



TOWN AND COUNTRY PLANNING ACT 1990  
PLANNING AND COMPULSORY PURCHASE ACT 2004

**Proof of Evidence of Felicity Hart**  
**BSc (Hons), DipTP, FRTPI**  
**Minerals & Waste Planning Manager, Dorset Council**

Appeal by Powerfuel Portland Limited  
against the refusal by Dorset Council of Planning Application  
Ref. WP/20/00692/DCC for the construction of an energy  
recovery facility with ancillary buildings and works including  
administrative facilities, gatehouse and weighbridge, parking  
and circulation areas, cable routes to ship berths and existing  
off-site electrical sub-station, with site access through Portland  
Port from Castletown,

**at Portland Port, Castletown, Portland, Dorset, DT5 1PP**

Planning Inspectorate References:	<b>APP/D1265/W/23/3327692</b>
Dorset Council References:	<b>WP/20/00692/DCC</b>
Date:	<b>14th November 2023</b>

## **Contents List**

## **Page No.**

1.0 Introduction	2
2.0 The Appeal Site	3
3.0 Planning History of the Appeal Site	3
4.0 The Council's Reasons for Refusal of Planning Application Ref. WP/20/00692/DCC	3
5.0 Relevant Policy	4
6.0 Consultation Responses and Third-Party Representations	4
7.0 The Key Issues in the Determination of the Appeal	5
8.0 Response on Behalf of the Council to the Appeal	5
9.0 Response to the Appellant's Appeal Statement	39
10.0 Conclusion	41

## **PROOF OF EVIDENCE OF FELICITY HART**

### **1.0 INTRODUCTION**

- 1.1 My name is Felicity Hart. I have been employed by Dorset Council (“the Council”) since June 2021 as Minerals and Waste Planning Manager.
- 1.2 I have 37 years Local Planning Authority experience, having worked in policy and mainstream development management for a variety of Councils during the first half of my career. My initial planning experience involved dealing with a wide range of development proposals including residential, commercial and heritage developments. In 2006 I commenced work at Hertfordshire County Council as a Principal Planning Officer dealing with a range of major Minerals and Waste developments and I have undertaken several major minerals and waste inquiries.
- 1.3 In 2018 I moved to North Yorkshire County Council as the Team Leader of the Minerals and Waste team.
- 1.4 I am currently managing the Minerals and Waste Team at Dorset Council, primarily advising the team on planning applications, enforcement cases and appeals.
- 1.5 I hold a Bachelor of Science Honours Degree in Town Planning Studies and a Post Graduate Diploma in Town Planning from Birmingham City University.
- 1.6 I have been a Chartered Town Planner since 1988 and in 2015 I was elected as a Fellow of the Royal Town Planning Institute.
- 1.7 This Appeal relates to the refusal of Planning Application Ref. WP/20/00692/DCC for the construction of an Energy Recovery Facility (ERF) with ancillary buildings and works including administrative facilities, gatehouse and weighbridge, parking and circulation areas, cable routes to ship berths and existing off-site electrical sub-station, with site access through Portland Port from Castletown (“the Appeal Proposal”), at Portland Port, Castletown, Portland, Dorset, DT5 1PP (“the Appeal Site”).
- 1.8 This Proof of Evidence sets out, in Section 8, my response, on behalf of the Council, in relation to the planning arguments presented by the Appellant in relation to the Appeal. Separate Proofs of Evidence are submitted by other witnesses for the Council; Alan Potter, addressing waste need, Tony Norton, addressing shore power, district heating and energy issues, Neil Williamson addressing landscape and visual impact, and Helena Kelly addressing the heritage impacts, with each also addressing the related arguments arising in relation to each of these matters.
- 1.9 My evidence is summarised in the Conclusion section at the end of this Proof.

- 1.10 I understand my duty to the inquiry. I confirm that the evidence which I have prepared is true and that the opinions expressed are my true and professional opinions.
- 1.11 The documents referred to in this Proof are all included the Inquiry Core Documents List. All documents are referenced in the Proof by a number in the format CDX.XX, e.g. "CD4.2". The full list of Core Documents will be made available on the Council's website before the start of the inquiry.

## **2.0 THE APPEAL SITE**

- 2.1 Details of the Appeal Site are set out in Section 1 (paragraphs 1.4 to 1.18) of the Council's Statement of Case (CD11.3) and are therefore not repeated in this Proof of Evidence.

## **3.0 PLANNING HISTORY OF THE APPEAL SITE**

- 3.1 The planning history of the appeal site is set out in Section 1 (paragraphs 1.19 to 1.30) of the Council's Statement of Case (CD11.3) and is therefore also not repeated in this Proof of Evidence.

## **4.0 THE COUNCIL'S REASONS FOR REFUSAL OF PLANNING APPLICATION REF. WP/20/00692/DCC**

- 4.1 Planning Application Ref. WP/20/00692/DCC (which is now the subject of this Appeal) was refused by the Council's Strategic Planning Committee at its meeting on 24<sup>th</sup> March 2023. The Decision Notice (CD6.1) is included as Appendix 6 in the Council's Statement of Case, was also issued on 24<sup>th</sup> March 2023 sets out three reasons for refusal which state:

1. *The proposed development, being located on a site that is not allocated in the Bournemouth, Christchurch, Poole and Dorset Waste Plan 2019, fails to demonstrate that it would provide sufficient advantages as a waste management facility over the allocated sites in the Plan. This is by reason of its distance from the main sources of Dorset's residual waste generation and the site's limited opportunity to offer co-location with other waste management or transfer facilities which, when considered alongside other adverse impacts of the proposal in relation to heritage and landscape, mean that it would be an unsustainable form of waste management. As a consequence, the proposed development would be contrary to Policies 1 and 4 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan 2019 and paragraph 158 of the NPPF.*
2. *The proposed development, as a result of its scale, massing and height, in the proposed location, would have a significant adverse effect on the quality of the landscape and views of the iconic landform shape of the Isle of Portland within the setting of the Dorset and East Devon Coast World Heritage Site, particularly when viewed from the South West Coast Path and across Portland Harbour. As such, the proposal is contrary to Policy 14 of*

*the Waste Plan, Policy ENV1 of the West Dorset, Weymouth & Portland Local Plan, Policies Port/EN7 and Port/BE2 of the Portland Neighbourhood Plan, and paragraph 174 of the NPPF.*

3. *The proposed development would cause 'less than substantial' harm to a range of heritage assets. Public benefits of the scheme have been assessed, taking account of the mitigation proposed, but are not considered sufficient to outweigh the cumulative harm that would occur to the individual heritage assets and group of heritage assets, with associative value in the vicinity. As a result, the proposal is contrary to Policy 19 of the Waste Plan, Policy ENV4 of the West Dorset, Weymouth & Portland Local Plan, Policy Port/EN4 of the Portland Neighbourhood Plan and Paragraph 197 and Paragraph 202 of the NPPF.*

4.2 The Committee Report (CD5.1) to the Council's Strategic Planning Committee of 24<sup>th</sup> March 2023 is included as Appendix 7 in the Council's Statement of Case. This recommended refusal of the application. In addition, the Update Sheet (CD5.2) tabled at the Strategic Planning Committee of 24<sup>th</sup> March 2023 is included as Appendix 8 in the Council's Statement of Case. This Proof, in Section 8 below, sets out the Council's substantive planning arguments in response to the Appellant's Statement of Case (CD11.1). To assist the Inspector the minutes of the Council's Strategic Planning Committee of 24<sup>th</sup> March 2023 (CD5.3) are included in Appendix 9 in the Council's Statement of Case.

4.3 The members of the Committee voted unanimously to refuse the planning application in accordance with my recommendation. I understand that the evidence of the other witnesses appearing for the Council in this appeal, Alan Potter, Tony Norton, Neil Williamson and Helena Kelly, support (within their respective areas of expertise) the reasons for refusal.

## **5.0 RELEVANT POLICY**

5.1 Details of the relevant planning policy are set out in Section 3 (paragraphs 3.1 to 3.4) of the Council's Statement of Case (CD11.3). and are therefore not repeated in this Proof of Evidence.

5.2 The Inspector should note that the Appeal Site is not an allocated site under Policy 3: Sites Allocated for Waste Management Development in the Bournemouth, Christchurch, Poole and Dorset Waste Plan (2019) ("the Waste Plan") (CD7.1). As such it has not been secured as an allocated site in the Development Plan and it is the Council's case that it does not comply with Policy 4: Applications for Waste Management Facilities Not Allocated in the Waste Plan.

## **6.0 CONSULTATION RESPONSES AND THIRD-PARTY REPRESENTATIONS**

6.1 Details of the consultation responses and third-party representations received in response to Planning Application Ref. WP/20/00692/DCC are set out in Section 8 of the Planning Officer's Committee Report (CD5.1) and are therefore

not repeated in this Proof of Evidence. The Inspector's attention is drawn in particular to the consultation responses from the Dorset Council Landscape Officer, the Dorset Council Conservation Officer and Historic England.

## **7.0 THE KEY ISSUES IN THE DETERMINATION OF THE APPEAL**

7.1 The main issues in the determination of the appeal are:

1. Compliance with Policy 1, Policy 4 and Policy 6 in relation to the Spatial Strategy, Self-Sufficiency and the Proximity Principle;
2. Compliance with Policy 4 and the Claimed Advantages or Benefits of the Appeal Proposal;
3. Compliance with Policy 4 in relation to the environmental harm arising from the Appeal Proposal and the landscape and visual impacts and harm which it would cause to heritage assets having regard to the individual and associative value of those assets; and
4. The Planning Balance and in particular whether the need for or any public benefits arising from the Appeal Proposal outweigh the harm and resulting conflict with the development plan.

## **8.0 THE RESPONSE ON BEHALF OF THE COUNCIL TO THE APPEAL**

8.1 This section sets out my response, on behalf the Council. It first sets out the context for the Appeal Proposal in being brought forward, to construct an energy recovery facility (ERF) on an unallocated site in the Waste Plan (CD7.1), and then considers each of the main issues set out in paragraph 7.1 above.

### **Context**

8.2 The Appeal Proposal is to construct an energy recovery facility (ERF) with ancillary buildings and works and would have a maximum operational throughput of 202,000 tonnes per annum (tpa) of waste derived from municipal and commercial and industrial sources.

8.3 Whilst the Appellant's Statement of Case identifies that the Appeal Proposal bridges two industrial sectors - residual waste management and domestic energy generation - the context of their substantive case is the forecast shortfall of 234,000 tonnes of residual waste treatment capacity by 2033, set out in the Waste Plan (CD7.1) together with a number of additional claimed locational advantages of the Appeal Site and the provision of shore power and a potential district heating scheme. The Appeal Proposal is accordingly being brought forward, and, the Appellant claims, is justified, in the context of the need to meet this identified shortfall in residual waste management capacity, along with a number of other identified benefits relating to the location of the Appeal Site at a Port.

- 8.4 The Waste Plan (CD7.1) identifies Dorset as comprising the largely rural Dorset Council area with a population of approximately 375,000, and the more urban Bournemouth, Christchurch and Poole Council area with a population of almost 400,000. It identifies Dorset as having a distinctive and highly valued environment that combines internationally designated heathland and wetland habitats, two Areas of Outstanding Natural Beauty (AONB) and a coastline, much of which is designated as a UNESCO World Heritage Site (WHS). There are also significant historic and cultural assets that contribute to the character and distinctiveness of the area.
- 8.5 In setting out the need for new and improved waste management facilities the Waste Plan (CD7.1) identifies that the assessment of this need has reflected consideration of the broad distribution of future development, and in particular that the main focus of development will be in and around Poole, Bournemouth and Christchurch.
- 8.6 The Waste Plan (CD7.1) identifies that approximately 1.6 million tonnes of waste was produced in the Plan area in 2015. Construction, demolition and excavation waste formed the largest proportion of the waste generated with just under half the waste arisings comprising this waste stream. Local authority collected waste and commercial and industrial waste comprised similar proportions at around a quarter each.
- 8.7 The Waste Plan (CD7.1) considers how waste arisings might change over the Plan period and what this means in terms of the need for new waste management facilities. It identifies that there is currently a network of existing waste management facilities across Bournemouth, Christchurch, Poole and Dorset, and that most of these deal with waste arisings from more than one waste stream. Due to the similarities in the composition of the waste, it identifies that local authority collected waste (LACW) and commercial and industrial (C&I) waste are almost always dealt with together in the same facilities.
- 8.8 The Waste Plan (CD7.1) addresses the need for both strategic and local facilities. Strategic facilities, it identifies as being those that will contribute significant capacity to meet the identified capacity gap, may manage waste arising from the whole Plan area, and that are fundamental to the delivery of the Waste Plan (CD7.1). These include residual waste treatment facilities. The Plan states that the need for these facilities was identified following a comprehensive review of existing waste arisings, permitted capacity and anticipated growth during the Plan period. This took account of future planned housing and wider population and economic growth projections and the import and export of waste into and out of the Plan area.
- 8.9 The total amount of waste received by waste management facilities in the Plan area was approximately 2.17 million tonnes in 2015. Of this amount, the majority (over 85%) was identified as originating from within the Plan area, demonstrating that Bournemouth, Christchurch, Poole and Dorset was largely self-sufficient in waste management terms.

- 8.10 The remaining 15% of waste managed in the Plan area was imported from other waste planning authorities. Around 40% of that imported originated from neighbouring waste planning authorities, namely Hampshire (including Southampton and Portsmouth), Devon, Somerset and Wiltshire (including Swindon).
- 8.11 On the other hand, the Waste Plan (CD7.1) also identifies that in total 322,000 tonnes of Bournemouth, Christchurch, Poole and Dorset's waste was exported to other counties, making Dorset a net importer of waste, i.e. it has imported more waste than it exports.
- 8.12 The Plan identifies that about 59% of the amount of exported waste was managed in neighbouring authority areas, with just under half of all Bournemouth, Christchurch, Poole and Dorset's exports being sent to Hampshire. This was partly a result of the then existing waste management contracts for local authority waste to be managed at landfill sites and treatment facilities in Hampshire, as well as other movements of commercial and specialist waste streams. There was some movement of waste to Somerset, Devon and Wiltshire, and remaining exports were to facilities further afield including materials recovery facilities in Kent and North Wales.
- 8.13 In terms of the overall management of waste in Dorset, the Waste Plan (CD7.1) identifies that residual waste arising in the Plan area was being managed through a combination of transfer stations, recovery facilities and landfill (disposal) sites.
- 8.14 In relation to recovery, the Waste Plan (CD7.1) identifies that there was, and there still is currently, one facility in the Plan area that treats non-hazardous residual waste. This is the mechanical biological treatment (MBT) plant at Canford Magna, in the Bournemouth, Christchurch, Poole (BCP) Council area. This facility is co-located with other waste management facilities including a materials recycling facility (MRF) and inert recycling facility. All residual LACW (household and some C&I) from Bournemouth, Christchurch, Poole and Dorset (the Waste Plan area) is sent to the MBT plant at Canford Magna. No LACW is currently sent to landfill.
- 8.15 Looking to the future, the Waste Plan (CD7.1) identified that LACW in the Plan area was projected to grow at an average annual rate of 0.9% for the fifteen years of the plan period to 2033. This figure was based on the planned level of housing development and allowed for an increased tonnage of waste per household, which it was anticipated would occur with economic growth.
- 8.16 C&I waste was projected to grow at an average annual rate of 1.4% over the plan period. This was based on the assumption that C&I waste arisings would grow with economic growth. However, it also recognised that the Government's objective has been to decouple waste growth from economic growth and that recent research suggesting that C&I waste arisings are fairly stable nationally also needed to be taken into account.



- 8.17 The Waste Plan (CD7.1) identified that LACW would increase from 387,000 tonnes in 2015 to 453,000 tonnes in 2033 and that C&I waste would increase from 447,000 tonnes in the 2015 to 572,000 tonnes in 2033, so that the total waste arisings in Bournemouth, Christchurch, Poole and Dorset were estimated to grow by approximately 191,000 tonnes per annum (tpa) by the end of the Plan period (Waste Plan Table 2 and paragraph 7.11).
- 8.18 The Waste Plan (CD7.1) set out details of the permitted capacity of existing recovery facilities and landfill sites dealing with non-hazardous residual wastes and identified a shortfall in capacity when compared with projected arisings, at intervals during the plan period. The amount of residual waste arisings suitable for treatment was projected to increase by approximately 57,000 tonnes per annum at the end of the Plan period in 2033 (Waste Plan paragraph 7.71).
- 8.19 It identified that there would be a shortfall in capacity available for managing projected arisings of non-hazardous residual waste throughout the Plan period, with the closure of landfill sites and the end of export contracts, so that by 2033 it was anticipated that this shortfall in non-hazardous residual waste management capacity would be 234,000 tonnes per annum (tpa) (Waste Plan Table 7 and Identified Need 7 (CD7.1)).
- 8.20 On this basis the Waste Plan (CD7.1) allocated three specific sites for the provision of new facilities for the management of residual waste, plus additional capacity at the existing MBT facility at Canford Magna (Insets 7 to 10). Total potential capacity within the four Allocated Sites amounts to 385,000 tpa, exceeding the identified needs of the Plan area. This approach has been intended to ensure that the Plan remains flexible in the event that one or more of the allocations does not come forward for the treatment of residual waste. The site allocations are all existing waste management facilities thereby providing potential for redevelopment or intensification of the use. This is intended to provide flexibility to accommodate a range of management methods that can respond to changes that may occur during the Plan period.

**Main Issue 1: Compliance with Policy 1, Policy 4 and Policy 6 - The Spatial Strategy, Self Sufficiency and the Proximity Principle**

- 8.21 As set out in Section 4 of this Proof, the basis for Reason for Refusal No 1. is that the Appeal Proposal, if approved, being located on a site that is not allocated in the Waste Plan (CD7.1), fails to demonstrate that it would provide sufficient advantages as a waste management facility over the allocated sites in the Plan, by reason of its distance from the main sources of Dorset's residual waste generation and the site's limited opportunity to offer co-location with other waste management or transfer facilities, so that it would be an unsustainable form of waste management, contrary to Policy 1 and Policy 4 of the Waste Plan (CD7.1).
- 8.22 The principles of sustainable waste management underpin the whole approach of the Waste Plan (CD7.1) in identifying what new waste management capacity is required in Bournemouth, Christchurch, Poole and Dorset over the Plan

period and the resulting Spatial Strategy that sets out where new waste management capacity should be located. This is enshrined in Policy 1 on Sustainable Waste Management. The Policy makes clear that proposals for the development of waste management facilities must conform with, and demonstrate how they support the delivery of, the key principles of sustainable waste management, i.e. the Waste Hierarchy, Self Sufficiency and the Proximity Principle. In support of this Policy 4, sub-paragraph (c), makes clear that proposal must support the delivery of the Spatial Strategy, in particular contributing to meeting the needs identified in the Plan, moving waste up the waste hierarchy and adhering to the Proximity Principle. These requirements are restated in Policy 6, sub-paragraphs (a) and (b) in relation to proposals for recovery facilities.

8.23 Mr Potter in his Proof of Evidence addresses the issues of how and whether the Appeal Proposal would result in waste being managed at the highest feasible level of the Waste Hierarchy and he addresses whether in terms of waste need, i.e. the amount of waste to be managed, Bournemouth, Christchurch, Poole and Dorset are achieving net Self-Sufficiency.

8.24 Turning to the issue of the Spatial Strategy the key issue is whether the Appeal Proposal can be considered to be consistent with the Spatial Strategy set out in the Waste Plan (CD7.1), and whether the Appeal Proposal supports the delivery of Self-Sufficiency and the Proximity Principle, and in particular whether it adheres to the Proximity Principle through being appropriately located relative to the source of the waste.

#### The Waste Plan - Spatial Strategy

8.25 In this context the Waste Plan (CD7.1) sets out its role as being to identify sufficient opportunities to meet the identified needs of Bournemouth, Christchurch, Poole and Dorset for waste management. This includes the identification of sites for waste management facilities in appropriate locations, subject to consideration of issues including the environmental and cumulative impacts and sustainable transport.

8.26 The Waste Plan (CD7.1) itself states that this role is set out in the National Planning Policy for Waste (NPPW) (2014) (CD9.2), with which the Waste Plan (CD7.1) conforms, along with national planning policy on other matters such as the environment, amenity and the economy. This is a reference to the requirement set in paragraphs 1 and 4 of the NPPW (2014) (CD9.2) which make clear that the role of planning is to provide “a framework in which communities and businesses are engaged with and take more responsibility for their own waste, including by enabling waste to be disposed of...in line with the proximity principle” and that “...waste planning authorities should [inter alia]... plan for the disposal of waste and the recovery of mixed municipal waste in line with the proximity principle, recognising that new facilities will need to serve catchment areas large enough to secure the economic viability of the plant”.

8.27 The Waste Plan (CD7.1), as set out above, in addressing the need for new and improved waste management facilities identifies that the assessment of this need has reflected consideration of the broad distribution of future development, and in particular that the main focus of development over the plan period will be in and around Bournemouth, Christchurch and Poole. This is enshrined in Objective 2 of the Waste Plan (CD7.1) which states:

*“To optimise self-sufficiency, through the provision of an appropriate number and range of well designed, appropriately sized facilities for the management of waste, recognising that some waste requires specialist management facilities of a strategic nature.*

*Waste management facilities should be located in appropriate locations, as close as practicable to the origin of waste in order to reduce the total mileage waste is transported. Consideration will be given to existing waste production and operational capacity, the implications of growth and new developments likely to generate waste”.*

8.28 The Spatial Strategy sets out that it has been prepared using the best available evidence to assess current capacity, future waste arisings and the need for new facilities to support the Proximity Principle and promote Self-Sufficiency through making provision for a range of sustainable waste management facilities in appropriate locations, and it sets out what facilities are likely to be required for the management of different waste streams, and where they will be needed.

8.29 In relation to the residual waste stream, it identifies that landfill capacity in Bournemouth, Christchurch, Poole and Dorset has been diminishing and that existing treatment capacity for residual waste is insufficient to meet the Plan area’s projected needs. As set out above, it identifies that at the end of the Plan period it is estimated that there will be a shortfall of approximately 232,000tpa of capacity for managing non-hazardous waste, and that appropriate facilities are needed to manage this waste, whilst ensuring that value is obtained through the recovery of energy wherever practicable.

8.30 Accordingly, it proposes that provision should be made for residual waste treatment facilities which it states is primarily to be addressed through new capacity in south-east Dorset. It does allow for additional capacity to be located elsewhere where this would ensure the capacity gap is adequately addressed and when it will result in a good spatial distribution of facilities providing benefits including a reduction in waste miles. On this basis four existing waste management sites are allocated to address this need through the intensification or re-development of existing operations. These are included as Insets 7, 8, 9 and 10:

- Inset 7 - Eco Sustainable Solutions, Chapel Lane, Parley;
- Inset 8 - Land at Canford Magna, Magna Road, Poole;
- Inset 9 - Land at Mannings Heath Industrial Estate, Poole; and
- Inset 10 - Binnegar Environmental Park, East Stoke.

- 8.31 The allocation of these four sites in the Waste Plan (CD7.1) is consistent with the principle of co-location and the consideration of cumulative impacts as key considerations, in accordance with paragraph 4 of the NPPW (2014) (CD9.2). It seeks to encourage the co-location of waste management facilities, and stresses the opportunities for combining a broad range of waste management and transfer facilities within the same site so as to enable the complementary management of different types of waste through different processes and the advantages this can have, such as reducing the transportation of waste to different processing facilities and supporting effective and efficient co-collection rounds, thereby minimising potential environmental impacts and disturbance to local residents.
- 8.32 It also encourages co-location of waste management facilities with complementary activities. This may include opportunities for co-location with potential users of low carbon energy and heat including commercial buildings, factories, and industrial estates, and it makes clear that applications for energy recovery should demonstrate that opportunities for co-location with potential heat customers and heat suppliers have been sought.

#### Current Performance in Relation to Self-Sufficiency and the Proximity Principle

##### Self-Sufficiency

- 8.33 As set out above the Waste Plan (CD7.1) identified that in 2015 waste management facilities in Bournemouth, Christchurch, Poole and Dorset received proximately 2.17 million tonnes of waste, and that of this amount, the majority (over 85%) was identified as originating from within the Plan area. This suggests that approximately 325,000 tonnes of waste was imported into the Waste Plan area for management. By contrast a total of 322,000 tonnes of Bournemouth, Christchurch, Poole and Dorset's waste was exported to other counties. At that time the area covered by the Waste Plan (CD7.1) was a net importer of waste, i.e. it imported more waste than exported, and consequently the Bournemouth, Christchurch, Poole and Dorset area was or was largely self-sufficient in waste management terms and achieved net Self-Sufficiency.
- 8.34 In terms of residual waste management, the Waste Plan (CD7.1) in Table 7, identified that in 2015 there was an identified shortfall in residual waste management capacity across the Plan area of 86,000 tpa, increasing to 137,000 tpa in 2018, 178,000 tpa in 2023, 214,000 tonnes in 2028 and 234,000 tpa at the end of the Plan period in 2033. Insofar as this was the case it could not be anticipated that the Plan area would continue operating in compliance with the principle of Self-Sufficiency which required a projected 234,000 tpa of additional of residual waste management capacity by the end of the Plan period, and hence the justification for the level of provision identified in the allocated sites included in Insets 7, 8, 9 and 10.
- 8.35 As an update on this, Mr Potter in his Proof of Evidence considers how Dorset is currently performing in relation to the Self Sufficiency principle based on his assessment of the most up to date waste data, available through the Environment Agency's Waste Data Interrogator (WDI). He concludes that

Bournemouth, Christchurch, Poole and Dorset are not currently achieving full net Self-Sufficiency overall, and that consequently, some additional residual waste management capacity is required to deliver Self-Sufficiency.

- 8.36 However, as he also identifies that Self-Sufficiency is normally interpreted as 'net', because the day-to-day management of waste is subject to market forces and rarely respects administrative boundaries. Hence addition of the term 'net' allows for flows of waste into and out of a Waste Plan area, with the objective of achieving an overall balance of provision of capacity. This, as Mr Potter identifies is evident in the approach that has been applied in Waste Plan (CD7.1) with Policy 1 referring to "net self-sufficiency", which is consistent with the guidance set out in paragraph 7 of the Planning Practice Guidance on Waste (Paragraph: 007 Reference ID: 28-007-20141016 – Revision date: 16 10 2014 (CD9.21).
- 8.37 What Mr Potter then demonstrates in his evidence is that the projected waste growth assumptions set out in the Waste Plan (CD7.1) are now out of date, and that the latest waste data from DEFRA for both LACW and C&I waste confirms that growth rates for both waste types have in fact been significantly lower than was originally forecast. As a result, whereas the Waste Plan (CD7.1) (Table 2) projected an increase LACW and C&I waste of 191,000 tonnes from 834,000 tpa to 1,000,025 tpa requiring management over the Plan period, he demonstrates, based on the actual growth rate up to 2022, that this increase would now only be 59,000 tonnes. This in turn has more than halved the residual waste management capacity requirement from 234,000 tpa to 84,000 tpa in 2033.
- 8.38 Mr Potter further demonstrates that with the introduction of the legally binding target to reduce residual waste by half by 2042 set out in The Environmental Targets (Residual Waste) (England) Regulations 2023, which came into force on 30 January 2023, and taking into account existing residual waste management capacity, the revised residual waste management capacity shortfall would fall to only 25,316 tpa. Mr Potter additionally identifies that Bournemouth, Christchurch & Poole Council approved Planning Application Ref. 8/21/0207/FUL for the construction of a low carbon Energy Recovery Facility, at Eco Composting Ltd, Chapel Lane, Christchurch (the allocated site, Inset 7 – Eco Sustainable Solutions, Chapel Lane, Parley) on 8<sup>th</sup> December 2022 for a 60,000tpa plant. This, if constructed, would not only meet the revised shortfall in capacity but would deliver a residual waste management capacity surplus in the Plan area of 35,000 tpa. Even if this is not included, then the contribution of the Appeal Proposal to meeting net Self-Sufficiency, in view of the updated data and forecasts, can only be considered to be limited at best.
- 8.39 On this basis, whilst Bournemouth, Christchurch, Poole and Dorset, appear based on the Waste Plan (CD7.1) projections, to have a substantial shortfall in residual waste management capacity, seemingly making it dependent on the export of residual waste out of the Waste Plan (CD7.1) area for its recovery or disposal, when taking into account the lower than anticipated waste growth that there has actually been and the legally binding target to reduce residual waste by half by 2042, together with the existing and consented capacity,

Bournemouth, Christchurch, Poole and Dorset, does have sufficient potential and consented capacity, to deliver Self-Sufficiency, so that the Appeal Proposal would add little in terms of achieving net Self-Sufficiency in relation to the management of residual waste.

8.40 Furthermore, on a broader level, and to the extent that the Appeal Proposal would only be contributing at best to a limited extent to the achievement of net Self-Sufficiency, then it could only operate on the basis that most and possibly all of the waste feedstock would be imported from outside the Waste Plan area. This would clearly not be consistent with the principle of Self-Sufficiency. Furthermore, Mr Potter in his evidence also additionally addresses the regional need in the south-west of England together with the national need and it is clear from this that there is no apparent regional or national need. This leaves the Appeal Proposal, if constructed, potentially having to look even further afield for sources of feedstock.

8.41 It is clear therefore that the Appeal Proposal is not required to deliver Self Sufficiency in the management of residual waste in Bournemouth, Christchurch, Poole and Dorset, and in the absence of any defined contractual arrangement for the supply of feedstock from within the Waste Plan area, it would be dependent on the import of waste from outside the Plan area, and this may in the absence of any regional need in the south-west of England, or even nationally, have to come from further afield, in breach of the principle of Self Sufficiency. As such the Appeal Proposal does not comply with Policy 1 of the Waste Plan (CD7.1).

#### Proximity Principle

8.42 Turning to the Proximity Principle the Appeal Proposal fails to demonstrate that it would provide sufficient advantages as a waste management facility over the allocated sites in the Waste Plan (CD7.1), by reason of its distance from the main sources of Dorset's residual waste generation and the site's limited opportunity to offer co-location with other waste management or transfer facilities.

8.43 These are principles that are set out in the Waste Plan (CD7.1), and reflect the requirements set out in paragraphs 1 and 4 of the NPPW (CD9.2).

8.44 The Spatial Strategy in the Waste Plan (CD7.1) in relation to the management of residual waste sets out that appropriate facilities are needed to manage this waste stream, and wherever practical should include provision for energy recovery. Whilst it identifies that provision will be made for residual waste treatment facilities to manage waste derived throughout the Plan area, it makes clear that the need for strategic residual waste treatment facilities will primarily be addressed through new capacity in south-east Dorset, which essentially means within the area of the main concentration of the population in and around Bournemouth, Christchurch and Poole. The policy is not intended to preclude the development of facilities outside this area, but it makes clear that any such additional capacity should ensure the capacity gap is adequately addressed and that it will result in a good spatial distribution of facilities providing benefits

such as a reduction in waste miles, i.e. the number of miles that waste has to travel. This was the basis of the allocation of the four existing waste management sites identified in the Plan, i.e. Insets 7, 8, 9 and 10, as set out above.

- 8.45 Mr Potter, in his evidence regarding the application of the Proximity Principle refers to the comments of the Inspector in his report of the Waste Plan (CD7.1) examination, and in particular identifies that because the population is concentrated in the south-east of the plan area, within Bournemouth, Poole and Christchurch (i.e. the area referred to as south-east Dorset), strategic provision is required close to these urban areas. The Inspector confirms his view that the plan has identified strategic requirements for residual waste management and recycling and rightly allocates sites to meet those requirements, because they are well related to the sources of waste, and that this is consistent with the Proximity Principle.
- 8.46 Mr Potter also sets out the details of the distribution of the population and waste management facilities, and the four residual waste management allocations, and how these are consistent with the Proximity Principle and provides the basis for the Spatial Strategy of the Waste Plan (CD7.1). The Spatial Strategy accordingly supports provision of capacity in that part of the Plan area, three of which (i.e. those at Parley, Canford Magna and Mannings Heath Industrial Estate) are located within the Bournemouth, Poole and Christchurch Council area, whilst the fourth at Binnegar Environmental Park at East Stoke is just to the west of this area. It is this that underpins the Spatial Strategy and is the approach that has been tested at Examination and was found to be sound by the Inspector.
- 8.47 Mr Potter identifies that provision is also made for new waste transfer capacity, at Blandford, Dorchester and Wareham, so that waste arising in rural west Dorset can be sustainably transported to support the development of the four allocated residual waste management allocations. The Plan also identifies a need for the development of a transfer station to facilitate the sustainable movement of waste in the east of Dorset but does not include an allocation for this.
- 8.48 In order to assess the Proximity Principle implications of the Appeal Proposal in the light of the approach of the Spatial Strategy adopted in the Waste Plan (CD7.1), Mr Potter has undertaken an analysis of the waste miles associated with provision of the capacity at the Appeal Site compared with development of the allocated waste sites. He demonstrates, by locating a single strategic residual waste management facility at the Appeal Site instead of one or more of the four allocated sites, Insets 7, 8, 9 and 10, that there would be an additional 4.2 million waste miles that waste would have to travel, because of the significant increase in the distance of the Appeal Site from south east Dorset compared with the four allocated sites.
- 8.49 While he identifies that there would be some reduction in the waste miles travelled from the waste transfer facilities in the west of the county, taking into account that the substantive proportion of waste from Bournemouth,

Christchurch, Poole and Dorset, comes from the east side of the Plan area, it is clear that locating a single strategic recovery facility in a comparatively remote location in the western half of the county away from up to 80 per cent of the population, would not, in terms of the Spatial Strategy, be sustainable management of waste or Proximity Principle compliant. As such the Appeal Proposal cannot be considered to be in accordance with the Spatial Strategy and the relevant parts of Policy 1, Policy 4 and Policy 6 of the Waste Plan (CD7.1).

### **Main Issue 2: Compliance with Policy 4 - Claimed Advantages or Benefits of the Appeal Proposal**

- 8.50 The next set of key issues in the determination of this Appeal arise out of the question of whether the Appeal Proposal is compliant with the Waste Plan (CD7.1), Policy 4, and in particular whether in relation to sub-paragraph (a), it is the case that there is no available site allocated for serving the waste management need that the Appeal Proposal is designed to address, or the non-allocated site, i.e. the Appeal Site, provides advantages over the allocated site.
- 8.51 The Appellant did not at the application stage, and still does not attempt to argue in their Statement of Case, that none of the allocated sites are available for serving the waste management need that the proposal is designed to address. Instead, they seek to argue, based on a comparison of the proposed Portland ERF with the allocated sites, identified for residual waste management, under Waste Plan (CD7.1) Policy 3, i.e. those referred in Insets 7-11, that none performs as well as the Appeal Site when assessed against a set of defined operational, planning and environmental criteria. In doing so however the Appellant's argument disregards the fact that the allocated sites were subject to considerable scrutiny and examination in the course of the preparation of the Waste Plan (CD7.1), which identified that they were suitable for the waste management need identified in the Plan, i.e. for the treatment of residual waste, whether this is by means of energy recovery or another process of technology. Furthermore, two of the sites have been subject to planning applications submitted for EFW facilities to BCP Council; One, Inset 7 - Eco Sustainable Solutions, Chapel Lane, Parley, which, as set out above, Ref. 8/21/0207/FUL for a 60,000tpa EFW plant, was approved on 8th December 2022; and Inset 8 - Land at Canford Magna, Magna Road, Poole is currently the subject of Planning Application Ref. APP/23/00822/F for the construction of 260,000tpa Energy from Waste Combined Heat and Power Facility, that is awaiting determination.
- 8.52 The Appellant sets out their arguments in some detail on paragraphs 6.94 to 6.96, of their Planning Supporting Statement (September 2020) (CD1.22). They go as far as to state in paragraph 6.96, that "*none of the allocated sites in the Dorset Waste Plan are suitable for a comparable ERF, and that the application site, [now the Appeal Site], clearly has many significant advantages over the development of the allocated sites*". They also attempt to argue in paragraph 6.95, in the 8<sup>th</sup> bullet point, that the Appeal Proposal will provide "*certainty that capacity will be delivered in sufficient time to meet Dorset's residual waste*



*management needs, as opposed to the high level of uncertainty associated with the Dorset Waste Plan allocated sites, which are subject to planning and environmental constraints that may preclude them from coming forward with suitable proposals and technologies that are proven, reliable and viable".* This assertion appears to conflict with the current position, whereby two of the four allocated sites have already been the subject of planning applications for more EfW capacity combined than the Appeal Proposal.

- 8.53 As such the Appeal Proposal clearly fails on the first part of Policy 4, sub-paragraph (a), in that it is not only the case that one or more of the allocated sites is available, and but also that there is currently an even larger ERF proposal on one of these sites, than that being brought forward by the Appellant.
- 8.54 The Appellant's principal case in relation to Policy 4 (a) relies on the second part of the sub-paragraph, i.e. that the non-allocated site, in this case the Appeal Site, provides advantages over the allocated sites. The argued advantages are set out in paragraph 6.95 of the Appellant's Planning Supporting Statement (September 2020) (CD 1.22). These essentially relate to the port location and the proposed provision of shore power to visiting cruise liners and other vessels, the provision of a local heat network serving Portland's two prisons and the potential use of the port to transport waste in or out in connection with the proposal.
- 8.55 The Appellant argues that the proposed ERF confers a number of energy related advantages which in summary include; the provision of shore power for cruise liners and other vessels which is said to be currently not possible due to grid supply constraints in the locality; the ability to implement a local heat network; the ability to provide a significant amount of electricity to the local distribution network increasing its efficiency; and consequently significant reductions in carbon emissions.
- 8.56 The assessment of these advantages has been undertaken by Mr Norton in his Proof of Evidence, who demonstrates that the claimed benefits, are likely to be far more limited. In summary his conclusions on the Appellant's substantive claims are as follows.
- 8.57 Firstly, he identifies that when in port, cruise liners have traditionally run diesel generators to provide the electricity the vessel needs while docked. Plugging in to shore power reduces the need to run onboard generators reducing emissions. Large vessels use up to 12MWe of electricity each hour and the Appellant proposes to install shore power at two berths totalling 22 MWe to deal with a projected 65 vessels per year. The proposed ERF would produce 17.1 Mwe that would be available for export.
- 8.58 Mr Norton identifies that the potential level of utilisation or shore power identified by the Appellant, is likely to be over optimistic, as even when it is available persuading cruise ships to use shore power has so far proven to be challenging. He identifies that recent studies analysing ship schedules at Southampton, where shore power is available, have indicated a low take up

with the underlying research suggesting that only one in ten cruise ships have actually used shore power since it became available in 2022, with the vessels that did only using shore power for an average of five hours per visit despite typically spending twelve hours in port. He identifies in its assessment of the barriers to shore power, that the British Ports Association cites high electricity prices as a main barrier to shore power uptake, highlighting that vessel operators will make commercial decisions on their use of shore power.

- 8.59 Mr Norton refers to the Appellant's letter of support from cruise ship operator Carnival PLC, which states that its vessels that can receive shore power would connect "subject to power being made available on commercially viable terms" which confirms that the uptake of shore power at Portland Port will be subject to negotiation of commercial terms and market conditions.
- 8.60 Looking then in more detail at what has actually happened at Portland Port, Mr Norton has undertaken an analysis of the 56 cruise ships that used Portland Port in 2023 and identifies that in fact in practice cruise ships were in port for only 470 hours of the year (5% of the time). As a result, while power loads are high when connected, the short duration of connection means that the 50% of cruise ships currently able to take shore power would consume just 1.5% of the ERF's annual electricity production illustrating the mismatch between the size of the proposed ERF and the provision of shore power.
- 8.61 He further identifies that there were only ten days in the year when two cruise ship were in the port at the same time which, if they could both take shore power, would lead to the 22 MWe peak electricity demand. However, he also identifies that this peak load could be almost cut in half through the port avoiding multi vessel arrivals or by limiting shore power to one berth.
- 8.62 Mr Norton further identifies that the Appellant's Shore Power Strategy Report includes the use of shore power by Royal Fleet Auxiliary (RFA). However, he identifies the estimated RFA load as consuming only between 13% and 17% of the ERF's annual electricity output and that this can currently be supplied using the grid electricity capacity available in the port. He also comments that the Royal Navy has a track record of developing its own shore power provision including the use of batteries.
- 8.63 He further identifies that initial analysis of the potential role for battery storage systems at Portland Port suggests that management of cruise ship arrivals to avoid double berthing may enable the provision of shore power using the existing 5MWe of grid capacity, and he comments that without an in-depth assessment of the role of battery storage systems in the provision of shore power it is too early for the Appellant to state that "there are currently no commercially viable alternative options to provide grid connected shore power for Portland Port other than the proposed ERF". This casts major doubt over the Appellant's claim that there is no commercially viable alternative to the Appeal Proposal for supplying shore power.
- 8.64 Mr Norton also identifies that the use of grid electricity for the provision of shore power would take advantage of the decarbonisation of the UK's electricity grid

and the provision of low carbon grid electricity with the result that the proposed ERF would not be required in order to achieve shore power emissions reductions. He also identifies that the Appellant highlights the local carbon (and air quality) benefits from the supply of electricity to berthed vessels because it reduces diesel use and results in reduced local carbon emissions. However, he concludes that locally the carbon emissions from the fossil element of the waste burnt in the proposed ERF releases 4.7 times the carbon that might be saved by supplying all berthed vessels with electricity. As a result, the provision of shore power from the proposed ERF should not therefore be seen as a local GHG emission reduction measure.

- 8.65 In relation to implementing a local heat network, Mr Norton highlights that the Appellant identifies five local buildings as potential consumers for heat supplied through district heating networks that transport heat from the ERF, and that three of these consumers lie on the 1,000m northern leg of the network and two on a 5,000 m southern leg.
- 8.66 Mr Norton identifies through assessment of the consumers on the northern leg, that two of the larger customers are unlikely to be suitable for connection to district heating, and that analysis of the linear heat density of the residual northern leg heat load shows that it is insufficient to make the northern leg economically viable. He further concludes that although the linear heat density of the southern leg is higher than the northern leg it is below the threshold that is generally accepted as being economically viable.
- 8.67 He further identifies that the electricity foregone to provide the southern leg district heating is 1.5% of the proposed ERF's annual electricity production illustrating the mismatch between the size of the proposed facility and the southern leg heat demand were it to be viable. As neither the northern nor southern legs of the district heating network are likely to be viable there are no potential carbon benefits from the provision of district heating. This in my view reduces the weight that can be attributed to this aspect of the Appellant's claimed benefit of the Appeal Proposal, to being limited.
- 8.68 In relation to electricity supply, Mr Norton Identifies that the Appellant emphasises the ability of the proposed ERF to provide baseload electricity. Baseload power in the context of national energy security is delivered to the national grid consistently over a period. Nuclear power generation, he advises, is often cited as the archetypal baseload power generator.
- 8.69 Mr Norton however identifies that if the ERF were to supply shore power over the cruise season (February to November) and district heating with peak loads over the winter heating season (October to March), the ERF would not be exporting baseload power to the grid. He comments that with shore power provision as proposed by the Appellant, at times when cruise ships double berth, the ERF would be exporting no power. In these circumstances the grid would see power from the proposed ERF as variable and interruptible, not baseload.

- 8.70 Because of the variable and interruptible nature of the ERF's power export, Mr Norton identifies that it is likely to have implications for the sale of electricity from the ERF as the electricity market values certainty of supply and discounts variability and interruptibility. He concludes that it is unclear how the Appellant would offset the electricity export price penalties associated with variability and interruptibility with the potential income from the provision of price competitive shore power and district heating. He accordingly advises that this commercial uncertainty has implications that potentially undermine the delivery of shore power and district heating. This again in my view significantly reduces the weight that can be attributed to the shore power and District Heating benefits of the Appeal Proposal.
- 8.71 Mr Norton also identifies interruptions to the provision of shore power. He identifies that the ERF would operate for 8,000 hours annually, but that the plant would be shut down for the remaining 760 hours (4.5 weeks) for annual maintenance. He comments that EfW plants typically shut down in the summer months, but that shutting down during the cruise season would affect the potential delivery of shore power. Equally shutting down in the heating season would affect the delivery of district heating. He identifies that the Appellant does not show how the proposed ERF would continue to provide shore power and district heating during its annual shutdown. This uncertainty in the Appellant's case in my view further reduces the weight that can be attributed in terms of the claimed benefits.
- 8.72 Overall, therefore taking into account all of the limitations of the benefits claimed by the Appellant in relation to the provision of the shore power and a local heat network, it is clear that these have at best been significantly overstated, or not properly assessed, and at worst simply may never actually materialise. As a result, the weight, in my view, to be attached to the claimed benefits, must be very significantly reduced.

#### The Appellant's Other Claimed Benefits

- 8.73 My comments in relation to the Appellant's other claimed advantages of the Appeal Proposal are as follows.

#### Previously Developed Land and Brownfield Land Re-use

- 8.74 In relation to the use of previously developed or 'brownfield' land, the Council agrees that the main part of the Appeal Site is brownfield land which has been previously developed. Whilst some weight can be attributed to this, the Council does not consider that this can be taken as a 'green light' as justification for any development, and in the case of the Appeal Proposal I consider that the status of the Appeal Site does not outweigh the significant negative weight arising from the scale, mass and height of the Appeal Proposal and its resulting incompatibility with its setting and the adverse effects on the character and quality of the surrounding landscape as set out by Mr Williamson in his Proof of Evidence, and in relation to the harm to the heritage assets as detailed by Ms Kelly in her Proof of Evidence. As a result, it is my view that the degree of weight in this instance to be attributed to the use of brownfield land is limited.

## Supply of Renewable Energy in the National Interest

- 8.75 In relation to the supply of renewable energy, the Appellant argues that the Appeal Proposal will make a significant contribution towards meeting the UK's renewable energy needs. However, only the biogenic portion of waste burnt is regarded as renewable. The Appellant's composition analysis says that 56% to 60% of the waste the ERF will burn is biogenic, but the recent announcement that all Local Authorities will be required to make separate collections of food waste from early 2026, will result in a considerable reduction of the biogenic content. Currently approximately 50% of residual waste is considered to be biogenic which would mean that 50% of the electricity produced by the ERF could be regarded as renewable. Again, whilst I consider that some benefit can be attributed to supply of renewable energy at this level, this must be considered to be limited to the extent that the percentage of renewable electricity supplied to the grid would be limited and could similarly be provided from the development of an ERF proposal on any one of the allocated sites. The renewable component is also likely to reduce going forward and could not be considered to be significant to meeting a national need. As is recognised by the sector, the principal purpose of such plants is waste disposal not power/energy production.

## Economic Growth and Employment

- 8.76 The Appellant argues that the Appeal Proposal would make a significant contribution towards meeting the national and local need for economic growth and lead to substantial socioeconomic benefits. The Council as set out in the Planning Officer's Committee Report (CD5.1) has acknowledged that there would be associated economic benefits arising from the port's enhanced ability to attract cruise ships, with a significant proportion of passengers visiting local attractions in Weymouth and Portland and the creation of 300 jobs during the construction phase; and creation of up to 30 permanent jobs once the facility is operational. Again, these are benefits that at least in part would be provided by the development on one of the allocated sites, though the Council recognises that the development on the Appeal site would provide some additional benefits, in terms of the support to the number of visiting cruise ships. I agree therefore that some, albeit limited, weight can be attributed to the benefits in terms of economic growth and employment.

## Port Location

- 8.77 The Appellant argues that because the Appeal Proposals would be located with Portland Port, an opportunity exists for materials to be imported and exported, such as the import of RDF and the export of incinerator bottom ash (IBA). This ability to move materials by sea would, they argue, allow for a reduction in vehicle movements on the local road network and is a locational benefit that other allocated sites simply cannot match as these are all situated inland and are fully reliant on road transport. The Council accepts that the development of the Appeal Site does potentially offer this an advantage, but that this advantage would be entirely lost in the event that that the ERF is developed to provide residual waste management capacity to meet any shortfall in the Waste Plan

(CD7.1) area, with waste then having not only to be imported by road, but resulting in an increase of 4.2 million additional waste miles being travelled, because the location of the Appeal Site, away from the main centre of population in south-east Dorset. For this reason, I consider that little or no weight can be attributed to the claimed advantage of the Appeal Site within the Portland Port.

#### Advantages of the Appeal Site over the Allocated Sites

- 8.78 The Appellant argues that the Appeal Site also offers a number of other locational advantages over the allocated sites, and in their Statement of Case (CD11.1) in paragraph 2.15 identifies these as comprising the scale of the ERF, the provision of shore power, the provision of a Heat Network, Carbon Capture and Storage, and land use suitability. However, the Appellant has not offered any evidence to demonstrate that the allocated sites would not be equally capable of providing the same or more benefits. The Appellant also does not take into account the very substantial disadvantages, particularly in terms of the impacts on landscape and heritage, that the development of the Appeal Site would entail. Accordingly, I consider that the amount of weight that can be attributed to the claimed benefits is very limited and is outweighed by the benefits.

#### **Main Issue 3: Compliance with Policy 4 – Environmental Harm**

- 8.79 Turning to Policy 4(d) the requirement is to demonstrate that the Appeal Proposal complies with the (other) relevant policies of the Plan. The Policy states that proposals will only be permitted where they meet all of the criteria in Policy 4, including (d) which requires compliance with all of the other relevant policies in the Waste Plan (CD7.1).
- 8.80 As the Council has set out in Reasons for Refusal 2 and 3, the Appeal Proposal does not comply with other policies in the Waste Plan (CD7.1) relating to the impacts on landscape and heritage assets.

#### Landscape and Visual Impacts

- 8.81 In relation to Reason for Refusal No. 2, the key issues relate to the considerations set out in Policy 14 of the Waste Plan (CD7.1), Policy ENV1 of the West Dorset, Weymouth and Portland Local Plan 2011-2031 (2015) (CD7.2), Policies Port/EN7 and Port/BE2 of the Portland Neighbourhood Plan (2020) (CD7.4), and paragraph 174 of the NPPF (2023) (CD9.1).
- 8.82 There is a consistent approach to policy which stresses the requirement for development proposals to be compatible with their setting and to conserve and/or enhance the character and quality of the landscape, and especially so when this involves any designated areas including the Dorset AONB and the World Heritage Coast. This is also echoed in the NPPW (2014) (CD9.2) which requires waste planning authorities to consider a number of locational criteria

when determining planning applications. The specifically relevant policy requirements are as follows.

- 8.83 Policy 14 of the Waste Plan (CD7.1) is unambiguous in stating that proposals for waste management facilities will be permitted where they are compatible with their setting and would conserve and/or enhance the character and quality of the landscape. The policy states that this should be achieved through:
- (a) sympathetic design and location;
  - (b) appropriate use of scale, form, mass, layout, detailing, materials and building orientation; and
  - (c) avoidance, or if this is not practicable, acceptable mitigation of adverse impacts on the landscape.
- 8.84 The policy makes clear that great weight is to be given to conserving the landscape and scenic beauty of Areas of Outstanding Natural Beauty and the Outstanding Universal Value of the World Heritage Site, and their settings.
- 8.85 In relation to the development affecting the World Heritage Site it states that proposals will be considered against Policy 19 and national policy on heritage assets and that permission will only be granted for waste developments where it is demonstrated that they will not result in unacceptable adverse impacts on the special qualities that underpin the designation.
- 8.86 The policy also requires that proposals should not have an unacceptable adverse impact on the character of the undeveloped coast within the West Dorset Heritage Coast and the Purbeck Heritage Coast.
- 8.87 In line with the NPPF (2023) (CD9.1) it states that proposals resulting in harm to the significance of a designated heritage asset are only to be permitted if this is justified, having regard to the public benefits of the proposal and whether it has been demonstrated that all reasonable efforts have been made to mitigate the extent of the harm to the significance of the asset.
- 8.88 Where a proposal directly or indirectly affects non-designated heritage assets, regard is to be had to the scale of any harm or loss and the significance of the heritage asset.
- 8.89 Policy ENV1 of the West Dorset, Weymouth and Portland Local Plan 2011-2031 (2015) (CD7.2), adopts a similar wording, stating that the area's exceptional landscapes and seascapes will be protected, taking into account the objectives of the Dorset AONB Management Plan and World Heritage Site Management Plan, and that development which would harm the character, special qualities or natural beauty of the Dorset AONB or Heritage Coast, including their characteristic landscape quality and diversity, uninterrupted panoramic views, individual landmarks, and sense of tranquillity and remoteness, will not be permitted.
- 8.90 It additionally states that development should be located and designed so that it does not detract from and, where reasonable, enhances the local landscape character.
- 8.91 Policy Port/EN7 of Portland Neighbourhood Plan (2020) (CD7.4), stresses the need for development proposals to reflect and reinforce, as far as is possible, the existing character of the locality and to enhance existing landscape features

as part of an appropriate level of landscaping, whilst Policy and Port/BE2 states that they should not have any unacceptable environmental impact.

- 8.92 Paragraph 174 of the NPPF (2023) (CD9.1) refers to the need to contribute to and enhance the natural and local environment by inter alia:
- (a) protecting and enhancing valued landscapes (in a manner commensurate with their statutory status or identified quality in the development plan);
  - (b) recognising the intrinsic character and beauty of the countryside, and
  - (c) maintaining the character of the undeveloped coast.
- 8.93 The key issue in relation to Reason for Refusal No. 2 is therefore whether the Appeal Proposal in terms of its scale, massing and height, in the proposed location, would have a significant adverse effect on the quality of the landscape and views of Portland so as to be unacceptable, taking in account its close proximity to the Dorset and East Devon Coast World Heritage Site. Although the Appeal Site is not located either within the Dorset AONB or the Dorset and East Devon Coast World Heritage Site, it is located in such close proximity to both that the impact on their settings, and on the shape of the landform of the Isle of Portland is an important substantive consideration.
- 8.94 My response to the key issues raised by the policies set out above is as follows:  
*Is the Appeal Proposal compatible with its setting and would it conserve and/or enhance the character and quality of the landscape?*
- 8.95 Assessment of the compatibility of the Appeal Proposal with its setting is addressed in the Proof of Evidence of Mr Williamson.
- 8.96 Mr Williamson provides detailed comments on the Appellant's Landscape and Visual Impact Assessment (LVIA). He concludes that the threshold for significance of landscape and visual impacts has been appropriately set and is not in dispute, and he considers that it is common ground that there would be a range of significant adverse visual impacts.
- 8.97 However, he concludes that that the significant adverse impacts that would be experienced would be more than merely 'localised' or 'very localised' and that they would be experienced over a wide area of land and water at distances extending to at least 4.5 km from the development. He advises that the extent and degree of a number of adverse landscape and visual impacts are underestimated in the LVIA and concludes that there are multiple adverse landscape and visual impacts that are significant in EIA terms, applying the Appellant's own methodology and criteria.
- 8.98 In particular Mr Williamson concludes that there would be significant adverse landscape and visual impacts on parts of the designated West Dorset Heritage Coast and the Jurassic Coast World Heritage Site, both of which are in very close proximity to the site. He also concludes that there would be significant adverse impacts on the visual amenity of large numbers of residential properties, including in south-eastern parts of Weymouth, and he concludes that the adverse impacts on the visual amenity of users of the South West Coast Path (the England Coast Path) are seriously underestimated in the LVIA and would be substantial and adverse.



- 8.99 Mr Williamson's key conclusions in relation to the compatibility of the Appeal Proposal with its setting are, firstly, in relation to Policy 14 of the Waste Plan (CD7.1), that due to their scale, mass and height, the Appeal Proposal is incompatible with its setting and would have adverse effects on the character and quality of the surrounding landscape. I agree with this conclusion.
- 8.100 He identifies that the policy requires proposals to be of sympathetic design and location, and that whilst the Appeal Site as a location is suitable in principle for industrial development, it is not suitable for a development of the scale, massing and height proposed. He concludes that what is proposed exceeds by a considerable margin the prevailing scale, mass and height of existing and consented development at the port. Whilst Mr Williamson considers that some aspects of the design, such as the orientation of the main building, are not at issue, there are other aspects of design that cannot be divorced from the issue of the Appeal Proposal's scale, massing and height. Accordingly, he concludes that the scale, massing, height and location of the Appeal proposal is not sympathetic to its setting, and that the mitigation measures proposed are insufficient to overcome the level of adverse landscape impacts that would result. I agree with this conclusion.
- 8.101 He further identifies that the policy makes specific reference to the need to avoid unacceptable adverse impacts upon the character of the designated Heritage Coasts. In his view the adverse landscape impacts on the West Dorset Heritage Coast at the moderate level identified would be unacceptable. He considers that the adverse effects on the Purbeck Heritage Coast would be at a lower level and whilst they do need to be recognised, he does not consider them to be unacceptable. On this basis Mr Williamson concludes that the Appeal Proposal fails to comply with Policy 14. I agree with this conclusion.
- 8.102 In relation to the Jurassic Coast World Heritage Site (WHS) Mr Williamson identifies that this is a heritage asset of the highest significance, and that great weight should be given to its conservation, irrespective of the degree of harm caused by development. He considers that there would be significant adverse landscape and visual effects on the WHS.
- 8.103 In his evidence Mr Williamson identifies that the World Heritage Site was inscribed in 2001 for its earth science value and the wording of its Statement of Outstanding Universal Value (OUV) reflects this. While he considers that the Appeal Proposal would not affect the OUV directly, he identifies that the WHS Inscription document makes clear in its preface that the beauty and character of the WHS are also recognised to be inextricably linked to its value. The opening words of the preface are that 'The Dorset and East Devon Coast is a special and beautiful place' and that the conservation of this coast should ensure that its earth science interests are properly recognised, not only in their own right but also 'because of their important role within the coast's landscape, history and culture.' (CD12.6).
- 8.104 He further comments that it is noteworthy that the Management Plan (the Jurassic Coast Partnership Plan 2020 -2025) (CD12.9) refers under Strategic Aim 5 to the WHS as a 'protected landscape' and that the Plan draws attention to the need to protect the setting of the designated area, and under the heading 'experiential setting' (page 22) states that 'The setting should be regarded as the surrounding landscape and seascape, and concerns the quality of the

cultural and sensory experience surrounding the exposed coasts and beaches... ‘

- 8.105 In the light of this, Mr Williamson concludes that the landscape value of the WHS and its setting and the enjoyment and quality of experience of visitors to it, are integral to the purposes of its designation and management, and that the Appeal proposal would have significant adverse landscape and visual effects on the WHS and its setting and would negatively affect the perception and quality of experience of visitors. He therefore concludes that they conflict with the objectives of the WHS Management Plan. On this basis I would agree. The Appeal Proposal would be sufficiently adverse in its impacts to be contrary to paragraph 189 of the NPPF (2023) (CD9.1), which considers them as assets which are ‘an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.’
- 8.106 Finally, in relation to the impacts on the Dorset AONB, Mr Williamson concludes that the Appeal Proposal would result in very minor adverse effects on the AONB and its setting, so there would not be a net gain in terms of the landscape, but that it is his judgement that the effects are not at a level that is a cause for concern.
- 8.107 On this basis Mr Williamson concludes that the Appeal Proposal fails to comply with Policy 14. I agree with his conclusion.
- 8.108 Turning next to the West Dorset, Weymouth and Portland Local Plan 2018, Policy ENV1 (CD7.2), this as detailed above, sets out requirements for the protection of landscape, seascape and sites of geological interest, and makes specific reference to the need to take into account the objectives of the Dorset AONB Management Plan and the World Heritage Site Management Plan, and to avoid harm to the character, special qualities or natural beauty of the AONB and Heritage Coast, including individual landmarks. The policy states that development that has significant adverse effects on the local landscape or seascape will not be permitted.
- 8.109 Mr Williamson identifies that the Appeal Proposal is not compatible with the objectives of the WHS Management Plan (see paragraphs 4.84 to 4.88 below) (CD12.9). Whilst the proposals are not strictly in accordance with the objectives of the AONB Management Plan, the conflicts he identifies that are not at a level that they should have a material influence on planning decisions. He nevertheless identifies that the proposals would have significant adverse landscape and visual effects on the local landscape. The effects on the local seascape, he considers, have not been sufficiently assessed to enable reliable conclusions to be drawn. There would nevertheless, in his view, be significant adverse effects on the character and natural beauty of the designated heritage coasts. In respect of the West Dorset Heritage Coast the adverse effects would include both landscape and visual effects at the moderate level. On this basis he concludes that the Appeal Proposal fails to comply with Policy ENV1. I agree with this conclusion.
- 8.110 In relation to Policy Port/EN7 of Portland Neighbourhood Plan (2020) Mr Williamson refers to the fact that this requires that development must complement the prevailing size, height, scale and mass of the existing

surrounding development. He concludes that that the Appeal Proposal would be of a significantly greater size, height, scale and mass than the prevailing development at the port, and rather than complementing the existing development, it would be at odds with it. The policy also requires proposals to demonstrate that they reflect and reinforce the existing character of the locality and it makes reference to the Portland Heritage and Character Assessment. He accordingly concludes that due to the scale, massing and height of the Appeal proposals, the requirements of Policy Port EN7 would not be met. I agree with his conclusions and accordingly also consider that the Appeal Proposal would not accord with Port/BE2 in that it would give rise to unacceptable environmental impacts.

- 8.111 Finally in relation to relevant national planning policy set out in the NPPF (2023) (CD9.1) Mr Williamson concludes that that the extent and level of adverse landscape and visual effects on surrounding undeveloped land that would result from the proposed development are such that the requirement in NPPF paragraph 174 (CD9.1) to recognise the intrinsic character and beauty of the countryside is not met.
- 8.112 He also considers, given the range and level of adverse landscape and visual effects identified, that the requirement in NPPF paragraph 130 (a) (CD9.1) that developments should add to the overall quality of the area is also not met and he identifies that the Appellant's Landscape and Visual Impact Assessment (LVIA) (CD1.36j) accepts that there would be a range of adverse visual effects at a level that is significant in EIA terms. As a result, the requirement for developments to be visually attractive (paragraph 130 (b)) is not met. Given the extent and level of adverse landscape effects, Mr Williamson also concludes that the requirement for development to be sympathetic to local character and landscape setting (paragraph 130 (c)) is not met.
- 8.113 He also considers that the proposals do not comply with the requirement in the National Design Guide 2021 (CD12.23) for developments to be visually integrated into their wider surroundings (National Design Guide, paragraph 43), to be positively influenced by the significance and setting of heritage assets (paragraph 48), and to satisfactorily consider height, scale, and massing (paragraph 53). In respect of Section I3 of the National Design Guide, which deals with creating character and identity (paragraph 58), he identifies that the Guide emphasises the importance of the siting of development in the wider landscape to character and place-making.
- 8.114 For the reasons set out above in summary above (and in detail in the Proof of Evidence of Mr Williamson), I agree that the Appeal Proposal, as a result of its scale, massing and height, in the proposed location, would have a significant adverse effect on the quality of the landscape and views of the iconic landform shape of the Isle of Portland within the setting of the Dorset and East Devon Coast World Heritage Site, particularly when viewed from the South West Coast Path and across Portland Harbour. As such, the proposal is contrary to Policy 14 of the Waste Plan (CD7.1), Policy ENV1 of the West Dorset, Weymouth & Portland Local Plan, Policies Port/EN7 and Port/BE2 of the Portland Neighbourhood Plan, and paragraph 174 of the NPPF.

### Impacts on Heritage Assets

- 8.115 The key issues in the determination of this appeal, in relation to Reason for Refusal No. 3, include the considerations set out in Policy 19 of the Waste Plan (CD7.1), Policy ENV4 of the West Dorset, Weymouth and Portland Local Plan 2011-2031 (2015), Policy Port/EN4 of the Portland Neighbourhood Plan (2020), and paragraphs 197 and 202 of the NPPF.
- 8.116 Policy 19 of the Waste Plan (CD7.1) is concerned with the historic environment and requires demonstration that heritage assets and their settings will be conserved and/or enhanced in a manner appropriate to their significance. Specifically in relation to the designated heritage assets it stresses that great weight is to be given to their conservation (protection and enhancement), including their settings. This includes listed buildings, conservation areas, scheduled monuments and non-designated heritage assets of archaeological interest that are of equivalent significance to scheduled monuments.
- 8.117 Policy ENV4 of the West Dorset, Weymouth and Portland Local Plan 2011-2031 (2015), similarly requires that the impact of development on a designated or non-designated heritage asset and its setting must be thoroughly assessed against the significance of the asset and that it should conserve and where appropriate enhance the significance. Applications affecting the significance of a heritage asset or its setting, must include sufficient information to demonstrate how the proposals would positively contribute to the asset's conservation, and must demonstrate a thorough understanding of the significance of the asset and other appropriate evidence to inform development proposals including potential conservation and enhancement measures. Applications also need to be weighed against the public benefits of the proposal. It must be demonstrated that all reasonable efforts have been made to mitigate the extent of the harm to the significance of the asset.
- 8.118 Policy Port/EN4 of the Portland Neighbourhood Plan (2020) (CD7.4), sets out essentially similar considerations.
- 8.119 Paragraph 197 of the NPPF (2023) (CD9.1) refers to the need to take account of: the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. In accordance with Paragraph 202 of the NPPF, the key issue is whether the Appeal Proposal will lead to less than substantial harm to the significance of a designated heritage asset(s), and how if this is the case, this should be weighed against the public benefits of the proposal, which are considered under the heading of Main Issue 4 below.
- 8.120 My evidence in response to the key issues raised by the policies set out above is as follows.

- 8.121 Consideration of whether the impacts of development on all the designated and non-designated heritage assets and their settings have been adequately assessed against their significance and is addressed in the Proof of Evidence of Helena Kelly, which provides detailed comments on the Appellant's historic environment assessment and other relevant documents submitted with the planning application.
- 8.122 Ms Kelly identifies that the assessed designated heritage assets at Portland Port are of high value and while some are clearly assets of the highest significance in terms of their designations alone, they are all highly significant as part of a group of nationally important assets that convey the maritime and naval history of Portland, a history that includes the construction of the first safe anchorage for a naval steam-driven fleet, which created when built, the largest man-made port in the world. This includes a range of naval defences specifically orientated to protect that harbour and reflects advances in military technology and use during two World Wars.
- 8.123 She further identifies that the range of assets and level of survival of assets of 19th century date in Portland is exceptional. The less well preserved non-designated B and D batteries she identifies as being of moderate value given their condition, but nonetheless they have group value associated with the naval base as described above.
- 8.124 Overall, Ms Kelly concludes that the Appeal site, while changed from its historic character through the demolition of the buildings that previously occupied the site, is still strongly associated with the Breakwaters and Portland Harbour and port and as such makes a positive contribution to the heritage values of the assets described, despite these changes. She identifies that the previous buildings on the Appeal site were not of the same scale as the Appeal Development, and that the previously consented energy scheme within the Appeal site was also not of the same scale as the Appeal Proposal, so that their scale and context were different in terms of their effects on the historic environment.
- 8.125 Ms Kelly accordingly confirms that it is her assessment that this site is not unsuitable for any form of built development, but that in relation to the scale and appearance of the Appeal Proposal her assessment of harm to the heritage assets described above is as follows:
- In relation to the Inner and Outer Breakwaters and Dockyard Offices that the level of effect is medium/high and equivalent to less than substantial harm at the high end of that scale of effects;
  - In relation to the East Weare Batteries and Verne Citadel that the level of effect is medium and equivalent to less than substantial harm at the mid-range of that scale of effects;
  - In relation to East Weare Camp, Underhill Conservation Area, No. 1 Castletown and the Mulberry Harbour Pheonix Caissons that the level of effect is minor and equivalent to less than substantial harm at the low end of that scale of effects; and
  - In relation to Portland Castle that the level of effect is negligible and equivalent to less than substantial harm, at the lowest end of that scale of effects.

- 8.126 Ms Kelly identifies that Historic England provided a written statement to Dorset Council summarising their advice on the planning application. They confirm that their concerns relate to the scale and massing of the Development and the 80m high stack which in their view, as in mine, would compete visually with the Verne Citadel and be a dominant feature within the setting of several heritage assets. Historic England also highlighted that as a group, the assets contribute to understanding Portland as an important military site and these concerns align with her own assessment as set out above.
- 8.127 She also identifies that the Appellant has put forward, as part of their appeal, a Framework Heritage Mitigation Strategy. However, she identifies that the scale of the ERF building proposed in this location in such close proximity to the Inner and Outer Breakwaters, the Dockyard Offices, the East Weare Batteries and the Verne Citadel, is such that the Appeal Proposals would seriously affect key elements of the special interest of the Grade II listed Breakwaters and associated structures, and the Grade II listed Dockyard Offices. Helena Kelly also concludes that key elements of the special interest of the East Weare Batteries (grade II listed, and a Scheduled Monument) and grade II\* listed and Scheduled Monument Verne Citadel would also be affected. This she concludes, would result in less than substantial harm to the assets' heritage significance, being at the high end of that scale of effects for the Breakwaters and Dockyard Offices and mid-range for the East Weare Batteries and Verne Citadel. She concludes that the proposed heritage mitigation measures do not provide measures that would mitigate or compensate for this loss of heritage significance.
- 8.128 She also highlights that Historic England have similarly expressed concerns in relation to the Framework Heritage Mitigation Strategy during the planning application process, and state that in their view the Strategy is unlikely to offset the harm to the large group of nationally significant heritage assets that would result from the Development. They also question whether the proposals in the strategy could not be achieved by other means as several specialist interest volunteer groups had expressed interest in becoming more involved in the upkeep of the heritage assets and were ready to commence work on Battery E with the aim being to remove it from the 'At Risk' Register. Again, this she states is consistent with the concerns that she has outlined in her evidence.
- 8.129 The NPPF, at paragraph 197, requires planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets. At paragraph 199 the NPPF sets out that great weight should be given to a designated heritage asset's conservation and the more important the asset, the greater the weight should be, irrespective of whether the harm is substantial or less than substantial. It is in this context that the appeal proposal should be determined against the policy provisions of paragraph 202 of the NPPF (2023) (CD9.1).
- 8.130 The steps are therefore clearly laid out in the NPPF. In weighing the harm against the benefits of development and given the very high significance of the assets at Portland, considerable importance and weight should be placed on the desirability of preserving the heritage significance of these assets. Setting is an important aspect of that, providing a legible link between the assets that together illustrate the history of this nationally important naval base. The

relevant local planning provisions are also set out in Reason for Refusal 3, and Ms Kelly confirms that she agrees with the assessment that the Development would cause 'less than substantial' harm to a range of heritage assets, as set out in Reason for Refusal 3.

- 8.131 Policy 19 of the Waste Plan (CD7.1) identifies that proposals for waste management facilities will be permitted where it is demonstrated that heritage assets and their settings will be conserved and/ or enhanced in a manner appropriate to their significance. It also states that great weight will be given to the conservation (protection and enhancement) of designated heritage assets. The Appeal Proposal would result in less than substantial harm to a number of designated heritage assets that include the scheduled monuments at Battery E and The Verne Citadel and the grade II\* listed Verne Citadel North Entrance. These are assets of the highest significance in NPPF terminology. The policy continues to set out that "proposals resulting in harm to the significance of a designated heritage asset will only be permitted if this is justified, having regard to the public benefits of the proposal and whether it has been demonstrated that all reasonable efforts have been made to mitigate the extent of the harm to the significance of the asset." The policy therefore requires that a balance is made in line with the steps outlined by the NPPF. As described, above, Ms Kelly confirms her view that the harm caused would not be mitigated by the measures that have been put forward in the Framework Heritage Mitigation Strategy. I agree with her conclusion that the harm is not mitigated by the measures that have been put forward in the Framework Heritage Mitigation Strategy.
- 8.132 Policy ENV4 of the West Dorset, Weymouth and Portland Local Plan has similar provisions to the above in part iv. Again, Ms Kelly's assessment, which, (as she notes) aligns with that of Historic England, is that the proposals would result in harm to designated heritage assets. That harm should be weighed against the public benefits of the proposals.
- 8.133 Policy EN4 of the Portland Neighbourhood Plan similarly sets out the policy requirement that development proposals which maintain or enhance the character and setting of any designated or non-designated heritage asset will be supported. Helena Kelly concludes that the Appeal Proposal would result in harm to the heritage values of a number of designated heritage assets, including some of the highest significance, and collectively a group of assets that convey the nationally significant historic development of Portland's naval base.
- 8.134 Ms Kelly identifies that as the Appeal Proposal affects a number of listed buildings Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is engaged requiring the decision maker to give 'considerable importance and weight' to the desirability of preserving the contribution made by setting to the value of those listed buildings. In relation to the Underhill Conservation Area, she finds only a minor level of effect and considers that largely the character and appearance of the Conservation Area is preserved, however that also requires consideration in terms of the duty under Section 72 of the Act.
- 8.135 Finally, Ms Kelly identifies that the World Heritage Site is considered in planning terms to be a designated heritage asset but not a cultural asset. Any harm to the Outstanding Universal Value (OUV) of the asset should (as described by

NPPF paragraph 207) be considered as either substantial (paragraph 201) or less than substantial harm (paragraph 202), as appropriate.

- 8.136 I rely on Ms Kelly's conclusions and consider that it has accordingly not been demonstrated that all reasonable efforts have been made to mitigate the extent of the harm to the significance of the heritage assets, and as such the Appeal Proposal cannot be considered to have complied with the requirements of Policy 19 of the Waste Plan (CD7.1), Policy ENV4 of the West Dorset, Weymouth & Portland Local Plan, Policy Port/EN4 of the Portland Neighbourhood Plan and Paragraph 197 of the NPPF.

#### **Main Issue 4: The Appellants Claimed Advantages and Benefits & The Planning Balance**

##### Appellant's Claimed Advantages and Benefits

- 8.137 The issues around the need for, and the public benefits of, the Appeal Proposal arise out of a number of relevant policy requirements. These requirements, in relation to the Appeal Proposal include; Waste Plan (CD7.1), Policy 4, and in particular sub-paragraph 4(a) which refers to a non-allocated site providing advantages over the allocated sites identified in the Plan; Policy 14, relating to Landscape and design quality, which refers to proposals for major development in a designated area only being permitted in exceptional circumstances and where it can be demonstrated they are in the public interest, and to the extent that the benefits of granting planning permission would outweigh any residual adverse impacts; Policy 19 relating to the Historic Environment, which refers to proposals resulting in harm to the significance of a designated heritage asset only being permitted if this is justified, having regard to the public benefits of the proposal; Policy ENV4 of the West Dorset, Weymouth & Portland Local Plan (CD7.2), which states that any harm to the significance of a designated or non-designated heritage asset must be justified and that applications will be weighed against the public benefits of the proposal, and the NPPF (2023) (CD9.1), paragraph 202, which states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The following sections set out my comments in relation to these issues:

##### Energy and Waste

- 8.138 The Appellant sets out their considered advantages of the Appeal Proposal over the allocated sites, due to its port location, as follows: (each of the claimed advantages is in italics followed by my response in the paragraph below).

*The ability to deliver shore power to berthed shipping at Portland Port, with associated carbon and emission savings*

- 8.139 Current grid capacity already can provide shore power to the Royal Fleet Auxiliary (RFA) which forms the majority of shore power demand. The high-capacity demand from the 1% of hours in a year when two cruise ships are in



the port at once could be reduced through management of cruise schedules. Current grid capacity combined with battery storage has the potential to supply both RFA and single cruise ship demand and provide the same carbon savings as those stated by the Appellant, illustrating that there are other potential solutions than the ERF for delivering shore power to shipping at Portland Port.

- 8.140 The provision of shore power would lead to the ERF's electricity sales to the grid being variable and interruptible. The electricity market discounts for variability and interruptibility. The Appellant would need to be able to manage to offset the electricity export price penalties with income from the provision of shore power at a price that is lower than on vessel generation. There are currently examples of vessels not connecting to shore power due to its higher price.
- 8.141 Locally, the greenhouse gas emissions from the stack of the proposed ERF would be 4.7 times than those abated by the supply of electricity to berthed vessels. Even with full supply of Shore Power, net local GHG emissions from the proposed ERF would be 70,085 tCO<sub>2</sub>e more than the emissions that would have come from berthed vessels. The provision of shore power from the proposed ERF should not therefore be seen overall as a local GHG emission reduction measure.

*The ability to supply heat via a future heat network to HM Prisons in the locality*

- 8.142 While the proposed ERF may potentially be able to supply steam for use in a heat network, assessment of the 4km + southern leg heat network (and the other associated infrastructure required to supply heat to the prisons) Mr Norton's evidence shows that it has a below threshold linear heat density and a low internal rate of return. This suggests that a heat network provider will not be willing to invest in the southern leg district heating system and therefore that the supply of heat to the prisons from the proposed ERF will not take place.

*The ability to deliver carbon capture and storage in the future, and to have the ability to export captured carbon by sea tanker*

- 8.143 It is agreed that the port is a location that could be used by ships dedicated to the transport of CO<sub>2</sub> and that clearly ship transportation of CO<sub>2</sub> cannot happen from the allocated sites as they are all inland. A Post Combustion Carbon Capture (PCCC) plant could be technically feasible to be developed at Portland Port but there are uncertainties as without Government support the installation of CCS would likely not to be commercially viable.

*Whilst not an allocated site in the Waste Plan, the site has previously been identified as a potential location for a strategic waste management site*

- 8.144 I have been informed that Dorset Council Waste (then Dorset Waste Partnership) undertook a site feasibility assessment of Portland Port but following this decided not to proceed with the location as a waste management site.

*The Appeal site is previously developed land and safeguarded employment land within a commercial port. It accords with Policy 4 criterion (e) and (g)*

- 8.145 The Council agrees that the main part of the Appeal Site is previously developed land/brownfield land and that this accords with Policy 4 (g) in the Waste Plan (CD7.1). The port is a commercial port but is also a historic port in a sensitive location with heritage assets bounded by a Conservation Area to the north west and a Site of Special Scientific Interest and Special Area of Conservation to the south west. Whilst some weight can be attributed to the fact that the site is previously developed land, the significant negative weight arising from the scale, mass and height of the Appeal Proposal and its resulting incompatibility with its setting and the adverse effects on the character and quality of the surrounding landscape as set out by Mr Williamson in his Proof of Evidence, and in relation to the harm to the heritage assets as detailed by Ms Kelly in her Proof of Evidence has to be given full weight. As a result, the degree of weight in this instance to be attributed to the use of brownfield land is considered to be limited.

*The Appeal Proposal would enable Dorset to become more self-sufficient in managing its residual waste, reducing the need for export of waste outside of the county and provide capacity to manage RDF and residual waste, thereby enabling Dorset, the region and the UK as a whole to become more self-sufficient in managing waste in accordance with Waste Policy 1*

- 8.146 While the provision of an ERF plant in Dorset would contribute towards achievement of net Self-Sufficiency for Dorset, the data shows that current consented capacity in the region is sufficient to ensure Self-Sufficiency in ERF capacity, and the latest national data (for NIC) shows that there is more than sufficient ERF capacity to meet future needs, nationally.

*The Appeal Proposal would provide urgently required residual waste management capacity within Dorset in line with the Proximity Principle, representing an opportunity to locally manage residual waste arisings from LACW and C&I waste streams. It would allow Dorset's waste to be dealt with more proximate to its source of arisings, than current practice of exporting waste over long distances by road or sea to other facilities. In managing RDF arisings locally, regionally and nationally, the Appeal Facility complies with the Proximity Principle in line with Waste Plan Policy 1 and 4 (criterion c)*

- 8.147 There is no urgent requirement for residual waste management capacity to manage Dorset's waste. The plant would provide capacity in a location that would be contrary to the Spatial Strategy that underpins the approach to provision taken in the recently adopted Waste Local Plan. Contrary to the Appellant's claims very little RDF is now exported abroad, and while they claim to be intending to prevent the movement of waste over long distances by road or sea from Dorset, the ERF is likely to attract RDF/waste over long distances from other Plan areas, potentially undermining the strategies that underpin their Plans.

*The Waste Plan accepts that the allocated sites are subject to significant planning and environmental constraints. The Plan accepts that not all sites are likely to come forward, hence the inherent flexibility provided for unallocated sites to come forward under Waste Plan Policy 4 (criterion a). Where consent for an ERF has been granted on an allocated site (Inset 7 – Eco-Sustainable Solutions, Parley) this has been of very modest capacity (50,000 tpa) in the context.*

8.148 The Council has reviewed the need for which residual waste management capacity is to be provided, and now finds that the modest provision of the Parley facility should suffice, in light of revised forecasts and new national policy initiatives that have come forward since adoption of the Plan. The provision of capacity in a more stepped/controlled fashion is in accord with the National Planning Practice Guidance which counsels against overproviding ERF capacity at the risk of compromising future recycling aspirations (and hence compliance with the Waste Hierarchy).

8.149 This Appeal is a case where it has been demonstrated that there is no urgent or pressing need for an ERF waste management facility at the chosen location, a site which is not allocated in the Waste Plan (CD7.1). There are allocated sites available within the Waste Plan (CD7.1), and within the Plan area one ERF has already been granted planning permission (Parley 60,000tpa) and another is currently awaiting determination (Canford Magna). Whilst the outcome of the current planning application cannot be presumed, it is nonetheless an existing operational and allocated site and the fact that an application is currently being considered would be consistent with the Waste Plan's spatial strategy. These two sites would provide more than enough capacity for the predicted quantity of residual waste likely to be needed to be dealt with. Even looking at the wider picture of residual waste arisings in the former South West planning region, as Mr Potter's evidence shows, the predicted arisings are considerably lower than those previously referred to. Taking the up-to-date figures, it is clear that there is already more EfW capacity in the region, which is operational, under construction or has already been consented. In addition, government policy aims to halve residual waste by 2042 which will have a profound effect on suppressing availability of residual waste arisings in the medium to long term. Due to the national policy position with regard to a legally binding target to reduce residual waste by 2042, national EfW capacity is also expected to fall overall.

#### Other benefits of the Appeal Proposal

8.150 It is accepted that some aspects of the Appeal Proposal should attract positive weight in the planning balance, and these include the following:

- *Benefits to the local economy from visiting cruise ships.* This benefit is based upon the assumption that if Shore Power is not available (from the ERF) then cruise ships may choose to not berth at Portland at all with the consequent loss of revenue to local businesses in the Weymouth/Portland area. However, this premise is based upon an assumption which cannot be known for certain, as some cruise ships may be happy to continue to dock at Portland without using

shore power and in the future, there could be other ways to provide the shore power.

- *Job creation and training/apprentice schemes.* This is a benefit which is accepted should receive positive weight in the planning balance.

- *The locational advantage of the Appeal Site being at a port which would have the potential to allow transport of incoming waste and export of IBA, by ship.* This is a benefit which could attract positive weight in the planning balance, however, the Appeal Proposal cannot confirm that this would definitely happen. and if it did not happen, then all wastes would be transported by road to and from the ERF site.

### Shore Power

8.151 The Appellant argues that the Appeal Proposal is also needed in order to provide shore power to be made available to cruise ships, RFA ships and other vessels. Arguments have been put forward as to the advantages of the Appeal Proposal location, at a port, as opposed to the allocated sites' inland locations in the Waste Plan (CD7.1). As Mr Norton explains in his evidence, though, shore power for cruise ships would only be required for a relatively small proportion of hours that the ERF would be operational. The cruise ships tend to arrive in the morning and leave in the early evening, and their visits to Portland Port only take place during part of the year. In contrast, the Appeal Proposal ERF would be operational 24 hours a day apart from maintenance shutdowns. There could be alternative ways of providing shore power for cruise ships, for the limited hours needed.

8.152 It is accepted that the provision of shore power from the ERF, would of course, be a benefit of the Appeal Proposal but, in order to achieve that power supply, the method of doing so would be at the cost of providing a disproportionately sized ERF on a sensitive site, adversely affecting heritage and landscape designations.

### District Heating

8.153 Although the potential for district heating has been put forward by the Appellant as another advantage of the location, Mr Norton's evidence has shown that there are identified issues that would affect the feasibility of providing heat to the identified end users. These issues include the steep topography of the land between Portland Port and the prisons situated at a much higher level up at The Verne and HMP YOI Portland. This difference in level would lead to high pumping power requirements, with its consequent high cost, raising doubt about its potential financial viability. Provision of the District Heating, even if the high cost can be overcome would result in less electricity being provided by the ERF Appeal Proposal.

### Heritage

8.154 Looking at the Framework Heritage Mitigation Strategy, put forward by the Appellant in this Appeal, Ms Kelly confirms that although this would provide some benefits, there are still a number of significant concerns with it, which

would render the benefits that might occur, as minimal. From a heritage point of view, the Appeal Proposal does not provide mitigation in relation to the assets that would be most affected by the ERF development (the Breakwaters and the Dockyard Offices), nor does it provide any informed conservation strategy for the heritage asset group as a whole. The industrial style fencing proposed in the Strategy, alongside the proposed permissive route, would detract from views out to sea, as well as resulting in deflecting an understanding and interest in the history of the area.

- 8.155 Paragraph 202 of the NPPF (2023) (CD.9.1) requires that where less than substantial harm occurs to the significance of a designated heritage asset (in this case a number of designated heritage assets), the harm should be weighed against the public benefits of the proposal. These 'public benefits' can be anything that delivers economic, social or environmental benefits; in effect benefits that are in line with the objectives of achieving sustainable development, as defined in Para.8 of the NPPF. Economic benefits should help to build a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places, and at the right time to support growth, innovation and improved productivity. Social objectives should be seen to support strong, vibrant and healthy communities, by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being. Environmental objectives seek to protect and enhance our natural, built and historic environment.
- 8.156 The Appellant considers the main public benefits arising from the Appeal proposal would be based around the supply of shore power to berthed vessels and consequent improvements in local air quality and to the local economy. Mr Norton, in his proof of evidence, however, assesses the overall carbon picture, when taking into account the almost yearly emissions from the proposed ERF, compared with the minimal time during the year that cruise ships would be docked for. As a result, it is clear that even if all cruise ships were to use shore power, that overall there would still be an increase in carbon emissions to local air quality rather than any improvement. Very little, if any, weight can therefore be attributed to the carbon reduction aspects of this 'benefit'. Some weight can be attributed to the potential economic benefit, though this is dependent on the shore power being made available to the cruise companies at a competitive rate.
- 8.157 The Appellant also asserts that the Appeal Proposal would have the capability to supply low carbon heat, via a potential new heat network. Mr Norton, in his evidence, has explored the feasibility and the likelihood of the potential for these district heat networks to be forthcoming. In his proof of evidence, he explains that there are clearly issues which may mean that the district heat network may not be feasible at all due to distance of the piped network and the steep terrain which would require pumps, all of which would take further electricity from the ERF and may mean that the ideas would not be financially viable. In addition, the physical works would require planning permission and potentially Listed Building Consent and there is therefore no certainty that the district heating idea

could go ahead. Only limited weight can therefore be attached to this 'benefit' due to the uncertainty of delivery.

- 8.158 The Appellant considers that the Appeal Proposal would deliver a range of socio-economic benefits, including job creation and training/apprenticeships which would support the Portland economy. It is agreed that the creation of jobs and opportunities for training would be a public benefit, to which some weight can be attached. However, the number of jobs, once the plant is operational is fairly small, around 30.
- 8.159 The Framework Heritage Mitigation Strategy, discussed earlier, cannot be given any weight in the planning balance due to the negative issues that would arise from its implementation.
- 8.160 Overall, it is clear that when looking at the planning balance, that there are substantial negative effects that would arise, as a result of the development, causing harm to the multiple nearby heritage assets and at the same time, the proposed 'public benefits' would be minimal. The harm caused by the Appeal Proposal would therefore be significantly greater than the public benefits put forward by the Appellant.

#### Landscape

- 8.161 Policy 14 of the Waste Plan (2019) (CD7.1) requires proposals for waste management facilities to be compatible with their setting and they need to also conserve and/or enhance the character and quality of the landscape. Neil Williamson, in his proof, has concluded that the Appeal Proposal, due to its scale, mass and height would not be in compliance with this policy and would be incompatible with its setting and would have adverse effects on the character and quality of the surrounding landscape.
- 8.162 Policy 14 also requires proposals to be of sympathetic design and location and although it is accepted that Portland Port is suitable for industrial development, in principle, the scale, mass and height of the Appeal Proposal is such that the development would not be sympathetic to its setting. The mitigation measures put forward in terms of external appearance are acceptable but are not sufficient to overcome the level of adverse landscape impacts that would result.
- 8.163 The Appeal Proposal would also have an adverse landscape impact on the character of the designated Heritage Coasts (in particular the West Dorset Heritage Coast) and it is Mr Williamson's view that these impacts would be unacceptable. Policy 14 also states that great weight should be given to conserving the landscape and scenic beauty of Areas of Outstanding Natural Beauty and the Outstanding Universal Value of the World Heritage Site ('The Jurassic Coast'). The Jurassic Coast World Heritage Site is a heritage asset of the highest significance, and the Appeal Proposal would cause significant adverse landscape effects on the WHS, as well as significant adverse landscape and visual effects on the local landscape.

- 8.164 The World Heritage Site was inscribed in 2001 for its earth science value and the Appeal Proposal would not affect that, however, the beauty and character of the WHS are recognised as being inextricably linked to its value. The WHS is a protected landscape and it has an experiential setting, which is how it is experienced by the visitor. This means that the setting, regarded as the surrounding landscape and seascape, is wrapped up in the quality of the cultural and sensory experience surrounding the exposed coasts and beaches. As the Jurassic Coast Trust says; “To discover all of its secrets and treasures would take a lifetime, but likewise, its unique history and character can be felt right from your very first glimpse”.
- 8.165 It is clear therefore that the Appeal Proposals would have significant adverse landscape and visual effects on the WHS and its setting, having a negative effect on the perception and quality of experience of visitors. The NPPF in Paragraph 206 says that proposals which preserve those elements of setting that make a positive contribution to the asset (the WHS) should be treated favourably. In this case, the opposite is true and the Appeal Proposal would have a negative effect on the setting of the WHS and the way in which it is experienced. Paragraph 199 of the NPPF requires that great weight should be given to a heritage asset’s conservation, and the more important the asset, the greater the weight should be. In this case, therefore, great weight should be applied falling against the Appeal Proposal in relation to the effects on the WHS.
- 8.166 In conclusion, from a landscape perspective, Mr Williamson contends that the Appeal Proposal would have significant adverse landscape and visual impacts on parts of the West Dorset Heritage Coast and the Jurassic Coast World Heritage Site, as well as significant adverse impacts on the visual amenity of large numbers of residential properties, particularly in south-eastern parts of Weymouth, together with substantial adverse impacts on the visual amenity of users of the South West Coast Path (the England Coast Path). As a result, the Appeal Proposal is contrary to national and local policy.

#### The Planning Balance

- 8.167 Although some weight in favour of the Appeal Proposal can be identified in relation to some of the advantages/benefits put forward by the Appellant, a significant range of harm has been found, both in relation to heritage and landscape matters, both of these concluding that significant harm would occur to heritage assets and the character and appearance of the various landscape designations of the area. The proofs of evidence of Mr Potter and Mr Norton demonstrate that the Appellant has not provided any convincing justification as to why the Appeal Proposal should be located at Portland Port, given the allocated sites available. It is my professional opinion that as a result of the significant adverse effects identified, that substantial weight should be applied against the scheme.
- 8.168 The key issue in the determination of this appeal is therefore whether the benefits of the Appeal Proposal, as put forward by the Appellant, would outweigh all of the identified material considerations that weigh against the proposal. It is the Council’s case that the significant harm identified which would

affect the heritage assets and the adverse impacts that would occur to the character and appearance of the local area, would be so significant, as to outweigh the benefits identified by the Appellant. It is therefore the Council's conclusion that the adverse impacts of the Appeal Proposal would significantly outweigh the benefits.

8.169 The objective of the planning system is to achieve sustainable development and the evidence in this appeal has shown that the Appeal Proposal does not comply with many national and local policies. It fails to be assessed as sustainable development as it would not protect or enhance our natural, built and historic environment; it would not be a well-designed, beautiful or safe place supporting the local communities' health, social or cultural well-being, nor does it take local circumstances into account, reflecting the character, needs and opportunities of the area. This area is special as it contains many important heritage assets, which collectively convey the nationally significant historic development of Portland's naval base, as well as the Jurassic Coast World Heritage Site. These designations are intrinsically part of the attraction of the area, along with the clear sea water which attracts many visitors each year to enjoy all that it has to offer and understand and learn about its history. The Environmental Improvement Plan 2023 has a goal of enhancing beauty, heritage and engagement with the natural environment and plans to extend the England Coast Path to become a Coast-to-Coast National Trail by 2025. The experience of visitors to the Jurassic Coast and users of the Coast Path will become even more important. As the Environmental Improvement Plan says,

“ Our landscapes and coastlines are our national treasures, at the heart of our heritage and the story of these islands – and they have so much to offer our health and well-being as well as our economy. We want everyone to enjoy them”.

8.170 The Appeal Proposal is not compatible with these aims and has been proposed in an inappropriate location.

## **9.0 RESPONSE TO THE APPELLANT'S PLANNING APPEAL STATEMENT OF CASE**

9.1 I would, in addition to my arguments in relation the Council's substantive case set out in the Section 8 above, make the following comments in response to specific points in the Appellant's Statement of Case. My comments are numbered in accordance with the paragraph numbering in the Appellant's Statement, with a particular focus on Section 4 of the Appellant's Statement of Case which is concerned with the Appellant's Position in Respect of the Appeal. Only those paragraphs are included where I wish to comment, so that where a paragraph is not included this because I have no additional comments to make:

9.2 Paragraph 1.20; Comments have been made in detail about the Framework Heritage Mitigation Strategy in the Heritage section of this proof, however, for clarity I should point out that although amendments have been made to the Strategy, with a new version submitted with the Appeal, the issue objected to



by Historic England and Natural England regarding the fencing remains the same. In fact, this version adopts a new route which would take the proposed industrial style palisade fence closer to the Heritage Assets. The proposed route (as submitted for this Appeal) now follows the 'loop' in the central section and the fence is proposed to be erected on the seaward side of the path. At the point closest to the East Weare Camp (Grade II Listed) the fence would be approximately 2 metres from the corner of the building forming the East Weare Camp. This is a significant change and is one which the Council has not been able to consult further with Historic England on. However, it is clear though that the erection of a 2-metre-high palisade fence in this location would harm the settings of the Listed structures. The fence would partially block the appearance of the Listed Building, when viewed from the path, and rather than facilitating public appreciation and interpretation of the heritage assets, it would detract from the settings of the assets and affect the ability to see views out to sea. Looking at the views out to sea from this location, across the bay to the coast near Durdle Door would be one of the path's attractions, and that view would be interrupted by the fence.

- 9.3 Paragraph 1.41 refers to the distance to Bridgwater from Canford Magna MBT plant as being 120km. In fact the distance is 67miles or 107km.
- 9.4 In Paragraph 1.56 the final bullet point refers to a need for the planning system to support the delivery of sustainable development. The Council agrees with this aim. The text continues to say, *... "especially development that can contribute towards building a strong, responsive and competitive economy, support strong, vibrant and healthy communities and protect the environment..."*. These points are not agreed with and therefore the Appeal Proposal would not be sustainable development.
- 9.5 Paragraph 1.57 : The Council considers the economic and socio-economic aspects to be benefits which would attract some weight.
- 9.6 Paragraph 2.9 : The Appellant refers to the previous permissions as being *"a large scale industrial energy generation facility"* and that the Appeal Proposal *"is a similar type of activity using waste materials to produce power"*. The basic principle of using waste to create energy may be similar, but physically the proposals are not similar, with the Appeal Proposal being a substantially larger scale proposal than the previously consented schemes.
- 9.7 Paragraph 2.45: Given the exposed, prominent location of the position of the stack, a plume would be very noticeable and would draw the eye to the facility, even if only visible for a relatively small portion of operational hours.
- 9.8 Paragraph 2.79: This paragraph refers to the proposed permissive path allowing *"..unobstructed views over the wider extent of nineteenth-century military buildings"* This is absolutely not the case. The views would be obstructed by the fence along the seaward side of the path. This paragraph also states that the Appellant and Port have agreed to enable/facilitate managed access to the Scheduled Monument (Battery E) for educational and

special interest groups. However, Battery E is currently accessible by the public from a Public Footpath; once the undergrowth has been cleared, access by the public would be available at any time by any group or individual.

- 9.9 Paragraph 2.80: This paragraph refers to “*allowing public access to the Port and batteries for the first time in their history.*” It is only Battery E, the Scheduled Monument, that is going to be made accessible to the public, and as I have said above, it is already accessible from the Public Footpath. The other batteries and East Weare Camp would remain behind the proposed palisade fence, and no general public access is proposed.

## **10.0 CONCLUSION**

- 10.1 This Appeal relates to the refusal of Planning Application Ref. WP/20/00692/DCC for the construction of an Energy Recovery Facility (ERF) with ancillary buildings and works including administrative facilities, gatehouse and weighbridge, parking and circulation areas, cable routes to ship berths and existing off-site electrical sub-station, with site access through Portland Port from Castletown, at Portland Port, Castletown, Portland, Dorset, DT5 1PP.
- 10.2 Considering the seriousness of the impacts identified that would occur in the local environment, in terms of both landscape effects and heritage harm, it is clear that the Appeal Proposal is not able to contribute positively to the character and quality of the area. This would in turn, have an adverse impact on the well-being of the local community and visitors coming to the area to see the Jurassic Coast World Heritage Site.
- 10.3 For the reasons I have set out in my evidence I consider that having regard to the provisions of the development plan, national planning policy and other material considerations, that Portland Port is considered to be an inappropriate location for an ERF waste management facility of the proposed size, mass and height. The Appeal Proposal is therefore not considered acceptable in accordance with the policies set out in the Reasons for Refusal on the Council’s Decision Notice for Planning Application Ref. WP/20/00692/DCC issued on March 24<sup>th</sup> 2023. As such, I therefore respectfully request that this appeal be dismissed.