

**TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2013**

**APPEAL UNDER SECTION 47(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT  
1997 BY DART ENERGY (FORTH VALLEY) LTD CONCERNING COAL BED METHANE PRODUCTION,  
INCLUDING DRILLING, WELL SITE ESTABLISHMENT AT 14 LOCATIONS AND ASSOCIATED  
INFRASTRUCTURE AT LETHAM MOSS, FALKIRK, AND POWDRAKE ROAD, NEAR AIRTH, PLEAN  
(REFERENCES PPA-240-2032 AND PPA-390-2029)**

**PRECOGNITION BY ERIC APPLBE**

**ON BEHALF OF**

**CONCERNED COMMUNITIES OF FALKIRK  
(AND SUPPORTERS)**

**1. Introduction**

- 1.1 I joined the Larbert Stenhousemuir and Torwood Community Council in October 2009 and shared the Convenership with another Councillor until April 2010 when I became sole Convener. As a matter of course, all Community Councillors were required to stand down in October 2013 and were able to stand again for re-election for a further term. I was re-appointed and have remained as Convener.
- 1.2 I came to this area when I was appointed Sheriff Clerk at Falkirk and have been here for 29 years. I have variously been Depute Accountant of Court, Clerk of Court in the Supreme Courts of Scotland, Principal Depute, Sheriff Clerk's Office, Glasgow, and retired in 2010 as Area Business Manager, Procurator Fiscal's Office, Glasgow.

**2. Summary of Evidence**

- 2.1 I have been asked to give evidence on the ineffectiveness of the Appellant's consultations and to explain why working with CCoF and their Community Charter was important. I will explain how Dart, by not effectively engaging with the public and other relevant bodies at earlier stages, has led to insufficient resolution on significant matters for the safety of the public and the environment. I will also confirm that the Community Council's objections remain extant, and along with the input of CCoF, gives a voice to the needs of the local community.

**3. Appellant's Consultations**

- 3.1 The Community Council first became aware of the application for planning permission submitted by Dart Energy when the Community Council received a map in or about August 2012 outlining the area to be used for drilling ie Letham Moss. We were unaware of the significance of the matter as there was no accompanying information and neither were we involved in any pre-application discussions or consultations. It was only when we were

alerted to the implications that we sought out the documents that should have been sent to us in the first place. We then contacted Dart Energy seeking clarification and we had initial discussions with their representatives on 25 October 2012 which were, at their insistence, not open to the public.

- 3.2 Dart Energy advertised their public consultations in the Falkirk Herald during the week of Falkirk Fair holidays, in July 2012. They took their exhibition round a number of places and attracted 43 people to the exhibition. Of them, 20 chose to return the opinion surveys. They concluded that that was sufficient to show no objection to the application. In fact they advised that that level of return showed strong support for the application. The area of LST Community Council has a population of some 20,000 people. Accordingly the figures show that 0.001% responded.
- 3.3 Despite our ongoing requests for them to attend one of our public meetings, they did not do so. In due course we asked to attend at their offices which they agreed to. Five members of the public attended along with 5 members of the Community Council on 14 January 2013. We were well received and Dart Energy responded to our questions. Although the discussions were wide ranging, at the end of the day we were left with the feeling that Dart were only doing what was asked of them without being pro-active in safeguarding the community. With SEPA being particularly inactive during the test drilling stage, and Scottish Government policies not being effective, the feeling was that the focus of attention for Dart remained the financial benefits for shareholders rather than safety of the community. It seems clear that Dart will only do the minimum to ensure they meet legislative requirements. I have to say that that position continues to change almost on a daily basis and it has been particularly difficult to ascertain a final position, making comment out of date almost as soon as it is made.

#### **4. Working with CCoF**

- 4.1 As a Community Council we remained distinct from CCoF. The Community Council has many other issues to deal with in the area and we did not have the expertise, knowledge or time available to deal with the application in the depth that it required. Prior to the formation of CCoF the Community Council decided that the community needed to be aware of what was happening and a leaflet drop was carried out. That could not have been done without the assistance of many of those residents who later became members of CCoF. Some 80% of the houses in Larbert and Stenhousemuir received the leaflet raising awareness of the application and its implications.
- 4.2 Shortly after that exercise, CCoF came into being and while the Community Council continued to progress matters at meetings and in discussions, CCoF began to take a major part in the response to the planning application and the Community Mandate and Community Charter were drawn up. The response to the Community Mandate and the Community Charter showed that these alternative approaches were entirely appropriate

and concurrent with the feelings of residents. It also showed up the ineffectual contact and response that Dart Energy had achieved through its consultation processes.

- 4.3 The Community Council worked with CCoF in the preparation of the Community Charter. CCoF prepared the Charter involving local residents and brought the draft to the Community Council to finalise. We were particularly grateful for the extensive preparatory work and the involvement of the community. The values expressed are completely on all fours with the work we do in shaping and developing our area. We are more than happy to have a written expression of what residents value for growing a positive vision of community, the dynamic cultural heritage expressed in the Charter featuring positive developments in all walks of life while seeking to negate detrimental influences.
- 4.4 While it is fair to say that Dart Energy's environmental assessment recognises the need for safeguarding and controls, there remains concern in the light of international experience over the effects on the community. The difference between concerns expressed by NGOs about safeguards and controls, and us as residents, is that we have to live with the consequences. There have been a number of instances when we have asked for various plans to be put in place to show that health and wellbeing is being considered. Sadly, we have met with verbal statements advising that such plans are unnecessary as accidents will not happen. It has only been recently that Dart has even considered the need for such as contingency plans to cater for the "what if..." scenario. A major part of the problem has been the inactivity of SEPA. If they had taken the trouble to monitor the test drilling, and required Dart to act sooner, we may not have reached this situation. The commitment to a number of plans for all organisations involved in the G20 document is helpful. What is unidentifiable, is the recognition of those organisations to a quality process, which will require standards to be set and observed, and which cannot be done by self monitoring.
- 4.5 Despite years of test drilling within the area, it is very disappointing that there appears to be insufficient baseline and monitoring data to give enough evidence to back the claims being made by Dart Energy or that the proposed mitigation measures will be sufficient.
- 4.6 SEPA say they protect communities by regulating activities that can cause harmful pollution and by monitoring the quality of Scotland's air land and water. They should commit to that and do the job they have been set up to do.

## **5. Community Council Objections**

- 5.1 The Community Council submitted objections on 2 December 2012 and submitted the Charter as part of further representations when the Inquiry process was triggered. Given that the application was an application for planning permission, our objections took the format of objections as related to the Falkirk Local Development Plan. Within that paper we also made reference to the Falkirk Council Structure Plan. Our statement confirmed that "we do not believe that the application contributes to the positive vision for the area's future. In particular, given the negative environmental impacts of the proposal, we do not

believe that the application will result in an improved quality of life for our community. The application is not a sustainable development and will not contribute to meeting global and local environmental commitments". So far as we can tell, there are few benefits for the local community.

5.2 Since submitting our objection, we have continued to address the matter and have had a lengthy and useful meeting with Dart Energy (referred to above). We have had representatives from SEPA to one of our open meetings when they provided information on what they have done and what they will do to monitor the effect on the environment. It was disappointing to learn that they had not in fact visited the test site. We have also sought information from the Scottish Government and SEPA under FOI as well others who have an interest and/ or responsibility in these matters. Considerable research has been done on-line.

5.3 None of the information we have received has led us to change the terms of our objection.

## **6. Other**

6.1 I feel that the Good Neighbour Agreement lodged with DPEA should be referred to. LST Community Council has had no hand in drawing up that document and does not wish to have any involvement in it. That has been explained to those representing Dart Energy but it is worthwhile confirming the position at this time. The GNA was discussed at two meetings of the Community Council and public and Community Councillors were unanimous that we should not enter into any process based on this document. SEPA should be required to do the job properly. The Community Council has similarly had no involvement in drawing up the draft Community Trust Agreement and does not wish to have any involvement at this time.

6.2 We have consistently accepted that Dart Energy is not exploring for shale gas and as a consequence there will be no fracking. There will however, require to be some control over what is to happen in the future particularly as it is suggested that CBM reserves will only subsist for some 20 years. We are aware there are considerable shale gas reserves in the Forth Valley.

## **7. Conclusions**

7.1 In my opinion, there has been a lack of responsibility by Dart in fully engaging in consultation requirements, only going so far as tickboxing rather than seeing it as a matter that could lead to better information and therefore better decisions. Further research should be carried out on a collaborative basis, to ensure that all parties, including residents, can input into the process and fully understand how their health and that of the environment they live in is being safeguarded. All regulatory bodies need to be fully on board with requirements, SEPA in particular needs to come up to speed with their regulatory duties, or where there are grey areas then appropriate regulation needs to be put in place before permission is granted. The opportunity for good collaborative

stakeholder involvement during pre-application and consultation stages seems to have been missed. These missed opportunities cannot now be redressed as part of this application.

- 7.2 The whole mess of regulation also needs to be addressed. The UK Government granted the PEDL licence, Falkirk Council are responsible for air quality, DECC are responsible for boreholes, HSE have the safety aspect and SEPA control environment issues. This is an opportunity for one of those organisations, or indeed an outside organisation, to bring in those agencies to work together and resolve the outstanding concerns of the community.
- 7.3 This Community Council recognises the ongoing demand for energy. We all need energy in our modern society and it is right that research and development seeks to maximise technology for the production of energy. However, extraction must be safe, and where there are risks, proper safeguarding measures must be in place and should be seen to be in place. Given the information that we have researched and what we have been provided with to date, we are not convinced that the appropriate safeguarding measures are in existence.

*Word count – 1990*

**18 February 2014**