and to the Marina will not be affected.

Regards

Carole Laignel
Inshore Co-ordinator
SSMO
Shetland Seafood Centre
Stewart Building
LERWICK
ZE1 0LL
Tel: [REDACTED]
Fax: [REDACTED]

From: Carole Laignel [REDACTED]
Sent: 03 April 2015 17:38
To: [REDACTED]
Cc: [REDACTED]
Subject: Fw: Marine Planning Application 2015/008/MAR

Dear Mr Leask

Shetland Shellfish Management Organisation objects to any extension to this site because this would inhibit a safe navigational passage for the many vessels who use this area.

Regards

Carole Laignel
Inshore Co-ordinator
SSMO
Shetland Seafood Centre
Stewart Building
LERWICK
ZE1 0LL
Tel: [REDACTED]
Fax: [REDACTED]

2 R

Smith Kimberley@Development Service

From: Carole Laignel [carole@ssmo.shetland.co.uk]
Sent: 03 April 2015 17:38
To: Leask Ryan@Development Service
Cc: una
Subject: FW: Marine Planning Application 2015/008/MAR

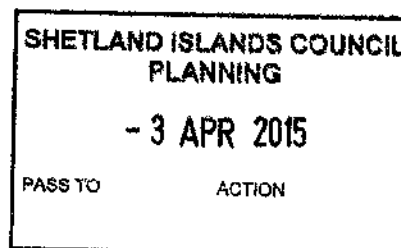
Dear Mr Leask

Shetland Shellfish Management Organisation objects to any extension to this site because this would inhibit a safe navigational passage for the many vessels who use this area.

Regards

Carole Laignel
Inshore Co-ordinator
SSMO
Shetland Seafood Centre
Stewart Building
LERWICK
ZE1 0LL
Tel: 01595 693197
Fax: 01595 694429

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Leask Ryan@Development Service

From: una [REDACTED]
Sent: 15 April 2015 14:52
To: Leask Ryan@Development Service
Subject: Marine Planning Application 2015/008/MAR

Dear Ryan

I write in connection with our previous consultation with our members and recent further clarification and assurance from the applicant. Mr Pottinger has confirmed that there will be no extension to the West or North of the existing lines which was the main concern of our members.

Therefore the Shetland Fishermen's Association wishes to withdraw their objection to Marine Planning Application 2015/008/MAR.

Kind regards
Una

Una Simpson
Office Manager
Shetland Fishermen's Association

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Leask Ryan@Development Service

From: una [una@shetlandfishermen.com]
Sent: 06 April 2015 16:30
To: Leask Ryan@Development Service
Subject: FW: Marine Planning Application 2015/008/MAR

Dear Mr Leask

In concurrence with the SSMO, the Shetland Fishermen's Association objects to any extension to this site because this would inhibit a safe navigational passage for the many vessels who use this area.

Kind regards
Una

Una Simpson

Office/Finance Manager
Shetland Fish Producers' Organisation Limited

Tel: 01595 693197
Fax: 01595 694429
Website: www.shetlandfishermen.com



Shetland Seafood Centre, Stewart Building, Lerwick, Shetland, ZE1 0LL

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Smith Kimberley@Development Service

From: Adamson Joyce@Scalloway Junior High School
Sent: 24 April 2015 16:24
To: Marine Planning@Development Services
Subject: Marine Planning Consultation 2015/008/MAR

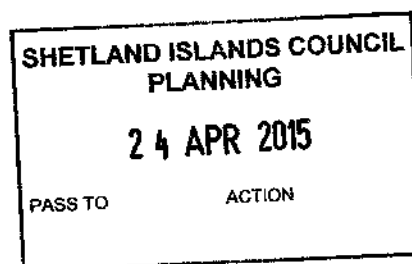
FAO: Ryan Leask

I refer to the above planning consultation which was discussed at our April meeting. The members were concerned that this channel is frequently used and any further developments would be to the detriment of safe navigation through this shallow water channel. The members would rather see no more in this area.

Regards,

Joyce

Joyce Adamson,
Clerk to Burra & Trondra Community Council.
Tel [REDACTED]



SHETLAND ISLANDS COUNCIL
PLANNING

26 MAR 2015

PASS TO

ACTION

Our ref: FFP-15-028
Your ref: 2015/008/MAR

Dear Mr Leask

To extend an existing shellfish site by increasing four 200m twin headline longlines to 220m & adding two extra 220m longlines ; Whalsies Ayre, Stream Sound, South Of Trondra

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

Environmental Impacts

The proposed modification to the mussel longlines with an associated 15 tonne biomass increase should not result in unacceptable impacts to the environment.

Shellfish Hygiene

All currently classified sites within Clift Sound are Class 'A' Apr 2014 to end Mar 2015. As regards the biotoxin risk, Clift Sound is considered a low risk area, this does not mean that no biotoxins are present, just that there is a low risk of the area being closed for extended time periods for shellfish production due to the presence of toxins over the regulatory limit.

Aquaculture Animal Health

Site Location

There are currently 6 sites registered with Marine Scotland Science within 1000m of the site to be modified (see map on page 3). The first is situated ~950m east of the site to be modified and is an active mussel site, operated by SI Seafarms Ltd. The second is situated ~860m east of the site to be modified and is an active Atlantic salmon site operated by NAFC Marine Centre. The remaining 4 sites are situated 450m north west, 730m north, 800m south and 980m east of the site to be modified and are all operated by Eastvoe Shellfish.

Authorisation

Eastvoe Shellfish are already authorised to farm at this location. The company should ensure that any changes to operations on site do not contradict the authorisation conditions.

Summary

There does not appear to be any negative implications on fish or shellfish health from the proposed modifications to extend a mussel farm by positioning two extra longlines on the site and increasing longline length to 220m from 200m at Whalsies Ayre in the Scalloway area of the Shetland Islands.

No further information is required.

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, 375 Victoria Road, Aberdeen, AB11 9DB. Tel: 01224 295525; Email: 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

Marine Laboratory, 375 Victoria Road,
Aberdeen AB11 9DB
www.scotland.gov.uk/marinescotland

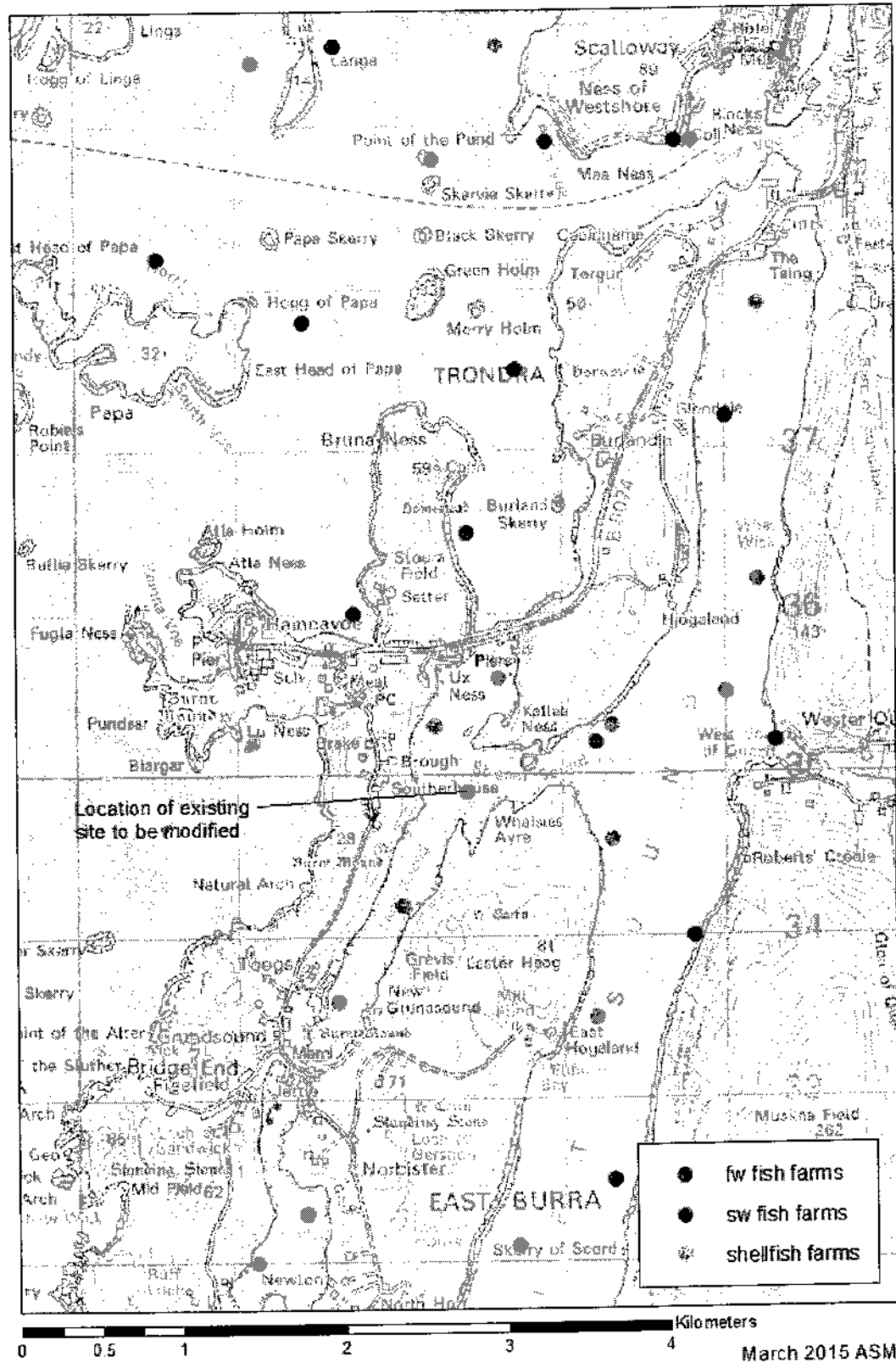
(formally Coast Protection Act 1949 – Section 34 consent), please visit the Scottish Government's website at <http://www.scotland.gov.uk/Topics/marine/Licensing/marine/Applications> where application forms and guidance can be found. Alternatively you can contact the Marine Scotland Licensing Operations Team (MS-LOT) by emailing MS.MarineLicensing@Scotland.gsi.gov.uk; or calling 01224 295 579.

Yours sincerely

Anna Donald
Marine Scotland Science
26/03/2015

Enclosure: Map of Aquaculture sites near Whalsies Ayre, Scalloway

Position of the site Whalsies Ayre,
the Scalloway area, the Shetland Islands





Scottish Natural Heritage

All of nature for all of Scotland

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

By email to: marine.planning@shetland.gov.uk

**SHETLAND ISLANDS COUNCIL
PLANNING**

25 MAR 2015

PASS TO

ACTION

Our ref: CNS/MFF/SI/Aquaculture 2015

25th March 2015

Dear Iain,

2015/008/MAR - To extend an existing shellfish site by increasing four 200m twin headline longlines to 220m & adding two extra 220m longlines ; Whalsies Ayre, Stream Sound, South Of Trondra

Thank you for your email of 12th March consulting us on this application.

Summary

We have no concerns regarding the extension of the development by two mussel longlines, and extending them to 220m.

Appraisal of the Possible Effects on the Shetland National Scenic Area (NSA)

As the floats to be used are of a muted colour we have no major concerns regarding the proposals effect on the integrity of this part of the NSA. The longlines are positioned appropriately given the geography of the area.

Yours sincerely,

Kirsty North

Operations Officer
Northern Isles & North Highland

[Redacted signature]



INVESTOR IN PEOPLE

Scottish Natural Heritage, Ground Floor, Stewart Building, Alexandra Wharf, Lerwick, ZE1 0LL
Tel [Redacted phone number]

RL

Smith Kimberley@Development Service

From: McPake, Charlene [REDACTED]
Sent: 24 March 2015 15:38
To: Marine Planning@Development Services
Subject: 2015/008/MAR

Dear Ryan,

The Crown Estate have no objection to the proposed development.

Kind regards

Charlene

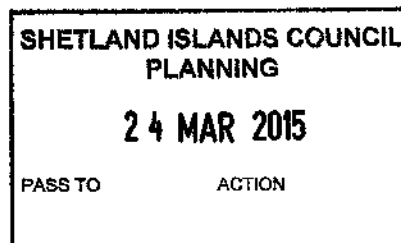
Charlene McPake
Aquaculture Co-ordinator



6 Bell's Brae, Edinburgh, EH4 3BJ

Te [REDACTED]

www.thecrownestate.co.uk



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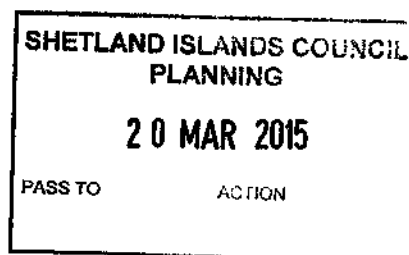
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Our ref: PCS/139123
Your ref: 2015/008/MAR

If telephoning ask for:
Clare Pritchett

20 March 2015

Ryan Leask
Shetland Islands Council
Marine Planning Service
Grantfield
Lerwick
Shetland
ZE1 0UN



By email only to: marine.planning@shetland.gov.uk

Dear Mr Leask

Town and Country Planning (Scotland) Acts

Planning Application: 2015/008/MAR

To extend an existing shellfish site by increasing four 200m twin headline longlines to 220m & adding two extra 220m longlines

Whalsies Ayre, Stream Sound, South Of Trondra

Thank you for your consultation email of 12 March 2015.

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

Advice for the planning authority

1. Shellfish Waters (2006/113/EEC)

- 1.1 Shellfish farms are dependent upon good water quality in order to produce shellfish which meets required food standards. Areas designated under the Shellfish Waters Directive 2006/113/EC are 'protected areas' under the Water Environment and Water Services (Scotland) Act 2003. As part of our regulatory remit we monitor waters to check compliance with relevant standards (including faecal coliforms) and ensure that discharges to the water environment will not adversely impact on the protected area.
- 1.2 The site lies within the Clift Sound Shellfish Water Protected Area (SWPA). Results from 2006 – 2013 show that this site has consistently complied with the guideline standards for faecal coliforms in biota (under the now superseded EC Directive 2006/113/EC for Shellfish Growing Waters).
- 1.3 There are a number of other shellfish farms and CAR licensed fin fish farms within the surrounding water bodies.
- 1.4 The farm is located in the West Voe (200469) water body which has been classified as "Good" in the Water Framework Directive 2013 classification scheme.



Johnathan
David Sigsworth
Charles Collier
James Cutler

Aberdeen Office
Inverdee House, Baxter Street
Torry, Aberdeen AB11 9QA
tel 01224 266600 fax 01224 896657
www.sepa.org.uk

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

- 2.1 The site lies within the Stream Sound: Ux Ness Shellfish Harvesting Area (production area 373), and within 3km of 4 other active Shellfish Harvesting Areas (production areas 36, 37, 38 and 470). All of these harvesting areas have been classified "A" in the Food Standard Agency's 2005 Shellfish Classification scheme for 2014 – 2015.

3. Benthic impact

- 3.1 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, which we consider to be within the Allowable Zone of Effect.

4. Natura 2000 designations

- 4.1 There are no marine sites, designated under the N2K Regs, of concern within the search radius.

5. Scottish Water Assets and other discharges

- 5.1 The nearest Scottish Water assets are situated at North Toogs, ~2km south-west of the shellfish farm.
- 5.2 In addition to Scottish Water assets, there are a number of private treatments works associated with settlements surrounding the loch. The applicant should be aware that the potential input of coliforms into the water body from the treatment works and from land run-off, including that from grazing animals, could affect the classification of shellfish grown

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

Details of other good practice advice for the applicant can be found on our website at 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 [REDACTED] or e-mail at planning.dingwall@sepa.org.uk.

Yours sincerely

Clare Pritchett
Senior Planning Officer
Planning Service

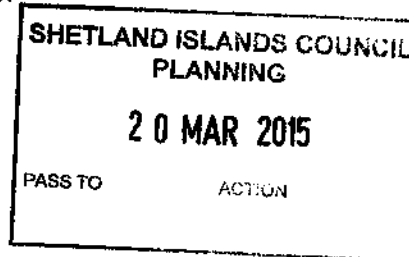
Ecopy to: [REDACTED]

Northern Lighthouse Board

Your Ref: 2015/008/MAR
Our Ref: SD/OPS/ML/F046-15

Iain McDiarmid
Executive Manager – Planning Service
Shetland Islands Council
8 North Ness Business Park
Lerwick
Shetland
ZE1 0LZ

34 George Street
Edinburgh EH2 3DA
Switchboard [REDACTED]
Fax [REDACTED]
Website: www.nlb.org.uk
Email: enquiries@nlb.org.uk



20 March 2015

Dear Iain

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

We are in receipt of your email correspondence dated 12 March 2015 regarding **East Voe Shellfish Ltd's** application to extend their existing shellfish farm site Whalsies Ayre, Stream Sound, South of Trondra, Shetland by increasing four 200m twin headline longlines to 220m & adding two extra 220m longlines.

We recommended this site be marked by 2 lit buoys, yellow in colour and conical in shape, exhibiting a yellow flashing light of character flash one every 5 seconds (Fl Y 5s) and fitted with a yellow multiplication cross topmark.

One buoy should be positioned at the most Northeasterly extremity of the site and the remaining buoy should be positioned at the most Northwesterly extremity of the site.

The buoys should have a diameter of approximately 1 metre at the waterline with the focal plane of the light some 2 metres above that level. The nominal range of the light should be 2 nautical miles. The multiplication crosses should measure a minimum of 50cm in length by 7.5cm in width.

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 **East Voe Shellfish Ltd** and all information regarding site positions forwarded in order that Chart BA3294 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 **East Voe Shellfish Ltd** 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/cpa>

For the safety of all

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

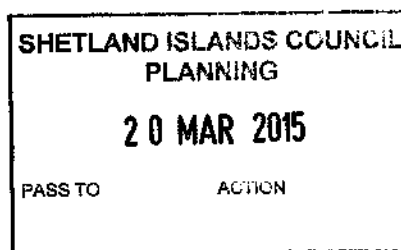
1 RL

Smith Kimberley@Development Service

From: Dinsdale Patti@Infrastructure Services on behalf of foodsafety
Sent: 20 March 2015 16:01
To: Marine Planning@Development Services
Cc: Environmental Health Administration Team
Subject: RE: Marine Planning Consultation 2015/008/MAR

Dear Marine Planning
I have no comments to make about the above application
Regards

Patti Dinsdale
Team Leader - Environmental Health
Charlotte House
Commercial Road
Lerwick
Shetland
ZE1 0LX



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From: Smith Kimberley@Development Service **On Behalf Of** Marine Planning@Development Services
Sent: 12 March 2015 16:13

To: [REDACTED]

Subject: Marine Planning Consultation 2015/008/MAR

Dear Sir/Madam

Planning Ref: 2015/008/MAR

Proposed Development: To extend an existing shellfish site by increasing four 220m twin headline longlines to 220m & adding two extra 220m longlines ; Whalsies Ayre, Stream Sound, South Of Trondra

Applicant: East Voe Shellfish Ltd

Planning Officer: Ryan Leask

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

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 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 Manager – Planning
Shetland Islands Council
8 North Ness Business Park
Lerwick
ZE1 0LZ

Section 4. Other Application Correspondence

13 October 2015

Leask Ryan@Development Service

From: Kenny Pottinger [REDACTED]
Sent: 19 March 2015 15:56
To: Leask Ryan@Development Service
Subject: RE: Whalsies Ayre, Stream Sound.

Hi Ryan

We do 2 lines one year and 2 the next, the third year no new droppers go in. If I get permission I will put in 2 each year for 3 years.

Kenny

From: [REDACTED]
Sent: 19 March 2015 14:56
To: [REDACTED]
Subject: Whalsies Ayre, Stream Sound.

Hi Kenny,

I know on the Whalsies Ayre site you do sequential deployment of the 4 lines, but what order is it? 2 year 1, 1 year 2, 1 year 3?

Thanks

Ryan

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Section 5. Report of Handling

13 October 2015

Delegated Report of Handling

Development: To extend an existing shellfish site by increasing four 200m twin head longlines to 220m and adding 2 extra 220m longlines (part retrospective)

Location: Whalsies Ayre, Stream Sound, South Of Trondra

By: East Voe Shellfish Ltd

Application Ref: 2015/008/MAR

1. Introduction

This application for planning permission relates to the increase of the length of four 200m twin-headline longlines by 20m to 220m twin-headline longlines (retrospective) and also add an extra two 220m twin-headrope longlines to the north of the existing mussel site (ref:2008/020/VF) at Whalsies Ayre, Stream Sound, South of Trondra. The site will be serviced from East Voe, Scalloway.

2. Relevant Policies

Shetland Islands Council Interim Policy for Marine Aquaculture (2007)

PPAG1 - General Factors to be considered

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

PPAS1 - Minimum Separation Distance Between Sites (Shellfish)

PPAS4 - Maximum Surface Works Area (Shellfish)

PPAS7 - Biological Carrying Capacity (Shellfish)

Shetland Local Development Plan 2014

CST1 - Coastal Development

NH1 - International and National Designations

Supplementary Guidance Shetland Islands' Marine Spatial Plan 2014

MSP GEN1 - Wider Considerations

MSP GEN2 - Impacts on Other Sectors

MPHER9 - Safeguarding National Scenic Areas (NSAs) and Local Landscape Areas (LLAs)

MSP AQ1 - Aquaculture

MSP DEV1 - Marine Developments

MSP FISH1 - Safeguarding Fishing Opportunities

3. Safeguarding

National Scenic Area.

4. Consultations

Environmental Health was consulted on 12 March 2015. Their comments dated 20 March 2015 can be summarised as follows:

No adverse comments.

Ports & Harbours Operations was consulted on 12 March 2015. There was no response from this consultee at the time of report preparation.

Burra & Trondra Community Council Clerk was consulted on 12 March 2015. Their comments dated 24 April 2015 can be summarised as follows:

The members were concerned that the channel is frequently used and any further developments would be to the detriment of safe navigation through this shallow water channel. The members would rather see no more in the area.

The Crown Estate was consulted on 12 March 2015. Their comments dated 24 March 2015 can be summarised as follows:

No adverse comments.

Marine Scotland - Licensing Operations Team was consulted on 12 March 2015. Their comments dated 26 March 2015 can be summarised as follows:

No adverse comments.

The NLB was consulted on 12 March 2015. Their comments dated 20 March 2015 can be summarised as follows:

We recommended this site be marked by 2 lit buoys, yellow in colour and conical in shape, exhibiting a yellow flashing light of character flash one every 5 seconds (Fl Y 5s) and fitted with a yellow multiplication cross topmark.

One buoy should be positioned at the most Northeasterly extremity of the site and the remaining buoy should be positioned at the most Northwesterly extremity of the site.

RSPB was consulted on 12 March 2015. Their comments dated 16 March 2015 can be summarised as follows:

Object to the development as it results in the carrying capacity of the area concerned being exceeded.

SEPA Aberdeen was consulted on 12 March 2015. Their comments dated 20 March 2015 can be summarised as follows:

No adverse comments.

SNH was consulted on 12 March 2015. Their comments dated 25 March 2015 can be summarised as follows:

As the floats to be used are dark muted colour we have no major concerns regarding the proposals effect on the integrity of this part of the NSA. The longlines are positioned appropriately given the geography of the area.

The Shetland Fishermen's Association was consulted on 12 March 2015. Their comments dated 6 April 2015 can be summarised as follows:

Objected to any extension to this site because it would inhibit a safe navigational passage for the many vessels that use the area. After discussions with the applicant they withdrew their objection.

The Shetland Inshore Fishermen's Association was consulted on 12 March 2015. There was no response from this consultee at the time of report preparation.

Shetland Shellfish Management Organisation was consulted on 12 March 2015. Their comments dated 3 April 2015 can be summarised as follows:

Objected to any extension to this site because it would inhibit a safe navigational passage for the many vessels that use the area. After discussions with the applicant they withdrew their objection.

5. Statutory Advertisements

The application was advertised in the Shetland Times on 20.03.2015.

6. Representations

None.

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.

Site monitoring discovered that the longlines at the existing consented site (2008/020/VF) were too long by 20m at the east of the site. The applicant was advised to either apply for the extra 20m or to remove the extra 20m from each line to rectify this breach in planning permission. The applicant submitted this application to rectify this and at the same time decided to add an extra two 220m twin headline longlines. The applicant was advised before lodging their application that it would most likely be refused, as it would be against Policy S7, which states:

"The Council will assess applications for shellfish sites within a particular body of water with respect to its biological carrying capacity (i.e. the total shellfish biomass that can be sustained with a water body). Where the proposed new development or variation to an existing site results in the carrying capacity being significantly exceeded, the Council may be minded to refuse such applications."

The proposal is in breach of S7 as the Shetland Islands Councils biological carrying capacity model indicates the body of water known as Stream Sound can support a total farmed biomass of 25.28 tonnes. The applicant's proposal of having six 220m twin headline longlines deployed sequentially of two each year over three years is calculated to be capable of producing around 71.5 tonnes of mussels, which is 182.83% higher than the carrying capacity.

In support of the application the applicant submitted a hydrographic report survey from 2007 when the site was used for finfish and also a supporting letter stating that:

"I do not anticipate any negative impact on carrying capacity in this area. As you can see from the hydrographic report prepared by NAFC, the whole body of water is being exchanged continually due to the strong tide which is flowing at the same speed at all depths. As I understand the SIC carrying capacity just presumes the top few meters will be exchanged and is designed for voes, rather than in this case a sound. The mean speed of tide is at the higher end of the moderately flushed category. I have farmed mussels in this area for 11 years and feel I know the area well and have never suffered any issues with carrying capacity. The only complaints I receive is that the mussels are too big. I now operate all four mussel sites in the area so any detrimental effects would be limited to my own farms. If I was to suffer any effects from this small increase in tonnage I plan to move the seeded droppers to another site at Whalback Skerry west off Scalloway where I never catch sufficient spat".

Hydrographic surveys essentially measure the current flow at three levels within the water column at one spot at the site to enable modelling the dispersion of waste materials emanating from the site. The carrying capacity model calculation is based on the volume of water that is capable of being exchanged during a full tidal cycle and current flow rates do not impact on this. The fact that the hydrographic

data summary indicates that the flow rates at the three measured depths are similar this does not mean it applies to the whole of the sound nor does it take into account the influences of topography. As such the information supplied does not allow for the carrying capacity model to be ignored and for policy to be waived in this instance.

The RSPB objected due to the carrying capacity being breached for this application.

The SSMO and SFA originally objected due to navigation issues but after discussions with the applicant they withdrew their objections. The Community Council also commented on the impact that the proposal could have on navigation., As the extra lines would only extend the site a further 30m to the north of the existing lines it is not considered that safe navigation through Stream Sound is significantly affected.

Full consultation has been undertaken with all interested parties, including competent and relevant bodies and local communities. The landscape/visual impact associated with this development is not deemed to be significant as it overlaps an existing development. It will not have any additional impact on the National Scenic Area and a design statement was not needed. In light of the above, the proposal complies with Policies G1, G2, GEN1, GEN2, CST1, NH1, HER9, AQ1 and FISH1.

With a maximum surface works area of 16,500m², the proposal complies with Policy S4.

The proposed development site is 130m to the east of an existing mussel site at Lang Sound (2010/002/VF) As these sites were originally consented under a previous policy and the proposed development will not bring the site closer to Lang Sound the proposal therefore complies with Policy S1.

8. Recommendation

Application Refused

Reasons for Council's decision:

(1.) The proposed development would significantly exceed the biological carrying capacity for farmed mussels for Stream Sound. The proposal therefore does not comply with Policy S7 and is therefore refused.

List of refused plans:

- Site Plan Drawing No. 2015/008/MAR-01
Stamped Received. 12.03.2015
- Location Plan Drawing No. 2015/008/MAR-02
Stamped Received. 12.03.2015

- Admiralty Chart Drawing No. 2015/008/MAR-03
Stamped Received. 12.03.2015
- Longline Specification Drawing No. 2015/008/MAR-06
Stamped Received. 12.03.2015

9. **Further Notifications Required**

(2.) None.

10. **Background Information Considered**

(3.) None.

Delegated_Report_of_Handling.doc
Officer: Mr Ryan Leask
Date: 8th May 2015

Section 6. Decision Notice

13 October 2015



SHETLAND ISLANDS COUNCIL

Town and Country Planning (Scotland) Acts

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

East Voe Shellfish Ltd
Saind
East Voe
Scalloway
Shetland
ZE1 0US

Reference Number: 2015/008/MAR

Development: To extend an existing shellfish site by increasing four 200m twin head longlines to 220m and adding 2 extra 220m longlines (part retrospective)

Location: Whalsies Ayre, Stream Sound, South Of Trondra

Details of Refused Plans and Drawings:

- Site Plan 2015/008/MAR-01
Stamped Received 12.03.2015
- Location Plan 2015/008/MAR-02
Stamped Received 12.03.2015
- Admiralty Chart 2015/008/MAR-03
Stamped Received 12.03.2015
- Longline Specification 2015/008/MAR-06

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**

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 12.03.2015

Reasons for Council's decision:

- (1.) he proposed development would significantly exceed the biological carrying capacity for farmed mussels for Stream Sound. The proposal therefore does not comply with Policy S7 and is therefore refused.

11 May 2015



Executive Manager - Planning

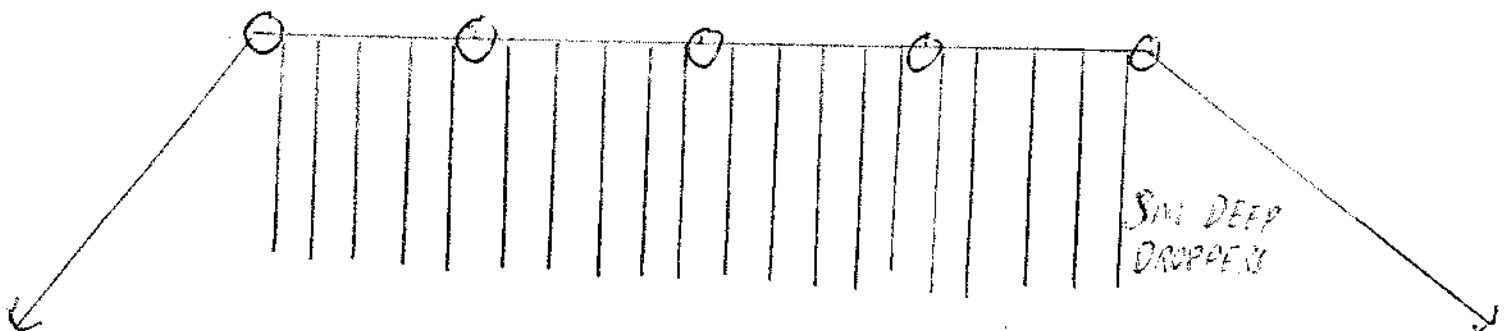
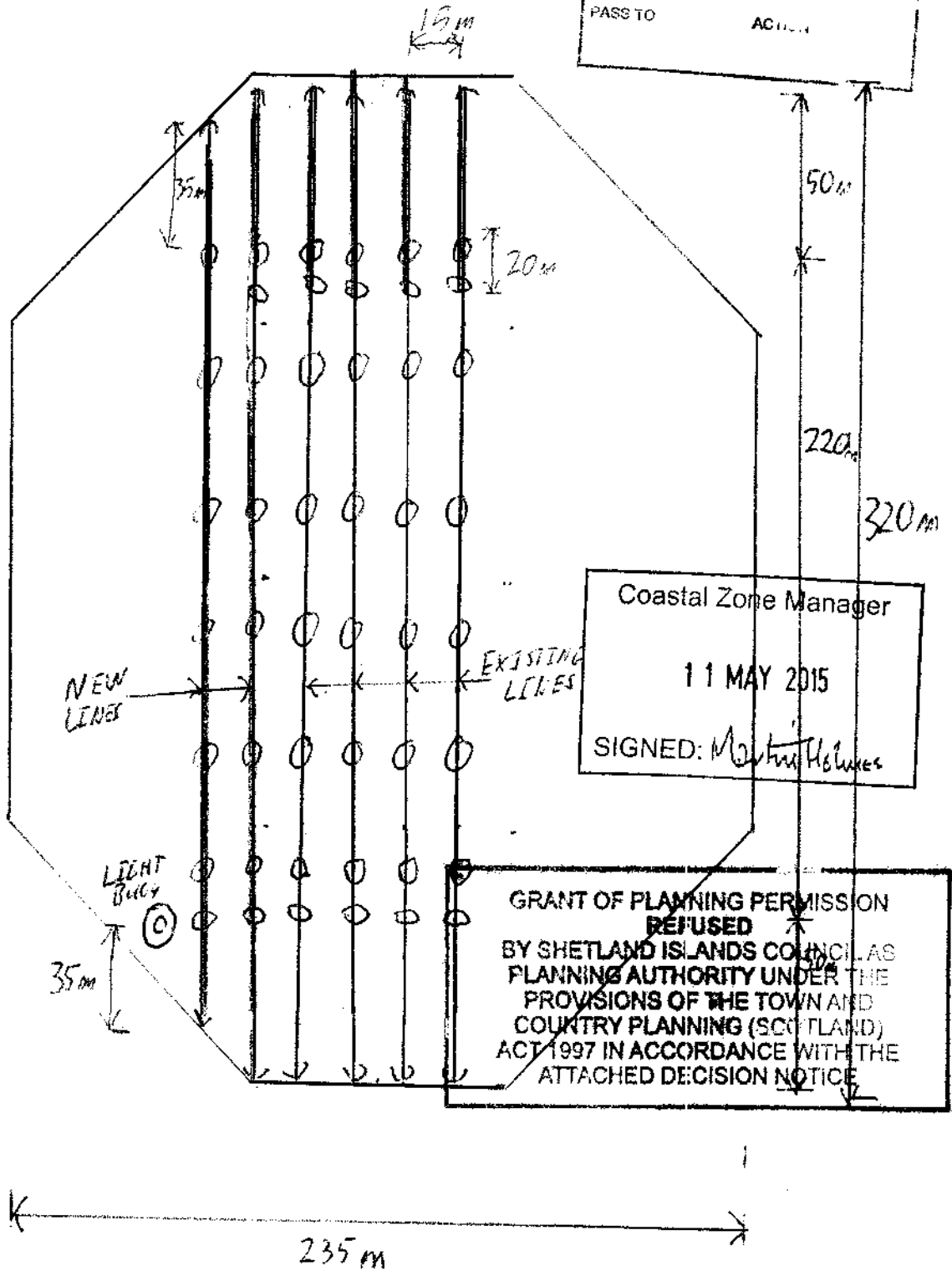
2015/008/MAR-01

SHETLAND ISLANDS COUNCIL
PLANNING

12 MAR 2015

PASS TO

ACTION



2015/008/MAR-02

is the location plan referred to in the foregoing
Licence granted by Shetland Islands Council to
the Salmon Limited.

5097-100 6

GRANT OF PLANNING PERMISSION
UNDER THE TOWN AND COUNTRY PLANNING (SCOTLAND)
ACT 1967 APPROVED
BY SHETLAND ISLANDS COUNCIL AS
PLANNING AUTHORITY UNDER THE
PROVISIONS OF THE TOWN AND
COUNTRY PLANNING (SCOTLAND)
ACT 1967 IN ACCORDANCE WITH
THE ATTACHED DECISION NOTICE

17 MAY 2015

SIGNED

~~SIC~~ ~~ED~~

GRANT OF PLANNING PERMISSION
REFUSED
BY SHETLAND ISLANDS COUNCIL
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**

12 MAR 2015

Pass TO

RECEIVED

06 JUL 2005

DEVELOPMENT DEPT

DEVELOPMENT DEPT.

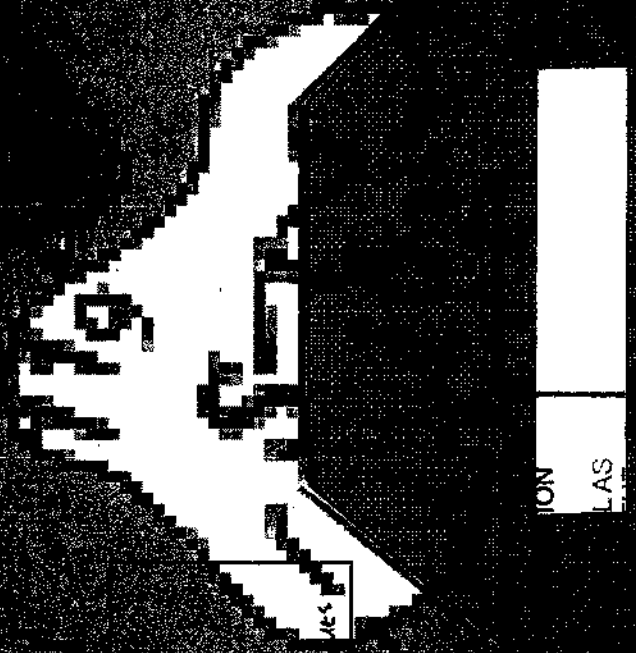
16 MAR 2005

RECEIVED

- 55 -

WGS84 PROJECTION.

2015/008/MAR-03



ION
LAS

East Voe Shellfish Ltd

Equipment to be deployed at Whalsies Ayre,
Stream Sound.

500kg plough anchors
26m of 32mm chain
40mm mooring rope, seasteel
32mm headlines, seasteel
Grey 300 litre Gem floats

Coastal Zone Manager

11 MAY 2015

SIGNED: *Martin Holmes*

**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**

12 MAR 2015

PASS TO

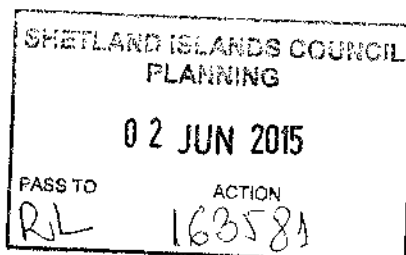
ACTION

Section 7. Notice of Review

13 October 2015



Development Services Department
Shetland Islands Council



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

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

2. Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

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

2015/008/MAR

Site address

Whalsies Ayre
South of Trondra

Description of proposed development

To increase site from 4 longlines to 6 longlines.

Date of application

12/03/2015

Date of decision (if any)

11/05/2015

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 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.

I do not agree with the carrying capacity the SIC have decided on for this area.

The formula used to decided carrying capacity is designed for a voe, not a sound as in this case, so does not give a true result.

The hydrographic data compiled by competent bodies at NAFC was not given real consideration.

I am not really increasing the biomass on the site I am just allowing for us to put new ropes in the water to catch the summer spat before I harvest out the big mussels on others lines in August and September. This will avoid us having a blank year on the site with no harvest and having only two lines with mussels for nine or ten months a year.

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.

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.

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

1/5/15

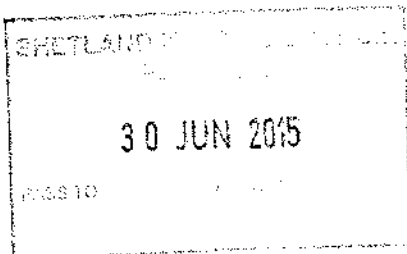
Please send this completed form to:

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 Visit: www.shetland.gov.uk

Section 8. Hearing Statements

13 October 2015



East Voe Shellfish Ltd

Shetland Islands Council

Local Review Body
8 North Ness Business Park
Lerwick
Shetland
ZE10US

Sained
East Voe
Scalloway
Shetland
ZE1 0US
25/06/15

Vat no.808642422

Tel: [REDACTED]

Ref: 2015/008/MAR-LR3

I am writing to state that it is my intention to be present when the Local Review Body meets to determine this application.

I do not wish to present any new documents at the meeting but would like to share some points I have already discussed with the planning officers.

These points being.

I am not increasing the biomass on the site, the two new lines are to allow continued use of the site with a harvest every year and no blank year which you need with a three year cycle.

The increase in line length from 200 - 220m is to allow for the lines to stretch, there will still be the same number of droppers, and no increase in biomass.

The model used by the SIC to determine carrying capacity was designed for voes and does not reflect an accurate result when applied to a sound due to the significant difference in tidal flow.

I supplied a hydrographic report compiled by NAFC showing strong tides and full depth water movement, but I feel this was ignored because it could not fit with the carrying capacity model.

Regards

Kenny Pottinger
Director