

Dear Mrs Kerr,

**Re: PSL Land Ltd's appeal against Midlothian Council's non-determination of a planning application for a mixed-use development by Pentland Studios Ltd., Application reference 15/00364/PPP, Appeal reference PPA-290-2032**

I am writing on behalf of Biofuelwatch to submit our representations regarding Pentland Studios Ltd's application for planning approval in principle for a mixed use development at Old Pentland Road, Loandhead. We would ask our submission to be taken into account when considering PSL Land Ltd's appeal against Midlothian Council's non-determination of the application. We are aware that the official deadline for submitting objections and other representations has now passed, however, we would ask our late submission to nonetheless be considered, given the lack of transparency about the nature of this planning proposal. Biofuelwatch has only now become aware that several of the documents related to this application refer to a biomass power station, which is contrary to the applicants' description of the development in the planning application and the appellant's description in the appeal notification.

Biofuelwatch is a UK/US non-profit organisation which has been providing research, information and advocacy in relation to the impacts of large-scale industrial bioenergy since 2006 (see [biofuelwatch.org.uk](http://biofuelwatch.org.uk)). We support local groups opposed to biomass power stations which we believe would have an adverse impact on the local environment, public health, as well as greenhouse gas emissions, and on forests worldwide.

We believe that the planning application and appeal should be rejected for the reasons set out below.

However, ***we would also question whether the Appeal is legally competent:***

Under the Section 47 (2) of the Town and Country Planning (Scotland) Act 1997 (as amended in 2006), "a person who has made such an application [i.e. an application for planning permission]" is entitled to appeal if the planning authority fails to determine the application within the prescribed period, or within an extended period agreed upon by the applicant and the planning authority.

Clearly, the right to appeal against either a planning decision or non-determination of a planning application is reserved to applicants. As far as we can see, however, ***this planning appeal has not been submitted by the applicant but by a different company which appears to have no legal relationship at all with the applicant.***

The planning application was submitted to Midlothian Council by Pentland Studios Ltd and was validated on 5<sup>th</sup> May 2015. The planning appeal, dated 3<sup>rd</sup> December 2015, was submitted by PSL Land Ltd. Pentland Studios Ltd has the company number SC463392 and was incorporated on 8<sup>th</sup> November 2013. PSL Land Ltd has the company number SC491629 and was incorporated on 19<sup>th</sup> November 2014. From Companies House records, no shares in PSL Land Ltd appear to be held by Pentland Studios Ltd, nor vice versa. We have found no record of PSL Land Ltd having acquired any legal interests in Pentland Studios Ltd, including in this particular development.

***Our reading of the relevant legislation is that only the original applicant is entitled to appeal a planning decision. Giving consideration to PSL Land Ltd's appeal does not appear to be legally sound.***

Biofuelwatch's concerns about the planning proposal:

We are deeply concerned about the serious contradictions contained within the planning application and appeal documents. Pentland Studios Ltd applied for a Scoping Opinion based on a proposal for a gas-powered CHP plant being included in the development. Their EIA included no Air Quality Assessment, and it included an Transport Assessment which assumed no lorries being required for feedstock delivery and waste disposal. They subsequently advised Midlothian Council that they were looking at a power station with a capacity of up to 100 MW and with the majority of the energy to come from biomass. Although the developers would require to submit a S.36 application for a power station with a 50 MW or larger capacity to the Energy Consents Unit, we do not consider it appropriate for an application for planning permission in principle which includes a proposal for such a large plant to be determined in advance of a S.36 application.

We would be deeply concerned about a biomass power station being planned at the site. Our concerns relate to

- + impacts on air quality and public health, both in Midlothian and likely even more so in Edinburgh (especially in and around Burdiehouse), which have not been addressed in the EIA at all;

- + its impacts on traffic in Edinburgh and Straiton, Midlothian, which have also not been addressed in the EIA (with the Transport Assessment omitting HGV traffic for biomass deliveries and ash disposal);

- + wider sustainability concerns, given that there is no evidence of available local or regional wood supplies being sufficient to supply a sizeable biomass power station at this location.

We are aware that they submitted another Energy Statement to the DPEA in June 2016 which makes no mention of biomass and speaks of a far smaller capacity. Although the agent acting for PSL Land Ltd now say that this supersedes previous planning documents, we are nonetheless concerned about this claim. Firstly, as we have explained above, PSL Land Ltd is not the applicant – Pentland Studios Ltd is, and their most recent information about their planned Energy Centre refers to a large-scale biomass component.

And secondly, although an application for planning permission in principle does not have to be as detailed as a full planning application, we would nonetheless question whether an application and appeal containing such vastly different, mutually contradictory proposals should be considered acceptable in principle.

Above all, we are deeply concerned about the legal implications of the application by Pentland Studios Ltd (which clearly included a power station of up to 100 MW capacity with the majority of energy coming from biomass) being approved following an appeal by another company which may have distanced itself from biomass power plans, but which to us appears not to have valid legal standing related to this application at all.

Best regards,

Almuth Ernsting  
Co-Director, Biofuelwatch