

**REPORT TO:** East Lothian Council

**MEETING DATE:** 26 June 2018

**BY:** Depute Chief Executive (Partnerships and Community Services)

**SUBJECT:** Planning Application 18/00189/PPM - Former Cockenzie Power Station Site - Council's Statement of Case

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## **1 PURPOSE**

- 1.1 To provide an update in respect of planning application 18/00189/PPM, and to seek approval of the Council's formal view on the application, which will then be submitted to the Reporter as the Council's Statement of Case for consideration as part of the determination process by the Scottish Ministers.

## **2 RECOMMENDATIONS**

- 2.1 That the Council approve this report as the formal view of East Lothian Council as its Statement of Case on planning application 18/00189/PPM for submission to the Reporter.

- 2.2 That the Council recommends that the Scottish Ministers refuse planning application 18/00189/PPM for the following reason:

The proposed development would not make best use of the land available of the former Cockenzie Power Station site. Rather it could prejudice the future development of the site and the economic potential of the area. The proposed development is therefore contrary to Policy EGT1 of the East Lothian Local Development Plan and therefore also does not comply with National Planning Framework 3.

- 2.3 That the Council agrees to delegate approval of the minute of this item of business to the Chief Executive, in consultation with the Provost and political group leaders, in order that an agreed position on the Statement of Case can be submitted to the Reporter by their deadline of 30 June 2018.

### **3 BACKGROUND**

#### **Application Site**

- 3.1 The application site comprises part of the former Cockenzie Power Station site. There is an existing substation to the south of the application site connecting to high voltage electricity infrastructure forming part of the national grid, which was originally installed to serve Cockenzie Power Station. The site has an area of some 10.2 hectares and occupies a coastal location to the immediate east of Preston Links. It extends from the coastline of the Firth of Forth south to an area of land immediately to the north of the existing electricity substation. The application site is bisected by the B1348 (Edinburgh Road) public road and incorporates land on both the north and south sides of the B1348.
- 3.2 The area of the beach to the immediate west of the application site is within the Firth of Forth Special Protection Area and within the Firth of Forth Site of Special Scientific Interest.
- 3.3 The southern section of the application site, located to the south of the B1348 road, is within the boundary of the Battle of Prestonpans, a battlefield included within the Inventory of Historic Battlefields.
- 3.4 The coastal path which incorporates part of the John Muir Way crosses the northern part of the application site.

#### **Planning Application 18/00189/PPM**

- 3.5 In February 2018 planning permission in principle (Ref: 18/00189/PPM) was sought for a proposed development of the application site. The proposed development consists of onshore transmission works associated with the Inch Cape Offshore Wind Farm comprising the construction, operation and decommissioning of an onshore substation, electricity cables and associated infrastructure required to export electricity from the Inch Cape Offshore Wind Farm to the National Electricity Transmission System.
- 3.6 On 9 April 2018 a Direction under the terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 was issued by the Scottish Ministers. This directed East Lothian Council to refer to them for determination the application for planning permission in principle (Ref: 18/00189/PPM).
- 3.7 Scottish Ministers have advised that the Direction has been given in view of the proposed development raising matters which are potentially of national importance in the context of expectations set out in National Planning Framework 3 for the site of the former Cockenzie Power Station and the need for an enhanced high voltage energy transmission network.
- 3.8 Given that the Council has made no decision on the planning application and as it was called in by Scottish Ministers at such an early stage the Reporter has requested the formal view of the Council on the application with a focus on:

- The National Planning Framework and the current development plan
- Scottish Planning Policy
- The sufficiency or otherwise of the Environmental Statement
- The acceptability of the identified environmental effects (including identified landscape and visual effects and the response of Scottish Natural Heritage)
- Habitats Regulation Appraisal (HRA)
- The proposed mitigation (including a response to the matters raised by the Scottish Environmental Protection Agency in relation to flooding)
- Progress on other proposals for the site
- Any other material considerations including matters raised in consultation/representation
- The council's recommended conditions in the event that planning permission is granted.

### **Cockenzie Power Station**

- 3.9 Cockenzie Power Station was a coal-fired power station, which was in operation until 2013.
- 3.10 In October 2011 the Scottish Government granted planning permission (Ref: IEC/CKE/001) under Section 36 of the Electricity Act 1989 to Scottish Power for the conversion of the power station building and operation of it as a Combined-Cycle Gas Turbine plant (CCGT) on the land of the former Cockenzie Power Station site. The Power Station has since been demolished.
- 3.11 In August 2015 Scottish Power announced that they would not be progressing with the development of a CCGT on the application site.
- 3.12 In March 2018 Scottish Power sold the former Cockenzie Power Station site to East Lothian Council. The land sold to the Council, which has an area of nearly 100 hectares, includes Preston Links and land to the south of the Cockenzie Coal Store.

### **Inch Cape Planning History**

- 3.13 In July 2013 Inch Cape Offshore Limited submitted separate applications to Marine Scotland for consent under Section 36 of the Electricity Act 1989 and Section 25 of the Marine (Scotland) Act 2010 for the erection of an off-shore wind farm and off-shore transmission works, to be known as the Inch Cape off shore wind farm. It would be located across a 15 to 22km range to the east of the Angus coastline. In October 2014 Inch Cape Offshore Limited was granted consent under section 36 of the Electricity Act 1989 and Marine Licences under the Marine (Scotland) Act 2010, for the Consented Offshore Wind Farm and off-shore transmission works.

- 3.14 In January 2015, the Royal Society for the Protection of Birds Scotland (RSPB) raised a legal challenge to the Outer House of the Court of Session seeking a judicial review of the October 2014 consent decisions for four offshore wind projects in the Forth and Tay, including the consented Inch Cape offshore wind farm.
- 3.15 In July 2016, The Outer House of the Court of Session found in favour of the RSPB and quashed the October 2014 Forth and Tay consent decisions, including the consented Inch Cape offshore wind farm.
- 3.16 In August 2016, the Scottish Ministers lodged a reclaiming motion to the Inner House of the Court of Session to appeal the Outer House decision. In May 2017 following the Scottish Ministers' successful reclaiming motion, the decision of the Outer House of the Court of Session to quash the offshore consents was overturned. In November 2017, RSPB Scotland's application to the Supreme Court for permission to appeal the Inner House judgement was refused. As such Inch Cape Offshore Limited holds legally valid offshore consents for the consented Inch Cape Offshore Wind Farm and off shore transmission works.
- 3.17 While the reclaiming motion for judicial review was in progress, Inch Cape Offshore Limited began the process of preparing a new application for a revised offshore wind farm and offshore transmission works. The revised offshore wind farm and offshore transmission application is being progressed to take advantage of advances in offshore turbine technology that have taken place since consents were granted in October 2014.
- 3.18 While all relevant consents for the offshore works are present through the successful reclaiming motion, Inch Cape Offshore Limited will maintain progress on the new application for the revised offshore wind farm and offshore transmission works which it is anticipated to be submitted in summer 2018.
- 3.19 Inch Cape Offshore Limited have advised that they intend to build either the consented off shore wind farm or the revised offshore wind farm, currently in the pre-application phase, but not both.

#### **Planning permission in principle 14/00456/PPM**

- 3.20 Onshore electrical transmission infrastructure is essential to facilitate the transmission of power from the proposed Inch Cape off shore wind farm to the national electricity grid.
- 3.21 On 3 September 2014 planning permission in principle (Ref: 14/00456/PPM) was granted for the development of onshore electrical transmission infrastructure on land to the immediate east of Prestonpans and to the south of the former Cockenzie Power Station Coal Store. The approved infrastructure would facilitate the transmission of power from the proposed Inch Cape off shore wind farm to the national electricity grid.

- 3.22 The approved onshore electrical transmission infrastructure consists of up to four export cables from the off shore wind farm that would be brought ashore at the beach adjacent to Preston Links to underground structures, known as transition pits. The on-shore cables would run underground from the proposed transition pits to a proposed electrical sub-station, which would be positioned on land to the south of the Cockenzie Coal Store and to the west of the public right of way from Cockenzie to Tranent. It is indicated that the sub-station could have a site area of some 2.7 hectares. It could be enclosed by security fencing and two gates and could contain an access road, electricity transformation equipment, a switchgear building and a control building. It is indicated that the switchgear building would have maximum dimensions of 46 metres long by 11 metres wide, and a maximum height of 14 metres. It is further indicated that the control building, which would be located adjacent to the switchgear building, would have approximate dimensions of 30 metres long by 7.5 metres wide, with an approximate height of 7.0 metres.
- 3.23 In taking the decision to grant planning permission in principle 14/00456/PPM, the Planning Committee noted that only three objections to the proposals had been received. Prestonpans Community Council were in support of the proposed development, and there was no objection to the planning application from any statutory consultee. The development of the proposed onshore electrical transmission infrastructure at this location was assessed as being acceptable on the basis that at this location the proposed substation would be seen in relation to the existing electricity pylons and the Cockenzie Coal Store. Additionally areas of tree planting and vegetation, particularly between that application site and the public right of way that runs to the east of it are present, which would help to reduce the visual and landscape impact of the proposed substation.
- 3.24 Condition 1 of planning permission in principle 14/00456/PPM requires that details for approval of matters specified in conditions of this grant of planning permission in principle must be submitted by 3 September 2017. No such details were submitted.
- 3.25 In November 2016 a Proposal of Application Notice (Ref: 16/00021/PAN) was submitted on behalf of Inch Cape Offshore Limited. The Notice indicated that the applicant intended to seek planning permission for the renewal of planning permission in principle 14/00456/PPM.
- 3.26 The PAN was agreed with East Lothian Council and Inch Cape Offshore Limited undertook two pre-application consultation events to disseminate information about the renewal application to the local community. These events took place on 19 and 24 January 2017 and were attended by approximately 50 people. The applicant has advised that in recognition of feedback from these events and following dialogue with the Council, they completed an updated site feasibility assessment which looked at various environmental and technical factors associated with the previously approved Onshore Transmission Works site which was the subject of planning permission 14/00456/PPM and other locations in the vicinity. As

a result, the applicant decided not to progress any further with the renewal application but to instead change the location of the Onshore Transmission Works to the current application site.

- 3.27 As Inch Cape Offshore Limited chose not to submit details for approval of matters specified in conditions, and chose not progress any further with the renewal application, planning permission in principle 14/00456/PPM lapsed on 3 September 2017.

### **Application 18/00189/PPM – Proposals**

- 3.28 Planning permission in principle is now sought through this current application for the formation of onshore electrical transmission infrastructure within the current application site.
- 3.29 In a planning statement submitted with the planning application, the applicant advises that prior to the submission of the applications to Marine Scotland, in January 2012 Inch Cape Offshore Limited accepted an onshore grid connection offer from National Grid Electricity Transmission to an existing substation at Cockenzie. The onshore electrical transmission infrastructure is required to facilitate the transmission of power from the proposed Inch Cape off shore wind farm. It will facilitate the distribution of up to 2,194 gigawatt hours of electricity per annum, enough power to meet the needs of just over 500,000 households, based on average UK consumption.
- 3.30 The applicant further advises that they are applying for planning permission in principle, as at this stage it is not possible to provide a detailed description of all elements of the onshore electrical transmission infrastructure. Notwithstanding, the basic principles of development are set out in the planning application and supporting documents.
- 3.31 It is proposed that two offshore export cables from the Inch Cape offshore wind farm would be brought ashore on the North West boundary of the application site, under the existing sea wall, to the immediate east of Preston Links where they would run underground to underground structures, known as transition pits. Each transition pit would typically be 13 metres by 3 metres in size per cable and up to 1.5 metres deep. The applicant has indicated that there would be a separate cable transition pit for each of the offshore export cables or that both may be accommodated within, a larger cable transition pit. Typically, the transition pits are constructed from reinforced concrete and would be covered (underground) following construction and the area above restored, as far as practicable, to its original appearance. Each cable transition pit has an associated link pit and link box to allow access for future maintenance to the cable transition pit. The link pit typically has a plan area of around 1.5m<sup>2</sup>.
- 3.32 The on-shore export cables would be laid in two separate trenches or ducts each measuring approximately 1m wide and between 1.5 metres to 3 metres deep. Depending on the final route selected, the Onshore Export

Cables between the cable transition pits and the onshore substation are expected to be approximately 100m long.

- 3.33 Ideally the onshore export cables would be laid in continuous sections however the applicant advises that the route alignment may require that the cable be installed in a number of sections. If this arises, these sections will have to be connected. Each cable connection would take place within a joining pit which typically, would be up to 3 metres x 13 metres by 1.5 metres deep. The exact location of the joining pits will only be determined once further site investigations have been concluded.
- 3.34 It is indicated that the onshore substation site would comprise both the onshore substation and appropriate screening measures which would include:
- i) Walls of up to 7 metres constructed on either side of the switch gear building clad in a material similar to that of the onshore substation buildings
  - ii) Earth mounding up to 4 metres in height above existing ground level created on the perimeter of the onshore substation.
- 3.35 The sub-station could be approximately 185 metres by 185 metres, resulting in a footprint of approximately 3.5 hectares (excluding the embankment and landscaping). It could be enclosed by security fencing, and two gates, access road, car park, electricity transformation equipment, a switchgear building and a control building. It is indicated that the largest building would be the enclosure for the two harmonic filters, which would be combined with the switchgear and control building. This would be approximately 100 metres long by 60 metres wide, with an approximate height of 14 metres high. Typically, the control building would have approximate dimensions of 30 metres long by 7.5 metres wide, with an approximate height of 7 metres however in the indicative layout shown in this application it has been combined with the switchgear building.
- 3.36 It is anticipated that the two onshore export cables from the onshore substation to the grid connection point would be approximately 170 metres long and may require jointing pits at appropriate locations which are yet to be determined although it is anticipated they will use the existing ducts which run under the B1348. If these ducts cannot be re-used, then the crossing of the B1348 may require a trench or horizontal directional drilling. Selection of the road crossing method will only be determined once further site investigations have been concluded.
- 3.37 Access onto the application site would be via the existing access off the B1348 public road. The main site access route for construction traffic would be via the A1, A198, B6371 and B1348 roads.

### **The National Planning Framework and the current development plan**

- 3.38 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 3.39 The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008 (ELLP 2008).
- 3.40 Relevant to the determination of the application are Policies 1B (The Spatial Strategy: Development Principles), 9 (Infrastructure), and 10 (Sustainable Energy Technologies) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies C3 (Protection of Open Space), NRG1 (Electricity Generating Stations), NH1a (Internationally Protected Areas), NH1b (Sites of Special Scientific Interest), ENV7 (Scheduled Monuments and Archaeological Sites), C6 (Rights of Way), C7 (Core Paths and Other Routes), T2 (General Transport Impact), DP1 (Landscape and Streetscape Character), DP2 (Design) and DP17 (Art Works- Percent for Art) of the adopted East Lothian Local Plan 2008.
- 3.41 The Proposed East Lothian Local Development Plan PELLDP was submitted to Scottish Ministers for Examination in 2017 and the Reporters' Examination Report was issued on 14 March 2018. The East Lothian Local Development Plan (ELLDP) was thereafter modified following the Examination. At their meeting on 29 May 2018, the Council approved the ELLDP as the Local Development Plan the Council intends to adopt. The ELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Relevant Proposal EGT1 (Land at Former Cockenzie Power Station), Proposal EGT3 (Forth Coast Area of Co-ordinated Action), Policy OS1 (Protection of Open Space), Policy T2 (General Transport Impact), Policy T4 (Active Travel Routes and Core Paths as part of the Green Network Strategy), Policy DC6 (Development in the Coastal Area), Policy NH1 (Protection of Internationally Designated Sites), Policy NH2
- 3.42 (Protection of Sites of Special Scientific Interest and Geological Conservation Review Sites), Policy CH5 (Battlefields), Policy DP1 (Landscape Character) and Policy DP2 (Design) of the PELLDP do not represent any significant alteration to the current relevant policies.
- 3.43 The Reporter's Examination report on the PELLDP provides the most up-to-date guidance on Planning Policy for the former Cockenzie Power Station Site. The Report of examination confirms that the site presents significant opportunities for thermal power generation and carbon capture and storage facilities (as per National Development 3) as well as renewable energy-related investment (National Development 4), upgraded port facilities associated with energy related development and new business and industrial uses. The Report of Examination also clarifies that on-shore interconnectors for off-shore windfarms are within the scope



of the NPF3 description of National Development 4 and that it is not the intention of NPF3 that this type of development be obstructed by a preference for the prior delivery of National Development 3. If there is insufficient land for competing proposals, priority will be given to those that make the best use of the location's assets and which bring the greatest economic benefits.

- 3.44 The second proposed Strategic Development Plan (SESPlan 2) was submitted to Scottish Ministers for Examination in Public on 26th June 2017 and is currently with the DPEA. The Examination on that plan is expected to report at the end of June 2018. In paragraph 3.16 it notes that "The former Cockenzie Power Station site is not currently subject to specific proposals for carbon capture and storage and thermal generation. It remains part of an Area of Coordinated Action, but relevant stakeholders should consider a wide range of potential uses for this site". Table 4.1 'Forth Coast Cluster' includes the site of the former Cockenzie Power Station (with others) as being part of a cluster of coastal sites providing opportunities for a range of uses. In particular, "port use such as renewables manufacture and servicing, thermal and low carbon energy generation or other uses associated with an Area of Coordinated Action. These locations also present significant opportunities for innovative re-used and regeneration, making use of the well serviced sites and their coastal locations. Subject to a review of the NPF, locations at the former Longannet and Cockenzie Power station sites may have the potential for a wider range of uses". Paragraph 4.26 notes that the Cockenzie site is retained within the Forth Energy Business Cluster, reflecting the opportunities for this site to contribute to renewables manufacture, servicing of offshore renewables and any possible longer-term opportunities to contribute to carbon capture and storage. The potential for the regeneration of Cockenzie provides opportunities to explore more innovative approaches to delivering low carbon places, such as district heating and energy storage. Representations have been received to this however.
- 3.45 Material to the determination of the application is the Scottish Government's National Planning Framework 3 and Scottish Planning Policy: June 2014 (SPP).
- 3.46 National Planning Framework 3 (NPF3) refers to the Cockenzie area with regard two national developments. These are National Development 3 (Carbon Capture and Storage Network and Thermal generation) and National Development 4 (High Voltage Electricity Transmission Network). NPF3 states that Cockenzie is a potentially important energy hub. There are significant plans for offshore wind farms to the east of the Firths of Forth and Tay. Proposals for grid connections for these projects are now emerging, requiring undersea cabling connecting with converter stations and substations. The Scottish Government want developers to work together to minimise the number and impacts of these developments by combining infrastructure where possible. Whilst Cockenzie is safeguarded by the Scottish Government as a site for future thermal generation, it may

present significant opportunities for renewable energy-related investment. They expect developers, East Lothian Council and the key agencies, including Scottish Enterprise to work together to ensure that best use is made of the existing land and infrastructure in this area. Given the particular assets of Cockenzie, if there is insufficient land for competing proposals, the Scottish Government wish to see priority given to those which make best use of this location's assets and which will bring the greatest economic benefits.

### **Scottish Planning Policy**

- 3.47 Scottish Planning Policy on renewable energy states that planning must facilitate the transition to a low carbon economy. The planning system should support the development of a diverse range of electricity generation from renewable energy technologies - including the expansion of renewable energy generation capacity. The consideration of applications for proposals for energy infrastructure developments will vary relative to the scale of the proposal and area characteristics but are likely to include landscape and visual impacts, historic environment, effects on the natural heritage and water environment, amenity and communities, and any cumulative impacts that are likely to arise.
- 3.48 Scottish Planning Policy advises that a significant material consideration in the assessment of planning applications should be the policy principles of SPP, including 'the presumption in favour of development that contributes to sustainable development'. Principles of sustainable development are given in paragraph 29.
- 3.49 Scottish Planning Policy further contains policy on protection of environmental assets including cultural assets, landscape and biodiversity. Where there is potential for a proposed development to have an adverse effect on a scheduled monument or on the integrity of its setting, Scottish Planning Policy states that permission should only be granted where there are exceptional circumstances. Scottish Planning Policy further states that planning authorities should seek to protect, conserve and, where appropriate, enhance the key landscape characteristics and special qualities of sites in the Inventory of Historic Battlefields.
- 3.50 An assessment of whether or not the principle of the proposed development is in accordance with the development plan, the National Planning Framework, and with Scottish Planning Policy, is set out in the planning assessment below.

### **Progress on other proposals for the site**

- 3.51 In June 2014 a Proposal of Application Notice (Ref: 14/00015/PAN) was submitted by Scottish Enterprise. The Notice indicates that they intend to bring forward a planning application for an energy park on land that includes the Cockenzie Power Station and Coal Yard site. The site the

subject of planning application 14/00015/PAN includes the land that is the subject of this planning application. A planning application has not however to date been submitted in respect of this proposal and it is understood that Scottish Enterprise have withdrawn their interest in this proposal.

- 3.52 There are no firm proposals for the site, other than that which is the subject of this planning application. However this is perhaps not unsurprising, given the recent change in ownership and the fact that the site has not yet been marketed. The Council intends to market the site, though this is difficult in the current policy context. It should be noted, however, that the Council has received a number of enquiries from interested parties and has engaged with the relevant Scottish and UK government departments in respect of the economic and development potential of the site, including with Scottish Enterprise. The Council's Economic Development and Strategic Investment Service (EDSI) advises that economic development is a key priority for East Lothian and is at the forefront of East Lothian Community Planning Partnership's Single Outcome Agreement and East Lothian Council's Council Plan 2012-2017. The East Lothian Economic Development Strategy 2012 to 2022 is a reflection of the priority placed on economic development and acts as a guiding framework for future activities. It sets out clear strategic direction and is the foundation of the vision set out in the Council Plan of:

*In 2020 East Lothian will have a dynamic and flourishing economy with our citizens proud to live, learn, work and play in East Lothian.*

To help achieve the vision, *two major strategic goals* have been set to be achieved by 2022:

- To increase the number of businesses in East Lothian with growth potential (*EDSI strategy action plan*)
- To increase the proportion of East Lothian residents working in and contributing to East Lothian's economy – increase EL's jobs by an additional 7,500. (*EDSI strategy action plan*)

The 2 strategic goals are underpinned by 5 key objectives:

- To be the best place in Scotland to set up and grow a business.
- To be Scotland's leading coastal, leisure and food & drink destination.
- To build on our proximity to Edinburgh to encourage study, work and spend in East Lothian.
- To provide high quality employment pathways for East Lothian's workforce.
- To become Scotland's most sustainable local economy.

The EDSI service further advises that this planning application is therefore not welcomed at this time as it is the EDSI's view that this is not necessarily the best use for the site to achieve the above strategy aims. ELC have recently acquired the wider site and have plans in place to market the wider

site in due course, this in the context of further review of the planning policy position for the wider site. EDSI does not object to the principle of the application and its purpose rather its timing and specific location. If a planning permission is required at this time EDSI are of the view that the specific site where a planning application was previously approved for a substation is a far better location. EDSI therefore does not support this application and recommend that it be declined.

### **Masterplan Document**

- 3.53 Following the decommissioning and subsequent demolition of the Cockenzie Power Station in September 2015 it was acknowledged that the wider former Cockenzie Power site provides an opportunity to redevelop the site for the benefit of the local and wider community. The Council commissioned a masterplanning process (with funding contribution from Scottish Enterprise) for the land formerly in Scottish Power's ownership at the former Cockenzie Power Station, the 'Cockenzie masterplan document'. This was prepared following consultation with the communities.

The Cockenzie masterplan document has not, however, been formally endorsed by the Council or adopted as supplementary planning guidance, and has not been through the necessary technical and environmental assessments (including Strategic Environmental Assessment, Habitat Regulations Assessment) which would allow this. It can therefore be accorded limited weight at this time. However, it is the result of significant community and stakeholder consultation with local communities and stakeholders, including national public sector agencies, industry bodies, businesses and local schools'. Over 330 responses were made to the first stage of consultation.

The masterplan document identifies and utilises key site assets and features within and around the site including the transformer and connection to the national grid, the coal store area, its coastal location and pier, accessibility to the road network and rail siding, the John Muir long distance route, the historic Waggonway and sites associated with the Battle of Prestonpans. The masterplan document shows a potential distribution of uses across the whole NRG1/EGT1 sites, showing how these could be accommodated in a complementary way on the site and the general ambition and aspiration generated.

### **Assessment of the Proposal against the Development Plan and other Material Considerations**

- 3.54 The approved development plan consists of the ELLP 2008 and the SESPlan SDP1. The East Lothian Local Plan 2008 is more than five years old. Policy NRG1 of the adopted ELLP 2008 has limited relevance; the ELLP 2008 text states that Cockenzie Power Station was expected to remain in use as such for the lifetime of the plan. The intention of the policy was therefore mainly to protect the continued functioning of that facility.

The change in circumstances and the age of the plan mean that this policy is somewhat out of date.

- 3.55 SESPlan 1 will be 5 years old on 27 June 2018. In these circumstances SPP is clear that the plan's policies will not be considered up-to-date, and paragraph 33 - 34 of SPP2014 should also be considered. This does not mean however that the policies of a plan will be disregarded. SPP further advises that a significant material consideration in the assessment of planning applications should be the policy principles of SPP, including 'the presumption in favour of development that contributes to sustainable development'. SPP is clear that the aim of 'the presumption' is to achieve the right development in the right place; it is not to allow development at any cost.
- 3.56 SPP only contains high level policy principles. Proposals that may comply with SPP do not need to be approved. Paragraph 33 notes that decision makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in SPP.
- 3.57 As such, in the context of this application, a significant issue is how 'the presumption in favour of development that contributes to sustainable development' should be applied. The principles with which the proposal most obviously complies are: supporting delivery of infrastructure, for example energy; supporting climate change mitigation. The principles which require greater consideration of compliance or non-compliance with are: supporting good design and the six qualities of successful places; protecting, enhancing and promoting access to [...] the landscape.
- 3.58 There are arguments on both sides of whether the proposal gives due weight to net economic benefit (and therefore give the best economic outcome). On one side, it is a National Development which will benefit the country as a whole. On the other, it would be possible to have this proposal in another location within the EGT1 site that has until recently had planning consent and so been proved acceptable, while leaving those parts of the site which appear to be more suitable for other economically beneficial uses, to be available for those uses.
- 3.59 In addition, the proposed LDP takes into account National Planning Framework 3 and Scottish Planning Policy 2014 and has been through Examination. It is therefore considered that compliance with the proposed LDP policies is likely to indicate that development also contributes to sustainable development as required by paragraph 29 of SPP 2014. The proposed LDP, given its advanced stage, is also a material consideration in itself.
- 3.60 ELLP 2008 applies Policy NRG1 to the land containing the then Cockenzie Power Station, and the associated substation and coal store. This policy safeguarded the land for use as, or in association with a power generating station. Uses incompatible with such use would not be permitted. Although

the supporting text indicates this policy was intended to protect the continued use of Cockenzie Power Station as such, the wording does not preclude the onshore transmission works proposed as they are a use 'in association with a power generating station' i.e. Inchcape Offshore Windfarm. It is recognised that when the policy was drafted it was envisaged that the policy would cover Cockenzie Power Station and uses related to its continuation in use as such. However, the proposed use is therefore considered compatible with ELLP Policy NRG1 as worded in principle. In addition, supportive comments towards renewable energy earlier in the text leads to this interpretation being a reasonable one.

- 3.61 In terms of design, with reference to views of landscape officers the decision maker may consider that the proposal may not meet the terms of design policies (of the ELLP 2008 and the proposed LDP) DP1 and DP2 in terms of size, form, massing, provision of a sense of place and integration into its surroundings. The site is not fully restored and is a brownfield site.
- 3.62 The matter of visual impact requires assessment against Policy DP1 of the adopted East Lothian Local Plan 2008 and emerging plan policy. This consideration is addressed in more detail further on in this report.
- 3.63 ELLP Policy C3 and proposed LDP Policy OS1 protect open space, or require replacement open space with similar value. ELLP Policy C7 and Proposed LDP Policy T4 protect Core Paths. As the loss of the open space and effect on the core path would be temporary, this is can be considered acceptable, however, the decision maker may wish to use planning conditions to ensure this.
- 3.64 Policy 9 of SESPlan SDP1 requires local development plans to safeguard land to accommodate the infrastructure required to deliver the SDP as set out in Figure 2 of that plan. This includes new non-nuclear baseload capacity at Cockenzie. At the time of preparation of SESPlan SDP1, the original Cockenzie Power Station was still operational, with consent in place for its replacement by the time the plan was approved. SESPlan SDP1 Figure 2 also identifies Electricity Grid Reinforcements as a national development relevant to the East Coast area, though this is not shown diagrammatically on Figure 2. Policy 10 specifies that future development of and associated infrastructure of Cockenzie power station should be supported. It also requires Local Development Plans to set a framework for renewable energy development. It is therefore set out more clearly in this plan that the intention was to provide for a baseload replacement for station. This site has features which make it particularly suited to such a use: electricity grid connection and availability of water for cooling, which may be difficult or expensive to provide elsewhere. Cockenzie Power Station has now been demolished and no replacement is proposed.
- 3.65 However, Policy 10 also requires Local Development Plans to set a framework for renewable energy development to contribute towards meeting renewable energy targets. SESplan SDP1 in paragraph 124 also

notes the need for a higher proportion of energy requirements to be obtained from renewable energy sources, and supports reinforcement of the electricity grid. Though the location for this is not indicated, the intention must presumably be to do this in a place which has existing electricity grid connection.

- 3.66 The proposed Local Development Plan is considered to have met the requirements of SESPlan Policies 9 and 10 partly through its policy EGT1. Therefore, if a proposal is compatible with Policy EGT1 in terms of not preventing the provision for non-nuclear baseload capacity there, it is compatible with this policy. SESPlan 1 does note the need for a higher proportion of energy requirements to be obtained from renewable energy sources (paragraph 124) which lends support to the proposal.
- 3.67 Policy 1B of this plan provides for protection of environmental assets and designated sites, which includes the Firth of Forth SPA and the Prestonpans Battlefield. Policy 1B: Development Principles (criterion 1 and 2) of the SDP is also relevant when assessing the acceptability of proposals. These criterion seek to avoid significant adverse impacts on the integrity of designated international, national as well as local cultural, natural and built heritage assets.
- 3.68 In this instance the application site lies partly within the area of the Battle of Prestonpans as set out in the Inventory of Historic Battlefield. The current inventory entry notes the semi-industrial character of the battlefield landscape predominates, that that the power station had impacted the battlefield area, including with the pylons. The site lies close to the Firth of Forth site designated as SPA/SSSI and Ramsar site. In terms of a full assessment against Policy 1B, the details of this proposal should be assessed against any comments made by consultees (both internal and external) on the planning application.
- 3.69 The proposed LDP sets out the proposals and policies to guide development within East Lothian. It has been the result of extensive consultation and engagement. The proposed LDP is the Council's plan the Council intends to adopt for future planning strategy for East Lothian, and the plan that it intends to adopt.
- 3.70 Proposed LDP Proposal EGT1 will cover most of the application site. Proposal EGT1 states firstly that land will be safeguarded for future thermal power generation, with carbon capture and storage i.e. National Development 3. Standard reading of 'safeguarded' is that the land is reserved for that use. However, the Report of Examination made it clear that in this case, that is not the intention. In paragraph 4 on page 864 of the Examination Report the Reporter notes the Council's position at Examination. This was that this land was required to be safeguarded for National Development 3 (thermal generation) and that this meant other uses would not be acceptable there until the land take required for this was known; which it could not be in the absence of a consented scheme. The Reporter did not accept that, stating that "it does not follow that uncertainty

over the boundaries should prevent other development ... in the meantime, especially given the size of the allocated site”.

- 3.71 Paragraph 6 (page 864) goes on to note that the plan’s restrictive stance (notwithstanding the position set out within SDP1 as discussed above) is not consistent with the other ambitions of NPF3, which envisage the potential for other development at Cockenzie during the lifetime of the framework, which is not dependent on a generation facility having been implemented. It goes on to say that that “NPF3 expects both [National Development 3 Thermal Generation, and National Development 4, High Voltage Electricity Transmission Network] to be facilitated, so the policy wording should not obstruct that”. At paragraph 17 (page 866) the Examination Reporter notes that location of an interconnector at a site within the EGT1 site at Cockenzie would not necessarily be incompatible with any thermal power generating scheme and carbon capture and storage.
- 3.72 It has therefore been made clear that the meaning of the words ‘safeguard for future thermal generation’, in this instance, is not intended to mean that no other use should come forward unless and until the requirements of the safeguarded use including its land-take is known. Therefore, even though it is not possible at this time to know whether a thermal generation use could come forward on this site alongside this proposed development in its proposed location on the EGT1 site, this is not critical to the acceptability or otherwise of the current proposal. Put another way, the Report of Examination concludes that the principle of National Development 3 and National Development 4 are both suitable in principle within the EGT1 site, and that it is possible to support either type of development in principle without knowing how the other type of development might be brought forward there.
- 3.73 Proposal EGT1 then states that the land at Cockenzie may also present significant opportunities for renewable energy related investment. The proposed development constitutes works that are required to connect an offshore windfarm to the national grid, so fall into this category. As high voltage transmission infrastructure, they are also part of National Development 4.
- 3.74 Proposal EGT1 continues that the Council will work together with other stakeholders including developers, the landowner (now the Council), relevant agencies local organisations and interested parties, including residents, to ensure that best use is made of the site and surrounding infrastructure. A normal method for facilitating this joint working would be the preparation of supplementary planning guidance for the site, in consultation.
- 3.75 The Examination Reporter notes that NPF3 expects this proposed coordinated approach to make the most efficient use of resources, to reduce environmental impacts and to support high quality development. The Council has not yet had time to carry this out since receiving the



Examination Report. There is no approved / adopted supplementary planning guidance for this site.

- 3.76 The application has now been called-in by Scottish Ministers for their determination. It is now for the decision-maker to take into account the representations of any stakeholders and to determine whether this proposal represents, as Policy EGT1 requires, the best use of the land in this area, and whether it satisfies the aspiration of NPF3 that coordinate approach will result in the most efficient use of resources, minimise environmental impacts and achieve high quality development.
- 3.77 In the absence of sufficient time for the Council to work fully with other stakeholders to determine the best use of the wider site, the decision-maker must therefore consider what might constitute the best use of this land, and whether or not this proposal in this location is compatible with that, taking account of all other relevant material considerations as appropriate.
- 3.78 Proposal EGT1 then states that if there is not enough land for competing proposals, priority should go to those which makes best use of the locations assets and brings the greatest economic benefit. Although the Cockenzie Masterplan document sets out a distribution of uses which might be possible on the site, this does not constitute a firm proposal and has not been tested against the relevant environmental assessments. There are therefore no active competing proposals against which such an assessment can take place.
- 3.79 The question here is whether the benefits of this proposal outweigh the potential use of the site for more economically beneficial uses. This is particularly true considering that the same type of development as the one proposed here has been proposed and approved elsewhere on the EGT1 site. That alternative location left the balance of the EGT1 site available for other complementary, economically beneficial uses, and that previous alternative location, taken together with the Cockenzie masterplan document, could result in an overall distribution of uses that may make a more appropriate use of the land and infrastructure in this area and thus deliver significantly greater economic benefit overall than this proposal.
- 3.80 In terms of national developments set out in NPF3, both are important and beneficial for the country as a whole, so the proposal here for a part of National Development 4 would take precedence over National Development 3 as there is no current proposal for National Development 3 (thermal generation) here. All other uses are considered secondary to these National Developments as these are the most important to provide for in the national interest. This proposal should therefore take precedence within the EGT1 site area.
- 3.81 However, the Reporter must decide whether the location proposed is the best one for this proposed development within the EGT1 area, which is large. The Examination Reporter made clear that the allocation of a large

area at EGT1 was justified as it is clear the NPF3 has ambitions for a wide range of economically important activities (para 11 page 865). The Reporter's statement makes it clear that making best use of the site, and achieving a wide range of economic uses, is considered important. This proposal may not allow best use to be made of the larger site as whole, and risks undermining the achievement of the full potential economic benefit that could be had from the site, particularly in terms of economic benefit to the local area.

- 3.82 Use of this immediately coastal location where not wholly necessary means such a location is not available for other uses, including National Development 3. This may not make the best use of the location's assets, whilst at the previously consented location, the objective of making the best use of the location's assets could be achieved. Although this use is a National Development and therefore should be facilitated, this does not necessarily mean that it should be approved at a location which is also the most suitable for other beneficial uses, when another location is available.
- 3.83 Proposed LDP Policy DC6 of the LDP covers development on the coast; most of the area of this proposal falls within an area of developed coast. Here, proposals will be supported where they comply with other plan policies. Policy DC6 also requires the siting and design of new development to respect the qualities of the particular coastal location. Policy DC6 does not require proposals located on the developed coast (as is the case here) to need a coastal location. Policy DC6 does require new development to respect the qualities of the particular coastal location and this is a consideration which requires assessment by the decision maker. The coastal location here is between two settlements, one of which (Prestonpans) has areas within the lowest quintile SIMD area in Scotland. The qualities of the particular location include its potential for good quality recreational use and its potential for economic development creating local jobs. It may also have potential identified through the Cockenzie Masterplan document for other types of economic use which represent a more efficient and economically beneficial use of the site and reflects the extensive engagement with the community and stakeholders which inform that document.
- 3.84 If this were the only place where this proposal could be located within the EGT1 site, its status as a National Development may override considerations of other beneficial uses of the site. However, this is not the case here. The proposal could be located in a different, previously approved location. Locating in the previously approved site would allow other beneficial use to be made of what may be seen as a more attractive part of the EGT1 area for other uses. This, in total, would constitute the best use of the EGT1 area.

#### **The sufficiency or otherwise of the Environmental Statement**

- 3.85 An Environmental Impact Assessment was carried out for both the off-shore and on-shore components of the wind energy development being

proposed by Inch Cape Offshore Limited. It was structured such that part of the Environmental Statement relating to the on-shore component could be assessed separately with the planning application under the Town and Country Planning (Scotland) Act 1997. The Environmental Statement relating to the on-shore component has been submitted with the planning application. It contains chapters on policy and legislation, process and methodology, site selection and alternatives, description of development, ecology, hydrology, geology and hydrogeology, landscape and visual, cultural heritage, noise and vibration, traffic and transport, socio-economics, tourism, land use and recreation, and air quality.

- 3.86 It is for Scottish Ministers as the decision maker to satisfy themselves as to whether the Environmental Statement meets the terms of legislation, both in itself and in relation to the connection to assessment of the offshore works, and to ensure that sufficient conditions are placed on any consent to ensure that the terms of such legislation can continue to be met. On this matter, the Council does, however, note that no objections have been received from statutory consultees in respect of the Environmental Statement.
- 3.87 Scottish Ministers should also consider the linkages between this application and the offshore project. The Council notes the contents of the “Interpretation line suggested by the Commission as regards the application of Directive 85/337/EEC to associated/ancillary works”. In particular, this states “If it appears that the associated works are inextricably linked to the main works, their approval and initiation should be considered as an initiation of the project. Thus, where the main project requires an EIA, the approval and/or physical execution of the associated works prior to the undertaking of an EIA would constitute a breach of the EIA Directive. These works could only start once the EIA for the whole project (main and associated) was carried out.” It is the Council’s view that the onshore works are an integral part of the whole project which includes these works and the offshore works. To ensure that there is an operational justification for the onshore electrical transmission infrastructure, a recommended condition of the Council is that there be no commencement of development of the onshore infrastructure unless there has been a commencement of development of the existing approved Inch Cape Off Shore Wind Farm. This recommended condition would also ensure compliance with relevant EIA legislation.

**The acceptability of the identified environmental effects (including identified landscape and visual effects**

- 3.88 The transition pits and on-shore cabling would be sited underground. Consequently they would have minimal impact on the landscape character and appearance of the area, including that of Preston Links.
- 3.89 The proposed substation would be sited on the generally flat land on the north side of the B1348 opposite the existing Cockenzie Substation. Following the demolition of the Former Cockenzie Power Station in 2015

the application site is now an open coastal area between the settlements of Prestonpans and Cockenzie. Given the application sites coastal location it benefits from considerable public views in a variety of directions, northwards across the Firth of Forth to the Fife coast, eastwards along the coastline towards Gosford Sands to the north east of Longniddry with Berwick Law and the Bass Rock beyond, westwards along the coast to Musselburgh with the higher parts of Edinburgh including Arthur's Seat and Calton Hill visible with the Pentland Hills beyond.

- 3.90 There are no areas of substantial tree planting or vegetation between the site of the proposed substation and the coastal path, Preston Links or the B1348 public road with the exception of small groups of shrubs on amenity grass between the B1348 and the northern part of the Former Cockenzie Power Station site and an area of informal grassland between the existing Cockenzie Electricity Substation located on the south side of the B1348 and the B1348 itself.
- 3.91 In its indicative position the proposed substation would be visible from a number of different public viewpoints, including Preston Links, the B1348 public road, the coastal path which incorporates the John Muir Way, Cockenzie Harbour and the pyramidal Battle of Prestonpans viewpoint. While the existing Cockenzie Electricity Substation and the electricity pylons to the south of it are man-made features that are readily visible in the locality these structures are located inland to the south of the B1348.
- 3.92 With the indicative position of the proposed substation building being located on the north side of the B1348 it would not be seen in relation to the existing pylons or substation. It is indicated that the proposed switchgear and control building could be approximately 100 metres long by 60 metres wide, with an approximate height of 14 metres. The applicant has indicated that mitigation measures would be undertaken in the form of screening measures that could include landscape planting and the erection of walls of up to 7 metres and earth mounding 4 metres in height to reduce the visual impact of the substation. However, with the now open nature of the application site on the north side of the B1348, following the demolition of the Former Cockenzie Power Station, the proposed substation would be an incongruous, dominant and intrusive feature on this part of the now open East Lothian Coastline. While the proposed mitigation structures including a 4 metre high bund and landscaping may help to reduce the impact of the substation on the visual amenity of the area these features themselves would be uncharacteristic to this now open flat coastal site such that the development would have an unacceptable landscape and visual impact on the immediate locality and would not be well integrated into its surroundings. The development would also result in the loss of a number of public views across the application site in a variety of directions. On the consideration of landscape and visual impact, the proposed development is contrary to Policies DP1 and DP2 of the adopted East Lothian Local Plan 2008.

- 3.93 Scottish Natural Heritage advise that as a result of the application site's prominent coastal location, the current proposal introduces significant landscape and visual impacts which did not arise in the original proposal granted planning permission 14/00456/PPM. The current proposal also presents serious challenges to any placemaking aspirations held by local communities, as expressed through East Lothian Council's recent master-planning exercise. SNH state that it is apparent that the substation element of the proposal could be accommodated at other locations within the Cockenzie site, including locations which do not generate the same magnitude of impacts on views and local landscape amenity. As such, SNH therefore query whether the current substation location delivers 'best use' of the site in relation to landscape and visual impacts, as well as wider placemaking and regeneration ambitions, as set out in the Cockenzie Masterplan. As highlighted at the pre-application stage SNH consider that the proposal as currently defined will lead to a range of adverse landscape and visual impacts which will be experienced from local areas. This is largely due to the siting of the proposed development in a prominent and open area (on the site of the former Cockenzie Power Station) on the coastal side of the Edinburgh Road between the settlements of Cockenzie and Port Seton and Prestonpans.
- 3.94 East Lothian Council's Landscape Officer advises that that the scale of the proposed substation would become the dominant feature along this section of coastal landscape and would not be successfully integrated within the landscape pattern of this area. The development would be out of scale with local landscape features and would have a detrimental impact on the landscape character of this area and the adjacent landscape character areas. Due to the height and scale of the proposed substation building it would be intrusive, inharmonious and an expose form of development that would be harmful to the quality, character and amenity of the landscape of the area. On this basis the Council's Landscape Officer considers that the proposed development does not comply with the criteria of Policies DP1 and DP2 of the adopted East Lothian Local Plan 2008.
- 3.95 The Scottish Environment Protection Agency (SEPA) have raised the matter of whether the proposed scheme of development is considered as "essential infrastructure or national critical/civil infrastructure". This decision is to be made by the competent authority which given the call in of this planning application now rests with the Scottish Ministers. If the proposal is considered to be "essential infrastructure" then it can be located within the floodplain as long as it is designed and constructed to remain operational during floods however if it is considered "critical/civil infrastructure" it may require additional protection to be put in place including raised ground levels. SEPA do not specify what these raised ground levels may need to be. SEPA recommend that a condition be attached to any grant of planning permission stating: "Development of the site shall not commence unless and until details of the finished ground levels, finished floor levels, confirmation of the presence of any culverted watercourses and finalised details of the use and construction of the berm on the proposed site, informed by the site investigation have been

submitted and approved by the planning authority, in consultation with SEPA.” If this condition is not imposed then SEPA’s letter is to be regarded as an objection. This recommended condition could be imposed on a conditional grant of planning permission in principle for the proposed onshore electrical transmission infrastructure.

- 3.96 With regards to the matter raised by SEPA as to the category of the proposed scheme of development it will be for the Scottish Ministers as the determining authority to determine this, and if so, to establish the necessary raised ground level. The applicant in the accompanying Environmental Statement has considered this issue of flooding in the site selection chapter and advises that preliminary indications are that raising the construction elevation of the Onshore Substation to approximately 3.5m AOD will prevent flooding via rising ground water level. Given that the application is for planning permission in principle no specific details are given of the proposed Substation building however it has been stated that it would be approximately 14 metres in height. If the existing ground level of the site, which currently sits at a level of 1.2 m AOD, has to be raised to approximately 3.5m AOD, or even higher if subsequently recommended by SEPA, then this would have a considerable impact on the landscape and visual impact of the proposed scheme of development and the siting of 14 metre high building on this part of the open coastal site. It will be for Scottish Ministers to decide whether or not they need further clarification on this before a decision on the application is taken.

### **Habitats Regulation Appraisal (HRA)**

- 3.97 East Lothian Council’s Biodiversity Officer advises that the Habitats Regulations Assessment (HRA) was produced in consultation and agreement with SNH and Marine Scotland. The HRA concluded that the proposal would not affect the integrity of the adjacent European designated sites. As the proposal site corresponds with the site of the previous Cockenzie Power Station, as well as areas of infrastructure immediately to the south this area has limited biodiversity interest. Accordingly there are no biodiversity concerns raised over this application.
- 3.98 The RSPB advise that they are satisfied with the Habitats Regulations Assessment (HRA) which concludes that the proposal will have no significant impact on the qualifying interests of the Special Protection Areas, notably the Firth of Forth SPA, and the Outer Firth of Forth and St Andrew’s Bay Complex SPA. RSPB would wish to see post-construction restoration on the area of rocky intertidal habitat affected by the onshore cabling to revert this area to its original ecological condition with no net loss of habitat to birds or their food resources. They would prefer work to be undertaken outwith the winter months when the qualifying bird species of the SPA will be at their most numerous. SNH broadly accept the findings and conclusions of the ecological surveys however advise that the opportunity is here presented to enhance the site so that it does become useful to wildlife, the opportunity should be taken to demonstrate good

practice and to increase the value of the area to wildlife and, as such, to be accessible to and enjoyed by the public.

- 3.99 Notwithstanding the above advice, it is for Scottish Ministers as competent authority to carry out any Appropriate Assessment required by the Conservation of Natural Habitats Conservation (Natural Habitats, &c.) Regulations 1994 or otherwise.

**Any other material considerations including matters raised in consultation/representation**

- 3.100 A total of 38 written representations have been received to this application, 36 of these written representations make objections to the proposed development. One representation raises no objection but makes a number of observations. One representation advises of no real reservation with the proposal but is aware that there would be initial building-work related noise.

The main grounds of objection are:

i) The proposal is contrary to the DPEA Report of Examination and recommended modifications to the proposed East Lothian Development Plan with regards to the Former Cockenzie Power Station Site.

ii) The proposed Inch Cape development previously received planning approval on an inland site and this new application has no economic or employment benefits and does not make best use of the Cockenzie assets contrary to NPF3.

iii) We have a large area of land which could be used to the good of the environment, the people and the economy by providing something truly innovative such as a waterfront development or commercial venture. Perhaps a 'power' development would always have to be part of that development but let's not act in haste and take the first opportunity presented and instead let's consider a true, legacy development that could transform Prestonpans and the related area rather than simply condemn it to an industrial spot on the landscape.

- 3.101 A copy of the written representations are contained in a shared electronic folder to which all Members of the Committee have had access.

- 3.102 Prestonpans Community Council object to the proposed development on the grounds that it is contrary to the DPEA Report of Examination and recommended modifications to the Proposed East Lothian Local Development Plan. The Community Council advise that in para 2.51 the DPEA state that "As a result, NPF3 expects developers, the council and the key agencies to work together to ensure that best use is made of existing land and infrastructure in the area. In accordance with NPF3 given the particular assets of Cockenzie, the plan requires that if there is

insufficient land for competing proposals that priority is given to those which make best use of Cockenzie assets and which will bring the greatest economic benefits". The proposed Inch Cape development previously received planning approval on an inland site and this new application does not "make best use of existing land and infrastructure, has no economic or employment benefit nor does it make best use of the Cockenzie assets" as outlined in the DPEA report of NPF3.

- 3.103 Cockenzie and Port Seton Community Council advise that they are disappointed that the Scottish Government have called in this application at such an early stage as they support decisions being made at a local level. Cockenzie and Port Seton Community Council support the fully consulted Cockenzie Masterplan published recently which allocates part of the site for energy production but not on the area relating to this application. The Community Council support the Masterplan site as the preferred option.
- 3.104 If the proposed development is approved then the Community Council state that the footprint should be kept to a minimum and that the screening should be improved and trees planted to reduce the visual impact. The building should be designed to make an architectural statement and not just a "big shed". An artwork should be commissioned along the lines of the "Kelpies" to create a tourist destination and help local employment especially as this proposal will not create any local jobs.
- 3.105 The applicant has stated that during the construction phase of the proposed development approximately 40 full time equivalent jobs would be supported for a period of approximately 16 to 18 months and indirectly may also create employment opportunities down the supply chain for companies providing services to the contractors during construction with further induced economic benefit to the local economy relating to expenditure from workers spending their income in local businesses such as shops, cafes, takeaways and on accommodation. In addition, the applicant advises that it is estimated that a total of 2,244 full time equivalent jobs will be created in association with the construction of the Offshore Transmission Works and the applicant's Offshore Wind Farm. However it is likely that those jobs would be created irrespective of whether the substation were located in the now proposed position or in the position approved for it by planning permission in principle 14/00456/PPM. The proposed scheme of development could result in the loss of this 10.2 hectare prime coastal application site with no long term economic benefit to the local area of East Lothian or local residents in the form of job opportunities or making best use of the application sites considerable asset of its coastal location. Additionally the development of the proposed onshore transmission works on the application site may prejudice the future redevelopment potential of the adjacent coastal land at the former Cockenzie Power Station.



## Conclusion

- 3.106 As set out in National Planning Framework 3 the proposal is part of National Development 4, and a renewable energy project. This proposal, as a part of a National Development, takes priority over other possible uses on the wider Cockenzie site, with the exception of any proposals for National Development 3, of which there are none. Even if there were competing proposals, the Report of Examination on the proposed Local Development Plan suggests that there should be no preference for National Development 3 over National Development 4, and that one should not obstruct the other.
- 3.107 SESPlan 1 supports both non-nuclear baseload generation at this site, and reinforcement of the grid. It does not specify where this should take place, but requires that the Local Development Plan supports the future development of Cockenzie Power Station for National Development 3 and sets a framework for the encouragement of renewable energy proposals. These requirements have been distilled into Policy EGT1 of the emerging LDP. The assessment of the proposal against other policies of the development plan and the emerging LDP, taken together, would reflect the assessment of the relevant provisions of the SPP 'presumption' in paragraph 29.
- 3.108 The decision maker should also determine whether the proposal is compatible with the provision of EGT1, to 'ensure that the best use is made of the existing land and infrastructure in this area'. The Council has not yet had time since the Report of Examination to undertake the joint working as set out within Proposal EGT1, though the Cockenzie Masterplan document represents an important step towards this.
- 3.109 For the reasons given above, and recognising the priority to be given to this as a National Development, the proposal does not allow for the best use to be made of the existing land and infrastructure in this area and should therefore be refused. This is especially so given that the same type of development was approved elsewhere within the larger Cockenzie site. Approval of this could prejudice the future development of the site and the economic potential of the area.
- 3.110 Additionally, the decision maker should also consider:
- i) The views of consultees on any significant adverse impacts on the integrity of international, national or local designated sites, which would be contrary to SESPlan Policy 1b, and on the natural and cultural heritage policies of the ELLP 2008 and proposed LDP;
  - ii) Subject to the views of other consultees, the decision maker must also consider whether or not the proposal complies with Policies DP1 and DP2 of both the ELLP 2008 and the proposed LDP or with Policy DC6 of the proposed LDP; and
  - iii) Whether there is an Appropriate Assessment showing that there would be no adverse effect on the integrity of any European Site; this would be

contrary to Policy NH1a of the ELLP 2008 and Policy NH1 of the proposed LDP.

**The council's recommended conditions in the event that planning permission is granted.**

3.111 In the event that Scottish Ministers decide to grant planning permission in principle, it is recommended that the conditions set out in Annex 1 of the report be attached to any such grant of planning permission in principle:

#### **4 POLICY IMPLICATIONS**

4.1 None.

#### **5 INTEGRATED IMPACT ASSESSMENT**

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy

#### **6 RESOURCE IMPLICATIONS**

6.1 Financial - None arising directly from this report

6.2 Personnel - None

6.3 Other - None

#### **7 BACKGROUND PAPERS**

7.1 Adopted East Lothian Local Plan 2008

7.2 Approved South East Scotland Strategic Development Plan (SESplan)

7.3 Scottish Planning Policy: February 2010

7.4 National Planning Framework 3 2014

7.5 Proposed East Lothian Local Development Plan 2018

7.6 East Lothian Economic Development Strategy 2012-22

7.7 Inch Cape Onshore Transmission Works Environmental Impact Assessment 2018

7.8 Planning Application 14/00456/PPM

7.9 Proposal of Application Notice 16/00021/PAN

<b>AUTHOR'S NAME</b>	Keith Dingwall Julie McLair
<b>DESIGNATION</b>	Team Manager- Planning Delivery Planner- Planning Delivery
<b>CONTACT INFO</b>	Ex7229/ ex7631
<b>DATE</b>	13 June 2018

## ANNEX 1 – Proposed Conditions

1 The submission for approval of matters specified in conditions of this grant of planning permission in principle in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall include details of the siting, design and external appearance of the onshore substation, electricity cables and associated infrastructure, the means of access to them, the means of any enclosure of the boundaries of the site and landscaping of the site; and shall address the following requirements:

a) Details of the finished ground levels and finished floor levels of the buildings;

b) The proposed route of the temporary rerouted Coastal Path incorporating the John Muir Way within the northern section of the application site boundary;

c) Details of the proposed colour treatment of the onshore substation; and

d) Details of all external lighting proposed

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment.

2 The development hereby approved shall be undertaken in accordance with the Environmental Impact Assessment Report docketed to this planning permission in principle, except where altered by the approval of matters specified in the condition above or by the conditions below, or unless otherwise agreed with the Planning Authority in writing.

Reason:

To ensure the reported likely environmental impacts of the development are not exceeded and the mitigation measures are put in place.

- 3 The development hereby approved shall be used solely in connection with the offshore Inch Cape Wind Farm to facilitate the transmission of electricity generated by that development to the grid and for no other purposes, unless otherwise agreed in writing with the Planning Authority.

In these conditions the “Inch Cape Wind Farm” means the offshore wind farm known as the Inch Cape Offshore Wind Farm, granted consent under section 36 of the Electricity Act 1989 by the Scottish Ministers on 10 October 2014, or successor offshore wind farms located within the site of that development.

Reason:

To enable the Planning Authority to regulate and control the use of the land in the interests of the wider land use planning of the area.

- 4 Prior to the commencement of the development hereby approved and once details of the construction methodology is known, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Planning Authority after consultation with SEPA and SNH, and shall address the following requirements:-

- a) Confirmation of the methodology to be used in constructing the Development with particular regard to construction of the substation, any tunnelling activities and the method of constructing the cable trenches;
- b) A construction dust management plan identifying mitigation measures during the construction phase of the Development specifically identifying measures to minimise impacts of fugitive dust emissions on sensitive receptors;
- c) A construction noise management plan identifying mitigation measures during the construction phase of the Development specifically identifying measures to minimise impacts of construction noise on sensitive receptors; and
- d) An assessment of vibration impact arising from construction works and the identification of any mitigation measures required to minimise impacts of construction vibration on sensitive receptors, taking account of BS5228-1:2009 and A1:2014 Code of Practice for Noise and Vibration Control on Construction and Open Sites.

The development shall thereafter be carried out in accordance with the approved CEMP unless otherwise agreed with the Planning Authority in writing.

Reason:

To ensure that the reported likely environmental impacts of the development are not exceeded and the mitigation measures are put in place.

- 5 Prior to the commencement of the development hereby approved, a Noise Impact Assessment for the operational phase of the Development shall be submitted to and approved in writing by the Planning Authority. The Noise Impact Assessment shall be based upon the detailed site layout approved pursuant to condition 1 and shall identify the location of noise emitting plant within the site and their accompanying noise emissions. The Noise Impact Assessment shall identify measures to ensure operational noise from the Development does not give rise to new or materially different impacts to those assessed in Environmental Report, unless otherwise agreed in writing by the Planning Authority.

Reason:

In the interests of the amenity of nearby sensitive receptors

- 6 Prior to the commencement of the development hereby approved, a Traffic Management Plan (TMP) for the construction phase of the development shall be submitted to and approved in writing by the Planning Authority. The TMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details:
- a) A Method Statement detailing and controlling access routes to and from the site for large components and day-to-day deliveries/removals associated with the construction and decommissioning phases of the development. The Method Statement shall include a detailed swept path assessment of large component delivery routes, as well as frequencies and times of deliveries and arrangements for the removal of materials/plant from the site. The Method Statement shall also include details of any off-site mitigation works;
  - b) Details of access and management for the onshore cabling works including the potential for traffic management on Edinburgh Road;
  - c) Details of the proposed vehicular access onto the B1348 for large component deliveries, this should also include the reinstatement of the access once works are completed
  - d) Wheel washing facilities shall be provided and maintained in working order during the period of construction and/or decommissioning of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle wheels.

- e) The TMP shall also include vehicle tracking and swept path analysis for vehicles entering and exiting the site and details of the provision of visibility splays at all vehicular accesses. It shall also include details of any road closures and suitable alternative routes during the road closures.
- f) A Green Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds. The TMP shall also include vehicle tracking and swept path analysis for vehicles entering and exiting the site and details of the provision of visibility splays at all vehicular accesses. It shall also include details of any road closures and suitable alternative routes during the road closures.

The development shall thereafter be carried out in accordance with the approved TMP unless otherwise agreed with the Planning Authority in writing.

Reason:

In the interests of road safety and in the interest of the promotion of sustainable modes of transportation.

- 7 Prior to the commencement of the development hereby approved, a programme for monitoring the condition of the public roads to be used by construction traffic, prior to and immediately following the completion of the development, shall be submitted to and approved in writing by the Planning Authority. The public roads to be monitored shall be (i) the B1361/B6371, from the roundabout junction of the A198 at Meadowmill (just north of the railway) northwards to the B1348 Edinburgh Road and (ii) the B1348, Edinburgh Road from the junction East Lorimer Place to Appin Drive (Traffic signals).

Thereafter the approved programme of monitoring shall be implemented. Any remedial works shown by the monitoring as arising from the construction of the development, shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

To ensure that damage to the public road network resulting from the proposed development is rectified.

- 8 Within 24 months of the permanent cessation of generation at the offshore Inch Cape Wind Farm, confirmation shall be given in writing to the Planning Authority whether or not the development hereby approved continues to be required for electricity transmission purposes.

Where the development is not required for electricity transmission purposes beyond the operational period of the offshore Inch Cape Wind Farm, within 24 months of the permanent cessation of generation at the offshore Inch Cape Wind Farm, a decommissioning and site restoration plan (the 'Demolition and Restoration Scheme') shall be submitted to and approved in writing by the Planning Authority. The Demolition and Restoration Scheme shall have due regard to the Decommissioning Programme prepared in respect of the offshore Inch Cape Wind Farm and shall include details of:

- i) The extent of substation and cable infrastructure to be removed and details of site restoration;
- ii) Management and timing of works;
- iii) Environmental management provisions; and
- iv) A traffic management plan to address any traffic issues during the decommissioning period.

The Demolition and Restoration Scheme shall be implemented in its entirety, unless otherwise agreed with the Planning Authority in writing.

Where the Development is required for electricity transmission purposes beyond the operational period of the offshore Inch Cape Wind Farm, within 24 months of the development no longer being required for electricity transmission purposes, a decommissioning and site restoration plan (the 'Demolition and Restoration Scheme') shall be prepared and shall be submitted to and approved in writing by the Planning Authority. The Demolition and Restoration Scheme shall include details of:

- i) The extent of substation and cable infrastructure to be removed and details of site restoration;
- ii) Management and timing of works;
- iii) Environmental management provisions; and
- iv) A traffic management plan to address any traffic issues during the decommissioning period.



The Demolition and Restoration Scheme shall be implemented in its entirety, unless otherwise agreed with the Planning Authority in writing.

Reason:

To ensure that the application site is satisfactorily restored in the interests of the amenity of the area.

- 9 Prior to the commencement of the development hereby approved, a site investigation shall be undertaken in order to establish the exact situation regarding ground conditions on the site and to identify any contaminated land.

In the event that the site investigations confirm the need for remedial works to treat the ground conditions so that the site is suitable for its intended use, details of the proposed remedial strategy shall be submitted to and approved in writing by the Planning Authority, then any such remedial works shall be undertaken prior to the commencement of development.

Reason:

To ensure that the site is suitable for development, and that remedial measures have been undertaken where necessary to ensure that potential risks have been adequately addressed.

- 10 Development of the site shall not commence unless and until details of the finished ground levels, finished floor levels, confirmation of the presence of any culverted watercourses and finalised details of the use of any landscape bunds on the proposed site, informed by the site investigation and designs approved under condition 1 have been submitted to and approved by the Planning Authority, in consultation with SEPA.

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment

- 11 With the exception of construction work associated with the installation of the offshore export cables construction works associated with the Development shall be limited to 0700-1900 Monday to Friday and 0800-1300 on Saturdays, unless otherwise agreed in advance with the Planning

Authority. Construction works associated with the installation of the offshore export cables are permitted outwith these hours following prior notification of such works to the Planning Authority at least seven days before the works are due to commence.

Reason:

To safeguard the amenity of nearby residential properties

- 12 Prior to the commencement of the development hereby approved, a detailed Flood Risk Assessment (FRA) shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. The FRA shall take account of the site layout approved under condition 1 and shall identify mitigation measures required to protect the site as a minimum from the 1:200 year flood event. All approved flood mitigation measures must be carried out in accordance with the approved details prior to the Development becoming operational.

Reason:

To ensure the Development is appropriately protected against flood risk and does not give rise to increased flood risk elsewhere.

- 13 Prior to the commencement of development details of artwork to be provided on the site or at an alternative location away from the site shall be submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the operation of the onshore substation, unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

- 14 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping taking account of the detailed site layout approved under the terms of condition 1. The scheme shall provide details of: the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include indications of all existing trees and hedgerows on the land and details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.