

**REPORT TO:** Planning Committee

**MEETING DATE:** Wednesday 18 December 2019

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

**SUBJECT:** Application for Planning Permission for Consideration

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***Note** - This application was called off the Scheme of Delegation List by Councillor O'Donnell for the following reasons: given the large number of objections from local residents, the range of concerns raised by them and Cockenzie and Port Seton Community Council in relation to Health & Safety risks, noise, and loss of amenity, I ask that this application is called off the list so that the technical and environmental aspects of this application can be discussed in public by the Planning Committee.*

*This application was also called off the List by Councillor Bruce for the following reason: due to the large amount of interest and concern from local residents around this application, I believe the decision would be best made by Committee.*

Application No.     **19/00588/P**

Proposal             Erection of equipment testing facility, ancillary office, storage structures (Class 5) and associated works for a temporary period of 5 years

Location            **Former Cockenzie Power Station Site  
Prestonpans  
East Lothian**

Applicant            Skyrora Limited

Per                    Marwick Planning

**RECOMMENDATION**            Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

This planning application comprises part of the former Cockenzie Power Station site and more specifically a 0.45 hectare area of land occupying part of the former Coal Store of the former Cockenzie Power Station.

Cockenzie Power Station was a coal-fired power station, which was in operation until 2013.

In October 2011 the Scottish Government granted planning permission (Ref: IEC/CKE/001) under Section 36 of the Electricity Act 1989 to Scottish Power for the conversion of the power station building and operation of it as a Combined-Cycle Gas Turbine plant (CCGT) on the land of the former Cockenzie Power Station site. The Power Station has since been demolished.

In August 2015 Scottish Power announced that they would not be progressing with the development of a CCGT on the application site.

In March 2018 Scottish Power sold the former Cockenzie Power Station site to East Lothian Council. The land sold to the Council, which has an area of nearly 100 hectares, includes Preston Links and land to the south of the Cockenzie Coal store. The area of land sold to East Lothian Council also includes the current application site.

Planning permission in principle 18/00189/PPM was granted by Scottish Ministers in February 2019 following the call in of the application for proposed onshore transmission works associated with the Inch Cape Offshore Wind Farm comprising the construction, operation and decommissioning of an onshore substation, electricity cables and associated infrastructure required to export electricity from the Inch Cape Offshore Wind Farm to the National Electricity Transmission System infrastructure required to export electricity from the Inch Cape Offshore Wind Farm to the National Electricity Transmission System on an area of the former Cockenzie Power Station site to the north of west of the current application site.

Planning permission is now sought through this application for the erection of an equipment and propulsion testing facility, ancillary office, storage structures (Class 5) and associated works for a temporary period of 5 years.

The wider former coal storage depot of the former Cockenzie Power Station is enclosed by an existing bund approximately 8 metres in height. The application site by being located within the south east corner of the former coal storage depot is similarly largely enclosed by the existing bunds. The application site is accessed by the existing track which served the former coal storage depot. This access track connects with the B6371 public road to the east and the B1348 public road to the north.

The proposed rocket engine test centre would be located within a compound within the south east corner of the former coal store depot and would consist of a number of structures including a test chamber, fuel storage and feeding mechanism structures and a welfare building. The proposed compound would be accessed from the existing access track to the south of the application site reusing the former access route to the former coal storage depot.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls under the development description Schedule 2, Section 11 (f) of the EIA Regulations, in that it is an "other project, test benches for engines, turbines or reactors" which exceeds the 1,000 m<sup>2</sup> of new floor space threshold, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA.

On 12th April 2019 the Council issued a formal screening opinion to the applicant. The screening opinion concluded that it is East Lothian Council's view that the proposed development by virtue of its characteristics, location and characteristics of the potential

impact, is unlikely to have a significant environmental effect to the extent that an expert and detailed study through EIA is needed to properly assess any effect. Whilst it is considered that the development would require robust assessments and possible mitigation in respect of a number of issues, it is the opinion of East Lothian Council as planning authority that the proposed development does not constitute 'EIA development' under the terms of the EIA regulations. As such it is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

The applicant's agent has submitted a Design and Access statement in support of the planning application. The statement advises that:

'The proposal is for a rocket engine test centre with associated storage and welfare facilities. This is being developed for Skyrora one of Scotland's leading space engineering companies who will use the site to test rocket engines, which will further their research into the development of small satellite launch vehicles.

The site itself is an ideal location for the facility as the existing bund which enclosed the wider site, screens the surrounding areas from both the visual and acoustic impact of the development. The development has been situated to the South East corner of the site which further minimises any impact on the surrounding settlements, whilst allowing the remaining site to be utilised simultaneously if required.

The proposed structures consists of a 9m test chamber to the North of the compound with associated storage, feeding mechanisms and welfare facilities situated to the South. Adequate space has been allowed within the compound for the delivery of the fuel required for the rocket engine testing. The facility will be situated within a secure compound accessed from the South of the site. The proposed access reuses the former access route to the coal storage depot.

The proposal provides an exciting opportunity for East Lothian with the introduction of one of Scotland's leading space research companies to the region.

There will be very little visual impact due to the height of the existing bund. The bund will also mitigate any sound produced during periods of testing.

The temporary use of the site for the facility allows a currently vacant site to be occupied whilst safeguarding any future use of the site as outlined in the Local Development Plan.

In summary the development provides a great opportunity for East Lothian and has been developed to minimise its impact on the surrounding area and will safeguard future use of the site.'

In addition to the Design and Access statement the applicant has also submitted a Planning Statement which states:

'Skyrora Limited is developing launch vehicle technology for small satellites with the aim to reduce the cost of space launches through the combination of proven technology and advanced engineering methods. They build robust supply chains, creating new employment opportunities throughout their industrial sector using their vision to inspire the next generation of talent. With the UK Government aiming to capture 10% of the global space market, Skyrora believes now is the perfect time for a cost effective launch provider to turn UK launch plans into a reality.

Once the construction of the proposal is complete, it is anticipated that 5 members of staff

will be required on site when testing is being undertaken, with no staff based on site permanently.

The fuel for the testing facility used is Kerosene with Hydrogen Peroxide used as an oxidiser due to its long term launch site storability without the need for cryogenics.

Although indicative in nature, a typical test day event sequence could look as follows:

Day 1:

- i) Update of social media and email mailing list confirming testing;
- ii) Preparation at headquarters in Edinburgh, and industrial premises at Loanhead; and
- iii) Ordering of Kerosene

Day 2

- i) Movement of engine to site; and
- ii) Delivery of Kerosene and Hydrogen Peroxide

Day 3

- i) Final check of all equipment for safety and engine test;

Day 4

- i) Removal of engine and other moveable parts

Day 5

- i) Secured site left until next test.

Although the proposed development is not a use for a thermal power generation, or carbon capture use, we are proposing a use that is within the spirit and typology of Policy EGT1 located on a previously heavy industrial used site. The proposal only takes up 0.45ha which is a small portion of the wider site, which would not compromise the aims and objectives of the policy maker.

The proposed development would not only provide for the first occupant of the brownfield site, it would stimulate further investment and interest in the wider site. It will also provide for a development with associated unique skilled labour force within the administrative boundary of East Lothian Council and will start the realisation of the wider masterplan for the former Cockenzie Power Station.'

## **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.

Relevant to the determination of the application are Policy 10 (Sustainable Energy Technologies) of the approved South East Scotland Strategic Development Plan (SESplan).

Material to the determination of the application are Proposal EGT1 (Land at Former Cockenzie Power Station), Policies DP1 (Landscape Character), DP2 (Design), CH5 (Battlefields), NH5 (Biodiversity and Geodiversity interests, including Nationally Protected

Species), NH12 (Air Quality), NH13 (Noise), T1 (Development Location and Accessibility) and T2 (General Transport Impact).

Proposal EGT1 states that land at the Former Cockenzie Power Station will be safeguarded for future thermal power generation and carbon capture and storage consistent with National Development 3. Land at Cockenzie may also present significant opportunities for renewable energy-related investment. 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 adopted East Lothian Local Plan 2018 also states that there may also be potential for intermediate proposals on the Former Cockenzie Power Station site.

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

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

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

Scottish Planning Policy 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.

## **REPRESENTATIONS**

A total of 168 written representations have been received to this application. 165 of these written representations make objections to the proposed development. One representation raises no objection but makes a number of observations. One representation is in support of the proposal.

The main grounds of objection are:

- i) Noise impact/pollution/smell on nearby schools, residential properties, wildlife and visitor attractions;
- ii) Concern over chemical substances such as hydrogen peroxide and kerosene being stored on site;
- iii) Impact on nearby health centre, the main Edinburgh to London railway line and the new town at Blindwells;
- iv) Objector is landlord of 4 properties within Prestonpans and Port Seton and the proposal would ruin their investment in the area;
- v) No long term jobs being created, brings nothing to the local community and will not enhance the area;
- vi) Concern over transport of highly combustible rocket fuel through Cockenzie past a school, medical centre and residential properties;
- vii) Testing should not be carried out so close to residential areas;
- viii) Concern over safety of local residents of rockets or fuel catching fire and exploding;
- ix) Objector does not consider there is sufficient information available regarding both ground and air vibrations regarding the test firings and potential damage to dwellings;
- x) Concern over general safety, the building of the facility on a former coal facility does seem risky;
- xi) No safety provisions in place as regards noise levels, duration of tests and the safe storage of any fuel required for said testing;
- xii) No environmental impact statement on safeguards in case of spillages of fuel or air pollution;
- xiii) The brownfield site proposed is set out by East Lothian Council as a development site for industrial use to create jobs for the surrounding area - this proposal will create no jobs/opportunities for the community;
- xiv) The proposal and itself contradicts itself on the noise levels, the environmental effects and the length of the testing;
- xv) Children use the path right next to the testing site (the Waggonway) as a route to Preston Lodge High School, this could be hazardous both from noise point of view and safety point of view;
- xvi) The construction of this facility will deter other industry from using the rest of the land as the noise and hazards will prevent use of the rest of the land;
- xvii) The proposal and consent should include constant independent testing on noise levels, vibration and environmental pollution throughout the 5 years;
- xviii) Any proposal should include plans for all residents to be made aware of what to do in an emergency before the facility opens;
- xix) No neighbours notified of application;
- xx) Health implication of dangerous noise levels and potential property damage during testing periods due to vibration levels and possibility of increased subsidence in residential properties in the surrounding area based on historic mining activities;
- xxi) Skyrora as a company could not answer relevant questions including on safety and noise impacts that were voiced from the community;
- xxii) Tests were originally stated as lasting 30 seconds but we are now told that could be extended to 180 seconds;
- xxiii) If the noise testing is so loud it could affect future house prices and create noise and environmental pollution;
- xxiv) Residents have suffered noise, dirt and disruption from the Cockenzie Power Station and don't wish another noisy neighbour;
- xxv) In light of the Climate Emergency that we all face, I would hope the council would require strong environmental impact assessment of this proposal for new activity in the area beyond that which has been submitted;
- xxvi) No logical reason to say a former industrial site must be replaced by industry;
- xxvii) Impact on air quality and climate change impact;
- xxviii) What will happen to birdsong currently recorded as the dominant 'noise' at

Cockenzie;

xxix) Proposal does not fit with the Cockenzie Masterplan which states that the site must provide jobs;

xxx) A facility like this should be located in a remote rural location not in close proximity to residential areas;

xxxi) No public consultation;

xxxii) Road safety- there have been some 12 accident near the site entrance in the past 5 years , this will only increase;

xxxiii) No one on site outwith the time the rockets are being launched/tested this is against health and safety with flammable explosive materials on site it requires 24hour staff;

xxxiv) No mention in the paperwork of any Disaster Recovery Plan;

xxxv) Mental health impact, (anxiety caused by noise of testing) on elderly and young and on veterans who may potentially be suffering PTSD to be housed at Osbourne Court and refugees being located in the area;

xxxvi) Impact on house prices and resale of properties;

xxxvii) Visual appearance - completely against what should be getting built near to a coastline, entirely out of keeping with the area;

xxxviii) Skyrora have reduced the number of tests from what was originally proposed, They do not appear to be a company you could trust to stick to their word and are going through the motions in order to get up and running, once they get that they will "move the goal posts" and do what they want;

xxxix) The orientation of the test facility is such that noise, vibration and exhaust fumes will be channelled directly at housing in the immediate vicinity of the test facility.

There were no notifiable neighbours with an interest in 'adjoining land' (within 20 metres of the application site boundary), however the planning application was advertised in the local press and public meetings were held by the applicant regarding the proposal which were attended by members of the public and members of the local Community Councils.

The matter of the impact on house prices/resale of properties/devaluation of nearby residential properties is not a material consideration in the determination of this planning application.

The matters of noise, air quality/pollution, storage/use of fuel on site, road safety and visual impact are assessed later in this report.

One letter of written representation is support of the proposal. The reason for support is:

(i) This will bring growth to the East Lothian area and much needed specialised jobs.

## **COMMUNITY COUNCIL COMMENTS**

Cockenzie Community Council objects to the proposal on the grounds that the proposed development is far too close to residential areas.

It is the community council's opinion that the area measured in the submitted Noise Assessment Report is not extensive enough. The existing bund is not maintained around the entire site and this may result in an increased noise level especially to pedestrians and cyclists at these points. The report mentions birdsong as being the main noise over most of the monitored points. This is a familiar sound to most people while a rocket testing noise is not. No account seems to be made between familiar noise and unfamiliar noise at any level. The report states at 5.1.1 that significant adverse impacts have been identified at Noise Sensitive Receptors surrounding the site during tests. This has been amended in the new noise report with more testing and noise attenuation measures included if necessary, this amendment seems to confirm that the applicant is not clear as to the noise

level that will be created. These may be similar to existing noises but they will be in addition to these and should not be imposed on residential areas.

The access road as proposed goes down the B6371, past the old coal yard entrance, Avenue Road and along the B1348 to the entrance by the car wash site. This means that traffic will go past the school and many residential streets. The Community Council do not understand why the existing entrance on the B6371 is not being used. The addition of proposed deliveries through Port Seton and Prestonpans, depending on the suppliers, as stated in the report addendum document, is unacceptable. This will involve many more residential and commercial areas using roads that are very prone to serious road traffic accidents.

The Community Council advise that they have had consultations with Skyrora and that Skyrora mentioned that the open side of the test chamber would have an extensive buffer in front. The submitted drawing does not appear to show this. The reports do not mention any pollution other than noise. The Community Council think that an environmental report should be submitted to cover all aspects of pollution that may or may not occur. This should also state the dangers relating to kerosene and hydrogen peroxide being transported to the site and the use of when testing.

Prestonpans Community Council are supportive of the application on the basis that East Lothian Council Environmental Health will monitor the noise levels of the rocket tests to ensure that they comply with the agreed noise limits. Prestonpans Community Council would also ask that road access to the site should be via the B6371 and not the B1348 (coast road) as is currently proposed. Whilst not directly planning related factors the local Prestonpans community would welcome a goodwill commitment from the applicant to work closely with the local high school at Preston Lodge in developing its STEM applications and that Skyrora give consideration to offering education bursaries to local pupils to enable them to follow a career in science and technology.

## **PLANNING ASSESSMENT**

The application site is part of the wider former Cockenzie power station site with the current application site being last in use as part of the coal storage depot of the former power station. Since the power station was demolished the application site has been lying unused. The former wider coal storage depot is enclosed by an existing bund approximately 8 metres in height as such the application site, by being located within the south east corner of the former coal storage depot, is largely enclosed by the existing bunds with the northern and western boundaries of the application site being more open to the wider former coal store depot with the bunds on the northern and western boundaries of the former coal store depot beyond. The application site is accessed by the existing former access track which served the former coal storage depot to the south of the application site and which connects with the B6371 public road to the east and the B1348 public road to the north.

The proposed rocket engine test centre would be located within a compound within the south east corner of the former coal store depot and would consist of a number of structures including a test chamber, fuel storage and feeding mechanism structures and a welfare building.

The proposed use of the application site as a propulsion and ancillary equipment testing facility with an ancillary office, storage structures (class 5) and associated works is not a thermal power generation and carbon capture and storage use. However there are no current or imminent proposals for such a use on either the current application site or any part of the wider former Cockenzie Power Station site.



While in June 2014 a Proposal of Application Notice (Ref: 14/00015/PAN) was submitted by Scottish Enterprise. The Notice indicated that Scottish Enterprise intended to bring forward a planning application for an energy park on land that included the Cockenzie Power Station and Coal Yard site. The site the subject of planning application 14/00015/PAN included the land that is the subject of this planning application. However, a planning application has not, to date, been submitted in respect of this proposal and it is understood that Scottish Enterprise have withdrawn their interest in this proposal.

As such there are no firm proposals for the site, other than that which is the subject of this current planning application. However this is perhaps not unsurprising, given the relatively recent change in ownership and the fact that the site has not yet been marketed. East Lothian Council intends to market the site and it should be noted, that the Council has received a number of enquiries from interested parties and has engaged with the relevant Scottish and UK government departments in respect of the economic and development potential of the site, including with Scottish Enterprise. The Council's Economic Development and Strategic Investment Manager advises that on the basis that all environmental health checks will be undertaken, Economic Development is in favour of this application as it would offer an economic use, albeit temporary, for part of the Former Cockenzie Power Station site. While the development will not create jobs and will be used as a testing facility with intermittent use of the facility, it will provide a temporary use for part of the former Cockenzie Power Station site and the Economic Development Manager may act as catalyst for other uses, including job-creating ones.

The Council's Project Manager for the former Cockenzie Power Station site raises no objection to the proposed temporary use of the site for a period of five years, as proposed through this application.

The proposed use of the application site as a propulsion and ancillary equipment testing facility with an ancillary office, storage structures (class 5) and associated works is sought for a temporary period of five years given this, should it be acceptable on other material considerations, the proposed temporary use of the site would not prejudice the long term use or future development of either the current application site or the wider former Cockenzie power station site and would in fact provide a temporary use of the currently unused site. As such the proposal would not be contrary to Proposal EGT1 of the adopted East Lothian Local Development Plan 2018.

The proposed structures which would be located within the proposed rocket engine test centre would consist of a 9 metre high test chamber which would be enclosed on three sides with ballistic grade concrete panels while the north elevation of the test chamber would be open. The roof of the test chamber would have a shallow mono pitch roof clad in profile sheeting coloured blue. The test chamber would be located to the north of the compound with associated storage, feeding mechanisms and welfare facilities situated to the south of it.

The fuel storage would be housed in a metal clad structure which would measure some 2.7 metres high and which would measure some 2.5 metres wide by 12 metres long while the proposed feed tanks would be housed in open framed structures one with a height of some 4.8 metres and one with a height of some 8.8 metres. A welfare facility building in the form of a modular building with profiled metal cladding would also be located within the compound. The welfare building would be flatted roofed and would be some 2.7 metres in height and would measure some 7.5 metres long by 4 metres wide. The cladding of the welfare building would be coloured white with blue metal fascia panels. The welfare building would provide an accessible toilet and a staff space, there would be no openings within the north, south or west elevation however there would be three openings on the

east elevation in the form of a pedestrian door opening and two windows.

Four parking spaces and four cycle parking spaces would be provided adjacent to the welfare facility building.

The applicant's agent has submitted a Landscape and Visual Impact Assessment report in support of the application which concludes that the proposed development will not adversely affect the approaches to Prestonpans, Cockenzie/Port Seton nor diminish the quality of their overall setting. The proposed development will not adversely affect designed landscapes or the site of the Battle of Prestonpans nor will it affect the local footpath network.

The proposed development is located within a generally contained landscape enclosed by landform and woodland. Given the proposed facility's location within the south eastern corner of the former coal store depot which is enclosed by the existing bund, the majority of the structures within the proposed facility would be located below the level of the existing bund and as such would not be readily visible from outwith the application site. Short glimpses of the top of the test chamber at some 9 metres high and the top of one of the open steel structure feed tank towers at some 8.8 metres high may be visible in short aspects however they would not appear visually prominent or intrusive in the landscape setting. Overall the proposed development would not have an unacceptable impact on the visual amenity of the area. As such the proposal is consistent with Policies DP1 and DP5 of the adopted East Lothian Local Development Plan 2018.

The applicant's agent has submitted a Noise Assessment Report in support of the application which has been amended during the determination process of the application. The Council's Environmental Protection Manager has reviewed this amended report and has advised that the amended Version 4 Noise Report submitted considers impacts upon Noise Sensitive Receptors based upon revisions to noise levels of source and changes to both the number and frequency of tests. It was originally proposed that noise levels from the source would be 140dB. This has been considered an over-estimate and it is now anticipated that noise levels of the source (the Specific Noise Level) will be no more than 125dB and possibly less.

As an amendment to the application, the number of the proposed tests has reduced from 70 per month to 5 per month. It was also confirmed that tests would be no more than 30 seconds in duration.

Given the significant reduction in the number and frequency of the proposed tests from 70 per month to 5 per month The Council's Environmental Protection Manager is satisfied that impacts upon Noise Sensitive Receptors including the residents of residential properties within the locality of the application site, will be low. As such the Council's Environmental Protection Manager raises no objection to the proposal subject to the recommendation that the following conditions be attached to any grant of planning permission:

- (i) The duration of firing of any rocket engine during any rocket tests shall be restricted to no more than 30 seconds.
- (ii) The number of firing events of rocket engines during any rocket engine tests shall be restricted to no more than 1 per day.
- (iii) The frequency of any firing of rocket engines during any rocket engine tests shall be restricted to no more than 5 days per calendar month.
- (iv) The time of any firing of rocket engines during any rocket engine tests shall be

restricted to between 1000 hours and 1600 hours.

(v) The Specific Sound Level associated with the firing of rocket engines during rocket engine tests at compliance monitoring positions (CMP's) shown in Figure 1 of ITP Energised's Noise Assessment Report ref EDI\_1559 Version 4 of 23rd August 2019 shall not exceed the following:

LOCATION OF CMP Maximum Specific Sound Level, dB LAeq, 30 sec  
CMP 1 - Close to Whin Park 54  
CMP 2 - Cedar Drive 60  
CMP 3 - South of site 45

(vi) Compliance noise monitoring shall be conducted by the applicant at each CMP described in Condition (v) above during the first 5 rocket tests to confirm that the maximum Specific Noise Level per Condition (v) above is met

(vii) The results of compliance monitoring per condition (vi) above shall be provided to the Planning Authority within 1 month of Test No 5 taking place. The results shall be included in a Compliance Noise Monitoring Report.

(viii) If the measured levels at any CMP exceed the Maximum Specific Sound Levels described in Condition (v) above then Rocket Engine Testing at the facility will cease until such times as any further noise mitigation measures have been identified and implemented. The details of any further mitigation measures shall be described within the Compliance Noise Monitoring Report referred to in Condition (vii) above.

(ix) The requirements stipulated in Conditions (vi), (vii) and (viii) shall be repeated as required until such times as Compliance Monitoring confirms the Maximum Specific Sound Level described in Condition (v) is met.

The above controls can reasonably be secured as conditions imposed on the grant of planning permission and subject to them The Council's Environmental Protection Manager is satisfied that on the matter of noise, the operation of the proposed scheme of development would not be harmful to the amenity of any nearby residential properties. Accordingly the proposal is consistent with Policy NH13 of the adopted East Lothian Local Development Plan 2018.

At the request of The Council's Environmental Protection Manager the applicant's agent has submitted an Air Quality Assessment report in support of the application. The Council's Environmental Protection Manager has advised that the submitted Air Quality Assessment Report has been assessed and that The Council's Environmental Protection Manager accepts that the proposed testing of the Rocket Engines will not result in any exceedance of statutory Air Quality Objectives or significantly impact upon local air quality. Accordingly the Council's Environmental Protection Manager is satisfied that on the matter of air quality, the operation of the proposed scheme of development would not be harmful to the amenity of any nearby residential properties. Accordingly the proposal is consistent with Policy NH12 of the adopted East Lothian Local Development Plan 2018.

The applicant's agent has submitted an Ecological Baseline Report in support of the application. This report concludes that there is no evidence of any protected species on the application site and that given the previous use of the site it contains 7 different habitats however none of these habitats are of high value. Scottish Natural Heritage (SNH) as a consultee on the application advise that the application site lies within 2km of the Firth of Forth Special Protection Area (SPA) classified for its waterfowl and migratory bird interests. Scottish Natural Heritage advise that it is their view that it is unlikely that the

proposal will have a significant effect on any of the qualifying interests either directly or indirectly. An appropriate assessment is therefore not required. Modelling has been carried out to investigate the possible noise impacts from the engine testing on the qualifying bird interests of the Firth of Forth SPA. This has demonstrated that the noise produced would be under 75dB at the closest location likely to be used by the birds (i.e. the 'Green Hills' area west of the former Cockenzie power station site). SNH therefore advise that there is no impact pathway between this proposal and the SPA bird interests. They are satisfied that the birds will not be disturbed by the level of noise emitted by this engine testing facility, in addition the noise will be produced only very intermittently and for very brief periods each day. Accordingly SNH raise no objection to the proposed scheme of development.

The Council's Biodiversity Officer raises no objection to the proposed scheme of development being satisfied that the proposal would not have an adverse impact on the biodiversity of the site or nationally protected species. Accordingly the proposal is consistent with Policy NH5 of the adopted East Lothian Local Development Plan 2018.

The application site is within a Coal Authority Development High Risk Area. In such areas there are existing recorded risks to the ground stability which need to be assessed and mitigated as part of the new development proposals in the interests of public safety. The Coal Authority's Guidance for Scottish Planning Authorities: 2017 clearly states that any planning application for development which intersects the ground in the Development High Risk Area requires a desk based Coal Mining Risk Assessment and once this has been provided, consultation with the Coal Authority. A Phase 1 Geo-Environmental Assessment (May 2019) was submitted with the planning application which included details of a coal mining risk assessment. The Coal Authority were consulted on the application and advised that they consider an adequate assessment of the coal mining risks associated with this development has been carried out. Therefore taking into consideration the report's recommendations that targeted site investigation works are to be undertaken, in order to inform the design of the remedial/mitigatory measures The Coal Authority raises no objection to the proposal, subject to a condition being imposed on any planning permission granted requiring that the recommended site investigation works be undertaken prior to commencement of development. This matter can be controlled through a condition of a grant of planning permission.

The Scottish Environment Protection Agency (SEPA) originally objected to this planning application on the grounds of lack of information on the processes associated with this proposed scheme of development with regards to the proposed fuels for the tests which may have meant the site could fall under the COMAH and Hazardous Substances Consent regimes. However, following receipt of additional information on the matter of the fuels to be used at the proposed facility SEPA have confirmed that the proposed scheme of development and activity is well under any COMAH threshold and as such has withdrawn their objection to the proposed scheme of development. SEPA have also advised that the application is accompanied by an updated section of the flood risk assessment (FRA) for Cockenzie and that the site does not appear to be at flood risk. Accordingly SEPA raise no objection to the proposed scheme of development on the matters of fuel use, fuel storage or flooding.

Edinburgh Airport as a consultee on the application have examined the proposed development from an aerodrome safeguarding perspective and confirm that the proposal does not conflict with safeguarding criteria. As such Edinburgh Airport raise no objection to the proposal.

The Ministry of Defence Infrastructure Organisation as a consultee on the application has advised that whilst the application site is not within a statutory safeguarding area, it is in

proximity to the Eskdalemuir Seismic array. This technical safeguarding site is particularly sensitive to any seismological vibrations. However, the Defence Infrastructure Organisation has confirmed that on reviewing the trial schedule and noise assessment submitted with the application the Ministry of Defence has no safeguarding objections to this proposal.

As the application site lies within the designated battlefield site of the Battle of Prestonpans, Historic Environment Scotland (HES) have been consulted on the application. HES raise no objection to the application, being satisfied that the proposed development would not have a significant adverse effect on the key features of the Battlefield. HES also advise that they are also satisfied that the proposed development would not have a significant adverse effect in relation to the Seton West Mains Scheduled Monument which is located some 330 metres to the south of the application site. On this consideration the proposal is consistent with Policy CH5 of the adopted East Lothian Local Development Plan 2018.

The Council's Heritage Officer advises that the application site lies within the boundary of the Inventory Battlesite for Prestonpans and there are Scheduled Archaeological remains in close proximity. However, the area has been heavily disturbed by the previous use of the site (coal store) and has a limited footprint and low visibility from heritage receptors. Therefore in terms of the Historic Environment there is limited if any potential for either direct or indirect impacts. In light of this any recommendations in relation to the Historic Environment would be disproportionate to the impact of the development. As such The Council's Heritage Officer raises no objection to the proposal being satisfied that the proposal would not have a significant adverse effect on the key features of the battlefield, including its key landscape characteristics and special qualities. Accordingly the proposal would not be contrary to Policy CH5 of the adopted East Lothian Local Development Plan 2018.

In support of the application, the applicant's agent has submitted a Transport statement detailing the proposed access, parking, type and number of vehicle movements to the site in order to assess the likely impact of the proposed development on pedestrian and road safety. The Council's Road Services has reviewed this report and the proposed scheme of development and raises no objection to the proposal being satisfied that it would not have an adverse impact on pedestrian or road safety subject to the requirement for a construction method statement being submitted for approval prior to the commencement of development. This matter could be controlled through a condition of a grant of planning permission. Accordingly the proposal is consistent with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

In conclusion given all of the above and subject to the aforementioned conditions the proposed development is not contrary to Policy 10 of the approved South East Scotland Strategic Development Plan and Proposal EGT1, Policies DP1, DP2, CH5, NH5, NH12, NH13, T1 and T2 of the adopted East Lothian Local Development Plan 2018 and Scottish Planning Policy 2014.

## **RECOMMENDATION**

That planning permission be granted subject to the following conditions:

- 1 The equipment testing facility use hereby permitted shall cease and all of the components of the approved development shall have been removed entirely from the site and the land of the site restored to its former condition by no later than the 18 December 2024.

Reason:

To control the development to that applied for and so as not to prejudice the potential long term use of the site.

- 2 (a) The duration of firing of any rocket engine during any rocket tests shall be restricted to no more than 30 seconds.  
(b) The number of firing events of rocket engines during any rocket engine tests shall be restricted to no more than 1 per day.  
(c) The frequency of any firing of rocket engines during any rocket engine tests shall be restricted to no more than 5 days per calendar month.  
(d) The time of any firing of rocket engines during any rocket engine tests shall be restricted to between 1000 hours and 1600 hours.  
(e) The Specific Sound Level associated with the firing of rocket engines during rocket engine tests at compliance monitoring positions (CMP's) shown in Figure 1 of ITP Energised's Noise Assessment Report ref EDI\_1559 Version 4 of 23rd August 2019 shall not exceed the following:

LOCATION OF CMP	Maximum Specific Sound Level, dB LAeq, 30 sec
CMP 1 - Close to Whin Park	54
CMP 2 - Cedar Drive	60
CMP 3 - South of site	45

(f) Compliance noise monitoring shall be conducted by the applicant at each CMP described in Condition (e) above during the first 5 rocket tests to confirm that the maximum Specific Noise Level per Condition (e) above is met.

(g) The results of compliance monitoring per condition (f) above shall be provided to the Planning Authority within 1 month of Test No. 5 taking place. The results shall be included in a Compliance Noise Monitoring Report.

(h) If the measured levels at any CMP exceed the Maximum Specific Sound Levels described in Condition (e) above then Rocket Engine Testing at the facility will cease until such times as any further noise mitigation measures have been identified and implemented. The details of any further mitigation measures shall be described within the Compliance Noise Monitoring Report referred to in Condition (g) above.

(i) The requirements stipulated in Conditions (f), (g) and (h) shall be repeated as required until such times as Compliance Monitoring confirms the Maximum Specific Sound Level described in Condition (e) is met.

Reason:

To ensure the operation of the facility hereby approved is restricted to that applied for and that there is no intensification of use in the interests of safeguarding the amenity of neighbouring residential properties.

- 3 Prior to the commencement of development the targeted site investigation works as recommended in the Geo-Environmental Assessment (May 2019) Report prepared by Energised Environments Limited docketed to this permission shall have been carried out and a report detailing the investigations, findings and any required remedial works undertaken submitted in writing to the Planning Authority.

Reason:

To ensure the potential risks posed to the development by past coal mining activity are investigated and treated if found to be necessary.

- 4 A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work and routing of traffic.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, 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.