

Dear Sir/Madam,

Re: Planning application by Plutus Energy Ltd for the installation of 14 diesel generators to be powered with Hydrotreated Vegetable Oil, Ref 17/1221/FUL

I am writing on behalf of Biofuelwatch, an organisation which carries out research, advocacy and campaigning in relation to large-scale industrial bioenergy (biofuelwatch.org.uk).

We wish to object to the proposal on the grounds that we believe it does not pass the "sustainable development" test set out in the National Planning Policy Framework 2012, given that the sustainability of the fuel cannot be guaranteed.

We are aware of and share the serious concerns regarding the local impacts of the proposed development, such as the visual impacts, including on the nearby Devon AOBN, noise, air pollution, and the use of greenfield land, and non-compatibility with the East Devon Local Plan 2013-2020. However, as a UK-wide rather than local organisation, we believe that we are best placed to focus on wider sustainability concerns.

We do, however, wish to add two observations regarding air quality important which we hope will be taken into account, too.

Plutus Energy's plant will not generate renewable energy:

As confirmed by the UK Government's Department for Business, Energy and Industrial Strategy¹: "*Bioliqids (ie liquid biomass fuels used for heat and electricity generation) must comply with the sustainability criteria set out in the Renewable Energy Directive in order to count towards the directive's targets and be eligible for financial support.*" In order to achieve compliance with the EU Renewable Energy Directive, the UK Government has made access to renewable energy subsidies dependent on bioliqids meeting mandatory greenhouse gas and sustainability standards. Compliance with those standards is assessed by Ofgem, based on reports and documentation submitted by generators.

Plutus Energy, however, seeks to apply for Capacity Market Payments, as confirmed in the Design and Access Statement. Developments supported by a "low carbon support scheme", i.e. through any renewable energy subsidies, are automatically excluded from Capacity Market Payments². In any case, new bioliqids generating schemes are no longer eligible for renewable energy subsidies: The Renewables Obligation is now closed to new applicants, and the Government decided to exclude bioliqids (with the exception of pyrolysis oil which is not relevant to this case) from eligibility to apply for Contracts for Difference, which has replaced the Renewables Obligation for all new developments.

This means that this scheme does not fall within the remit of the bioliqid sustainability and greenhouse gas standards. Even if Plutus Energy was to provide documentation, Ofgem, i.e. the regulatory body responsible for assessing compliance with those standards overall, would not be empowered to

assess whether the standards are indeed met (since Ofgem can only do so for schemes supported by renewable energy subsidies).

Electricity generated by Plutus Energy will thus not count towards the UK's renewable energy target. The proposal should therefore, in our view, not be considered as a renewable proposal but as one no more sustainable or renewable than a conventional diesel generating plant.

The HVO supplier, Neste Oil, cannot guarantee compliance with UK sustainability and greenhouse gas standards for bioliquids.

We have looked carefully at the Neste Oil HVO Report submitted as part of the planning application. Based on the information contained in that report, together with information contained in Neste Oil's 2016 Annual Report, published in March 2017³, we believe that its fuel would almost certainly contravene the EU's and UK's mandatory greenhouse gas and sustainability standards for bioliquids:

Under those standards, the minimum greenhouse gas savings (compared with fossil fuels) which must be achieved by biofuels in new installations is 50% in 2017, going up to 60% from 2018.

Neste Oil's HVO contains a blend of crude palm oil and, potentially, other virgin vegetable oils, and feedstock which the company describes as "waste and residues". However, as the company's Annual Report confirms, those so-called "waste and residues" include an unspecified proportion of Palm Fatty Acid Distillate (PFAD), which is a fraction of crude palm oil. The 2016 report states: "We are working on improving the transparency of the supply chain of the palm fatty acid distillate (PFAD) that we use". In other words, Neste Oil does not currently fully trace its PFAD supply chain and therefore could not possibly demonstrate its compatibility with greenhouse gas and sustainability standards.

Neste Oil seeks to circumvent this problem by classifying PFAD as a 'waste and residue' rather than a 'product'. Yet the UK's guidance on the sustainability standards/criteria clearly states: "*The treatment of PFAD in the RED GHG calculations indicates that it is to be treated as a product*"⁴. PFAD, under UK rules, must thus be treated in the same way as crude palm oil.

This means that ***an unspecified proportion – possibly the majority – of Neste Oil's HVO consists of palm oil which is not a residue, and that the supplier cannot rule out sourcing from oil palm plantations on recently cleared rainforest and drained peat swamps in South-east Asia*** (Neste Oil's sourcing region for palm oil). Neste Oil thus cannot show that the land criteria set out in the sustainability standards are met.

Nor can the company show that the greenhouse gas standards would be met: As Neste Oil's HVO Report (published in 2014) confirms, the EU Renewable Energy Directive states that "typical greenhouse gas savings" for "HVO from palm oil; process not specified" is 40%, and that the default value for such a fuel (used if no more detailed information can be supplied) is 26%. This means that it would not meet the greenhouse gas standards, which require 60% minimum savings from next year. Palm oil produced with methane capture can achieve over 60% greenhouse gas standards, but Neste Oil's Annual Report states that in 2016,

over 65% of its crude palm oil came from palm mills without methane capture. Details for its PFAD are, of course, not available. ***An unspecified proportion of Neste Oil's HVO thus does not comply with greenhouse gas standards for bioliquids.***

Sustainability of feedstock is a material planning concern:

In his 2011 decision about an Appeal by W4B Bristol Ltd regarding a biofuel power station in Avonmouth (Application 09/03235/F), the Secretary of State considered:

That the sustainability of bioliquids (i.e. liquid fuels derived from biomass and not used for transport) is a material consideration which is relevant to his decision.

In that case, the Secretary of State approved the Appeal on the basis that:

The Appellant states that although no decision has been made on the source or supplier of the vegetable oils that would be used in the plant, it would be sourced from plantations that allow the electricity generated to receive Renewable Obligation Certificates (ROCs, IR31) issued under the Renewables Obligation Order 2009 (ROO)...The Secretary of State has confidence in the ability of the ROC scheme and the associated system of detailed reporting on sustainability by operators and related auditing measures to ensure that whenever ROCs are issued, these sustainability criteria are met by any bioliquids used to generate the electricity in respect of which the ROCs are issued.

As an additional 'safeguard', a planning condition was approved in the Avonmouth case which obliged the developer to provide annual sustainability reports to the same standard required by Ofgem to the planning authority.

We believe that a similar planning condition would not be enforceable or meaningful in the case of Plutus Energy's proposal given that

- It is clear that energy generated will not count towards the UK renewable energy target and that the developer cannot obtain support from any of the renewable energy support schemes to which bioliquid standards apply;
- Plutus Energy has made it clear that all its fuel will be sourced from Neste Oil. Neste Oil's information clearly shows that the company cannot possibly prove compliance with EU/UK bioliquid sustainability and greenhouse gas standards, since they do not currently trace the supply chain for an unspecified proportion of feedstock, i.e. palm fatty acid distillate), and since the large majority of Neste Oil's palm oil comes from mills which do not meet the minimum greenhouse gas savings threshold.

Clearly the Secretary of State's reasoning behind the 2011 decision in the Avonmouth Appeal does not apply to this case.

Since Plutus Energy has chosen a supplier who so clearly cannot prove compliance with the UK's sustainability standards, we believe that a planning condition requiring annual sustainability reports being sent to East Devon District Council would be unwarranted.

We believe that Neste Oil's published information is sufficient to conclude that the development is not sustainable, and that the proposal therefore cannot be regarded as a sustainable development under the National Planning Policy Framework.

Comments on air quality impacts:

We would like to draw your attention to the following concerns:

- 1) Plutus Energy's Air Quality Assessment states: "The engines will burn conventional diesel fuel". This is obviously not true. Nor can it be assumed that the emissions from burning HVO will not be higher than those from burning conventional diesel:

Neste Oil's HVO Report discusses tailpipe emissions from HVO use in vehicle engines rather than static diesel generators. It shows, however, that emissions of air pollutants, including small particulates (PM10) and oxides of nitrogen (NOx) from burning HVO differ greatly depending on the type of engine used. No documents have been provided to show what the emissions from burning it in the type of diesel generators which Plutus Energy intends to use would be. This means that the worst-case scenario – i.e. higher emissions – has not been considered in the air quality assessment.

- 2) We are concerned that proposed diesel engines are not Best Available Technology. Best Available Technology under EU emissions standards for such off-road diesel engines are Stage IV engines⁵. We believe that this is a material planning concern because the plant will not be subject to a separate environmental permit from the Environment Agency.

According to the Air Quality assessment, the diesel generators to be used by Plutus Energy will be Perkins 4012-46TAG engines. Perkins' product specification shows that those are design to meet 1986 German emissions standards (TA Luft 1986)⁶, standards which were replaced in Germany by far stricter ones on 2002⁷. Perkins' product specification include information when a diesel engine meets the EU's Stage III or Stage IV emission standard. This is not specified for the engine which Plutus Energy will use, strongly suggesting that those will not constitute with Best Available Technology.

Best regards,

Almuth Ernsting
Co-director, Biofuelwatch

¹ www.gov.uk/guidance/sustainability-standards-for-electricity-generation-from-biomass

² Electricity Capacity Regulations 2014, Article 16

³ www.neste.com/en/corporate-info/news-media/material-uploads/annual-reports-0

⁴ www.ofgem.gov.uk/system/files/docs/2016/03/ofgem_ro_sustainability_criteria_guidance_march_16.pdf

⁵ <https://www.dieselnet.com/standards/eu/nonroad.php>

⁶ <http://s7d2.scene7.com/is/content/Caterpillar/CM20150119-37034-56637>

⁷ <https://www.dieselnet.com/standards/de/taluft.php>