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Expansion of fin fish farm to comprise 10 x 80 metre cages and increase in extent of moorings Port Na Mine Fish Farm (Etive 3) ref 16/01971/MFF

FoLE objects strongly to the above application made by Dawnfresh.

The planning history at Etive 3

This application made by Dawnfresh is the third application to be received by the Argyll & Bute Council since September 2014 relating to the same fish farm site.

The first recent application was made in 2014 - *Modification of existing fin fish farm site comprising six additional cages, addition of feed barge and increase of cage sizes from 70m circumference to 80m circumference and increase in extent of moorings, ref 14/02249/MFF* - to increase to 16 x 80m cages with a permitted biomass of 2,500 tonnes with addition of a permanently moored boat-style feed barge. That application was withdrawn, following several hundred representations objecting to the application and following a meeting with various regulators including SEPA which indicated that it was highly unlikely, due to the unusual hydrographic conditions in Upper Loch Etive, including a tendency to natural anoxia and poor water circulation with depth, that such an increase in biomass would be countenanced.

A second application submitted in September 2015 - *Modification of existing fin fish farm site to include addition of feed barge increase in cage sizes from 70m circumference to 80m circumference and increase in extent of moorings, ref 15/02670/MFF* - was also withdrawn after FoLE pointed out that the initial permission for Etive 3, granted by Scottish Ministers under the Town and Country Planning (Marine Fish Farms Permitted Development) Order 2011, related only to 60m cages¹ and the presence on site at Etive 3 of 70m cages was already in breach of existing planning and therefore could not be used as the basis of a modification application.

On 9th June 2016, the Council began planning enforcement by serving a Section 33A Notice on Dawnfresh as the use of 70m cages is a breach of planning control, under Section 123(1)(a) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). This notice required Dawnfresh either to remove the unauthorised cages, or submit a retrospective planning application for the installation of 10 x 60m cages within 28 days, neither of which Dawnfresh has done.

At the same time, the Council also served a Planning Contravention Notice upon Dawnfresh in relation to the storage of unused fish farm equipment at Etive 3 in breach of planning permission.

This current application, ref 16/01971/MFF relates to the replacement of 10 x 60m circumference cages with 10 x 80m circumference cages on an extended mooring grid.

[In this context, please note that the Supporting Information supplied by Dawnfresh makes reference to the second earlier application above, ref 15/02670/MFF, and tries to suggest that the small number of representations submitted to that application is, in some way, indicative of the level of opposition to those plans. In fact, the Council indicated very early in the process that, due to the incorrect legal basis of the application, it had agreed with Dawnfresh that it would not consider that application further and so the application public consultation was curtailed shortly after advertisement in the Oban Times for public comment. Conclusions should not therefore be drawn as to the level of support or objection to that earlier application. The intention of Dawnfresh to withdraw that application was announced publicly to would-be objectors by FoLE shortly after the advert appeared in the Oban Times on 15th November 2015 to avoid any further effort being made by objectors to address an already flawed application with the consequent drain on Council resources having to respond to such objections].

1 Letter from Bridget Kelly, Marine Scotland to Richard Hopewell, Dawnfresh, 18th December 2012



What is the real purpose of the current application?

In this current application, Dawnfresh states clearly that *“the purpose of this development is to standardise our equipment within our operations in Loch Etive, this will improve our efficiencies within the operations”* and, they claim, not part of a process to increase permitted biomass of farmed fish to be held at Etive 3.

On page 2 of the Supporting Information, Dawnfresh also recognises that *“the stocking density at Etive 3 site will be reduced to 5.1kg/m³, which is exceptionally low. We recognise that this stocking density is extremely low compared to industry standards, however it is essential that we standardise the equipment that is used on all the sites in Loch Etive”*.

If, as the application states on a number of occasions, there is really no intention whatsoever to increase the biomass of farmed fish held at Etive 3, then in order to ‘standardise’ the use of equipment on Etive as a whole by using 80m cages, it is simply not necessary to apply for a total of ten cages.

In fact, the existing permitted biomass at Etive 3 can be held at the ‘standardised’ stocking density of 11.81kg/m³, at which level Dawnfresh qualifies for RSPCA Assured status, can be held **within only five 80m cages**.

Unless the intention is to increase permitted biomass of farmed fish at Etive 3 at a later date, Dawnfresh has not reasonably demonstrated the need for 10 x 80m cages to maintain the current biomass of farmed fish at Etive 3. As such, the Council should not grant permission for 10 x 80m cages, interfering with public rights over Loch Etive without any apparent purpose.

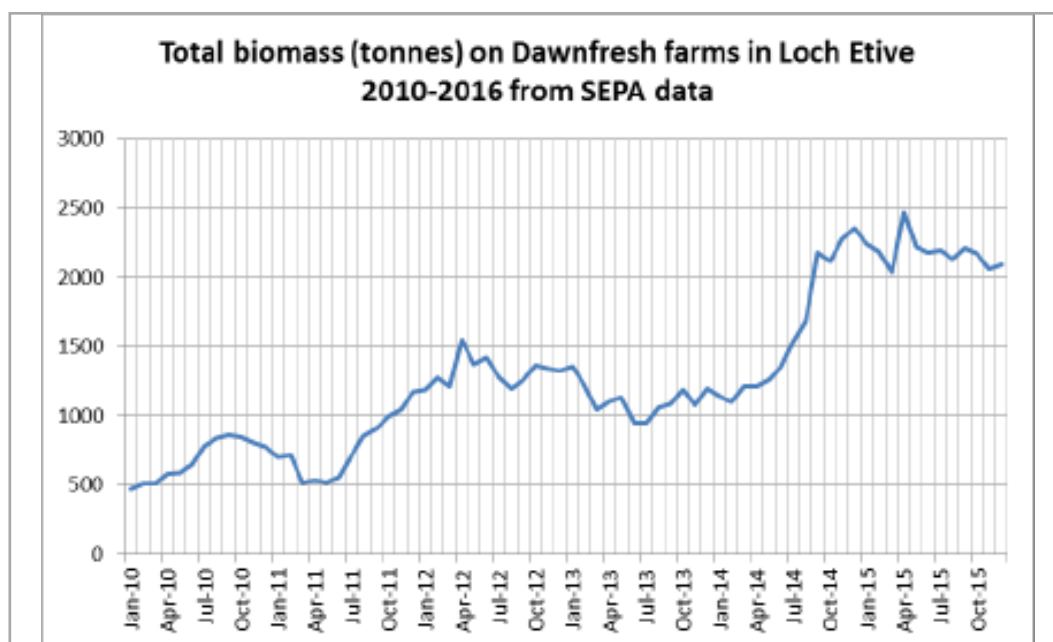
In fact, it is impossible reasonably to consider this application as anything other than a first step in Dawnfresh attempting to ‘salami-slice’ its way to a larger farm at the Etive 3 site. Indeed, the intention to seek a much bigger farm at Etive 3 has been confirmed by Dawnfresh itself. As indicated by Dawnfresh at the Planning Hearing relating to application 15/02607/MFF, for more cages at Etive 6, held at Oban in February 2016², Dawnfresh actually intends to develop a whole new farm at Etive 3, increasing the permitted biomass on the loch by 1,050 tonnes (which would bring Etive 3 up to about 1500 tonnes from its current biomass of 466 tonnes) and allowing a growth of 23% in the production capacity of the loch as a whole. As its second application above, only recently withdrawn, indicates, a permanently moored feed barge also remains part of Dawnfresh future plans for Etive 3.

This is all part of the Dawnfresh plan to push the biomass of its farmed fish held in Loch Etive even higher still. That biomass has already increased 500% since 2010 as the graph below, drawn up using SEPA data shows. The intention is to go further, beyond a standing biomass of 3000 tonnes, which FoLE believes Loch Etive simply cannot accommodate.

As the Council has already recognised - and stated in the context of the earlier application for more cages at Etive 6 - *“consideration of a follow up application in these circumstances therefore has to be approached cautiously, in order to ensure that policy considerations are not being deliberately circumvented by the division of a project into multiple applications”³*.

2 Slide 14 of the Applicant’s PowerPoint presentation delivered in February 2016 (reproduced as Annex 1 of this objection).

3 Para 6.6 of the Council’s Observations by the Planning Authority on the Appellant’s Grounds of Appeal, Planning Permission Appeal PPA-130-2056 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). Sailean Ruadh (Etive 6), Loch Etive, Argyll and Bute Council, 3rd June 2016.



Albeit, that we are in the first stage of Dawnfresh's stated Etive 3 plan, the principle remains the same, that policy considerations must not be deliberately circumvented by the division of a project into multiple applications as Dawnfresh is doing here.

Further 'salami-slicing' of development at Etive 3

FoLE has already alerted the Council to a further application made by Dawnfresh to Marine Scotland for more moorings at Etive 3⁴. That application was received by Marine Scotland Licensing Operations Team and advertised in August 2016, under reference 05944/160415, for the installation of two further moorings at the Etive 3 site, to be used for very large commercial work vessels of up to 24m in length. Note that the feed barge currently used at Etive 6 is only 21.5 metres in length.

These two separate applications - for a Marine Act licence at Etive 3 and for planning permission at Etive 3 - need to be considered as a single project. To do otherwise would constitute a breach of the Environmental Impact Assessment Directive, as neither process would have considered the full and complete project at Etive 3, nor would Dawnfresh have presented the whole project to the public during the consultation phases of either application process.

Landscape impact and further restrictions on the public right to navigate, recreate and fish over Loch Etive

This application for bigger cages, on a much expanded grid at Etive 3 will damage the landscape of upper Loch Etive. That is obvious and needs no explanation.

The footprint of the Etive 3 farm now applied for, as against what is actually permitted, constitutes an increase of the existing surface area of cages at Etive 3 from 2,950m² to 5,090m², **a 73% increase in the size of the farm.**

Despite this, in its Landscape and Visual Impact Assessment, the Dawnfresh application concludes that the proposal would have no significant adverse cumulative sequential visual effect on Loch Etive and surrounds.

⁴ Letter of 12th August 2016 to Mr Richard Kerr Argyll & Bute Council and Ms Jessica Hay Marine Licensing Officer Marine Planning & Policy, MS-LOT



However, the LVIA makes clear, at page 11, that *“it is acknowledged that the original licence for the Port na Mine site was for ten pens at 60m circumference (19m diameter). However, it is considered that the difference between the magnitude of the change associated with an increase in pen diameter from 22.3m to 25.5m, i.e. as assessed and the magnitude of a change in size associated with an increase in pen diameter from 19m to 25.5m at the viewing distances and in the scale of the landscape assessed would result in a negligible change in effect. **Consequently this theoretical scenario is not considered any further in this LVIA**”.*

Clearly, there is nothing theoretical about the scenario in that the current use of 70m cages is unlawful and not permitted.

The lack of permission for the existing farm has been subject of planning enforcement action from the Council, with a Section 33A Notice being served on Dawnfresh this summer, but Dawnfresh has already failed to take the prescribed steps within the time period allowed for in that notice.

The fact that the LVIA, as submitted in this application, has not been amended from its earlier version, to take into account the assessment of impact based on what should have been in the water, per the Scottish Government planning permission of 2011 (60m cages), means that the LVIA cannot possibly be considered to be sufficient for this application as it does not consider the overall impact of the proposed modifications based on what was lawfully permitted at Etive 3.

In effect, the Council must ensure that Dawnfresh cannot be allowed to ‘benefit’ from its use of unpermitted 70m cages in the manner now being suggested by the Dawnfresh application.

The Loch Etive ICZM Plan

This application is also very far indeed from being compliant with the Loch Etive ICZM Plan, a significant material consideration in assessing this application⁵.

The Etive 3 farm is within Policy Zone E of the ICZM Plan and there is no spare capacity for fish-farm development in this part of Loch Etive without any consolidation and rationalisation of existing sites.

This application comes with no proposals whatsoever for any rationalisation and consolidation of existing sites within Policy Zone E.

It merely proposes the massive expansion of a single existing site, but there has been no room created to accommodate the proposed 73% increase in the grid and cage sizes at Etive 3.

If Dawnfresh wished to comply with the ICZM Plan, the only practical mitigation for the proposed expansion of cage size and grid at Etive 3, might be the immediate, complete and permanent removal of Dawnfresh’s existing fish farm at Etive 2 (Inverawe East) and the consolidation of the current production at Etive 2 upon the Etive 3 site, but that is not what is proposed.

Cumulative effect on landscape since 2012

Additionally, by law, the Council needs to consider the cumulative effect of this application with all other existing fish farms on Loch Etive.

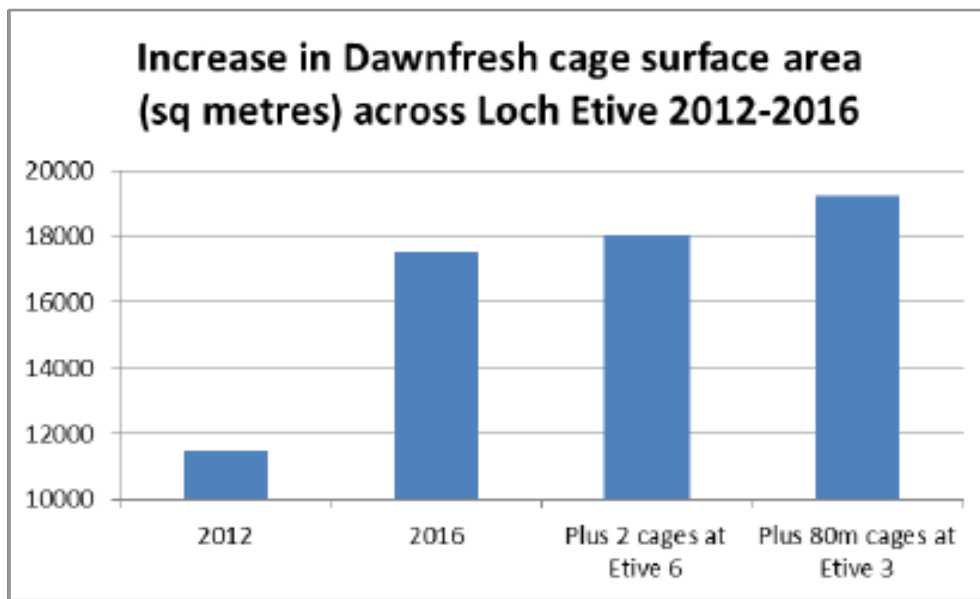
This is not considered at all by Dawnfresh in its application.

5 The Council’s position given at the Etive 6 appeal in June 2016 is that “as expressed in emergent Supplementary Guidance...that ICZM plans remain relevant material considerations”.

The graph below produced by FoLE shows the total surface area of Dawnfresh’s permitted fish-farm cages on Loch Etive in 2012, in 2016 and with the two more cages at Etive 6 (potentially granted by the DPEA, that application currently being on appeal this summer) and with this current application at Etive 3. The graph takes no account of the permanently moored feed barge at Etive 6 or the re-use at Etive 1 of moorings for the many industrial fish farm boats now moored there and elsewhere on the loch, both of which have also added to the landscape impact of Dawnfresh operations since 2012.

The Council has already noted that *“there is an evident uneasiness amongst the community, ranging from misgivings as to where the appellants are headed with their overall operation on the loch, to outright opposition...”*⁶.

Patently, there has already been a massive cumulative landscape impact on Loch Etive from Dawnfresh expansion plans since 2012. No further salami-slicing of the various Dawnfresh projects should be permitted to avoid numerous small stepwise increases in cage size, such as this application at Etive 3, being considered together as part of a cumulative assessment.



As the Council has already accepted that *“Loch Etive is...rather constrained not only by the number of consented aquaculture sites which raises cumulative impact considerations, but also by its particular characteristics and qualities which proved to be favourable for the establishment of the nascent fin fish farming in Scotland, but which are less suited to the scales of farm now finding favour within that sector”*⁷.

⁶ Para 6.11 of the Council’s Observations by the Planning Authority on the Appellant’s Grounds of Appeal, Planning Permission Appeal PPA-130-2056 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). Sailean Ruadh (Etive 6), Loch Etive, Argyll and Bute Council, 3rd June 2016.

⁷ Para 2.3 of the Council’s Observations by the Planning Authority on the Appellant’s Grounds of Appeal, Planning Permission Appeal PPA-130-2056 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). Sailean Ruadh (Etive 6), Loch Etive, Argyll and Bute Council, 3rd June 2016.



In exactly the same way as the Council found in the recent Etive 6 application for two more cages there, this application for more cages, with no stated intention to increase in biomass, simply fails to satisfy the requirements of Local Development Plan Policy LDP 3 and SG AQUA 1 and Policy LE AQUA 1 of the Loch Etive ICZM Plan.

As before, there are no economic arguments in support of the enlargement of Etive 3 which would warrant the setting aside of the adverse landscape visual and cumulative impacts that this application would bring.

Benthic and wider ecological impact

The proposed increase in cage size and grid at Etive 3 will inevitably increase the surface area of the sea-bed footprint, damaging a greater area of Loch Etive's seabed.

In that context, it is worth noting that the January 2016 benthic survey, as required from Dawnfresh under the Controlled Activities Regulations, has been rejected by SEPA as being inadequate.

In that context, the Council cannot delegate all responsibility for benthic pollution to SEPA, nor any of its responsibilities for the wider ecological impact that a bigger Etive 3 will inevitably cause.

The Council has duties to further nature conservation, including to protect the Priority Marine Feature, such as the burrowed mud in deep waters, as found in Loch Etive, including at the Etive 3 site, as well as wild salmonids.

The very rare, Ice Age relic species, the northern hatchet shell, is also found in upper Loch Etive.

Priority Marine Features are habitats and species which Scottish Natural Heritage considers to be marine nature conservation priorities in Scottish waters. One of the key objectives of the international Convention on Biological Diversity, the UK Biodiversity Action Plan, and the Scottish Biodiversity Strategy (SBS), is to halt the loss of biodiversity, and to reverse previous losses, through action for species and habitats. Habitats and species that are a priority for action towards this aim have been placed on the Scottish Biodiversity List, as required under the Nature Conservation (Scotland) Act 2004, which also places a general biodiversity duty on all Scottish public bodies, including the Council, to oblige them, when exercising functions such as the planning, to "*further the conservation of biodiversity*".

Granting this application would run counter to that duty.

Sea lice and wild fish

This application for larger cages and a larger grid, without any increase in permitted biomass, will enable Dawnfresh to 'sweat the assets' and keep more farmed fish in the cages at Etive 3 for longer periods.

In relation to all the plans to expand operations on Loch Etive being submitted by Dawnfresh, the Argyll and District Salmon Fishery Board has already raised a blanket objection to any further increase in the biomass of farmed fish actually held on Loch Etive, to try to protect threatened wild fish from any further damage.

However, the effect on wild salmonids of the increase in biomass allowed for by the planning permission granted for the new 1500 tonne farm at Etive 6, and the intensification of Dawnfresh operations at its other sites, including Etive 3, may now be being seen for the first time.



In August 2016, the Argyll and District Salmon Fishery Board (ADSFB) reported *“a terrible grilse run on the River Awe this year so far. Where we would expect to get weekly runs of 100-150 salmon, the figures for the last 2 weeks are 2 and 7. We have not had any other reports of a very poor grilse run and wonder if this is a local problem to Loch Etive. The reports of sea lice problems on the Dawnfresh farms make us wonder if this is the main issue. Our sea trout sweep netting in 2015 had the worst sea lice infections we have ever seen, and this year we could not catch many sea trout to sample – they simply were not there”*⁸.

The grilse seen in the River Awe in 2016, being salmon that have spent one winter at sea before returning to their native rivers, would have left Loch Etive during late winter 2014 and early spring 2015, when Etive 5 and 6 had serious sea lice problems as recorded by the Scottish Government’s Fish Health Inspectorate (FHI).

Back in 2012, when it began its expansion on Loch Etive, Dawnfresh was stating that *“sea lice are not a problem in Loch Etive”*. Indeed, Dawnfresh confirmed in 2012 that no Etive fish farm site had ever treated for sea lice - *“none of the other Dawnfresh sites on Loch Etive have ever required a sea lice treatment and it is not foreseen that the Etive 6 site should be any different due to its equally low salinity”*.

This is certainly not the case any longer.

In 2014 to 2016, Dawnfresh has had to treat repeatedly for sea lice on its farms with in-feed pesticides and both organophosphate and pyrethroid bath-type treatments. There have been multiple treatments through winter 2014 / spring 2015 and again in autumn 2015 into spring 2016, as FHI reports and SEPA data show, but sea lice numbers were still too high on the farms.

The ADSFB has now asked Dawnfresh for all its detailed on-farm sea lice data from 2014, to analyse the link between sea lice on Etive farms, those seen on sweep netting of wild fish, and that lack of grilse in the River Awe in 2016, but Dawnfresh has refused to release the data.

FoLE will be publishing a separate detailed report into the Etive sea-lice issue shortly.

Escapes

The application for bigger cages at Etive 3 will also bring with a greater risk of escapes of farmed fish.

Although Dawnfresh states that *“the risk of an escape event is greatly reduced by upgrading and standardising equipment used within Loch Etive, which is a positive impact with this proposed development”*, it should be noted that in April 2015, from the same standardised equipment, over 2,000 farmed fish escaped from Dawnfresh’s farm at Etive 4. 2,091 farmed fish, averaging 9.5 lbs each, escaped through ‘a hole in the net’. Dawnfresh was only able to ascertain how many fish were lost following the harvesting of the remaining fish from the Etive 4 site.

Therefore, there is no guarantee that standardisation of equipment will reduce escapes and indeed, it appears that recent escapes have not been prevented by standardised equipment. Larger 80m cages, by definition, have a greater surface area of net below the waterline which is subject to possible breach than the currently permitted 60m cages.

8 Email from Clerk to ADSFB, 3rd August 2016



Conclusion

For all the reasons stated above, FoLE objects to this application and urges the Council to refuse to grant the planning permission being sought by Dawnfresh. Indeed, the Council must now recognise that any further expansion of rainbow trout farming upon Loch Etive as a whole is unacceptable.

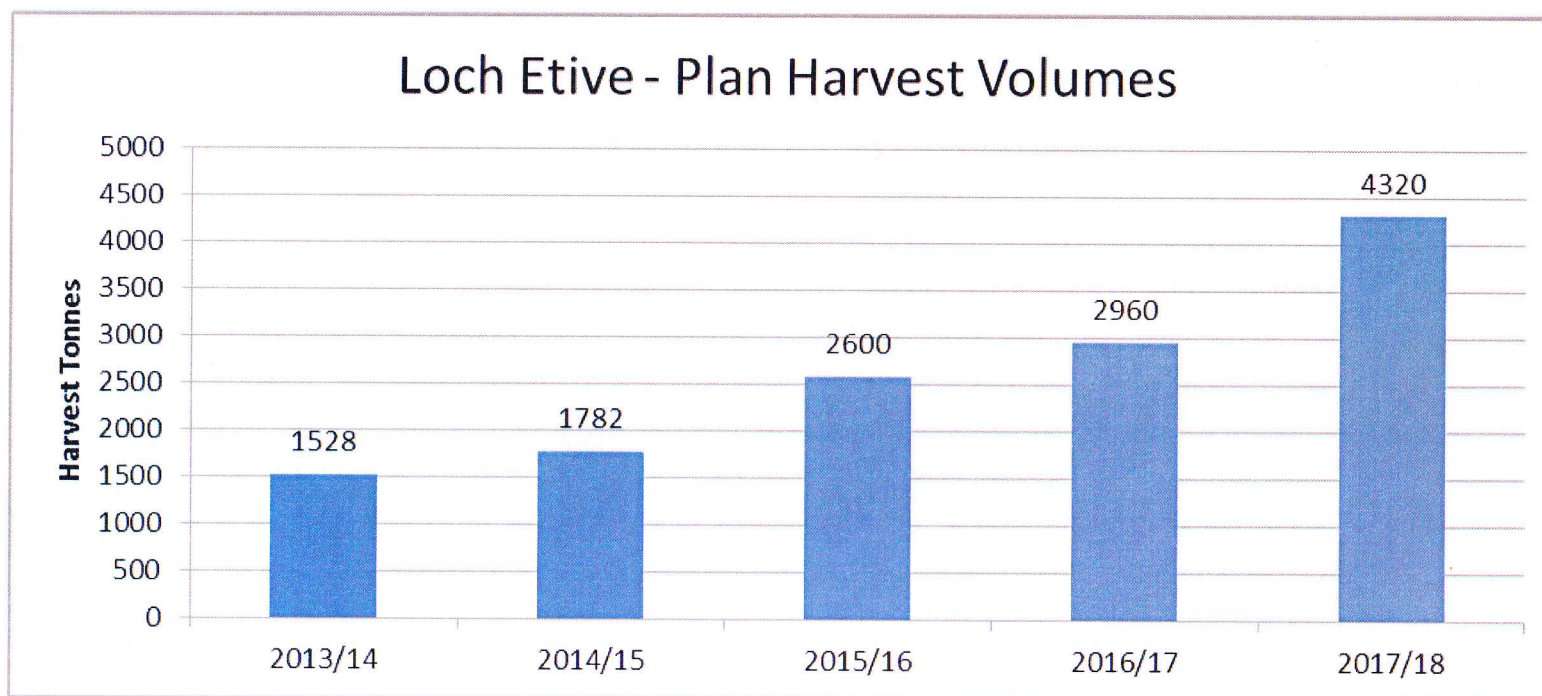


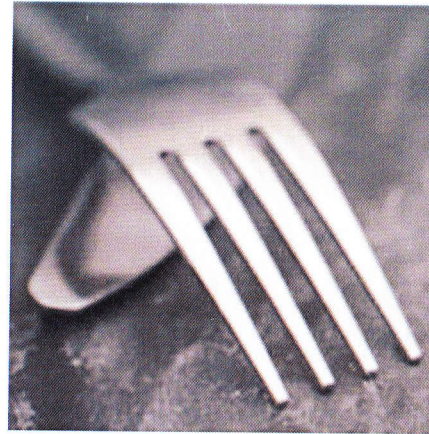
ANNEX 1: Dawnfresh PowerPoint slides Feb16

Dawnfresh Farming - Loch Etive Development Plan Overview

Planning App	Year	SEPA	Production	Growth	Project	Status
		Biomass (t)	Capacity (t)			
		2021	1733			
1	2014	3521	2933	69%	Etive 6 (New Farm)	Granted
2	2016	3521	3173	8%	Etive 6 (+2 pens)	This Application
3	2016	4054	3413	8%	Etive 4 (+2 pens)	Pending
4	2016/17	4054	3520	3%	Etive 3 (+2 pens)	Pending
5	2017	5099	4320	23%	Etive 3 (New Farm)	Pending

* We will also make supplementary PP applications to meet changing regulatory requirements and to secure juvenile production.





Planning Application

15/02607/MFF

February 2016