To: planning@monmouthshire.gov.uk

Re: Proposed biomass boiler at Trostrey Court Farm, Ref: DM/2021/01812

Dear Sir/Madam,

I am writing on behalf of Biofuelwatch to object to the application for a Lawful Development Certificate (LDC) for a biomass boiler of an unspecified capacity, burning biomass of an unspecified type and origin.

Biofuelwatch has been closely following the bioenergy-related planning applications in respect of Trostrey Court Farm for many years and we are aware of a long history of non-compliance with planning consents by the developer, as discussed below. We are deeply concerned to see that the developer has chosen not to submit a planning application for a biomass boiler, giving details of the boiler's generating capacity and feedstock requirement as well as predicted air emissions from the boiler.

Instead, they are arguing that they require no planning consent because the boiler will be housed in an existing building permitted for agricultural use in April 2011 (DC/2011/00373). They are further stating that "*The proposed use of the existing building would be in accord with Paragraph D.8 of Class A, Part 6 of the Town and Country (General Permitted Development) Order 1995 and is therefore lawful*."

We would question both of those claims:

1) The building permitted for agricultural use according to DC/2011/00373 was specifically permitted for the extension of a building that already housed an electricity generator, in order to store straw as a feedstock for that generator. What was approved in April 2011 was essentially a new barn for storing straw.

2) D.8 of Class A, Part 6 of the Town and Country (General Permitted Development) Order 1995 was introduced in 2012, as one of several amendments to Schedule 2, Part 6 (https://www.legislation.gov.uk/wsi/2012/2318/contents/made). D8 says:

> D.8 For the purposes of Class A(a) "the purposes of agriculture" includes works for the erection, extension or alteration of a building for housing a biomass boiler or an anaerobic digestion system, for storage of fuel for or waste from that boiler or system, or for housing a hydro-turbine.

However, this must be read together with sub-paragraph A.1 (j) which states that development will not be permitted if:

> (j) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system—
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> (I) would be used for storing fuel not produced on land within the unit or waste not produced by that boiler or system; or

(ii) is or would be within 400 metres of the curtilage of a protected building."

Permitted development rights just allow a biomass boiler to supply energy solely for agricultural activities on the site, using feedstock produced as a result of agricultural activities. The developer has not specified whether the biomass feedstock will be exclusively produced on their own agricultural land.

We understand that those permitted development rules apply specifically to microgeneration, as explained in Welsh Government guidance: gov.wales/sites/default/files/publications/2018-09/generating-your-own-energy-non-domestic.pdf:

For the purposes of current permitted development rights for non-domestic microgeneration is defined as follows:

Type	Capacity
Technologies that generate electricity	50 kilowatts (kW)
Technologies that generate heat	45 kilowatts (kW)

No information about the proposed capacity of the biomass boiler has been provided. We therefore believe that the application should be refused on the basis of the sparse information supplied by the developer.

We note with concern that the applicant has submitted a site plan based on their 2018 proposal (now withdrawn) for a combined heat and power plant, including a 17m flue stack, which includes buildings that are the subject to an Enforcement Notice. Looking at the site drawing in that Enforcement Notice, the building which the developer now wants to repurpose to house a biomass boiler is part of the buildings from which all energy generating equipment must be removed under that Enforcement Notice, with the site being returned to agricultural use.

We believe that any planning or LDC application by any developer should be subject to careful scrutiny. However, in this case we would be particularly concerned about such an application being approved on the basis of clearly insufficient information. We would like to point out that this developer has a long history of non-compliance with planning decisions and policy.

Past development breaches by the developer:

- The first relevant planning consent was granted in November 2007 (DC/2007/01200, "Erection of agricultural building for storage and standby electrical generation with new access way". The developer then proceeded to erect a building significantly larger than what had been permitted;

- In July 2009, Monmouthshire Council agreed to regularise this breach of development control by approving an application for "retention of buildings/uses which do not have planning permission (DC/2008/00835). According to the Planning Officer's report at the time, the applicant had been encouraged by Defra and Ofgem to create and use green energy sources using their own crops. According to a document submitted with the application, the fuel used was to be rapeseed oil;
- In August 2009, Ofgem accredited the electricity generator as eligible for Renewable Obligation certificates (renewablesandchp.ofgem.gov.uk). Although the evidence is no longer available, our records show that they the developer proceeded to burn a palm oil product (necessarily imported) instead of burning rapeseed oil or any other fuel produced on their own land (see biofuelwatch.org.uk/wp-content/uploads/Llangefni-second-planning-objection1.pdf). This contradicted an essential element of the approved planning proposal and might have been viewed as a breach of the planning consent which stated: "You must carry out the development as approved or agree changes". We assume that Monmouthshire Council would not have been aware of the use of a palm oil product as fuel at the time;
- In July 2010, planning consent for a proposal to erect a building to store straw was granted (DC/2010/00437). In May 2011, a further application to approve an extension to that building was permitted (DC/2011/00373). Both applications made it clear that that the developer intended to use straw;
- In 2014, a company called Dordtech (dorset.nu/wp-content/uploads/2018/07/B-13.00-2-43EN-R.Verhoef-Ecocyclegrootschalige-houtvergassing.pdf) reported that they had installed a combined heat and power gasification plant using woodchips on the site. This was clearly contrary to the approved agricultural proposal to power the generator with straw from the farm;
- In March 2017, Monmouthshire Council approved a further planning application. According to the Planning Officer's report at the time, "*This application seeks alterations and extensions to an existing wood powered electrical generating plant at an established farm*." This came three years after Dordrecht had stated that they had already installed a wood gasification plant, and it ignored the fact that no wood powered electrical generating plant had been approved in the past. The fact remains that to-date no consent has been given for such a non-agricultural electricity generator;
- In September 2018, the developer submitted a new application, stating that they had never implemented the 2017 planning consent. This time, they sought to develop a mixed-waste gasification via an application purporting to make relatively minor changes to existing planning consent. Following the Judicial Review challenge, this application has been withdrawn. As Biofuelwatch and SWIPE showed in respective planning objections, the application contained several misleading claims.

Yours faithfully,

Almuth Ernsting
Co-Director
Biofuelwatch