

Proposed development	Construction of an Energy Recovery Facility
PINS reference	APP/D1265/W/23/3327692
Site Address	Portland Port, Castletown, Portland, DT5 1PP
Local planning authority	Dorset Council
Appellant	Powerfuel Portland Ltd
Rule 6 Parties	SPWI and TPA

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## OPENING SUBMISSIONS – RULE 6 PARTIES

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### **Introduction**

1. On the way to this inquiry, Sir, you will have driven along the A354. You will have passed Portland Harbour to the left, Chesil Beach to the right, and if you had looked in your wingmirror, you may even have glimpsed parts of Dorset’s AONB and the Jurassic Coast World Heritage Site to the rear. Ahead of you, the dramatic wedge-shaped peninsula of Portland, which Thomas Hardy once described as being “*carved by Time out of a single stone*”, will have been unmissable.<sup>1</sup> From just a short stretch of road, the distinctiveness of the isle’s sense of place will have been immediately apparent.
  
2. The uniqueness of Portland and the surrounding area – from its rich heritage and culture to its valued landscapes and seascapes – has inspired writers and artists for centuries. And now, it is what inspires so many people to oppose the Appellant’s proposal for an energy recovery facility (“ERF”) to be sited on the isle’s north-eastern coast. Preserving this uniqueness is what prompted many of the 3,341 objections at the application stage. And, in large part, it is what has motivated the two community groups that I represent – Stop Portland Waste Incinerator (“SPWI”) and the Portland Association (“TPA”) – to seek Rule 6 status.
  
3. SPWI and TPA are made up of volunteers who, since the proposal’s inception, have engaged tirelessly with the planning process to resist it. Most recently, they have carried out grassroots fundraising so that the voice of the local community can be heard at this

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<sup>1</sup> PPF36 Rule 6 – N Burley, Heritage Proof, §4.2.3.

inquiry. Although SPWI and TPA sing from the same hymn sheet as the Council – and entirely support the Council’s case for refusal – SPWI and TPA sought Rule 6 status in order to assist you in understanding the day-to-day realities of living here and residents’ deeply held concerns about the ERF’s effects on their community. SPWI and TPA have concerns, in particular, about the proposal’s heritage, landscape, amenity, socio-economic and climate impacts that go beyond the Council’s case. The R6 Parties will focus on these additional concerns at this inquiry to avoid duplication with the Council.

### **Amendments to the scheme**

4. Before turning to these concerns, it is necessary to take stock briefly of the amendments that have been made to the scheme. A number of amendments have been made between (a) the application and the Council’s determination and (b) the Council’s determination and this inquiry. The post-determination amendments include:

- (a) **Design.** The Appellant originally proposed to use “*green camouflage cladding*” on the ERF.<sup>2</sup> But its design has since been changed to “*a metal cladding system*” and the Appellant now proposes to deal with the detail of the external materials through conditions.<sup>3</sup>
- (b) **Heritage mitigation strategy.** Before the Council determined the application, the Appellant withdrew a proposal for a footpath extension at East Weare, after concerns were raised by the Council’s Conservation Officer, Historic England and Natural England. The Appellant has now revised the footpath extension and wishes the amended proposal to be considered as part of the appeal scheme.
- (c) **Source of waste.** The Appellant had always proposed to use refuse derived fuel (“RDF”) at the ERF. But it has recently asked for the scheme to be determined on the basis that the ERF would also process non-RDF residual waste.

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<sup>2</sup> CD1.21 Design and Access Statement part 2, §3.1.3.

<sup>3</sup> CD11.01 Appellant’s Statement of Case, §1.31.

5. In their Statement of Case, the R6 Parties queried whether the second and third amendments would comply with the *Wheatcroft* principles, on the basis that consultees may not have had a sufficient opportunity to comment. Whilst the R6 Parties regret that consultees have not been able to comment, they accept that it would not be practical for the inquiry to adjourn and that the amendments should instead be scrutinised in evidence.

### **Heritage**

6. Portland and the surrounding area host a treasure trove of important designated and non-designated heritage assets, which will be affected by the proposal as a result of their setting. These include Sandsfoot Castle, the Verne Citadel and the East Weare batteries, and Portland Castle – to name just a few.
7. Although the Appellant has failed to identify and ascribe sufficient importance to certain heritage assets as part of its assessment – including to the Jurassic Coast World Heritage Site and the Isle of Portland itself – the parties broadly agree that there are a number of assets that have a high degree of significance and value. For this reason, the Appellant’s case on heritage centres on (a) downplaying the extent of the harm caused by the ERF by reference to historic changes that have occurred at Portland Port, and (b) relying on its proposed heritage mitigation strategy to offset any residual harm.
8. Both planks of the Appellant’s case are misconceived. As Mrs Burley will demonstrate, the ERF’s harm to the historic and cultural environment cannot be wished away with generalised references to the maritime history of the Port or to visits by cruise ships. Nor can its harm be overcome through the implementation of a flawed mitigation strategy whose substance is unclear and has been criticised by consultees. In short, the ERF will result in considerable heritage harm, which the Appellant’s proposed mitigation comes nowhere close to offsetting.

### **Seascape, landscape and tranquillity**

9. The ERF would be sited on Portland’s north-eastern coast, looking out to the Harbour and Weymouth Bay. It would be located in the setting of the Jurassic Coast World Heritage Site and the Dorset AONB, amongst others.

10. Although the Appellant accepts that the ERF would give rise to a range of significant adverse visual impacts, it has failed to estimate the full extent of these impacts in its LVIA. And although Mr Mason has sought to remedy the LVIA's deficiencies by assessing the landscape impacts of the ERF from two new receptors, the Appellant's evidence remains strikingly incomplete.
11. As Mr de Bertrand will demonstrate, the Appellant has failed to appreciate the full extent of the landscape impact on the Jurassic Coast World Heritage Site and has again overstated the relevance of cruise ships in its bid to downplay the harmful effects of the ERF. In focusing primarily on the ERF's landscape impacts, the Appellant has also failed to carry out a robust and distinct seascape assessment.
12. Furthermore, Mr de Bertrand and Mr Bentley will demonstrate that the ERF would affect tranquillity: an issue which the Appellant has failed to address in any meaningful way.

### **Amenity and socioeconomics**

13. The impact of the ERF on residential amenity continues to be a source of considerable concern for the R6 Parties and the thousands of residents that they represent. Although the R6 Parties accept the Appellant's evidence in relation to the number of HGV movements that would occur, they remain concerned about the Appellant's assessment of the proportional increase of HGV trips, the cumulative effects of these trips when combined with other trips, and the impact of transporting RDF (and now residual waste) through residential and tourist areas.
14. The R6 Parties also remain concerned about the socio-economic effects of the ERF. Tourism and leisure have served as important sectors for Portland's local economy. They have been carefully and deliberately identified in planning policy for growth. And any development should proceed cautiously to avoid jeopardising their potential for alleviating the high level of deprivation that subsists on the Island. Instead of caution, the Appellant has advanced a bullish case that focuses overwhelmingly on the cruise ship industry, dismisses the concerns of local businesses, and ignores the likely effects of the ERF on Portland's wider economy.

## **Climate and waste**

15. Given that there is no pressing need for new domestic residual waste treatment facilities, the ERF would undermine the circular economy by reducing recycling rates in Dorset. The proposal would also lock in a form of power generation that would be more carbon intensive than other (more appropriately comparable) sources, and it would undermine important long-term objectives such as the decarbonisation of the national grid. Furthermore, several of the ERF's purported "*benefits*" – such as its capacity to support a district heat network, provide onshore power or use carbon capture – are uncertain.
16. In terms of waste, the R6 Parties endorse the Council's submissions. The ERF would not comply with the waste hierarchy, self-sufficiency and proximity objectives that are enshrined in the Bournemouth, Christchurch, Poole and Dorset Waste Plan 2019. And the proposal would not have advantages over – and may prejudice the delivery of – sites that have been allocated for development, such as Canford Magna.

## **Conclusion**

17. In summary, this proposal would give rise to considerable heritage and landscape harm, and result in negative effects on residential amenity, the local economy and important climate change objectives. It would undermine the distinctiveness of the Isle of Portland and its setting which has prompted so many people to object and which you may have been lucky enough to experience on the way to this inquiry. The R6 Parties will therefore invite you to dismiss this appeal in due course.

**Barney McCay**  
Landmark Chambers  
5 December 2023