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15/02607/MFF Modification of fish farm from 10 No. 80m circumference cages to 12 No. 80m circumference cages including increase in extent of mooring area (no increase in biomass) at Sailean Ruadh (Etive 6)

FoLE objects to this application and the proposed expansion at Etive 6.

Screening and scoping

This application has already been subject to a screening and scoping exercise to ascertain whether an environmental impact assessment (EIA) and Environmental Statement should be required for the applicant, pursuant to the European Directive on EIA.

This process was not advertised to the public, but FoLE made representations that an EIA should be undertaken, including for some of the reasons detailed below. Those earlier objections, per the attached letter of 14th April 2015, should be considered as part of this objection.

The screening and scoping opinion issued by the Council on 1st May 2015 concluded that no new Environmental Statement would be required, but the Council nevertheless concluded that *"the main environmental issues to consider for this proposal are its effect on landscape character; potential increased risk to wild salmonids; benthic impact; nutrient enhancement and potential interaction with otters as a protected feature of the Loch Etive Woods SAC"*.

The recent history of Etive 6 fish-farm

Dawnfresh originally applied for planning permission in March 2012 for a 14 cage 100m circumference fish farm on the Etive 6 site.

Following intense local opposition and many hundreds of objections submitted to the Argyll and Bute Council planning website, Dawnfresh revised that application to a 10 cage site using 80m circumference cages. Permission for that 10 cage 1500 tonne site was granted in 2014.

At the Planning Hearing held in Oban on 29th January 2014, the Chairman of Dawnfresh, Alastair Salvesen, stated that the company had listened to objectors and hence had revised its application down to the 10 x 80 m cages. Also at that meeting, Alasdair Morrison, a planning adviser for Dawnfresh, said that *"Dawnfresh had listened to stakeholders and Officers and negotiated amendments to the proposal which saw a decrease in the scale of the development"*¹.

Assuming this 'negotiation' occurred with the Council, the Council should not now grant permission for more cages at Etive 6.

Likely biomass increase – avoiding 'salami-slicing' of development projects

In the past, developers have attempted to side-step the need for full environmental impact assessment under European law or to persuade planning authorities of the supposed benign nature of a development by 'salami-slicing' projects into smaller components, which together make up one large development.

This has been held in numerous cases, including by the House of Lords and the European Court of Justice, to be both unacceptable and unlawful.

This application made so soon after planning permission was granted for the 10 cage site strongly suggests that Dawnfresh has no intention to remain at the current 1500 tonne permitted biomass at Etive 6. Dawnfresh

¹ Formal Minutes of Meeting of Planning, Protective Services and Licensing Committee held In The Main Hall, Corran Halls, The Esplanade, Oban, 29th January 2014



farms a permitted biomass of 1545 tonnes in 10 cages at Etive 4, so there is no need for two more cages at Etive 6 to farm the same tonnage.

If granted planning permission for more cages, FoLE believes it is inevitable that Dawnfresh would then apply to SEPA to seek to push biomass up towards the 2,500 tonnes first applied for in 2012.

Further any planning condition as might be applied by the Council to try to restrict biomass at Etive 6 to 1500 tonnes would only be as effective as the Council's willingness to enforce such a condition in future and may well be challenged by Dawnfresh as unlawful, if the condition seeks to replicate the regulatory system applied by SEPA.

In relation to other plans to expand operations on Etive submitted by Dawnfresh, the local District Salmon Fishery Board has already raised a blanket objection to any further increase in biomass on Loch Etive to protect threatened wild fish from any further damage. In short, more fish in more cages means more pollution of the sea-bed, more pollution of the water and more escapes from what will be the same specification of cages from which 2,000 fish escaped into Loch Etive in April this year.

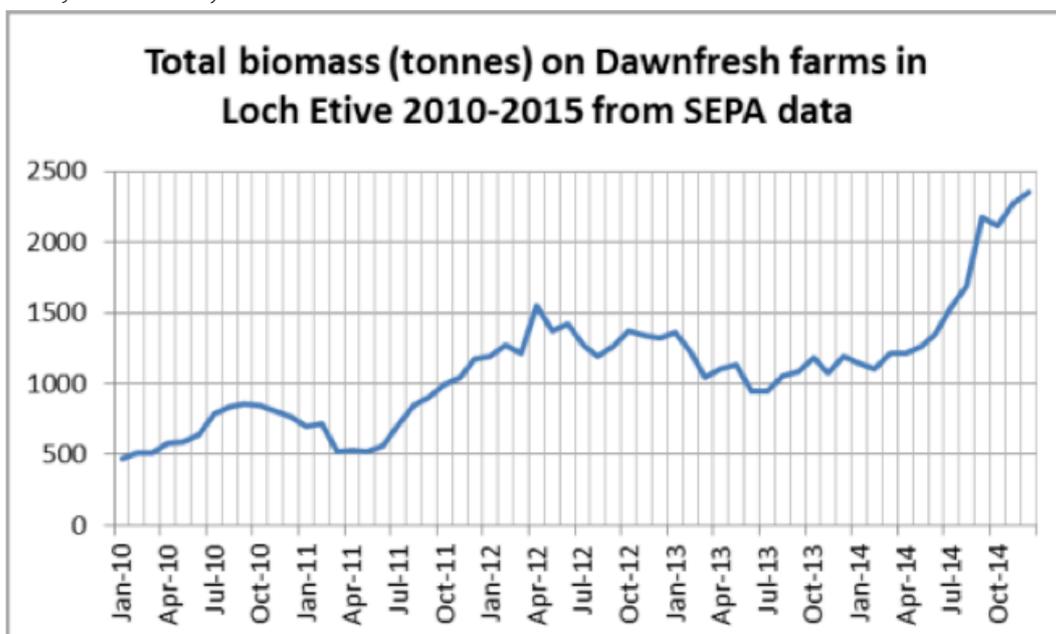
With revised planning applications expected imminently at Etive 3 (Port na Mine) and Etive 4 (Airds Bay), per FoLE's letter of 15th October 2015, also attached, both the Council and SEPA must demonstrate clearly how they intend to avoid Dawnfresh salami-slicing its expansion plans at Etive 6 and across Loch Etive as a whole.

The cumulative impact on Loch Etive of applications at Etives 3, 4 and 6

The application for two more cages at Etive 6 needs to be - but cannot yet be – assessed cumulatively with the revised applications the Council is expecting Dawnfresh to make at Etive 4 in Airds Bay, very close to the Etive 6 site, for more cages, a larger cage grid with permanently-moored large automated feed barge and at Etive 3, a revised application for much larger cages to be used there, on a larger cage grid, again with a large permanently-moored automated feed barge there too.

Dawnfresh's Landscape and Visual Appraisal submitted in support of this application, at section 4.4.10, recognises that the proposed Etive 4 and Etive 6 developments in combination would "give rise to a moderate cumulative visual effect overall" but, somewhat incongruously, concludes that the expansion of both farms is not considered to be a material increase in fish-farming activities in the loch.

As the graph below shows, the tonnage of farmed fish Dawnfresh holds in its farms on Loch Etive has increased nearly 5 fold in just under 5 years.





Over those 5 years, there has been no formal consideration given to the effect of this expansion, over the medium and long term, for the ecology of Loch Etive, including sea-birds, otters, seals, molluscs, crustaceans and wild fish. These matters are the legal responsibility of the Council to consider and to protect.

The Loch Etive ICZM Plan

Public opinion on the long term future for Loch Etive is formally reflected in the Loch Etive ICZM Plan. This Plan was the result of extensive local consultation. Dawnfresh was a consultee and major contributor to the Plan.

Further expansion at Etive 6 runs counter to the Loch Etive ICZM Plan as the proposed development falls within Policy Zone D of that Plan and the policy guidance for that zone identifies a presumption against new aquaculture developments in addition to existing sites due to the number of existing sites which largely occupy the most appropriate locations for development.

The Plan goes on to identify that some element of consolidation and rationalisation of existing developments within Policy Zone D is a requirement for any further aquaculture development within that policy zone.

Patently, the consenting in 2014 of the Etive 6 farm (10 cages plus feed barge) at Sailean Ruadh, in replacement for two very unobtrusive mussel long-lines, has more than 'used up' any capacity for consolidation and rationalisation within Policy Zone D. The Council then required Dawnfresh to agree, by way of a section 75 agreement attached to the Etive 6 permission, to remove completely the smaller farm at Etive 5 in 2017. The current application for two further cages at Etive 6 contains no proposal whatsoever for further consolidation or rationalisation. It would therefore run completely contrary to the ICZM Plan if, taken together with the expected increase at Etive 4, also within Policy Zone D, the Council were to grant permission for two further cages at Etive 6.

Etive 6 is already in breach of the section 75 agreement made in 2014

As noted above, the existing fish-farm at Etive 6 was granted permission in 2014 subject to a section 75 agreement, which also made it a legal requirement on Dawnfresh that its small site at Etive 1 (Inverawe East) was removed completely before Etive 6 was stocked with fish.

The continued presence of fish-farm equipment at Etive 1 means that Etive 6 is in breach of the section 75 agreement by continuing to hold farmed fish and has been since it began operating with fish stocked not its cages last summer (2014), yet the Council has to date not enforced the terms of the section 75 agreement.

Further, there is an outstanding application from Dawnfresh to Marine Scotland to allow the simple raising and immediate replacement of the Etive 1 anchors and moorings, to allow those anchors and moorings to be used as moorings for industrial feed boats, well-boats, barges, spare fish-farm cages and other fish farm support vessels that Dawnfresh now uses on Loch Etive. If granted, that will negate any compensatory landscape improvement at Inverawe that the section 75 agreement to have secured to allow the Council to grant Etive 6 planning permission in 2014, but the Council has declined to object to the application made to Marine Scotland.

It is unacceptable for the Council now to be considering an application to permit further expansion at Etive 6, while Dawnfresh continues to operate in breach of the section 75 agreement and the Council has not yet enforced that agreement.

Conclusions

The Council should recognise that if planning permission is granted for two more cages at Etive 6 without the 'salami-slicing' point having been addressed, and without the proposed expansion being assessed across the full range of impacts (including landscape, water quality, sea-bed pollution, the negative impact on priority marine features and biodiversity, on other loch users and on wild fish populations etc), both on its own and in combination with other Dawnfresh expansion plans on Loch Etive, then the permission will be fundamentally flawed and unlawful.



If such a proper and full assessment were to be performed, FoLE believes that this application would then be refused by the Council, as the Council would recognise that any further expansion of fish-farming on Loch Etive as a whole is unacceptable

For all the reasons stated above, FoLE objects to this application and urges the Council to refuse to grant the planning permission sought.