



# SCOTTISH EXECUTIVE

## Directorate for Planning and Environmental Appeals

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Your ref: AMM/CRE

Our ref: P/PPA/380/360

15 August 2007

HG Planning  
20 Lynedoch Crescent  
Glasgow  
G3 6EQ

Dear Sir

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 47 AND  
SCHEDULE 4  
PLANNING APPEAL BY CHAPELTON RENEWABLE ENERGY LIMITED: PROPOSED  
WIND ENERGY DEVELOPMENT AT BROADLEES FARM/ WEST SHAWTONHILL  
FARM, CHAPELTON, LANARKSHIRE**

1. I refer to your clients' appeal, which I have been appointed to determine, against the failure of South Lanarkshire Council to determine within the prescribed period an application for planning permission for the "erection of 4 no. wind turbines, sub-station, contractor's compound, underground cable route, sealing end compound and road access", at the location stated above. I have considered the written submissions and made an accompanied inspection of the appeal site and the surrounding area on 10 July 2007. I also viewed the locality unaccompanied from various locations, and on the same and later days viewed a number of existing wind energy installations in Lanarkshire from near and distant vantage points.

### BACKGROUND

2. The appeal site is to the south-west of the A726 road, roughly half way between East Kilbride and Strathaven and around 1 km north-west of Chapelton village. It is on a part of the very large Cladance Moss that has been made into improved grazing land by measures including deep drainage cuts into the thick peat. To the north-west the adjoining part of the moss has been stripped of surface vegetation and is being used as a commercial source of peat. The land slopes up slightly towards the main road and to the north-west, but is all within a few metres of 240m above sea level.

3. The application for planning permission includes several distinct elements: a new access track off the A726, first heading west-south-west and after changes of direction and a crossing of the artificially cut channel of the Powmillon Burn terminating with an east-south-easterly direction some 700m from the edge of the built-up area of Chapelton; a short spur off this track, to close to a SSW-flowing drain at the boundary with the peat extraction area; four wind turbines 70m high to



mid hub and 110m to vertical blade-tip, at the end of the spur, the end of the main track and two positions along it, north and south of the Powmillon Burn cut; a temporary contractor's compound close to the main road; a small sub-station in the western angle between the main track and the spur; and an underground electrical connection route from the sub-station, along the track, along the south-west side of the main road, and, after passing under the road, northward to connect into an existing 33kV overhead transmission line north-west of West Drumloch Farm. The predicted total electrical output from the four turbines would be some 11 MW.

4. In the approved **Glasgow and Clyde Valley Structure Plan 2000** Strategic Policy 8(b) supports windfarm developments in preferred areas identified in Key Diagram Inset G. One of these preferred areas lies south of East Kilbride but does not reach as far east as the appeal site. Strategic Policy 7 requires regard to be had to various identified international, national and strategic environmental resources, presumes against any proposals which could have significant adverse effect on these resources, and requires the protection and enhancement of environmental resources listed in schedule 7, in accordance with National Planning Policy Guideline (NPPG) 14 *Natural Heritage*. Among the resources listed in schedule 7 is "(b) ... the landscape character of the green belt".

5. Strategic Policy 9 – Assessment of Development Proposals provides a number of criteria, most of which are of no possible relevance to the appeal scheme. They include, however: "(B) ... (iv) safeguard the environmental resources listed in Schedule 7 or identified in Local Plans; (v) avoid isolated and sporadic development in the Green Belt and wider countryside". Part (C)(iii) requires appropriate provision for "remedial environmental action". Strategic Policy 10 provides criteria for evaluation of proposals outwith the categories of acceptable development in Strategic Policy 9. Of the instances of "the need for the development in terms of ..." in part (A) "(v) specific locational need" is the only one of possible relevance. Of the criteria in part (B) for (i) economic benefit, (ii) social benefit and (iii) environmental benefit those conceivably of relevance are "(i)(b) the protection of existing jobs or the creation of a significant number of net additional permanent jobs in the Structure Plan area", "(ii) (b) supporting or enhancing community facilities; (c) the capacity of the settlement and surrounding area to absorb further development" and "(iii)(a) the protection and enhancement of environmental resources identified in Schedule 7 or Local Plans".

6. The finalised **Third Alteration** to the structure plan (2006), now before Ministers, would change the policy framework for assessing windfarm proposals. It proposes a change to 'Potential Areas of Search for Windfarms', which would include a new area north-east of Carluke, but again the area south of East Kilbride would not extend as far north-east as the appeal site. Schedule 9 would set a threshold of 20MW for wind turbine developments requiring clearance under Strategic Policy 10 if they did not meet the criteria of Strategic Policy 9.

7. The appeal site is within the designated green belt in the adopted **East Kilbride and District Local Plan** (2003). Policy DC4 - Renewable Energy states that "In considering applications for any renewable energy development apparatus, the Council will have regard to Scottish Executive guidance and G&CVSP key diagram inset G. All specific proposals will be assessed against the criteria listed in policy SLP4 – Renewable Energy". This local plan, according to the extracts provided for the appeal, does not identify any preferred locations for wind energy schemes, beyond that reference to the structure plan. Policy SLP4 is annexed to the local plan but is one of a set of policies applying also in other current local plan areas. It states:-

*In those areas identified as preferred locations for renewable energy there will be a presumption in favour of their development. In considering applications for any renewable*

*energy development or apparatus, the Council will have regard to the Structure Plan and Government Guidance and will assess specific proposals against the undernoted criteria:*

- (1) The siting and external appearance of apparatus, including any location or landscaping requirements, have been designed to minimise the impact of such apparatus on amenity, while respecting operational efficiency. A realistic means of achieving the removal of any apparatus when redundant and the restoration of the site is required.*
- (2) The development can take place without unacceptable detrimental effects on the environment and landscape. Proposals will be assessed with reference to mitigating measures.*
- (3) Access for construction traffic can be achieved without compromising highway safety or causing significant permanent damage to the environment.*
- (4) The development will have no detrimental effect on any heritage feature, including listed buildings, conservation areas, ancient monuments, historic gardens and designed landscapes, areas of great landscape value, ancient woodland, archaeological interest or Sites of Special Scientific Interest/ Sites Important for Nature Conservation, etc.*
- (5) The development will not unacceptably affect the amenities of neighbouring occupiers by reason of noise, smell, visual dominance, shadow flicker, reflected light or other emission.*
- (6) No electromagnetic disturbance is likely to be caused by the proposals to any existing transmitting or receiving system or (where such disturbances may be caused) that measures will be taken to remedy or minimise such disturbances.*
- (7) The environmental effects of all transmission lines between the development and the point of connection to the grid have been assessed.*

8. The finalised **South Lanarkshire Local Plan** proposes ‘potential’ areas for windfarms in line with the Third Alteration to the structure plan, and again the ‘potential’ area west of Strathaven and south-west of East Kilbride does not extend to the locality around the appeal site. Policy ENV 14 – Potential Windfarm Areas Policy states: “In accordance with the Glasgow & Clyde Valley Structure Plan, significant windfarm developments are to be directed to the ‘potential’ areas shown on the Proposals Map, and will be assessed against the criteria set out in Policy ENV 37 – Renewable Energy Development Assessment Criteria. | Outwith the ‘potential’ areas, proposals for large scale windfarm developments will not be favoured, though all proposals that meet the criteria set out in Policy ENV 37 will be considered on their merits.” The criteria in this lengthy policy include effects on natural and built heritage, green belt, residential amenity, and views from tourist routes; safe access for construction traffic; and other matters similar to those in current policies. Subject to a proposed modification, paragraph 12.4 of explanatory text would include: “Although there are no strategic constraints located within the potential areas, there are other considerations that need to be taken into account when assessing proposals in these areas. For example, within the north east Clydesdale area, cumulative impact with the recently constructed Black Law windfarm is a significant concern, to such an extent that the scope for further development is likely to be limited. Similar considerations will apply in the potential area to the south west of East Kilbride due to the construction of the Whitelee windfarm. ...”

9. Scottish Planning Policy 6 *Renewable Energy* replaced National Planning Policy Guideline (NPPG) 6 in March 2007. In general it provides strong support for increasing the use of renewable energy resources in Scotland. Its text includes:-

22. Planning authorities should use the development plan process to set the framework for considering proposals for all renewable energy developments in their areas. Plans should support the development of all technologies, regardless of scale, while ensuring that an area's renewable energy potential is realised in a way that is compatible with other development plan policies and objectives. Plans should also ensure that individual proposals are assessed against clear policies so that clarity is provided to the industry, local communities and others on the potential for the development of renewable technologies throughout the area. This should be done, where appropriate, through spatial policies supported by broad criteria identifying the issues that must be satisfactorily addressed to enable development to take place.

23. ... Development plans should set out a spatial framework, supported by broad criteria, for the consideration of windfarm proposals over 20 megawatts. Annex A sets out the considerations that should be taken into account when undertaking this work. This framework should not be used to put in place a sequential approach to determining applications.

24. The extent to which considerations set out in Annex A are relevant to proposals below 20 megawatts will be dependent on the scale of development proposed, while recognizing that the design and location of any development must reflect the scale and character of the landscape. ...

51. Planning authorities should ensure that, where relevant, applicants adequately address the cumulative impact that their proposal would have on the area. This will apply primarily to larger scale developments although it should be recognized that smaller community developments may also contribute to cumulative effect, especially if poorly sited. ...

10. In regard to green belts, Annex A notes: "... If a proposed use would not normally be consistent with green belt designation, it may still be considered appropriate in exceptional circumstances, either as a national priority or to meet an established need but only if no other suitable site is available. If relevant, planning authorities should consider the appropriateness of windfarm developments through the development plan process to allow for wide publicity and engagement." Under the heading 'Communities' it is noted that: "*PAN 45* confirms that development up to 2 km is likely to be a prominent feature in open landscape. The Scottish Ministers would support this as a separation distance between turbines and the edge of cities, towns and villages so long as policies recognize that this approach is being adopted solely as a mechanism for steering proposals to broad areas of search and, within this distance, proposals will continue to be judged on a case-by-case basis."

#### **MAIN POINTS IN CASE FOR SOUTH LANARKSHIRE COUNCIL**

11. NPPG 6 supported an increase in renewable energy developments, but where environmental impacts can be satisfactorily accommodated; they should not be spread indiscriminately. The protection of green belts was emphasized.

12. The turbines would be placed within the plateau farmlands landscape character zone as defined in the Glasgow and Clyde Valley Landscape Character Assessment. The guidelines in this study remark that "the open nature of this landscape type means that this landscape is sensitive to the development of tall buildings and structures". That description is true of this part of the green belt. There is also cumulative impact to be considered. From the north side of Chapelton and from other houses in the vicinity, besides travellers on the A726, there would be likely cumulative impact with

the 140 turbine windfarm recently approved at Whitelee, to the west. Scottish Natural Heritage's objection on grounds of landscape impact and the impossibility of satisfactory mitigation is significant.

13. The proposal is not in a preferred area under the approved structure plan, to which local plan policy SLP4 relates. It would be under the 20MW threshold for strategic significance in the proposed structure plan amendment, leaving local plan policies as the main policy context for assessment. Policy SLP4 and its equivalent ENV 37 in the finalised local plan come into play. A criterion in these is that development should take place without unacceptable significant harm to the environment and landscape. Effects on the landscape character of the green belt and the high visibility from the A726 and by local residents are against compliance with that criterion. The distance of some 750m from Chapelton and less than 1 km from several surrounding properties is not in keeping with a suggestion in the draft SPP 6 of July 2006 that a separation distance between settlements and large scale windfarms would be supported.

14. Whilst the appeal scheme is not large-scale in output, the full-scale character and 110m overall height of the turbines indicates that they may be inappropriate so near to houses. Though wind turbines have for operational reasons to be in windy places, there is no specific locational need for this particular site in terms of structure plan policy 10(A). The expected average of 35 on-site workers during construction would not be an economic justification in terms of policy 10(B)(i). Under 10(B)(ii) this is not a Rural Investment Area, potential community benefits would not provide a justification, and there are problems with regard to the landscape's capacity to absorb the development and the visual impact on settlements. With regard to the items in 10(B)(iii), the interests of (a) protection and enhancement of environmental resources would not be furthered; (b) is not relevant; and benefits to air quality from using a clean source of power generation would not in themselves justify the proposal.

15. Sightlines at the proposed entrance to the access track from the A726 have not been resolved. The objection from BAA on grounds of interference with Glasgow Airport radar was regarded as significant.

### **MAIN POINTS IN THIRD PARTY OBJECTIONS**

(Objections have been made by the Strathaven Turbine Action Group (STAG), Lindsay-Auldhouse-Chapelton Community Council, Strathaven Community Council, Eaglesham Community Council, and a considerable number of individuals, mostly in standard letters.)

16. The turbines would affect residents with noise and shadow flicker, which could also endanger drivers on the A726. They would be visually dominant and obtrusive, and would be seen from as far away as the Kilpatrick Hills and hills north of Kilsyth. Cumulatively with the Whitelee windfarm and other developments, existing and proposed, they would result in a repeated and assertive presence of wind turbines along the A726 and A723 roads, and as seen from Eaglesham.

17. There is concern that works for the turbines and access road could disturb drainage and indirectly increase the flow of the Powmillon Burn through Strathaven, where the burn has caused flooding in the past. There has been no proper hydrological assessment. The applicants have not given real consideration to alternative sites. The Environmental Statement's consideration of cumulative impact ignored proposals for nearly 250 turbines already approved or in the planning system. The viewpoints used in the ES seem to have been chosen to minimize apparent visual impacts, and nearly half of them have no illustrations of cumulative impact. Most of the photographs for photomontages were taken in dull conditions, minimizing the visual impact of turbines. There

has been no explanation of what source, such as borrow pits, would be used for the massive amounts of stone needed to make secure foundations for 110m turbines on deep peat, and perhaps to form the roadway; the ES failed to provide information on ground conditions, though within a short distance the peat is deep enough for extraction at the rate of 0.14m a year for 30 years. A better contribution to fighting global climate change might be made by letting Cladance Moss revert to natural drainage allowing peat to accumulate as a carbon sink. More information is coming to light on the severe environmental damage that building windfarms on peat can cause.

## MAIN POINTS IN CONSULTATION RESPONSES

18. **BAA Ltd** objected on the grounds that the turbines could interfere with radar guiding air traffic for Glasgow Airport. **NATS**, **Defence Estates** and **Glasgow Prestwick Airport** confirmed that they had no safeguarding objections in relation to aircraft safety. The **RSPB** noted the “relatively low conservation value of the bird populations on the site”, made no objection and offered to assist with a Habitat Management Plan. The **Scottish Civic Trust** made no objection, but suggested that the access track be removed after completion of construction. **Historic Scotland** had no observations to offer. **Scottish Water** and **Scottish Power** had no objections in relation to their apparatus. The **West of Scotland Archaeology Service** recommended imposition of an archaeological safeguarding condition. The Scottish Environment Protection Agency (**SEPA**) offered technical advice and notified various technical requirements, but made no objection.

19. The **Glasgow and the Clyde Valley Structure Plan Joint Committee** commented that the proposal was too small in output to be of strategic significance; however issues raised by the structure plan would still be relevant. Main concerns would be cumulative impact with the Whitelee windfarm, ability of the landscape to absorb the development, compatibility with green belt policy and impact on the local community. It was noted that separation from Chapelton would be less than the 1 km figure used in the structure plan to protect communities from noise and radio frequency interference, the turbines would be of large size and they could have significant visual impacts over a wide area. In the windfarm assessment exercise for the structure plan green belt land was excluded on the basis that it would be inappropriate to site large-scale windfarms so close to urban areas, since development on this scale would harm green belt amenity. The impacts of smaller proposals in the green belt were not specifically considered, and the present proposal should be assessed against local plan policy.

20. **Scottish Natural Heritage (SNH)** objected on the grounds: “The proposed windfarm does not relate well to the general spatial distribution of other existing, consented and proposed windfarms in South Lanarkshire, in clusters with windfarm-free zones between. We note that while the ES refers to the site’s proximity to potential areas for windfarms, as identified in the Glasgow and Clyde Valley Structure Plan, the Chapelton site does not lie within any of these areas. Chapelton will bridge the gap between two clusters on the adjacent, higher and less sensitive *Plateau Moorlands* i.e. Whitelee consented to the west, and Bankend Rig/ Dungavel/ Nutberry/ Hagshaw Extension/ Spireslack to the south. As this will remove the windfarm-free ‘relief’ on the lower ground between the two clusters, Chapelton will cause significant cumulative landscape and visual impact.”

21. **SNH** also advised that if the council were minded to approve the project, it should seek a revision of the layout to give better integration with the existing field pattern. Further, the ES contained not enough information to support conclusions about potential impacts on bird species, particularly in Schedule 1 of the Wildlife and Countryside Act/ Annex 1 of the EC Birds Directive, and migratory species; and the adverse landscape and visual impact of the development could not be reduced to any satisfactory level. Detailed comments on the ES included that the methodology was in most respects sound but **SNH** disagreed on some matters of assessment, including: classification

of the 'plateau farmland' as of low instead of medium sensitivity as it should be; lack of consideration of the scale of the landscape to accommodate the turbines; use of new hedge planting as mitigation, since this would not reduce the effect of the turbines in redefining local landscape character, or as screening from the A726, since 110m turbines could not be screened so easily. The assessment process and graphic outputs for cumulative landscape and visual impacts did not accord with SNH's guidance; however, enough information was provided to show that the proposed turbines on 'plateau farmland' would erode the separation of the 'plateau moorland' clusters of wind turbine developments to the south and west. There were some concerns about presentation of ornithological data; and there had been no investigation, as required, of the hydrology in relation to the peat in the adjacent East Cladance raised bog Site of Importance for Nature Conservation (SINC).

22. South Lanarkshire Council's **Divisional Engineer** advised sightlines, in both directions, of 9.0m by 215m at the access junction on the A726, but noted that "limited ownership to the south-east may make this difficult to achieve"; an indicated acceleration facility was not required; after completion of the development the entrance should be reduced to a size accommodating maintenance vehicles; wheel wash facilities would be required; and a section 96 agreement (under legislation for roads) was also required. The council's **Environmental Health Officer** recommended 31 detailed conditions.

#### **MAIN POINTS OF RESPONSES FOR APPELLANTS**

23. The appellants are concerned that the planning authority's opposition to the proposal was not foreshadowed in previous discussions. The reply to the appeal questionnaire noted that there was no significant departure from the development plan.

24. National policy supports renewable energy developments where environmental impacts can be addressed satisfactorily. The appellants do not accept that the proposal threatens the integrity of the green belt. Effects would be too limited to have such an impact. Development plan policies do not rule out wind turbines outwith preferred areas. The site is in no specially designated area other than the green belt. The ES satisfactorily addressed matters of visual and landscape impact. The development would not be of large scale. A project of similar scale was approved in the green belt at Lochhead Farm, Stonehouse, in June 2006 (P/PPA/380/316). This decision should have been taken into account by the council. There would be no conflict with the purposes of the green belt set out in SPP 21: opportunities for outdoor recreation, education and tourism; providing access to the countryside; protecting and enhancing biodiversity and landscape resources; and conserving the historic environment. Opportunities for management could even be enhanced.

25. Approval would not be inconsistent with the adopted and emerging local plans. Whilst cumulative impact with other schemes is a relevant matter, those other schemes are in the main of much larger scale and different in character. The Whitelee windfarm would be some 7 km away, whereas an inoffensive single turbine in the south-east outskirts of East Kilbride is closer. It is not accepted that there could be cumulative impact with Whitelee. The four proposed turbines would stand proud in a largely flat landscape, but would not necessarily be an unattractive feature. They would be visible from the A726, but they would not be a traffic hazard. An effective landscape screen could be provided along the road.

26. A slight adjustment of the position of the access road is all that is necessary to ensure the sightlines requested by roads officials, within land controlled by the appellants. It is understood that the Whitelee development has required a new radar installation to overcome expected problems, and that this solution would also apply to the appeal scheme; a suspensive condition would therefore be

appropriate, in response to the objection from BAA. Any residual problems of local impacts might also be overcome by conditions, possibly reducing the size of the turbines.

27. Many of the matters raised by STAG and other objectors are irrelevant to the site, are insubstantial, or have been addressed in the application as submitted. The latter include noise, shadow flicker and vibration. The appellant company would be willing to provide £11,000 a year to the local community as a community benefit relevant in policy terms. Best practice would be used in construction and other operations and the site bears no similarity to one at Braes of Doune, to which STAG has tried to make comparisons.

## **REPRESENTATIONS IN SUPPORT OF THE PROPOSAL**

28. There were also three individual letters of support for the proposal. One of these stated that the care taken to avoid noise or shadow flicker effects on the nearest residents was impressive.

## **CONCLUSIONS**

29. Section 25 of the Act requires the determination in this case to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise. I consider, from my inspection of the appeal site and the written submissions, that the issues to be determined are whether the proposal is consistent with the relevant provisions of the development plan and, if not, whether an exception to these provisions is justified by other material considerations. The development plan comprises the Glasgow and Clyde Valley Structure Plan 2000 and the adopted East Kilbride and District Local Plan. Material considerations are bound to include SPP 6, the proposed structure plan Third Alteration and the finalised local plan.

30. When the current structure plan and local plan are taken together it is clear that the appeal site is not in a preferred area for windfarm development. Nor is it so close to the area indicated in structure plan Key Diagram Inset G that the distance could be regarded as insignificant at the strategic level. Current structure plan policies are not limited in application to the strategic level, however, and section 25 therefore requires consideration of policy criteria that may be relevant to the case. In Strategic Policy 7 the obviously relevant consideration is how the proposed development would affect the landscape character of the green belt. On this matter I note that the 'Planning Statement' submitted with the appeal refers to the "proximity of the green belt" (page 40). It therefore seems quite possible that the proposal reached that stage in the mistaken belief that the site was not actually in the green belt.

31. To reach any conclusion on this aspect, and consequently others, it is inevitably necessary to consider how the four turbines, as by far the major elements of the proposal, would fit into their setting of green belt landscape. Despite their small number, the turbines would be toward the higher end of the range of currently available machines, and not comparable individually to the single turbine of perhaps less than half the height within an industrial/commercial area in the south-east outskirts of East Kilbride. The landscape setting is very open and nearly flat over an extensive area, so the turbines could not avoid being dominant features in this very rural part of the green belt between East Kilbride and Strathaven. Although they would not lead to coalescence or prevent use of or access to the green belt for recreation or other desirable purposes, their visual dominance would have a significant adverse effect on the open landscape character of that part of the green belt. It would not be realistic to suppose that screen planting along a stretch of the A726 could much reduce that impact. Accordingly the green belt landscape character resource as listed in Schedule 7 would not be protected or enhanced, and Strategic Policy 7 has to count against the scheme.

32. The same conclusion must follow for Strategic Policy 9(B)(iv). It would be very difficult for wind turbines, by their locational requirements, not to fall foul of criterion (B)(v) *avoid isolated and sporadic development in the Green Belt and wider countryside*, but this is evidently more relevant to developments such as houses and I would not see it as appropriate to lay much additional weight on failure under it. The requirement of *appropriate remedial action* under part (C)(iii) could in part be accomplished by conditions and good practice in matters such as impacts on ground-nesting birds, but could not overcome the visual and landscape impacts. Under Strategic Policy 10(A)(v), whilst wind turbines need a good wind resource it could not reasonably be concluded that there is a *specific locational need* for this site. The temporary creation of construction jobs and a small contribution to more permanent employment would not be trivial benefits but they could scarcely amount to an overwhelming advantage under 10(B)(i)(b). The provision of an annual sum for use by the local community could come into play under 10(B)(ii)(b), but not to the extent of cancelling substantial objections. The wording of criterion 10(B)(ii)(c) suggests greater relevance to developments such as substantial additions of housing to a village and in regard to the appeal scheme this criterion is effectively subsumed by criterion 10(B)(iii)(a), referring again indirectly to the protection of the landscape character of the green belt.

33. Policy SLP4 annexed to the current local plan requires consideration of structure plan policy and national policy, as now set out in SPP 6. Of the criteria noted above in paragraph 7, (1), detailed design, is not critical; (3) appears amenable to a condition; under (4) there would be no indication of any possibility of effects on specially designated places or areas, but for the lack of resolution of the question of hydrological impacts on the adjacent SINC; under (6) there are strong indications in the ES that any effects on local television or radio reception could be remedied, and that the larger Whitelee wind energy development will produce a solution to a potential problem of interference with the Glasgow Airport radar; and under (7) it is evident to me from the ES that – notwithstanding some adverse comment from objectors – the routing of cables to feed electricity into the grid has been properly thought through. Under criterion (2), however, there would be the significant adverse effects on the open landscape character of the green belt, as already noted. Under the important criterion (5) there is no convincing technical evidence to rebut the findings of the ES that no household would suffer significant noise impacts; the effects of shadow flicker on residents would, on the basis of the ES as accepted in this matter by the council, be too rarely experienced to amount to be a major consideration against the scheme; smell would not be relevant; and reflected light would not be a major matter in itself; but at around 750m distance from the nearest part of Chapelton 110m high turbines would have a rather obvious impact in views to the adjacent countryside, though by no means all residents might find the turbines unpleasing to look at. Mainly because of failure under criterion (2) there would not be overall compliance with this policy.

34. The structure plan Third Alteration would place more emphasis on local plan policies, as the 11MW output would be well below the 20MW threshold of strategic significance. The character of the appeal scheme falls rather awkwardly into the proposed policy framework, since the scale of output would be small and the number of turbines would be small; but the physical scale of those turbines as structures set in a largely flat open landscape would be similar to that of turbines used on extensive windfarms, and could not fairly be described as small. It would be irrational to disregard this defining feature of the proposal on the basis of the small number and small total output of turbines, as compared, for instance, to the 140 turbines to be placed at Whitelee or the lesser, but still considerable, number at Black Law. Although it might have been clearer if policy ENV 14 of the finalised local plan had referred to “large scale wind energy developments” rather than the slightly ambiguous “large scale windfarm developments”, it would accordingly be irrational not to apply this policy to the appeal scheme. The policy does not favour such developments outwith the ‘potential’ windfarm areas, though it makes provision for proposals to be considered on their merits, against the

criteria in policy ENV37. As these retain the reference in current policy to protection of the green belt, there has also to be failure under this proposed policy.

35. SPP 6, continuing the theme established in NPPG 6, strongly supports increased use of renewable energy sources and is an important material consideration. Nevertheless it does not advocate indiscriminate siting of wind energy installations. Paragraph 22 explicitly supports the use of the development plan to set a policy framework for consideration of proposals, and upholds the importance of seeking compatibility with other policies and objectives. Further, it expects the policy framework to provide clarity for the industry and for local communities, and to use spatial policies supported by broad criteria. Whilst according to paragraph 23 the spatial and criteria-based framework is to be primarily for schemes of over 20MW, paragraph 24 notes that considerations set out in Annex A may be relevant to proposals below 20MW, depending on the scale of development.

36. As already discussed, the physical scale of the four turbines would be large and there would be significant adverse impact on the landscape character of the green belt. There is no basis for a finding that, in accordance with comment in Annex A of SPP 6 on developments in green belts (in paragraph 10 above), exceptional needs apply or no other suitable site may be available. Hence this criterion of the annex has to count against the appeal scheme. The comment under the heading 'Communities' strikes a cautionary note about development such as this proposal, within 2 km of a settlement; this would not be decisive in itself, but reinforces the previous findings about visual impact in this open green belt setting less than 1 km from Chapelton.

37. Paragraph 51 of SPP 6 draws attention to the relevance of cumulative impact, even potentially with smaller wind energy schemes. The emerging development plan policy framework, updating Key Diagram Inset G of the current structure plan, would at the same time serve to maximise the potential for windfarm developments on those areas that are most suitable in terms of landscape and community impact, and to avoid the accumulation of impacts from haphazardly sited installations in intervening areas. There is merit in the concept that the open plateau farmland at and around the appeal site provides 'relief' from the large windfarm developments sited appropriately but not invisibly on the higher plateau moorlands to the west and south. Although the four turbines would be far too well separated from those developments to appear as continuations of them, they would contribute to a sense that a large segment of the landscape, and long continuous stretches of the view for travellers on main roads, were visually dominated by wind energy developments.

38. On this matter of cumulative impact, whilst I have no reason at all to doubt the integrity of the landscape impact work in the ES, it is pertinent to note the unavoidable limitations of photographs and photomontages that attempt to show the impact of turbines at more than a few kilometres' distance. To judge from the actual visibility in clear conditions of installations such as at Hagshaw Hill from near Carluke and at Black Law from the viewpoint of Blackhill, it is evident that the illustrations in the ES significantly underplay landscape impacts of the more distant wind turbines. This could scarcely be otherwise because the acuity of a 20/20 or optically corrected human eye is not matched by the process of recording images digitally or on film, digital scanning if the latter, and inkjet, laser or comparable printing. Thus the tendency of distant turbines to be indistinguishable from the sky or hillsides in these photographic illustrations can be attributed to the technical limitations of this process rather than to how they appear, or would appear, in reality, as small but sharply edged objects against the sky or, less often, against a vegetated hillside.

39. A general point also to be borne in mind, with regard to the SPP's strong emphasis on concern that Scotland should make best use of renewable energy resources, is that for relatively little gain in output of electricity from renewable sources developments such as the appeal scheme could constrain better sited larger schemes, by taking those beyond acceptable thresholds of cumulative

impact that would not otherwise have existed. This can only reinforce the need to give due weight to the spatial element of a development plan policy framework.

40. A further material consideration is the appeal decision P/PPA/380/316. I note, however, that there were important differences from the present case. The proposal was for three, smaller, turbines, with a total output of 4MW. It was in an area with no adopted local plan policy on wind energy developments. Not of least importance, the description of the site reveals a very different physical setting, relatively well able to absorb the development. That decision therefore cannot be taken as a pointer to the outcome of the present case.

41. Whilst there has been an offer to accept a condition restricting the size of turbines, it is evident that to make the proposal acceptable in terms of impact on the green belt landscape the nature of the scheme would have to be changed to something very different from what has been applied for. This could not be an appropriate use of planning conditions.

42. I have taken account of all the other matters raised but find none that outweigh the considerations on which my decision is based. I have to conclude that the proposal is in conflict with the terms of the development plan and that other material considerations support rather than counteract the consequent presumption against granting planning permission, in terms of section 25.

43. In exercise of the powers delegated to me I therefore **dismiss** this appeal and refuse to grant planning permission for the development proposed in the application EK/060318 registered on 22 June 2006.

44. This decision is final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks of the date of this letter, as conferred by sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997; on any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1992 or of any orders, regulations or rules made under these Acts.

45. Copies of this letter have been sent to South Lanarkshire Council and to the persons who made written representations on the scheme.

Yours faithfully

*This is the version issued to parties on 15 August 2007.*

W M H PATTERSON  
Reporter