

PLANNING COMMITTEE
TUESDAY 17 AUGUST 2021

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**MINUTES OF THE MEETING OF THE
PLANNING COMMITTEE**

**TUESDAY 29 JUNE 2021
VIA A DIGITAL MEETING FACILITY**

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Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Bruce
Councillor A Forrest
Councillor N Gilbert
Councillor S Kempson
Councillor K Mackie
Councillor C McGinn
Councillor K McLeod
Councillor J McMillan
Councillor J Williamson

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Mr C Grilli, Service Manager – Legal
Ms E Taylor, Manager, Planning Delivery
Mr C Kiely, Planner
Mr R Yates, Transportation Planning Officer
Ms P Gray, Communications Adviser
Ms F Currie, Committees Officer

Clerk:

Ms A Smith

Apologies:

Councillor J Findlay
Councillor W Innes

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 1 JUNE 2021

The minutes of the meeting of the Planning Committee of 1 June 2021 were approved.

2. PLANNING APPLICATION NO. 20/01431/PM: SECTION 42 APPLICATION TO VARY CONDITION 1 OF PLANNING PERMISSION 18/01403/PM TO ALLOW THE WINING AND WORKING OF ROCK AT THE QUARRY TO CONTINUE TO 14 OCTOBER 2042 AT MARKLE MAINS QUARRY, EAST LINTON

A report was submitted in relation to Planning Application No. 20/01431/PM. Ciaran Kiely, Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Mr Kiely, and Keith Dingwall, Service Manager for Planning, responded to questions. Mr Kiely clarified that all the previous conditions had been accepted by the applicant; this proposal was for a variation of only condition 1, and all the other conditions would continue to apply. On timescales for tree planting and ensuring that this would be done, he referred to the landscaping condition, which gave the Council control, adding that the applicant had confirmed that the first planting would take place in November. Responding to further points, specifically about enforcement, Mr Dingwall reiterated that there was a relevant condition and enforceable action could be taken if required. Regarding moving the crusher and grading machinery to the low base of the quarry, Mr Dingwall said that Environmental Health were satisfied with the existing conditions and had not suggested any additional ones. Regarding tree planting, Councillor Kempson asked if the Committee could request wool tree guards rather than plastic ones in line with the Council's Climate Change Strategy (CCS). Mr Dingwall indicated that the Committee would not normally be involved in this level of detail but this request could be suggested to the applicant. Regarding the CCS, Mr Dingwall confirmed that this was taken into account but stressed that each planning application had to be measured on its individual merits, balancing all relevant considerations.

Local Member Councillor Kempson praised the professional operation of this quarry. She noted that materials from the quarry were used in local housing developments, thereby reducing road miles for transportation of materials. She would be supporting the application but would like an assurance that the tree planting would be going ahead as outlined.

Councillor McLeod expressed support for this application. It was a very well managed quarry. He agreed with Councillor Kempson's comments about tree planting, and pointed out that he had attended the site visit and the applicant had confirmed that the tree planting would be carried out in November.

Councillor McGinn agreed with his colleagues. He was also impressed with the quarry's operation. He stressed the importance of adherence to and enforcement of conditions attached to any grant of planning permission; the Committee had to insist that these were pursued rigorously. He would be supporting the application.

Councillor McMillan highlighted the contribution of this long standing business to the East Lothian economy. Going forward however he would like to see some form of social/community involvement from the applicant, to review aftercare obligations and work with the Council and the local community. He would be supporting the application.

Councillor Forrest also agreed with comments expressed. He would be supporting the application. He also stressed that enforcement of conditions needed to be strong; the tree planting should have been done in 2018 and to date had still not been done.

The Convener, also a local member, agreed with other comments made; this was a well operated quarry and the Council had used materials from this site. Scottish Planning Policy required the Council to safeguard its mineral resources. He did however have some concerns. Lack of adherence to conditions was a key issue, across all applications/developments. The public were increasingly concerned about lack of enforcement; this had to be addressed. With regard to tree planting, if this had been done to the original timescale then there would have been better protection for the local community. He noted the response from Environmental Health but felt the crusher and grading machinery should be moved to the floor of the quarry. Fostering good relations with the community was important; he gave examples of two good local liaison groups remarking that setting up such a group would be beneficial. Referring to restoration, he stressed the importance of this being carefully done, in conjunction with the Council, applicant and the local community. He queried adding extra conditions regarding setting up a local liaison group and also having a plan for restoration at the end of the life of the quarry.

Mr Dingwall agreed there were successful liaison groups operating in East Lothian. He advised however that this was generally not a requirement of a planning condition but said that officers could suggest this to the applicant. As regards restoration, he drew attention to condition no. 2; there was an Aftercare Management Plan and once this was received he could share it with the Convener. Both of these suggestions were welcomed. In relation to tree planting, Mr Dingwall referred to condition 26 and to the commitment given by the applicant. Councillor McMillan, referring to that condition, asked if wool tree guards, as suggested by his colleague, could be specified in the Planting Plan. Mr Dingwall advised that this may be possible and outlined potential additional wording to this effect to this condition.

The Convener moved to the vote on the report recommendation (to grant consent) incorporating the amended wording to condition 26 as outlined – the vote was taken by roll call:

For: 10
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:
 - (i) a bond to secure the cost of all elements necessary to complete the site restoration and aftercare obligations
 - (ii) The bond to be maintained until the date of completion of all restoration and aftercare obligations.
 - (iii) The value of the financial guarantee shall be based on the costs required to cover the restoration of the quarry in the event that the Planning Authority has to request the bond and engage a contractor to fulfil the restoration and aftercare obligation proposed by the applicant.
 - (iv) The value of the financial guarantee shall be subject to a three yearly review carried out by a suitably qualified independent professional valuer and adjusted to take account of any variation in the cost of compliance with the then outstanding restoration and aftercare obligations. The periodic review of the value of the financial guarantee shall be informed by the submission of a written valuation report by a suitably qualified independent professional valuer prior to the three year review period, which shall be submitted for the written approval

of the Planning Authority, and thereafter the value of the bond will be adjusted to reflect any revisions. The cost of the written valuation reports shall be met by the applicant.

(v) The submission to the Council, determination and the submission for registration of the decision notice that seeks to include the planning application reference: 20/01431/PM in the definition of planning permission in the existing S75 agreement.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the restoration bond the development is contrary to Policy MIN10 of the East Lothian Local Development Plan and PAN 64 Reclamation of Surface Mineral Workings.

- 1 This planning permission is granted for a temporary period until 14 October 2042 after which time all winning and working of rock shall cease.

No later than 14 October 2043 all stored rock, buildings, plant and machinery, and hard surfaces shall have been removed from the land and the site restored in accordance with the restoration approved by condition 2 below.

Reason:

To ensure the working of the site is restricted to that period for which planning permission has been sought and to align with extant permissions for the adjoining quarry area, in the interests of good planning control and of the amenity of the area.

- 2 Within 3 months from the date of this planning permission a detailed scheme of restoration for the entire Markle Quarry site shall be submitted for the written approval to of the Planning Authority.

The restoration and after care scheme shall be consistent with the Reinstatement and Aftercare Management Plan for Winning and Working of Hard Rock as Extension to existing Quarry (November 2018) and the stamped approved Reinstatement Plan 9377D.

The restoration scheme shall include:

- a) Proposals for the regrading of the quarry faces and benches to make them safe,
- b) Details of the soiling, seeding and drainage of the lowest level of the quarry at the end of the working of the site
- c) Full details of the Surface Water Drainage System to be implemented as part of the restoration works
- d) Timescales for the works.
- e) Proposals for the future aftercare of the restored site.

Thereafter the restoration and after care scheme shall be implemented and the works carried out in full in accordance with the approved time scale of the restoration and aftercare scheme unless otherwise agreed by the Planning Authority.

Reason:

To ensure comprehensive and appropriate restoration of the site in the interests of the amenity of the area.

- 3 At least 6 months after the date of this planning permission and at 12 monthly intervals thereafter, the applicant shall submit a quarry progress plan to the planning authority covering the whole Markle Quarry site.

The quarry progress plan shall:

- a) Provide an up-to-date topographical survey of the site in an appropriate format and appropriate scale.
- b) Identify areas of the site that have been subject to mineral extraction in the previous 12 months and/or will be subject to mineral extraction in the forthcoming 12 months
- c) Identify areas of the site that have been subject to restoration in the previous 12 months and/or will be subject to restoration in the forthcoming 12 months.
- d) Identify areas where aftercare will have been completed, areas of the site that have been subject to aftercare and/or will be subject to aftercare in the forthcoming 12 months.
- e) Set out any necessary adjustment to the approved restoration plans to be approved under Condition 2 to take account site circumstances over the previous 12 months.

In addition to the regular submission of the quarry progress plans, a copy of the quarry progress plans shall be kept on site and made available for inspection by the planning authority during the approved working hours.

Reason:

To enable monitor of progress and compliance by the planning authority, and to provide appropriate flexibility to ensure that ongoing extraction and site restoration works can take account of any changes in circumstances.

- 4 No blasting shall take place on site other than between the hours of:
- 0900 hours and 1600 hours Monday to Friday and
- 0900 and 1200 hours on Saturdays.

There shall be no blasting or drilling operations on Sundays, Bank Holidays or National Holidays.

The above condition shall not apply in cases of emergency when it is necessary to carry out blasting operations in the interests of safety. The Planning Authority shall be notified in writing within 24 hours of the nature and circumstances of any such emergency event.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 5 Unless otherwise approved in advance and in writing by the Planning Authority, all quarrying and working operations within the site, including screening and transportation of materials, shall only take place between the hours of:
- 0700 and 1900 hours Monday to Friday and
- 0700 and 1630 hours on Saturdays.

No lorries or other heavy goods vehicles shall use the quarry access road except during these hours. At all other times, including Sundays, Public Holidays and National holidays, working shall be limited to the servicing, testing and maintenance of plant, works of an emergency nature and the carrying out of dust suppression.

Reason:

To ensure the site operations cause minimum disturbance to the environment and amenity of the area.

- 6 No materials shall be imported onto the site for any purpose without the prior, written approval of the Planning Authority.

Reason:

To limit vehicle movements and to prevent an intensification of operations within the site in the interests of the environment and amenity of the area.

- 7 The quarry access road from its junction with the Beanston Mains Road to the processing/plant area shall be retained in use and maintained to the satisfaction of the Planning Authority throughout the lifetime of the operational site.

Reason:

To ensure that the site is served by an acceptable standard of access road and in the interests of safeguarding the environment and amenity of the area.

- 8 Within 1 month from the date of granting of this planning permission the junction of the quarry access road with the Beanston Mains road shall have 'give way' road markings added to it in accordance with details to be submitted to and approved by the Planning Authority.

The give way road markings shall thereafter be retained for the lifetime of the operational quarry.

Reason:

To ensure the give way system on the private road is clearly marked in the interests of road safety.

- 9 A wheel washing facility on the quarry site shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud on its wheels in such a quantity that causes a nuisance or hazard on the roads in the locality.

Reason:

To prevent mud and other material being transferred onto the road network in the interests of road safety.

- 10 No lorries exiting onto Beanston Mains Road from the quarry access road shall exit in a northerly direction for the duration of the operations of the quarry, unless otherwise approved in writing by the Planning Authority.
Within 3 months of this planning decision, details of a sign instructing that all lorries leaving the junction must do so by turning left (in a southerly direction) shall be submitted to and approved in writing by the Planning Authority. Thereafter, the sign shall be installed as approved and maintained in place at the junction of the quarry access road with Beanston Mains Road
- Reason:
To ensure that lorries from the quarry follow the proposed access route to the A199 in the interests of road safety.
- 11 All road haulage vehicles carrying aggregate materials under 75 mm shall be fully covered before leaving the quarry processing and plant area.
- Reason:
To prevent nuisance from dust and small piece of aggregate entering the road network in the interests of the amenity of the area and road safety.
- 12 All vehicles moving or carrying stone within the quarry and processing and plant area within the site shall be provided with fan deflectors and with their exhausts directed upwards.
- Reason:
To minimise the impact of the quarry operations on nearby residential properties and on the local environment.
- 13 All stone dumps shall be designed in such a manner as to be capable of being sprayed as required to prevent dust lift.
- Reason:
To minimise the impact of the quarry operations on nearby residential properties and on the local environment.
- 14 No drilling rigs shall be operated within the site unless they have been fitted with suitable dust suppression or collection equipment, which shall be regularly monitored to ensure its effective operation in a manner to be agreed in advance with the Planning Authority.
- Reason:
To minimise the impact of the quarry operations on nearby residential properties and on the local environment.
- 15 Within 28 days of the date of the granting of this planning permission, details of a scheme for the control and mitigation of dust and including the monitoring of dust from the quarry site, shall be submitted to and approved in writing by the Planning Authority.
- The scheme shall incorporate the controls advocated in table 3 of Planning Advice Note 50 "Controlling the Environmental Effects of Surface Mineral Workings" Annex B "The Control of Dust at Surface Mineral Workings" and table 7.4.1 'Summary of Dust Control Measures' in the 'Planning Application and Supporting Statement' for Markle Mains Operational Rock Quarry, Haddington by AMS Associates Limited, November 2018.
- Thereafter, the quarry operator shall implement the scheme of dust control, mitigation, monitoring as approved.
- Reason:
To minimise the impact of the quarry operations on residential properties and on the local environment.
- 16 In the event of the quarry operator receiving a complaint concerning dust emission from the site the operator shall notify the Planning Authority within 24 hours of receipt of the complaint and in such cases; and in cases where the complaint is received directly by the Planning Authority and brought to the attention of the quarry operator, the quarry operator shall undertake an investigation, the details to be agreed in consultation with the Planning Authority, and initiate any necessary remedial measures within the site agreed with the Planning Authority.
- Reason:
To minimise the impact of dust from the quarry operations on nearby residential properties and on the local environment.

- 17 All dust suppression plant and equipment shall be maintained in good working order at all times. If the dust suppression equipment is not available for us due to breakdown, vandalism, lack of water or any other reasons then the site operator shall to stop any works that are likely at that time to cause dust lift and also take immediate action to bring in suppression equipment so that dust suppression measures can be reintroduced without delay.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 18 Audible vehicle reversing alarms shall not be used on vehicles on site, unless otherwise agreed in writing with the Planning Authority.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 19 Noise levels emanating from the quarry site shall not exceed 50 dBLAeq1hr when measured at any neighbouring noise sensitive property.

Reason:

To minimise the impact of quarry operations on nearby residential properties and on the local environment.

- 20 Within 28 days of the date of this planning permission, a scheme of noise monitoring shall be submitted to and approved in writing by, the Planning Authority.

The monitoring programme shall be carried out by methods and at positions agreed with the Planning Authority. Details of the monitoring equipment and programme shall include all parameters necessary to demonstrate compliance with Condition 19.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 21 In the event of the quarry operator receiving a complaint concerning noise from the site, the operator shall notify the Planning Authority within 24 hours of the complaint and in such cases; and in cases where the complaint is received directly by the Planning Authority and brought to the attention of the quarry operator, the quarry operator shall undertake an investigation in consultation with the Planning Authority and initiate any necessary remedial measures within the site agreed with the Planning Authority.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 22 Blasting shall be undertaken such that all blasts over a 2 month period are at or below a measured Peak Particle Velocity (PPV) level of 6 mms-1, with 95% of all blasts at or below a measured PPV level of 2.5 mms-1. The measurement to be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 23 Within 28 days of the date of this permission, details of the methods to be employed to minimise air over pressure from blasting operations shall be submitted to and approved in writing by the Planning Authority.

All blasting operations shall thereafter take place only in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the planning authority

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

24 In the event of the quarry operator receiving a complaint concerning ground vibration from the site the operator shall notify the Planning Authority within 24 hours of the receipt of the complaint and in such cases; and in cases where the complaint is received directly by the Planning Authority and brought to the attention of the quarry operator, the quarry operator shall immediately undertake an investigation in consultation with the Planning Authority and initiate any necessary remedial measures within the site agreed with the Planning Authority.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

25 Within a period of no later than 28 days of the date of this planning permission details of a ground vibration analysis and monitoring programme and a timetable for reporting in writing the results of the monitoring to the Planning Authority shall be submitted to and approved in writing by the Planning Authority.

The programme shall include details of the location of monitoring points and equipment to be used and parameters necessary to demonstrate compliance with Condition 22.

All blasting operations shall thereafter take place only in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the planning authority.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment and to demonstrate compliance.

26 All planting as detailed and approved in the Planting Plan drawing number: 301 P09 and the Landscape Specification (revision P03) docketed to this permission, shall be carried out in the first planting season following the date of this decision notice.

Notwithstanding that shown in the drawings docketed to this planning permission, all new trees shall be protected by either wool trees guards or by timber post and wire mesh rabbit proof fencing, in accordance with details to be submitted to and approved in advance by the Planning Authority.

Thereafter, all the planting, bunding and landscaping shall be maintained as detailed in the Planting Plan drawing number: 301 P09 and the Landscape Specification (revision P03), unless otherwise agreed in writing by the Planning authority.

Reason:

To ensure that the agreed landscaping and planting is implemented as agreed in the interests of visual and environmental amenity.

27 Fuel oils, and any other similar substances required for the purposes of site operations, proposed to be stored on site shall be contained in bunded or double skinned tanks. Pumps, valves and transfer hoses and similar equipment (when not in use) shall be located within the bunded area. Tanks should be locked when unattended.

Reason:

To prevent water pollution and in the interests of safeguarding the environment and amenity of the area.

28 All top soil and sub soil stripped from the site shall be stored for subsequent use in the restoration of the site in separate stock piles, unless otherwise agreed in writing with the Planning Authority. The location and form of which shall be agreed in advance by the Planning Authority and shall not exceed 6 metres in height.

Reason:

To safeguard the availability of strip soils for use in the restoration of the site.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee
MEETING DATE: Tuesday 17 August 2021
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

2

Application No. **21/00290/PPM**

Proposal Planning permission in principle for onshore substation, underground electricity cables and associated temporary and permanent infrastructure to export electricity from the Seagreen Offshore Wind Farm into the national electricity transmission network

Location **Edinburgh Road
Cockenzie
East Lothian**

Applicant Seagreen 1A Limited

Per Ramboll UK Limited

RECOMMENDATION Consent Granted

REPORT OF HANDLING

BACKGROUND

The development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a national development and thus it cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

As a statutory requirement for national development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 20/00010/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that the consultation comprised of a virtual public exhibition from Monday 11 January to Monday 1 February 2021, with the project team available to answer questions on the proposed development via a live chat facility on 18 January 2021 from 12.00pm to 2.30pm and 6.00pm to 8.30pm. The PAC report informs that ten people engaged with the

virtual exhibition and three participated in live chat with some questionnaires returned. The development for which planning permission in principle is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

APPLICATION SITE

The application site lies to the west and south of the former Cockenzie Power Station site. It comprises of an area of land measuring some 22.9 hectares and extends from Prestonpans Beach, south over the B1348 Edinburgh Road which bisects the site, then eastwards to the B6371 public road. On the north side of the B1348 Edinburgh Road the current land uses within the application site include a small car park located next to Prestonpans Beach and an amenity grassland area. On the south side of the B1348 the site is comprised of a mixture of amenity grassland areas and rough grassland with small areas of trees and vegetation, the hardstanding associated with a former gasholder which is currently occupied by a car wash business, the large existing Cockenzie substation building and a private road (formerly associated with the coal store and former power station) which connects between the B1348 and the B6371. The private road is gated at each end and there is no public access.

The area of land comprising the northernmost part of the application site where it meets the coast is within the Firth of Forth Special Protection Area and within the Firth of Forth Site of Special Scientific Interest. This area of the application site is also within the Prestonpans Coast Special Landscape Area.

The part 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. The battlefield site includes the 1722 Tranent to Cockenzie Wagonway.

The coastal path, which incorporates part of the John Muir Way, crosses the northernmost part of the application site. Also within the site is a core path which runs from Whin Park around the south side of the existing Cockenzie substation building connecting to the core path which runs along the outside of the acoustic screening bund on the southwest side to the site.

The nearest residential properties to the site are located at Whin Park to the northeast and along Atholl View to the southwest, albeit the properties on Atholl View have little interaction with the site due to the intervening bund. Also the residential properties of The Antiquaries are located to the southwest of the site. In addition to residential properties, the Whin Park industrial estate is located immediately northeast of the site.

RELEVANT PLANNING HISTORY

In September 2014 planning permission in principle (ref: 14/00456/PPM) was granted to Inch Cape Offshore Limited (ICOL) for the onshore electrical transmission infrastructure (on-shore cables and substation) associated with the Inch Cape Offshore Wind Farm on land to the immediate east of Prestonpans and to the south of the former Cockenzie Power Station Coal Store. That approved infrastructure would have facilitated the transmission of power from the proposed Inch Cape off shore wind farm to the national electricity grid. That approved onshore electrical transmission infrastructure consisted 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 positioned on land to the south of the Cockenzie Coal Store. ICOL subsequently chose not to submit details for approval of matters specified in conditions, and planning permission in principle 14/00456/PPM expired in September 2017.

In February 2018 ICOL instead submitted a new application for planning permission in principle (ref: 18/00189/PPM) for the onshore electrical transmission infrastructure (on-shore cables and substation) associated with the Inch Cape Offshore Wind Farm on the site of the former Cockenzie Power Station. This comprised of 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. The proposal submissions indicated a sub-station which could be approximately 185 metres by 185 metres, resulting in a footprint of approximately 3.5 hectares (excluding the embankment and landscaping) enclosed by security fencing and two gates, access road, car park, electricity transformation equipment, a switchgear building and a control building. It was 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 was proposed to 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. Two offshore export cables from the Inch Cape offshore wind farm would be brought ashore on the northwest 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.

On the 9 April 2018 a Direction under the terms 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). In February 2019, Scottish Ministers granted planning permission in principle for the development. Further details of this development, including details of the layout, siting, design and external appearance of the onshore substation approved as part of that permission will be the subject of future approval of matters specified in conditions applications. To date no approval of matters specified in conditions applications have been submitted.

The Seagreen Offshore Wind Farm was consented in 2014 and is located in the outer Firth of Forth and Firth of Tay. That consent covers 150 wind turbines and the associated offshore infrastructure to export the energy generated by 114 of the turbines to landfall at Carnoustie in Angus. Separate planning permission has been secured for the onshore works to connect these 114 wind turbines to the national electricity transmission network at Tealing in Angus and construction of this onshore infrastructure is now underway.

The proposed Seagreen 1A project seeks consent for the onshore and offshore infrastructure required to connect the remaining 36 turbines to the national electricity transmission system. An application was made to the National Grid in October 2019 and the project was offered a grid connection at Cockenzie.

The offshore infrastructure will comprise one export cable, approximately 110km in length, from the Seagreen Offshore Wind Farm to the landfall at Cockenzie. The offshore export cable is the subject of a separate application for a marine licence to Scottish Ministers via the Marine Scotland Licensing and Operations Team (MS-LOT).

PROPOSAL

Planning permission is sought through this application for the onshore infrastructure associated with Seagreen 1A project, comprising of the construction and operation of an onshore substation, underground electricity cables and associated development. At this stage the precise detail of development are not fixed given the difficulties in defining the required infrastructure. Together, the proposed offshore and onshore infrastructure will

facilitate full export capacity from the Seagreen Offshore Wind Farm, thereby maximising its contribution towards renewable energy generation and reducing greenhouse gas emissions.

The application drawings show the application site broken up into zones, consisting of the landfall development zone, onshore export cable development zone, substation development zone, grid connection zone, access development zone and construction compound development zone.

It is indicated that a substation platform could have a maximum footprint of approximately 22,000 m² and would be located within the onshore substation development zone within the application site. A substation housing the electrical infrastructure would be located on the substation platform and the electrical infrastructure could have a maximum height of some 18 metres. The application submissions inform that the substation is likely to comprise:

- Outdoor electrical equipment including shunt reactors and transformers;
- A building housing dynamic reactive compensation (DRC) equipment;
- A building housing gas insulated switchgear and a control room;
- A building housing harmonic filter (HF) equipment;
- Earthing equipment;
- Operational circulation roads; and
- Operational phase car parking for servicing vehicles.

It is proposed that one onshore export cable would be brought ashore on the northwest boundary of the application site, which would also include two fibre optic cables, and would run to the onshore substation, and also between the onshore substation and the grid connection point at the existing Cockenzie substation. The cable would be located within the onshore export cable and the grid connection development zones of the application site. The exact location and alignment of the onshore export cable would be established following the detailed investigation of environmental and technical factors. The onshore export cable would be buried using open cut trenching over unobstructed ground, or trenchless technology where necessary. Where open cut trenching is used, the typical cable trench dimensions would be some 1.5 metres wide by 2 metres deep. It is anticipated one joint bay may be required to join together the lengths of cable along the onshore export cable route. If required, this joint bay may be located anywhere within the onshore export cable development zone area, with the exact location of the joint bay being defined following the detailed cable route alignment design. A typical joint bay would have a concrete base, with a manhole for access to an earth link box. The maximum joint bay dimensions would be some 10 metres in length, 4 metres in width and 3 metres in depth.

It is proposed that motion activated lighting would be installed sufficient to facilitate safe, normal access/ egress of the onshore substation, and that the substation platform would be surrounded by a 2.5 metre high palisade security fence.

The surface water runoff within the substation platform area would be managed using a sustainable drainage system (SuDS), providing suitable levels of filtration and attenuation, prior to discharge, potentially to existing surface water drains located adjacent to the site. The surface water runoff would be attenuated to equivalent greenfield runoff rates, which would ensure that the runoff from the proposed development would not result in any increase in flood risk within the wider surface water catchment.

During construction of the proposed development, the principal access would be from the B6371 road on the eastern boundary of the site via the former Coal Store service road, with additional access points to the working areas from the B1348 Edinburgh Road. The applicant advises that the details of the operational access point would be confirmed through the submission of future detailed applications, but is likely that there would be an operational

access from the B1348 Edinburgh Road, and that operational traffic movements would be nominal, with monthly inspection visits, periodic maintenance, with small numbers of light vehicles accessing the site.

THE DEVELOPMENT PLAN AND NATIONAL PLANNING FRAMEWORK

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.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

Policies 1B (The Spatial Strategy: Development Principles), 9 (Infrastructure), and 10 (Sustainable Energy Technologies) of the approved South East Scotland Strategic Development Plan (SESplan) are relevant to the determination of the application.

Proposals EGT1 (Land at Former Cockenzie Power Station) and EGT3 (Forth Coast Area of Co-ordinated Action), and Policies DC6 (Development in the Coastal Area), DC9 (Special Landscape Areas), OS1 (Protection of Open Space), NH1 (Protection of Internationally Designated Sites), NH2 (Protection of Sites of Special Scientific Interest and Geological Conservation Review Sites), NH11 (Flood Risk), CH5 (Battlefields), T2 (General Transport Impact), T4 (Active Travel Routes and Core Paths as part of the Green Network Strategy), DP1 (Landscape Character) and DP2 (Design) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Material to the determination of the application is the Scottish Government's National Planning Framework 3 and Scottish Planning Policy: 2014.

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). NPGF3 recognises Cockenzie, and the Forth coast extending to Torness, as a potentially important energy hub. There are significant plans for offshore wind 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 as a site for future thermal generation, it may present significant opportunities for renewable energy-related investment. Developers, East Lothian Council and the key agencies, including Scottish Enterprise should 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, priority should be given to those which make best use of this location's assets and which will bring the greatest economic benefits. Whilst National Developments references a Scotland wide rather than a specific location, Cockenzie is nonetheless referenced as within an area of co-ordinated action for energy related development. This ties into the reference in paragraph 3.41 of NPF3 to renewable energy related investment on the site. The need for such development is established through the statement of need and description which states that this infrastructure is vital in meeting national targets for electricity generation, statutory climate change targets and the security of energy supplies.

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 the scale of contribution to renewable energy generation target, 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.

Scottish Planning Policy advises that there is a presumption in favour of development that contributes to sustainable development, the presumption in favour of sustainable development is a material consideration in favour of the proposal. Whether a proposed development is sustainable development should be assessed according to the principles set out in paragraph 29.

Scottish Planning Policy further contains policy on protection of environmental assets including cultural assets, landscape and biodiversity. 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.

Also relevant to the determination of the application is the Council's Special Landscape Areas Supplementary Planning Guidance.

REPRESENTATIONS

None.

COMMUNITY COUNCIL COMMENTS

Both Prestonpans and Cockenzie & Port Seton Community Councils have been consulted on the application but neither have provided a response.

ENVIRONMENTAL IMPACT ASSESSMENT

An Environmental Impact Assessment (EIA) Report has been submitted with the application, and has been duly advertised and consulted on.

The submitted EIA Report contains chapters on the method and approach to preparing the Report, the description of the development, site alternatives, landscape and visual impact assessment, ecology and nature conservation, ornithology, hydrology, hydrogeology and ground conditions, cultural heritage and archaeology, access, traffic and transport, noise and vibration, land use, socio-economics and tourism and schedule of mitigation.

As required by Regulation 5(5)(b) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, to ensure the completeness and quality of the EIA Report, the applicant has submitted with it a table outlining the relevant expertise or qualifications of the project team that has contributed to the EIA Report. Based on this submitted information, it can be reasonably concluded that the authors are suitably qualified.

Regulation 4(2) and 4(3)(a) to (d) require that an EIA must identify, describe and assess in an appropriate manner, in light of the circumstances relating to the proposed development, the direct and indirect significant effects of the proposed development on the factors and the interaction between those factors, and the factors are – (a) population and human health; (b) biodiversity; (c) land, soil, water, air and climate; and (d) materials assets, cultural heritage and the landscape.

The EIA Report has considered the likely significant effects from noise and vibration, landscape and visual impact assessment, ecology and nature conservation, archaeology and cultural heritage and traffic and transport.

The EIA Report finds that:

* Landscape and visual - the proposed development would not result in significant cumulative effects on the landscape character or the special qualities of the Special Landscape Area.

* Ecology - With the implementation of the mitigation measures, no residual significant adverse effects on any ecological receptors are predicted as a result of the proposed development.

* Ornithology - The only predicted effects on sensitive birds relate to disturbance during construction. The effects of disturbance during construction are predicted to be of limited duration and affect low numbers of birds, representing very small proportions of the qualifying populations both from the proposed development alone and in combination with other developments. Therefore, the effects are concluded to be not significant.

* Hydrology, hydrogeology and ground conditions - Following the standard mitigation practices, no significant residual impacts resulting from the proposed development are predicted.

* Cultural heritage and archaeology - During the construction phase no likely significant effects have been identified in the absence of mitigation, therefore no mitigation is required. During the operation phase no likely significant effects have been identified.

* Access, traffic and transport - The assessment concludes that effects of increased traffic as a result of the proposed development are deemed to be Not Significant once mitigation is put in place.

* Noise and vibration - Assuming suitable mitigation measures are implemented there would be no significant residual effects as a result of noise or vibration with from the proposed development alone, or in combination with Inch Cape onshore substation.

* Land use, socio-economics and tourism - Overall, there are no significant adverse effects found, and there is a significant beneficial socio-economic cumulative effect found related to the construction of Seagreen Offshore Wind Farm.

The EIA Report concludes that subject to the relevant mitigation, that likely significant effects are limited to localised seascape, landscape and visual effects the proposed development would not have any significant effects, and that no residual significant effects are predicted for ecology, ornithology, hydrology, hydrogeology and ground conditions, cultural heritage and archaeology, access, traffic and transport, noise and vibration and land use, socio-economics and tourism.

PLANNING ASSESSMENT

PRINCIPLE OF DEVELOPMENT

Policy 9 of SESPlan requires local development plans to safeguard land to accommodate the infrastructure required to deliver the Strategic Development Plan. This includes new non-nuclear baseload capacity at Cockenzie. At the time of preparation of SESPlan, the original Cockenzie Power Station was still operational, with consent in place for its

replacement by the time the plan was approved. Policy 10 requires local development plans to set a framework for renewable energy development to contribute towards meeting renewable energy targets. SESplan 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.

Proposal EGT1 of the adopted East Lothian Local Development Plan 2018 covers the majority of the application site, and safeguards that land for future thermal power generation and carbon capture and storage consistent with National Development 3. However it states that land at Cockenzie may also present significant opportunities for renewable energy-related investment, informing that the Council will work together with developers, the landowner, the relevant agencies, local organisations and interested parties, including local residents to ensure that the best use is made of the existing land and infrastructure in this area. If there is insufficient land for competing proposals, priority will be given to those which make best use of the location's assets and which will bring the greatest economic benefits. Development proposals must avoid unacceptable impact on the amenity of the surrounding area, including residential development.

The wording of Proposal EGT1 makes it 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, thus the principle of National Development 3 and National Development 4 are both suitable within the Proposal EGT1 site, and it is possible to support either type of development in principle without knowing how the other type of development might be brought forward there.

The proposed development constitutes works that are required to connect an offshore windfarm to the national grid, so fall into the category of renewable energy-related investment. There are no active competing proposals for the land of the application site. Moreover, there is nothing to suggest that there is insufficient land for competing proposals on the wider EGT1 site, or that the proposed development would prejudice the future development of the site or the economic potential of the area. In terms of 'best use' for the site the proposed development would provide a significant investment to connect the Seagreen Offshore Wind Farm to the national electricity transmission system, bringing green renewable energy to thousands of homes in Scotland. The submitted EIA Report also informs that it is estimated that during the development and construction phase, the proposed development could support £132 million GVA and 2,050 years of employment in Scotland and £5 million GVA and 80 jobs annually during each year of operation. Moreover the application site would only comprise a relatively small part of the wider EGT1 site, with the remainder able to accommodate other forms of economic development and employment uses. It would be for the Council as Planning Authority to determine any future planning application for the wider site and to decide, amongst other things, whether or not the development proposed makes best use of the location's assets and whether or not it will bring the greatest economic benefits.

In terms of site alternatives, chapter 3 of the submitted EIA Report demonstrates that an extensive site selection exercise was undertaken to identify optimum substation and landfall locations and cable routes, with seven landfall sites identified. Due to cost, technical and environmental considerations the application site was chosen as the preferred site. Taking into account the national development status of the proposal, the absence of competing uses and the benefits of the proposed development, it can reasonably be concluded that the proposals represent the best use of the site within the current planning context.

The Council's Economic Development Team Manager advises that the East Lothian Community Planning Economic Development Strategy 2012-22 was adopted by East Lothian Council on 9 October 2012 and the mid-term refresh was concluded December 2018. Economic development is a key priority for East Lothian and is at the forefront of The East Lothian Partnership Plan 2017-27. The 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.

The Economic Development Team Manager raises no objection to the proposed development. He notes that during the construction phase the proposed development could support employment in the construction sector in East Lothian and Scotland, and that no significant negative impacts have been identified in terms of the East Lothian economy or tourism.

On the above considerations the proposed development does not conflict with Proposal EGT1 of the adopted East Lothian Local Development Plan 2018. As high voltage transmission infrastructure to support renewable energy technology, it is also part of National Development 4 and is thus supported by NPF3.

Cockenzie and the Forth Coast area extending to Torness is identified in NPF3 as an 'area of co-ordinated action' and considered to be a potentially important energy hub within the NPF3 strategy, helping to deliver a low carbon Scotland. While Cockenzie is safeguarded for thermal power generation, it is noted in NPF3 as a location with potential for energy related development and potentially for associated port-related development. As an area of co-ordinated action, an expectation of partnership working is placed on the Council, developers, and key agencies, to make best use of the land and infrastructure in the area and take forward a planned approach to development.

In this regard Proposal EGT3 of the adopted East Lothian Local Development Plan 2018 states that the Council supports the principle of electricity grid connections on the Forth coast from Cockenzie to Torness in order to facilitate off-shore energy generation, provided the following criteria are met:

- 1) infrastructure is combined wherever possible;
- 2) connection to existing infrastructure at Cockenzie and Torness is prioritised; and
- 3) proposals must not have an adverse effect on the integrity of the Firth of Forth SPA or any other European site either alone or in combination with other projects and plans.

In terms of 1) above the applicant informs that it is currently not commercially viable, nor practical from an engineering perspective, to share the proposed infrastructure with the approved ICOL development (ref: 18/00189/PPM), for the reason that there are no guarantees of that approved development going ahead. Therefore in order to bring the Seagreen 1A project to market, it is essential that it provides its own grid connection. Moreover, a substation to service both Seagreen 1A and Inch Cape would inevitably need to have a much larger footprint than either of the two substations proposed on their own.

With regard to 2) the proposed development does prioritise connection to infrastructure at Cockenzie. With regard to 3) the assessment of that is discussed later in this report and subject to it being demonstrated that the proposed development would not have an adverse effect on the integrity of the Firth of Forth SPA, the principle of it does not conflict with Proposal EGT3 of the adopted East Lothian Local Development Plan 2018.

LANDSCAPE AND VISUAL IMPACT

A Seascape Landscape and Visual Impact Assessment (SLVIA) has been submitted with the

application. The SLVIA and Chapter 4 of the EIA Report consider the landscape and visual impacts of the proposed development from a number of viewpoints in the surrounding area and further afield in East Lothian, and assesses the likely 'in-addition' and 'in-combination' cumulative effects when considered in addition to similar existing developments and the consented but currently unbuilt Inch Cape substation.

The EIA Report and SLVIA conclude that inclusion of the approved ICOL substation would add significantly to the established developed context, being seen within an open grassland context. This is likely to result in localised 'in addition' and 'in-combination' effects on the character of the Prestonpans Coast SLA. However, the proposed development would be positioned within an existing development envelope enclosed by screen mounds and vestigial features of the former Cockenzie power station, and as such would represent only an additional, although in the author's view 'slight', visual impact to both the current baseline and the cumulative context of Cockenzie substation and Inch Cape substation. The conclusion of the EIA Report and the SLVIA is that the proposed development would not have any harmful significant effects in terms of landscape and visual impact.

In their consultation response, on the matter of landscape and visual impacts, NatureScot advise that the proposed development would not generate negative impacts on the landscape character and visual amenity of the area.

The onshore export cable and any open cut trenching would be sited underground. Consequently they would have minimal impact on the landscape character and appearance of the area, including that of Preston Links and the Prestonpans Coast SLA.

The proposed development would be aligned with the existing pattern of development along the B1348 public road and would occupy land within a location that is enclosed on three sides by a combination of existing built structures, screening landforms and structural vegetation that contribute to the containment of impacts on neighbouring seascape, landscape and visual receptors. The proposed substation building and perimeter security fence would be set back from the B1348 road, in keeping with position of the neighbouring Cockenzie substation building, thereby avoiding structures projecting closer to the road. The indicative substation layout indicates that the substation buildings could be oriented in a northwest to southeast direction, thereby reducing the apparent mass and volume of the buildings in views experienced by north bound road users on the B1348 public road whilst focusing the greatest extent of building facades within site areas that are enclosed by screening landforms that limit the degree of their visibility from external viewpoints. It should be noted that the final layout would be presented through later applications for approval of matters specified in conditions were planning permission in principle to be granted.

The Council's Landscape Projects Officer advises that she concurs with the findings of the SLVIA in the submitted EIA report that the proposed substation would be screened from views from the northeast, east and southeast either partially or fully by the existing Cockenzie substation building and the existing acoustic screen mounding to the southwest, south and southeast of the site, which would help to minimise the landscape and visual impacts of the proposed development. The Landscape Projects Officer further advises that the cumulative effects of the proposed development when considered in addition to the consented but currently unbuilt Inch Cape substation would not be of a scale that would lead to an unacceptable visual and landscape impact on the character of the area given the locational position of the application site and the surrounding built development and existing landscape features. The Landscape Projects Officer further advises that construction impacts would be short to medium term duration and would cease following completion of construction activities and be replaced by operational impacts and as such would not cause any significant harmful seascape, landscape or visual impacts.

The Landscape Projects Officer recommends that a scheme of landscaping be submitted and that consistent and cohesive landscape measures are taken forward to achieve the best landscape fit for the proposed development in this sensitive location. The Landscape Projects Officer also advises that lighting for safety or security purposes may be unavoidable and consideration should be given to different ways of minimising light pollution, and recommends that detail is sought for this, with particular regard to the lighting impacts and night. Such control can be competently imposed as a condition on a grant of planning permission in principle, were that to be the decision.

In overall conclusion the proposed development would introduce a large scale significant development in this coastal location, however subject to above recommendations and appropriately worded conditions to control the materials, design and architectural appearance of the proposed substation, the proposed development could successfully integrate into its landscape setting and would not appear harmfully prominent, incongruous or intrusive within the surrounding landscape. It would not be harmful to the special character of the Prestonpans Coast Special Landscape Area and the nature and scale of the proposed development would not have an unacceptable impact on the natural environment.

On these considerations of landscape and visual impact and design the proposed development does not conflict with Policies DC6, DC9, DP1 and DP2 of the adopted East Lothian Local Development Plan 2018 or the Council's approved Special Landscape Areas Supplementary Planning Guidance.

HISTORIC ENVIRONMENT

The part 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. The battlefield site includes the 1722 Tranent to Cockenzie Wagonway.

Chapter 8 of the EIA Report considers the potential direct and indirect impacts resulting from the proposed development on cultural heritage and archaeology assets.

Historic Environment Scotland (HES) note that the EIA Report does not identify a significant impact on the nationally important battlefield and they agree with this conclusion. They advise that the application site does not impact on any known features relating to the battle in the vicinity such as the wagonway or the site of the Thorn Tree where Colonel Gardiner was wounded and they are satisfied that the proposed buildings would not significantly alter the setting or reading of the battlefield.

HES further advise that the application site and wider area has been heavily and repeatedly developed, landscaped and disturbed in the past; the original landform has been altered and the survival potential for remains relating to the battle is small, although the discovery of human remains of varying dates in the vicinity shows that pockets of archaeological material can survive, even in areas where there has been extensive prior disturbance. They state that section 8.5 of the EIA Report deals with archaeological mitigation, with some investigative works have already been undertaken and it is noted that no archaeological remains or deposits were encountered. Paragraph 8.5.3 states that there will be further evaluations/watching briefs during the construction phase of the works and that excavated soils generated by that activity will be scanned by metal detector to recover any surviving metallic artefacts that may be associated with the battle. HES are content that this is a reasonable and proportionate approach.

HES therefore raise no objection to the application, being satisfied that the proposed development would not have a significant adverse effect on any key features of the Battle of Prestonpans Battlefield Site.

The Council's Archaeology/Heritage Officer advises that the application site has the potential for unidentified archaeological remains to be present. He therefore recommends that if planning permission in principle is to be granted for this proposal, a programme of archaeological works (Archaeological Evaluation by Trial Trench) should be carried out prior to the commencement of development.

Subject to the above recommendations, which could be secured by condition, the proposed development is consistent with Policy CH5 of the adopted East Lothian Local Development Plan 2018, Planning Advice Note 2/2011: Planning and Archaeology and Scottish Planning Policy 2014.

INTERNATIONALLY DESIGNATED SITES, SITES OF SPECIAL SCIENTIFIC INTEREST AND BIODIVERSITY

The area of land comprising the northernmost part of the application site where it meets the coast is within the Firth of Forth Special Protection Area and within the Firth of Forth Site of Special Scientific Interest.

With regard to international designations, paragraph 207 of Scottish Planning Policy states that sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) make up the Natura 2000 Network of protected areas. Any development proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an "appropriate assessment" of the implications for the conservation objectives.

Chapter 5 of the EIA Report includes an assessment of the potential impacts of the proposed development on ecological and nature conservation. Chapter 6 of the EIA Report includes an assessment of the potential effects of the proposed development on ornithology the archaeology and cultural heritage resource of the site and surrounding area.

NatureScot, with regard to ecology and nature conservation, note the methods and scope of the assessment within the EIA Report, and advise that a Phase 1 habitat survey was not carried out at the best time of year, however note the proposal location is made up of brownfield land with semi-natural habitats of low nature conservation value, and as such have no issues to raise with the timing of the study and generally support its conclusions. NatureScot advise that the site does contain scrub and trees which could support nesting birds, and so recommend that a breeding bird survey is undertaken prior to the clearance of any vegetation, as per section 5.6.6 of the EIA Report. NatureScot support the remaining mitigation and good practice measures specified in sections 5.6.1 to 5.6.10 of the EIA Report with regards to nesting birds, habitats and protected species.

NatureScot advise that the proposal could affect the following European sites:

- * Firth of Forth Special Protection Area (SPA);
- * Outer Firth of Forth and St Andrews Bay Complex SPA;
- * Forth Islands SPA; and
- * Imperial Dock Lock, Leith SPA

NatureScot advises that the status of these sites means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") or, for reserved matters the Conservation of Habitats and Species Regulations 2010 as amended apply. Consequently, the competent authority is required to consider the effect of the proposal on these sites before it can be consented (commonly known as Habitats Regulations Appraisal).

Under the Habitats Regulations, decision makers (known as competent authorities in the legislation) can only agree to development proposals which are unconnected with the nature conservation management of the site after having confirmed that they will not affect the integrity of the Natura site. The process of coming to this judgement is commonly referred to as Habitats Regulations Appraisal (HRA).

With regard to HRA Stage 1, NatureScot states that the proposal is not connected to conservation management of any European site.

With regard to HRA Stage 2 (is the proposal 'likely to have significant effects' upon the European sites), NatureScot advise that:

Firth of Forth SPA - this European site is located adjacent to the proposal, and is designated for many species of wintering and passage waders and waterfowl. The cable landfall area is within the SPA and there is potential for habitat damage or loss. Construction operations could cause disturbance or displacement of SPA birds. Therefore there is connectivity to the European site and an appropriate assessment is required.

Outer Firth of Forth and St Andrews Bay Complex SPA - this European site is located adjacent to the proposal, and is designated for many species of breeding and non-breeding seabird and waterfowl. Construction operations could cause disturbance or displacement of SPA birds. Therefore there is connectivity to the European site and an appropriate assessment is required.

Forth Islands SPA - this European site is located distant to the proposal, with the nearest location being Fidra to the northeast and Inchmickery to the northwest. This site is designated for many species of breeding seabirds which are known to use or traverse the proposal site. Construction operations could cause disturbance or displacement of SPA birds. Therefore there is connectivity to the European site and an appropriate assessment is required.

Imperial Dock Lock, Leith SPA - this European site is located distant to the proposal, and is designated for a colony of breeding common tern which is within connectivity distance of the proposal. Construction operations could cause disturbance or displacement of SPA birds. Therefore there is connectivity to the European site and an appropriate assessment is required.

NatureScot therefore advise that as the proposed development is likely to have a significant effect on several European sites, East Lothian Council, as competent authority, is required to carry out an appropriate assessment.

East Lothian Council, as the competent authority, has carried out an appropriate assessment. It concludes that subject to mitigation in the form of the submission of a construction environmental management plan, the appointment of an Ecological Clerk of Works and the submission of a Species Protection Plan for birds, which can be secured through the imposition of conditions on a grant of planning permission in principle, that the proposed development would have no adverse effects on the integrity of the following European sites:

- * Firth of Forth Special Protection Area (SPA);
- * Outer Firth of Forth and St Andrews Bay Complex SPA;
- * Forth Islands SPA; and
- * Imperial Dock Lock, Leith SPA.

Accordingly, subject to mitigation the proposals do not conflict with Policies DC6

(Development in the Coastal Area), NH1 (Protection of Internationally Designated Sites) and NH2 (Protection of Sites of Special Scientific Interest and Geological Conservation Review Sites) of the adopted East Lothian Local Development Plan 2018.

NOISE AND VIBRATION AND AMENITY

The nearest residential properties to the site are located at Whin Park to the northeast and along Atholl View to the southwest, albeit the properties on Atholl View have little interaction with the site due to the intervening bund. Also the residential properties of The Antiquaries are located to the southwest of the site. In addition to residential properties, the Whin Park industrial estate is located immediately northeast of the site. By virtue of its distance away from those residential properties, the proposed development would not result in any harmful overlooking or unacceptable loss of sunlight or daylight to them.

Chapter 10 of the EIA Report considers potential noise and vibration arising from the proposed development on the site both during construction and when the development is operational.

The Council's Public Health and Environmental Protection Officer advises he has appraised Chapter 10 of the EIA Report and advises that noise during the construction phase, although temporary in nature, would have a major impact upon sensitive receptors at the residential properties of The Antiquaries during daytime Mon-Fri, any evenings/Saturdays afternoons and also during the Night/Sundays/Bank Holidays. Major noise impacts are also predicted at sensitive receptors on Appin Drive, 1A High Street, Prestonpans and Whin Park, Cockenzie at any time during the Night/Sundays/Bank Holidays. Moderate Impacts are also predicted at sensitive receptors at Atholl View Prestonpans, Avenue Road, Cedar Drive and West Harbour Road, Cockenzie at any time during the Night/Sundays/Bank Holidays. Moderate Impacts are also predicted at Appin Drive, Prestonpans and Whin Park, Cockenzie on Saturday afternoons and any evenings.

With regard to the above, the Public Health and Environmental Protection Officer advises that mitigation measures, such as those detailed in Chapter 10.6 of the EIA Report would be required during the construction phase to include, but not be limited to, restriction of working hours for noisy work to 0700-1900 hours Mon-Fri and 0800-1300 hours on a Saturday, the location of drilling rigs, creation of solid barriers/screens and noise monitoring. Threshold noise levels could be introduced that, if exceeded, would require work to cease with immediate effect and not resume until adequate mitigation had been introduced to reduce levels back below the thresholds. Threshold levels at sensitive receptors would be 65 dB(A) during the day (0700-1900), 55 dB(A) during evenings (1900-2300)/Saturday afternoons and 45 dB(A) at night (2300-0700). Details of the specific mitigation measures to be introduced can be included within a Construction Method Statement.

In terms of operational noise, the Public Health and Environmental Protection Officer advises that noise arising from the proposed substation and associated plant/equipment has been assessed and predicted to have a major impact at sensitive receptors in Atholl View, Appin Drive and Whin Park during the night (2300-0700). Moderate Impacts are also predicted for sensitive receptors at 1A High Street at night (2300-0700). Moderate impacts upon sensitive receptors are also predicted during daytime hours (0700-2300) in Hawthorn Road, The Antiquaries, Atholl View, Whin Park and Avenue Road. Accordingly, a further assessment of operational noise will be required and any assessment report shall outline what mitigation measures will be required to ensure compliance with an absolute free field external Rating Level of L_{Ar}, Tr of 35 dB.

With regard to vibrations, the Council's Public Health and Environmental Protection Officer advises that vibrations from works would fall to below 1mm/s within a distance of 10-15

from source. Vibratory driven sheet piling will fall to below 1mms-1 at a distance of greater than 30m from source. All sensitive receptors are greater than 30m from the source of any vibration and therefore vibration impacts are not considered significant and would not result in harm to the amenity of any nearby residential property.

In terms of air quality, the Public Health and Environmental Protection Officer advises that any potential impacts that may arise from dust during the construction phase can be addressed by requiring any dust mitigation measures to be included within a Construction Method Statement.

The Public Health and Environmental Protection Officer therefore recommends that:

(i) a Construction Method Statement be submitted which should identify potential noise and dust impacts during construction and specify mitigation measures to minimise any such impacts. With regards to the control of dust, he advises that the Construction Method Statement should include details regarding practicable control measures for reducing visible dust emissions affecting properties beyond the site boundary; and

(ii) a further assessment of noise impacts arising during the operational phase of the development be submitted to identify any mitigation measures considered necessary to ensure specific noise arising from it does not exceed an absolute free field external Rating Level of LAr,Tr of 35 dB at any sensitive receptor.

Subject to the above planning control the proposed development would not have a harmful impact on amenity.

The Council's Environmental Health Officer (Contaminated Land) advises that there is the potential for areas of contamination to exist given the nature of previous land uses both on the site and in proximity to it, which included the workings of the Preston Links Colliery, mineral railway lines, a gas works and gasholder, a refuse tip, and electricity substations and infrastructure associated with the former Cockenzie Power Station and thus there is therefore the potential for pollutant linkages to exist on the site that may impact upon the proposed development. He also advises that part of the site (towards the west) is located within a high risk area with regards to shallow mine workings, thus there may be the potential for mine gas to exist.

The Environmental Health Officer (Contaminated Land) therefore recommends that the following matters be controlled by conditions:

1. Prior to any development works commencing a suitable Geo-Environmental Assessment must be carried out, with the Report being approved by the Planning Authority. The investigation should include details of the following:

1. (i) A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment); and

(ii) A Phase II Ground Investigation (if the Desk Study has determined that further assessment is required), comprising the following:

* A survey of the extent, scale and nature of contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site;

* An appraisal of the remediation methods available and proposal of the preferred option(s).

2. Prior to any works beginning on site (and where risks have been identified), a detailed

Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It should also ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development; and

3. Following completion of the measures identified in the approved Remediation Statement, a Verification Report should be submitted that demonstrates the effectiveness of the remediation carried out.

The Environmental Health Officer (Contaminated Land) also recommends that in the event that unexpected ground conditions (contamination) are encountered at any time when carrying out the permitted development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should the reporting determine that remedial measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of these remedial works.

These requirements could be controlled by a condition(s) attached to a grant of planning permission in principle, were that to be the decision.

On these above considerations the proposed development is consistent with Policy DP2 of the adopted East Lothian Local Development Plan 2018.

COAL AUTHORITY DEVELOPMENT HIGH RISK AREA

The Coal Authority have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of the application. The Coal Authority records indicate that within the application site boundary there is a recorded mine entry, with a further two mine entries recorded within 20m of the site boundary. The site is also in an area of recorded and likely unrecorded coal mine workings at shallow depth.

The Coal Authority therefore recommends that:

1. (i) a scheme of intrusive site investigations be carried out on site to establish the risks posed to the development by past coal mining activity, and;

(ii) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

2. prior to the development coming into use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development be submitted. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Subject to the above recommended control the proposed development would not be at risk from former mine workings.

FLOOD RISK AND SCOTTISH WATER

The Scottish Environment Protection Agency (SEPA) advise that the site is partially within the medium likelihood coastal and surface water map extents, based on the SEPA Flood Maps, which indicates that there is a medium risk of flooding from the sea and surface water to part of the site. SEPA advise that the site is brownfield and the proposed land use is for a substation, underground electricity cables and associated infrastructure to export electricity from the Seagreen Offshore Wind Farm into the national electricity transmission network. Given the national importance of this proposal, SEPA have viewed this as a 'critical infrastructure' land use and their comments therefore take into account the extreme 1 in 1000 year flood event scenario.

SEPA advise that the approximate 1 in 200-year flood level is 3.95mAOD and the approximate 1 in 1000 year flood level is 4.13mAOD based on calculations using the Coastal Flood Boundary Method. This is a still water level which does not account for the effects of wave action, climate change, funnelling or local bathymetry. The expected sea level rise for the area is 0.86m by 2100 based on the latest UK climate change predictions published in 2018. To account for future coastal climate change impacts SEPA recommend that all development on the site is limited to land which is higher than 4.99mAOD (1 in 1000 year level plus 0.86m).

SEPA note from the indicative substation site layout that the proposed substation platform is located outwith the low (1 in 1000 year) and medium (1 in 200 year) likelihood coastal flood extents, which complies with the principles of floodplain avoidance in line with SPP.

On the basis on the above assessment SEPA raise no objection to the application on the grounds of flood risk.

The Council's Structures Flooding and Street Lighting Team Manager advises he raises no objection to the application on the grounds of flood risk. On the matter of drainage, the Structures Flooding and Street Lighting Team Manager advise that a drainage strategy for the site should be designed to accommodate a 1 in 200 annual probability event plus a climate change allowance, this being different to the actual flood risk requirements as stated by SEPA above.

The Structures Flooding and Street Lighting Team Manager further advises that a culvert known as the Bankton Adit culvert runs along the western margin of the site and that confirmation of both the route and outfall position of the Bankton Adit Culvert should be recorded and indicated particularly where it passes through the construction zone of the site. Also any protective measures to the watercourse during the laying of cables and trench works should be submitted.

Scottish Water has been consulted on the application and in respect of the EIA Report. They advise that they have no objection to the proposed development. A copy of Scottish Water's response has been forwarded to the applicant's agent for their information.

The above requirements could be controlled by a condition(s) attached to a grant of planning permission in principle and subject to this the proposed development is not contrary to Policy NH11 of the adopted East Lothian Local Development Plan 2018.

TRANSPORTATION, ACCESS AND OPEN SPACE

Chapter 9 of the EIA Report considers the likely significant effects on access, traffic and transport associated with the construction, operation and decommissioning of the proposed development. It also considers the cumulative impacts of the proposed development and

the Inch Cape Onshore Transmission works approved by the grant of planning in principle 18/00189/PPM. The EIA Report concludes that effects of increased traffic as a result of the proposed development are deemed to be Not Significant once mitigation is put in place. It also concludes that no significant cumulative effects are predicted during construction of the proposed development, particularly during concurrent construction works with the approved Inch Cape Onshore Transmission works. It is also noted that any increased traffic can be accommodated by the existing road network and could be managed effectively by implementation of a Construction Traffic Management Plan.

During construction of the proposed development, the principal access would be from the B6371 road on the eastern boundary of the site via the former Coal Store service road, with additional access points to the working areas from the B1348 Edinburgh Road. The applicant advises that the details of the operational access point would be confirmed through the submission of future detailed applications, but is likely that there would be an operational access from the B1348 Edinburgh Road, and that operational traffic movements would be nominal, with monthly inspection visits, periodic maintenance, with small numbers of light vehicles accessing the site.

The Council's Road Services have appraised assessment of the traffic impacts of the proposed development within the EIA Report and raise no objection to the application subject to the following requirements:

A Construction Traffic Management Plan (CTMP) be submitted to include:

- (i) details of measures to reduce the number of construction vehicles;
- (ii) details of and controls for 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;
- (iii) detailed swept path assessments of large component delivery routes and drawings detailing any required off-site mitigation works;
- (iv) drawings showing details of any proposed alterations to the existing vehicular access onto the B6371 and alterations to existing junctions or creation of new junctions with the B1348;
- (v) updated information on programme, construction tasks, vehicle types and trip generation;
- (vi) updated review of potential cumulative impacts on A198 considering position at that time of new infrastructure, speed limits and traffic generation related to the ongoing development at Blindwells;
- (vii) frequencies and times of deliveries and arrangements for the removal of materials/plant from the site;
- (viii) details of traffic management at the B6371 and B1348 Edinburgh Road site access points;
- (ix) details of measures including temporary signage, and the management of construction traffic to keep the John Muir Way open to the public throughout the construction period;
- (x) details of temporary signage in the vicinity of the site warning of construction traffic;
- (xi) arrangements for road maintenance and cleaning;

(xii) details of wheel washing facilities which must 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; and

(xiii) a Green Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds.

Road Services also recommend that a dilapidation/condition survey is needed of the roads in the vicinity of the site, these being the B1361/B6371, from the roundabout junction of the A198 at Meadowmill (just north of the railway) northwards to the B1348 Edinburgh Road. In addition this shall include the B1348, Edinburgh Road, along the full Power Station site frontage and access junctions – from the junction East Lorimer Place to Appin Drive (traffic signals).

Subject to the above recommended control, which can be imposed as conditions on a grant of planning permission, the proposed development is consistent with Policy T2 of the adopted East Lothian Local Development Plan 2018.

The Council's Access Officer advises that the core path which runs from Whin Park around the south side of the existing Cockenzie substation building would require to be diverted. The Access Officer states this could be done by continuing the path around the south side of the proposed substation with a link made to the Edinburgh Road. The Access Officer advises that the route of the cabling would cause some disruption to other paths, but this would only be limited to the construction phase and that they would be reinstated thereafter.

The submitted EIA Report proposes the development of a Public Access Management Plan, or equivalent, to manage any diversions during the construction period, and depending on the final footprint of the substation a formal permanent diversion may need to be implemented to core path which runs from Whin Park around the south side of the existing Cockenzie substation building.

The part of the application site on the north side of the B1348 Edinburgh Road is open space defined by Policy OS1 of the adopted East Lothian Local Development Plan 2018, which states that recreational, leisure and amenity open space will be safeguarded to meet the recreational needs of the community or protect the amenity or landscape setting of an area. The cable corridor route would be the only part of the proposed development located north of the B1348 Edinburgh Road, and would be located underground. Therefore the proposed development would not result in the permanent loss of any open space.

Subject to the submission of an Access Management Plan to manage any required temporary diversions or rerouting of core paths, which can be imposed as a condition on a grant of planning permission in principle, the proposed development is not contrary to Policies T4 or OS1 of the adopted East Lothian Local Development Plan 2018.

CONCLUSION

Based on the planning assessment given above and subject to the aforementioned planning controls, the proposed development would not conflict with Policies 1B, 9 and 10 of the approved South East Scotland Strategic Development Plan (SESplan), Proposals EGT1 and EGT3 and Policies DC6, DC9, OS1, NH1, NH2, NH11, CH5, T2, T4, DP1 and DP2 of the adopted East Lothian Local Development Plan 2018, the Council's Special Landscape Areas Supplementary Planning Guidance, the Scottish Government's National Planning

Framework 3 or with Scottish Planning Policy 2014.

RECOMMENDATION

That planning permission in principle be granted subject to the following 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 layout, 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 (including landscape and visual mitigation) of the site in accordance with the matters listed below. No work shall begin until the written approval of the Planning Authority has been given, and the development shall be carried out in accordance with that approval.
 - a) Details of the finished ground levels and finished floor levels of the buildings;
 - b) The total height of any building shall not exceed 18 metres from the finished ground levels, as approved. The finished ground level shall be no higher than the existing ground level of the site;
 - c) Details of the proposed colour treatment of the onshore substation and any other landscape and visual mitigation (which shall include architectural mitigation) to be incorporated into its design and external appearance;
 - d) Details of all external lighting proposed;
 - e) Details of the area and positioning of the substation platform, which shall not exceed an area of 22,000m², and the components of the onshore substation, which shall generally accord with that shown on drawing no. LF000012-CST-ON-LIC-DEV-MAP-0009 docketed to this planning permission in principle;
 - f) The layout shall ensure that the substation platform and onshore substation shall be located within the area identified as "Substation Development Zone" on drawing no. LF000012-CST-ON-LIC-DEV-MAP-0003 docketed to this planning permission in principle;
 - g) Details of the final route of the onshore export cable (with proposed micro siting limits), and the locations of any underground joint bay(s); and
 - h) Details of the siting, design and external appearance of any permanent above ground features associated with the onshore export cable.

In this condition, the onshore substation means all the electrical equipment, ancillary equipment, internal roads and any perimeter security fence to be located on the substation platform, as indicatively described in Chapter 2 (Development Description) of the Environmental Impact Assessment Report docketed to this planning permission in principle.

No part of the development hereby approved under that application for approval of matters specified in conditions shall be begun on the site until all of the above details pertaining to such development have been submitted to and approved in writing by the Planning Authority.

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 in writing by the Planning Authority.

Reason:
To ensure the reported likely environmental impacts of the development are not exceeded and the specified mitigation measures are fully implemented.
- 3 The development hereby approved shall be used solely in connection with the offshore Seagreen 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

"Seagreen Wind Farm" means the offshore wind farms known as the Seagreen Alpha Offshore Wind Farm and Seagreen Bravo Offshore Wind Farm, both granted consent under section 36 of the Electricity Act 1989 by the Scottish Ministers on 10 October 2014 (and as varied by consent on 18 August 2018), 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 development on any 'Development Zone' as shown on drawing no. LF000012-CST-ON-LIC-DEV-MAP-0003 docketed to this planning permission in principle, a Public Access Management Plan for that Development Zone shall be submitted to and approved in writing by the Planning Authority for such development. The Public Access Management Plan shall include the following details as they relate to each Development Zone:

(i) the proposed route of any temporary rerouting of the Coastal Path incorporating the John Muir Way (Core Path 276) within the northern section of the application site and Core Path 146 within the western section of the application site and the duration of the temporary rerouting;

(ii) the detail of any temporary rerouting of Core Path 284 within the central section of the application site, the duration of the temporary rerouting, and any measures for its permanent diversion (including its new route) if required as a result of the proposed development; and

(iii) a timetable for the implementation of any temporary or permanent diversions of the above Core Paths.

Thereafter, the Public Access Management Plan shall be implemented and complied with in accordance with the approved details, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure continuity of the core path network in the interests of public access.

- 5 Prior to the commencement of development on any 'Development Zone' as shown on drawing no. LF000012-CST-ON-LIC-DEV-MAP-0003 docketed to this planning permission in principle, a Construction Method Statement (CMS) for development of that Development Zone shall be submitted to and approved in writing by the Planning Authority. The CMS shall identify potential noise and dust impacts that may arise during construction of the proposed development and specify any mitigation measures necessary to minimise any such impacts on sensitive receptors, and shall include hours for construction work.

With regards to Noise the CMS shall adopt "Best Practice Guidance" as recommended in BS 5228-1:2009+A1:2014 "Code of practice for noise and vibration control on construction and open sites" and have regard to potential mitigation measures described within Chapter 10.6 Mitigation of the docketed EIA Report.

With regards to the control of dust the CMS shall include details regarding practicable control measures for reducing visible dust emissions affecting properties beyond the site boundary. Control measures to be considered are identified in Section 8 of the Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction (2014).

The development shall thereafter be carried out in strict accordance with the approved CMS unless otherwise approved in writing by the Planning Authority.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 6 Prior to the commencement of any development on the 'Substation Development Zone' as shown on drawing no. LF000012-CST-ON-LIC-DEV-MAP-0003 docketed to this planning permission in principle a Noise Impact Assessment for the operational phase of the development shall be submitted to and approved in writing by the Planning Authority for such development. The Noise Impact Assessment shall be based upon the detailed site layout approved pursuant to Condition 1 and shall identify any mitigation measures considered necessary to ensure specific noise arising from the development does not exceed an absolute free field external Rating Level of L_{A,r},Tr of 35 dB at any sensitive receptor. All measurements to be made in accordance with BS 4142: 2014 "Methods for rating and assessing industrial and commercial sound".

Reason:

In the interests of the amenity of nearby sensitive receptors.

- 7 Prior to the commencement of development on any 'Development Zone' as shown on drawing no. LF000012-CST-ON-LIC-DEV-MAP-0003 docketed to this planning permission in principle, to ensure that the site is clear of contamination, a Geo-Environmental Assessment shall be carried out for development of that Development Zone and the following information shall be submitted to and approved by the Planning Authority:
1. (i) A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment); and
 - (ii) A Phase II Ground Investigation (if the Desk Study has determined that further assessment is required), comprising the following:
 - o A survey of the extent, scale and nature of contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site;
 - o An appraisal of the remediation methods available and proposal of the preferred option(s).
 2. Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It should also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development; and
 3. Following completion of the measures identified in the approved Remediation Statement, a Verification Report should be submitted that demonstrates the effectiveness of the remediation carried out.

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable.

- 8 In the event that unexpected ground conditions (contamination) are encountered at any time when carrying out the permitted development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should the reporting determine that remedial measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of these remedial works.

Reason:

To ensure that the site is clear of contamination

- 9 Prior to the commencement of development on any 'Development Zone' as shown on drawing no. LF000012-CST-ON-LIC-DEV-MAP-0003 docketed to this planning permission in principle, a Construction Traffic Management Plan (CTMP) for the construction phase of the development in that Development Zone shall be submitted to and approved in writing by the Planning Authority. The CTMP shall, unless otherwise approved in writing by the Planning Authority, include the following details:
- (i) details of measures to reduce the number of construction vehicles;
 - (ii) details of and controls for 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;
 - (iii) detailed swept path assessments of large component delivery routes and drawings detailing any required off-site mitigation works;
 - (iv) drawings showing details of any proposed alterations to the existing vehicular access onto the B6371 and alterations to existing junctions or creation of new junctions with the B1348;
 - (v) updated information on programme, construction tasks, vehicle types and trip generation;
 - (vi) updated review of potential cumulative impacts on A198 considering position at that time of new infrastructure, speed limits and traffic generation related to Blindwells;
 - (vii) frequencies and times of deliveries and arrangements for the removal of materials/plant from the site;

(viii) details of traffic management at the B6371 and B1348 Edinburgh Road site access points;

(ix) details of measures including temporary signage, and the management of construction traffic to keep the John Muir Way open to the public throughout the construction period;

(x) details of temporary signage in the vicinity of the site warning of construction traffic;

(xi) arrangements for road maintenance and cleaning;

(xii) details of wheel washing facilities which must 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; and

(xiii) a Green Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds.

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

Reason:

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

- 10 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, along the full former power station site frontage and access junctions - 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.

- 11 Prior to the commencement of the development hereby approved a drainage strategy for the development shall be submitted to and approved by the Planning Authority. The drainage strategy shall be designed to accommodate a 1 in 200 annual probability event plus a climate change allowance and shall include a timetable for its installation.

The drainage strategy as so approved shall be implemented in its entirety, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 12 Prior to the commencement of development on any 'Development Zone' as shown on drawing no. LF000012-CST-ON-LIC-DEV-MAP-0003 docketed to this planning permission in principle, a scheme for the identification of drainage systems (including field drains, culverts, septic tanks and soakaways) and private water supplies within the Zone, and measures for their protection during development and/or mitigation of impacts associated with the development including any necessary alternative facilities as required, shall be submitted to and approved by the Planning Authority.

The scheme shall include a timetable for the implementation of any identified mitigation measures or provision of alternative facilities and development shall thereafter be carried out in accordance with the scheme so approved.

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 on any 'Development Zone' as shown on drawing no. LF000012-CST-ON-LIC-DEV-MAP-0003 docketed to this planning permission in principle, a scheme of

landscaping for development within that Development Zone, taking account of the detailed site layout and other details proposed or approved under the terms of Condition 1 shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring 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. It should also address long term management of the approved planting and boundary treatments.

In accordance with the approved scheme, all planting, seeding or turfing 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 managed in accordance with that scheme. 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.

- 14 No development shall take place (including demolition, ground works, and vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Planning Authority. The CEMP: Biodiversity shall include the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of "biodiversity protection zones";
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works (drilling and other construction activities within and/or adjacent to the SPA) to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period of the development strictly in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority.

Reason:

To avoid or minimise disturbance of internationally important populations of non-breeding waders, waterfowl and seabirds (SPA populations).

- 15 No development shall take place until a Species Protection Plan for birds, including waterfowl, wading birds and seabirds (SPA species), has been submitted to and approved in writing by the Planning Authority.

The Species Protection Plan must be consistent with the measures proposed in the docketed EIA Report/Habitats Regulations Assessment to minimise disturbance to SPA bird populations and must include, but shall not be limited to the following:

- (i) Details to show the defined area of operation for near-shore vessels and restrictions on vessel speed; and
- (ii) Details of methods to be used to reduce noise levels including the use of sound walls and any required drilling rig modifications.

The development shall thereafter be carried out in strict accordance with the approved Species Protection Plan unless otherwise approved in writing by the Planning Authority.

Reason:

To avoid or minimise disturbance of internationally important populations of non-breeding waders, waterfowl and seabirds (SPA populations).

- 16 Prior to the commencement of development on any 'Development Zone' as shown on drawing no. LF000012-CST-ON-LIC-DEV-MAP-0003 docketed to this planning permission in principle, a scheme of intrusive site investigation works for development of that Development Zone shall be carried out in

accordance with detail to be submitted to and approved in advance by the Planning Authority following consultation with The Coal Authority to assess ground stability due to former mine workings at the site. In the event that the intrusive investigation works confirm the need for remedial works and/or mitigation measures to treat any areas of land instability arising from coal mining legacy, development shall not begin until a scheme of remedial works on the site has been submitted to and approved in writing by the Planning Authority following consultation with The Coal Authority, and thereafter has been fully implemented as so approved.

Reason:

To ensure that the site is clear of coal mining features and hazards prior to any use being made of the development.

- 17 Prior to the development hereby approved coming into use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted and approved by the Planning Authority following consultation with The Coal Authority. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason:

To ensure that the site is clear of coal mining features and hazards prior to any use being made of the development.

- 18 Within 24 months of the permanent cessation of generation at the offshore Seagreen 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 Seagreen Wind Farm, within 24 months of the permanent cessation of generation at the offshore Seagreen 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 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 approved in writing by the Planning Authority.

Where the development is required for electricity transmission purposes beyond the operational period of the offshore Seagreen Wind Farm, within 24 months of the development no longer being required for electricity transmission purposes, a decommissioning and site restoration plan (the '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 approved in writing by the Planning Authority.

Reason:

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

REPORT TO: Planning Committee
MEETING DATE: Tuesday 17 August 2021
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

3

Note - this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reason: Objectors feel strongly the change in footprint proposed and the increase in glazed area will have a significant effect on the intimate nature of the Bay and area.

Application No. **21/00001/P**

Proposal Extensions to dwelling and formation of decked area with balustrade

Location **The Chalet
Tantallon
North Berwick
EH39 5PL**

Applicant Mr Alistair Lumsden

Per Aitken Turnbull

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSALS

The property to which this application relates is a single storey and basement dwelling and its associated decking area and garden ground. The property is situated in Canty Bay to the east of North Berwick within the countryside, as defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018. The application site is also within the Tantallon Coast Special Landscape Area as defined by Policy DC9 of the adopted East Lothian Local Development Plan 2018. It is also within an area of constrained Coast as defined by Policy DC6 of the adopted East Lothian Local Development Plan 2018.

Canty Bay a small bay that sits between the steeply sloping sides of the Bay and the foreshore of the beach. The bay is accessed by a private access road that leads from the A198 public road to the south. The applicant's property sits at the bottom of the hillside, on the eastern side of the bay. It sits back from and at a higher level than the nearest neighbouring building to the west. Its front elevation faces onto the foreshore of the beach of Canty Bay to the north. The other buildings within the bay include those in the ownership of the Cub Scouting Group and which are used for overnight and day residential trips and are

available for hire for groups to stay within. Otherwise there is a wooden chalet type building known as The Hut, to the northeast and a neighbouring house known as Seaspray to the south which sits at behind and at a higher level on the hillside than the applicant's dwelling.

The existing dwelling is a detached single storey and basement house which white washed walls and a slate clad pitched roof. It has been set into the hill side with its lower basement level partly sunk into the ground level. On its front (north elevation) it has 2 large modern style casement windows on the ground floor and smaller basement windows at the lower level. It has a raised timber deck attached to its side (west) elevation and there a set of steps with associated landing area attached to it front (north) elevation. There is a rear garden area to the south of the dwelling with a larger front garden that slopes down from the house towards the access road and the foreshore of the beach beyond. To the east side of the front garden is the driveway of the dwelling and an area of the parking of vehicles.

It is proposed to regrade the sloping front garden of the dwelling to expose the whole of the basement component of the house, part of which - the bottom 1.3m - is presently sunk into and screened by the ground levels of the front garden. It is then proposed to:

- i. extend the basement component of the dwelling by adding a flat roofed extension to its front (north) elevation, which would bring its front elevation forward of its present position some 2.4m. That basement extension would have a single storey hipped roofed component formed on top of its western end. That proposed extension would protrude some 2.9m out from the west (side) elevation of the house. The proposed basement extension would otherwise have a terrace formed on its flat roof with associated balustrade;
- ii. In association with the proposed basement extension it is also proposed to replace and extend the front elevation of the ground floor of the existing dwelling bringing it forward of its present position some 0.6m with an associated extension to its front (north) facing roof;
- iii. It is also proposed to add a single storey, and basement extension to the east (side) elevation of the house and which would wrap around and attach to part of the rear (south) elevation of the dwelling. That side extension would have a lower porch component attached to its northern end.

The proposed basement extension to be attached to the front elevation of the dwelling would extend along the front elevation some 14.8 metres. It would project out beyond the side (west) elevation of the existing dwelling some 2.9 metres and it would project out some 2.4 metres from the front elevation. It would extend to a height of some 2.9 metres. Its front (north) elevation would contain four fixed glazed screens, two sets of glazed, double door openings and a window opening. The proposed terrace would be formed atop the extension and would extend along the front elevation of the existing dwelling it would project out some 2.7 metres from the front of the house. A glazed balustrade would run along the length of the decking area and would extend to a height of some 1.2 metres. The decking area would be constructed of composite Tounge and Groove boarding.

The single storey, hipped roof extension would be erected on the western side of the proposed terrace. It would measure some 5.6 metres in width and would project out from the side (west) elevation of the existing dwelling some 2.7 metres. It would extend to a height of some 2.7 metres to the eaves level of the pitched roof and some 4.3 metres to the ridge line of the pitched roof. The front (north) elevation of the side (west) extension would have a large glazed door opening that would open onto the decked area. The side (west) elevation would contain a window opening with three glazed screens and the rear (south) elevation would contain a large glazed, screen opening.

The extension to be attached to the side (east) elevation of the dwelling would measure some 10.1 metres by some 4.2 metres along the side (east) and rear (south) elevations. The extension would project out from the side (east) elevation some 1.7 metres and would

project out some 4.2 metres to run flush with the existing rear elevation of the dwelling. The extension would have a pitched roof and would extend to a height of some 6.8 metres to the ridge level. A smaller outshoot extension would project out from the side (east) elevation housing a WC and would measure some 1.6 metres wide by some 2.5 metres in length. It would extend to a height of some 4.6 metres and would adjoin the pitched roof element of the side (east) and rear (south) infill extension. Its front elevation would contain a glazed window opening, the side (east) elevation would contain two window opening and the rear (south) elevation would also contain two window openings.

The external walls of the proposed extensions would each be finished in white painted render to match the existing dwelling with small elements of white painted brick work on the front elevation. The frames of the new windows and doors would have aluminium anthracite coloured frames. The pitched and hipped roofs of the proposed extensions would be clad in slate.

Submitted drawings also show the intention to undertake alterations to the existing dwelling. These alterations include the replacement of its windows, re-slating of its roof, enlargement of windows and re-rendering the external walls. Such works are permitted development and therefore do not require planning permission and do not form part of this planning application.

Subsequent to the registration of the application, revised drawings have been received to show revisions to the proposals reducing the size and scale of the development.

DEVELOPMENT PLAN

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.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of this application. Policies DP5 (Extensions and Alterations to Existing Buildings), DC6 (Development in Coastal Areas) and DC9 (Special Landscape Areas) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Also material to the determination of the application is supplementary Planning Guidance (SPG) on 'Special Landscape Areas' adopted by the Council on 30th October 2018 and SPG on 'Countryside and Coast' adopted by the Council on 29th October 2019. The SPG expands on policies that are set out in the East Lothian Local Development Plan 2018.

REPRESENTATIONS

24 public letters of objection have been received in relation to the application. The main grounds of objection are:

- Development will have an over bearing visual appearance;
- Out of character with other properties within The Bay;
- Out of keeping with the Special Landscape Area;
- Harmful risk to delicate access road;
- Inappropriate due to excessive scale of development;
- Development will result in harmful change to scenic location;

- Will set a precedent for other properties in the area to develop;
- Harmful visual impact to the coast line;
- Properties in Canty Bay serve as second homes and it should be the practice of the Council to prevent them as being used as permanent residence;
- Concerns over the stability of the hillside - submitted plans fail to give detail of excavation proposals in relation to the development;
- Canty Bay is a unique and treasured part of the East Lothian coast line;
- Canty Bay is no place for modern construction;
- Development will dominate landscape and overshadow the overall location;
- Environmental and visual impact on coastal area;
- Development should not be considered an extension but a new house;
- The proposed materials are out of keeping with the area;
- Dignity and privacy of young children to be abused by overlooking;
- Excavation works will result in detrimental impact on ecosystems;
- Birds may fly into glazing;
- Development of the property could result in child protection issues and safe guarding;
- Development would overshadow the cub cottage and physically dominate the area next to the property;
- Overlooking will result from the north and west elevations;
- Existing glazing on the front elevation of the existing house does not have permission and was subject of enforcement case that wasn't resolved and,
- Development on site will disrupt badgers.

One public letter of representation has also been received to the application which neither supports nor objects to the application.

This is an application for an extension to a dwelling. The applicant is aware that the building is a dwelling and not a house and that occupation of the dwelling is limited to 11 months of the year as per a Section 50 agreement subject of application ref: 95/00089/HIS_P. The dwelling cannot be occupied in February of any year which has been agreed with the applicant.

As the dwelling is not located within a conservation area then planning permission is not required for alterations to the house including alterations to windows, replacement windows, the installation of roof lights or small extensions to its side and rear elevations. The windows on the front elevation of the dwelling did not require planning permission and there are no records of any other Planning enforcement investigations being opened on the property. There are therefore no unresolved enforcement cases outstanding on the property.

There is sufficient detail submitted with the application to reasonably enable the Planning Authority to take a decision on this planning application.

There are no excavations proposed to the steep hillside of Canty Bay to the rear of the property. Submitted drawings show that to allow for the extension to the front of the house excavation works into the front garden ground would be carried out. The planning authority are satisfied that such works to expose the basement level of the building are acceptable and would not require additional information from a structural engineer to be submitted to allow for the assessment and determination of the application.

The protection of Badgers is covered under separate legislation, Protection of Badgers Act 1992, which relates predominantly to protection of badgers whilst they are in their sett.

It is unclear why an extension to a dwelling could result in child protection issues and safe guarding. Any matters relating to child protection should be raised with Police Scotland. It is not therefore a material planning consideration in the determination of this application.

The road leading to Canty Bay is a private road and the maintenance of that road is a private matter between the respective owners of the properties that it serves.

On the matter of precedent any other planning application received would be determined on its merits in accordance with the Development Plan unless material considerations indicate otherwise. Any alterations or extensions to a building would need to be appropriate to their setting and not out of keeping with it to be supported.

COMMUNITY COUNCIL COMMENTS

None.

PLANNING ASSESSMENT

Canty bay sits within The St Baldred's Coast which is noted in the Countryside and Coast SPG as being highly scenic with spectacular panoramic coastal and sea views. It is part of the Constrained Coast and the SPG notes that settlements within this part of the coast are small in scale, consisting of small groups of historic farm buildings or houses, mostly huddled into dips at the coast as at Canty Bay. It specifically notes that at Canty Bay whitewashed buildings with a mix of slate and pantiled roofs are set around the small sandy beach creating a picture postcard scene.

The existing buildings within Canty Bay comprise three buildings which are owned and used for holidays and residential trips by the Scouts and other groups. These buildings like the applicant's house have whitewashed walls but have pantiled roofs. They have been previously altered and extended and have roof lights, dormers and solar PV panels on their roofs. At the western end of the bay is a large detached two storey house known as The Big House which has whitewashed rendered walls and a slated roof. At the eastern end is the applicant's house and the wooden cabin type building known as The Hut. Further to the east are the buildings of Chilliwack and Ingridstuen. To the rear of the applicant's house and much further up the hillside is the neighbouring house of Sea Spray.

The applicant's dwelling is a whitewashed building with a slate roof and large glazed openings. It is a single storey and basement dwelling that sits back from and on a higher ground level than the single storey building to the northwest. Attached to its south (side) elevation is a porch component that is lower in height than the main building. The dwelling has and a stepped terrace projecting out from its front elevation and an elevated timber deck on its west elevation. It has large modern casement windows on its front (north) elevation and smaller windows on its side elevations.

This application is for extensions to an existing dwelling. It is not for the building of a replacement dwelling. The floor plans and elevation drawings submitted in support of the application sufficiently demonstrate that the existing dwelling will be retained and extended. The proposed extensions will increase the footprint of the existing dwelling by some 44% however not to the extent that it would be considered a new dwelling. As extensions to an existing dwelling in a constrained coastal location the principle of the proposals are not contrary to Policies DC1 or DC6 of the adopted East Lothian Local Development Plan 2018.

The application site is well contained within Canty Bay being set down from the public road of the A198. Consequently, the applicant's house and the proposed extensions would only be seen in very limited views from within Canty Bay. In those views of the house from within Canty Bay, the appearance of the house as it is to be extended would change. However this change would not be from any increase in the height of the house. Instead this would be from the exposure of the sunken component of the existing basement level of the house through the re-grading of the front garden.

Since the application was submitted the proposed extensions have been revised and reduced in size and massing. As now proposed each of the proposed extensions would be of a size and scale that would not either individually or cumulatively be excessive or harmfully out of keeping with the size and scale of the existing single storey and basement dwelling. The extension to the lower ground floor is now proposed to be set back from the edge of the cantilevered deck above and proposed to be faced in a different material to the rest of the north elevation which will reduce its prominence. Furthermore, the amount of material to be excavated has been reduced to retain some screening of the lower part of the lower ground floor so that the whole height of the lower ground floor is not visible in longer range views from the coast to the north.

Therefore and with their largely whitewashed walls, slated roofs and large glazed openings roofs, the proposed extensions would each appear sensitively designed and would not appear out of keeping with character and appearance of the existing dwelling or the neighbouring buildings of Canty Bay. In the context of the other buildings that form part of the character of Canty Bay the proposed extensions would not, by virtue of their architectural form, height, size, scale, design, proportions, materials and position, cause the dwelling to appear harmfully oversized or architecturally incongruous in its setting. The proposed extensions would not have an overbearing appearance on the house. They would not be inappropriate additions to the dwelling and would not be harmful to the character and appearance of the dwelling or to the character and appearance of the Canty Bay area consistent with Policy DP5 of the adopted East Lothian Local Development Plan 2018.

Policy DC9 of the adopted East Lothian Local Development Plan states that development in a Special Landscape Area must not prejudice the special qualities of the area.

The proposed extensions would increase the overall footprint of the dwelling but not on a significant scale. **The Council's Landscape Policy and Projects Officer** has advised that although the proposals will be a change to the existing building, that through the revised proposals consideration has been given to keeping the proposal more in character with the adjacent buildings.

Therefore and as the extensions would be seen against the backdrop of and in relation to the existing dwelling they would not significantly change the character of Canty Bay or increase the number of buildings within it. As such the proposed extensions to the dwelling would not harm the Special Landscape Area of the St Baldreds Coast consistent with Policy DC9 of the adopted East Lothian Local Development Plan 2018 and with the Council's supplementary Planning Guidance on 'Special Landscape Areas' and 'Countryside and Coast'.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new development and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new development and the windows of existing neighbouring residential properties.

The application site is bounded to the west by the building in the ownership of the Cub Scouts. That building does not directly face the applicant's house. Furthermore the boundary of its associated land would be more than 9 metres from the proposed side (west) extension.

There are no residential properties within 80 metres of the existing dwelling and therefore, the proposed openings on each of the extensions would not allow for a harmful loss of privacy or amenity to any neighbouring residential property or land use.

Due to their size, scale and positioning in relation to neighbouring residential properties the proposed extensions would not cause a loss of amenity through overshadowing of any neighbouring residential properties.

On those matters of amenity the proposed extensions are not contrary to Policy DP5 of the adopted East Lothian Local Development Plan 2018.

The Council's Road Services raise no objection to the application being satisfied that it would not cause any harm to road safety consistent with Policy T2 of the adopted East Lothian Local Development Plan 2018.

The Council's Biodiversity Officer was consulted on the application. She made no comments on the matter of the potential of birds flying into the windows of the house. She notes that whilst there are signs of badger activity in the area, separate legislation protects badgers whilst they are in their sett. She is satisfied that badgers would not be impacted by this development given its location and scale and is satisfied that no further information is required for this application in relation to Biodiversity.

The proposals are not inconsistent with Policies DC1, DP2, DP5, DC6 and DC9 of the adopted East Lothian Local Development Plan 2018. The proposed development is also consistent with the Council's supplementary Planning Guidance on 'Special Landscape Areas' and 'Countryside and Coast'.

RECOMMENDATION

That planning permission be granted subject to the undernoted conditions:

- 1 Prior to the commencement of development a sample or specification of the external finishes of the extensions hereby approved shall be submitted to and approved by the Planning Authority and the materials used shall accord with the details so approved.

Reason:

To safeguard the character and appearance of the Special Landscape Area.

REPORT TO: Planning Committee
MEETING DATE: Tuesday 17 August 2021
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

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*Note - this application was called off the Scheme of Delegation List by Councillor Findlay for the following reason:
To give local residents an opportunity to express their fears and concerns and allow the Planning Committee to consider it in full.*

Application No. **21/00564/P**

Proposal Section 42 application for variation of condition 1 of planning permission 20/01120/P

Location **48-52 Dunbar Road
North Berwick
East Lothian
EH39 5AB**

Applicant Aldi Stores Ltd

Per Avison Young (UK) Ltd

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSALS

This application relates to the Aldi supermarket in North Berwick. The site of the store occupies a corner site immediately to the south of the junction of Glenburn Road and Dunbar Road. The service yard for the store is located to the west of the site and is accessed off Glenburn Road, as is the store car park for customers. It is within a mixed use area as defined by RCA1 of the adopted East Lothian Local Development Plan 2018. It is outwith the defined town centre of North Berwick.

Outline planning permission ref: P/00696/92 (now planning permission in principle) was granted on 18 March 1993 for the erection of the supermarket and associated access and car parking.

In February 2015 planning permission (Ref: 14/00968/P) was granted for a variation of Condition 7 of planning permission P/00696/92 to change the opening hours from 08.00 to 20.00 Monday to Friday and 08.00 to 18.00 Saturdays and Sundays to 08.00 to 22.00

Monday to Saturday and 09.00 to 19.00 Sundays.

In January 2021 planning permission (Ref: 20/01120/P) was granted for a variation of Condition 1 of planning permission 14/00968/P to change the opening hours from 0800 to 2200 Monday to Saturday and 0800 to 1900 hours on Sundays to 0800 to 2200 Monday to Saturday and 0800 to 2000 hours on Sundays.

Condition 1 of planning permission 20/01120/P states:

"The supermarket will not be open to trading outwith the hours of 0800 to 2200 Monday to Saturday and 0800 to 2000 hours on Sundays. No goods delivery vehicles will enter or leave the site or remain parked within the site between 2300 to 0700 hours Mondays to Sundays. No offloading or loading of goods or refuse to or from vehicles or containers will take place to or from the premises during those hours.

Reason:

To safeguard the amenity of the occupants of nearby residential properties'

Planning permission is now sought for a variation of condition 1 planning permission 20/01120/P to change the hours that restrict goods delivery vehicles entering or leaving the site to offload or load goods or refuse from 2300 to 0700 hours Mondays to Sundays to 2300 to 0530 hours Mondays to Sundays.

The change of the hours that restrict goods delivery vehicles entering or leaving the site is sought in order to allow a sufficient period of time for fresh goods to be delivered and stacked for sale within the store prior to its amended hours of opening.

A Planning Statement and an Acoustic Report (dated April 2021) have been submitted in support of the application.

DEVELOPMENT PLAN

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.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of this application. Relevant to the determination of the application are Policies RCA1 (Residential Character and Amenity) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018.

REPRESENTATIONS

One public objection has been received to the application on grounds that the proposed change of the hours that restrict goods delivery vehicles entering or leaving the site will result in increased levels of noise and pollution affecting the amenity of neighbouring residential properties.

COMMUNITY COUNCIL

North Berwick Community Council have been consulted on the application and object to the application on grounds that noise generated by the arrival and departure of trucks and the

unloading process during the proposed amended hours would negatively impact on the amenity of the occupants of residential properties located on Glenburn Road.

PLANNING ASSESSMENT

The supermarket use of the site has previously been established by the grant of outline planning permission P/00696/92 (now planning permission in principle). The determination of this application therefore rests on an assessment of the likely additional impacts the proposed change of the hours that restrict goods delivery vehicles entering or leaving the site by one-and-a-half hours to 2300 hours-0530 hours Mondays to Sundays would have on the amenity of any neighbouring uses, including neighbouring residential properties.

With regard to these considerations Policy RCA1 of the adopted East Lothian Local Development Plan 2018 requires that the predominantly residential character and amenity of existing or proposed housing areas will be safeguarded from the adverse impacts of uses other than housing and that development incompatible with the residential character and amenity of an area will not be permitted.

The submitted Acoustic Report provides an assessment of the effect that the proposed changes of the hours that restrict goods delivery vehicles entering or leaving the Aldi store by one-and-a-half hours to 2300 hours-0530 hours Mondays to Sundays would have on the pre-existing noise climate and on the closest residential properties. It informs that the primary noise source within the vicinity of the site during the hours of 2300 hours-0530 hours Mondays to Sundays is traffic noise from vehicles passing along Dunbar Road and the local road network. It concludes that the noise generated from the proposed extended period for goods delivery vehicles entering or leaving the Aldi store would not result in any harmful loss of amenity for the nearby residential properties.

The Council's Public Health and Environmental Protection Officer has perused the Acoustic Report and raises no objection to the application, being satisfied that the proposed change to allow goods delivery vehicles to enter or leave the site to offload or load goods or refuse from 2300 to 0530 hours Mondays to Sundays would not result in any harmful noise impacts on any neighbouring or nearby residential property and thus would not result in any harmful impact on the amenity of such residential properties.

The Council's Roads Services have been consulted on the application and raise no objection to it, being satisfied it would not cause issues of road safety consistent with Policy T2 of the adopted East Lothian Local Development Plan 2018.

As there would be no harmful impact on the amenity of neighbouring residential properties by the proposed change of the hours that restrict goods delivery vehicles entering or leaving the site by one-and-a-half hours to 2300 hours-0530 hours Mondays to Sundays, the proposed variation of Condition 1 of planning permission 20/01120/P does not conflict with Policy RCA1 of the adopted East Lothian Local Development Plan 2018.

Annex I of Planning Series Circular 3/2013 (Development Management Procedures) provides guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". Therefore, planning permission should be granted subject to the applied for variation to condition 1 and subject to all of those conditions from planning permission 20/01120/P where it is intended these should apply. In this case condition 2 (Noise Levels) should continue to apply.

RECOMMENDATION

That planning permission be granted subject to the undernoted conditions:

- 1 The supermarket will not be open to trading outwith the hours of 0800 to 2200 Monday to Saturday and 0800 to 2000 hours on Sundays.

No goods delivery vehicles will enter or leave the site or remain parked within the site between 2300 to 0530 hours Mondays to Sundays. No offloading or loading of goods or refuse to or from vehicles or containers will take place to or from the premises during those hours.

Reason:

To safeguard the amenity of the occupants of nearby residential properties

- 2 Noise levels emanating from the site shall not exceed L90 background levels by more than 5dBA as measured in accordance with BS4142 in relation to nearby noise sensitive properties within the proviso that noise levels originating from the ventilation and refrigeration plant shall not exceed noise rating curve (NR25) at any frequency when measured in the bedrooms of nearby properties.

Reason

To safeguard the amenity of the occupiers of nearby residential properties