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Date: 17 April 2018

Dear Sir/Madam

You are invited to the following meeting:

**Environment and Transport Committee
Council Chamber, Town Hall, Lerwick
Tuesday 24 April 2018 at 10am**

Apologies for absence should be notified to Leisel Malcolmson, at the above number.

Yours faithfully

Executive Manager – Governance and Law

Chair: R Thomson
Vice Chair: R McGregor

AGENDA

- (a) Hold circular calling the meeting as read.
- (b) Apologies for absence, if any.
- (c) Declarations of Interest - Members are asked to consider whether they have an interest to declare in relation to any item on the agenda for this meeting. Any Member making a declaration of interest should indicate whether it is a financial or non-financial interest and include some information on the nature of the interest. Advice may be sought from Officers prior to the meeting taking place.
- d) Confirm the minutes of the meetings held on i) 6 February 2018 and ii) 5 March 2018 (enclosed).

ITEMS

1. Sullom Voe Harbour Area – Development Planning
PH-08-18
2. Access for Wheelchair Users to Taxis and Private Hire Cars
DV-18-18



Meeting(s):	Development Committee Environment & Transport Committee Harbour Board Policy & Resources Committee	23 April 2018 24 April 2018 25 April 2018 30 April 2018
Report Title:	Sullom Voe Harbour Area – Development Planning	
Reference Number:	PH-08-18F	
Author / Job Title:	John Smith, Acting Executive Manager – Ports & Harbours	

1.0 Decisions / Action required:

- 1.1 That Development Committee take the necessary strategic decision to authorise development of a Marine Development Masterplan for Sullom Voe Harbour Area;
- 1.2 That Environment and Transport Committee and Harbour Board consider and comment to Policy and Resources Committee on aspects within their respective remits (see paragraph 6.10 of this report), and,
- 1.3 That Policy and Resources Committee consider any views from the Committees/Board before deciding to give final approval of the resources required from the Harbour Account to undertaken this planning exercise.

2.0 High Level Summary:

- 2.1 This report presents proposals on how best to progress the consideration of planning and marine development guidance for the Sullom Voe Harbour Area.
- 2.2 It provides background on current marine development arrangements, and how they were developed. It then considers the objectives and practicalities of planning future development in the Sullom Voe Harbour Area in a balanced and structured fashion.

3.0 Corporate Priorities and Joint Working:

- 3.1 Section 3 in the Ports and Harbours Strategic Overview considers overall Council priorities for economic development and transport as they relate to marine activities in some detail.
- 3.2 'Our Plan 2016 to 2020' states; "We will be an organisation that encourages creativity, expects co-operation between services and supports the development of new ways of working".
- 3.3 This report recognises the importance of cross Council co-operation in much of the work that Ports & Harbours is involved in and therefore looks to discuss that work with, and be informed by, key committees.

4.0 Key Issues:

- 4.1 Shetland's participation in the Oil and Gas industry is underpinned by the Port of Sullom Voe. As part of the arrangements for effective port management and conservancy the majority of Yell Sound, from the Point of Fethaland, mainland to Fogla-lee, Yell in the north to the Ness of Copister, Orfasay, Samphrey and Burra Ness at the South East, is designated as the "Sullom Voe Harbour Area" (SVHA). This area also includes the piers and harbours at Collafirth, Toft and Ulsta as well as the waters up to the head of Sullom Voe at Mavis Grind.
- 4.2 In addition to Oil & Gas support activity there are a range of other users and stakeholders in the area. Fishing, shellfishing, transport and leisure users all utilise Yell Sound frequently, it is also an important environmental location including the Sullom Voe Special Area of Conservation (SAC) designation for the whole inner harbour area and has been the subject of continuous environmental monitoring by the Shetland Oil Terminal Environmental Advisory Group (SOTEAG) since the Sullom Voe Oil Terminal was opened.
- 4.3 Aquaculture is currently not permitted anywhere in the SVHA by policy contained in the Supplementary Guidance – Aquaculture adopted in April 2017, see appendix 1 for background. There is continued commercial interest from the aquaculture sector in possible future development in the SVHA should arrangements change. Other potential future users of the area include marine renewables as well as further fishing, leisure and oil and gas interests.
- 4.4 Given the range of potentially competing interests and the changes to technologies and user needs and interests over time it is likely that a comprehensive "Marine Masterplan" that considers the full range of competing uses within the SVHA would be the best method of planning and guiding future development in a balanced, structured and sustainable manner.
- 4.5 Shetland has had a non-statutory marine spatial plan in place since 2006. The current 4th edition was adopted as supplementary guidance to the Shetland Local Development Plan in 2015 and is due to be replaced in 2019 by Shetland's first Regional Marine Plan (RMP) as required under the Marine (Scotland) Act 2010.
- 4.6 Public consultation on the scope of the draft RMP for Shetland is due to commence in April 2018, and it is proposed that the following new policy statement will be included in that draft plan:
- "DEV4: All proposals for marine-related developments located within or adjacent to a designated harbour area must comply with any harbour plans, policies, directions and by-laws in place within such designated harbour areas."*
- 4.7 The production of a "SVHA Masterplan" would inform the draft RMP for the Sullom Voe designated harbour area. It would clearly be guided by the general principles, objectives and overarching policies of the Shetland RMP, but would go into greater detail within the SVHA. The Masterplan would provide a foundation for future marine development in the SVHA and the arrangements required for that to be most effectively managed. The outcome of any master planning exercise would also inform whether there is a need for a review of the policy prohibiting aquaculture within the SVHA and it may be preferable for both exercises to run concurrently to prevent unnecessary time lag.

4.8	A Shetland Partnership “Locality Planning” exercise for the Yell, Unst and Fetlar, a masterplan for the “Shetland Hub” (the Sullom Voe landward area) and Crown Estate asset management pilots are also being progressed at this time. Any SVHA masterplan would work alongside these exercises with each informing and complementing the other.
4.9	The conduct of any Master Planning exercise would be a joint activity between the Infrastructure and Development Departments drawing on the expertise of the Planning, Economic Development and Community Planning and Development Services in particular.
4.10	Costs of the exercise would be borne by the Harbour Account as the area under consideration is a designated harbour area. It is difficult to be precise about the timetable for the completion of a comprehensive Masterplan but it would be likely to take some 12 to 18 months to conduct the wide range of consultation, data collection, modelling and associated activity.
5.0 Exempt and/or confidential information:	
5.1	None
6.0 Implications:	
6.1 Service Users, Patients and Communities:	The potential for a review has already been the subject of consultation with stakeholders including the Sullom Voe Association, SOTEAG, relevant Council services, fishing, shellfish, salmon and mussel aquaculture interests. The development of any Master Plan would be the subject of further widespread consultation among these stakeholders and local communities.
6.2 Human Resources and Organisational Development:	No implications arising directly from this report.
6.3 Equality, Diversity and Human Rights:	No implications arising directly from this report.
6.4 Legal:	Governance and Law provide advice and assistance on the full range of Council services, duties and functions including those included in this report.
6.5 Finance:	<p>The Council earns income from the services provided at the Port of Sullom Voe, and other piers and harbours within the SVHA. It also bears the costs of providing the infrastructure and those services.</p> <p>Protecting and balancing Council, community and commercial financial interests would be an important factor in any comprehensive Master Planning interest.</p> <p>It is likely that some external costs in specialised economic appraisal and environmental assessment services would be required to produce any Master Plan. It may be possible to access these services as per the arrangements in place for the</p>

	<p>production of the Shetland RMP. Additional costs will be met from the Council's Harbour Account.</p> <p>Any diversion of resource from the Council's Harbour Account for non-operational activity, given the consequential income foregone, requires a decision from Policy and Resources Committee.</p> <p>No detailed cost estimate has been produced at this stage, but other recent Master planning exercises conducted by the Council have cost up to £100,000.</p>
6.6 Assets and Property:	While the SVHA is not technically a Council owned asset, the seabed belongs to the Crown Estate, the foreshore and port infrastructure are Council assets. Capital Projects will be consulted with regard to potential impacts on these assets, and as advisors on any engagement with the Crown Estate.
6.7 ICT and new technologies:	No implications arising directly from this report.
6.8 Environmental:	Protection of the Shetland marine environment is a key priority and would be the prime objective in any marine master planning exercise.
6.9 Risk Management:	Structured planning and guidance about long term development is intended to reduce risk associated with unplanned activity and mitigate potential adverse environmental and economic consequences.
6.10 Policy and Delegated Authority:	<p>Development Committee</p> <p>The relevant functional areas include relate to strategic regeneration, development, economy and business, energy, fisheries, arts, culture, and tourism and community regeneration / community development.</p> <p>Environment and Transport Committee</p> <p>The relevant functional areas include the natural environment, roads, transport and ferry services.</p> <p>Harbour Board</p> <p>Strategic oversight and direction in all aspects of the operation of the Council's harbour undertaking in accordance with overall Council policy and the requirements of the Port Marine Safety Code.</p> <p>Act as Duty Holder as required by the Port Marine Safety Code and ensure that the necessary management and operational mechanisms are in place to fulfil that function.</p> <p>Consider all development proposals and changes of service level within the harbour undertaking; including dues and charges, and make appropriate recommendations to the Council.</p>

	Policy & Resources Committee Develop and recommend the corporate plan, the development plan and the overall framework of strategies contained in the Policy Framework. A matter having application across or which affects the terms of reference of more than one body will be referred to the Policy and Resources Committee who may give such advice as may be appropriate or refer the matter to the Council. Secure the co-ordination, control and proper management of the financial affairs of the Council.	
6.11 Previously considered by:	Harbour Board Policy & Resources Committee	7 February 2018 12 February 2018

Contact Details:

John Smith, Acting Executive Manager – Ports & Harbours
 jrsmith@shetland.gov.uk
 26 March 2018

Appendices:

Appendix 1 – SVHA Planning Policy Development Background

Background Documents:

Ports & Harbours Strategic Overview

END

Aquaculture exclusion in Sullom Voe Harbour Area – Policy History

Zetland County Council Act 1974

Part II/ GENERAL DUTIES AND POWERS/ Sections 5 & 6:

5. –(1) *It shall be the duty of the Council, subject to the provisions of this Act, to take all such action as they consider necessary or desirable for or in connection with–*
- (a) the conservancy of, and the control of development in, the coastal area and in the vicinity of a harbour area;*
 - (b) the promotion of development and the provision, maintenance, operation and improvement of port and harbour services and facilities in, and in the vicinity of, a harbour area.*
6. *The Council shall exercise jurisdiction as a harbour authority and the powers of the harbourmaster shall be exercised within–*
- (a) the areas the respective limits or which are described in Schedule 1 to this Act; and*
 - (b) any area designated by the Secretary of State under section 33 (Harbour jurisdiction in respect of works) of this Act.*

North Mainland Local Plan Report of Survey, June 1985

4.56 *The suitability of a site for salmon farming depends on sea conditions (shelter, water depth and water exchange) and on the absence of conflict with existing fishing, navigation, recreation and nature conservation interests. No sites have been identified in Sullom Voe because of the risk of oil pollution and possible navigational hazards.*

North Mainland Local Plan (Draft) Summary Leaflet, June 1988

Salmon Farming

Offshore salmon farming, which is the fastest-growing industry in Shetland, is controlled by the Council by means of a system of Works Licences. The Council has detailed policies on the siting of salmon cages which aim, amongst other things, to reduce the likelihood of disease and protect other water uses. Comment would be welcomed on the extent to which scenic quality should be taken into account. Salmon farms will not be allowed in the Sullom Voe Harbour Area for as long as its main purpose is the navigation of vessels using Sullom Voe Terminal.

North Mainland Local Plan Public Participation Report, April 1989

Appendix G – North Mainland Local Plan (Draft) Summary of Written Comments and Action Taken

Shetland Salmon Farmer's Association comments:

Policies E9-E10 – Amend text to allow a rational and balanced consideration of fish farming development within the Sullom Voe Harbour Area before closure of the Terminal.

Response:

Amend Policy E10 to read “Fish farming will not normally be permitted...” to allow for special cases where there would be no conflict with shipping and harbour operations.

North Mainland Local Plan, September 1989

Industrial Strategy/ Salmon Farming/ paragraph 3.29:

Special consideration will need to be given to any proposals for salmon farming in Sullom Voe or in the voes off Yell Sound. Salmon farms will not normally be permitted in the designated Sullom Voe Harbour Area in view of the dangers of oil pollution, the likely conflict with vessels navigating the approaches to Sullom Voe Terminal, and the danger that effluent from the salmon farms will upset the detailed chemical and biological monitoring programmes undertaken by SOTEAG in Sullom Voe and Yell Sound. In order to assess the effects on the environment caused by discharges from the Terminal, SOTEAG has to be able to carry out studies of water quality and sediment composition which could easily be disturbed if pollutants from another source are entering the water. It is proposed that this policy should be reviewed when the oil output from the Terminal has declined to 50% of its peak (1986) level in order to allow the planned introduction of salmon farming into this area when the Terminal eventually closes.

Salmon Farming Policies:

E9 - Fish farming will not normally be permitted anywhere within the Sullom Voe Harbour Area (as defined in the Sullom Voe Harbour Revision Order 1980) for as long as its primary purpose is to accommodate vessels engaged in the carriage of hydrocarbons or other dangerous substances.

E10 – Policy E9 will be reviewed when oil throughput at Sullom Voe Terminal has decreased to 50% of its peak (1986) level in order to allow the planned introduction of fish farming to the Sullom Voe Harbour Area after the closure of the oil terminal.

Works Licence Policy

Policy E9 quoted in Annex 1 (Other relevant Planning Policies and Designations) of the 1999 Works Licence Policy.

Wording of Policy E9 as contained in Annex 1 (Other relevant Planning Policies and Designations) of the 2004 Works Licence Policy changed from previous in that it reads:

Fish farming will not ~~normally~~ as a matter of policy be permitted anywhere within the Sullom Voe Harbour Area (as defined in the Sullom Voe Harbour Revision Order 1980) for as long as its primary purpose is to accommodate vessels engaged in the carriage of hydrocarbons or other dangerous substances.

The above amended wording was also carried over to the 2005 Works Licence Policy.

Aquaculture Planning Policy

Policy M7 of the 2007 Interim Policy for Marine Aquaculture:

Over time, the Council has adopted policies in coastal areas of Shetland where there is a general presumption against aquaculture development. Such policies are as follows:

- (a) Fish farming will not as a matter of policy be permitted anywhere within the Sullom Voe Harbour Area (as defined in the Sullom Voe Harbour Revision Order 1980) for as long as its primary purpose is to accommodate vessels engaged in the carriage of hydrocarbons or other dangerous substances;*
- (b) No aquaculture developments will be permitted in Whiteness Voe north of a line between Usta Ness and Grutwick or the upper part of Weisdale Voe between the Taing of Haggersta and Vedri Geo;*
- (c) No further new aquaculture developments will be permitted in Busta Voe north of a line drawn between Hevden Ness, Mainland and Green Taing, Muckle Roe as a matter of policy, and variations to existing sites north of this line should not result in either an increase in site size, a change in site location or an increase in environmental or visual impact.*

Policy M7 carried over to the 2017 Aquaculture Supplementary Guidance (now Policy G4) which was adopted as statutory supplementary guidance to the Local Development Plan in April 2017.

Challenges to Policy

In 2003, works licence applications were lodged for three salmon farm developments within the limits of Sullom Voe Harbour Area. All three applications were withdrawn prior to determination.

Also in 2003, eight works licence applications were lodged by two competing developers for mussel farm developments within the harbour limits. All eight applications were refused by the Marine Development Sub-Committee as contrary to Policy E9 of the North Mainland Local Plan. Six of the eight decisions were the subject of appeals to Scottish Ministers, all of which were dismissed.

Interpretation of “Fish farming”

Extract from the reports for the eight mussel farm works licence applications:

Part 9.1 of the Council’s Works Licence Policy interprets “marine fish farming” to mean “the cultivation of finfish or shellfish in the coastal area”. In light of this interpretation, the term “Fish farming” as stated in Policy E9 of the North Mainland Local Plan applies to all forms of aquaculture development, including mussel farming.

The Town and Country Planning (Scotland) Act 1997 defines “fish farming” as the breeding, rearing or keeping of fish or shellfish (which includes any kind of sea urchin, crustacean or mollusc).

Initial mention of policy review (2017)

Extract from minute 06/17 of the Development Committee meeting of 08 February 2017:

During the discussion, the Leader referred to the existing Policy, that aquaculture developments are not permitted within the Sullom Voe Harbour Area, and he suggested the need for a review in that regard.

Mr Robertson moved that the Committee approve the recommendation in the report. In seconding, Mr Robinson proposed that a review be undertaken of the Sullom Voe Harbour Area for aquaculture developments, to be reported in due course. Mr Robertson agreed to this addition to his motion, and the Committee concurred.

Decision:

The Committee RECOMMENDED to the Council that it resolve to adopt the Supplementary Guidance – Aquaculture as statutory guidance to the Local Development Plan.

The Committee requested a review be undertaken of the Sullom Voe Harbour Area for aquaculture developments, to be reported in due course.

Extract from minute 09/17 of the Shetland Islands Council meeting of 22 February 2017:

The Council considered a report by the Chair of Development Committee (SIC-0217-DV-12) which presented the Supplementary Guidance (SG) - Aquaculture.

In introducing the report, Mr Cooper advised from the additional decision at Committee, for a review to be undertaken of the Sullom Voe Harbour Area for aquaculture developments, to be reported in due course. Mr Cooper moved that the Council approve the recommendation in the report. Mr T Smith seconded. Dr Wills asked for his abstention to the decision to be recorded.

Dr Wills advised on his alarm at the request for a review to be undertaken of the status of the Sullom Voe Harbour Area, which at present was free from aquaculture developments. He advised on the tonnage of farmed salmon produced in Shetland during 2013, but he questioned if anybody knew what was the tonnage of salmon faeces released. He said that he did not agree to any increase in aquaculture developments, where it is not a sustainable industry, and there are also the problems with sea lice. He said that despite a large oil terminal at Sullom Voe, the inshore area is relatively pristine, and the Special Area of Conservation status, which had largely contributed to this situation, should never be changed.

During the discussion, Members were advised on the discussion at Development Committee and on the purpose of the review. It was confirmed that there is no assumption that the review would result in any new developments, but that a review of the status of the area was overdue.

Mr Robertson advised on the thorough consultation process, he said that the SG – Aquaculture was an excellent document, and that salmon farming was an important industry to Shetland. In terms of the review, he advised on the need for an extremely cautious approach when considering aquaculture developments in Sullom Voe. Mr Cooper advised on the need for the review to be carried out, which he said would not impact on the SG for the aquaculture industry.

Escalation of possible policy review (2018)

Council Committees (February 2018)

Extract from report title “Ports & Harbours Strategic Overview” presented to Harbour Board on 07 February and Policy & Resources Committee on 12 February:

4.7 *The second relates to a review of the blanket exclusion of aquaculture from the whole Sullom Voe Harbour Area which is currently in force. The Harbourmaster and Marine Examination Panel have concluded that this blanket exclusion is no longer required in the outer Sullom Voe Harbour Area for navigational safety reasons, given the substantial reduction in tanker traffic using Sullom Voe.*

4.8 *It is their recommendation that consultation on a case-by-case basis, in the same way that marine development is managed in other locations, would provide sufficient safeguard for existing and anticipated Oil Tanker traffic management within that area. These processes also allow for other stakeholders and concerned parties to comment on any developments proposed.*

4.9 *The Sullom Voe Harbour Area blanket exclusion is part of the Councils suite of Planning guidance. It is recommended that any review of that guidance take into account this revised position relating to the outer Sullom Voe Harbour Area. Any review would be co-ordinated by Development Services.*

The report can be viewed here:

<http://www.shetland.gov.uk/coins/Agenda.asp?meetingid=5526>

Extract from minute 2/18 of the Harbour Board meeting of 07 February 2018:

Sullom Voe Harbour Area. *The Acting Executive Manager – Ports and Harbours advised of an expression of interest from the aquaculture industry to reconsider the blanket exclusion that currently exists for the Sullom Voe Harbour Area. During discussions it was suggested that if the industry accepts the risk to their aquaculture business in the event of an oil spill, lifting the blanket ban may be an option. However there was still a desire for oil and pipelines coming ashore in the North of the harbour area and allowing aquaculture activities may discourage the oil industry from coming into Sullom Voe. A request was made that more discussion on this matter was required, and in particular with the Sullom Voe Association (SVA) in the first instance. The Director of Infrastructure Services agreed stating that it should be on the SVA agenda in March which would help Officers and Members to understand how Enquest will support West of Shetland development. The Harbourmaster advised that he had looked at a number of areas from a navigational perspective where it would not impinge on navigation in the harbour area.*

A suggestion was made that it would be useful to identify certain routes as possible pipeline options to evidence to the Oil industry that there are routes available, making Sullom Voe an attractive option. The Director of Infrastructure Services said that this would spark discussion with the industry were the SVA to identify these routes. She added that the master plan for Sullom Voe fits in well with this suggestion and it would be good to align all this work to see what could be done in terms of works licences, bringing the three strands together.

During discussion around specific areas that could be identified within the harbour area for sea farming, it was recognised that there are a number of assets around Shetland that have been created that provide no benefit to the Council as Harbour Authority for use of the harbour other than landings across piers. It was suggested that the Council could look into being actively involved as a developer owning its own works licence where a salmon farmer would rent the area during the production cycle. The Director of Infrastructure Services agreed that this could be discussed during the master planning stage in terms of how it relates to other activities that are not just oil and gas activities.

In considering the recommendations contained in the report, comment was made that more information was required around paragraph 4.7-4.9 on the harbour area before a decision is made. Members were reassured however that the decision required today was to simply undertake a review to consider whether the blanket ban should remain and that more information would be brought to the Harbour Board to make a decision. In seeking assurance from the Solicitor, Members were advised that Legal Services would look at all areas of consideration during the review process. The Solicitor said that it was prudent to look at the activities of Ports and Harbour and Legal Services will be part any review process.

During debate it was suggested that sight of the original report that approved the blanket ban would be useful and following further discussion, Mr Cooper moved that the Harbour Board approve the recommendation to Policy and Resources Committee that the actions proposed in sections 4.4 to 4.6 of this report relating to: the disposal of ex foot passenger piers; and that the review of blanket exclusion of aquaculture activity from the whole Sullom Voe Harbour Area at sections 4.7, 4.8 and 4.9 be the subject of a further report to the Harbour Board and the Development Committee which will include an initial view from the Sullom Voe Association, on activity in the inner and outer harbour area, and include sight of the original report that resulted in the decision of the Council excluded harbour activity in the Sullom Voe Harbour area. Mr Burgess seconded.

Decision

The Harbour Board;

- CONSIDERED the information and proposals described in the Ports & Harbours Strategic Overview and;*
- RECOMMENDED to Policy and Resources Committee.....that the review of blanket exclusion of aquaculture activity from the whole Sullom Voe Harbour Area at sections 4.7, 4.8 and 4.9 be the subject of a further report to the Harbour Board and the Development Committee which will include an initial view from the Sullom Voe Association, on activity in the inner and outer harbour area, and include sight of the original report that resulted in the decision of the Council excluded harbour activity in the Sullom Voe Harbour area. Mr Burgess seconded.*

Extract from minute 17/18 of the Policy & Resources Committee meeting of 12 February 2018:

In introducing the report, the Acting Executive Manager – Ports & Harbours advised from the decision at Harbour Board, to recommend the actions proposed in sections 4.4 to 4.6 of the report relating to the disposal of ex foot passenger piers, but that the review of blanket exclusion of aquaculture activity from the whole Sullom Voe Harbour Area at sections 4.7, 4.8 and 4.9 be the

subject of a further report to the Harbour Board and the Development Committee, which will include an initial view from the Sullom Voe Association, on activity in the inner and outer harbour area, and include sight of the original report that resulted in the decision of the Council excluded harbour activity in the Sullom Voe Harbour area. In that regard, the Acting Executive Manager – Ports and Harbours advised that the further report would be presented during the May cycle of meetings.

In moving the recommendation in the report, Mr Cooper referred to the decision at Harbour Board for consultation to take place with Sullom Voe Association, and he suggested that SOTEAG also be consulted in terms of environmental issues. Mr Coutts seconded.

Decision:

The Committee RESOLVED to approve the actions proposed in sections 4.4 to 4.6 of the report relating to; the disposal of ex foot passenger piers; and

That the review of blanket exclusion of aquaculture activity from the whole Sullom Voe Harbour Area at sections 4.7, 4.8 and 4.9 be the subject of a further report to the Harbour Board and the Development Committee which will include:

- an initial view from the Sullom Voe Association on activity in the inner and outer harbour area,*
- consultation with SOTEAG in terms of environmental issues, and*
- sight of the original report that resulted in the decision of the Council excluded harbour activity in the Sullom Voe Harbour area.*

Aquaculture exclusion in Sullom Voe Harbour Area – Policy Review Procedures

The policy prohibiting aquaculture in the Sullom Voe Harbour Area is presently contained in the Aquaculture Supplementary Guidance (SG) which forms part of the suite of SG to the Shetland Local Development Plan 2014. The relevant part of the policy states:

G4 Over time, the Council has adopted policies in coastal areas of Shetland where there is a general presumption against aquaculture development. Such policies are as follows:

(a) Fish farming will not as a matter of policy be permitted anywhere within the Sullom Voe Harbour Area (as defined in the Sullom Voe Harbour Revision Order 1980) for as long as its primary purpose is to accommodate vessels engaged in the carriage of hydrocarbons or other dangerous substances;

Following public consultation, the draft Aquaculture SG was presented to the Development Committee on 08 February 2017. The Committee recommended to the Council that it resolve to adopt the Aquaculture SG as statutory guidance to the Local Development Plan. The Council, at its meeting of 22 February 2017, adopted the Aquaculture SG as statutory guidance to the Local Development Plan. As required by Regulations, notification to Scottish Ministers of the Council's intention to adopt the Aquaculture SG took place on 16 March 2017. Notice was received on 10 April 2017 that Scottish Ministers did not propose to issue a direction in relation to the Aquaculture SG which resulted in it being adopted by the Council on that date.

Any review of the Aquaculture SG would have to be taken forward by the Planning Service following direction to do so by the Council. Given the statutory status of the document, notification to

Scottish Ministers of the Council's intention to undertake a review would be advised. Public consultation on the scope of the review would be required before adoption of any amended Aquaculture SG by the Council. Finally, notification to Scottish Ministers of the Council's intention to adopt any amended Aquaculture SG would be required.

Should it be the will of the Council for the policy prohibiting aquaculture to be lifted from parts of the Sullom Voe Harbour area, the Planning Service is minded it will be essential to fully masterplan the area taking account of all sectors, stakeholders and constraints. That in itself is a significant piece of work which would require adoption by the Council following full stakeholder engagement, consultation, etc. From past experience, it is estimated that it will take 12-18 months from now until any such masterplan could be adopted.

Links to Marine Spatial Planning

Shetland has had a non-statutory marine spatial plan in place since 2006. The current 4th edition was adopted as SG to the Shetland LDP in 2015 and is due to be replaced in 2019 by Shetland's first Regional Marine Plan (RMP) as required under the Marine (Scotland) Act 2010. Public consultation on the scope of the draft RMP for Shetland is due to commence in April 2018, and it is proposed that the following new policy will be included in that draft plan:

DEV4: All applications for marine-related developments must comply with any harbour plans, policies, directions and by-laws in place within designated harbour areas.



Meeting(s):	Environment and Transport Committee Policy and Resources Committee	24 April 2018 30 April 2018
Report Title:	Access for Wheelchair Users to Taxis and Private Hire Cars	
Reference Number:	DV-18-18-F	
Author / Job Title:	Peter Mogridge, Transport Policy and Projects Officer	

1.0 Decisions/Action Required:

- 1.1 That the Environment and Transport Committee RESOLVE to recommend that the Policy and Resources Committee:-
 - 1.1.2 agree that the Council should create and maintain a list of designated wheelchair accessible taxis and private hire cars in terms of Section 167 of the Equality Act 2010; and
 - 1.1.2 delegate authority to the Director of Development Services, or his nominee, to put in place the administrative arrangements required to comply with the legislative provisions which apply when such a list is maintained, in accordance with the relevant statutory guidance.

2.0 High Level Summary:

- 2.1 Section 167 of the Equality Act 2010 permits but does not require Shetland Islands Council, as licensing authority responsible for the issue of taxi and private hire car licences, to create and maintain a list of designated wheelchair accessible taxis and private hire cars (PHCs).
- 2.2 Where such a list is maintained by the Council, (a) Section 165 of the Act requires drivers of designated vehicles not to discriminate against wheelchair users; and (b) Section 166 of the Act requires the Council to grant such drivers a certificate exempting them from the duties imposed by Section 165 on medical or physical grounds.

3.0 Corporate Priorities and Joint Working:

- 3.1 As well as being used by the general public, Taxis and Private Hire Cars are frequently used both under contract and on an ad hoc basis by service providers such as the NHS and the Council. They form a vital part of Shetland's transport network.
- 3.2 Shetland Islands Council is a signatory to Shetland's Equality Outcomes Progress and Mainstreaming Report 2017-2021 – Shetland's joint equality statement made on behalf of Shetland's Community Planning Partners.

4.0	Key Issues:
4.1	Section 167 of the Equality Act 2010 permits, but does not require, Local Authorities in their capacity as licencing authorities responsible for taxi and private hire vehicle licensing under the Civic Government (Scotland) Act 1982 to maintain a list of designated wheelchair accessible taxis and PHCs.
4.2	Where such a list is maintained, Section 165 of the Act requires drivers of designated vehicles (a) to carry a disabled passenger while in their wheelchair; (b) not to make any additional charge for doing so; (c) if a disabled passenger decides to sit in a passenger seat, to carry the wheelchair; (d) to take such steps as are necessary to ensure that a disabled passenger is carried in safety and reasonable comfort; and (e) to give the disabled passenger such mobility assistance as is reasonably required.
4.3	Section 166 of the Act requires the Council to grant such drivers a certificate exempting them from the duties imposed by Section 165 on medical grounds or if their physical condition makes it impossible or unreasonably difficult to comply with those duties.
4.4	Whilst Local Authorities are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue, if they are so minded, to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra.
4.5	<p>Shetland's Joint Equality Statement commits Shetland's Community Planning Partners to fulfilling the three key elements of the general equality duty as defined in the Equality Act 2010:-</p> <ul style="list-style-type: none"> ▪ Eliminating discrimination, harassment and victimisation ▪ Advancing equality of opportunity between people who share a protected characteristic and those who do not ▪ Fostering good relations between people who share a protected characteristic and those who do not
4.6	If the recommendation of this Report is approved, consultation will take place with the local taxi and PHC trade before the decision is implemented.
5.0	Exempt and/or Confidential Information:
5.1	None.

6.0 Implications:		
6.1 Service Users, Patients and Communities:	<p>As well as being used by the general public, taxis and private hire cars are frequently used both under contract and on an ad hoc basis by service providers such as the NHS and SIC. They form a vital part of Shetland's transport network.</p> <p>The creation of a designated list of accessible Taxis and Private Hire Cars will help ensure better access for all members of society.</p>	
6.2 Human Resources and Organisational Development:	None.	
6.3 Equality, Diversity and Human Rights:	The creation of a designated list of accessible taxis and private hire cars will create a more inclusive community, prevent discrimination and promote equality.	
6.4 Legal:	Section 167 of the Equality Act 2010 permits, but does not require, Local Authorities to maintain a designated list of wheelchair accessible taxis and PHCs. When such a list is maintained, the Act imposes further duties on the authority.	
6.5 Finance:	Any additional resources required as a result of the decision in this report will be delivered within the services approved revenue budget.	
6.6 Assets and Property:	None.	
6.7 ICT and New Technologies:	None.	
6.8 Environmental:	None.	
6.9 Risk Management:	None.	
6.10 Policy and Delegated Authority:	In accordance with Section 2.3.1 of the Council's Scheme of Administration and Delegations, the Environment and Transport Committee has responsibility for discharging the powers and duties of the Council within its functional areas. The Policy and Resources Committee had delegated authority to ensure that the Council's strategic policy outcomes are achieved through service delivery, developed in co-operation with the functional committees [Section 2.2.1 (1b) of the Scheme of Administration and Delegations].	
6.11 Previously Considered by:	N/A	

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Appendices: None

Background Documents:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf