

COMMENTS ON RESPONSES TO PETITION PE1537 FROM COASTAL REGENERATION ALLIANCE

NPF3 & lack of Community consultation: The Scottish Government's response makes reference to NPF3 and to the consultation process followed in its drafting and adoption. The process described in the response does not however relate to the Energy Park site (the *Area of Coordinated Action*) but to the Power Station itself, which is a *National Development*. There was no consultation or engagement over the *Area of Coordinated Action*, from which the Energy Park has developed. This part of NPF3 has no statutory definition or even advisory explanation and the meaning of the term *Area of Coordinated Action* is therefore open to interpretation. Both East Lothian Council [ELC] and Scottish Enterprise [SE] have adopted their own definitions and have used the reference in NPF3 to support the proposed Energy Park. ELC have also referred to the Energy Park site directly as a National Development, most recently in their Summary to the Prestonpans cluster within the Local Development Plan Main Issues Report.

In NPF3 there are references to quality of life, the need for a green network in Central Scotland, which includes East Lothian, promotion of walking and cycling routes and wider environmental enhancement. The scale of the proposed extension of the current energy footprint will destroy all of this for the local community, including wildlife and marine habitat.

Minister for Local Government and Planning, Derek Mackay MSP, wrote to committee conveners to answer recommendations within committee reports, A5 Public Engagement in Planning. The Local Government and Regeneration Committee recommended that the Government "seek to assess the effectiveness of the various public engagement models with a view to developing a more coordinated strategy across all public and private stakeholders". The minister's response was "The Scottish Government recognises the value of effective and meaningful engagement in the planning system..... PAN 3/2010 Community Engagement is aligned with the National Standards for Community Engagement. These standards relate to all activities of all councils and public bodies". PAN 3/2010 has not been followed in this instance and the actions of the key players has been far removed from the intent of the new Community Empowerment (Scotland) Bill.

The Planning Advice Note 3/2010 Community Engagement mentioned above is a detailed document on roles and responsibilities within planning. **It positively promotes community engagement, pre-application**, when plans are being prepared and when planning permission is being submitted. There are legal requirements for applicants and planning authorities to engage with communities. It suggests councillors should be involved in local ward issues and states "Effective community engagement is important when there is ongoing work. The willingness of operators to discuss and address legitimate concerns openly can help secure the confidence of local communities."

UNESCO also states: “A fundamental premise for promotion of freedom of information is the tangible impact that the right to know can have on people’s lives, by facilitating the fulfilment of other rights. Timely access to information empowers people by allowing them to participate in an informed way in decisions that affect them, while also holding governments and others accountable.

These recommendations have been ignored by East Lothian Council & Scottish Enterprise.

The Proposed Application Notice procedure for Major and National Developments requires the applicant to carry out community consultation. SE held two single session public presentations, in Prestonpans and Port Seton. The Prestonpans event closed at 6pm and the Port Seton one at 8pm. There was little notice of these events and for the working majority of the community, their only opportunity was to attend the single Port Seton event. The public presentation comprised four A1 boards offering very little information on what was being proposed. As a consequence of this, CRA sought to fill the void in the understanding of proposals for Cockenzie, publicising and hosting public meetings, which were all well attended by concerned members of the community.

ELC’s comment that Scottish Enterprise held a “number” of community consultations is misleading.

At a meeting on 10th September 2014, which had been requested by CRA, SE representatives confirmed ELC were “selling the site” (as in promoting the site for development). The scoping report was discussed but most other concerns were met by responses of “no comment” or “too early to say”. We were advised that a newsletter would be distributed to community households in October – this failed to happen. SE were asked several times as to whether discussions had taken place with Scottish Power - we were told “no discussions have taken place”. Scottish Power subsequently confirmed that discussions had in fact taken place and on 30th April 2014, David Leven confirmed ongoing discussions with Scottish Power. An invitation to one of CRA’s public meetings was however declined due to it being “counterproductive”. No date was arranged for any further meeting and no date in January 2015 has been scheduled or arranged (contrary to the SE statement to the Petitions Committee). Also of interest - SE, using Atkins Consultancy, set up traffic monitoring equipment in November 2014 on all major routes into Prestonpans and Cockenzie. When locals contacted ELC - they denied knowledge. The equipment was removed almost immediately, raising concerns and suspicions further.

ELC maladministration: ELC’s response to NPF3 MIR dated 17th July 2013 supposedly went unseen by a number of councillors due to “an administrative oversight”. However Ian Glen, Policy and Projects Manager at ELC wrote to the cabinet with responses to the Scottish Governments NPF3 MIR, on June 11th that same year.

Would ward councillors not be aware of any future potential planning in their designated areas and would the council not have sought to discuss the future of Cockenzie?

Within the Council's report to the NPF3 MIR is a misleading claim, made to the Scottish Government, that "Cockenzie has deep water" and "substantial reserves of developable land." Councillor Stuart Currie also wrote a letter dated 22nd July 2013 supporting the same claims as ELC. In fact paragraph (v) of Councillor Currie's letter relating to the "substantial reserves of developable land" is exactly the same as the ELC letter (paragraph e) apart from one word. The "deep water" claim was only corrected in October 2014 and in ELC's petition response "the potential for deep water berthing and proximity to deep water channel" isn't made clear. Captain Bob Baker, Chief Harbour Master at Grangemouth, said on the 5th November 2013 at a cross party group on recreational boating and marine tourism, in reference to Cockenzie, "you would need to go out quite a way to get a deep water berth and have a causeway and this would also involve dredging works".

In August 2014 the CRA submitted an online petition to ELC calling for the proposals to be halted while proper community consultation took place. The council 'lost' the petition for five days, found it after two phone calls and subsequently rejected it on the grounds "the proposals were in the hands of others", despite ELC having driven the concept of the development and promoting the site.

The council failed to address any of the issues raised in the petition. Additionally, given the 'administrative oversight', resulting in the ELC report submitted to a major NPF3 development remaining 'hidden' from both councillors and the public - together with the technical inaccuracies within the report relating to 'deep water' and 'reserves of developable land' - we would assert that these invalidate the ELC submission, and as a consequence, the report should either be retracted or redrafted with accurate details.

ELC MIR & conflicts of interest: In October 2014, ELC launched its Local Development Plan MIR. In the Prestonpans section, the land for the proposed Energy Park is mapped out - however the details of this are incorrect, as it would appear they propose to develop land immediately adjacent to residents' gardens - the border line actually going around garden perimeters. It also encompasses a bund (hill) owned by a housing developer and maintained by the company Greenbelt, sited there as a division between private housing and the existing energy footprint.

This inaccuracy was highlighted to Council Leader Willie Innes at a meeting with CRA in October 2014 but his failure to correct this means it remains in the MIR publication. The MIR publications with errors, including the references to the allocation of the land for Employment as a National Development, are seemingly endorsed by SE in their committee response.

Energy Minister Fergus Ewing MSP has made it clear that ELC have driven the Energy Park. SE endorsed this view at a meeting with CRA on 10th September 2014, by stating that ELC were “selling the site”. ELC set up a group called East Lothian Sustainable Economy Partnership, whose members include the Chief Executive of ELC Angela Leitch and ELC councillors. Chairing the group is David Leven, Head of Energy Infrastructure at SE, who is also a member of East Lothian Partnership, whose members again include Angela Leitch and Council Leader Willie Innes. Mr. Leven was also a member of a group working on the development of NPF3 in 2012. At a meeting on the 25th of June 2014, Mr. Leven gave a presentation on the Energy Park, followed by a discussion. The programme he described for the Energy Park makes no mention of community engagement or consultation.

In a letter dated 9th October 2014 to the East Lothian Courier, ELC Leader Willie Innes stated “As a planning authority, we must deal with any application in a neutral manner, ensuring that appropriate consultations are carried out”. Mr. Innes is also quoted by the same paper, on the 28th August 2014, saying he will “Champion consultation with the local communities”. ELC Councillor John McMillan said in September 2014 that the council had to be “open and transparent” and referred to the Energy Park as “a dream, not a nightmare”. Mr. McMillan is also chair of ELC Cross Party Working Group on the Energy Park, set up after community pressure to “consult with all parties”. However, Chief Executive Angela Leitch has confirmed in her response that the council cannot take “the deep concerns of the community into consideration until the council receive a planning application”. What therefore is the purpose of the Cross Party Working Group if they cannot consider the concerns of the community at this stage?

How can East Lothian Council claim to be neutral, impartial and transparent when they are working with the Head of Energy Infrastructure at Scottish Enterprise to develop Cockenzie Energy Park? At the very least there is a conflict of interests on both ELC as planning authority and Scottish Enterprise as the proposed applicant. The Council is simultaneously unwilling to engage in a Development Framework or Masterplan.

Community Councils: CRA met with both Prestonpans Community Council and Cockenzie & Port Seton Community Council on several occasions to discuss the Energy Park. Prior to this they knew little of the scoping report. **Claims that the community councils had been ‘consulted’ over the Energy Park have to be disputed. Earlier Consultation was limited to the inclusion of Cockenzie CCGT Power Station as a National Development.**

Community Councils have also been concerned by the many planning applications. Inchcape, which surfaced simultaneously with the Energy Park proposals, the power station conversion, Blindwells development, Scottish Power Networks roadworks, Inglis Farm housing development – all causing confusion with many in the community. These are all completely separate proposals but only served to add to the confusion over potential developments - mainly due to a complete lack of information or consultation. Many residents believe the Energy Park will be retained on the existing Power Station

footprint, not realising it extends into the Countryside and Greenhills. Port Seton Fisherman's Association only became aware of the Inchcape application when Inchcape contacted them directly as part of the proposed subsea cable laying. They had no knowledge of the proposed Energy Park and accompanying industrial port, even though the associated dredging could decimate and destroy their livelihoods.

SUMMARY

Both East Lothian Council and Scottish Enterprise have failed to engage the communities at any level and ELC have made it clear they cannot respond to the communities' concerns until a planning application is received. The fact the two bodies are working together as East Lothian Sustainable Partnership must put in question their impartiality in the planning process. A conflict of interest may have arisen, as it would appear that the Applicant and Planning Authority have been and are currently working jointly on the Energy Park plans, to the exclusion and detriment of the community. Scottish Power, whilst reluctant to engage with the community at first, no-doubt due to ongoing commercial interests, have since continued to fully engage with community groups including CRA over the dismantling of the coal fired station and planning over the development of the CCGT station.

We continue to call on the Scottish Parliament to urge the Scottish Government to abandon the proposal for the development of an Energy Park at Cockenzie, and ensure that any future proposals are subject to full public consultation and do not extend beyond the existing footprint of the former power station.

*"The right to participate in environmental decision-making. Arrangements are to be made by public authorities to enable the public affected and environmental non-governmental organisations to comment on, for example, proposals for projects affecting the environment, or plans and programmes relating to the environment, these comments to be taken into due account in decision-making, and information to be provided on the final decisions and the reasons for it ("public participation in environmental decision-making"); **Aarhus Convention***