

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE 19 August 2014

Agenda Item	6.1
Report No	PLS/055/14

14/00580/FUL: Measan Na Mara Ltd
South Channel, Loch Moidart, Eilean Shona, Acharacle

Report by Head of Planning and Building Standards

SUMMARY

Description: Major Application - Marine Shellfish Farm, (Pacific Oysters) extension of existing site to create 4 plots of oyster trestles (zones 1,1a,2 and 3), consisting of a total of 21,420 trestles each 3m x 1m x 0.6m high in a site of 23.2 hectares

Recommendation: **GRANT** planning permission

Ward: 22 - Fort William and Ardnamurchan

Development Category: Major Development

Pre-determination hearing: None

Reason referred to Committee: More than 5 objections
Objection from Community Council

1.0 PROPOSED DEVELOPMENT

- 1.1 The applicant intends to install 4 plots of oyster trestles within an overall site area of 23.2 hectares on the intertidal foreshore of the south channel of Loch Moidart. The development is centred around a narrow inlet Faodhail Dhubh and extends to the east towards the River Shiel as shown in the attached Location Plan (Figure 1).
- 1.2 The plots will contain oyster trestles laid out in parallel rows. The trestles are made of steel bar, and each is 3m long, by 1m wide x 0.6m high. Each trestle will hold plastic mesh bags containing Pacific Oyster (*Crassostrea gigas*). The development as applied for is intended to have 21,420 trestles in total, allowing for the culture of approximately 370 Tonnes of oysters per annum. The intended layout of the oyster trestles within each plot is shown in Figures 2-5. Figure 6 shows a developed site in Ireland.
- 1.3 The four plots are linked together into a single application site, and are joined to the road head at Newton of Ardtoe by a corridor identified as the route for access to the site by tractor and trailer.

- 1.4 The site is intended to be managed by visits to the site at low tide and 2 tractors, each with 10 tonne capacity trailers, will travel to the site and return during each low tide. Additional journeys may need to be made during neap tides (i.e when the difference between high water and low water is least) in order to accommodate the time of the tides.
- 1.5 The applicant has advised that it will use vacant yard space and garage at the Shiel Buses depot in Acharacle as a base for the tractors and as a dispatch centre for the oysters. This shore based element to the operation does not form part of the present planning application but may require to be the subject of a separate planning application,

2.0 SITE DESCRIPTION

- 2.1 Access to the site passes through Newton of Ardtoe where the head of the Faodhail Dhubh inlet is reached by a gate between the grounds of two residential properties. There is no made up track between the gate and the beach. The main route out to the site is along and beside the burn which runs out into the inlet, though a small area of salt marsh.
- 2.2 The foreshore in the inlet is flat sand with occasional raised ridges of small stones and shells, and some larger rock outcrops. The burn meanders to the North along the inlet.
- 2.3 Plot 3 of the development would be reached approximately half way down the inlet, extending towards the South Channel. Plot 1 is to the west of the mouth of the inlet and includes the area currently developed as a series of posts with wire between on which plastic mesh baskets can be hung. This is referred to as a "BST" longline system. Plot 1a is to the east of the mouth of the inlet at Port Ban and the remaining plot, Plot 2 is further east. This is the most extensive of the plots in terms of scale.
- 2.4 Plot 1, and potentially parts of Plot 1a, are likely to be visible, during low tides, from a single property known as Traigh Bàn situated at Rubha na Roinne Moire and visitors to the property, which is accessed via Faodhail Dhubh, would pass close to the proposed Plot 3 which would be exposed for longer periods than the other plots.
- 2.5 From low water mark at the mouth of the inlet, Castle Tioram is visible in the distance to the east of the proposed development with shelter to the north of the site being provided by Eilean Shona approximately 700m to the North. It is Plot 2 that lies the closest to these landmarks.
- 2.6 At low water Spring tides the existing oyster farm in Plot 1 at Eilean Mhic Neill is visible, taking the form of a wire fence extending above mean low water spring tides. It is intended that this is removed in the event that planning permission is granted for the proposed development.
- 2.7 The Sound of Arisaig Marine Special Area of Conservation (SAC) includes part of Loch Moidart and the site as applied for extends into the SAC.

3.0 PLANNING HISTORY

- 3.1 There is an extensive history of Crown Estate lease applications and planning applications in relation to shellfish farming within the South channel of Loch Moidart.
- 3.2 A large lease for shellfish cultivation was granted by the Crown Estate to the original lease holder of this site for mussel rafts to the west of Eilean MacNeill.
- 3.3 During 2003 the original lease was modified to allow the installation of BST longline systems to the east of Eilean Mhic Neill.
- 3.4 Aerial photographs of the Faodhail Dhubh indicate that location, similar to Plot 3 has been developed in the past. The applicant has submitted that this site was utilised by his predecessor on the site and that this occurred at a time that planning permission was not required. In carrying out background checks in relation to the present application the Council has not been able to find any record of either a Crown Estate lease application or a Planning Application in relation the previous operation of the proposed Plot 3. Equally we are unaware of any concerns expressed at such time as the site was operational.

4.0 PUBLIC PARTICIPATION

- 4.1 Advertised: Oban Times
Representation deadline: 09 April 2013
- Timeous representations: 42
- Late representations: 5
- 4.2 Material considerations raised are summarised as follows:
- Scale of development
 - Visual impact of development including from Castle Tioram and Eilean Shona managed gardens and the National Scenic Area
 - Noise impacts
 - Light impacts of night time working
 - Water pollution resulting
 - Adverse impacts on local employment / tourist industry
 - Natural beauty/ unspoilt and tranquil nature of the area
 - Scientific interest of the Area / Sound of Arisaig SAC
 - Source of Marine litter
 - Proximity to recognised sea kayak route
 - Amenity setting of cabin at Traigh Bàn
 - Potential for introduction of non-native species
 - Tractor movements will leave impacted sand and permanent track marks

- Impact on local single track roads
- Impact on wildlife
- Impact on navigation
- Disease risk implications from introduced shellfish with specific reference to oyster herpes virus.
- Restrictions on public access to the foreshore
- Geomorphological impacts on the sand bars and SAC
- Lack of assurances with regard to removal of equipment
- Impact on common grazings
- Existing site poorly maintained
- Significant quantities of man made materials used in the construction of the site
- Lack of available seed oysters in the UK
- Impact on residential amenity of two properties at Newton of Ardtoe
- Noise, enjoyment of property, encroachment on access to properties, coming and goings at irregular hours

Names and addresses are set out within Annex 1. All letters of representation can be viewed on the Planning and Development Service ePlanning portal at <http://wam.highland.gov.uk/wam/> using reference number 14/00580/FUL

5.0 CONSULTATIONS

5.1 Acharacle Community Council objects to the proposals. The reasons are summarised as follows:

- The scale of production and size of development is inappropriate for the area.
- There appears to be no hatchery in the UK capable of producing the required quantity of spat.
- Disease risks associated with imports could eliminate fishing and shellfishing activities in the area for a considerable period of time.
- Local single track road infrastructure is insufficient to support the increased commercial and private traffic associated with the development.
- Debris left from operations is likely to have a negative impact on local wildlife.
- It is an area of outstanding natural beauty and the district survives on tourism and to a lesser extent crofting and small scale fishing/shellfish activity.
- The proposal, with its increased traffic, noise and light pollution, particularly outside normal business hours, is likely to severely impact on that tourism and overall to negatively affect the quality of life for both residents and holidaymakers alike.
- With regard to water based recreation in particular the area is widely used by inshore craft users like canoeists and this development would significantly restrict their use of the South Channel.

5.2 TEC Services – Roads and Transportation – No comment.

5.3 TEC Services – Environmental Health – No comment.

- 5.4 The Highland Council Historic Environment Team (HET) had no objection in this case it is not thought that adverse impacts on the setting of the historic environment will be significant enough to justify an objection from this office.
- 5.5 Marine Scotland Science (MSS) commented that this application represents a significant development in the area, and would be one of the largest oyster production sites in Scotland. The South Channel of Loch Moidart should be capable of supporting the biomass being proposed. It went on to comment on the presence of other undeveloped sites nearby, and that there was an existing Marine Scotland authorisation to operate at this site (Plot 1). It noted that the applicant had a biosecurity measures plan and that this states that stock will only be imported to the site from an area with equal or higher health status than the South Channel. Finally MSS commented on the fact that as Pacific Oysters are a non-native species they would need to be farmed in containment, and concluded that there do not appear to be any negative implications on fish or shellfish health from the proposed modifications in expanding the Pacific oyster farm at the existing site.
- 5.6 The Council sought and received additional information from MSS in relation to concerns regarding Oyster Herpes Virus and biosecurity that were raised in submissions. [These aspects are discussed in paragraph 8.27-8.28 below].
- 5.7 Scottish Environment Protection Agency (SEPA) No objection. It noted that the development would not significantly effect the water environment nor result in the downgrading of the water body under the Water Framework Directive. It noted that shellfish farms are dependent upon good water quality in order for the shellfish to meet end product standards set by the Food Standards Agency.
- 5.8 SEPA went on to note that the site lies within an area currently designated as Shellfish Water Protected Area (SWPA), specifically this is the Loch Moidart South SWPA (designated under the Water Environment (Shellfish Water Protection Areas: Designation) (Scotland) Order 2013). As such the area is monitored by SEPA for the presence of sewage related bacteria. The South Channel consistently failed to achieve the guideline standard for Faecal coliforms in biota under the now repealed Shellfish Growing Waters Directive. The area is also classified as having a seasonal B grade classification for shellfish harvesting. SEPA considers that whether or not shellfish are likely to be marketable is a commercial risk for the applicant.
- 5.9 In addition SEPA went on to note that there are no consented discharges from public sewage systems, industrial or known private septic tanks direct to the SWPA and that sewage water effluent from the Acharacle sewage treatment works discharging into the river Shiel is monitored by SEPA. If a Scottish Water asset is found to be contributing to a failure of the guideline standards in shellfish waters then SEPA would engage direct with Scottish Water in order to facilitate improvement.
- 5.10 SEPA noted that there was the possibility for animals grazing in the area to contribute to the potential for input of coliform bacteria into the loch from run-

off from the land. This may subsequently affect the classification of the shellfish grown.

- 5.11 In light of concerns expressed in third party submissions regarding restrictions on grazing as a result of the proposed development the Council sought further advice from SEPA in relation to such agricultural run-off. SEPA's advice is that if a failure of the guideline standards in shellfish waters was attributed to agricultural practices, then SEPA would engage directly with the farming community in the catchment to ensure they are following best practice and carrying out their activities in compliance with the relevant CAR General Binding Rules. SEPA would also expect them to operate in accordance with statutory guidance, such as the Prevention of Environmental Pollution From Agricultural Activity (PEPFA) code and the 4-Point Plan and would cooperate with Scottish Government Rural Payments and Inspections Directorate colleagues to this end.
- 5.12 SEPA further highlighted that the proposed site is situated within the Sound of Arisaig Special Area of Conservation designated for its sub littoral sandbanks and in particular the extensive beds of maerl (a calcareous algae noted as being a priority marine feature) and the rare and scarce species that they support. SEPA noted that the applicant asserts that operations will not encroach upon the maerl beds. The presence of the site within the Morar, Moidart and Ardnamurchan National Scenic Area and within 1.5km of the Loch Moidart, and Kentra Bay and Moss Site of Special Scientific Interest was also noted by SEPA.
- 5.13 Scottish Natural Heritage(SNH) noted that the proposal lies partly within the Sound of Arisaig Special Area of Conservation (SAC) designated for its subtidal sandbanks.
- 5.14 SNH advised that as the proposed development is not necessary for the management of the Sound of Arisaig Marine SAC that it had carried out an appraisal of the impacts of the proposal and that it had reached the view that the development could only proceed if subject to certain mitigation conditions. SNH noted that these conditions had been suggested by the applicant.
- 5.15 SNH set out the following conditions:
- a) No discarded shell material shall be deposited on site, either in the subtidal or intertidal zones.
 - b) No vehicular access to and from the site should pass within the boundary of the Sound of Arisaig SAC
 - c) Searches for Pacific oysters should happen as detailed in the environmental assessment.
 - d) Micrositing of the trestles should happen to avoid placing them within 10m of any maerl in shallow water.
- 5.16 SNH also commented in relation to the Morar, Moidart & Ardnamurchan National Scenic Area (NSA), which is designated for its outstanding coastal scenery. The special qualities of the NSA include that it is 'peaceful, unspoilt and remote' and set out that Castle Tioram is a romantic ruin and cultural icon. SNH advised that the nature of the indented landscape means that the

development will be well contained. The tides mean that the visual impact of the proposal will be reduced. It went on to state that in its view the proposal will not have an adverse effect on the integrity of the NSA or the qualities for which it has been designated.

5.17 Historic Scotland (HS) note that the proposal is in the vicinity of a number of nationally important heritage assets:

- Castle Tioram & Eilean Tirim (scheduled monument index number 955)**

- Eilean Shona Inventory Garden and Designed Landscape (GDL00171)**

5.18 The proposed oyster farm, and in particular zone 2, is likely to have a degree of impact on the setting of these assets through a change in the present baseline by the introduction of a large area of trestles where at present there is undeveloped sand and mud flats. However, due to a number of factors they do not consider that this impact is likely to have a significant impact on the understanding or appreciation of either the castle or the Inventory landscape. These factors include (i) the distance of the trestles from the assets, (ii) the lack of prominence of the trestles in the landscape, and (iii) the trestles will be covered by the sea for a significant amount of time each day. As a consequence, Historic Scotland does not object to the development.

5.19 Scottish Water (SW): No objection.

5.20 Transport Scotland (TS): No objection.

6.0 DEVELOPMENT PLAN POLICY

6.1 The following policies are relevant to the assessment.

The Highland wide Local Development Plan 2012

6.2 Policy 28 – Sustainable Design
Policy 30 – Physical Constraints
Policy 49 - Coastal Development
Policy 50 – Aquaculture
Policy 57 – Natural, Built and Cultural Heritage
Policy 58 – Protected Species
Policy 59 – Other Important Species
Policy 60 – Other Important Habitats
Policy 61 – Landscape

West Highlands And Islands Local Plan (as continued in force)

6.3 No policies relevant to this application remain in force

7.0 OTHER MATERIAL POLICY CONSIDERATIONS

Scottish Planning Policy (SPP) 2014

- 7.1 Scottish Planning Policy (SPP) seeks to achieve a planning system that proactively supports development that contributes to sustainable economic growth and creates high quality sustainable places. SPP considers that achieving sustainable economic growth requires a planning system that enables the development of growth enhancing activities across Scotland and protects and enhances the quality of the natural and built environment as an asset for that growth. It requires planning authorities to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that could contribute to economic growth.
- 7.2 SPP sets out a number of subject policies. Those of most relevance to this proposal are:
- Landscape and Natural Heritage
 - Coastal Development
 - Fish Farming

8.0 PLANNING APPRAISAL

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan in this case comprises the Highland wide Local Development Plan and Scottish Planning Policy.

Determining Issues

- 8.2 The determining issues are:
- do the proposals accord with the development plan?;
 - if they do accord, are there any compelling reasons for not approving them?
 - if they do not accord, are there any compelling reasons for approving them?

Considerations

- 8.3 In order to address the determining issues, the Committee must consider whether the proposals will have an unacceptable impact in terms of relevant planning considerations. The following issues have therefore been considered in preparing this report: a) development plan, b) principle of development, b) built and cultural heritage, c) landscape and visual amenity, e) Scotland River Basin Management Plan, f) wild fish populations, g) biological carrying capacity and water column impacts h) benthic impacts, i) commercial inshore fishing grounds, j) existing and consented aquaculture sites, k) established harbours, natural anchorages and navigation including recreational use, l) location of pipelines, outfalls and discharge points, m) access, n) noise impacts o) transport infrastructure, p) economy, q) marine litter.

Development Plan Policy

- 8.4 In this case the key policy for consideration is Policy 50 – Aquaculture within the Highland Wide local Development Plan which also encompasses the other policy provisions listed above. Policy 50 sets out that The Council supports the sustainable development of fin-fish and shellfish farming. Subject to there being no significant adverse effect, directly, indirectly or cumulatively on the natural, built and cultural heritage and existing activity then the proposal is likely to accord with the development plan.
- 8.5 Scottish Planning Policy and documents such as the Strategic Framework for Scottish Aquaculture set out the need for shellfish farming to expand alongside other forms of aquaculture in order to aid the economic development of Scotland as a whole.

Principle of Development

- 8.6 Oyster farming using a variety of equipment has historically taken place both within and adjacent to parts of the proposed site area. This includes the production of Pacific oysters, *Crassostrea gigas*. The current development in Plot 1a utilises a shore based longline system known as the BST longline which resembles a wire fence from which oyster baskets are suspended. This development superseded a previous development on the same site which utilised trestles similar to those now proposed. It is therefore considered that the principle of this type of development at this location is established. Previous iterations of the development were, however, considerably smaller than that now proposed, and in addition, indications from both the operator and local residents are that the existing site is not currently being used to its full permitted capacity. In this case, whilst the principle of development is established and supported, the scale of development proposed remains a key consideration.

Natural Heritage

- 8.7 The site lies partly within the Sound of Arisaig SAC. This raised concerns regarding the possible impact of the development on the maerl and sandbank features of interest. The SAC management scheme for the Sound of Arisaig sets out that there should be a presumption against the introduction of non-native species within, or adjacent to the SAC. The scheme of management is intended to minimise the impacts of development on the SAC.
- 8.8 In this case it needs to be recognised that the Pacific Oyster *Crassostrea gigas* is a non-native species, and it is an offence under the Wildlife Scotland Act (2011) to allow it to escape from the culture environment. This species has, however, been commercially farmed throughout northern Europe for many decades. This type of aquaculture utilises a range of different farming techniques but the most common is the trestle and poche system proposed for this development.

- 8.9 In some areas of France, the Netherlands, Norway and the South Coast of England, feral and in some cases self sustaining populations of Pacific oysters have developed. Current advice is that self sustaining populations are very unlikely to occur in Scotland. Summer sea water temperatures are not likely to remain high enough for long enough for spawning to occur. Even if spawning was to occur sea water temperatures are unlikely to remain high enough for long enough for the larvae to develop to settlement.
- 8.10 In view of projections in relation to climate change and likely sea water temperature rise there is a possibility that during the lifetime of the planning permission, if granted, the required sea water temperatures could be reached. The applicant has submitted an environmental monitoring protocol in order to ensure that action can be taken in the event that sea water temperatures reach levels required for spawning. These protocols are acceptable to both Marine Scotland Science and SNH and the associated monitoring requirements can be incorporated into planning conditions.
- 8.11 In this case the applicant has taken the commercial decision to farm Oysters that are sterile and for the most part cannot reproduce. The use of such "Triploid" oysters results in the oyster diverting energy to growth rather than sexual maturation with the result that growth rates on the farm are expected to be higher than in non-triploid oysters. It is considered that this combined with monitoring provides an important safeguard for the SAC features of interest.
- 8.12 There is also the possibility of unintended "hitchhiker" species being placed on site if transported with the oysters. Seed oysters brought to the site also have the potential to act as vectors for the transmission of diseases that may impact adversely on wild species in the area, for example native oysters. Concerns have been expressed by objectors in this regard. In permitting the farming of oysters elsewhere in Highland conditions have been included in planning permissions that any shellfish brought to the site must be from hatchery production and certified as disease free. It is considered that similar conditions would serve to mitigate the impacts in this case. It should also be noted that that it is a fish health requirement that animals brought to the site must come from an area of equal or better health status that the area to which shellfish are being transferred.
- 8.13 SNH's appraisal of the impacts on the SAC has led to the suggestion of mitigation conditions set out in paragraph 5.15 above. Subject to careful wording it is considered that the site could be operated in such a way as to reduce these impacts on the SAC interest.
- 8.14 It has been suggested that the presence of the oyster trestles will result in changes in water movement within the South Channel, Loch Moidart and will lead to alterations in the sedimentation regime which may alter the position of sand bars on the beach and within the SAC. Although geomorphological alterations may be possible to a degree, it is noted that this is not something which SNH has commented on in its consultation response. It is not therefore considered that this is a significant concern.

Built / Cultural Heritage

- 8.15 Parts of the development site, in particular Plot 2, have the potential to be visible from Castle Tioram, a Scheduled Ancient Monument and the landscaped gardens on Eilean Shona. The possible impact on the landscape setting of these designated features is an issue which has been raised in a number of objections. Historic Scotland, which has statutory responsibility for ensuring that development proposals do not adversely impact on nationally important Built Heritage, do not object to the proposals. No concerns have been raised by the Councils Historic Environment Team.

Landscape / Visual Amenity

- 8.16 The site is contained within the Moidart, Morar and Ardnamurchan National Scenic Area. In its response SNH has advised that they do not consider that the development will have a significant impact on the NSA. For the most part the proposed development will take place on an area that is currently undeveloped and is an area of beach of sand and mud. This landscape is only actually revealed to its fullest extent at low tide and for at least 60% of the tidal cycle the development will be covered by the sea and it will not have any impact on landscape character.
- 8.17 A key element of the experience of the South Channel is the indented coastline and the presence of narrows and skerries. There are rocky outcrops on the beach. The majority of views of the development site are at a low angle from a significant distance. The development will result in oyster farming equipment being viewed in an area where there is currently no development, however the low profile design of the equipment, its positioning in relation to existing coastline and skerries and the fact that most of the time it will be covered in water mean that the visual impact of the development from most receptors is not likely to be significant.
- 8.18 The owners and users of a holiday property at Traigh Bàn have objected to the development. One of the reasons cited for objection is that it is felt that the development will impact on views from the property. In fact only Plot 1a and part of Plot 1b will be visible from the holiday cottage. Plot 1a is already developed as an oyster farm although the equipment currently in use is taller than that now proposed. The new development at Plot 1a will cover a greater extent if approved but is unlikely to be exposed above the water for significantly longer during the tidal cycle. It is not, therefore considered that the visual impact of Plot 1a is significant in terms of the outlook from the holiday property. It is likely that the north western corner of Plot 1b will be just visible from the property. In the main, the view seaward across the south channel Loch Moidart from the property will remain largely unchanged as a result of the proposed development.
- 8.19 Representations have also suggested that the on site operations will present a significant source of light pollution in an area which currently does not experience such impacts. When it is necessary to work in the dark, which will mostly be during the winter when there tend to be less visitors about, the only

lights in use will be the headlights of the tractors and head torches on the workers. It is not considered that this will represent a significant source of light pollution considering the operating hours of the site.

Scotland River Basin Management Plan

- 8.20 South Channel, Loch Moidart is contained within a coastal water body known as “Loch Moidart” this is shown as being of “Good” status in the Scotland River Basin Management Plan with the target of remaining at “Good” status during subsequent RBMP cycles. There are no pressures noted on this water body. It is not anticipated that the proposed development would adversely impact on the status of this water body. Water quality within the water body will continue to be monitored by SEPA.

Wild Fish Populations

- 8.21 The proximity of the development to the River Sheil is noted. At pre-application stage concerns were expressed regarding the possibility that the oyster farm may serve to provide shelter for predators of wild salmon and sea trout. No representations have been made in this regard in relation to the development under consideration. It is unlikely that the development will adversely impact on wild fish populations, in the vicinity of the site.

Biological Carrying Capacity / Water Column Impacts.

- 8.22 Oyster farming does not require the input of any additional feed or medicines and as a result can be considered to be a net user of nutrients. There are unlikely to be any significant water column impacts resulting from discharges from the proposed development. There are, however a number of instances elsewhere in the world where intensively cultured shellfish have not shown the growth rates anticipated. Whilst this could be attributable to a number of factors, high stocking densities and the number of shellfish exceeding the naturally available food supply is a potential commercial risk. This may also present a risk to other, wild, filter feeding animals if food availability to them is reduced. It is expected that the developer will monitor growth rates on the site as part of its operational / business plan and retain records of the number of shellfish stocked to the site, the number of mortalities and the growth rate (this is a legal requirement under fish health legislation). Given the advice from MSS that the South Channel Loch Moidart should be capable of supporting the biomass of shellfish proposed, it is not considered necessary to stipulate conditions for this aspect of the development. It is also noted that the applicant intends to develop the site on the basis of a production scale trial initially in order to ascertain which areas of the site provide the best growth rates.

Benthic Impacts

- 8.23 It is unlikely that the development will result in any significant impacts on the seabed beneath the trestles. The main species that may be impacted in the event of any significant deposition are native oysters present on the site and

the maerl within the SAC. SNH has stipulated that the development should be micrositied in order to ensure that trestles are not placed within 10m of any maerl in shallow water. The applicant recognises the potential impact on maerl habitat and in its supporting information has set out that it would comply with this request. SNH has also commented on the presence of native oysters suggesting that they be relocated away from any areas where they are likely to be overlaid by trestles. It is considered appropriate that conditions be imposed in order to control both of these elements of the development.

- 8.24 It has been suggested in submissions that the movement of tractors on the beach will result in permanent tracks being left in the sand. This is likely to be the case during those periods when the site is in operation but is not considered to be a significant impact. There is also the high likelihood that any tracks would be removed during storm events. During the site visit it was noted that there were already tracks visible on the beach and submissions indicate that oyster farming operations are not the only vehicular use of the beach. As such no conditions are suggested in this regard.

Commercial inshore fishing grounds

- 8.25 The site is to be placed in the intertidal area and as such it will not impact on any creel fishing activities taking place in the South Channel as these would normally require deeper water. Submissions from the public have indicated that winkle collecting is an activity which takes place on the rocky areas close to the site. It is not considered that the proposed development will prevent access to any of the areas currently used for this activity.

Existing and consented aquaculture sites

- 8.26 In the immediate vicinity of the proposed development the only active aquaculture sites are operated by the applicant. It is the intention for the equipment at the existing site at Plot 1 of the proposed development to be removed in favour of the new development.
- 8.27 A number of objections have been made in relation to the impact that this development may have on oyster farms elsewhere in Scotland. These concerns are two fold. Firstly it is stated that there is not at present sufficient hatchery capacity in the UK to supply the required quantity of Triploid seed oysters to stock the site. Secondly there is concern that the import of stock from outwith the UK may lead to an increased risk of disease which could potentially spread to other Scottish operators and impact their business. The main concern in this regard is the oyster herpes virus which has led to large stock mortalities on oyster farms in France. Other shellfish farmers have submitted that the scale of the development proposed would increase the risk of disease becoming an issue.
- 8.28 The applicant has stated in submissions that it would seek supply of oyster seed from the Ardtoe Marine Laboratory. This would require an element of upscaling of existing operations at the laboratory and could potentially lead to additional local employment. It is noted that Marine Scotland Science has not

expressed any concern with regard to disease or the availability of seed. It is also noted that it is not in the interests of the developer to import oyster stock that could potentially carry disease and damage the stock already on the site. Furthermore, Marine Scotland advise that there is a legal requirement that movements of shellfish stocks on to a site can only come from an area of equal or higher health status. The proposed phased nature of the development over several years also provides the opportunity for existing suppliers to increase their capacity if feasible and should the need arise.

Established harbours, natural anchorages and navigation including recreational use

- 8.29 The site if approved would require to be the subject of an application to Marine Scotland for a Marine Licence. This would consider the navigational aspects of the development. At this stage the Northern Lighthouse Board has advised the applicant that no navigational marking of the site would be required. This indicates that the site is unlikely to pose a hazard to navigation of vessels within the South Channel.
- 8.30 Sailing directions published by The Clyde Cruising Club indicate that there are recognised small vessel anchorages at the head of the loch close to the jetty on Eilean Shona and immediately to the west of Riasga. The pilotage notes for entry to Loch Moidart indicate that there are numerous obstructions and the published route into the loch is in deeper water to the North side of the channel and well away from the proposed site. On the basis of the published information available to sailors it seems unlikely that the presence of recognised anchorages represents any significant constraint to the proposed development. In addition, once marine licence has been granted the applicant will be required to inform the Admiralty Hydrographic Office of the location of the development so that navigational charts can be amended.
- 8.31 Representations indicated that the area is popular with sea kayakers due to its relative inaccessibility from the sea and the narrow secluded nature of the channel. It is included as part of a recognised published sea kayak trail. The layout of the plots within the proposed development would serve to ensure that most of the mouth of the inlet at Faodhail Dhubh would not be obstructed. It is not therefore considered that the use of the area by sea kayakers represents any significant constraint to development, nor does the development represent any danger to the continued use by kayakers.

Location of pipelines, outfalls and discharge points.

- 8.32 SEPA has advised that the development lies within an area that is currently designated as a Shellfish Water Protected Area, it notes that the nearest Scottish Water discharge is via the River Sheil some distance away. Representation from Sheilfoot Grazings Committee and individual crofters have suggested that the presence of the a new designation will result in grazing restrictions on land in the vicinity of the site. It is important to note that the proposed expansion of the site will have no impact on the extent of the area that is already designated as a Shellfish Water Protected Area. Current

grazing and farming practices should already be undertaken in a manner which safeguards watercourses and in line with various standards and guidelines. This falls within the statutory remit of SEPA and Scottish Government Rural Payments and Inspections Directorate and is not relevant to the planning application under consideration.

Access

- 8.33 Access to the site passes through a gate that lies between two residential properties at Newton of Ardtoe. It is understood that the access track is in the ownership of Shielbridge Estate which has reached a draft agreement with the applicant regarding access rights to the track. The draft agreement also allows for car parking close to the turning head at Newton of Ardtoe. It is expected that prior to the development of the site, all relevant permissions are in place including rights of access to the land to be developed. It is at the applicants own commercial risk if these rights cannot be obtained. Planning permission, if granted, would not grant any specific access rights over the development land other than agreeing that the site entry point proposed is in an acceptable location.
- 8.34 The proposed use of the access track at Newton of Ardtoe has resulted in neighbour objections. These relate to impacts on amenity resulting from car parking at the turning head and return trips from the site by tractors and trailers. Concerns relate primarily to noise and intrusion associated with vehicle movements close to the houses which may wake families in early hours of the morning, or intrude on privacy during summer evenings.
- 8.35 The applicant has submitted that the operating hours of the site will be between 6am and 9pm, and that there will be two tractors with trailers entering the site and leaving 6 hours later. There may be a need for more vehicle movements during periods of neap tides in order to accommodate tidal movements within the 6am to 9pm operational window. The actual number of occasions over the course of the year where operations would be required to work a double tide in a single day are not specified by the applicant.
- 8.36 Observation of tide tables for 2014 suggests that there are two or three days, immediately following each quarter moon during neap tides (when the range between high water and low water at it is smallest) where it would be necessary to access the site twice in one day. This amounts to around 60 days per year. On those days, depending on operational requirements there is the potential that both early morning access and late evening egress from the site would be required.
- 8.37 The applicant has submitted that the tractors used will be of modern design with improved exhaust silencers when compared to older models. It is noted that the access to the site passes between the garden of a residential property and a static caravan and then passes to the north of a further residential property. However, there are a number of farms / crofts in the area and it is considered that there will already be a level of agricultural traffic associated ongoing activities which are not associated with the development. Whilst it is

accepted that if other options were available this would not be the ideal location to gain access to the beach it is not considered that there will be amenity impacts of a level that should lead to refusal of the proposed development.

- 8.38 Representations have also suggested that the development will prevent public access to the foreshore. The site as a whole is arranged in 4 plots linked by narrow corridors. There will not, however, be any physical barriers surrounding the plots with the result that free access to the beach by the public will remain possible. It is, however noted that having to walk between narrow corridors of oyster trestles may not be the most welcoming prospect for visitors to the area.
- 8.39 It has been submitted that people may walk along the beach from the River Sheil towards Eilean Mhic Neall or out to the beach from Newton of Ardtoe. It is considered that the scale of the plots proposed may be excessive. Plot 3 in particular is intended to extend the full width of the Faodhail Dhubh inlet and may therefore prevent access. It would be more appropriate if development within plot three were to be confined to an area west of the centre line of Faodhail Dhubh. In addition Plots 2 and 1a should be developed in such a way as to allow free access between the line of mean high water spring tides and the southernmost extent of each development. It is considered appropriate that in this regard planning permission if issued should be subject to condition that specific proposals for the positioning of trestles within Plots 1a 2 and 3 be submitted for approval by the planning authority prior to development within these plots commencing. Such proposals should seek to include an undeveloped corridor of at least 100m at the south side of each of Plots 1a and 2.

Noise Impacts

- 8.40 The main source of noise during the installation and operation of the site will be the tractors and trailers used to gain access to the site. In addition to the noise impacts on residents at Newton of Ardtoe discussed above, a significant number of submissions have also commented on the noise impacts that operations will have on the amenity of the holiday cottage at Traigh Ban. It has been submitted that noise from the on site operations will present an unwarranted intrusion on the amenity of the property.
- 8.41 As noted above the tractors used will be of modern design. They will be required to run on tick-over throughout the day and will from time to time move short distances on the site as the tide rises and falls. There will be no other sources of noise on the site such as generators or compressors. Although it is noted that the area is valued for its peacefulness and sense of solitude it is considered that the noise impacts from the site are unlikely to be as high as suggested by the objectors. Given that the site will only be worked for three hours either side of low water and that the only sources of noise will be the tractors it is not considered that noise impacts from the site will be significant enough to warrant any restrictions in use of the site in this regard. It would, however be appropriate to consider conditions stipulating that no machinery such as pumps, generators, hydraulic power packs or similar be used on site

in order to ensure that the noise impacts are minimised.

Transport Infrastructure

- 8.42 Development of the site will involve steel trestles and other equipment being brought to Acharacle over the course of three years and then transported to the site. There will be two tractor and trailer movements per day to and from the site. This will serve to transport equipment to the site and harvest oysters when necessary. A people carrier will also be used to transport staff. A significant number of representations state that this will place an increased burden on local roads. It is not, however considered that this small number of additional vehicle movements will make a significant difference to the local road infrastructure.

Economy

- 8.43 The applicant is of the view that the development has the potential to provide full time jobs for up to 7 people when at maximum production. There is also the possibility that additional jobs would be supported in the event that an oyster hatchery can be established or upscaled at Ardtoe Marine Laboratory. Various submissions suggest that the development would impact adversely on the tourism industry which is a major source of income for the Moidart area. It is contended that it is the special qualities of the area including the sense of peace, the unspoilt nature and wildlife which draw people to the area. It is not considered that these aspects will be significantly altered as a result of these proposals when operated, subject to appropriate mitigation measures. There is no suggestion that oyster farms elsewhere have had an adverse impact on tourist industry in areas where they are placed, this includes areas such as the South West of England, Brittany and Ireland all of which are also reliant on tourist income.

Marine litter

- 8.44 It has been noted in representations that significant quantities of man made materials will be used in the development of the site. This includes the steel for the trestles and the nylon net bags. Concerns have been expressed in relation to this becoming a source of marine litter or an eyesore in the event that the site falls into disuse. It has also been alleged that the existing and previous developments in the area have been poorly maintained. Whilst these are legitimate concerns, it is considered that such potential impacts can be mitigated through conditions in relation to the maintenance of the site, marine litter and decommissioning and these issues do not present reasons for the refusal of the development.

9.0 CONCLUSION

- 9.1 In reaching a view on this planning application all relevant planning policies and guidance, the application form and supporting information submitted by the applicant, consultees responses and public comments have been considered.

- 9.2 Whilst the issues raised in relation to this application are relevant to the determination it is not considered that any of the issues raised present grounds for the application being refused.
- 9.3 However, whilst the principle of the development within the 4 Plots as applied for should be supported, it is concluded that the scale proposed does not allow for sufficient public access to the intertidal area of the South Channel, Loch Moidart and as a result development within Plots 1a, 2 and 3 should be reduced in extent from that proposed.
- 9.4 It is therefore concluded that the development should be granted planning permission subject to conditions in relation to the impacts on the Sound of Arisaig SAC, use of machinery on site, site maintenance and monitoring requirements. In addition conditions should be imposed in relation to site decommissioning.

Recommendation

Action required before decision issued **N**

Subject to the above it is recommended that that planning permission be granted subject to the following conditions and reasons:

1. Except as otherwise provided for and amended by the terms of this approval, the operator shall construct the development in accordance with the provisions of the application and the submitted plans. No other equipment shall be installed on site unless otherwise agreed in writing with the Planning Authority.
Reason: To limit the installation of equipment to that for which details have been approved.
2. No development shall commence within Plot 1 until all equipment related to the existing oyster farm development has been removed from the site and disposed of in an appropriate manner details of which shall be submitted to and agreed in writing by the Planning Authority..
Reason: To ensure that existing development is decommissioned prior to the new development commencing
3. No development shall commence within Plot 1 as depicted in the approved location plan dated 18.02.14, until revised proposals for the siting of the oyster trestles have been submitted for the agreement in writing Planning Authority. Siting should ensure that trestles are not placed within 10m of mearl in shallow water.
Reason: To ensure that the placement of oyster trestles will not encroach upon or damage mearl habitat within the Sound of Arisaig SAC
4. No development shall commence within Plot 1a and 2 as depicted in the approved location plan dated 18.02.14, until revised proposals for the siting of the oyster trestles have been submitted for the agreement in writing Planning Authority. Siting should ensure that trestles are not placed within 10m of mearl

in shallow water, and that development does not take place within 100m of the line of Mean High Water Spring Tides on the mainland shore within these plots.

Reason: To ensure that the placement of oyster trestles will not encroach upon or damage mearl habitat within the Sound of Arisaig SAC and to ensure that public access along the shore can be maintained.

5. No development shall commence within Plot 3 as depicted in the approved location plan dated 18.02.14, until revised proposals for the siting of the oyster trestles have been submitted for the agreement in writing of the Planning Authority. Siting in this area should limit the development to an area west of the centreline of Faodhail Dhubh.

Reason: To ensure that Plot 3 does not obstruct public access or amenity within Faodhail Dhubh.

6. The oyster farm shall be stocked at all times only with oysters which have originated from a commercial hatchery unless otherwise agreed in writing by the Planning Authority. All oysters stocked on site shall be certified free of disease and other species.

Reason: In order to protect the biodiversity of the surrounding environment from impacts associated with the introduction of non-native species.

7. No discarded shell material shall be deposited on site. Waste shell shall be removed from South Channel, Loch Moidart for disposal at an appropriate location.

Reason: In order to prevent oyster shell debris impacting on the features of interest of the Sound of Arisaig SAC

8. No vehicular access or egress from the site or movement on the site shall pass within the boundary of the Sound of Arisaig SAC.

Reason: In order to prevent the movement of vehicles impacting on the features of interest of the Sound of Arisaig SAC

9. The site shall be maintained in good order at all times to the satisfaction of the Planning Authority.

Reason: To ensure that the development is maintained in working order and does not fall into disrepair.

10. For the avoidance of doubt, the operation and management of the oyster farm shall be undertaken remotely and no part of the land or foreshore shall be used as a shellfish farming shorebase, storage area for gear, equipment and materials, or for any buildings or structures related to the development of the site as an oyster farm.

Reason: To limit the installation of equipment to that for which details have been approved.

11. The site and the oyster containment system hereby approved shall be inspected on a regular basis and any oysters which escape from containment as a result of damage shall be recovered.

Reason: In order to prevent feral populations of oysters becoming established

12. Unless otherwise agreed in writing with the Planning Authority, site stocking and monitoring shall be carried out as follows:

- a) The site shall be stocked with spat/seed oysters certified as Triploid.
- b) All grading will take place off-site and no transfer of stock between bags will take place on-site to avoid spillages.
- c) Daily monitoring for spat outside containment within and adjacent to the development will be performed within the Autumn months and weekly monitoring otherwise throughout the rest of the year. A record shall be kept of this monitoring and made available to the Planning Authority on request.
- d) A survey of the site and wider South Channel will take place in November of each year and a report shall be sent to Scottish Natural Heritage detailing the methodology used and results.
- e) In the event that live specimens of Pacific Oyster *Crassostrea gigas* are discovered outwith the culture environment SNH shall be informed and the oysters shall be removed from the site and disposed of in an appropriate manner to be agreed in writing with the Planning Authority.
- f) In the event that specimens of native oyster *Ostrea edulis* are discovered during the installation of the site they are to be relocated to a position outwith Plots hereby approved following advice from SNH.

Reason: In order to protect the biodiversity of the surrounding environment from impacts associated with the introduction of non-native species.

13. Work on site shall at all times be carried out in such a way as to reduce noise impacts. The use on site of items such as generators, compressors, hydraulic power packs, or similar is not permitted.

Reason: In order to reduce the impact of noise from the site.

14. At least three months prior to cessation of use of the site for oyster farming, a scheme for the decommissioning and removal of all equipment shall be submitted to and agreed in writing with the Planning Authority. Upon cessation the approved scheme shall be implemented.

Reason: To ensure that decommissioning of the site takes place in an orderly manner and to ensure the proper storage and disposal of redundant equipment in the interest of amenity.

Signature:

Designation: Head of Planning and Building Standards

Author: James Bromham, Aquaculture Development Officer (ext 2510)

Date:

APPENDIX A

LIST OF REPRESENTATIONS

OBJECTIONS

1.	Mr Andrew Abrahams, Poll Gorm, Isle of Colonsay, PA61 7YR,	03/04/14
2.	Mr Andrew Green, Dal Ghorm House, Ardtoe, Acharacle, PH36 4LD,	03/04/14
3.	Ms Jane Horton, 4 Grange Road, Sheffield, S118FW,	05/04/14
4.	Gordon And Hazel Cameron,	09/04/14
5.	Mr James Colston, Arisaig Oysters, Glen House, Arisaig, PH39 4NU,	03/04/14
6.	Miss Alys Horton, 1 Openshaw Street, Bury, BL9 7EH,	07/04/14
7.	Mr. Tadeusz Maydell, 4506 Weeping Willow Cir., Casselberry, Fl. USA, 32707,	10/04/14
8.	Mrs Eilidh MacIennan, 1 Shielfoot, Acharacle, Argyll, PH36 4JZ,	03/04/14
9.	Prof. Derek Fabian, E A Maydell-Fabian (Dr.) , Treedom Cottage, Milton, Dumbaron, G82 2SG,	04/04/14
10.	Acharacle Community Council, Mrs Margaret Green, Dal Ghorm House, Ardtoe, Acharacle, PH36 4LD,	08/04/14
11.	Ms Wenda Fabian, Codlaw Dene, Hexham, NE46 4HG,	03/04/14
12.	Mr A Marsh, Woodhouse, Anick Road, Hexham, NE464JH,	04/04/14
13.	Mr John ORourke, 13 Shielfoot, Acharacle, PH36 4JZ, ,	04/04/14
14.	Mr Tom Cuthbertson, 7 Westbourne Grove, Hexham, NE46 3DU,	07/04/14
15.	Mr David Kendall, Ochrelands Farmhouse, Fellside, Hexham, NE46 1SB,	29/03/14
16.	Mr Allister Marsh, Shitlington Crag, Wark, Hexham, NE483QB,	04/04/14
17.	Mr Peter Stace, Cnoc an Glas, Salen, Acharacle, PH36 4JN,	04/04/14
18.	Mrs Caroline Stace, Cnoc an Glas, Salen, Acharacle, PH36 4JN,	04/04/14
19.	Ms Jan Penrose, 6 Percy Street, Oxford, OX4 3AA,	07/04/14
20.	Mrs Catherine Ann Macdonald, Gobsheallach, Acharacle, Argyll, PH36 4LD,	03/04/14
21.	Miss Emily Lightowler, 87 Brewer Street, London, W1F 9UX,	09/04/14

22.	Mrs Marilyn Kendall, Ochrelands Farmhouse, Fellside, Hexham, NE46 1SB,	29/03/14
23.	Mr Roy Cattle, The Square, Dorlin, Acharacle, PH36 4JY,	03/04/14
24.	Mrs Pamela Powell, Brunery House, Kinlochmoidart, Lochailort, PH38 4ND,	08/05/14
25.	Mr Robert Whiting, 69 Ennerdale Drive, Congleton, CW12 4FJ,	31/03/14
26.	Dr Ewa A Maydell-Fabian, Treedom Cottage, Milton, Glasgow Intl, G82 2SG,	04/04/14
27.	Mrs Nicole Long, 22 Ushers court, Trowbridge, BA14 8GH,	05/04/14
28.	Miss Eve Horton, 585B Wilbraham Road, Chorlton-Cum-Hardy, Manchester, M21 9AF,	05/04/14
29.	Mr Martin Whitehouse, Low Fellside, Hale, Milnthorpe, LA7 7BL,	31/03/14
30.	Mrs Caroline Whiting, 69, Ennerdale Drive, Congleton, CW12 4FJ,	31/03/14
31.	Mr Mark Tierney, 46 Balvie Road, Milngavie, Glasgow, G62 7EB,	09/04/14
32.	Miss Margaret Betteley, Dal Ghorm House, Ardtoe, Acharacle, PH36 4LD,	03/04/14
33.	Mr Les Clark, The Caravan, Tigh na Mara, Ardtoe, Acharacle, PH36 4LD,	03/04/14
34.	Mr & Mrs Roger & Pat Gill, Morag's Cottage, Newton, Acharacle, PH36 4LB,	04/04/14
35.	Miss Vicky Henry, The Caravan, Tigh na Mara, Ardtoe, Acharacle, PH36 4LD,	03/04/14
36.	Ms Sue Blennerhassett, 14 Glen Terrace, Hexham, NE46 3LA,	31/03/14
37.	Mairi Beaton (clerk) Shielfoot Common Grazings Comittee, ,	04/04/14
38.	Mrs Jacqueline Fleming, Croft 175 Newton of Ardtoe, Acharacle, PH36 4LB,	04/04/14
39.	Mr Richard McCulloch, Rowan Cottage, Newton of Ardtoe, Acharacle, PH364LB,	04/04/14
40.	Mr Joe Horton, Codlaw Dene, Hexham, NE46 4HG,	08/04/14
41.	Dr Gavin Westwood, 110 Hollins Lane, Accrington, Lancs,	09/04/14
42.	Mrs Carol Boothby, Engine Cottage, Acomb, Hexham, NE46 4RL,	30/04/14
43.	Mr. Tadeusz Maydell, 4506 Weeping Willow Cir., Casselberry, Fl. USA, 32707,	10/04/14
44.	Mr Will Astley, 5 Touchard House, Shoreditch, London, N1 6DB,	08/04/14

LATE OBJECTIONS

1.	Mr & Mrs James Jamieson, 4 Quietways House & Shiel Cottage, Stonehouse & Acharacle, GL10 2NW,	12/05/14
2.	Mrs Pamela Powell, Brunery House, Kinlochmoidart, Lochailort, PH38 4ND,	08/05/14
3.	Rev Kate Atchley, Anasmara, Mingarry, Acharacle, PH36 4JX,	18/05/14
4.	Rev. David Jamieson, 8A Albert St, Monifieth, DD5 4JS,	08/05/14
5.	Dr Derek Powell, Brunery House, Kinlochmoidart, Lochailort, PH38 4ND,	07/05/14

REPRESENTATIONS

1.	Mr David Ogg, Church of Scotland Manse, Acharacle, PH36 4JU,	02/04/14
2.	Mr Nick Turnbull, Old Druim , Dervaig , Isle Of Mull,	15/03/14
3.	Mr Hugo Vajk, Dunbeg, By Oban, PA371QQ,	04/04/14
4.	Mr Nick Mawhinney, Pairc Dhubh, Ulva Ferry, Isle of Mull, PA73 6LY,	05/04/14

LATE REPRESENTATIONS

	None	
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Figure 1 - Location Plan showing proposed oyster plots



Figure 2 – Detail of proposed Plot 1 layout

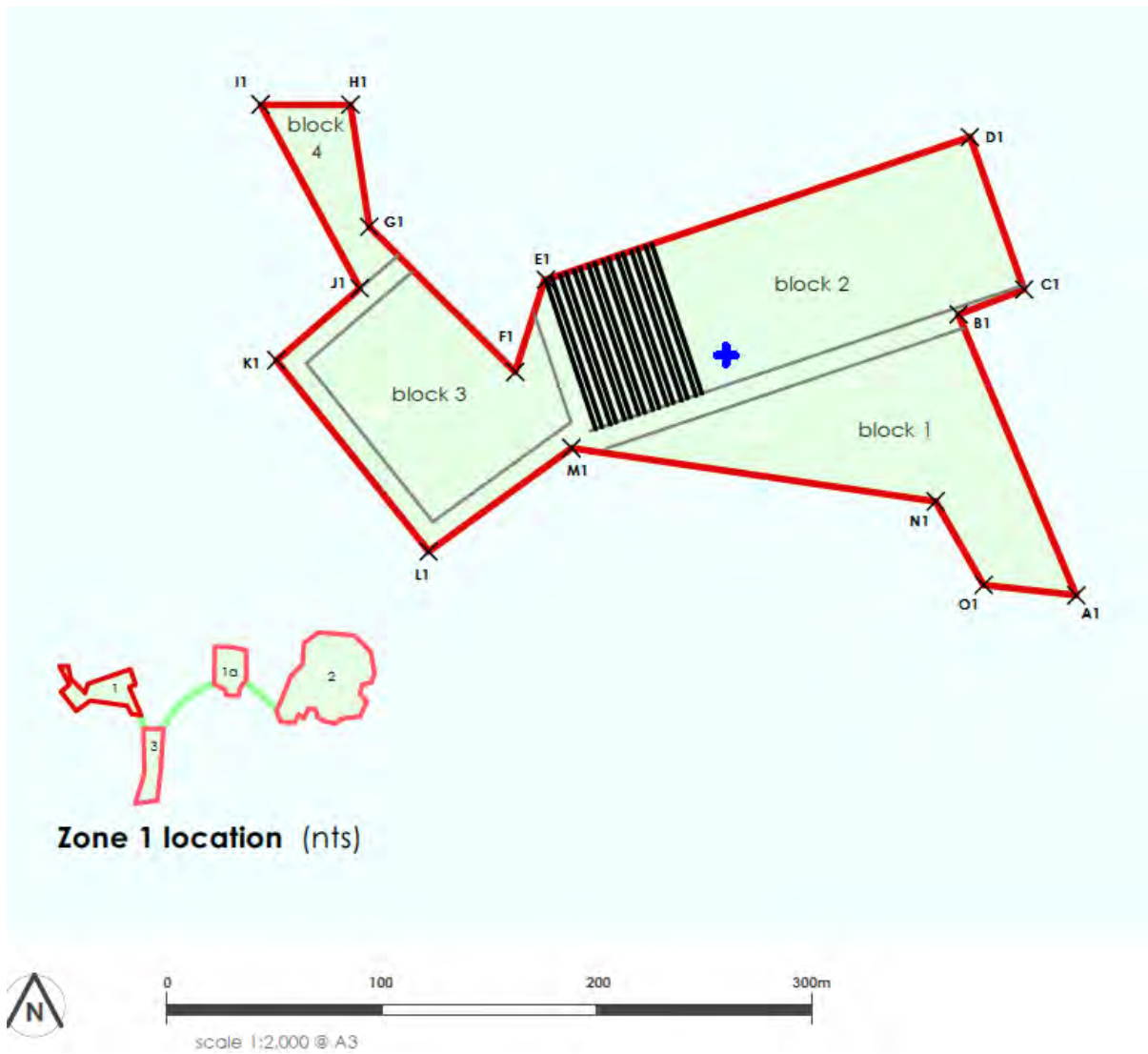


Figure 3 – Detail of proposed Plot 1a layout

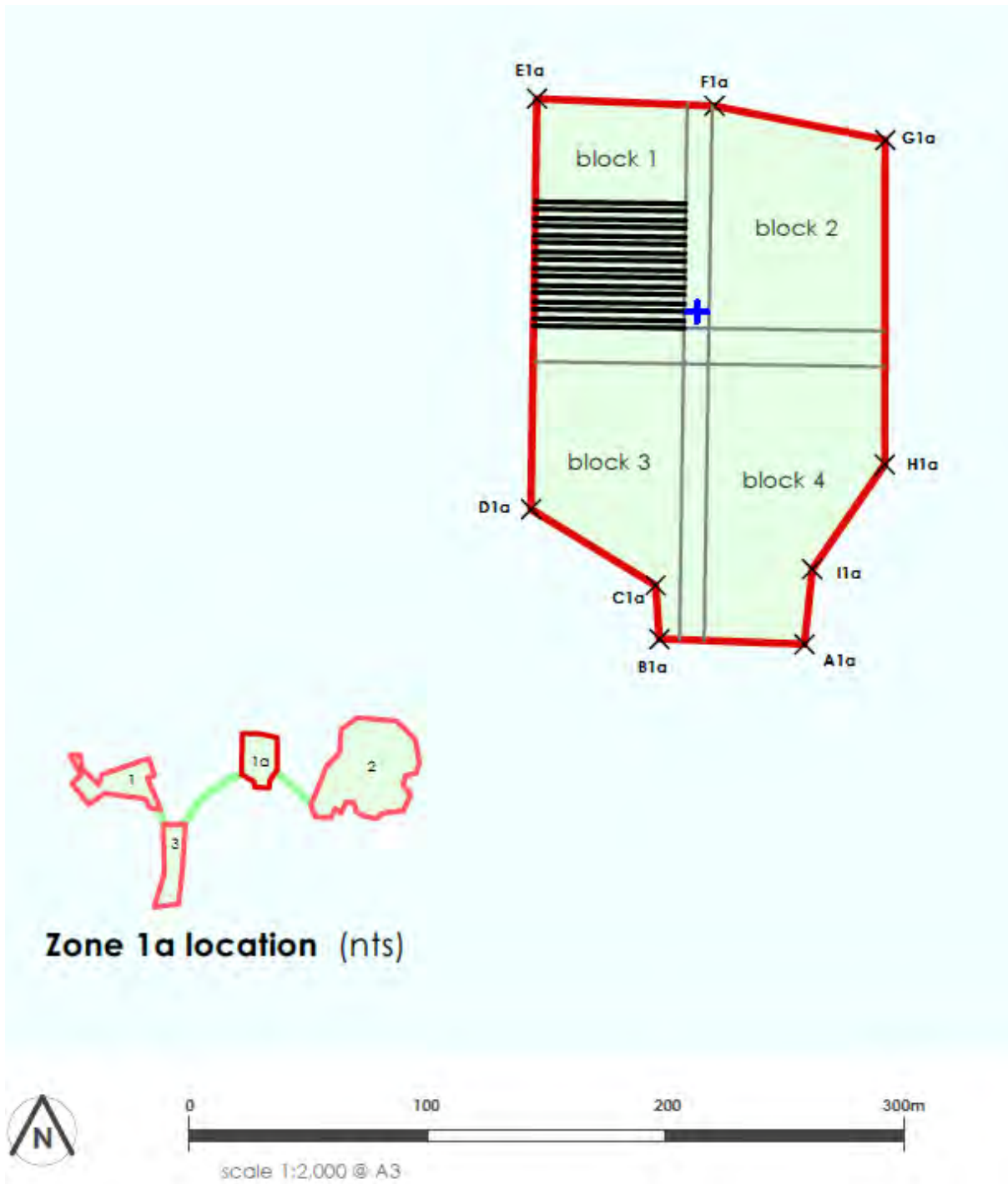


Figure 4 – Detail of proposed Plot 2 layout

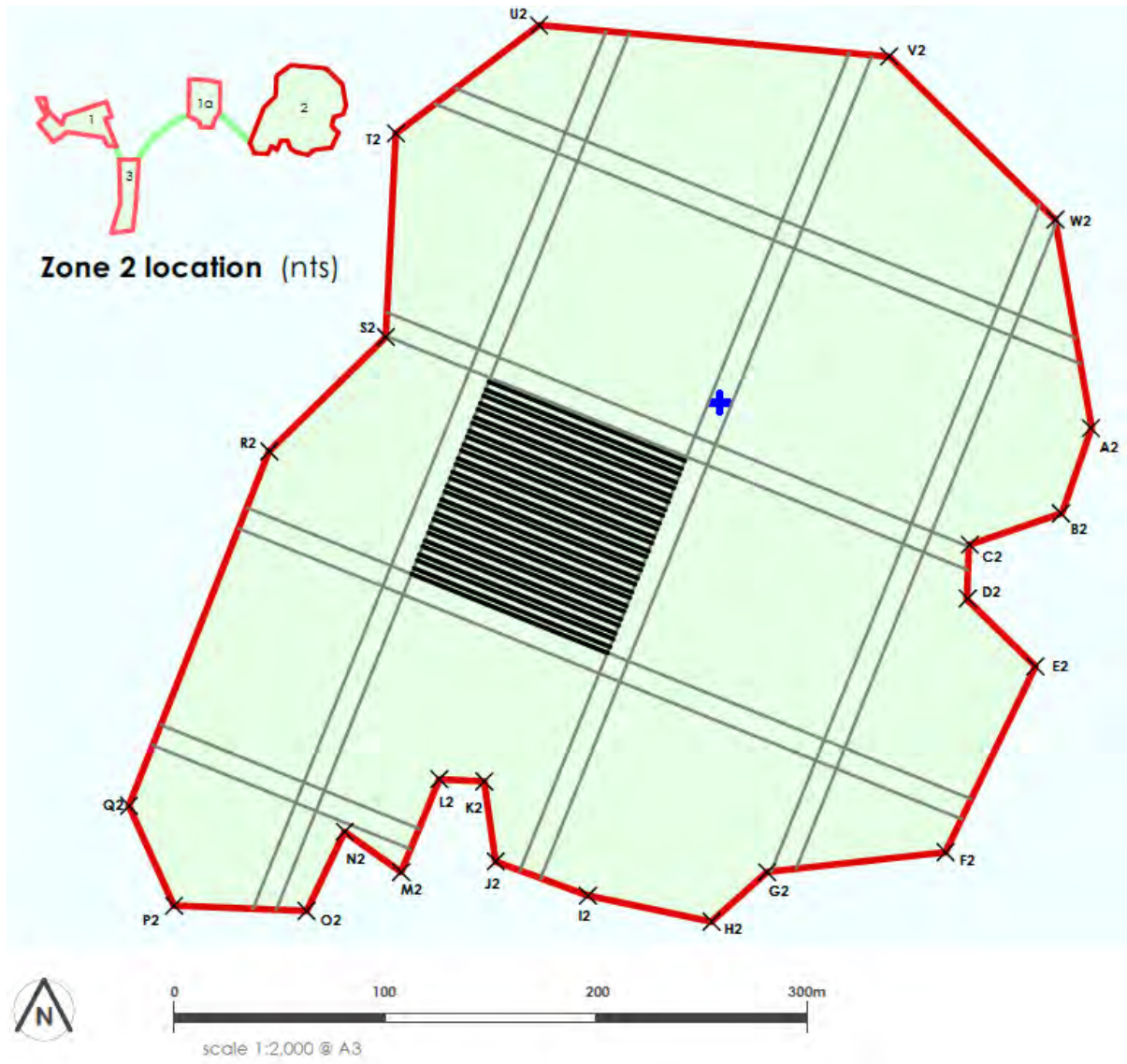


Figure 5 – Detail of proposed Plot 3 layout

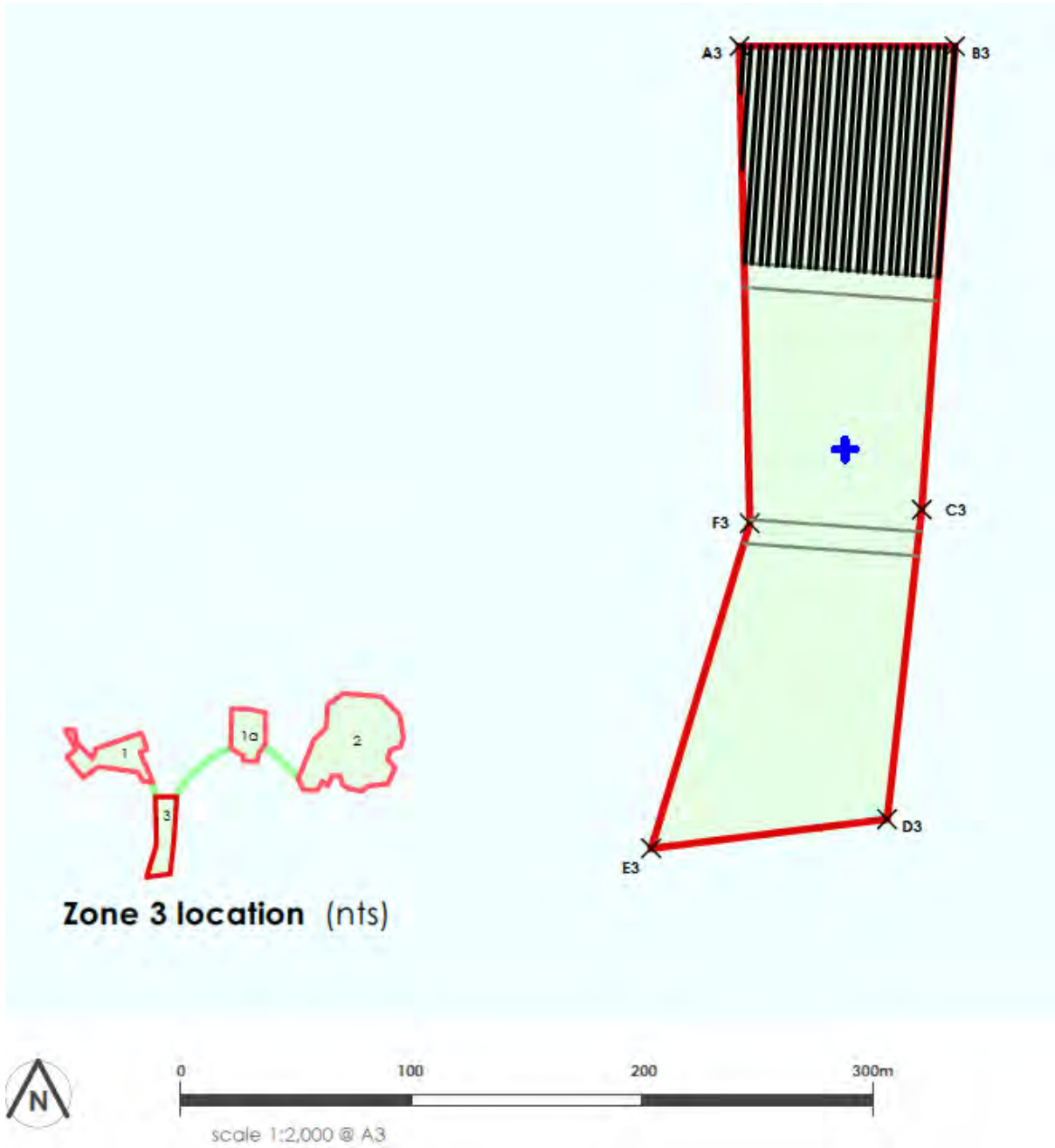


Figure 6 – close up photograph of a developed oyster farm site in Ireland

