

ANNEX A


PAD

13 February 2019

Minister for Local Government, Housing and Planning

CALLED-IN PLANNING APPLICATION INCH CAPE WINDFARM ONSHORE WORKS AT FORMER COCKENZIE POWER STATION SITE, PRESTONPANS

Purpose

1. To seek your agreement to approve the application for onshore transmission works (OnTW) at Cockenzie in East Lothian, associated with Inch Cape Offshore Limited's (ICOL's) proposed offshore wind farm, and, in line with the Reporter's recommendation.

Priority

2. Routine.

Background to the project

3. ICOL have consent for an offshore wind farm in the North Sea around 15 km off the Angus coastline. ICOL has a grid connection agreement with National Grid to connect the project to the grid at the site of the former Cockenzie power station in East Lothian.

4. East Lothian Council granted planning permission in principle (14/00456/PPM) for the construction, operation and decommissioning of the onshore substation, electricity cables and associated onshore transmission infrastructure on 3 September 2014. That permission has since lapsed.

5. A fresh application for planning permission in principle for the substation and transmission works on a revised site was lodged with the Council in 2018 - this is the current application before the Minister.

6. The wider site at Cockenzie is designated in the National Planning Framework 3 as a National Development. The Cockenzie area has potential for significant investment in energy-related business development, highlighted in the NPF. The NPF goes on to state that the site is a potentially important energy hub, and that converter stations and sub stations for offshore wind would be a potential development, as would potential future thermal generation. The NPF is explicit in noting that given the particular assets of Cockenzie, if there is insufficient land for competing proposals, then the Scottish Government wish to see priority given to those which make best use of this location's assets and which will bring the greatest economic benefits.

Reasons for call-in

7. This application was called in whilst still under consideration by ELC. It was considered to raise matters which were potentially of national importance in the context of NPF3 expectations for the site of the former Cockerzie power station and the need for an enhanced high voltage energy transmission network.

8. In terms of funding timescales, the project is reliant upon Contract for Difference (CfD) funding, through which the UK Department of Business, Energy and Industrial Strategy provides support for delivery of low carbon technology in the electricity market. There will be a CfD auction in Q1 2019. It is a pre-requisite to making an eligible bid that all permissions and consents are in place. Calling in the application has brought some certainty in terms of the timing of the decision making process.

Summary of Reporter's Consideration

9. The Reporter has recommended the approval of the application. A note of the consultation responses received in relation to the application is set out at Annex A. A full copy of the Reporter's Report will be sent to the Minister under separate cover. The key matters considered in the report are summarised below:

National Planning Framework 3, Scottish Planning Policy, SESplan and SESplan2

10. National Planning Framework 3 sets out that the Cockerzie and Torness area is a potentially important energy hub and therefore Cockerzie is safeguarded as a site for potential thermal generation. NPF3 also recognises that Cockerzie may present significant opportunities for renewable energy related development. NPF3 therefore expects developers, the council, and key agencies to work together to ensure that best use is made of the existing land and infrastructure.

11. The reporter highlights that the emerging SDP, SESplan 2, whilst not approved, is part of the development plan and is a material consideration and better reflects the provisions of National Planning Framework than the existing SESplan. The Reporter goes on to conclude that for the purposes of her current assessment and in the context of the Act the 2013 SESplan 1 remains extant and part of the development plan. The Reporter concluded that the proposal would be in accordance with the NPF, Development Plan and SPP.

Further Policies and Strategies

12. The East Lothian Local Development Plan 2018 sets out a spatial strategy for the Prestonpans / Cockerzie / Port Seton / Longniddry Cluster. The wider area of surrounding land that includes this application site is subject to proposals EGT1 for Energy development. The Reporter concludes the development would be in accordance with this policy.

13. The Cockerzie Masterplan was published in August 2017 following community and stakeholder consultation, and sets out a possible vision of a mixed-use site including an employment zone, multi-purpose open space, landscaped areas with paths, an area for a potential energy quarter and an improved harbour setting with further employment space and infrastructure improvements. The Reporter concludes

that whilst the Masterplan has not been formally endorsed by the Council, it does represent some indication of a coordinated approach to the future development of the site. The Reporter concludes that the proposal is in general accordance with the requirements of the Masterplan.

Alternative Uses and Best Use of the land

14. The Reporter also heard evidence on an idea for a cruise terminal from opponents of the current proposals. The reporter found that there are no firm alternative uses proposed for the site which have materialised in the form of an application. The Reporter has taken an appropriate approach that their assessment focuses on the acceptability or otherwise of the application that was before them. The Reporter found that the current proposals represents the best current use of the site in accordance with NPF, the Development Plan and SPP.

15. The Reporter has sought to minimise land take arising from the proposals, and the report sets out conditions, which would ensure this is achieved. This will leave surrounding land to be developed for other uses, allowing for implementation of some of the other land uses proposed in the Council Masterplan

Landscape and Visual

16. A Landscape and Visual Impact assessment formed Part of the Environment Report for the application. The Reporter found that whilst there is a significant landscape and visual impact arising from the proposals, the landscape impact is not unacceptable when considered in the context of the support from the NPF, the development plan and Scottish Planning Policy. Mitigation is set out in the recommended conditions from the Reporter.

Flood Protection

17. The application was supported by a Flood Risk Assessment which considered potential tidal, surface and ground water flooding. SEPA has confirmed with the reporter that the development can be supported subject to a suitable mitigation condition to raise levels and improve tidal defences. There is agreement between the appellant and SEPA on wording for a suitable condition.

Historic Environment

18. A designated battlefield is in proximity to the site, to the south. Historic Environment Scotland commented that they were content any impacts on the historic environment will not be significant and they did not object to the planning application. There were calls from opponents during the processing of the original application in 2015, for it to be moved to this current site, to remove the impact on the Battlefield.

Transport and Access

19. The access would be via the existing access off the B1348 public road. The main site access route for construction would be via the A1, A198, B6371 and B1348 roads. Some temporary disruption would take place to the John Muir Way Footpath. Main traffic impacts would arise during construction and decommissioning, and these

matters have been suitably addressed via the Reporter's recommended planning conditions.

Natural Environment and Ecology

20. The potential impacts of disturbance and contamination of habitats can be addressed via a Construction Environment Management Plan, as proposed in the reporter's recommended condition 4. This will ensure that there is suitable mitigation in place to ensure no adverse impacts upon the Firth of Forth Special Protection Area, Ramsar, SSSI and Outer Firth of Forth and St Andrew bay proposed site which are within the surrounding area.

Habitat Regulations Appraisal

21. The Competent Authority (Scottish Ministers) must carry out a Habitats Regulations Appraisal (HRA). The reporter has undertaken such an appraisal in appendix 4 of their report to Ministers. This concluded that the proposals would not affect the integrity of the designated areas. Further details are set out in Annex F.

Environmental Impact Assessment

22. The Reporter's Report and appendix 3 set out their consideration. We are satisfied that the requirements of the EIA regulations have been met in the case of this proposal. Further details are set out in Annex F.

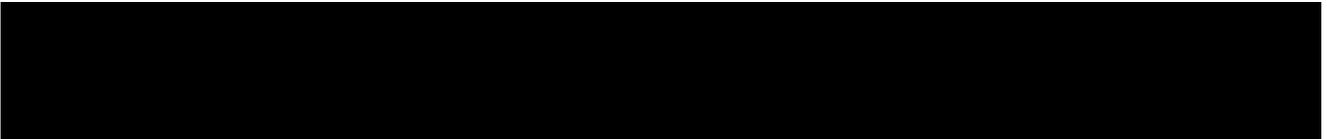
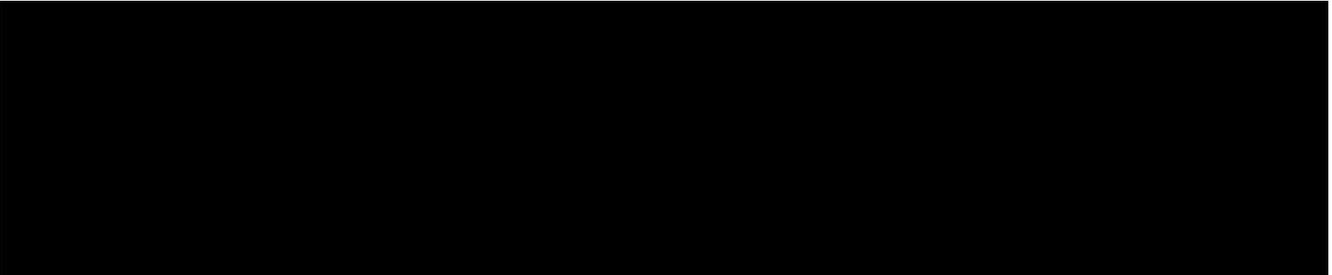
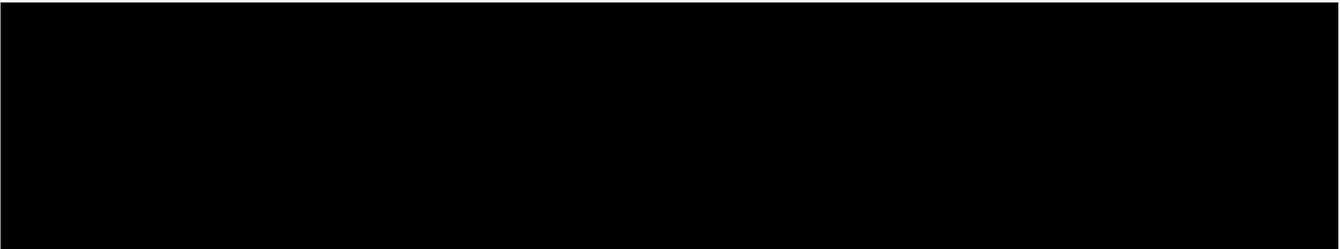
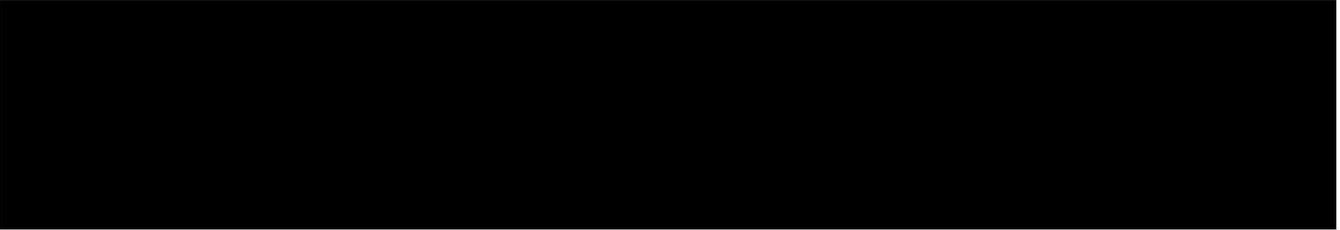
Reporter's Conclusions

23. The Reporter concludes that:
- the proposal does constitute national development, there are no current competing proposals, and the development would support national renewable objectives.
 - The proposals represents the best current use of the site in accordance with National Planning Framework 3 and Local Development Plan Policy EGT1.
 - There is an identified significant landscape and visual impact. The landscape impact is not unacceptable when weighed in the content of the support from the National Planning Framework, the development plan and Scottish Planning Policy.
 - The proposal is necessary to enable onshore transmission from the North Cape off-shore wind farm.
 - Subject to the appropriate mitigation there are no identified development plan policy conflicts.
 - The proposal is in general accordance with the Cockenzie masterplan albeit that this has not been endorsed by the Council. Aside from the landscape and visual impact I have identified no other significant environmental effects.

Planning Conditions

24. The Reporter recommends imposition of a series of planning conditions. In the case of the proposed mitigation conditions, these are necessary to ensure compliance with the development plan.

Presentation



Recommendation

30. The proposed development is considered to comply with the provisions of the National Planning Framework, the East Lothian Local Development Plan, and the Cockenzie Masterplan, in that the proposals are an acceptable form of development, and landscape impacts can be suitably addressed via imposition of planning conditions. The requirements in terms of Appropriate Assessment under the Habitat Regulations, and requirement for Environmental Impact Assessment have been met. There are no other material considerations which are present which would lead to an alternate conclusion.

31. You are invited to agree that the application be approved by Scottish Ministers.



Senior Planner
Planning and Architecture

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cabinet Secretary for Communities, Social Security and Equalities			X		
Cabinet Secretary for Environment, Climate Change and Land Reform			X		
Cabinet Secretary Transport infrastructure and connectivity.			X		
Minister for Energy, Connectivity and The Islands			X		

- DG Education Communities and Justice
- [REDACTED], Director of Energy And Climate Change
- [REDACTED] Director for LG and Communities
- [REDACTED] Chief Planner
- Solicitor to the Scottish Government
- [REDACTED] Deputy Director, Natural Resources
- [REDACTED] Assistant Chief Planner
- [REDACTED], Assistant Chief Planner
- [REDACTED] Planning Decisions
- [REDACTED]
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- [REDACTED], Planning Decisions
- [REDACTED], Head of Energy Industries
- [REDACTED] Energy Consents
- [REDACTED] Energy Consents
- [REDACTED], PAD
- [REDACTED] PAD
- [REDACTED] SGLD
- [REDACTED], SPAD
- Communications CSSE
- [REDACTED] Comms
- [REDACTED], Comms

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ANNEX A - CONSULTATION RESPONSES AND REPRESENTATIONS RECEIVED TO PLANNING APPLICATION

East Lothian Council Biodiversity Officer: The HRA concluded the proposal would not affect the integrity of adjacent European sites. The site corresponds with that of the former Cockenzie power station, and the area has limited biodiversity interest.

East Lothian Council Environmental Health: No concerns about air quality dust or noise subject to the following: (1) Dust Management Plan, (2) Construction Noise Management Plan, (3) Noise Impact Assessment, and (4) Updated assessment of vibration impact.

Scottish Water: No objection subject to advice on the protection of drinking water and S.W. assets. No water catchments or abstraction sources in the area that may be affected. There are SW assets in and around the proposed site.

Prestonpans Community Council: The proposal is contrary to the DPEA report of examination and modification to the LDP (East Lothian LDP) published on March 14th 2018. The previous approved site was inland. This new application does not “make best use of existing land, infrastructure and assets” as outlined in DPEA report of NPF3.

Cockenzie and Port Seton Community Council: Disappointed that the SG called in the application so early. Support such decisions being made at the local level. Appreciate the SG has the right to do so. Support the fully consulted masterplan published recently. This allocated part of the site for energy production

Historic Environment Scotland: Content any impact on the historic environment will not be significant, and do not object to the planning application. In respect of the battlefield, HES took issue with the categorisation of the significance of the battlefield in the submitted application details. However, ultimately they do not object to the proposals.

SEPA: Confirm a Flood Risk Assessment was provided in support of the EIA. This has taken into consideration all sources of flood risk. Ground water levels will have rebounded to natural elevations. The installation of shallow groundwater monitoring boreholes will be undertaken. This will inform the final design, and is supported by SEPA. The fluvial flood extent present on the site is possibly as a result of the demolition of the former power station. There is a potential for surface water flooding at the site, as levels are expected to be lower than the surrounding ground level. Consideration should be given to the size and location of the outfall to the Firth of Forth.

East Lothian Council Economic Development and Strategy Investment Services: The planning application is not welcomed at this time, and it is not considered the best use of the site. Then go on to comment there is no objection to the principle of the application or its purpose, but to its timing and specific location. Would rather see the development in its previously approved location.

East Lothian Council Transport Planning: Notes the content of the Traffic and Transport section of the EIA scoping report. Highlights the main requirements to be included in a Traffic Management Plan for subsequent approval of the council through a planning condition. Also notes a dilapidation survey required for the surrounding road network which would be impacted by construction traffic.

East Lothian Council Landscape: Notes that significant effects on landscape and visual amenity will be limited to the immediate vicinity within 2 km of the substation. Whilst bunds

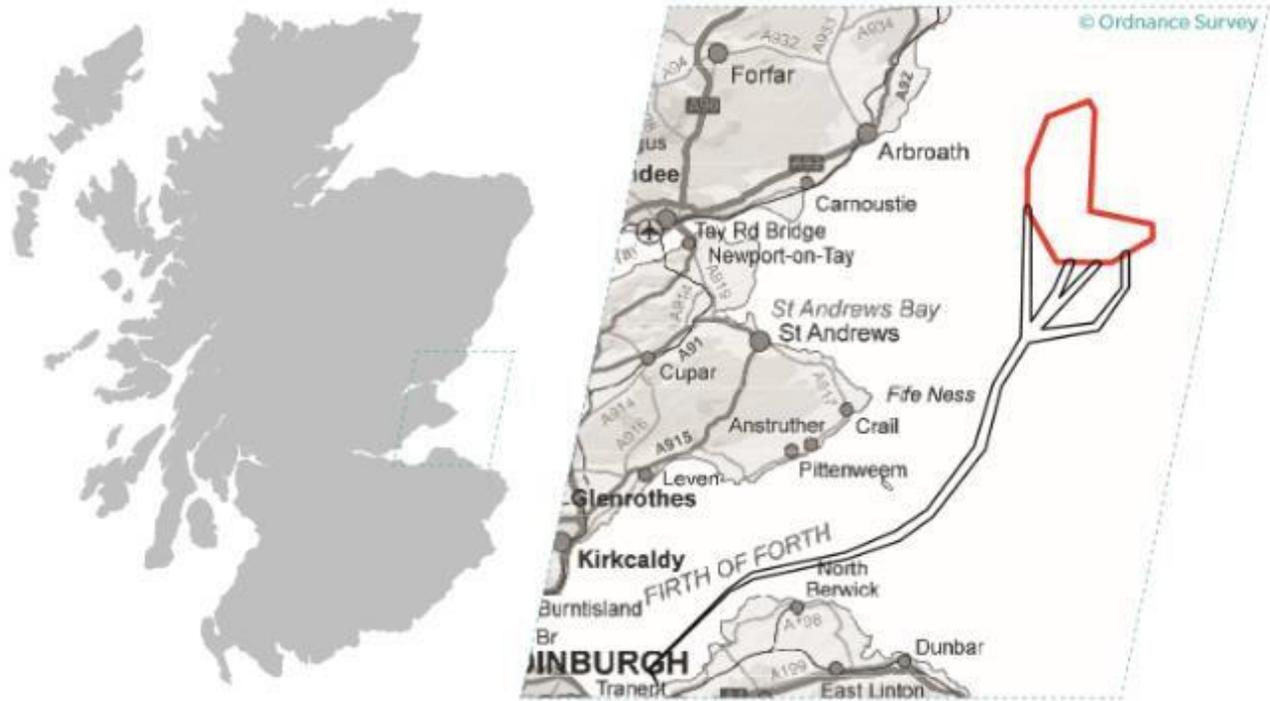
reduce the impact somewhat of the larger building, the Landscape service conclude that the scale of the proposed substation would not be successfully integrated with the landscape of the area. The development would have a detrimental impact on surrounding landscape character. Object to the adverse impacts of the domineering proposed structure.

SNH: Express concerns around adverse landscape and visual impacts, noting the significant adverse impacts on sequentially experienced views from the Edinburgh Road, passing through Cockenzie, existing the settlement and travelling past the site and towards Prestonpans. Queried whether the proposed development constituted best use of the site. SNH notes that there was disagreement on some points of the original HRA methodology, however the data can be used to reach a conclusion of no adverse effects upon site integrity for all relevant Natura Sites. The approach used to assess impacts on the Forth Islands Special Protection Area is not supported by SNH, however, when read alongside the previous the previous 2014 assessments, it can be used to reach a conclusion of “no adverse effects upon site integrity“ for all relevant Natura sites.

RSPB: In summary, the proposed onshore development site is situated adjacent to the Firth of Forth Special Protection Area (SPA) a European Designated site. Accordingly, East Lothian Council, as the competent authority is required to carry out an appropriate assessment (AA) to determine if the proposed development is likely to have a significant impact on the designated features of the SPA. RSPB go on to make comments on the assessments undertaken, advising that they are content the conclusions of the original HRA should still stand. Further comments are made on the impacts on cabling work on the rocky foreshore, mitigation, and conservation considerations.

Representations: 38 written representations, of which 36 were objections.

ANNEX B – APPROXIMATE LOCATION OF PROPOSED INCH CAPE WINDFARM AND PROPOSED OFFSHORE CABLE EXPORT CONNECTOR



(Drawing ©ICOL Ltd and Ordnance Survey)

ANNEX C – CLEARED SITE AS AT JULY 2018.



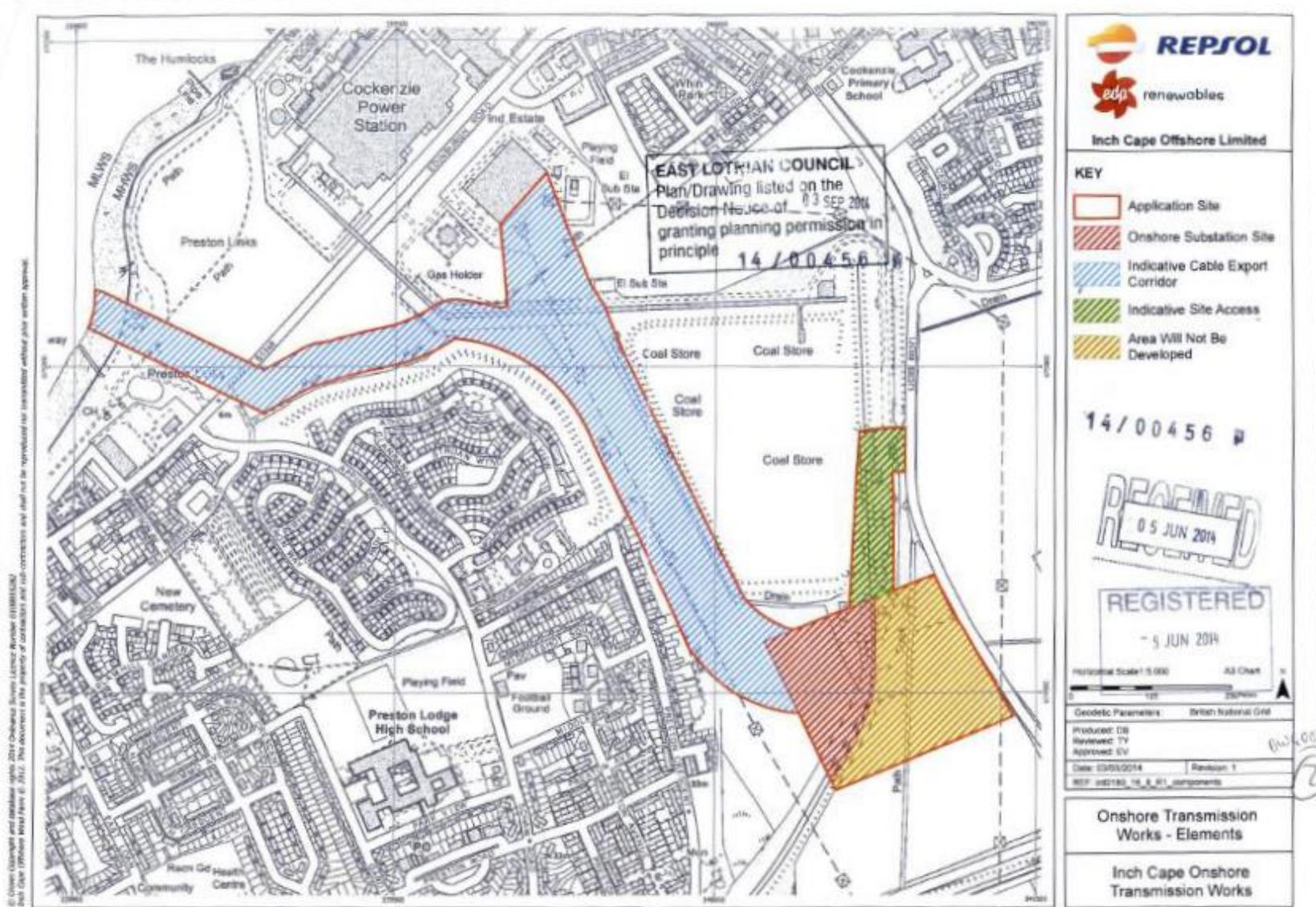
(Image © T Nugent - Creative Commons License)

ANNEX D - DRAWING FROM CURRENT APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE



(Drawing ©ICOL Ltd / SLR Consulting Ltd Global Environmental Solutions)

ANNEX E, LAPSED CONSENT PLAN FROM 2014 PLANNING PERMISSION



(Drawing ©ICOL Ltd / Formerly Repsol S.A. and EDP Renewables)

ANNEX F – STATEMENTS ON APPROPRIATE ASSESSMENT AND CONSIDERATION OF EIA BY SCOTTISH MINISTERS

HABITATS REGULATIONS APPRAISAL and APPROPRIATE ASSESSMENT

An Appropriate Assessment (AA) determines the potential significant effects of a project or plan on listed European species and habitats. A Habitats Regulations Appraisal (HRA) comprises both the process for determining whether an 'appropriate assessment' of the environmental risk is required, and the appropriate assessment itself.

Ministers note that Appendix 4 of the Reporter's "Report to Scottish Ministers" dated 14th January 2019 sets out the Draft Habitats Regulation Appraisal undertaken by the Reporter.

Scottish Ministers, in determining this application are the competent authority in terms of the Habitats Regulations Appraisal. Scottish Ministers are satisfied that requirements in terms of the Habitats Directive (92/43/EEC) and the Conservation (Natural Habitats, &c.) Regulations 1994 have been met, and bearing in mind that this is an application for planning permission in principle, Ministers are satisfied that the proposal would not adversely affect the integrity of the noted designated sites.

ENVIRONMENTAL IMPACT ASSESSMENT

An Environmental Impact Assessment was undertaken.

The revised Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 came into effect on 16 May 2017. The applicant requested a scoping opinion from East Lothian Council on 13 July 2017, and this was issued on 5 September 2017. Consequently given these dates, the reporter confirms that the assessment falls under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 ('The EIA Regulations') and that the scoping request was made under regulation 17 of those regulations.

The applicant submitted revised visualizations to the Reporter. These were advertised as additional information under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.

The Reporter's report takes account of all submissions, documents and discussions, and takes account of the Environmental Assessment, along with its addendum, and all other environmental information as submitted by the parties, along with consultations and representations received.

Scottish Ministers note that Appendix 3 of the Reporter's "Report to Scottish Ministers" dated 14th January 2019 sets out the Reporter's Consideration against the

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requirements of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, which in summary, covers:

- the development
- Scoping Opinion
- Involvement of the Public
- Landscape and Visual
- Cultural Heritage
- Flood Risk
- Nature Conservation and Ecology
- Transport
- Hydrology, Geology and Hydrogeology
- Noise and Vibration
- Socio-Economic, Tourism, Land Use and Recreation
- Traffic and Transport
- Air Quality Impact Assessment

The Reporter reaches an overall conclusion that subject to the proposed mitigation measures, and that which would be secured through conditions, aside from landscape and visual, the Environmental Report did not identify any potential significant residual impacts (In terms of the EIA Regulations) on any environmental or human receptors during the construction, operation and decommissioning of the proposal. The reporter found nothing in the submitted environmental information nor the responses of the consultation authorities to lead her to a different conclusion.

Scottish Ministers are satisfied that requirements in terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 have been met.

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