



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 **GRANT Planning Permission** for the development, in accordance with the particulars given in, and the plans accompanying the application as are identified; subject to the condition(s) specified below.

Applicant

Mr John H R Brown

Agent

John Michael Laurenson
Sparl
Brae
Shetland
ZE2 9QJ

Reference Number: 2021/030/MAR

Development: Extend existing mussel farm mooring area and existing 4 longlines from 100m twin-headline longlines to 220m twin-headline longlines and adding an additional 220m twin headline longline.

Location: Houbanster, Cole Deep, Shetland,

Details of Approved Plans and Drawings:

- | | |
|------------------------------------|---------------------|
| • Admiralty Chart Location Plan 01 | Received 14.12.2021 |
| • Cross Section 02 | Received 02.12.2021 |
| • Site Plan 03 | Received 06.12.2021 |

Reasons for Council's decision:

The proposed development is considered to be in accordance with the majority of the relevant policies of the Shetland Local Development Plan 2014, and there are no material considerations which outweigh the proposals accordance with the Development Plan.

Although contrary to policies S1 and G2 of Shetland Islands Council Supplementary Guidance - Aquaculture (2017) in regard to separation distance between aquaculture sites, the adjacent site in question within 500m was approved contrary to separation distance policy to fix an historic issue at that site so this application should not be unfairly penalised for that. As such, the granting of this application is considered to be an acceptable departure from policies S1 and G2.

The proposal is also considered to be consistent with the policies and objectives of Scotland's National Marine Plan 2015.

Conditions:

(1) The development hereby permitted shall not be carried out other than wholly in accordance with the approved plans and details (as may be amended and/or expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this permission.

(2) The developer shall submit a written 'Notice of Initiation of Development' to the Planning Authority at least 7 days prior to the intended date of commencement of development. Such a notice shall:

- (a) include the full name and address of the person intending to carry out the development;
- (b) state if that person is the owner of the land to which the development relates and if that person is not the owner provide the full name and address of the owner;
- (c) where a person is, or is to be, appointed to oversee the carrying out of the development on site, include the name of that person and details of how that person may be contacted; and
- (d) include the date of issue and reference number of the notice of the decision to grant planning permission for such development.

Reason: To ensure that the developer has complied with the pre-commencement conditions applying to the consent, and that the development is carried out in accordance with the approved documents, in compliance with Section 27A of The Town and Country Planning (Scotland) Act 1997 (as amended).

(3) The following navigational marks shall be provided:

The site shall be marked with a lit yellow buoy fitted with a yellow 'X' topmark.

The light shall display a character of flash one yellow every five seconds (FI Y 5s) with a nominal range of 2 nautical miles and be installed above the 'X' topmark.

The buoy shall be positioned at the Western mid-point of the longlines.

The buoy diameter shall be approximately 1 metre at the waterline and the 'X' topmark shall be greater than or equal to 50cm length by 7.5cm width

Reason: In the interest of navigational safety and to comply with the guidelines laid down by the Northern Lighthouse Board.

(4) All surface floats and buoys, excluding those required to comply with navigational requirements, shall be coloured dark grey, black or blue.

Reason: To minimise the visual impact of the development.

(5) Predator control measures shall not be deployed at the site without the prior written consent of the Planning Authority. Furthermore, any changes to permitted predator control measures shall be agreed in writing with the Planning Authority in advance of any such changes occurring on site. In all cases, anti-predator control measures must be non-lethal and non-destructive (with regards to anti-predator netting please refer to the relevant Note to Applicant below).

Reason: In the interest of protecting wildlife within the area and for the avoidance of doubt as to what is being authorised by this permission.

(6) In the event of any equipment approved by this permission falling into disrepair or becoming damaged, adrift, stranded, abandoned or sunk in such a manner as to cause an obstruction or danger to navigation, the developer shall carry out or make suitable arrangements for the carrying out of all measures necessary for lighting, buoying, raising, repairing, moving or destroying, as appropriate, the whole or any part of the equipment so as to remove the obstruction or danger to navigation.

For the avoidance of doubt, where the surface/ sub-surface equipment approved by this permission is wholly removed for the purposes of cleaning, repair, replacement, fallowing or any other reason, any anchors which remain in situ must be marked with surface buoys.

Reason: In the interest of navigational safety.

(7) In the event that the longlines or associated apparatus approved by this planning permission ceases to be in operational use for the growing of shellfish for a period exceeding three years, they shall be wholly removed along with all moorings and anchors and the site restored to the satisfaction of the Planning Authority within 4 months of being notified, unless agreed otherwise in writing by the Planning Authority. For the avoidance of doubt, under such circumstances the permission so granted will cease.

Reason: In the interest of visual amenity and navigational safety, and to ensure that redundant development does not sterilise capacity for future development within the same water body.

Notes to Applicant:

Commencement of Development

The development hereby permitted must be commenced within 3 years of the date of this permission in order to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc (Scotland) Act 2006.

Note to Applicant - Anti-predator Netting

- If proposed for use they must be properly installed and maintained to ensure effective and wildlife friendly protection;
- Monofilament netting is not permitted. Brightly coloured thick mesh should be used to maximise the visibility to diving birds and minimise the risk of entanglement and drowning;

- Only vertical anti-predator netting panels should be used. Horizontal panels must not be used as they increase the potential for entanglement and drowning of diving birds;
- The anti-predator netting must be properly tensioned. Nets that are not properly installed and maintained pose a potential hazard to wildlife, in particular diving birds such as eider ducks may become entangled and drown;
- The anti-predator netting must have a mesh size of no more than 70mm to avoid entangling and drowning diving birds;
- Netting should only be deployed on site between February and April when year one mussels are most vulnerable to predation by eiders. After this time all netting must be removed from the water and stored at a recognised location above Mean High Water Springs;
- The operator should keep records of any animals that are by-caught in the anti-predator netting and submit an annual report to the Planning Authority and NatureScot.

Invasive Non-Native Species

Developers are expected to ensure that appropriate mitigation measures are in place aimed at preventing the introduction, and reducing the spread, of invasive non-native species. It is recommended that you follow the guidance in this regard as outlined in "A Biosecurity Plan for the Shetland Islands" (NAFC Marine Centre, 2015).

Disease Control

The Aquatic Animal Health (Scotland) Regulations 2009 requires the authorisation of all Aquaculture Production Businesses (APB's) in relation to animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals. The authorisation procedure is undertaken on behalf of the Scottish Ministers by the Fish Health Inspectorate (FHI) at Marine Scotland Marine Laboratory. To apply for authorisation for an APB or to amend details of an existing APB or any site that an APB is authorised to operate at, you are advised to contact the FHI as follows: Fish Health Inspectorate, Marine Scotland Marine Laboratory, PO Box 101, 375 Victoria Road, Aberdeen, AB11 9DB. Tel: 01224 295525; Email: ms.fishhealth@gov.scot

Marine Licensing

All marine farms, whether finfish, shellfish or algal, are required to apply for a marine licence under Part 4 of the Marine (Scotland) Act 2010. To apply for a marine licence, or to amend details of an existing marine licence (formally Coast Protection Act 1949 - Section 34 consent), please visit the Scottish Government's website at <http://www.gov.scot/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@gov.scot; or calling 300 244 5046.

Seabed Lease

Under the terms of the Crown Estate Act 1961, a seabed lease is required for the development hereby permitted. To obtain or update a seabed lease you are advised to contact Crown Estate Scotland as follows: Aquaculture Lease Co-ordinator, Crown Estate Scotland, 6 Bell's Brae, Edinburgh EH4 3BJ. Tel: 0131 260 6078; Email: emma.riach@crownestatescotland.com

Non-marking anchors (equipment deployed)

The 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.

Notification of deployment of equipment

Once the equipment and navigational marks have been established, you should inform the Northern Lighthouse Board by letter or email at navigation@nlb.org.uk quoting the following reference number: FM/OPS/ML/F143-21.

The UK Hydrographic Office should also be notified and all information regarding site positions forwarded in order that the admiralty charts for the area can be correctly updated.

Notice of completion of development

As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.

9 February 2022



Executive Manager – Planning

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, or to grant permission or approval subject to conditions, 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.

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997