

APPEAL BY DART ENERGY (FORTH VALLEY) LIMITED IN RELATION TO  
APPLICATIONS PPA-240-2032 & PPA-390-2029

SUPPLEMENTARY CLOSING SUBMISSIONS BY FRIENDS OF THE EARTH  
SCOTLAND ON NPF3 AND SPP

Introduction

- 1.1. This is a supplementary submission by Friends of the Earth Scotland (referred to as ‘FoES’) in relation to the issues of the National Planning Framework 3 (NPF3) and the Scottish Planning Policy 2014 (SPP).
- 1.2. As a preliminary matter, FoES note that the submission for the applicant Dart Energy has, in addition to the issues of the NPF3 and SPP, also made comment in relation to the Falkirk Development Plan and the Stirling Development Plan. These submissions appear to go further than merely commenting on whether those plans might be influenced by the NPF3 or SPP. FoES have not commented on either of the development plans, and if the Reporters wish comment on the development plans, they would be happy to do so. However, FoES consider that part of Dart’s submission should be ignored unless the Reporter equally call for submissions from other parties on those points.

NPF3

2.1 The NPF3 was laid in the Scottish Parliament on 23<sup>rd</sup> June 2014. It sets out 4 visions for Scotland, two of which are relevant to understand the overall context on the direction and shaping of Scotland over the lifetime of the NPF3. These are found at paragraph 1.2 of the document and read:

*“Our vision is a Scotland which is:*

- *a **successful, sustainable place**. We have a growing low carbon economy which provides opportunities that are more fairly distributed between, and within, all our communities. We live in*

*high quality, vibrant and sustainable places with enough, good quality homes. Our living environments foster better health and we have reduced spatial inequalities in well-being. There is a fair distribution of opportunities in cities, towns and rural areas, reflecting the diversity and strengths of our unique people and places.*

- *a low carbon place. We have seized the opportunities arising from our ambition to be a world leader in low carbon energy generation, both onshore and offshore. Our built environment is more energy efficient and produces less waste and we have largely decarbonised our travel.*”

2.3 The vision as set out in the document should be referred to not solely to understand the context of the document, but specifically to assist in explaining what the individual policies are seeking to achieve.

2.4 The words ‘low carbon’ [or ‘lowering of’ or ‘reduction in’] ‘greenhouse gas emissions’ appear in the document over 50 times.

2.5 The aim of a low carbon place is *“our ambition is to achieve at least an 80% reduction in greenhouse gas emissions by 2050”* (page 30). This is achieved by a 42% reduction in greenhouse gas emissions by 2020 (page 83).

2.6 At paragraph 3.41, the NPF3 states: *“The low carbon agenda forms a crucial part of our strategy. We expect development plans to promote a positive, planned approach to providing low carbon infrastructure across Scotland. In spatial terms, the following key locations are of particular significance, and will benefit from co-ordinated action and master planning to deliver development in the coming years.”*

2.7 The supplementary submissions by the appellants do not appear to argue that there is support for the development within the NPF3. At paragraph 1.7 of their supplementary submissions the appellants argue *“there is nothing within the NPF3 that would justify the with-holding of planning permission for the proposed development...”*. By this choice of words, the appellants appear to argue that the NPF3 is, at best, neutral to this development.

2.7 The appellants also rely upon paragraph 4.26 of the NPF3. That paragraph states:

*“Reserves of coal bed methane in the Scottish midland valley (Central Belt) could contribute to secure energy supplies in the medium term but will require careful planning to avoid negative environmental and community impacts from extraction activities. A framework for this is set out in the Scottish Planning Policy. There is also a continuing need to actively address the impacts of past uses of the land, including minerals extraction, through restoration and enhancement. Poor management of restoration obligations has left a legacy of opencast coal sites in South Lanarkshire, East Ayrshire, Fife and elsewhere, requiring intervention to ensure that they are properly restored. The Scottish Mines Restoration Trust has been established to help communities and other stakeholders involved in restoring open-cast coal sites across Scotland to bring together viable restoration plans.”*

2.8 Any perceived support from the NPF3 from this paragraph has to be read in the context of (i) the conditional nature of any such support, discussed further below and (ii) the overall context and direction of Scotland insofar as reliance on any technologies/activities involving carbon emissions are concerned, as set out above.

2.9 Accordingly, the conditional nature of the support for CBM (if paragraph 4.26 can be read as providing support at all) is subject to:

- (i) the use of the word ‘could’ within that paragraph;
- (ii) that such support is only in the medium term. Given that the lifetime of the NPF3 is 20 to 30 years, the medium term, must, by definition, be shorter than 20 years. However, the lifetime of this development as applied for is 30 years;
- (iii) the reference to avoidance of negative environmental and community impacts having reference to the SPP; dealt with below; and
- (iv) the linking of CBM in the same paragraph as historical legacies left by open cast mining. FoES suggest that this places a heightened awareness on the Reporters to ensure

that if the development is to proceed, it can only do so in the knowledge that there are secure financial guarantees in relation to restoration.

2.10 In relation to the avoidance of negative environmental and community impacts, FoES would submit that for the reasons set out in their main closing submission, the evidence does not prove that this development will avoid such impacts. Accordingly, the development should not be consented.

2.11 At paragraph 1.7 of their supplementary submissions, the appellants make reference to the future of gas as envisaged within the NPF3. However, it should be noted that at page 83, the NPF3 makes reference to *“significant progress to decarbonise heat sector in Scotland [by] (2030)”* and *“largely decarbonised heat sector in Scotland [by] (2050)”*.

2.12 The appellants also appear to claim support from the NPF3 in relation to the designation of Grangemouth as a national development. It is not clear on what basis this is suggested (paragraph 1.8 of the appellant’s supplementary submissions). Reference is made in the appellant’s submissions to paragraph 6.7 [11] and Annex A of the NPF3.

2.13 Paragraph 6.7 [11] of the NPF3 states

*“11. Grangemouth Investment Zone is a nationally-significant site for industry and freight. There is a need for further upgrading of freight-handling facilities to enhance business activity on the site, flood defences to improve the resilience of the site and to protect its industrial use, and improve transport links to assist with logistics and minimise the impact of industrial traffic on the surrounding community. During the lifetime of NPF3 we expect proposals to progress with additional funding having been made available through Falkirk Council’s Tax Incremental Financing scheme. Continued partnership working will support delivery and help to manage impacts on the local community and sensitive environment of the Forth Estuary.”*

2.14 There is no reference to CBM within the Investment Zone or its description, and it is submitted that there is no part of the Investment Zone to which the current appeal links into or supports. The designated area is does not include the application site. There is no

cross over or other logical support provided by the designation of Grangemouth Investment Zone as a national development which points to the consenting of this application.

2.15 Rather any link between Grangemouth and energy for homes is better seen in the statement in paragraph 3.22 that *“There is potential for use of any available excess heat from Grangemouth to provide heat through a district heating network.”*

2.16 The Reporters are reminded of the evidence and analysis of the impacts in terms of carbon that this development would have. None of the action points supporting the transformation of Scotland to “a low carbon place” would be supported by this development. This development goes against the grain of the type of development that is envisaged by the NPF3. Any mention of CBM within the NPF3 is at best lukewarm and highly conditional.

2.17 The appellants also mention the Heat Generation Policy Statement.<sup>1</sup> A draft statement, published for consultation in March 2014, envisages a largely de-carbonised heat market, and FoES do not consider that it provides support for the appellants again it envisages a largely de-carbonised heat market, and FoES do not consider that it provides support for the appellants. Given that the supplementary submissions were order to be on the issue of the NPF3 and SPP only, if the Reporters intended more detailed comments on such documents, it is requested that this is specifically sought from all parties.

2.18 Similarly the Electricity Generation Policy Statement<sup>2</sup> has been available for sometime, and again it is not clear why the appellant now quotes that document. However, FoES would advise the Reporters that the Policy Statement does not support *unconventional gas* (or coalbed methane, terms neither of which appear in the document).

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<sup>1</sup> Available at <http://www.scotland.gov.uk/Resource/0044/00445639.pdf>

<sup>2</sup> Available at <http://www.scotland.gov.uk/Publications/2013/06/5757/3>

2.19 At paragraph 1.5 of the appellant's submissions, the appellant refer to paragraph 3.10 of the NPF3, referring to the Electricity Generation Policy Statement and the continued and important role for thermal generation (progressively fitted with carbon capture and storage) in Scotland's future energy mix. NPF3 has designated "Carbon Capture and Storage Network & Thermal Generation" at Grangemouth, Peterhead, Cockenzie and Longannet as a national development. This application is to feed gas into the mains gas network; there is no relevance and no link with the type of thermal generation envisaged by the NPF3 or the Electricity Generation Policy Statement.

### SPP

3.1 FoES also wish to make submissions on the Scottish Planning Policy, finalized in June 2014.

3.2 The SPP also supports the transition to a low carbon economy. Reference is made to paragraph 11 of the SPP which states:

*"NPF3 and this SPP share a single vision for the planning system in Scotland:*

*We live in a Scotland with a growing, low-carbon economy with progressively narrowing disparities in well-being and opportunity. It is growth that can be achieved whilst reducing emissions and which respects the quality of environment, place and life which makes our country so special. It is growth which increases solidarity – reducing inequalities between our regions. We live in sustainable, well-designed places and homes which meet our needs. We enjoy excellent transport and digital connections, internally and with the rest of the world."*

3.3 The Reporter's attention is drawn to the use of low carbon; the SPP makes it clear that this is one of four planning outcomes which the SPP is designed to deliver. Reference is made to paragraph 13 of the document which states:

*"The outcomes are consistent across the NPF and SPP and focus on creating a successful sustainable place, a low carbon place, a natural, resilient place and a more connected place."*

3.4 Accordingly planning is to deliver a low carbon outcome; as only one of four outcomes, the importance of the transition to a low carbon Scotland cannot be underestimated.

3.5 The SPP at paragraph 17 refers back to the NPF3; it is stated that *“NPF3 will facilitate the transition to a low carbon economy, particularly by supporting diversification of the energy sector. The spatial strategy as a whole aims to reduce greenhouse gas emissions and facilitate adaptation to climate change.”*

3.6 This development will not support diversification of the energy section; one type of fossil fuel for another is not diversification. Neither will it reduce greenhouse gas emissions (and in fact will do the opposite) nor facilitate adaptation to climate change.

3.7 Reference is also made to paragraph 152 which makes it clear that the planning system is to facilitate the transition to a low carbon economy. The same paragraph makes reference to renewable technologies onshore and offshore, and that the spatial priorities are renewables and heat networks. Paragraph 154 repeats that the low carbon economy is to be delivered through the planning system (referring to ‘transformational change’).

3.8 Reference is also made to paragraph 153 of the SPP which refers to the use of low carbon and low cost heat, and generation from renewables. Heat networks relying on carbon based fuels should only be supported if they can be retrofitted at a later stage (paragraph 159). This application does not meet any such criteria within the SPP.

3.9 Paragraph 245 of the SPP states:

*“To assist planning authorities with their consideration of impacts on local communities, neighbouring uses and the environment, applicants should undertake a risk assessment for all proposals for shale gas and coal bed methane extraction. The assessment can, where appropriate, be undertaken as part of any environmental impact assessment and should also be developed in*

*consultation with statutory consultees and local communities so that it informs the design of the proposal. The assessment should clearly identify those onsite activities (i.e. emission of pollutants, the creation and disposal of waste) that pose a potential risk using a source–pathway–receptor model and explain how measures, including those under environmental and other legislation, will be used to monitor, manage and mitigate any identified risks to health, amenity and the environment. The evidence from, and outcome of, the assessment should lead to buffer zones being proposed in the application which will protect all sensitive receptors from unacceptable risks. When considering applications, planning authorities and statutory consultees must assess the distances proposed by the applicant. Where proposed distances are considered inadequate the Scottish Government expects planning permission to be refused.”*

3.10 It is submitted that the current application does not comply with the requirements of the SPP. Firstly, no proper risk assessment has been undertaken of *“those onsite activities (i.e. emission of pollutants, the creation and disposal of waste) that pose a potential risk using a source–pathway–receptor model and explain how measures, including those under environmental and other legislation, will be used to monitor, manage and mitigate any identified risks to health, amenity and the environment.”* Reference is made to the evidence on health impacts led by CCoF in particular.

3.11 Secondly, the risk assessment has not been carried out in consultation with the local community. In fact, the local community (or members of it) were criticised during the inquiry for raising questions during the early stages of the process.

3.12 Thirdly, the risk assessment, even if the Reporters did find one exists, has not then led to the third stage; that *“The evidence from, and outcome of, the assessment should lead to buffer zones being proposed in the application which will protect all sensitive receptors from unacceptable risks.”* No such buffer zones have been proposed by the appellants. Although the word ‘buffer’ appears in the EIA, this is in the context of smaller, discrete buffers around sites of wildlife, and issues arising from noise. There is an absence in the EIA of any analysis of what buffer zones would be appropriate after a risk analysis approach has been taken; no

real and coherent information can be found within the EIA on buffer zones following the approach envisaged by the SPP.

3.13 The SPP has not been informed by the Expert Scientific Panel which was set up and which has only just reported; reference is made to the correspondence between FoES and Mr Derek Mackay MSP which has been lodged by CCoF.

3.14 Whilst the appellant's supplementary statement analyses the implications on Falkirk and Stirling's Local Development Plans from the NPF3 and SPP, the appellants do not mention paragraph 156 of the SPP. This states that Local Development Plans : *"should address cross-boundary issues, promoting an approach to electricity and heat that supports the transition to a low carbon economy."* For this reason – that the appellants have selectively quoted in relation to Local Development Plans – the Reporters are asked to disregard these parts of the appellant's supplementary submission, and unless the Reporters wish to hear further evidence, it is submitted that such submissions are made too late.

## Conclusion

4.1 FoES submit that the for the reasons set out above, and for the reasons set out in their previous submissions, this application should be refused.