



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

**Rebuttal 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>28th November 2023</b>

## **REBUTTAL 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 The evidence set out in this rebuttal has been prepared, and is given, in accordance with the guidance of my professional institute. 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.

1.3 In this rebuttal proof I respond to a number of matters addressed in the Appellant’s Planning Proof of Evidence prepared by Mr Nick Roberts, and also to that of Mr Stephen Othen, who addresses Climate Change, Air Quality, Health and [the] Permit. I have not sought to rebut every matter in the Appellant’s evidence with which I disagree and the fact that I do not rebut a point should not be taken as my acceptance of it. I focus upon the following matters:

- Planning Context and Baseline;
- Need and the Development Plan;
- The Advantages of the Appeal Site over the Allocated Sites;
- Co-Locational Benefits and Location in Relation to Waste Arisings;
- Proximity Principle and Spatial Location;
- Appraisal of the Appeal Proposal Against the Development Plan and Material Planning Considerations; and
- Amenity Impacts on the Occupants of the Bibby Stockholm Accommodation Barge.

1.4 Each of these issues are addressed in turn in Section 2 below.

1.5 The documents referred to in this Rebuttal 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. “CD4.02”. The full list of Core Documents is available on the Council’s website together with a copy of each document at:

<https://www.dorsetcouncil.gov.uk/planning-inquiries>

### **2.0 THE COUNCIL’S RESPONSE TO THE APPELLANT’S PLANNING PROOF of EVIDENCE**

#### Planning Context and Baseline

2.1 The first issue I shall address relates to Mr Roberts’ consideration of the planning context and baseline. He sets out details of the baseline against which he argues the Appeal Proposal needs to be considered and argues that this lends weight to approval of the application. He makes a number of points in Section 2.4 of his Proof. I will address a number of his points.

- 2.2 First, in paragraphs 2.4.2(i) and (ii) Mr Roberts states that shipping and berthing activities have been present on and around Portland for over 500 years, and that the current harbour was under construction over 150 years ago. He states that the port has constantly changed and evolved through history and represents a dynamic environment with an ever-changing visual context, and that no one has sought to preserve it at any fixed point in time. Essentially, he seeks to show that the Portland Port is a place that has been constantly changing and that the Appeal Proposal has to be considered in this context.
- 2.3 I do not disagree with the analysis that the port has been and remains a dynamic environment. It is not the Council's case that there should be no change and the Council is supportive of appropriate growth in the port and its related activities. Indeed, the Council has supported and approved development on the Appeal Site including approval of the extant consent for an energy facility. It also recognises that further port related development could come forward under the Harbour Revision Orders and that the port can place reliance on permitted development rights. In this context, it is not part of the Council's case that the Appeal Site is unsuitable for any form of built development.
- 2.4 What I do consider however, is that even if it the port is a dynamic constantly changing environment, this does not, in itself, justify any new development and it is still very much the case that any proposals should be scrutinised in terms of the potential harm as well as the benefits that they may have, so that they can be weighed in terms of the planning balance. This is the context within which the Council determined Planning Application Ref. WP/20/00692/DCC, and, why in my view, the decision was right and justified as set out in its Reasons for Refusal relating to the impacts of the Appeal Proposal on landscape and heritage, with a particular concern being the scale, massing and height, coupled with the siting of the ERF, that it considered would give rise to a range of significant adverse effects which are greater than the context of the site can support.
- 2.5 For the reasons Mr Williamson in his evidence and as Ms Kelly has set out in her evidence, the scale and appearance of the Appeal Proposal and the consequent effect on the landscape and the heritage assets, most notably the Inner and Outer Breakwaters, Dockyard Offices, East Weare Batteries and Verne Citadel are not acceptable. For this reason, whilst I do not disagree with Mr Roberts that the port has been and remains dynamic, there are some constants in that distinctive history which it is important to retain. I consider that any proposals that come forward on the Appeal Site need to be considered in this context, and the fact that the Site forms part of a constantly changing environment does not, in itself, mean that any proposed development will be acceptable.
- 2.6 Second, in paragraph 2.4.2(iii to v) Mr Roberts argues that development, including very large-scale development, can take place at the port by virtue of the Harbour Revision Orders, permitted development rights and extant planning permissions, without any further formal approvals being required via the

planning system. He makes reference to the Port's permitted development rights under Schedule 2, Part 8, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) and he refers to the two Glencore animal feed storage and handling warehouses that were constructed during 2021-2022 and the Dragon Portland cement silo which is proposed to be developed during 2024. Mr Roberts' argument is that there is already potential for substantial change that does not fall within the scope of planning control, and that this accordingly either lends weight to, or justifies, development of the scale of the Appeal Proposal.

- 2.7 I do not agree with this analysis. What Mr Roberts ignores is that where any permitted development rights are to be exercised, this does not simply allow the by-passing of planning control to allow very large structures to be built without any consideration of their potential impacts. I explain this further below.
- 2.8 Mr Roberts refers to the Harbour Revision Orders (HROs). Of particular relevance is Part 2 of the Portland Harbour Revision Order 2010 (CD12.76). Regulation 3 confers powers to construct new works at the port, such as, berths, moorings and foreshore reclamation works together with a range of other subsidiary works. These benefit from permitted development rights under Class A, Part 18 of the GPDO. The 2010 HRO also sets out a number of port related buildings that could be constructed under regulation 5. However, this clearly does not allow for the construction of any waste management facilities or power stations. Works carried out under them are also still subject to the requirements of The Conservation of Habitats and Species Regulations 2017.
- 2.9 In relation to the Port's permitted development rights under Schedule 2, Part 8, Class B of GPDO, Mr Roberts refers to the size and scale of particular developments, but he omits to say that, these permitted development rights are still subject to consideration of whether the proposed development would give rise to significant environmental effects under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. If such significant effects are likely, such a development could not proceed under permitted development rights. Consequently, the existence of permitted development rights does not afford a free hand to undertake major developments that would have significant environmental effects. It should also be noted that Part 8 rights extend only to buildings related to port activities and not to waste management or power generation facilities.
- 2.10 Regardless of both of these points, the bottom line is that the Appeal Proposal, as a major EIA development, is subject to full planning control. It is and would be major development in any location, and the fact that the Port may have rights to develop under both the HRO and statutory permitted development rights does not justify or make this proposal acceptable.
- 2.11 Third, Mr Roberts attempts to argue (at 2.4.2(vi)) that the birth of large cruise ships needs to be taken into account in establishing the environmental baseline and he refers to the MSC Virtuosa which he states exceeds 180,000 tonnes, is over 330m long, and 65m high. He states that on Saturday 30th September

2023, both the MSC Virtuosa and the near identical sister ship, the MSC Grandiosa, were berthed at the same time in the Port, and asserts that these vessels and their visual effects simply cannot be dismissed as 'transient'. This to my mind ignores that the fact that this was on a single day in 2023, that the cruise ships that call in at the Port, do so for a period of less than a day, and that the total number of days when cruise ships visited in 2023 has to date been 43 days (with only eight days when there was more than one cruise ship berthed at the same time). As things stand, looking forward into 2024, the available cruise ships schedule also currently shows 43 days when there would be visiting ships. Details are shown in the Cruise Ship Schedules for 2023 and 2024 (CD12.77). It is therefore clear that for more than 300 days in the year, there are no cruise ships, so to suggest that their impact is anything more than transient is in my view to substantially over state this point, and cannot be afforded any significant weight. Mr Williamson addresses this point in more detail from a landscape and visual perspective in paragraph 12 of his Rebuttal Proof.

- 2.12 Finally, on this point Mr Roberts refers in paragraph 2.4.2 (vii) to the extant 2010 and 2013 planning permissions for the W4BRE energy plant proposal. Whilst the Council does not disagree that these constitute a fall-back position, I agree with Mr Roberts that they can only be attributed very limited weight. This is not only because, as he states, it appears that there is no realistic prospect of the energy plant coming forward, but because that it would be of a very different smaller scale and design and substantially less significant in terms of its impact, on landscape views, heritage assets and the World Heritage Site than the Appeal Proposal. Mr Roberts himself acknowledges that the Appeal Proposal is "both taller and has a greater 'centralised mass', than the W4BRE energy plant proposal would have had.
- 2.13 One further final point is that Mr Roberts in paragraphs 3.4.6 and 3.4.7 refers to the change introduced in the Appellant's Supplementary SoC (CD11.2) so as to allow for the use of non-Refuse Derived Fuel (RDF) residual waste alongside RDF formed from residual waste. Mr Roberts states that the of non-Refuse Derived Fuel (RDF) residual waste alongside RDF formed from residual waste, makes no material difference. Mr Othen also picks up on this point in paragraphs 2.6.9 and 2.6.10 and appendix S08 of his Proof of Evidence and he concludes that were the ERF to treat 'unprocessed' residual waste as well as RDF formed from residual waste, there would be no planning, environmental or technical / operational consequences; and all of the assessment work carried out in support of the planning application would remain robust.
- 2.14 I would comment that no substantive supporting evidence has in fact been presented to test this assertion, so I do not think it is possibly simply to take this as read. Perhaps the most obvious area where it seems to me that there may be some question as to the accuracy of this conclusion, is in relation to the transport of non-Refuse Derived Fuel (RDF). Mr Othen sets out in paragraph 2.5 of Appendix SO8 his traffic assumptions. This states that non-RDF is assumed to be transported in vehicles with a 24 tonne payload and that the waste delivery vehicles would be the same when delivering residual municipal waste or RDF formed from residual waste. Clearly, if vehicles with the same

payload were to be used then there would be little if any difference, provided that waste was transferred from the same locations or over similar distances. However, whether this would actually be the case if non-RDF were to be sourced from within Dorset is not clear, as the number and payload of vehicles could potentially be very different, particular if residual municipal waste were to be delivered directly to the Appeal Site, without bulking up and transfer via a waste transfer station. This could have an impact on both the number and size of HGV movements and the routes such vehicles use. Therefore, without further analysis, I do not consider that Mr Othen's conclusions in relation to transport can simply be taken as read and should be properly assessed.

### Need and the Development Plan

- 2.15 The second substantive issue on which I provide rebuttal comments to Mr Roberts' evidence concerns the need for the Appeal Proposal. The rebuttal of the details of the substantive need arguments presented by Mr Roberts, are addressed by Mr Potter in his Rebuttal Proof of Evidence. Accordingly, my comments in relation to need are concerned only with the planning policy aspect of the need argument. My specific comment are as follows:
- 2.16 Mr Roberts also seeks in paragraph 3.1.3, to make the point that there is no Government policy that requires, as a matter of general principle, applicants to demonstrate that there is a need for their waste development. In my view, this is not wholly correct. As Mr Roberts himself goes on to acknowledge, paragraph 7 of the NPPW states (in the first bullet point) that applicants are only expected "to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan" and that "In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need". In other words, there are defined circumstance in which need can be, or has to be, considered. This is the approach that the Council has taken in relation to the Appeal Proposal. The Council's primary substantive argument is that the Appeal Proposal does not accord with the Development Plan. This being the case it is appropriate that need is considered, and, in accordance with paragraph 7, the extent to which the capacity of existing operational facilities would satisfy the identified need is taken into account. This was addressed in the Planning Officer's Committee Report (CD5.1) at the time of the determination of Planning Application Ref. WP/20/00692/DCC, and in this Appeal is addressed in substantive detail in the Proof of Evidence of Mr Potter.
- 2.17 Mr Roberts goes on to state, in paragraph 3.1.5 of his Proof of Evidence (PPF01) that the Appellant's position and his own is that the Appeal Proposal accords with an up-to-date Local Plan. Whilst I welcome that Mr Roberts does not dispute that the development plan is up-to-date, I disagree with his assertion, for all the reasons set out in the Council's Reasons for Refusal, and my Proof of Evidence, (CDX.X) that the Appeal Proposal accords with it.
- 2.18 Mr Roberts then goes on to argue that the Council has taken an incorrect approach that is at odds with relevant national policy, by not limiting its

consideration of need to the capacity of existing operational facilities only, as stated in paragraph 7 of the NPPW.

- 2.19 I do not agree with Mr Roberts that the Council has disregarded relevant national policy. What he omits from his argument is that the Council has in the first instance determined the planning application in accordance with the development plan, in accordance with s.38(8) of the Planning and Compulsory Purchase Act 2004 and as set out in paragraph 2 of the NPPF (2023) (CD9.1), which, as noted above, paragraph 7 of the NPPW expressly provides for.
- 2.20 The key relevant policies in relation to need as I have set out in my Proof of Evidence are Policies, 4 and 6 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan (“the Waste Plan”) (2019) (CD.7.1).
- 2.21 The key requirement of the Policy 4 is that proposals for waste management facilities on unallocated sites will only be permitted where it is demonstrated that they meet all of the criteria referred to (a-g). Criterion a) and b) as follows:
- a) there is no available site allocated for serving the waste management need that the proposal is designed to address or the non-allocated site provides advantages over the allocated site; and
  - b) the proposal would not sterilise, or prejudice the delivery of, an allocated site that would otherwise be capable of meeting waste needs, by reason of cumulative or other adverse impacts;
- 2.22 Policy 6 takes a slightly different approach in stating that proposals for the recovery of non-hazardous waste, including materials recovery, mechanical biological treatment, thermal treatment, anaerobic digestion and biomass facilities, will be permitted where it is demonstrated that they meet all of the criteria referred to (a-f). Criteria a) as follows:
- a. the operation of the facility will support the delivery of the Spatial Strategy, contributing to meeting the needs identified in this Plan;
- 2.23 Both policies however require the consideration of need. In the case of Policy 4, this is specifically applicable in the case of proposals that are on unallocated sites, and in the case of Policy 6 in relation to the delivery of the Spatial Strategy set out in the Waste Plan. Paragraph 6.13 of the Waste Plan makes clear that proposals for waste management facilities on unallocated sites must be supported by a satisfactory level of evidence and will need to comply with all of the other relevant policies of the Waste Plan. Paragraph 6.14 states that the information required as part of any planning application must include details of the nature and origin of the waste to be managed, the levels of waste arising, the existing or permitted operating capacity (taking into account the latest figures in published monitoring reports and other relevant information), and the potential shortfall in capacity or market need that the proposal seeks to address.
- 2.24 The consideration of the Appeal Proposals in the context of Policies 4 and 6, in my view, does not override or ignore the requirements of paragraph 7 of the

NPPW. Rather, it sets the relevant local policy basis against which proposals are to be determined in accordance with the development plan, with paragraph 7, taken into account as a material consideration. This is exactly how the Council has considered the issue of need, and I consider this to be the correct approach. This is why I do not consider Mr Roberts argument (that there is no requirement to show need as a matter of national policy) to be valid.

- 2.25 Mr Roberts then goes on in paragraphs 3.1.6 and 3.1.7 to state that it is for the market to determine need and to deliver the infrastructure required to meet the identified need. Whilst I do not disagree with this statement (as it reflects the Government's position and is one that is generally accepted), this clearly does not equate to a freedom to disregard either the development plan or the requirements of national planning policy as set out in paragraph 7 of the NPPW.
- 2.26 Another point I would make is in relation to paragraphs 3.1.8 to 3.1.14 of Mr Roberts' Proof of Evidence, where he asserts that the Council now appears to be arguing that the Waste Plan is out of date, compared with its position when Planning Application Ref. WP/20/00692/DCC, was determined in March 2023. Whilst I agree with the evidence presented by Mr Potter, that the need for residual waste management capacity appears to have diminished since the Waste Plan was adopted, I do not agree with Mr Roberts that this now makes the Waste Plan out of date. By its very nature, the Plan, has to anticipate changes in both the level of provision of residual waste management capacity and the level of need for the assessed level of capacity for which the Plan makes provision. The Plan itself is explicit in stating (in paragraph 7.76) that the level of residual waste management capacity anticipated on the allocated sites, is substantially more than the anticipated shortfall, i.e. 385,000 tonnes per annum compared with an identified shortfall of 234,000 tonnes per annum, and it identifies that there will be an on-going need "to monitor capacity and contracts for managing residual waste to ensure that appropriate facilities are brought forward". In other words, it recognises that the additional capacity required may change over time. The Waste Plan accordingly requires an inherent degree of flexibility to accommodate this, precisely so that it does not become out of date, in the event of any change in the overall need or the identified shortfall in capacity. It is therefore clear that any change in the assessed level of need does not make the Waste Plan out of date, and on the contrary, I consider it entirely appropriate and proper, that if there is evidence that there has been a change in identified level of need, that this is taken into consideration. Latest figures should be drawn from published monitoring reports and other relevant information and the Waste Plan makes it clear that the amount of waste capacity will change over time.

#### Other Benefits of the Appeal Proposal

- 2.27 Mr Roberts in Section 3.5 of his Proof of Evidence addresses the other benefits of the Appeal Proposal. To assist the Inspector, I have set out below an amended version of Table 1 from the Update Sheet presented to the Council's Strategic and Technical Planning Committee (CD5.2) on 24<sup>th</sup> March 2023, to update the weight to be attached to the benefits of the Appeal Proposal in the light of the evidence presented by the Council's witnesses to the inquiry.



**Table 1**

<b>Benefits of Portland ERF as stated by applicant</b>	<b>Officer Comment</b>	<b>Officer view on weight to be given</b>	<b>Comments as of November 2023</b>
<p>1. The Portland ERF will provide the only potential near-term (pre-2036) viable source of electricity to enable Portland Port to provide shore power to visiting cruise ships, to guarantee and ensure the continued growth of the cruise business that generated £8m for the Dorset economy in 2022. The benefit of shore power also extends to stationed Royal Fleet Auxiliary vessels and any other equipped commercial vessels, leading to substantial environmental and economic benefits for the Ministry of Defence and other marine businesses. The ERF shore power will protect the future of the port and help to create the conditions in which Portland Port can expand and adapt by removing a major barrier to investment (lack of suitable and secure power supply). Without shore power the Port risks losing the cruise business it has worked hard to attract to competitor ports who can provide it. According to the British Ports Association this would be the first shore power facility provided without public subsidy in Europe iii, deliverable as it is a positive co-benefit of a high-quality waste solution for Dorset. In line with NPPF 81 given the support provided by this application for economic growth this benefit should be afforded very</p>	<p>Accepted that shore power is a significant benefit and the applicant has provided evidence that this is both capable of delivery and take- up. It is also accepted that there will be benefits for the local economy from visiting cruise ships.</p>	<p>Full positive weight to the delivery of shore power in the planning balance is appropriate.</p>	<p>The provision of low carbon electricity to visiting cruise ships that are able and willing to use it at the price being charged by the port will be environmentally beneficial.</p> <p>Shore power will also be economically beneficial, if cruise companies at some time in the future, start to avoid ports that cannot provide it.</p> <p>While the ERF could provide shore power, a combination of battery storage system and a relatively low-capacity grid upgrade also has the potential to supply shore power to cruise ships with low carbon and other beneficial outcomes.</p> <p><b>Moderate positive weight</b> should be applied.</p>

Benefits of Portland ERF as stated by applicant	Officer Comment	Officer view on weight to be given	Comments as of November 2023
substantial positive weight.			
2. Use of residual waste as fuel to generate energy and assist in the diversion of waste from landfill to deliver more sustainable waste management at a higher level in the waste hierarchy is a further significant benefit and is fully in accordance with national policy. This benefit should be afforded significant positive weight.	Energy recovery from the incineration of waste would assist in moving waste up the waste hierarchy and is preferable to disposal by landfill. This is complemented by the fact that the proposal would have the potential to deliver combined heat and power (CHP).	This makes the proposal compliant with the energy recovery aspirations of the local plan and can be given full positive weight in this regard.	As Mr Potter has identified, data shows landfill diversion will actually be relatively small and RDF arising in Dorset is currently sent to the Bridgwater EfW or exported. Also as Mr Norton has shown the prospect of delivering heat is low, so that only <b>limited or moderate weight</b> , can now be attributed to this aspect of the Appeal Proposal.
3. The Portland ERF provides new waste management capacity that will contribute to Dorset meeting its identified residual waste management need in line with the principles of self-sufficiency and the proximity principle (enshrined within the Dorset Waste Plan) and reduce the existing reliance upon the export of residual waste to waste management facilities outside of Dorset, without prejudicing other Dorset Waste Plan sites from coming forward. This benefit should be afforded <b>significant positive weight</b> .	It is accepted that the proposal will provide additional capacity for residual waste treatment and that there is no evidence to suggest it will prejudice other sites in coming forward. However, it has not been demonstrated that the site would have advantages, when taken as a whole, over the allocated sites in the plan which are potentially capable of meeting Dorset's needs and are considered by officers to score better in relation to co-location and the proximity principle. Therefore, it is deemed to be less favourable in meeting Dorset's needs.	Limited weight is given to the contribution this site could make in terms of providing competition for waste management (helping to drive down prices), but officers also consider that the allocated sites are more advantageous overall in supporting self-sufficiency and the proximity principle. Therefore, officers do not agree with the applicant's view on the weight that could be given to the provision of additional waste management capacity as, in spite of the additional capacity, it also does not comply with the Waste Plan for reasons set out in the report.	As stated previously but now additionally consider that given the reduced need assessed in Mr Potter's Proof, the Appeal Proposal would be likely to prejudice proposals on the allocated sites, so that the Appeal Proposal should now be attributed <b>negative weight</b> .
4. Reduction in the cost of managing Dorset's residual waste, as a result of reduced costs associated with transporting waste to	Whilst it might assist with reducing costs, there is no certainty that the proposal could secure contracts for	Whilst additional competition for managing Dorset's residual waste may lead to reduced costs, this considered to	As stated previously but additionally transport costs would be likely to be lower for plants on the allocated sites because they are in

Benefits of Portland ERF as stated by applicant	Officer Comment	Officer view on weight to be given	Comments as of November 2023
other facilities outside of Dorset, and the avoidance of landfill related charges. This benefit should be afforded <b>moderate positive weight</b> .	managing Dorset's waste and officers are confident that the allocated sites provide sufficient capacity in locations that are better placed to handle Dorset's waste without recourse to landfill.	have only very limited positive weight in the planning balance due to uncertainty over its ability to secure contracts given the preferable locational benefits of the allocated sites.	closer proximity to the main source of waste, so should be afforded very <b>limited positive or neutral weight</b> .
5. The site's location within a commercial port provides potential opportunities for residual materials arising from the process to be transported sustainably by sea to appropriate existing recycling plants (for the production of recycled aggregate building products), reducing local traffic impacts, an advantage that no other allocated site in Dorset could achieve. This should be afforded <b>moderate positive weight</b> .	It is accepted that the port location would facilitate transportation of IBA by sea. Whilst there is no certainty that this will come forward (and so IBA may end up being transported by road), there is a testimony from a prospective customer that indicates the port route is realistic and achievable.	Agreed that moderate positive weight should be attributed to the port's location for handling IBA.	Long distance export of IBA is contrary to the proximity principle in the Waste Plan Policy 6, offsetting any benefit, so should be attributed <b>negative weight</b> .
6. Provision of a new significant source of non-intermittent, dependable baseload energy generation that increases energy security for Dorset and provides energy generation on Portland that will facilitate the growth of local business and industry. This benefit should be afforded <b>moderate positive weight</b> .	It is accepted that National Grid constraints limit the opportunity to increase power supply to Portland and that Powerfuel would be capable of delivering additional generation capacity and resilience.	Agreed that moderate positive weight should be attributed to energy provision that will improve energy resilience and local capacity.	If the ERF is to supply electricity for shore power and potentially other private wire customers together with reducing its electricity output to steam to allow for district heating its output to the national grid will be variable and intermittent and non-existent in times of maintenance shutdown.  Grid capacity on the scale applied for by the Appellant (25MVA) is constrained by the National Grid. However, lower capacity grid upgrades may be less constrained. <b>Limited positive</b>

Benefits of Portland ERF as stated by applicant	Officer Comment	Officer view on weight to be given	Comments as of November 2023
			<b>weight</b> should be attributed in the planning balance.
7. Reduction in climate change impacts associated with the management of Dorset's waste as a result of lower landfill volumes (direct and/or indirect) and lower transport carbon costs. This benefit should be afforded <b>moderate positive weight</b> .	Landfill reduction has been considered as part of the waste plan's strategy for managing residual waste, with the allocation of four strategic sites in locations that are better positioned to support the proximity principle in relation to Dorset's waste. The reduction of transportation costs is therefore not proven as this would depend upon competing for future contracts and importation of RDF via the port could potentially be transported from beyond Dorset.	This issue is only given neutral weight in the planning balance.	No change.
8. The Portland ERF, applying conservative shore power usage assumptions, will result in an improvement in air quality across the majority of the local area as a result of the shore power provision (due to the removal of existing unabated diesel emissions from vessels in port) 1. This benefit should be afforded moderate positive weight.	It is accepted that reduction in diesel emissions from vessels is a positive benefit, although this should be set against emissions from the waste plant together with localised impacts from HGVs delivering feedstock	Agreed that reducing ship-based emissions should be afforded moderate positive weight, but this cannot be considered in isolation from the power plant's own emissions or those of HGV movements, which will offset some of the positive benefits.	Locally emissions from the ERF burning waste in Portland would exceed those from visiting cruise ships by a factor of 4.7; an environmental disbenefit.  The excess of local emissions from the ERF in comparison with shore power provision should be afforded <b>negative weight</b> in the planning balance.
9. Provision of a heritage mitigation programme that will ensure managed public access to currently inaccessible heritage assets and funding to restore these assets, which will result in the removal of a Scheduled Monument from Historic England's "at risk" register. This mitigation	The Heritage Mitigation Strategy includes vegetation clearance and repairs to East Weare Battery E which would remove it from the 'At Risk' Register and would facilitate controlled public access as well as the provision of	Officers consider that the heritage mitigation offered can only be given slight weight in that it does not address the substantive heritage impacts of the proposal.	No change. <b>Slight positive weight</b> in the planning balance.

Benefits of Portland ERF as stated by applicant	Officer Comment	Officer view on weight to be given	Comments as of November 2023
<p>outweighs the “less than substantial harm” to the nearby asset settings creating a net heritage benefit that should be afforded <b>moderate positive weight</b>.</p>	<p>interpretation boards at accessible viewing points. These are heritage benefits, but they do not address the substantive effects of the development of the ERF and stack on adjacent heritage assets, nor do they offset the less than substantial harm (which, in the view of officers, would be considerable and at the upper end of ‘less than substantial’) to a large group of nationally significant heritage assets.</p>		
<p>10. Provision of a permissive path that will provide public access through currently inaccessible parts of the Portland Port estate that will complete the “round the island” footpath. This will benefit local leisure activities and can enhance the experience of users of this part of the South West Coast Path and the England Coast Path. This benefit should be afforded <b>moderate positive weight</b>.</p>	<p>Officers considered that, whilst the permissive path would be a positive benefit if it could be achieved in an acceptable form (bearing in mind some concerns from Historic England and Natural England about the impact of the security fence), it was not possible to conclude that the proposal had sufficient certainty or associated heritage mitigation benefits to be given more than slight weight.</p> <p>The applicant has since confirmed that the permissive path will not form part of the mitigation strategy.</p>	<p>This is no longer relevant to the scheme as the applicant has since confirmed that the permissive path will not form part of the heritage mitigation strategy.</p>	<p>The proposed permissive path now forms part of the Appeal Proposal. The proposed footpath link, whilst allowing public access along the “missing link” of the coast path of Portland, would be contained on one side by a 2m high palisade fence and, partially on the other side by a 2metre high post and wire fence. As a result, any views out to sea would be partially obscured. In addition the palisade fencing would in itself cause harm to the settings of adjacent listed buildings that would be in close proximity. Whilst the creation of a footpath link would be a positive benefit in terms of being a through route, there is uncertainty over its deliverability due to</p>

Benefits of Portland ERF as stated by applicant	Officer Comment	Officer view on weight to be given	Comments as of November 2023
			<p>implications for the SAC.</p> <p><b>Neutral weight</b> can be attributed in the planning balance.</p>
<p>11. Socioeconomic benefits including a £150m private sector investment that will provide 300 construction jobs, 35 full time permanent jobs and 60 indirect jobs in a key employment zone. This benefit should be afforded <b>moderate positive weight</b>.</p>	<p>It is accepted that socio-economic benefits would arise from the scheme.</p>	<p>Agreed that this should be afforded moderate positive weight.</p>	<p>No change.</p> <p><b>Moderate positive weight</b>.</p>
<p>12. The Portland ERF provides an identified and credible opportunity to provide district heating to two local prison facilities that will result in further improvements in air quality, reductions in carbon emissions and cost savings for the Ministry of Justice. The form of legal heads of terms of agreement with the Ministry of Justice has been agreed, a viable commercial case has been presented and the route from the Portland ERF to the offtakers has been analysed to demonstrate there is limited/no planning risk associated with this proposal. The benefits of supplying the prisons (effectively UK Government credit risk) provides investor confidence to fund the upfront cost of the district heating network. This will then create an opportunity to extend this cornerstone heat network to other parts of Portland where heat produced by the ERF (that otherwise will not be used) could be priced to target fuel poverty alleviation. Given the analysis</p>	<p>It is considered that the applicant has taken all reasonable steps to ensure the proposal will be CHP-ready (combined heat and power, whereby it is able to generate heat from the production of electricity, which is then fed into district heating systems). The applicant has provided supporting information which confirms that there is a reasonable prospect of this being taken up by the Ministry of Justice at the Verne, and all steps necessary within the site to facilitate this will be taken. Whilst there may be a need for subsequent planning permissions to facilitate links outside of the application site, it is agreed that the applicant has gone to considerable lengths to ensure the proposal can deliver district heating. Future uptake by the</p>	<p>Agreed that this should be afforded moderate positive weight.</p>	<p>Potential heat consumers identified by the Appellant to the north of the ERF are not suited to district heating.</p> <p>Heat supply to the MoJ sites to the south would have a low financial rate of return and would therefore be unlikely to attract the Energy Service Company investment needed to build the network.</p> <p>The planning risk assessment has not considered the need for a separate District Heating Energy Centre building.</p> <p>District heating should therefore be afforded <b>neutral weight</b> in the planning balance.</p>

Benefits of Portland ERF as stated by applicant	Officer Comment	Officer view on weight to be given	Comments as of November 2023
provided this benefit must reasonably be seen as being deliverable and should be afforded <b>moderate positive weight.</b>	Portland community is less certain at this stage, but the fact that the potential exists can be considered to be a positive benefit for Portland.		

The Advantages of the Appeal Site over the Allocated Sites

- 2.28 This Appeal, whilst it was submitted as a waste application seems to be effectively an energy related development, required specifically to provide shore power at Portland Port. In assessing this Appeal against Policy 4 of the Waste Plan, as the Appeal Proposal would be sited on an unallocated site, there is a requirement that it should be demonstrating advantages over the allocated sites. Whilst efforts have been made to show the Proposal’s energy benefits, there is little to substantiate its waste management advantages over the allocated sites.
- 2.29 In paragraph 4.2.5 of his Proof of Evidence Mr Roberts attempts to argue that just because there has not been development of a residual waste management facility on any of the four allocated sites since the Waste Plan was adopted, that this somehow confirms that the allocations have and will fail to deliver the required residual waste management capacity identified as being needed in the plan. I do not agree. It is not at all uncommon for development plan allocations to take a number of years to come forward and as a general rule the development plan does not set out timescales for their development and two of the sites have been subject to planning applications for EFW facilities to BCP Council, one of which has already been approved, and the other of which is awaiting determination.
- 2.30 Moving on to paragraphs 4.2.6 to 4.2.22 of his Proof, Mr Roberts goes on to attempt to argue that the allocated sites are subject to a number of environmental constraints and that, as a result, they suffer from a number of disadvantages when compared with the Appeal Proposal. In my view, this approach is flawed. At the most fundamental level Mr Roberts ignores the fact that the sites are allocated sites that have been subject to considerable scrutiny through the Local Plan process, including Examination, have been found to be acceptable and now form part of the statutory adopted development plan. Dorset County Council, as it then was, undertook considerable work to assess the potential sites that were brought forward for consideration for inclusion, as part of the that process. This included consideration of all of the constraints on each of the sites. This process and its conclusions are fully documented in the (361 page) Bournemouth, Dorset and Poole Waste Plan, Background Paper 2, Waste Plan Site Selection report of (November 2017) and in relation to the four allocated residual waste management sites, the relevant conclusions were summarised in site specific background papers for each of them (included in the Examination Library for each of the sites.

- 2.31 There is nevertheless one specific aspect of Mr Roberts' evidence in relation to the disadvantages of the allocated sites that I will respond to. These are his comments in paragraphs 4.2.9 to 4.2.12 of his Proof of Evidence in relation to the location of the allocated sites in the Green Belt.
- 2.32 It has not been demonstrated that the Appeal Site provides advantages over the allocated sites, in terms of the rationale that underpins the Spatial Strategy, and in particular that the allocated sites are located close to the main sources of waste arisings, which was the basis upon which they were considered at the time of the Waste Plan examination. In the case of the Appeal Site, it is of course the Council's case that there is harm to a World Heritage Site, i.e. an international level harm which would surely trump Green Belt harm in any sensible balance, as well as significant adverse landscape and heritage impacts.
- 2.33 Mr Roberts argues that the Appeal Site has other advantages over the allocated sites. My response on these advantages is considered in Table 1 above.
- 2.34 Notwithstanding my response set out above in relation to Mr Roberts comments about the claimed advantages of the Appeal Proposal over the allocated sites, I would draw the Inspectors attention to the wording of Waste Plan, Policy 4 and in particular second part of sub-paragraph (a). This makes clear that the requirement is that issue to be considered is whether the "the non-allocated site provides advantages over the allocated site". The requirement is not that "the non-allocated site provides advantages over a proposal on the allocated site". The exercise Mr Roberts has undertaken, notwithstanding his argument in relation the Green Belt, in paragraphs 4.2.15 to 4.2.22, is to largely assess the proposals, rather than the sites themselves. As such the exercise he has undertaken I consider is largely irrelevant in terms of addressing Policy 4 criteria (a).
- 2.35 Further, it is also in any event my view, even if Mr Roberts analysis was to be accepted, and the allocated sites were considered to suffer from the disadvantages he has put forward, and even if there were no allocated sites, it is my view that planning permission should still be refused for the development of the Appeal Proposal on the Appeal Site, for the reasons set out on the Council's Decision Notice because this would not change the Reasons for Refusal and they would still stand.
- 2.36 Finally, Mr Roberts emphasises that the Appeal Site is by contrast unconstrained in terms of Green Belt policy. Whilst I do not disagree with him, I note that it is his approach that the requirement under Waste Plan Policy 6 to demonstrate that the operation of any residual waste management supports the delivery of the Spatial Strategy in contributing to meeting the need identified in the Plan. This, as Mr Potter has set out, the Appeal Proposal clearly does not do.

#### Co-Locational Benefits and Location in Relation to Waste Arisings

- 2.37 Mr Roberts in paragraph 4.3.2 refers to the locational criteria in Policy 4. It is agreed that the Appeal Site is located on previously developed land, which is also allocated employment land, and as such the Appeal Proposal is in compliance with the locational criteria of Policy 4. However, the proposal does



not fully comply with criteria a-d of Policy 4.

### Proximity Principle and Spatial Location

- 2.38 Next, I turn to the Proximity Principle and Spatial Location, that Mr Roberts addresses at some length in paragraphs 4.3.7 to 4.3.18 of his Proof of Evidence. Mr Roberts draws specific attention to the legislative definition of the Proximity Principle and that this only applies to mixed municipal waste collected from private households, and he contends (in paragraph 4.3.16) that its meaning has been misinterpreted in the Spatial Strategy of the Waste Plan. He then attempts to argue that the Appeal Proposal is Proximity Principle compliant insofar as it would provide an in-county residual waste treatment facility (paragraph 4.3.18). It seems to me however that what Mr Roberts is seeking to do is construct an argument based on interpretation of the Proximity Principle, because fundamentally the Appeal Proposal is not compliant with the Spatial Strategy and the Waste Plan policy requirement to ensure that proposals support the delivery of the Spatial Strategy set out in Policies 4 and 6. The reality is that the Appeal Proposal, as Mr Potter has set in his Proof of Evidence, would result in a very significant increase in the number of waste miles travelled, when the stated aim of the Spatial Strategy is to minimise the number of waste miles travelled. As such it seems to me that Mr Roberts argument seeks to distract from, but does not overcome, the real issue for the Secretary of State which is that the Appeal Proposal, as set out in the Council's Reason for Refusal No.1 is too distant from the main sources of Dorset's residual waste generation, to be compliant with the Spatial Strategy and therefore with Policy 4 (and Policy 6).
- 2.39 In summary, it is important to consider the Appeal Proposal against the development plan and regard should be had to the Spatial Strategy and all relevant policies. It is my contention that the proposal does not accord with the development plan when read as a whole and would be contrary to the Spatial Strategy.

### Appraisal of the Appeal Proposal Against the Development Plan and Material Planning Considerations

- 2.40 The Council's response to the Appellant's assessment of compliance with policy set out in Tables 9.1 to 9.3 of Nick Roberts' Proof of Evidence is as follows:

**Table 9.1: Bournemouth, Christchurch, Poole and Dorset Waste Plan 2019**

Policy ref	Policy	Assessment of Compliance by Appellants	Council's Response
Policy 12 Transport and access	A transport assessment should demonstrate a safe access and sufficient highway improvements to mitigate or compensate for any significant adverse impacts	Fully compliant A transport assessment has been undertaken which demonstrates that a safe access can be achieved and that the HGV movements associated with the facility when considered in the context of the overall highway network and traffic levels would not give rise to any significant highway impact. No highway improvements required and the Appeal Site location supports alternative modes of transportation i.e. waste and IBA transfer by ship.	I do not consider that the proposal would be compliant with Policy 12 as it is not well located in terms of the proximity principle in the event that the Appeal Proposal were to be used for the recovery of LACW from Bournemouth, Christchurch, Poole and Dorset. Mr Potter concludes that the Appeal Proposal would result in 3.1 million additional waste miles being travelled compared with the allocated sites and could not therefore be considered to minimize the distances travelled by road as set out in the final paragraph of Policy 12.
Policy 13 Amenity and quality of life	Proposals must demonstrate that any potential adverse impacts on amenity arising from the operation of the facility and any associated transport can be avoided or mitigated to an acceptable level.	Fully compliant The Appeal Proposal is designed not to give rise to any significant adverse effects on amenity and its location within a commercial port places the facility away from any sensitive receptors. The ES and other supporting technical studies indicate that with appropriate mitigation and management measures in place there would be no significant adverse impact in terms of noise and vibration, airborne emission including dust, litter or windblown material, vermin, birds and pests or loss of privacy. The inquiry evidence provides an updated noise and odour assessment which reach the same findings.  The assessment indicates that traffic generation would not give rise to an unacceptable level of impact and that the site is not subject to any land stability issues. The Appeal Proposal has been carefully and sensitively designed, with guidance from landscape officers, to minimise visual impact on the local setting and character and wider views from designated landscape areas such as the AONB and the WHS.  The outline CEMP demonstrates how the commitments made in the ES will be implemented during the construction phase. It also sets	I agree that the Appeal Proposal would not give rise to any significant adverse effects on the amenity of nearby sensitive receptors, although I would draw the Inspector's attention to the lack of assessment of the impacts on the residents of the Bibby Stockholm accommodation barge.

Policy ref	Policy	Assessment of Compliance by Appellants	Council's Response
		<p>out the monitoring and auditing activities that should be undertaken to demonstrate that such mitigation measures are carried out and that they are effective.</p> <p>The Lighting Statement has considered the potential impact from lighting and has devised an appropriate lighting strategy that would mitigate any impact from light spill to an acceptable level.</p>	
Policy 14 Landscape		No assessment by Mr Roberts in Table 9.1.	Policy 14 seeks to ensure that proposals for waste management facilities will be located where they are compatible with their setting and would conserve and/or enhance the character and quality of the landscape. As demonstrated in Mr Williamson's evidence it is clear that the Appeal Proposal is contrary to Policy 14.
Policy 15 Sustainable construction and operation of facilities	Requires proposals to demonstrate that the site design, layout and operation takes account of climate change mitigation and resilience	Fully compliant The Appeal Proposal incorporates sustainable design and construction principles including the use of recyclable materials where possible and recovery of construction waste as set out in the framework Site Waste Management Plan. It recognizes water usage and as an energy recovery facility (also with PV panels) will generate its own power all of which will be partially renewable, low carbon energy.	I agree that that the Appeal Proposal incorporates sustainable design and construction principles including the use of recyclable materials where possible and recovery of construction waste and water usage and as an energy recovery facility (also with PV panels) will generate its own power which may be partially renewable, low carbon energy.

<b>Policy ref</b>	<b>Policy</b>	<b>Assessment of Compliance by Appellants</b>	<b>Council's Response</b>
Policy 16 Natural resources	Sets out the requirements for waste management facilities in relation to water resources, ground conditions and agricultural land.	Fully compliant The ES concludes that the Appeal Proposal will not give rise to any adverse impact on the quality or quantity of water resource, and that ground conditions are suitable for this use. As previously developed industrial land there are no soils to be protected and no loss of high quality agricultural land.	I agree that the Appeal Proposal will not give rise to any adverse impact on the quality or quantity of water resource, and that ground conditions are suitable for the proposed use and that it would not result in the loss of best and most versatile land.
Policy 17 Flood risk	New waste management facilities in flood zones 2 and 3 and of one hectare or greater in flood zone 1 require a flood risk assessment and must comply with the set requirements.	Fully compliant The Appeal Proposal is located in Flood Zone 1 (low risk) and is not subject to any significant flood risk. The Flood Risk Assessment has been undertaken and this has not identified any significant risk of site flooding. A sustainable drainage system has been devised, as an integral part of the site design and landscaping strategy, to manage surface water and would not give rise to flooding occurring elsewhere.	I agree that the Appeal Site is located in Flood Zone 1 (low risk) and is not subject to any significant flood risk.
Policy 18 Biodiversity and geological interest	Proposed waste management facilities must not adversely affect the integrity of designated sites and, where practicable, enhance biodiversity and geological interest.	Fully compliant The evidence of Jeff Picksley demonstrates that the Appeal Proposal and its associated process, traffic and ship related emissions to air would not adversely affect the integrity of European sites, or other designated ecological sites. This position has been accepted by Dorset Council. The Environment Agency and Natural England though Appropriate Assessment.  It is recognised that the Appeal Proposal would lead to a very limited loss of the existing on-site habitat and off-site mitigation is proposed to deliver a net biodiversity gain, by introducing measures to enhance other agreed ecological interests and habitats.	I agree that the Appeal Proposal would not adversely affect the integrity of European sites, or other designated ecological sites.

Policy ref	Policy	Assessment of Compliance by Appellants	Council's Response
Policy 19 Heritage		Not referred to by Mr Roberts in Table 9.1.	Policy 19 Historic Environment seeks to ensure that proposals for waste management facilities conserve and/or enhance heritage assets and their settings in a manner appropriate to their significance. It is considered that the Appeal Proposal is not compliant with this policy as demonstrated by Ms Kelly in her evidence.
Policy 22 Waste from new developments	Sets out the requirements in relation to waste from new developments.	Fully compliant The Appeal Proposal includes measures for the separation and storage of waste from staff areas for recycling. The Appeal Proposal itself is a waste management facility that would facilitate recovery of energy from residual waste that cannot be re-used or recycled.	I agree that the Appeal Proposal includes measures for the separation and storage of waste and would facilitate recovery of energy from residual waste.

**Table 9.2: Adopted West Dorset, Weymouth and Portland Local Plan 2011-2031**

Policy	Policy summary	Compliance	
NV 2 Wildlife and habitats	Proposals should not have adverse impacts on the designated wildlife sites and habitats.	Fully compliant As per Dorset Waste Plan Policy 18 above	I agree that the Appeal Proposal would not give rise to adverse impacts on the designated wildlife sites and habitats.
ENV 3 Green infrastructure network	Development should not harm the green infrastructure network	Fully compliant The Appeal Proposal is located on previously developed industrial land within thin an operational port and would not cause any significant harm to the green infrastructure network	I agree that the Appeal Proposal would be located on previously developed industrial land within an operational port and would not cause any significant harm to the green infrastructure network.
ENV 5 Flood risk	Development should be planned to avoid flood risk and steered towards the areas of lowest risk. Further, it should not generate flooding through surface water runoff.	Fully compliant As per Dorset Waste Plan Policy 17 above	I agree that the Appeal Proposal does not give rise to any significant flood risk issues.
ENV 9 Pollution and contaminated land	Development will not be permitted which would result in an unacceptable risk of pollution to ground water, surface water-bodies and tidal waters. Development on contaminated land must demonstrate no	Fully compliant Chapter 8 of the original ES covers ground conditions and water quality. Subject to the adoption of the proposed mitigation measures and controls via planning conditions, no significant or unacceptable effects are predicted in these topic areas.	Agree.

Policy	Policy summary	Compliance	
	unacceptable risks to future occupiers.		
ENV 10 The landscape and townscape setting	Development proposals should contribute positively to local identity and distinctiveness. Development should be informed by the character of the site and its surroundings. Trees and other features should be retained, appropriate landscaping schemes are required and opportunities to incorporate features like public art as appropriate.	Fully compliant As per my evidence in relation to Dorset Waste Plan Policy 14 in sub-section 5.3 of this proof.  No trees exist to be retained and the Appeal Proposal is in a non-public area, sitting within a secure port environment. Thus public art etc. would not be appropriate.	Disagree.
ENV 12 The design and positioning of buildings	Development will achieve a high quality of sustainable and inclusive design. It will only be permitted where the siting, alignment, design, scale, mass, and materials used complements and respects the character of the surrounding area.	Fully compliant As per Policy ENV10 above.	Disagree.
ENV 13 Achieving high levels of environmental performance	New buildings are expected to achieve high standards of environmental performance.	Fully compliant As per Dorset Waste Plan Policy 15 above	Agree.
ENV 16 Amenity	Proposals for development should be designed to minimize their impact on the amenity and quiet enjoyment of both existing residents and future residents within the development and close to it, with regard given to loss of privacy, noise, pollution, odour and lighting.	Fully compliant As per Dorset Waste Plan Policy 13 above	Further assessment would be required with regard to potential impacts from the Appeal Proposal on the residential use of the Bibby Stockholm barge in terms of odour, noise, pollution and lighting.
SUS 2 Distribution of development	Within development boundaries, employment development to meet the needs of the local area will normally be permitted.	Fully compliant The Appeal Proposal site is located in Portland Port which is identified as a focus for new development.	Agree.
ECON 2 Protection of key employment sites	Within key employment sites, applications for B1, B2 B8 and other similar uses will be permitted subject to proposals not having a significant adverse impact on surrounding land	Fully compliant The Appeal Proposal is on a "key employment site" and is a waste management use, which is considered to be a similar use to B2 employment and therefore does not conflict with the objective of this policy to protect key employment sites.	Agree

Policy	Policy summary	Compliance	
	uses	The Appeal Proposal will generate new jobs. The site is also subject to an extant planning consent for an energy plant, using waste material as fuel and the principle has been established.	
COM 7 Creating a safe and efficient transport network	Development will not be permitted unless it can be demonstrated that it would not have a severe detrimental effect on road safety and delivery of a strategic cycle network and improvements to the public rights of way network will be supported.	Fully compliant As per Dorset Waste Plan Policy 12 above. Further, the Appeal Proposal would complete an important public right way around the Isle of Portland.	Agree insofar as the planning application scheme that was submitted and assessed, agree, based on a limit of 80 HGV movements. Should any deviation from this limit be sought, in the light of the proposed change at Appeal stage from RDF only to RDF and residual waste, this would need to be assessed.
Policy COM 11 Renewable energy development	Generally permits proposals for generating heat or electricity from renewable energy sources where ever possible provided the benefits of the development, such as the contribution towards renewable energy targets, significantly outweigh any harm taking account of potential impacts and mitigation in respect to local landscape, areas of historical interest, residential amenity and wildlife sites biodiversity.	Fully compliant The Appeal Proposal will generate a partial renewable energy from the biodegradable element of residual waste for production of power, much of which would be used locally. It could also result in the delivery of a DHN with local heat off take. Mitigation measures have been introduced to ensure that impacts on landscape, cultural heritage, amenity and ecology are minimised and overall the scheme delivers significant benefits that outweigh any residual harm.	Disagree given the evidence of Tony Norton.

**Table 9.3 Minerals Strategy 2014**

Policy ref	Policy	Compliance	
SS1 Presumption in favour of sustainable development	Mirrors the NPPF in its presumption in favour of sustainable development	Fully compliant The Appeal Proposal represents sustainable development	Disagree
SG1 Mineral Safeguarding Area	Requires demonstration that the sterilisation of proven mineral sources will not occur as a result of the development nor pose a serious hindrance to future mineral development in the vicinity	Fully compliant Whilst the site lies within a Minerals Safeguarding Area, the site comprises previously developed industrial land located within the operational Portland Port. The site has previously been occupied by port buildings and is subject to an extant consent for an energy plant. It has more recently been used for the storage and preparation of construction aggregate for port construction works. The Appeal Site does not offer a viable mineral reserve and thus the Appeal Proposal would	Agree.

Policy ref	Policy	Compliance	
		therefore not lead to the sterilisation of any mineral resources.	
SG2 Mineral Consultation Area	Requires consultation with the County Council for proposals	Fully compliant As per Policy SG1 above the Appeal Proposal would not constitute inappropriate development in a Mineral Consultation Area.	Agree.

**Table 9.4 Portland Neighbourhood Plan 2019**

Policy ref	Policy	Compliance	
Policy Port/EN0 Protection of European Sites	Reflects other local development plan policies that protect the integrity of European sites	Fully compliant As per Dorset Waste Plan Policy 18 above	Agree.
Policy Port/EN1 Prevention of flooding and erosion	Supports development in areas protected from coastal flooding	Fully compliant As per Dorset Waste Plan Policy 17 above. The proposed site is not subject to coastal flooding.	Agree.
Policy Port/EN2 Renewable energy development	Supportive of proposal for energy generating infrastructure using renewable energy or low carbon sources, subject to no unacceptable effects on stated interests	Fully compliant The Appeal Proposal will generate partially renewable and low carbon energy from residual waste without unacceptable effects on the relevant interests and therefore is in accordance with this policy.	Disagree as unacceptable effects on stated interests.
Policy Port/EN6 Defined development boundaries	Supports development within the defined development boundary of Portland, subject to consideration of other policies	Fully compliant The proposed site is located within the defined settlement boundary of Portland and in compliance with the other policies.	Disagree. It's not compliant with other policies.
Policy Port/BE1 Protecting existing employment sites and premises	Generally aims to preclude the loss of key employment areas	Fully compliant As per West Dorset, Weymouth and Portland Local Plan Policy ECON 2 above	Agree.
Policy Port/BE3 New employment premises	Development proposals to create new employment premises within or adjacent to settlement areas will generally be supported provided they can be shown to benefit the local economy subject to acceptable effects in relation to noise, light, traffic, flood risk, parking.	Fully compliant As per the evidence of Simon Elliot there would be significant economic benefits. As per responses in relation to Dorset Waste Plan Policy 12, 13 and 17, unacceptable effects would not occur.	Agree.



<b>Policy ref</b>	<b>Policy</b>	<b>Compliance</b>	
Policy Port/BE6 The northern arc	Recognises the economic and employment potential of the northern arc and the aim to improve the environmental quality of the area.	Fully compliant The site is located with the Portland northern arc which is identified for its employment and growth potential. The availability of local power and heat should act to attract energy intensive businesses to the Port and vicinity on the island.	Agree.
Policy Port/ST1 Sustainable tourism development	Supports proposals that extend or expand existing tourism uses, subject to consideration of specific criteria	Fully compliant The Appeal Proposal will provide energy to the shore power facility, which will enable the Royal Navy Royal Fleet Auxiliary and cruise liners to switch off their diesel engines whilst in port. Cruise liners are increasingly expecting ports to be able to provide shore power facilities to deliver more sustainable cruise based tourism. The provision of this will help to safeguard cruise liner visits in future and maintain and encourage grow in this part of the tourism sector. There is no evidence that the presence of the Appeal Proposal located within the existing industrial port area, and screened from many public viewpoints, would preclude visitors from coming to Portland or cruise liners from continuing to visit Portland. The Economic Impact Assessment provides details of the benefits for local tourism associated with providing a shore power facility at the port.	I do not disagree with Mr Roberts overall conclusion, but I disagree with his assertion that the Appeal Proposal is screened from many public viewpoints. As set out in the Proof of Evidence of Mr Williamson it is clear that the Appeal Proposal would give rise to significant landscape and visual adverse impacts that would be experienced over a wide area and at distances extending to at least 4.5 km from the Appeal Site.

Policy Port/ST3 Tourist trails	Proposals that further the creation of a network of tourist and leisure trails will be supported subject to criteria.	Not relevant The Appeal Proposal does not further the creation of a network of tourist and leisure trails and thus the policy is not applicable. However, as per Policy COM7 of the Local Plan it would complete an important public right way around the Isle of Portland.	Agree.
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The Amenity Impacts on the Occupants of the Bibby Stockholm Accommodation Barge

- 2.41 Finally, I turn to the assessment of the amenity impacts on the occupants of the Bibby Stockholm accommodation barge, and in particular Appendix SO7 to the Proof of Evidence of Mr Stephen Othen, who addresses Climate Change, Air Quality, Health and [the] Permit, relating to Odour Mitigation Measures, and the assessment of noise in Appendices NR13 and NR14 of the Proof of Evidence of Nick Roberts.
- 2.42 Dorset Council Environmental Protection Officers have confirmed that they have some concerns that were not raised at planning application stage, as the Bibby Stockholm is now being used as residential accommodation at Portland Port and the Council were not aware of the arrival of the barge when the decision was made.
- 2.43 The Environmental Protection Officer considers that the following nuisance considerations would need to be assessed: dust, odour, and noise. The potential impact that was assessed at planning application stage was based upon residential accommodation being significantly further away from the ERF than the Bibby Stockholm is. The residents on the Bibby Stockholm were therefore not a consideration at the original planning stage, and the Environmental Protection team now considers that impacts on them now needs to be assessed. It is likely that previous dust, odour, and noise assessments would need to be reworked, or even a new assessment could be required. The barge is not a typical dwelling construction being more akin to a caravan and therefore the noise attenuation, and protection from other nuisances is more difficult to predict / model than it was a typical brick construction residential dwelling.
- 2.44 The Environmental Protection Officer has also been informed of the change at appeal stage as a result of the Supplementary Statement of Case relating to the change from RDF only to RDF and residual waste, being the type of waste proposed to be brought to the ERF. The Environmental Protection Officer considers that there could be potential nuisance implications in relation to this change of waste, including potential changes to the nature of HGV movements both on and off site, and around the site. This issue was not considered at the original planning consultation stage, and hence the significance of these changes is not known and would need to be assessed.