

By email to:

Ariane Burgess MSP

Convenor - Local Government, Housing and Planning committee

localgov.committee@parliament.scot

26th April 2024

Dear Convenor

We understand that the Local Government, Housing and Planning committee is reviewing the National Planning Framework 4, after its first year, to see how it is being translated into Local Development Plans and the extent to which it is achieving its transformational aims.

NPF4 has been put into practice in Argyll and Bute, for example, since the Council's second Local Development Plan was adopted earlier this year. In Argyll and other council areas, NPF4 has been given considerable weight in planning decisions before its formal adoption. We are particularly concerned about its application in planning decisions for new and expanded salmon farms.

Biodiversity protection and enhancement

Section e) of the NPF4 Policy 32, makes a special case for aquaculture as the only sector that is exempt from its Biodiversity Policy parts 3 b) and 3 c), as follows:

e) Applications for open water farmed finfish or shellfish development are excluded from the requirements of policy 3b) and 3c) and will instead apply all relevant provisions from National and Regional Marine Plans.

Policy 32, part 3 b) Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management. To inform this, best practice assessment methods should be used. Proposals within these categories will demonstrate how they have met all of the following criteria:

- i. the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;
- ii. wherever feasible, nature-based solutions have been integrated and made best use of;

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- iii an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements;
- iv significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long term retention and monitoring should be included, wherever appropriate; and
- v. local community benefits of the biodiversity and/or nature networks have been considered.

Policy 32, part 3 c) Proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development.

Instead of restoring and enhancing biodiversity, salmon farms are allowed to significantly degrade the seabed and water column with their solid and dissolved organic pollution, and their pesticide discharges, under licence from SEPA. These can do considerable harm to marine ecosystems. Sea lice from fish farms can harm wild salmon and sea trout populations, according to the Marine Directive and SEPA.

The argument for granting this extraordinary exemption should be robust but it amounts to little more than that marine planning issues are different from those on land and ought therefore to be dealt with under the National and Regional Marine Plans. However, the National Marine Plan contains no obligations for fish farm developers to restore or enhance biodiversity and in most areas where salmon farming takes place, Regional Marine Plans are years away from being applied, if they have even started being drafted at all. Only the Northern Isles have them in place.

Nor do fish farm operators have to monitor their impact on the environment, as specified in NMP4 Policy 32, 3b) above, apart from taking a small number of seabed samples once every two years and monitoring sea lice on nearby sea trout, if they are one of very few farms with an EMP for sea lice. No salmon farms have to monitor the impact of their bath pesticide discharges for instance, or their impact on commercial species, or their cumulative impacts, in combination with other nearby farms.

On the contrary, recent FOI disclosures show that Salmon Scotland has lobbied Scottish Government Ministers to overrule NatureScot's objections to a fish farm expansion at Hellisay, close to a maerl bed. Their argument was purely economic. Maerl is a Scottish Government Priority Marine Feature and, apart from its protections as such, should be eligible for protection under Policies 1 and 3 of the NPF4.

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Flying in the face of those obvious conservation measures, NatureScot subsequently withdrew its objection. <https://theferret.scot/wildlife-objection-to-salmon-farm-spiked/>

In conclusion, under NPF4, new and expanded salmon farms are being consented without the developers being obliged to restore and enhance biodiversity - NPF4 Policy 3 - most recently at North Kilbrannan in Argyll (in November 2023), with no guarantee that the revised National Marine Plan will alter this situation. Once granted planning permission, the farms are unlikely to have that obligation added later.

Landscape impacts

In 2020, proposals for two new salmon farms at Balmaqueen and Flodigarry were turned down by the Highland Council, under NPF3. These have now been resubmitted on the grounds that NPF4 is a material change in circumstances, despite both farms having been rejected due to their impact on the iconic coastal landscape of North East Skye.

This included the very substantial economic impact on the Flodigarry Hotel and the many jobs that depend on it, described in detail to the planning committee by the hotel's manager. The council's decision to reject the original proposals was subsequently upheld by a DPEA Reporter.

The resubmitted proposals are essentially identical to those that were turned down, in terms of their impact on the landscape.

The Highland Council is wrong to allow their resubmission in under five years, unless NPF4 has relaxed the rules on landscape impacts, relative to NPF3.

If NPF4 is to be interpreted as being more lenient on the landscape impacts of fish farms, then Scotland is at risk of losing a very precious asset, its world-class coastal scenery, and the large economic benefits that are a direct result. According to VisitScotland surveys, the majority of visitors say that Scotland's landscape is the main reason for them coming here.

Other fish farms have also been turned down due to their unacceptable impact on coastal landscapes, for instance Millstone Point (Arran) and Loch Pooltiel (Skye), the latter on the basis that it would contravene the following HwLDP policies:

“Policy 36: not compatible with the landscape carrying capacity of the due to its position and setting in this landscape. Policy 57: because this application compromises the natural environment due to its position and setting in the landscape. Policy 58: insufficient evidence of lack of impact on wildlife; and contrary to Policy 50: due to landscape character, scenic and visual amenity with reference to the SNH commissioned report on the landscape and seascape carrying capacity for aquaculture.”

(Quotes from the transcript of the planning committee meeting of 27 October 2015)

Are all such decisions now open for potential review under NPF4?

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Sea lice impacts

The Balmaqueen and Flodigarry proposals illustrate a bias in the way that the industry's regulators treat the environmental impacts of salmon farms. This is a consequence of the failure to oblige fish farm operators to restore and enhance biodiversity.

SEPA recently introduced its new sea lice regulatory framework. It says that, "from 1st February 2024, all proposals for new farms or expansions of existing farms are being assessed by SEPA to determine whether they could pose a risk to wild salmon populations. Where, based on this risk assessment, SEPA concludes that action is required to manage interactions to protect wild salmon, it will set permit conditions [to CAR licences] that limit the maximum number of sea lice on the farm when authorising the development; or, if necessary, refuse to authorise the development."

SEPA claims that by doing this, it will prevent further deterioration of the population of wild salmon and sea trout.

However, SEPA makes an exception to this rule for new farms if it has already issued them with CAR licences. This is the case for a number of farms that do not yet have planning permission, including Balmaqueen and Flodigarry.

SEPA licensed them before it took on the responsibility for assessing sea lice impacts and classes them as "existing farms".

In these cases, as with all the farms that actually do exist, SEPA plans to take up to five years before considering applying new terms to their CAR licences, to limit sea lice numbers.

In no way can this approach be considered to prevent further deterioration in the population of wild salmon and sea trout.

As a consequence of this decision, SEPA's sea lice screening modelling will not form part of the statutory advice it gives to the Highland Council. The farms are likely to be consented without their operators having to limit the number of sea lice they will discharge into the sea to the east of Skye, an area that SEPA has already identified as being likely to put wild salmon and sea trout at risk, due to the lice from the large number of existing farms in that area. At best they might have an Environmental Management Plan imposed requiring them to monitor sea lice numbers on sea trout, most likely starting two years after they begin operations.

SEPA has issued CAR licences for a number of other farms where planning permission was either turned down or has not yet been applied for. SEPA classes all of these as existing farms.

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Climate change and farmed fish welfare and mortality

NPF4 speaks about the need for planning decisions to anticipate and reflect the consequences of climate change.

This ought to include the poor fish welfare record of Scotland's salmon farms, where extraordinarily high levels of mortality have become routine and are becoming worse, year on year. For instance, mortality at sea doubled from 2020 to 2021, and doubled again to 2022. Analysis of SEPA's and the FHI's figures together suggest that around 17.5m salmon died at sea in 2022. Some farms have had overall mortality above 80%. In one case this happened in two successive production cycles.

Most farmed salmon die due to disease, parasitic sea lice, harsh chemical and physical treatments for sea lice and disease, swarms of tiny jellyfish and other harmful planktonic blooms and low levels of dissolved oxygen in the water.

All of these are exacerbated by warmer water, which is a consequence of climate change.

It is irresponsible of local planning authorities to continue to consent new and expanded fish farms without ensuring that they can be operated ethically in future, yet LPA planning officers do not seek statutory advice on the impact of climate change on fish welfare and mortality, and therefore they cannot pass this information to planning committee members.

This is a crucial failure of the new planning framework. Such high mortality levels and the underlying awful welfare conditions are undermining Scotland's efforts to be a Good Food Nation and spoiling its hard-earned reputation as a compassionate, moral country.

Technical Note on Marine and Freshwater Aquaculture

Finally, Argyll and Bute Council has said that it will produce a Technical Note (LDP2 TN20 Marine and Freshwater Aquaculture), to show in detail how it will apply its Local Development Plan to aquaculture. This has been in preparation for at least a year but it is still not ready and the 2015/2016 guidance being used in its place is outdated.

It is hard to see how LPAs can make sound planning decisions when their own technical notes (part of their Local Development Plans, which are based on NPF4) are out of date.

Yours Faithfully

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