

From: [REDACTED]
Sent: 23 October 2017 05:51
To: First Minister; Minister for Local Government and Housing; Chief Planner;
[REDACTED] Cabinet Secretary for Culture, Tourism and External Affairs;
Cabinet Secretary for Communities, Social Security and Equalities; Cabinet Secretary
for the Rural Economy and Connectivity; Cabinet Secretary for the Environment,
Climate Change and Land Reform; Scottish Ministers
Subject: Correspondence-Note of Intention for Power Station/Film Studio at Old
Pentland

For the attention of Nicola Sturgeon, Kevin Stewart, John McNairney

Please find attached letter of concern to the Note of Intention report issued April 2017
regarding power station/film studio at Old Pentland.

It would be appreciated that I receive acknowledgment of receipt from all who have
been emailed this correspondence.

Regards,
[REDACTED]

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Nicola Sturgeon, First Minister / Kevin Stewart MSP / John McNairney, Chief Planner
Scottish Government

Notice of Intention

**DPEA Ref: PPA-290-2032 - DPEA case reference for proposed Film Studio /
Power Station at Old Pentland**

I am disheartened that the Scottish Government has undemocratically went against the in depth and knowledgeable, strong objections from local residents and local community council, also the recommendation from both the local authority (SNP lead with minority administration) and designated professional Reporter who have all advised that this appeal should be refused. The Scottish Government have neglected local communities feeling and professional judgement to support a flawed and doubtful proposal.

Which is all the more galling as the Scottish Government proclaim to '*...believe the future of our communities should be decided by the people who live in those communities.*'

The 2017 Programme for Government highlights '*In tackling the challenges of building a fairer Scotland, national government can do a great deal – but often the best solutions are found by communities themselves.*' '*That is why we will continue work to empower communities across Scotland.*' It is clear that Scottish Government have little interest in the voice of local communities.

Firstly I address the discrepancies within the Note of Intention dated 3 April 2017 signed off by John McNairney on behalf of Kevin Stewart MSP as follows:

Item 4

Representation submitted to Scottish Government on 9 January 2017 has been misconstrued. Concern was at no point raised as to where Scottish Minister had the necessary jurisdiction to consider the case. The point raised clearly highlights the legalities of the unrelated entities identities of Pentland Studios Ltd the applicant who submitted the original pre documentation and application for PPP dated 5 May 2015 to Midlothian Council and PSL Land Ltd the appellant who submitted appeal documentation to DPEA on 3 December 2015. Under **Section 47(2) of the Town and Country planning (Scotland) Act 1997** only Pentland Studios Ltd should legally have the ability to appeal the above application.

- **Concern is raised as to why this appeal has proceeded without adherence to Section 47(2) of the Town and Country Planning (Scotland) Act 1997.**

I fail to comprehend the content of the following statement '*It is not considered that any such discrepancy has undermined the substantive consideration of the application or has given rise to any unfairness to any parties to the process.*' I am disappointed that Scottish Government have not based their conclusion and decision on fact.

- **This decision will have a direct and lasting impact on the nature of our local community and the legal standing of the remaining**

Scottish small landholders. An application has now been lodged with the Scottish Land Court by the landowner for the resumption of both No. 1 and No. 2 Smallholdings with the primary support documentation being the Note of Intention issued by Scottish Ministers. [REDACTED]

[REDACTED] is directly a result of the actions of the Scottish Government in issuing their Note of Intention.

- Concern is raised that Scottish Government have not based their decision on fact.
- Concern is raised as to why Scottish Government is taking an active role in the potential eviction of a small landholder being regulated by the Crofters Holdings (Scotland) Act 1886 and the Small Landholders (Scotland) Act 1911.
- Concern is raised regarding the grounds on which Scottish Government has gone against local residents, the local community council, Midlothian Council and the professional planning Reporter designated by the Scottish Government who have all concluded this application should be rejected.

Scottish Ministers' Decision 6

'Scottish Ministers have carefully considered all the evidence' presented by the written submissions and the reporter's conclusions and recommendations and do not support the reporter's recommendation to refuse this application.

The above statement is a fabrication of the fact. In particular

Item 27

Ecology & Noise, Vibration and Air Quality Effects the Note of Intention clearly states '*It is noted no objections were received relating to air quality effects.*'

The above statement misrepresents a significant number of objections submitted by local residents. It is a contradiction to the Reporter's report which on page 59, item 6.2 states, "**Air quality issues are also a concern to a number of objectors**In relation to emissions from the proposed energy centre, a limited amount of air quality information was provided in response to my request for further environmental information."

Despite numerous concerns raised by objectors regarding the potential impact to air quality the Reporter's report acknowledges the serious limitation of the applicant and Environment Statement in providing sufficient information on this issue. Page 62, 6.23 of the Reporter's report states, "*Turning to air quality issues, as set out above, the ES did not address this potential environmental effect. In relation to the proposed energy centre the appellant predicts that emissions of oxides of Nitrogen from the combined heat and power (CHP) gas engines (of which three are proposed to be installed) would be 250 milligrams per cubic metre. No further emissions details have been provided.*"

My letter dated 30 September 2016 clearly highlights my concerns regarding air quality as per below:

'...The excess noise production from the power plant, both exhaust noise AND air intake, and the effect on the neighbouring student accommodation or filming onsite.

Provide any description of how the development will handle the waste produced from essential maintenance of such a plant i.e. boiler maintenance Boiler blowdown and drain effluent contain suspended solids and quantities of the chemicals used for treating boiler feed-water. Effluent is generated by plant cleaning procedures such as turbine washing systems. Where periodic washing and system regeneration has necessitated the installation of a water treatment plant, this will also give rise to effluent. Pipework flushing and the chemical cleaning of equipment during installation and commissioning produces effluent). According to UK government advice, the combustion products from any industrial boiler-house or CHP plant can represent a toxic hazard to the local environment if the installation is not correctly designed and operated. The applicants have failed to model the dispersal of airborne pollutants given the topography and climate of the local area.'

- **Concern is raised that factual evidence regarding air quality has not been submitted to address potential environmental effects.**
- **Concern is raised that Scottish Government have failed to address within the Note of Intention air quality issues and any potential environmental effects.**
- **Concern is raised that Scottish Government have misrepresented within their Note of Intention the comprehensive air quality comments made by objectors.**
- **Concern is raised that the Scottish Government has disregarded objectors concerns.**

Scottish Government are fully aware that ^[1] 'Air pollution is a signification risk to public health' but are 'minded' to approve planning permission in principle without having any factual evidence to approve.

Item 10:

Ministers accept that the proposal is contrary to the provisions of the MLP in terms of development in the greenbelt/countryside location in that it doesn't meet the necessary criteria. Ministers note the reporter's consideration in paragraph 10.12 of the report, the MLP is out of date may increase the weight to be given to other material considerations, which could justify a decision that was contrary to the MLP. Ministers consider there are material considerations, relating to the socio economic benefits of the proposal on a local and national scale, that carry sufficient weight to justify a decision that is not in accordance with the MLP

- **Concern is raised that the weight of social economic benefits is the basis of approval for this appeal when it is clearly stated by the developer that *'The Film & TV studio cannot co-exist with the physical effects of the proposed line... without the prospect of completing the development'***
- **Concern is raised that the economic and financial viability of the project has been highlighted as inaccurate which has been highlighted to Scottish Government.**
- **Scottish Government has not at any time considered the human rights of the small landholder who faces eviction on inaccurate information.**

Item 17:

It is noted that the Note of intention acknowledges concerns raised by the developer that the proposal for the realigned A701 may render the land unsuitable for the proposed development. Clearly stating *"The proposal in the emerging Local*

*Development Plan for the realignment of the A701 through the site would cause the viability of the project to be fatally damaged. The Film & TV studio **cannot co-exist** with the physical effects of the proposed line...without the prospect of completing the development"* Taking note of the fact that Scottish Government has now approved in principle the construction of the realigned A701 as part of the Midlothian Local Development Plan.

- **Concern is raised that regardless of the developer advising that the realigned A701 and the proposed development cannot 'co-exist' Scottish Government continue to actively support a development at the planning stage which is fatally damaged and unworkable to the detriment of a small landholders eviction, the destruction of prime agricultural land, the destruction of the greenbelt, the destruction of a local community.**

[1] Scotland has a well-earned reputation as a leader in human rights...` How Scottish Government can make such a bold statement when they are supporting potential eviction from his own home and business. When a recommendation to refuse this appeal has been forthcoming from the local community, local community council, local authority and the designated professional Reporter.

Item 21:

Notice of Intention states, "...cumulative road and traffic effects of the proposal with the proposed allocation in the proposed LDP have not been quantified because the developer decline to model them...Ministers accept that there is a degree of prejudice to the proposed LDP process."

- **Concern is raised that a direct request by a professional body to submit crucial data to make an informed, transparent and unbiased decision has simply been 'declined' to be modelled further that Scottish Ministers would find this sufficient when planning matters should be determined by fact.**
- **Concern is raised that yet another Scottish tenant farmer is facing eviction. The outcome of this decision will have serious and lasting implication on other small landholders, of local residents and the future of our green spaces.**

Item 30:

Of the Notice of Intention states there has been, "...some confusion from parties over the size and generating capacity of the proposed energy centre.'

Such is misleading, core documentation submitted as Additional Environmental Information in accordance with Regulation 23 of the Environmental Information (Scotland) Regulations 2011 clearly highlights within the Deloitte report received by Midlothian Council on 3 August 2015, that the Energy Centre will have an output in excess of 50MW, heading 3.2 Energy Centre, "*capability to own design and operate an Energy Centre designed to meet an output in excess of 60MW with the potential for up to 100MW.*" Further the Deloitte and the Vital Energi reports submitted to the DPEA as key appeal documents citing the energy centre as having an output in excess of 50MW. The appellant provided these documents, "*to enable a full assessment of the proposed development.*" **Where is the confusion?** The applicant and then the appellant have made clear their proposal includes an 'energy centre' with an output capacity in excess of 50MW, potentially up to 100MW.

- **Concern is raised that the professional Reporter and Scottish Government have caused confusion in deciding to disregard information contained within the core documentation originally supplied to them. This should be a fact-based, transparent and open planning system.**

This proposal remains contrary to the vision of the Midlothian LDP with regard to development within the greenbelt.

- **Concern is raised that to grant planning permission for the proposed development would undermine the plan-making process by predetermining decision about the scale, location and phasing of new developments that are central to the proposed LDP'**

It is alarming that Scottish Ministers and ultimately Scottish Government are of the opinion to grant planning in principle to this highly questionable appeal by speculative developers, namely:

1. Scottish Ministers have totally disregarded the small landholder in situ, although they have been made fully aware that Site A is a small landholding regulated by the Crofters Holdings (Scotland) Act 1886 and the Small Landholders (Scotland) Act 1911.
2. **An application has now been lodged with the Scottish Land Court by the landowner for the resumption of both No. 1 and No. 2 Smallholdings with the primary support documentation being the Note of Intention issued by Scottish Ministers.**
3. Under **Section 47(2) of the Town and Country planning (Scotland) Act 1997** - no correlation between the appellant and applicant of this application / appeal exists. Therefore making this appeal void.
4. Scottish Government acknowledges concern from the developer that 'The Film & TV studio cannot co-exist with the physical effects of the proposed line...without the prospect of completing the development'. **Scottish Government recommend that they are 'minded to grant' approval 'relating to the socio economic benefits of the proposal' when the developer has pre warned them that there is little prospect of completing the development.**
5. No cumulative road and traffic effects of the proposal have been quantified because the developer declined to model them, resulting in 'a degree of prejudice to the proposed LDP process.' I would raise concern as to why Scottish Government have not based their decision on fact, cumulative road and traffic effects are a major concern of any development.
6. Air Quality Effects – 'no objections were received relating to air quality effects.' Scottish Government have misrepresented this statement. **Why?**
7. Power Station – core, concise documentation submitted by the developer clearly states "*capability to own design and operate an Energy Centre designed to meet an output in excess of 60MW with the potential for up to 100MW.*" There is absolutely no 'confusion' as to this key / core statement by the local community who were merely commenting on the only key evidence submitted and commented on. Why a professional Reporter and Scottish Government decided to disregard information contained within the core documentation submitted to DPEA.
8. Coal Mining Report was not considered as an integral part of the ES, competency of ES must be drawn into question together with the transparency in the planning process. A revised ES and Non-Technically Summary addressing the Coal Mining report has not been submitted as required under the EIA regulations. Under the town and Country Planning Environmental Impact Assessment (Scotland) Regulations 2011 Failure to determine this application without a competent ES

- and Non-Technical Summary conflicts with the EIA Regulations and would open-up any planning decision to a risk of judicial review.
9. Decommissioning Plan has not been made available being a legal requirement under LDP and SPP
 10. The Film Studio Delivery Group (FSDG) being the designated professional body has already rejected this proposal in a letter to the developer dated 4 February 2015 Question S4W-27408
 11. Top Actors back Glasgow for Scottish film studio <http://www.bbc.co.uk/news/uk-scotland-glasgow-west-30431044>
 12. Article by [REDACTED] from The Ferret '*Filmmakers urged to drop support for Pentland studio plan*' and [REDACTED] Assistant Director on films including Outlander, T2 Trainspotting and Sunshine on Leith sending an open letter to colleagues in the Scottish Film Industry '*The Emperor of Pentland Studios Wears No Clothes*' <https://theferret.scot/pentland-film-studio-plan-delays/>
 13. Overview of companies owned by PSL Land Ltd directors: <https://www.biofuelwatch.org.uk/2017/pentlands-pr/>
 14. The appellant admits the project is economically dependent on the ancillary buildings in order to fund the film studio proposal over the long-term, with reliance on the gas fuelled CHP which was based on the core documentation rather than the newly submitted documentation which the Reporter and Scottish Government are now professing as current, puts further questioning on the viability / sustainability of this proposal. They have misled in their proposal that there is a high pressure gas line within the proposed site. There are no gas lines on the site at all with the nearest high pressure gas line nearing 2 miles from the proposed site. The financial and economic outputs cannot be validated on the supporting information submitted.
 15. Basis of the site matrix for Old Pentland was incorrect which 'made' Pentland site the preferred option, objection letter dated 30 September 2016. Why would the developer prefer to 'make' the Old Pentland site the preferred site?
 16. Letter from Keppie states 'two short listed sites were identified as being the most appropriate when considered against the selection criteria. These two sites were; **The Gibsons Estate site** at Straiton (to which this Appeal relates) and the former **British Steel Tube** works site in Lanarkshire. Following the identification of these sites, it was discovered that the site in Lanarkshire had become unavailable due to an existing commitment to allocate the site as a New Police Head Quarters and Laboratory facility. This only came to the fore once it was realised, that the commitment of the site, had been some six months prior to a recommendation that the site be included in the attached Site Selection Matrix.' According to site selection matrix it would appear that the Gartcosh site was rejected due to, "**Site already identified by Police & Fire Brigade HQ.**" This is **categorically incorrect** Scottish Enterprise advised that "**This site was not that which has been developed by Police Scotland.**" Thus the other preferred site was not identified by Police Scotland but rather this referred to another nearby site. Hence the sole reason offered for rejecting the Gartcosh site does not stand. Given the many issues with the Old Pentland site – landholder in situ who will have to be evicted, destruction of prime agricultural land, no high power gas line on site, current inaccessibility to sewage to name but a few - how can the ruling out of the Gartcosh site under false information stand.
 17. There are other more appropriate identified sites including:
 - Gartcosh – the other preferred site!
 - Palamis Building
 - Shawfair
 - Heriot Watt University – Guardhouse Productions

18. It is stated that Pinewood approve the Pentland site, is this a true portrayal from Pinewood? A recent FOI to Scottish Government advises that Pinewood declined to proceed with Pacific Quay, Glasgow for a number of reasons, including:

- Time to deliver – public consultation and planning permission to convert the use of a park to industrial use would take longer than Pinewood requirements.
- Govan Road would bisect the development, which Pinewood considered unacceptable.
- Lack of any funder/funding

https://www.whatdotheyknow.com/request/pinewood_deal?unfold=1#incoming-820452

All of the above replicates the Pentland site however, the Pentland site has the added bonus of having a contaminated, unstable redundant landfill site which has never been analysed (Site B)



19. Why was the Pentland site the preferred site? Missive documentation details that Clippens Development Limited, Registered Number: SC276494 director being [REDACTED] who was **previously a Trustee of Pentland Estate, the current landowners** (Appendix 2) will be purchasing both Site A and Site B from Pentland Estate on the resumption of the smallholdings, with a current **£1 cash at hand in the bank**. At no time has there been any reference to this company being associated with purchasing both Site A and Site B, or that PSL Land Ltd or Pentland Studios not being the purchasing company. This being questionable and a potential conflict of interest

<https://beta.companieshouse.gov.uk/company/SC276494/filing-history>

20. PSL Land Ltd, Company No: SC491629, highlighting that current business account remain overdue, last balance shows –(£3164,779)

<https://beta.companieshouse.gov.uk/company/SC491629>

21. Pentland Studios Ltd, the applicant now being no part of the application/appeal

22. Appendix 1 – letter dated 21 Feb 2000 highlights the method in which the land owner previously knowingly attempted to evict [REDACTED] as being the small landholder at that time being regulated by the Crofters Holdings (Scotland) Act 1886 and the Small Landholders (Scotland) Act 1911.

23. Appendix 2 (other evidence available) – letter dated 23 May 2001 highlight that [REDACTED] was a trustee of Pentland Estate also director of Clippens Development Ltd under company no. SC276494 incorporated 25 November 2004 which remains a dormant company – Item 19 covers. PSL Land Ltd link below, shows that [REDACTED] was a director of this company until 31 August 2017 whereby a resignation was submitted, although remaining as a shareholder of this company <https://beta.companieshouse.gov.uk/company/SC491629>

24. **I would ask again why was the Pentland site 'made' the preferred site with inaccurate information?**

25. It is concerning that film studio development is notoriously difficult to succeed in, within this application inaccurate data including baseline economic and financial information which remains untenable, questioning the potential viability for this project.

26. Socio economic data is unsubstantiated due to misleading information. Scottish Government are aware that the development cannot co-exist with the proposed A701, therefore destined to fail.

It is appalling that we do not in fact live in a fair, just society. It is wrong that the relevant and competent departments make their planning decision i.e. Midlothian Council (SNP Lead majority) advising refusal of this appeal, the designated professional Reporter also advising refusal of this appeal, the local community council and the local community also advised refusal of this appeal.

An application has now been lodged with the Scottish Land Court by the landowner for the resumption of both No. 1 and No. 2 Smallholdings (Site A, prime agricultural land) the primary support documentation being the Note of Intention issued by Scottish Ministers. The decision made in April 2017 by the Scottish Government will have a direct and lasting impact on our family, the nature of our local community and the legal standing of the remaining Scottish small landholders.

The eviction of a small landholder and his family, the potential destruction of 60 acres of prime agricultural land (Site A), the destruction of a rural community at the hands of the Scottish Government. The developer has highlighted that the development cannot co-exist with the realigned A701. I would question what truly is Site A destined for?

How can the Scottish Government profess to be a fair, transparent country when we have a planning system in place which has been advised by the local community, community council, local authority and professional Reporter that this appeal be refused but Scottish Government goes against the democratic will of the public and professional designated personnel to overrule in a highly questionable manner.

This note of intention report in my opinion is factually flawed. I would ask that Scottish Ministers relook at this appeal to allow an informed, fair and transparent decision on this appeal.

"A home is more than just a roof over someone's head. Everyone in Scotland should have a safe and warm place to call home." Communities Secretary Angela Constance

Yours

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