



To Whom It May Concern:

Personally I believe Kilmackiloge Harbour is at capacity but have appealed these decisions to refuse our licence applications to highlight what's gone on with licencing of site in the Harbour,

The department have pushed the agenda of one company Kush Sea Farms at the expense of everyone and called into question the process of applying for a licence and legitimacy of licences issued.

NOTICE OF APPEAL UNDER SECTION 40(1) OF
FISHERIES (AMENDMENT) ACT 1997 (NO. 23)



Appeal Form

**Please note that this form will only be accepted by REGISTERED POST
or handed in to the ALAB offices**

Name of Appellant (block letters)	SHAMECH SHELFICH LTD
Address of Appellant	LIMESION HOUSE KILLORE KERRY CO. KERRY

Phone:		Email:	
Mobile:		Fax:	

Fees		
Fees must be received by the closing date for receipt of appeals	Amount	Tick
Appeal by licence applicant	€380.92	<input checked="" type="checkbox"/>
Appeal by any other individual or organisation	€152.37	<input type="checkbox"/>
Request for an Oral Hearing * (fee payable in addition to appeal fee) <small>* In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.</small>	€76.18	<input type="checkbox"/>
(Cheques Payable to the Aquaculture Licences Appeals Board in accordance with the Aquaculture Licensing Appeals (Fees) Regulations, 1998 (S.I. No. 449 of 1998))		
Electronic Funds Transfer Details	IBAN: IE89AIBK93104704051067	BIC: AIBKIE2D

Subject Matter of the Appeal

APPEAL DECISION OF MINISTER TO
REFUSE LICENCE APPLICATION 106/495A

AQUACULTURE LICENCES
APPEALS BOARD

29 OCT 2019

RECEIVED

Please forward completed form to: Aquaculture Licences Appeals Board, Kilminchy Court, Dublin Road, Portlaoise, Co. Laois. Tel: (057) 8631912 Email: info@alab.ie



Site Reference Number:-

(as allocated by the Department of Agriculture, Food and the Marine)

T06/485A

Appellant's particular interest in the outcome of the appeal:

WE HAVE A SIX HECTOR SITE ALSO IN KILMACKILLOGH
HARBOUR AND ANOTHER 2.5 HA'S WOULD HELP VIABILITY

Outline the grounds of appeal (and, if necessary, on additional page(s) give full grounds of the appeal and the reasons, considerations and arguments on which they are based):

PLEASE SEE ATTACHED

Signed by appellant:

Date: 20.05.19

**Please note that this form will only be accepted by REGISTERED POST
or handed in to the ALAB offices**

Fees must be received by the closing date for receipt of appeals

This notice should be completed under each heading and duly signed by the appellant and be accompanied by such documents, particulars or information relating to the appeal as the appellant considers necessary or appropriate and specifies in the Notice.

DATA PROTECTION – the data collected for this purpose will be held by ALAB only as long as there is a business need to do so and may include publication on the ALAB website

Please forward completed form to: Aquaculture Licences Appeals Board, Kilminchy Court, Dublin Road, Portlaoise, Co. Laois. Tel: (057) 8631912 Email: info@alab.ie



Date 20th October 2019.

Site Ref. T06/495A.

Shamrock Shellfish Ltd wants to appeal the decision of the Minister to reject our application for a 2.5ha. Site at the mouth of Killmackiloge harbour on the following grounds,

- ☑ Increased negative visual impact;
- ☑ Negative impact on the existing licensed sites in the harbour

Our site is next to site T0- T06/513A a six hector site that got approval from the Minister,

Can we ask why our 2.5ha. site was rejected based on the following,

"In particular, the Minister

had regard to the findings of the Marine Engineering report regarding the negative visual impact, the negative impact of this new site on the growth rates of the adjacent existing licensed sites within the harbour and that the new sites will restrict the flow of water, and nutrients within the harbour"

What evidence or knowledge would the department engineer have on growth rates?

The minister found Site T06/513A which is stuck on to our application and protruding further into the entrance channel than our application and is 240% larger than our application, compliant????, strange,

"The Minister for Agriculture, Food and the Marine has determined that it is in public interest to grant the licence sought. In making his determination the Minister considered those matters which by virtue of the Fisheries (Amendment) Act 1997, and other relevant legislation, he was required to have regard. Such matters include any submissions and observations received in accordance with the statutory provisions. The following are the reasons and considerations for the Minister's determination to grant the licence sought: -

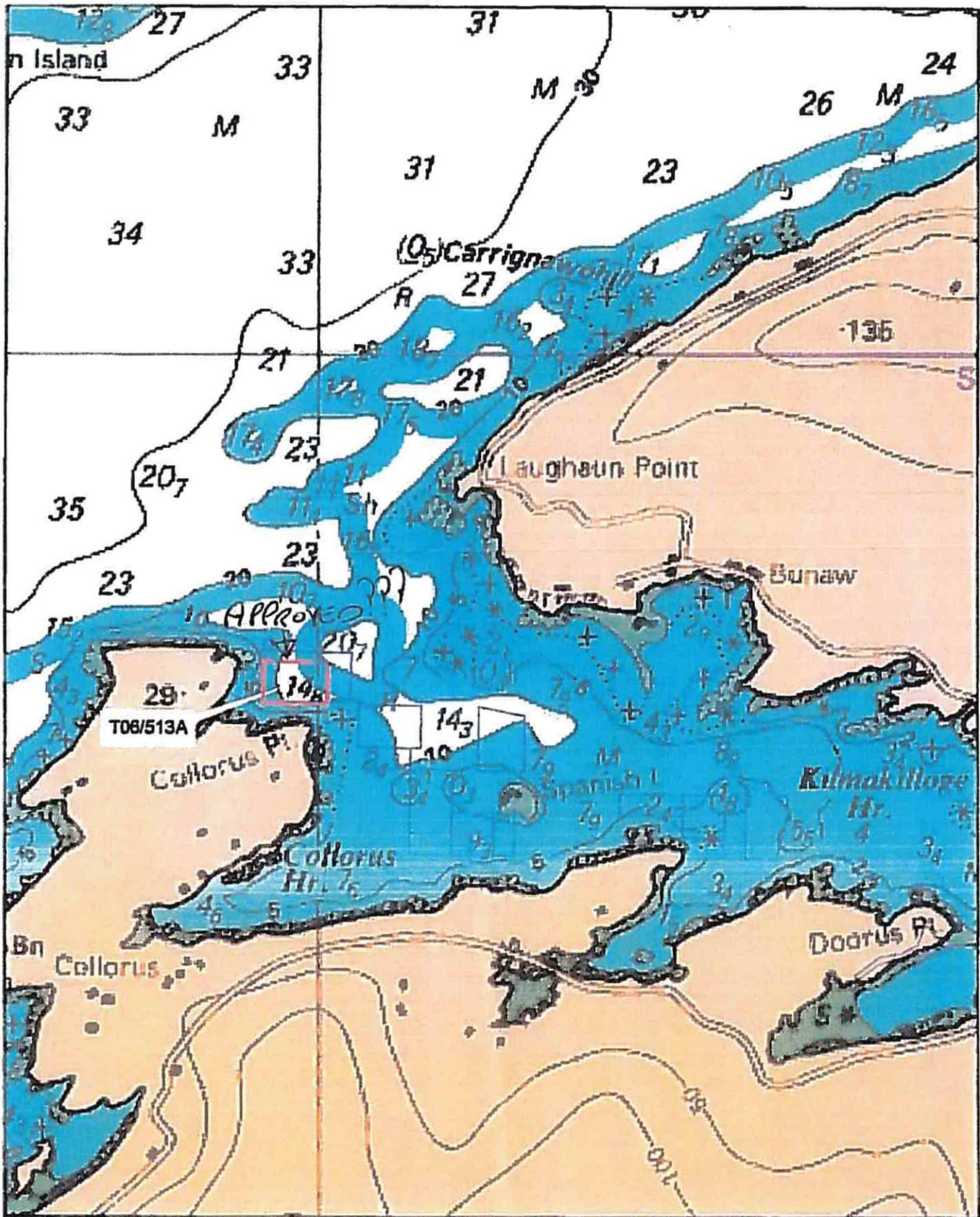
- a. Scientific advice is to the effect that the waters are suitable.***
- b. Public access to recreational and other activities can be accommodated by this project;***
- c. The proposed development should have a positive effect on the economy of the local area;***
- d. All issues raised during Public and Statutory consultation phase were given consideration and addressed as necessary;***
- e. The possible effects on the man-made environment heritage of value in the area have been taken into consideration;***
- f. No significant effects arise regarding wild fisheries;***
- g. The site is located within the Kenmare River Special Area of Conservation. An Article 6 Assessment has been carried out in relation to aquaculture activities in the SAC/SPA. The Licensing Authority's Conclusion Statement (available on the Department's website) outlines how aquaculture activities in this SAC/SPA, including this site, are being licensed and managed so as not to significantly and adversely affect the integrity of the Kenmare River SAC.***
- h. Scientific observations related to the Appropriate Assessment received during the licensing consultation process are addressed in the Licensing Authority's Appropriate Assessment Conclusion Statement;***
- i. Taking account of the recommendations of the Appropriate Assessment the aquaculture activity at this site is consistent with the Conservation Objectives for the SAC/SPA;"***
- j. There are no significant impacts on the marine environment and the quality status of the area will not be adversely impacted.***
- k. The updated Aquaculture and Foreshore licences contain terms and conditions which reflect the environmental protection now required under EU and National law"***

It will have to be got to the bottom of what's gone on here, it is obvious that this decision is very wrong and why are the department so determined to give Kush Seafarms Ltd more licenced hectors here and give Shamrock Shellfish Ltd nutting.

The decisions made here and elsewhere in the harbour are calling into question the value of licences, are licences granted based on who you are.



SEAN MCCARTHY



Aqua Culture Sites
 (all other values)
Site Status
 Under Appeal
 Application
 Lapsed
 Licensed
 Refused

1:24,000

Sites highlighted in red denotes Application
 Part of Admiralty Chart No =2495-0



Agriculture & Foreshore Management Division
An Roinn Talmhaíochta, Bia agus Mara
Department of Agriculture, Food and the Marine
FEB 2019



Commissioners of
IRISH LIGHTS | Navigation
and Maritime
Services

Commissioners of Irish Lights
Harbour Road, Dun Laoghaire
Co. Dublin, Ireland

T +353.1.271.5400
F +353.1.271.5566

E info@irishlights.ie
W www.irishlights.ie

Ms. Maria Naughton
Aquaculture and Foreshore Management Division
Dept. of Agriculture Food & the Marine
National Seafood Centre
Clonakilty
Co. Cork

Your Reference: **T06/513A**

Our Reference: **LA:0557.1310**

Date: **11/04/2019**

LL: LA 0557.1310

Applicant: Kush Seafarms Ltd

Site: Kilmakillogue Harbour, Co. Kerry

Dear Ms. Naughton,

Thank you for your letter advising us of this application.

Based on the information supplied, there appears to be no objection to the development. It is important to ensure that no navigable inter-tidal channels are impeded by the site.

If a licence is granted, all structures must be clearly marked as required by Regulations and Licensing Permit conditions and to the approval of the Nautical Surveyor with the Marine Survey Office.

We would request that you include the following terms in the licence—

- That the applicant secures Statutory Sanction from the Commissioners of Irish Lights for the aids to navigation that may be required by the Marine Survey Office. These aids should be in place before development on the site commences. Statutory sanction forms are available at <http://www.irishlights.ie/safety-navigation/statutory-sanction.aspx>
- The size and specification of aids to navigation should be of the design and specification approved by the Marine Survey Office and must be agreed in advance with the Commissioners of Irish Lights.

It is recommended that local fishing and leisure interests be consulted prior to a decision being made.

Furthermore, if a licence is granted, the UK Hydrographic Office at Taunton: sdr@ukho.gov.uk must be informed of the development's geographical position in order to update nautical charts and other nautical publications.

Yours sincerely,

Neil Askew
for Director of Operations and Navigation

cc Capt. T. O'Callaghan, Dept. of Transport Tourism & Sport, Marine Survey Office



Commissioners of
IRISH LIGHTS | Navigation
and Maritime
Services

Commissioners of Irish Lights
Harbour Road, Dun Laoghaire
Co. Dublin, Ireland

+353.1.271.5400
+353.1.271.5566

info@irishlights.ie
www.irishlights.ie

Ms. Deirdre Fitzpatrick
Aquaculture and Foreshore Management Division
Dept. of Agriculture Food & the Marine
National Seafood Centre
Clonakilty
Co. Cork

Your Reference: T06/495
Our Reference: LA0554.0114
Date: 11/09/2018

LL: LA 0554.0114

Applicant: Shamrock Shellfish Ltd

Site: Kenmare Bay, Co. Kerry

Dear Ms. Fitzpatrick,

Thank you for your letter advising us of this application.

Based on the information supplied, we would have reservations concerning the encroachment of this site onto a navigable channel. (Navigable channels including inter-tidal channels are considered to be the marine equivalent of "Rights of Way" on land). It is important to ensure that no navigable inter-tidal channels are impeded by trestles or bags.

If a licence is granted, all structures must be clearly marked as required by Regulations and Licensing Permit conditions and to the approval of the Nautical Surveyor with the Marine Survey Office.

We would request that you include the following terms in the licence—

- That the applicant secures Statutory Sanction from the Commissioners of Irish Lights for the aids to navigation that may be required by the Marine Survey Office. These aids should be in place before development on the site commences. Statutory sanction forms are available at <http://www.irishlights.ie/safety-navigation/statutory-sanction.aspx>
- The size and specification of aids to navigation should be of the design and specification approved by the Marine Survey Office and must be agreed in advance with the Commissioners of Irish Lights.

It is recommended that local fishing and leisure interests be consulted prior to a decision being made.

Furthermore, if a licence is granted, the UK Hydrographic Office at Taunton: sdr@ukho.gov.uk must be informed of the development's geographical position in order to update nautical charts and other nautical publications.

Yours sincerely,

Capt. Harry Duggan
for Director of Operations and Navigation

cc Capt. T. O'Callaghan, Dept. of Transport Tourism & Sport, Marine Survey Office



Marine Engineering Division
Report on Aquaculture Licence Application

Application Reference No: T06/513

Report Prepared by: Raphael Crowley

Date: 04 February 2019

Applicant: Kush Seafarms Ltd

Location: Kilmakilloge Harbour, Co. Kerry

Applicant Type: Aquaculture/Foreshore Licence

Site:

T06/513
6.0

Site Area (Ha):

6.0

Species: Blue Mussel (*Mytilus edulis*)

Cultivation Method: Longlines

Intertidal/Non-Intertidal: Non-Intertidal

Source of Seed / Spat: Natural spat collection

Annual Production Estimates: 60 Tonnes

Shellfish Waters Designation: Yes No

Reference: SI 200 of 1994 Kilmakilloge Harbour - Map XI

Environmental Designation : Yes No

Reference: Kenmare River SAC [Site Code: 002158]

Development Plans: Yes No

Reference: Kerry County Development Plan 2015 -21, Section 8.4

Pre-Consultation Meeting: Yes No

Date: Various

Drawing Validation Sheet

OSI Maps: Yes No
Comment: Revised OSI maps to be prepared by GIS Mapping Section.

BA Chart: Yes No
Comment: BA Charts to be prepared by GIS Mapping Section.

Farm Layout Drawing: Yes No
Directional Arrow Yes No
Scale Yes No
Title Block Yes No
Date Yes No

Comment: Drawing of reconfigured site layout attached.

Drawings of structures: Yes No
Comment: Typical section detail of mussel longline provided

Details of Proposed Navigation Marking: Yes No
Comment: SUMS navigation marking scheme to be agreed

Site Access Indicated: Yes No
Comment: Access from Bunaw Pier (Kilmakilloge)

Site Co-Ordinates Indicated: Yes No
Comment:

Site Overlap: Yes No
Comment:

Oyster Fishery Order Overlap: Yes No
Comment:

The application is submitted with each of the requirements listed and is therefore deemed to be a valid application.

AFMD should be aware that insufficient details have been submitted as per above.

Site Suitability Assessment

Site Location

The site is located in relatively sheltered waters at the western side of the entrance to Kilmakilloge Harbour. The hydrodynamic regime is suitable for this type of aquaculture.

Site Management

This new application is for aquaculture activity at the entrance to Kilmakilloge Harbour, Co Kerry. The site is currently not in use. This applicant operates a number of aquaculture sites in Kenmare Bay including Kilmakilloge Harbour. The site was previously referenced as T05/540 but has been re-numbered as it lies within County Kerry.

Proposed Site Layout and Structures

The proposed site has an area of 6.0Ha. The applicant proposes to utilise the standard double head-rope method as per mussel longline detail attached to the application. Each mussel longline should not be longer than 220 metres in length. A proposed farm layout has been submitted.

A maximum of 6 No. mussel longlines should be permitted within the proposed site. The floatation barrels of the longlines should be battleship grey in colour. The proposed longline layout will not cause an obstruction or nuisance.

GIS Mapping Section of MED can prepare the appropriate maps, co-ordinates and area for the site for licencing purposes.

Land Based Facilities / Site Access

Bunaw Pier is used by mussel farmers on a daily basis to access the sites in Kilmakilloge Harbour and carry out operations associated with the aquaculture industry. The pier is suitable as an access point for this site.

Navigation

There are existing navigational aids within Kilmakilloge Harbour. MED recommends that the group navigational marking scheme (SUMS) is revised to facilitate this proposed site. The scheme should provide a safe system of navigation for all marine users. This will be revised in consultation with Kerry County Council, BIM, MSO and CIL. This site will be within the SUMS for Kilmakilloge Harbour.

Visual Impact

The Kerry County Development Plan (CDP) designates the scenic characteristic of the landscape adjacent to Kilmakilloge Harbour as Rural Prime Special Amenity in some parts and Rural Secondary Special Amenity in the remainder. The Kerry CDP indicates there are scenic routes surrounding Kilmakilloge Harbour. The proposed site is visible from the R571 roadway from Kenmare to Castletownbere and the R573 roadway from Lauragh to Kilmakilloge, both of which are part of the Wild Atlantic Way and designated in the Kerry CDP as routes with Views and Prospects (Both Directions). The Beara Way walking route passes to the south of Kilmakilloge Harbour.

There is existing aquaculture in the harbour that has been in place for some time and has become embedded in the landscape. This site, the proposed farm layout and type of structures adhere to the best practices outlined in the Guidelines for Landscape and Visual Impact Assessment of Marine Aquaculture, 2001. The licence conditions will specify the orientation of the site, length and number of lines and colour of floatation barrels to minimise the visual impact. There is no significant visual impact due to this application.

Impact / Cumulative Impact

The Appropriate Assessment for Kenmare River concluded that there was no impact on the SAC due to aquaculture at the location of this site.

This application for new aquaculture activity will form part of the overall mussel aquaculture industry within Kilmakilloge Harbour. The aquaculture in Kilmakilloge Harbour has been in existence for some time and there is no significant impact due to this application. This site is suitably removed from the existing activity and of a scale that it will not affect production within the harbour.

*

WHAT QUALIFICATION HAS MR. CROWLEY TO MAKE THIS JUDGMENT

The existing mussel licence areas within the harbour have been reconfigured to improve navigation, farming operations, and visual impact within the area. There is no increase in the overall historical licenced aquaculture area within Kilmakilloge harbour due to this reconfiguration process or the licencing of this site.

WHAT MR. CROWLEY IS SAYING IS TAKEN CAPACITY FROM SMALL SITE TO

THIS IS NOT TRUE

MED has been informed anecdotally that dredging for scallops occurred at this location in the past, but MED is not aware of any current records of this activity.

GIVE TO KUSH SEAFARM

There is fishing and marine leisure in the area. The group marking scheme reduces the impact of the aquaculture on navigation in the area.

AFMD should ensure the correct OSI map, Admiralty chart and Site Co-ordinates to be prepared by GIS Mapping for the site, and the revised site layout drawing and structure details are included in any licence issued.

Marine Engineering Division has no objection to the licensing of this site subject to the above.

Naughton, Maria

From: Foley, Tina
Sent: 10 July 2019 14:45
To: Naughton, Maria; Fitzpatrick, Dairdre
Cc: DAFM Queries
Subject: Aquaculture & Foreshore Application: Kilmakilloge Harbour. Co. Kerry (17 no. sites)

Hi Maria & Dairdre,

Please see below response received from Castletownbere Port in respect of the above applications as requested.

Kind regards
Tina

Tina Foley
Clerical Officer
Food & Fisheries Support Unit



AN t-ÚDARÁS UM
CHOSAINT
IASCAIGH MHARA

SEA-FISHERIES
PROTECTION
AUTHORITY

An t-Údarás um Chosaint Iascaigh Mhara, Clogheen, Cloich na Coillte, Co. Chorcaí
Head Office, National Seafood Centre, Park Road, Clogheen, Clonakilly, Co. Cork
Eircode: P85TX47
www.sfp.a.ie

From: Falvey, John
Sent: 05 July 2019
To: Falvey, John
Subject: RE: REMINDER: Aquaculture & Foreshore Application: Kilmakilloge Harbour. Co. Kerry (17 no. sites)

Good Afternoon Tina

SFPA comments are the same for the following applications:



T6 513



The SFPA is of the view that these sites are for areas traditionally used for either shrimp or scallop fishing.



Regards

John

