

POLICY NOTE

THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (FISH FARMING) (SCOTLAND) AMENDMENT (No.2) ORDER 2012

SSI 2012/285

1. This instrument is made by the Scottish Ministers in exercise of the powers conferred by sections 30 and 31 of the Town and Country Planning (Scotland) Act 1997. The instrument is subject to negative resolution procedure.

Policy Objectives

2. The Scottish Government supports aquaculture. Its strategy statement *Delivering Planning Reform for Aquaculture*, published in March 2010¹, explains the importance of the aquaculture industry to both the Scottish economy and to Scottish society by virtue of the value of its production and the jobs it brings to rural and remote areas of the country. It also contains a joint statement from the Cabinet Secretary for Finance and Sustainable Growth and the Minister for Environment that the Scottish Government needs to ensure that there are no unnecessary barriers to impede growth.

3. Reforming the planning system to allow minor modifications to be carried out to fish farm sites without the need to obtain formal planning consent – ie, through a scheme of permitted development - is one means of delivering Ministers' objectives. The Order describes a number of such minor modifications and the conditions under which they may be carried out.

Purpose of the Order

4. The Order makes provision for 6 modifications to a fish farm that may be carried out without the need to apply for planning permission, viz-

Changing the size and type of fish cages

Replacing or repositioning a feed barge

Replacing top nets and support structures on a fish cage

Deploying temporary equipment

Switching species being farmed from salmon to either trout or halibut and from trout to salmon

Adding longlines on a mussel farm

5. The Order also provides for prior notification to be given to the planning authority in all but one instance. This will enable it to apply conditions to minimise impact of the changes on sensitive landscapes and other vulnerable environmental features.

Consultation

6. Consultation on the draft Order took place with individual companies and stakeholder groups within the aquaculture sector, other marine users, environment and heritage interests and planning authorities between March and June 2011. The consultation document may be

viewed at www.scotland.gov.uk/Publications/2011/03/14164543/0. The provisions of the Order were settled upon only after considering and taking account of views expressed. The Government's formal response document, available at www.scotland.gov.uk/Publications/2012/04/9740, explains how the conclusions came to be reached.

Amendment to the Order

7. Since the Order came into force in June 2012 it has been noted that a change in wording is required to clarify the meaning of area within Class 21A.

8. Class 21A relates to the placing or assembly of equipment within the area of an existing fish farm for the purpose of adding a new finfish pen or replacing an existing finfish pen. Development in Class 21A was intended to be restricted so that it would not be permitted if the surface area (i.e. the surface area of the waters contained within the equipment held on site) of the site is greater than 15,000 square metres.

However, the Order as initially made uses the term "area" as opposed to "surface area". The term "area" is defined as "the area which, if the anchorage or mooring points were to be connected by straight lines, would be enclosed by such imaginary lines."

The wording requires to be changed so that "area" is replaced with "surface area" to allow for the intended meaning to be realised and to ensure that the majority of operators of finfish farms can benefit from this Permitted Development Class.

9. One standard addition condition is also added to apply to any planning permission granted by the Order which relates to the removal of obstructions or dangers to navigation.

Financial implications

10. There are no financial implications for the Scottish Government. The Order provides that in almost all instances the modifications described above must be notified to the planning authority through the planning system's "prior notification" process. This incurs a fee of £61. Planning fees, including the prior notification fee, are set at a level such as to finance local authority planning departments. They are reviewed periodically by Ministers.

Impact Assessment

9. A Business and Regulatory Impact Assessment (BRIA) has been undertaken. The Order does not impose any new regulatory burdens on businesses nor impose extra costs. On the contrary, businesses will benefit from substantial savings since the prior notification fee is a fixed £61 compared to the scale fee (based on size of the site) that would apply were formal planning applications still needed for the modifications.

10. The Order does not give rise to any equality issues.

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