

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

PPA-002-2020

PLANNING PERMISSION APPEAL: BEINN REITHE, LOCH LONG, G83 7AR

INSTALLATION OF A MARINE FISH FARM AND ASSOCIATED DEVELOPMENT INCLUDING SHORE BASE, SLIPWAY AND PONTOON AND ROAD UPGRADES

PRE-EXAMINATION MEETING.

THURSDAY 8 JUNE 2023, THREE VILLAGES HALL, ARROCHAR

NOTE OF MATTERS AGREED AT OR ARISING FROM THE MEETING¹

1. The meeting concerned an appeal by Loch Long Salmon Ltd against the decision by the Loch Lomond & The Trossachs National Park Authority to refuse an application for planning permission for the development described above.
2. David Liddell, a reporter with the Scottish Government's Planning and Environmental Appeals Division, has been appointed to report to the Scottish Ministers with recommendations on whether or not the appeal should be allowed.
3. Those in attendance at the pre-examination meeting (including by video-conference) are listed in Annex A.
4. The appeal will be progressed in accordance with the [Town and Country Planning \(Appeals\) \(Scotland\) Regulations 2013](#) ('the Regulations'). The [DPEA guide to appeal proceedings](#) may be of use to those taking part.
5. The reporter has given careful consideration as to the most appropriate procedures for obtaining further evidence to inform his report to Ministers. This has included consideration of how to most efficiently and effectively obtain the necessary further evidence whilst ensuring that the process is inclusive for those parties who are entitled to participate and who wish to do so. The scope of the further procedures is as set out below.

Further written submissions:

Planning conditions and obligations. The reporter will invite the appellant and the National Park Authority to try and reach agreement on the planning conditions and obligations to apply should the appeal be allowed. A hearing may also be held if the reporter considers this may be beneficial in exploring any points where the parties disagree. Other parties may comment on the proposed conditions should they wish to.

Scope of other consenting regimes. The reporter will invite the appellant to set out their position on which aspects of the development (and its potential effects) are controlled by other consenting regimes and what that means for the relevance of

¹ This note also comprises a procedure notice for the purposes of rule 1(1) of both Schedules 1 (Hearing Session Rules) and 2 (Inquiry Session Rules) to the Town and Country Planning (Appeals) (Scotland) Regulations 2013 regarding giving notice of hearing and inquiry sessions and specified matters.

these matters to the planning appeal. The National Park Authority would then be invited to respond to this evidence. Other parties may also respond with their own views on this matter, should they wish to do so.

There may be a need for clarification on other matters related to the proposal. If so, the reporter anticipates that these will be matters for the appellant and the planning authority to address.

Hearing sessions:

The nature of the development. This was suggested by the appellant, with a view to explaining how this type of fish farm and its technology is intended to operate. The reporter considers that a hearing session would be of value as it would allow for a discussion of the potential effects of the development related to that technology. It may also present an opportunity for those parties who are concerned about the potential effects of the development from sea-lice to explain their position. Depending on the written evidence on the scope of other consenting regimes, some effects of the development may not be relevant to this hearing if they are controlled through other consenting regimes.

Planning policy and other relevant policy. The National Park Authority stated its view at the meeting that the policy context for the appeal is relatively complex and that there are important differences in interpretation of policy between the Authority and the appellant. Therefore the reporter agrees that a hearing may be a more effective way of considering these matters than by written submissions.

Seascape, landscape and visual effects. The reporter considers that a hearing will be sufficient for this matter.

Inquiry session:

Effects on wild salmon from the risk of escape of farmed fish. One of the National Park Authority's reasons for refusal relates to concerns about the risk of escape of farmed salmon, and these genetically interacting with the populations of wild salmon in (and migrating to and from) the Endrick Water Special Area of Conservation. Further evidence on this point is potentially quite technical and legalistic in nature, therefore the reporter considers that an inquiry session is necessary.

Since there are concerns from some objectors about the effects from the risk of escape on other wild salmon interests (salmon rivers draining into Loch Long and Loch Goil) the reporter is prepared to include these effects in the scope of this inquiry session, albeit he recognises that the Park Authority did not refuse the application on the basis of such effects. However if interested third parties consider that such effects on other wild salmon interests would be better considered during the hearing session on the nature of the development, the reporter is prepared to consider the merits of that as an alternative approach.

6. The reporter considers that the above procedures should be sufficient. He therefore does not see clear value in a more general session (suggested at the meeting by the appellant) where third parties can express their views of the proposal

outwith the format of a topic-based hearing or inquiry session. He does not consider that further evidence is needed in relation to any other matter. This does not signify that other relevant matters are less important, but simply that no further evidence about them is required in order for the report to Ministers to be prepared. All relevant matters and all the representations and other evidence already before the reporter d will be taken into account in the report.

7. At the meeting, the appellant and the National Park Authority both confirmed their availability for hearing and inquiry sessions beginning on Monday 25 September 2023. The hearings and inquiry sessions would take place from Monday 25 to Thursday 28 September. Subject to the number of parties who wish to participate, the Reporter anticipates that some days in the following week, beginning Monday 2 October, may be required. The suggested running order is as follows;

Hearing	Planning and other relevant policy.
Hearing	The nature of the development
Inquiry	Effects on wild salmon from the risk of escape of farmed fish
Hearing	Seascape, landscape and visual effects
Hearing	Planning conditions and obligations (if required)

8. The above programme, and proposed dates and durations for each session, can be confirmed at a later date. The arrangements for the exchange of closing submissions and final summaries of cases will be agreed at the relevant hearing and inquiry sessions.

9. The proposed venue for the hearing and inquiry sessions is the Three Villages Hall, Arrochar. Sessions would start at 9:30 or 10am and go on until around 5pm as necessary. The reporter anticipates that the National Park Authority and the appellant would wish to attend in person. Should parties wish to participate by video-conference, DPEA will aim to facilitate this.

10. The reporter will make unaccompanied site inspections of the appeal site, the viewpoint locations and other relevant locations. On reflection, he does not consider it necessary for the extent of the development on the site to be marked out for his visit.

11. The following timetable is proposed for the exchanges of evidence:

16 June	Note of pre-examination meeting issued
30 June	Parties confirm which procedures they intend to participate in
7 July	Reporter issues request for further written submissions
28 July	Initial responses to request for further written submissions
28 July	Parties submit statement of case for each hearing/inquiry session
18 August	Responses to the further written submissions
18 August	Appellant and National Park Authority - joint core document list
18 August	Appellant and National Park Authority – statement of agreed matters
1 Sep	Hearing statements and precognitions submitted
13 Sep	Reporter issues agendas for hearing sessions
25 Sep	Start of hearing and inquiry sessions

12. Parties should agree between themselves the arrangements for the exchange of documents on the relevant dates above. All documents to be relied upon must be provided to each party participating in the relevant hearing and inquiry session. The appellant and/or the National Park Authority should submit all the core documents – there is no requirement on the other parties to produce further copies of the core documents. Electronic copies of all documents should be submitted to DPEA and will be published on the DPEA website.

13. Statements of case should set out the basis for each party's case for each hearing or inquiry subject. They should contain a list of all documents to be relied on and details of all witnesses who will give evidence.

14. Precognitions should be a maximum of 2000 words.

15. Depending on the number of participants in each session, it may be beneficial for like-minded parties to collaborate to present a unified case. This can help parties present a better case, can reduce duplication of work, and can facilitate more efficient and effective hearing and inquiry sessions. If, at any point, parties agree to work together, DPEA and the other relevant parties to a session should be advised of this.

16. Under the Regulations, the National Park Authority will be required to retain a copy of all the hearing and inquiry documents and to make these available for inspection if so requested. The Authority is asked to confirm how it means to meet this obligation.

17. **Parties are now requested to confirm, by Friday 30 June, which of the following procedures they intend to participate in**

Written submissions	Scope of other consenting regimes.
Written submissions	Planning conditions and obligations.
Hearing	Planning policy and other relevant policy.
Hearing	The nature of the development.
Inquiry	Effects on wild salmon from the risk of escape of fish.
Hearing	Seascape, landscape and visual effects

18. DPEA contact details for any subsequent correspondence on the appeal or questions about the contents of this note are as follows:

Jayne Anderson - Planning and Environmental Appeals Division (DPEA)

Scottish Government, Ground Floor, Hadrian House, Callendar Business Park,
Falkirk, FK1 1XR

Phone: 0131 244 6934

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Annex A: Meeting Participants

Appellants

Joshua Holder – Loch Long Salmon Ltd

Patrick Munro – Burges Salmon LLP

Craig Whelton – Burges Salmon LLP

Mark Shotter - Burges Salmon LLP

Stewart Hawthorn - Burges Salmon LLP

Authority

Alison Williamson

Stuart Mearns – Director of PLACE

Alistair McKee – Anderson Strathern LLP

Members of public

Paul Houghton – Houghton Planning – obo Paul Nicoll

AFFTheClyde - Hilary Worton, David McDowall (remotely)

Howard Worton

John Campbell KC acting on behalf Donna Vallance & Mark Main - attended remotely.

Argyll Fisheries Trust - Alasdair Reynolds & also obo Argyll District Salmon Fishery Board (Roger Brook)

Cove & Kilcreggan Community Council – James McLean

Mrs & Mrs Kinghorn

Alie Mills

Karen Ezard

Lochgoil Community Council – Peter Booth

Loch Long AIA – Colin Liddell