



Decision by Allison Coard, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-310-2033
- Site address: Site to East of Millstone Point, Lochranza, Brodick, Isle of Arran, KA27 8HH
- Appeal by The Scottish Salmon Company against the decision by North Ayrshire Council
- Application for planning permission N/19/00609/PPM dated 12 August 2019 refused by notice dated 24 March 2021
- The development proposed: Installation and Operation of an Atlantic Salmon Fish Farm comprising 12 times 120 metre circumference fish pens and an accompanying feed barge.
- Date of site visit by Reporter: 5 and 6 August 2021

Date of appeal decision: 9 November 2021

Decision

I dismiss the appeal and refuse planning permission.

Environmental Impact Assessment

1. The proposed development is described as above, and at Chapter 3: Description of the Revised Development of the Additional Environmental Information Report 2020. It is EIA development. The determination of this appeal is therefore subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 EIA regulations”).

2. I am required to examine the environmental information, reach a reasoned conclusion on the significant environmental effects of the proposed development and integrate that conclusion into this decision notice. In that respect I have taken the following into account:

- the EIA report submitted in August 2019 based on the initial proposal for 20 fish pens of 120 metre circumference (EIA report);
- additional information (AEIR report) following revision of the proposed development to reduce the number of fish pens from 20 to 12 with a reduction in surface area to 13,753 metres squares or approximately 1.4 hectares;
- consultation responses received; and
- representations from members of the public.

3. A total of 436 objections and 19 support comments were received by the planning authority. There was objection amongst others from : Salmon & Trout Conservation Scotland; Scottish Salmon Watch; Ayrshire Rivers Trust; the River Stinchar District Salmon Fishery Board; Loch Lomond Fisheries Trust; Fisheries Management Scotland which is the



representative body for Scotland's District Salmon Fishery Boards, Rivers and Fisheries Trusts; Loch Lomond Angling Improvement Association; The National Trust for Scotland; Bute Community Council; Friends of the Sound of Jura; the Clyde Fishermen's Association; the Scottish Creel Fishermen's Federation; the Arran Access Trust; Arran Civic Trust; Arran Eco Savvy; and Community of Arran Seabed Trust (COAST). The issues raised were reflected in the representations received on this appeal.

4. Issues raised in representation include amongst other things the identification of the area as isolated coast, pollution concerns, impact on wild salmon, impact on the Endrick Water Special Area of Conservation for Atlantic Salmon, impact on other wildlife, visual impact, obstruction of navigational routes, negative impact on tourism, impact on fishing, animal welfare issues and fish mortality concerns.

5. My conclusions on the significant environmental effects of the proposal are set out in the paragraphs below.

Reasoning

6. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are:

- Seascape, Landscape and Visual Impacts
- Tourism impacts
- The benefits of the proposal
- Benthic impacts and impacts on water quality
- Interaction with Wild Salmon
- Impacts on species and habitats of conservation importance
- Noise and light pollution

Development Plan Context

7. The site is identified in the Local Development Plan (LDP), adopted November 2019, as being Isolated Coast. It comprises part of the North Arran National Scenic Area and is 200 metres from the North Arran Special Landscape Area (SLA). There is a core path parallel to the site linking Lochranza with Sannox as part of the Arran Way.

8. Local Development Plan Policy 25 is the topic specific policy on aquaculture. It is a supportive policy in circumstances where proposals would result in economic and social benefits for local communities and the ongoing sustainable development of the aquaculture industry. However support depends on demonstration of the avoidance of unacceptable adverse impacts (including cumulatively). Of relevance in this case is the avoidance of unacceptable impacts on: landscape, seascape and visual amenity; the biological carrying capacity of land and water bodies, coastal and marine species (including wild salmonids) and habitats; other users of the marine environment; and tourism, recreational and leisure activities.

9. Local Development Plan Policy 15 (Landscape and Seascape): supports development that protects and/or enhances landscape/seascape character, and avoids unacceptable adverse impacts on designated and non-designated landscape areas and

features. Development that affects the National Scenic Area will only be supported where the objectives of the designation and the overall integrity of the area will not be compromised; or any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance. For Special Landscape Areas development will only be supported where it would not have an unacceptable impact on their special character, qualities and setting.

10. In addition Strategic Policy 1 (Spatial Strategy – The Coast Objective) sets out relevant considerations stating that proposals should avoid damage to the coastline, particularly undeveloped or isolated coastal areas, unless economic benefits arising from the proposal outweigh the environmental impact. Strategic Policy 2 (Placemaking) states that development should avoid unacceptable adverse environmental or amenity impacts.

11. Policy 22 states that development will be required to ensure no unacceptable adverse impact on the water environment by protecting factors including the ecological status, landscape values and physical characteristics of water bodies.

12. Policy 24 (Alignment with Marine Planning) provides support for marine developments where they are within a recognised developed coastal location and provided they are consistent with Scotland's National Marine Plan and the emerging Regional Marine Plan for Clyde Marine Region. Development on undeveloped sections of coast which possess special environmental or cultural qualities will generally be resisted unless there would be a significant economic value of the development and that environmental impact issues can be satisfactorily addressed. The accompanying mapping identifies the area between Lochranza and Sannox as isolated coast.

Other Material Considerations

13. Scottish Planning Policy highlights the Scottish Government's support for the sustainable growth of the aquaculture sector and the significant contribution it makes to the Scottish economy, particularly for coastal and island communities. The planning system should play a supporting role in the sustainable growth of the finfish and shellfish sectors to ensure that the aquaculture industry is diverse, competitive and economically viable; guide development to coastal locations that best suit industry needs with due regard to the environment; and maintain a presumption against further finfish farm development on the north and east coasts to safeguard migratory fish.

14. National Planning Framework 3 (2014) recognises aquaculture as '...an important aspect of the economy across parts of coastal Scotland supporting many jobs – often in small communities – and representing a significant element of Scotland's exports. The industry has identified ambitious growth targets which we want to see realised.'

15. Scotland's National Marine Plan was published in 2015 and is also a material consideration in this case. It outlines the Scottish Government's framework for managing Scotland's inshore and offshore waters. The National Marine Plan contains 14 policies relating to aquaculture. It is a generally supportive document recognising the considerable benefits of fish farming to the national economy. However it also includes other considerations including landscape and seascape impacts, disease management, impact on wild fish, interaction with predators, licensing and consultation.

16. A Clyde Marine Plan is currently in preparation although I note its pre-consultation draft status. I have also considered the context established in submitted documents APP 091-098 which include A Fresh Start: The renewed Strategic Framework for Scottish Aquaculture; Supporting Aquaculture Growth and Protecting Scotland's Environment; Aquaculture Growth to 2030; Protecting Scotland, Renewing Scotland: The Government's Programme for Scotland 2020-2021 and Scotland's Fisheries Management Strategy 2020-2030.

Landscape and seascape character

17. To the north and east of the site is the open water of the Sound of Bute with distant views to the Argyll and Bute mainland to the north-east and views of the Firth of Clyde and mainland to the east. The proposed location is near Millstone Point, approximately 4 kilometres north of Sannox. The proposal would be located immediately adjacent to the northeast Arran coastline which is part of the Coastal Headland Landscape Character Type (LCT) and within the Sound of Bute–Sannox to Loch Ranza Seascape Character Area (SCA).

18. The nearest pens would be located approximately 200 metres from the shoreline. In addition the food barge would be at a maximum 7 metres above sea level reducing to 5.5 metres when fully loaded. It would be 14 metres long and 14 metres wide. There would also be mooring, Pen nets, bird nets and lighting as described in the environmental report.

19. Impacts arise given the location of the proposed two groups of 6 fish pens orientated parallel to the coastline taking up a surface area of 1.4 hectares. Viewpoints 1 – 14 reflect the layout of 12 pens and feed barge. All pens and feed pipes will remain dark grey or black in colour to minimise visual intrusion and impact on the landscape. The revised pen layout is shown in Appendix B of the AEIR report.

20. My site visit enabled an understanding of the characteristics of the Coastal Headland Landscape Character Type which has a boundary 0.2 kilometres east of the proposed development. It has a backcloth of hills and raised beach and its exposed, open nature enables panoramic views along the coastal edge. The assessed effects are illustrated in viewpoints 1-6. These show the extent of influence on the shoreline.

21. On my site visit I noted the varied geology and the relative absence of man-made features aside from navigational and communications infrastructure and a few isolated houses in the wider area. Whilst affording some landscape containment there is nevertheless an open and exposed character to the coastal edge.

22. The landscape character type reflects some of the key characteristics of an Open and Expansive Coast, as identified in the NatureScot document "The Siting and Design of Aquaculture in the Landscape 2011." This coast is characterised by its juxtaposition with the extensive and expansive openness of the sea, which dominates in terms of extent and scale; it is frequently exposed, the coastline is relatively regular and straight but may be rocky, sometimes with cliffs, stony beaches and infrequent shallow bays. The coastline is only accessible by foot with any development set well back from the coastal edge and the landscape is dominated by a wide expanse of sea.

23. I appreciate the accompanying guidance on siting and layout indicates the potential capacity of such areas to accommodate long low profiled structures. However whilst there

are clear parallels I consider the landscape effect here is accentuated by the shallow bay and the proximity to the shore. The example shown in the guidance indicates a lack of reference points so the structures would appear small within the larger sea-scape. In my assessment proximity to the shore within the shallow bay and the corresponding reference to features on the shore prevents such a mitigating effect.

24. I appreciate this character area is extensive in scale. In that respect there would be a negligible magnitude of change on the overall character of that area and a moderate/minor landscape effect. Nevertheless as accepted in the appellant's assessment the main issue in this case is the significance of the effect on the localised area of coastline. The impact would be indirect but would introduce man-made features into the landscape/seascape adjacent to the Landscape Character Type. There would be no cumulative impacts arising.

25. The seascape character of the Sound of Bute relevant to the appeal site includes the Sannox to Loch Ranza Coastal Character Area (CCA), within the Firth of Clyde Seascape Assessment 2013: Section 12.7 as summarised in the AEIR. This stretch of coastline is described as "one of the most remote stretches of coastline within the whole of the Firth of Clyde". It goes on to state the area can be defined as "isolated coast" and is consequently sensitive to any development which may detract from its quality. Its sensitivity to fish farms is described as very high.

26. There is no development within the maritime element of this seascape. There is both sailing and kayaking especially during the summer months but there are no anchorages off this coast. The coastline is rocky with large boulders and shingle beach generally backed by a very narrow coastal strip backed by outward facing slopes. I noted the "Fallen Rocks" as a feature of the south-eastern end of the bay these being huge rugged boulders which toppled into the sea. There is a prevailing sense of isolation and naturalness.

27. On that basis there is no dispute that the Sannox to Loch Ranza CCA would be highly sensitive to any forms of development including fish farms. The environmental report concludes the magnitude of change would be moderate within the coastal character area. Despite the limited geographical extent of the proposal proximity to the coast exerts an influence on the seascape. The effects would be reversible, and would result in a major/moderate, significant adverse effects. Significant seascape effects would focus on a small geographical area, within 2 km radius only. I agree there would be no cumulative impacts arising from the proposal.

28. The proposal would introduce man-made features in the water. Whilst the feed barge has been designed to resemble a fishing vessel it would be a static feature. There is no other anchorage or human activity on the shoreline of Arran. There would be activity associated with the operation of the pens and feed barge on the open water.

29. I accept the seascape in this location is large and expansive in scale extending towards Bute, Cumbrae, and the mainland. I consider the seascape to be sensitive and of a high quality and that is reflected in the appellant's assessment. The more expansive nature of the seascape and coastline associated with this character area would result in a moderate change. Nevertheless due to the high sensitivity described above I consider there would be significant effects. There would be no cumulative impacts arising from the proposal.

30. In conclusion there would be significant albeit localised effects on landscape character and seascape.

Visual Impact

31. The recreational importance of the Arran Coastal Path and of marine-based recreational activity is recognised in the high sensitivity ascribed to receptors and the resultant assessments of significance. However, I accept that the recreational experience of the proposal from a core path or the sea will be limited in duration and by direction of travel and distance.

32. It is notable that there is no existing maritime element within the seascape. There is both sailing and kayaking but there are no anchorages off the coast. I walked the section of the footpath which extends along the shore and forms part of the Arran Coastal Route. It is a waymarked and clearly popular route enjoying seascape views and with points of interest arising from the landform and sea views and the huge rugged boulders known as the "Fallen Rocks". Unlike other parts of the island there is a real sense of rugged and isolated coast with limited influence of man-made features. There is a corresponding lack of visible development looking out across the Sound of Bute.

33. The assessment of potential visual effects on views from the core path network, recreational viewpoints and water-based recreation activity, is summarised in Chapter 14 of the EIAR and a detailed assessment of the viewpoints is supplied in Appendix O. The location of the assessment viewpoints is also illustrated on Appeal Figure 1. The landscape is experienced from the Arran Coastal Way with panoramic views from the low lying core path and open water and out to sea. The Arran Coastal Way extends 105 kilometres on a circular route around the Isle of Arran.

34. It is clear from the appellant's assessment and my site visit that the proposal would avoid multiple significant adverse visual effects across a large area. Instead significant visual effects are identified from different points within a very limited geographical area particularly in the context of land based visibility. For marine receptors water-based visibility rapidly declines to nearly imperceptible with the effect of distance out to sea.

35. The Isolated Coast as referenced above extends a length of 12.5 km between Lochranza and Sannox, of which 7.4 km is included within the Zone of Theoretical Visibility (ZTV), and predicted significant visual effects would be restricted to recreational users of a short section within a 2 km radius. Wider visibility along the coastline and shoreline would reduce with distance especially out to sea and depending on the alignment of the coastline, and potential screening elements for example the Fallen Rocks or local tree cover.

36. Viewpoints 1 and 2 illustrate the close proximity to the Arran Coastal Way where there would be direct and close views of the pens and feed barge. Viewpoint 1 is 0.4 kilometres south-west of the proposal. Receptors are predicted to experience a substantial magnitude of visual change. The visual effects from this viewpoint are major and significant. I consider this effect would be adverse due to the introduction of man-made elements which would become a predominant focus in this view. Viewpoint 2 is a similar distance north-west where the proposal would be viewed from the coastal path as a horizontal feature extending out from the shoreline into the currently undisturbed bay. Again this illustrates a significant and adverse visual effect.

37. Viewpoint 3 is the junction of two core paths at Laggan's Cottage. This shows the mitigating effect of distance (1.6 kilometres north) and the indentations in the shoreline. Whilst there would be a notable change in the view I do not consider the effect from this viewpoint would be significant. I agree with the appellant's assessment in that respect.

38. Viewpoint 4 illustrates the shallow bay looking north towards the point from the Fallen Rocks. On my site visit the rocks were a place walkers were lingering given the interest of this feature and the view out to sea and along the coast. I consider the fish-farm would represent a significant man-made and consequently discordant intrusion into that view. The only other obvious man made feature in this location is the line of telegraph poles following the coastal path.

39. Viewpoints 5, 6 and 7 illustrate limited inland visibility and the reduced visual effect due to landform and distance. Although elevated receptors in these locations are predicted to experience a small magnitude of visual change, or no change with a focus on views across the Sound of Bute rather than on the coastal margins. Overall, I agree with the assessment that the visual effect from these viewpoints would not be significant.

40. Viewpoints 8 – 14 are representative of marine recreational users. The visualisations illustrate potential significant effects in close proximity to the site as clearly illustrated at Viewpoint 8 and 14 where the farm would be a prominent feature in views along this currently undisturbed stretch of Arran coastline. I accept that significant visual effects would reduce with increased distance. Viewpoints 9 – 13 (Figures 33 – 50, Appendix O) illustrate the effect of distance on reducing the visual perception of low-lying pens along the coast against the darker, rocky coastline albeit Viewpoint 11 indicates a moderate effect.

41. In summary there are no effects on the local road (A841) as the development cannot be seen. Given the popularity of the area with walkers and the full views of the pens and the feed barge from a section of the Arran Coastal Way the effects are predicted to be adverse and of moderate to major significance depending on proximity. Boat users travelling close to the foreshore would experience the greatest change in view and of an adverse nature due to the introduction of man-made maritime features here.

42. I appreciate the localised extent of visual effects. I also appreciate that fish farms are often characteristic of a coastal location. However the coastal path enables access to this isolated coast and I consider that isolation and natural character are key and valued characteristics of the area.

43. For visitors walking the Arran coastal way, in this locality, the experience of this currently natural area generally undisturbed by man-made features would be significantly changed with the introduction of the pens, the barge and associated activity in proximity to the shore. Given the nature of the shallow bay and the absence of man-made features I consider the infrastructure would be an incongruous and distracting element in views along the bay, out to sea and from boats travelling along and in proximity to this section of Arran's coastline. I consider that given the location of the coastal path and the access it affords a high value and sensitivity is appropriately placed on the relatively untouched nature of the landscape and the openness of the existing views across the sea.

44. I consider the introduction of the fish farm so close to the coastal path would detract from the amenity and character of the area as experienced by walkers and those passing by close to the coast on boats, canoes and other marine craft. The value placed on this

area and the experience of isolation and openness are reflected in the responses received on the application and subsequently at appeal. There would be significant albeit localised visual effects.

Landscape and Visual Mitigation

45. I understand mitigation is embedded within the design limiting the proposal to 12 pens and designing the feed barge to resemble a fishing boat and the use of a grey colour to reduce prominence in any view. In addition shore based infrastructure is avoided given the existing shore base at Lamlash. The height of the proposed pens and other infrastructure is limited to maintain a low profile appearance. However the proposal would remain a significant incursion of infrastructure into an undeveloped and isolated area of coast. I do not consider the proposed mitigation sufficient to address my concerns regarding the significance, albeit local significance, of the landscape and visual impact of the proposal.

National Scenic Area and Special Landscape Area

46. The site is within the National Scenic Area boundary as shown in Appeal Figure 2.

47. The special qualities of the NSA considered relevant to this application are: i) a mountain presence that dominates the Firth of Clyde ii) that it has a contrast between the wild highland interior and the populated coastal strip; iii) that it has a distinctive coastline with a rich variety of forms; iv) it comprises the historical landscape in miniature; v) it is exceptional for outdoor recreation; and vi) the experience that highland and island wildlife is close at hand.

48. In my assessment, as supported by the EIAR, the proposed location, scale and nature of the proposal is not such as to represent a significant detractor from the profile of the islands peaks when viewed from the Firth, North Ayrshire, Kintyre, Bute and from many places inland or out from Arran. In the main the existing perception of the distinctive coastal landform rising from the Firth when viewing the Isle of Arran from the water, or from the coastline of Bute or North Ayrshire would be retained.

49. Nevertheless I consider that the area subject of this proposal contributes to the rich variety of coastline being an area of distinctive natural and undeveloped character. In turn that naturalness and the proximity of the coastal path to the sea with limited man made disturbance contributes to the experience that wildlife including sea life is close at hand. The path as a popular coastal route provides an important recreational resource.

50. NatureScot considers that the visual impact would result in significant adverse effects on the special qualities such that the objectives of the designation and its overall integrity would be compromised. On the other hand the assessment included in the Environmental Reports concludes that the overall integrity of the designation would be protected given the magnitude of change would be negligible within the designation as a whole.

51. I note the NSA extends across an area of 304 square km (232 square km of land and 71 square km of sea) and the coastline of the NSA extends 44 km between Brodick in the east and Machrie Bay in the west. The Zone of Theoretical Visibility (ZTV) indicates 24 square km (7.8%) of predicted visibility of the pens within the NSA, with only 4 square km of

the predicted visibility of the pens on land, and 20 square km of the predicted visibility of the pens from the sea. As noted above the visibility of the proposal from the sea diminishes with distance.

52. I appreciate the conclusions drawn regarding the relative scale of the proposal in the context of the National Scenic Area. Change can be considered negligible in the context of relative scale. However this isolated coastline element is an important and unique part of the whole contributing to its special qualities. There would be a greater magnitude of change and significant of landscape effect in that specific context. My conclusion is that effect would be significant. As such I consider the appellant's assessment underestimates the extent of impact on the special qualities of the National Scenic Area. Consequently I do not consider that the overall integrity of the designation would be protected.

The North Arran Special Landscape Area (SLA)

53. The site is approximately 200 metres from the North Arran Special Landscape Area (SLA).

54. This is a local designation which encompasses North and Central Arran, with special characteristics similar to the area of the National Scenic Area. NatureScot considers that there would be a significant adverse impact on seascape character and significant adverse landscape and visual effects along the section of coast immediately adjacent to the proposal. This would erode some of the special qualities of the Special Landscape Area in that locality. These concerns are reflected in the council's reasons for refusal which focus on the adverse effects on landscape quality. For the reasons stated above I agree with that assessment.

55. I appreciate that the landscape effects would be reversible but they would continue for the lifetime of the operation which may be a considerable time. My assessment is based on the impact of the proposal rather than the opportunity for its removal at some future point. Nonetheless I appreciate that its removal, should operations cease, is a matter that could be appropriately addressed by condition.

Conclusions on Landscape and Visual Assessment

56. I accept that a fish farm, which introduces man-made structures and human activity into the water environment, will inevitably have certain adverse effects on the receiving landscape and seascape. It will inevitably be visible from certain land and sea-based receptors.

57. However, in this case I find that the host seascape, adjacent landscape and visitors to the coast and sea-board in this locality would be particularly sensitive to such change. Whilst the significant effects described above are localised in nature this isolated and relatively undeveloped coastal area is clearly a valued resource. This value is reflected in the description of the area as isolated coast and through inclusion of the site within the National Scenic Area and in proximity to the adjoining Special Landscape Area.

58. In my assessment I do not consider that a localised effect by implication points to the acceptability of the proposal. A localised effect in an area of landscape and visual sensitivity may still prove determinative when weighed in the overall balance. In this case Policy 15 requires me to weigh the landscape and any other significant effects against the

assessed benefits of the proposal. I accept that the overall policy context remains a positive one and I return to that overall planning balance in my conclusions below. Nevertheless I consider that the landscape and visual impacts of the proposal as rehearsed above weigh heavily against this particular site as a location for a fish farm.

59. Bringing together all of the above the sensitivity of the landscape, the isolated nature of the coast and the corresponding high sensitivity of walkers, sailors and others navigating the Sound of Bute indicate to me considerable tension with the terms of Policy 15. For similar reasons I also identify conflict with the criteria of Policy 25 relating to landscape, seascape and visual quality. Similar tension is identified in relation to Policy 24 on alignment with Marine Planning.

60. I understand that the design and appearance of the development is dictated by its nature. However in this location I consider the proposed fish farm infrastructure would comprise an incongruous addition to the area. Consequently, in terms of the design and visual impact of the proposal there would also be a degree of conflict with Strategic Policies 1 and 2.

Tourism Impacts

61. In opposition to the application, it has been claimed that the proposal would have an adverse impact on tourism. The appellant has submitted a Tourism Report which claims that the fish farm development has no negative impact on tourism in Scotland. This is based on 2009 research. The Report also highlights a Visit Scotland survey from 2015/16 which stated that 68% of visitors to Ayrshire & Arran listed 'scenery and landscape' as the top reason to visit. The percentage rose to 84% of visitors for Argyll & The Isles. I consider it reasonable to assume that scenery and landscape are very important reasons for tourists to visit the area.

62. As stated the development would be highly visible from the adjacent Arran Coastal Path albeit only a small part of the path would be impacted. As also concluded above there would also be a negative visual impact on visitors and others on passing boats. The impact on the wider NSA has been discussed above including the impact on the recreational users, the exceptional quality of the area for recreation and the impact on the area in terms of experiencing wildlife.

63. There have also been objections from the Clyde Fisherman's Association and The Scottish Creel Fishermen's Federation on the impact on their members' businesses through loss of a fishing area. I appreciate fishing also draws visitors to the area.

64. Overall the above points to some negative effect on visitor experience. However the available evidence and the limited geographical extent of the effect indicates to me that the impact on visitor numbers to Arran or Argyll and Bute overall would not be significant.

Benefits of the proposal

65. I understand the proposal would result in recruitment of 6 full time equivalent jobs and could support 31 supply chain (indirect jobs) and a further 6 jobs in the wider economy. In addition I understand the important economic contribution of fish farming to the Scottish Economy. Chapter 15 of the AEIR report rehearses these benefits and the potential for the

proposed operation to contribute £5.9 million per year Gross Value Added to the Scottish Economy.

66. The application makes recommendations as to how the developer could further support the Arran economy by supporting such as infrastructure development and access to housing. The application acknowledges that any jobs may be filled outwith Arran but that this would benefit other communities.

67. It is accepted that the development has specific locational needs and a site within a settlement may not be possible. The wider impact of this specific location is outlined above. Arran has an existing fish farm within Lamlash bay, operated by the appellant. I accept that this proposal would add to that economic contribution.

68. I have not applied weight to the references to wider contributions to support the infrastructure of the island as these are not direct planning issues relating to this application. These matters could not be secured by planning condition. From the submitted documents as referenced above I recognise the importance of the industry in a Scottish context and its role in helping to sustain economic growth in rural and coastal communities. In that context it is relevant that the Scottish Government are committed to increasing the economic and employment contribution of the sector.

69. Overall, I accept the proposal would be a positive contributor to the local and national economy and a step towards the creation of more diverse and sustainable employment opportunities. The overall economic impact would be a positive one and significant negative economic (including tourism impacts) would be avoided. I have weighed this positive benefit in the overall planning balance which I return to below.

Benthic Habitats and Water Quality

70. Following the submission of benthic impact modelling files, SEPA confirmed that it was able to assess the benthic impacts. It is content that a biomass of 2,300 tonnes is likely to be consented. The seabed survey predominantly identified benthic habitats and species of low ecological value, however two constituent species of the Priority Marine Feature (PMF) 'Northern Sea Fan and Sponge Communities' (Northern sea fan and cup coral), were recorded in low abundances and within a localised area. Data is stated to be indicative of a moderately flushed site, typical of an open location, which is considered suitable for a development of the size and nature proposed. Results of the current monitoring indicate that there is low resuspension at the site with little export of released solids. The consultation authorities raise no objection on these matters.

71. The operation of any fish farm would also require a license and SEPA would retain control over the development in that respect. The nutrient calculations presented within the EIAR predict that nutrient release would be within acceptable levels. The data presented indicates that no significant impacts on the water column would result. Due to the large distance from other operational and consented sites, and the location in open water, there is no potential for cumulative impacts. No contrary detailed evidence is presented and I accept there would be no significant adverse effects in this respect subject to the mitigation rehearsed in the environmental report and the relevant consultation responses.

72. Whilst I have considered the concerns raised in representation I consider that subject to the applied mitigation and regulation compliance with Policy 22 could be demonstrated and significant effects avoided.

Wild Salmon

73. There are conflicting views on the significance of effects in this respect. Argyll District Salmon Fishery Board and Scottish Wildlife Trust amongst others object given concerns about the impact on wild salmon. Concern is expressed that there is insufficient information to conclude operations will not interfere with migrating salmon smolts. The major concern is the impact from sea lice. Representations indicate it is not possible to effectively regulate the impact on migrating salmonids. The proposed Environmental Management Plan seeks to provide for monitoring and mitigation. The effectiveness of this in achieving appropriate protection and avoiding significant effects is questioned in the submitted representations and consultation responses.

74. I note river salmon habitats on Arran are less directly associated with the appeal location shown at Figure A7 as Machrie Water, Iorsa Water and Glen Rosa Water. As a result, the magnitude of potential impacts on wild salmonid populations, through spread of disease, including sea lice, and risk of escapees is reduced. However, whilst the proposal is stated to be outwith the likely key wild salmonid migration routes within the Firth of Clyde, and Sound of Bute there is some divergence of views on this matter.

75. The submitted EMP has been designed to satisfy the criteria set by Marine Scotland Science. I understand that the planning authority has responsibility to regulate potential interactions between aquaculture and wild fisheries through planning powers afforded by the Town and Country Planning (Scotland) Act 1997, in addition to acting under its biodiversity responsibilities under the Nature Conservation (Scotland) Act 2004. The Environmental Management Plan can be secured through condition and is consequently subject to enforcement powers.

76. I note the submitted EMP is supported by the SEPA CAR Consent and the North Arran Wild Fisheries Sea Lice Monitoring Strategy. It aims to report on the level of lice released into the environment; identify the likely area(s) of sea lice dispersal from the farm; provide details of the monitoring data that will be collected to assess potential interaction with wild fish; and provide details how this monitoring information will feed back to management practice.

77. Marine Scotland expects that as a minimum any monitoring scheme will be able to report on the level of lice released into the environment (i.e. both farmed fish numbers and adult female lice numbers); identify the likely area(s) of sea lice dispersal from the farm; details how and what monitoring data will be collected to assess potential interaction with wild fish; and details how this monitoring information will feed back to management practice. This plan should also include a regular review process to ensure that it remains fit for purpose. The submitted EMP is considered by Marine Scotland to include the necessary criteria. Similarly NatureScot conclude the management plan, subject to final approval, can provide an enforceable framework to ensure that any elevated risk to the Endrick Water Special Area of Conservation will be mitigated.

78. It is notable that Marine Scotland Science has not objected to the proposal. Nevertheless I am aware of the uncertainty around this issue and that the Isle of Arran is

known to have fisheries for salmon and sea trout. My attention is also drawn, through the further written submissions on this matter, to the precautionary principle and to proximity to salmon migratory pathways.

79. The Scientific evidence from Norway and Ireland indicates a detrimental effect of sea lice on sea trout and salmon populations. Salmon aquaculture results in elevated numbers of sea lice in open water and hence is likely to have an adverse effect on populations of wild salmonids in some circumstances. The magnitude of any such impact in relation to overall mortality levels is not known. Information from the west coast of Scotland suggests lice from fish farming can cause a risk to local salmon and sea trout. Marine Scotland Science conclude the proposed contingency plan for dealing with an escape or suspected escape event is satisfactory.

80. I am aware the council has received two EIA Scoping requests for sites at the Cumbraes and is aware of the potential for one for the south-east of Bute (Argyll & Bute). However, no planning applications have been submitted to date and there is nothing to point to significant cumulative effects at this stage.

81. Whilst I recognise the expressed concerns and a degree of uncertainty and debate on this issue there is no specific evidence in this case to indicate particular sensitivity or risk unusual in a west coast context. When considered in the prevailing policy context with the applied regulatory regime and subject to the appropriate mitigation, including that to be secured by the proposed planning conditions, this issue does not signal conflict with the relevant development plan policies nor a reason for dismissal of this appeal. There is some dispute by the appellant as to the nature of the planning conditions to be applied and I return to that matter below. I also note the concerns expressed on appropriate controls as set out in further written submissions. I consider that the wording of the relevant condition(s) would be important in this respect. However I consider these are matters capable of being resolved had I been otherwise minded to allow this appeal.

Natural Heritage Impacts

82. There is potential to impact species and habitats of conservation priority. The assessment presented in the EIAR focuses on marine mammals and with potential impact on other species and habitats. Several marine mammals were recorded including basking shark, bottle-nosed dolphin, common dolphin, harbour porpoise and minke whale. All of the species are European Protected Species. The EIAR assessment is that the proposal, with appropriate mitigation, would not have an adverse impact on protected Atlantic salmon or protected sea birds. It is also not considered there would be any significant adverse impact on other protected species or non-protected species. However, the development may result in certain species, such as cetaceans or seals, being displaced from the area.

83. Potential impacts on predators include accidental mortality via net entanglement and seal mortality via licensed dispatch. Statutory consultees requested that information about management measures was provided in the form of a site-specific predator control plan. The information on all predator control measures has been provided within the EIAR. Following embedded mitigation, i.e. mitigation measures built in into the design of the Proposed Development, in particular implementation of the Predator Control Plan, it has been determined that no significant impacts on predators would result.

84. The EIAR concludes no significant impacts on species or habitats of conservation importance assessed would result. Subject to my conclusions above on the issue of impact on wild salmon and the application of robust conditions in this respect I find no other contrary evidence. As such I consider the proposal, subject to mitigation, could secure compliance with the relevant policies of the local development plan in this respect.

Habitat Regulation Appraisal

85. In the context of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 Habitat Regulations I note there are potential likely effects on the Endrick Water Special Area of Conservation and the Ailsa Craig Special Protection Area. Qualifying interests include Atlantic salmon, including smolts, and sea birds. The proposal is not located within a Marine Protected Area (MPA). The closest MPA is the South Arran MPA, located approximately 13 km to the south. Due to the distance between the Site and the South Arran MPA, no adverse effects are expected as a result of the proposal.

86. The assessment carried out by the appellant and the council draws on the relevant consultation responses, including from NatureScot. In the event of a positive outcome to this appeal I would have been required to carry out my own Appropriate Assessment. Appeal submissions dated 16 September 2021 from Nature Scot provide further detail on the qualifying interests and likely effects to inform that assessment including on the required monitoring and mitigation. From the consultation responses and from my conclusions above, including on the potential effects on wild salmon, the available evidence does not point to any adverse effects on the integrity of the Special Area of Conservation or the Special Protection Area.

Noise and Light Pollution

87. The primary noise source is the feeding equipment which would be operational daily, between the daily working hours typically 8am-5pm, with no night-time working other than in an emergency.

88. The closest residences are located approximately 4 km southwest and therefore no impacts are anticipated on these receptors. The Arran Coastal Path runs past the proposal. Whilst the development has the potential to be audible under calm conditions at the closest points, noise is unlikely to result in a significant impact. Any impact would be temporary as walkers pass by the site. Given the limited working hours and the modest noise levels generated during operation I agree with the assessment that there would be no significant noise impact. On the issue of lighting pens would be fitted with low energy underwater lighting and there is no indication this would result in a significant adverse effect.

Navigation, Anchorage, Commercial Fisheries, Other Non-Recreational Maritime Uses

89. An analysis of marine activity over 12 months was undertaken. On average, one vessel passed within the site boundary every three days with a small number of recreational vessels intersecting with the proposed pen locations. The volume of recreational traffic is significantly higher during the summer months of April to September associated with favourable weather conditions. Commercial fishing activity in the area is in the form of very occasional static gear fishing activity in the vicinity. Given the overall size of the Sound of

Bute and the limited scale of the proposal I agree the effects on navigation, commercial fishing and recreational maritime uses would not be significant.

Conditions

90. The proposed conditions provide for monitoring and mitigating measures as rehearsed above. I note disagreement of the appellant with some of the detail of the proposed conditions. Condition 1 relates to maximum biomass and reliance on the proposed Environmental Management Plan. Whilst Marine Scotland accepts the revised terms of the appellant's suggested wording this is disputed by the council and by others with fisheries interests.

91. I note the appellant's concerns around the extent of specification of the matters to be addressed in any Environmental Management Plan and that whilst an updated version of this was provided as part of the appeal submissions it would remain to be approved by the planning authority. I do not consider this unusual. Specification of the matters to be addressed can provide greater clarity as to the focus and necessity of the condition and for enforcement purposes. In any event I consider these matters were capable of resolution in the event that I was otherwise minded to allow the appeal.

92. A similar conclusion is applied to the other disputed conditions namely condition 3 on fish mortality, condition 5, 6 and 7 in respect of matters raised in Nature Scot's consultation response on predator control and nets; and condition 8 on the appropriate timescales for removing the fish farm in the event of a cessation of operational use.

Conclusion

93. The Environmental Report prepared for this proposal assesses a wide range of impacts. The responses received to the application and appeal, as rehearsed above, raise concerns about a number of these potential impacts. However based on my assessment above I agree with the conclusion of the appellant and the council that subject to the appropriate mitigation significant effects would be confined to the landscape and visual impact arising from introduction of a fish farm to this sensitive and isolated area of coastline.

94. In this case I find the proposal is an unacceptable incursion into an isolated, locally and nationally valued area of landscape and seascape. Whilst I recognise the benefits of the proposal and that other significant effects would be avoided I do not consider this to be an acceptable location.

95. Returning to the policy context rehearsed in paragraphs 7-12 above I find that the significant landscape and visual effects of this proposal are not outweighed by its social and economic benefits. Indeed the identified impact on the National Scenic Area prevents policy compliance unless such benefits were of national importance. Whilst aquaculture as a whole is a significant and important contributor to the Scottish economy I do not consider this single proposed fish farm is of a scale or nature that could be considered nationally important.

96. For these reasons I find conflict with: Strategic Policy 1 (Spatial Strategy) and 2 (Placemaking); Policy 15 (Landscape and Seascape), Policy 22 (Water Environment); Policy 24 (Alignment with Marine Planning) and Policy 25 (Supporting Aquaculture) of the

Local Development Plan. Consequently the proposal does not comply overall with the development plan.

97. For similar reasons I find insufficient support in the context of other material considerations. National planning policy, the national Marine Plan and other policy statements are generally supportive of the industry and its expansion. However this support only applies in circumstances where unacceptable effects, including landscape effects, are avoided. My conclusion is that this is not demonstrated in this sensitive location.

98. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Allison Coard

Reporter