

Annex One

MD-LOT European Protected Species Licence Case Handling Report

Licence Number: 00010500

Licensing Officer: [Redacted]

Site	Grutness Harbour Shetland
Company	Shetland Islands Council Town Hall Lerwick Shetland ZE1 0HB
Applicant	[Redacted]
Brief Description of Project	Harbour Improvement Works - Piling
Associated Licences	Marine Licence MS-00010318

Species	harbour porpoise (<i>Phocoena phocoena</i>);minke whale (<i>Balaenoptera acutorostrata</i>);Risso's dolphin (<i>Grampus griseus</i>);white sided dolphin (<i>Lagenorhynchus acutus</i>);killer whale (<i>Orcinus orca</i>);white-beaked dolphin (<i>Lagenorhynchus albirostris</i>);humpback whale (<i>Megaptera novaeangliae</i>);long-finned pilot whale (<i>Globicephala melas</i>)
Inshore/Offshore	Inshore

TEST 1	Purpose of licence
	preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment
Comments	
<p>The Applicant has advised the following:</p> <p>With regard to Test 1 there are several different purposes for which an EPS licence can be granted including, under Regulation 44(2)(e) of the Habitat Regulations for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'.</p> <p>NatureScot Guidance states that, when determining an EPS Licence application, it will be taken into account whether an activity or development is required to meet, or contribute to meeting, a specific need such as maintaining the environment of Scotland's people (including sustainable development and renewable or green energy), complying with national planning policies and supporting economic or social development (including nationally important infrastructure development projects and employment).</p> <p>The proposed activity addresses a specific need in relation to the improvement of existing Harbour infrastructure at Grutness Harbour in order to facilitate the new Fair Isle lifeline ferry.</p>	

If the applicant are unable to carry out the improvement works, the new ferry will be unable to use the Harbour as the infrastructure is not suitable. The new ferry will provide a lifeline link to the Fair Isle for decades to come as the existing one has come to the end of its serviceable life. By not carrying out the improvement works and employing a new ferry, this would have a severe socio-economic impact on the people and businesses of the Fair Isle as both travel and supplies will be severely limited.

Test 1 satisfied?	YES
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TEST 2	Satisfactory alternatives
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Comments

Regulation 44(3)(a) of the Habitat Regulations requires the Scottish Ministers to be satisfied that there is no satisfactory alternative before an EPS Licence can be issued for the Licensable Operations.

In this instance, the applicant considered alternatives to driven piles, bored piles were considered, however this was discounted as the piles through the open tidal section of the quay would require steel pile casings, this would only result in a marginal reduction in the disturbance and would also introduce additional and longer duration construction activities. This could increase the overall environmental impact of the works. Not carrying out the works was not considered a suitable alternative as this would result in serious socio-economic challenges for the community of the Fair Isle.

Test 2 satisfied?	YES
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TEST 3	Favourable Conservation Status ("FCS")
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Comments

NatureScot has concluded in its advice of 08 September 2023 that the activity will not be detrimental to the maintenance of the populations of the species concerned at Favourable Conservation Status (FCS) in their natural range.

Test 3 satisfied?	YES
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Date application received: 27/07/2023

Date variation application received:

Consultation start date: 09/08/2023

Consultation end date: 08/09/2023

Notes

Date	Text	Created By
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Awaiting Information

Start date	End date	Duration (days)	Waiting for	Waiting on Information From
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Licence issue date: 27/10/2023

Date report due: 31/05/2027