



UK Space Agency
Polaris House
North Star Avenue
Swindon
SN2 1SZ

T [REDACTED]
E info@ukspaceagency.gov.uk
W gov.uk/ukspaceagency

13 November 2018

Your reference: AW3/W.8007.1

By email to: [REDACTED]

Dear [REDACTED]

RE: Melness Estate Vertical Launch Site

Thank you for your letter of 11 October 2018, sent on behalf of your client [REDACTED] raising concerns regarding a potential spaceport on the land of the Melness Crofters Estate, Sutherland.

Britain is aiming to be the first place in mainland Europe to launch satellites. Industry analysis suggests there is a real opportunity for the UK to compete for a substantial share of a market for launching an estimated 2,000 small satellites by 2030. Scotland is the best place in the UK to reach in-demand satellite orbits with vertically launched rockets. Highlands and Islands Enterprise (HIE) estimates the proposed spaceport in Sutherland could, if approved, provide 40 high skilled local jobs and 400 across Scotland.

HIE are responsible for the development of the spaceport and we are assured by HIE that they are giving due consideration to the issues raised in your letter. HIE have also assured us that they will seek all relevant regulatory, environmental and planning approvals.

Thank you for writing on this important issue.

Yours sincerely,

A handwritten signature in black ink, appearing to be "Graham Turnock".

Graham Turnock
Chief Executive, UK Space Agency

Cc by email to:

Charlotte Wright

03 JAN 2019

Ivan McKee MSP
Minister for Trade, Investment and Innovation
Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Our Ref: AW3/W.8007.1
Your Ref:
Reply To: Edinburgh

Date: 6 December 2018

DT: 0131 260 [REDACTED]
DF: 0131 271 [REDACTED]
E: [REDACTED]

Dear Mr McKee

[REDACTED]
**Melness Crofting Estate
Vertical Launch Site at A'Mhoine**

Thank you for your letter of 19 November in response to my letter of 11 October to [REDACTED] of the UK Space Agency, which was copied to Mr Wheelhouse, among others. Apart from your reply the only other responses received were acknowledgements from [REDACTED] of Lockheed Martin, [REDACTED] of Orbex and [REDACTED] the UK Space Agency. No response has been received on behalf of the Secretary of State at the Department of Business, Energy and Industrial Strategy, HIE, or [REDACTED] my client's constituency MSP.

My client notes that you have asked HIE to understand the concerns of the local community, unfortunately the approach adopted by HIE to date has shown little regard for the community, and my client fears that, notwithstanding your request, there appears to be little change to that approach.

You mentioned in your letter the vote by the members of the Melness Crofters Estate. My client believes that not all members of the company, of which he is one, were given ballot papers and the supporting

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information, however there is no membership list for Melness Crofters Estate and it is difficult therefore to establish the true position. Nevertheless the Melness Crofters Estate constitutional documents provide that anyone who holds a crofting interest in the area is entitled to be a voting member of the company. As stated in my letter of 11 October, according to the Crofting Commission's records, there are some 80 crofters with rights to the land affected. The result of the ballot was, I understand 27 in support and 18 against. The result being that approximately one third of the crofters in the area actively support the launch site. My client believes many are opposed to the project, but are intimidated into silence.

You will be aware of concerns which have been raised in respect of the conduct of the ballot, the lack of any members' meeting at which questions could be asked, the lack of regard to the company's constitution, and the misleading information issued to members who received ballot paper. We are currently considering whether or not to initiate a formal legal challenge to the validity of the ballot. In particular we believe the ballot ought to have been the subject of a special resolution, as support of the launch site implies a change to the objects of the company which, in terms of company law, requires a 75% majority.

In any event, I should make you aware that my client and others remain deeply opposed to the development of a launch site on the Melness Estate, and will object to any planning application submitted in relation to it. Any such application will require baseline environmental surveys over a number of months, and possibly in successive seasons and thereafter preparation of a detailed Environmental Impact Assessment, which is likely to take many months.

It should also be anticipated that there will be significant objections to any application to the Scottish Land Court either to resume land from the common grazings, or for authorisation of a scheme for development under s.19A of the Crofters (Scotland) Act 1993. It is a matter of public record that I acted for Viking Energy LLP in respect of their successful application for approval of a scheme for development in respect of the Viking wind farm on Shetland. There were only five valid objections to that application. Notwithstanding that, the timeframe from application to obtaining a final decision from the Land Court in that case was over a year, disregarding time when the application was sisted, and with no appeal.

The publicly stated requirement is that a launch capability is established and operational by 2021, as otherwise the opportunity window will have closed and alternative sites elsewhere will have captured the market. Given the likely timeframe for planning consent to be obtained, if it is granted, and thereafter the approval of the Scottish Land Court to remove the affected land from crofting tenure, and taking account of the prospect of significant opposition to each of those necessary approvals, it would appear that there is virtually no prospect of achieving operational status of a launch site at Melness by 2021.

To be clear, my client is not opposed to the concept of a satellite launch site and readily accepts that there may well be many benefits to the wider Scottish and UK economy from such a project. However he does not believe A'Mhoine to be a suitable location for a vertical launch site. Having made some inquiries I understand that, in terms of technical capability, the privately promoted site on Unst would be preferable for a number of reasons. Indeed, as I understand it, launch capability from A'Mhoine for certain orbits is limited due to the need for the launch vehicle to perform "dog-leg" manoeuvres, a far from straightforward thing, in order to avoid populated areas being affected by potential debris in the event of vehicle malfunction.

We believe the UK Space Agency preference for the site on A'Mhoine is based on false assurances given by Highlands and Islands Enterprise, in turn in reliance on the assurances of a minority of residents at Melness.

Given the very real prospect of not meeting the required timeframe, along with technical limitations on launch capability from A'Mhoine, I would respectfully urge you, on behalf of my client, to direct Highlands and Islands Enterprise to focus their energies on securing an alternative project site which is more likely to achieve a successful outcome for Scotland, and the UK as a whole.

Yours sincerely

A large black rectangular redaction box covers the signature of the sender.

Partner
for and on behalf of Gillespie Macandrew LLP

CC

The Rt Hon. Greg Clark MP
Graham Turnock, UKSA
Fergus Ewing MSP
Gail Ross MSP
Charlotte Wright, HIE
[REDACTED] Lockheed Martin
[REDACTED], Orbex

From: Minister for Energy, Connectivity and the Islands
Sent: 11 October 2018 14:53:30
To: Public Engagement Unit
Cc: Minister for Energy, Connectivity and the Islands
Subject: FW: UK Vertical Launch Site

Attachments: W.08007.00001 - Ltr GT UKSA 11 Oct 2018.pdf

AO - [REDACTED]

Grateful if this can be added to MACCS.

Best wishes,
David

[REDACTED] | Private Secretary to Paul Wheelhouse MSP, Minister for Energy,
Connectivity and the Islands
The Scottish Government | Web: www.gov.scot<<http://www.gov.scot/>>
Tel: [REDACTED] | Mobile: [REDACTED] | Email:
MinisterECI@gov.scot<<mailto:MinisterECI@gov.scot>>

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From: [REDACTED]

Sent: 11 October 2018 14:48
To: Minister for Energy, Connectivity and the Islands
<MinisterECI@gov.scot<<mailto:MinisterECI@gov.scot>>>
Subject: FW: UK Vertical Launch Site

Dear Minister,

I am forwarding to you a copy of a letter sent today to the Chief Executive of the UK Space Agency on behalf of my client, [REDACTED], in relation to the proposed Vertical Launch Site at Melness in Sutherland.

Yours faithfully

[REDACTED]
Partner
for and on behalf of [REDACTED] LLP
[Description: Description: Description:
http://www.gillespiemacandrew.co.uk/media/175873/gillespie_macandrew_logo_rgb_email_sig.png]<https://www.gillespiemacandrew.co.uk/>>
5 Atholl Crescent

Edinburgh EH3 8EJ

Tel:
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Mob:
Web:

[Description: Description: Description:

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GILLESPIE MACANDREW

[REDACTED]
Chief Executive Officer
UK Space Agency
Electron Building
Fermi Avenue
Didcot
Oxfordshire
OX11 0QR

Our Ref: AW3/W.8007.1

Your Ref:

Reply To: Edinburgh

Date: 11 October 2018

DT: [REDACTED]

DF: [REDACTED]

E: [REDACTED]

Dear Sir

Melness Estate UK Space Agency Vertical Launch Site

We act on behalf of [REDACTED] who is a member of the crofting community at Melness Estate, Sutherland, and have been asked to write to you to express concerns that [REDACTED] and a significant number of members of the community have in relation to the Vertical Launch Site which it is proposed will be sited on the Estate.

Melness Crofters Estate

Melness Estate was gifted to the local crofting community by the previous private owner for the benefit of the community. Title to the Estate is held by Melness Crofters Estate, a company limited by guarantee. The Company's Objects, as stated in its Memorandum of Incorporation are:

"to act as heritable proprietors as well as superiors and landlord of the lands of Melness,

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to manage the lands for the benefit of the community of Melness

to apply any profits to local purposes”

The terms of the Objects emphasise that the Company holds title for the benefit of the community of Melness and, in our view, the Company is in the position of a nominee holding title for the benefit of the members of the Melness community from time to time.

Further, the terms of the Company’s Objects are clear, and we do not consider a development such as the Vertical Launch Site is compatible with those Objects, as there is no discernible benefit to the community of Melness from the loss of land which would result from such a development.

Our client is a director of the Melness Crofters Estate, and is aware that a number of members of both the Company and the wider crofting community oppose the Vertical Launch Site proposal, and the likely impact that such a development would have on the crofters’ ability to utilise the estate lands for crofting purposes.

You should be advised that whilst it is understood assurances have been given to Highlands and Islands Enterprise that the Company supports the proposed development, the proposal has not been discussed by the Board of the Company nor has the question of support, or otherwise, for the proposed development been approved by the Board by means of a vote. Further, no information has been provided to the members of the Company, or the wider community, in respect of the proposal, far less any members vote held to establish the views of either the membership of the Company or the wider community.

Given the Company’s purpose and the terms of its governing documents, we consider this to be a significant failure, and the assurances of support for the proposed development offered by particular individuals should be taken to be no more than an expression of personal support from the individual, or individuals, in question.

There are additional questions in respect of the governance of Melness Crofters Estate. In particular it appears that particular members of the current Board are operating under revised articles, which have not been subject to approval of the members, or lodged at Companies House, nor does there appear to be any accurate, current record of members of the Company. Indeed it appears from information provided to us that one or two individuals regard the Company as under their personal control, and seek to exert that control for their personal advantage. As such, the individuals in question have a clear conflict between their personal interests, and the interests of the Company of which they are office bearers. We appreciate however that these are issues which the Company itself must resolve, and are of no direct interest to you, but you should be aware that action may be taken to address the issue which may result in removal of the individuals in question from office.

Crofting Tenure

The land in question is subject to crofting tenure in the form of common grazing land. Some 80 individual croft holdings hold grazing rights in respect of the common grazing according to the Crofting Commission's records. Our client is one such crofter, and has sought our opinion on the likelihood of the proposed development being authorised by the Scottish Land Court, given the land is subject to crofting rights.

We have extensive experience of crofting law, in particular the process in respect of resumption of land from crofting tenure, and the approval of a scheme for development of croft land. In our opinion the proposed development is unlikely to satisfy the requirements for either authorisation of resumption, or approval of a scheme for development, as the statutory provisions relating to those processes are currently enacted, given significant local opposition. The timescale for such a process is, in any event, likely to be considerable, and may be measured in years rather than months, given the level of detail which is required to support such an application. It is highly unlikely, for example, that such an application could be made with any degree of confidence in the absence of planning consent for the proposed development.

It should be noted further that there have been incidences of threatening and intimidating behaviour by those local individuals who appear to support the development, some of whom are members of the Melness grazings committee. At least one such incident has been reported to the local constabulary.

Sporting Lease

We have had sight of a sporting lease to a third party over the land in question. This runs to September 2024. Melness Crofters Estate have no power to resume in whole or in part, or to terminate the lease. It is [REDACTED] understanding that the sporting tenants (a Wildland Limited company) are not in favour of industrial scale development in wild land areas, as evidenced by their recent Judicial Review of the Scottish Ministers granting of consent for a windfarm at Altnaharra. It is well known that Wildland Limited have wider interests and ambitions in the area that are incompatible with the proposed Vertical Launch Site facility.

It is our view that no development can take place on the subjects during the period of the lease, without Wildland Limited's consent.

Planning/Natural Heritage

Much of the Melness Estate area is designated as a Site of Special Scientific Interest, is within a Special Area of Conservation, a Special Protection Area, a RAMSAR designated site and a National Scenic Area. It is also included in the Ben Hope - Ben Loyal Wild Land Area (Area 38) as designated by Scottish Natural Heritage.

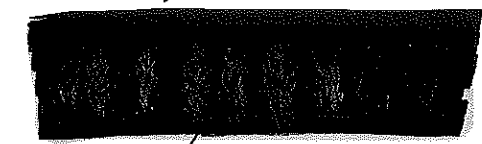
These designations are such that any other form of development, for example a wind farm, would be considered unacceptable in this location, and we see no reason why the proposed Vertical Launch Site development would, or should, be considered any differently under the planning process. Whilst part of the proposed site is not subject to some of these designations, protected species will frequent the entire development site.

Summary

Given all of the above, and the availability of other sites which are already utilised for similar purposes, such as the Ministry of Defence site on North Uist, and the site on Unst in Shetland, which appear to have genuine local support, the decision to select Melness as the preferred site for a Vertical Launch Site appears to be flawed, and unlikely to come to fruition given the challenges highlighted above. In addition my client is concerned at the steps taken by public agencies at UK and devolved levels alike, to press forward with the proposal, and questions the grounds for assurances given by agencies such as HIE and UKSA to prospective investors on the basis of legally uncertain ground.

You should be aware that our client and others will vigorously oppose the development of a Vertical Launch Site on Melness Estate by all lawful means.

Yours faithfully



Partner
for and on behalf of Gillespie Macandrew LLP

cc

The Rt Hon. Greg Clarke MP
Fergus Ewing MSP
Paul Wheelhouse MSP
Gall Ross MSP
Charlotte Wright, HIE



Minister for Trade, Investment and Innovation
Ivan McKee MSP



Scottish Government
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Mr [REDACTED]

By email: [REDACTED]

Your ref: AW3/W.8007.1
Our ref: 2018/0035303
19 November 2018

Dear [REDACTED]

Thank you very much for forwarding on to my colleague, Paul Wheelhouse, a copy of the letter you sent to the UK Space Agency on behalf of your client, [REDACTED]. As this was in relation to the proposed vertical launch spaceport in Sutherland, your correspondence has been passed on to me, as the Minister with the responsibility for the space sector in Scotland.

I have noted the concerns you have raised in relation to a number of issues regarding the project led by Highlands and Islands Enterprise (HIE). Following the vote by members of the Melness Crofters Estate in favour of leasing the land at the Mhoine to HIE the agency is continuing to engage with the local community around this issue. It is clear that a number of the Melness Crofters and local people are concerned about the spaceport development, therefore, I have asked HIE to ensure they take further steps to understand these concerns. In addition to this, HIE will continue to work with planning authorities and Scottish National Heritage to fulfil all its planning and environmental obligations.

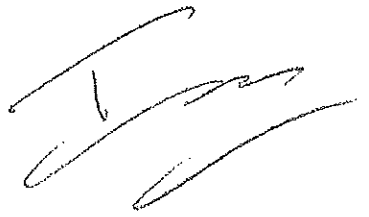
A spaceport is expected to open up a wide range of market opportunities for Scotland, which already builds more small satellites than any other place in Europe. Securing a first-mover advantage in launch capability will bring significant benefits and give us the chance to set the industry benchmark for scope and operational standards, leading to strong relationships with satellite operators and others in the sector.

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The Mhoine was selected by the UK Space Agency as the best place in the UK to deliver its small satellite launch ambition and with our enterprise agencies, we remain committed to developing a spaceport to deliver local and national economic benefits.



Ivan McKee

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