

TOWN & COUNTRY PLANNING ACT 1990
Planning and Compulsory Purchase Act 2004

APPEAL

by

Powerfuel Portland Ltd

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



REBUTTAL PROOF

of Neil Williamson BA (Hons), MA, FLI, PPLI, FCMI

on behalf of Dorset Council

24 November 2023

REFERENCES: Planning Inspectorate: APP/D1265/W/23/332692
Local Planning Authority: WP/20/00692/DCC

- 1 This rebuttal proof is submitted in response to matters raised in Mr Mason's landscape Proof of Evidence submitted on behalf of the Appellant on 7.11.23. I have not sought to respond to every matter contained in that evidence with which I disagree and the fact that I do not expressly rebut a point should not be taken to indicate that I agree with it.
- 2 Mr Mason has extended the scope of the original Landscape & Visual Impact Assessment (LVIA) considerably and employed his own methodology which differs from that of the LVIA. He has undertaken an assessment of two additional landscape receptors and eleven additional viewpoints that were not included in the original LVIA.
- 3 Notwithstanding the view of Mr Mason that the original LVIA was essentially a 'sound piece of work' (as stated in his PoE, para 6.2.2) the fact that he has found it necessary to extend its scope to such a great extent and has almost doubled the number of viewpoints from the original 14 to a total of 25 suggests an acknowledgement that there were deficiencies in the original LVIA.

Threshold for significance of effects

- 4 The original LVIA set the threshold for significance of landscape and visual effects at 'slight to moderate' or above and set out a clear methodology for how judgements on levels of effect had been reached, summarised in two 'level of effect' matrices, LVIA Fig 9.3 for landscape effects and Fig 9.6 for visual effects. The threshold set was quite conservative but was, in my opinion, reasonable given the unusual sensitivity of the landscape including the close proximity of the World Heritage Site and Heritage Coast designations.
- 5 The assessments presented in my main proof of evidence followed the LVIA methodology in respect of determination of level and significance of effects.

- 6 In addition to extending the scope of the original LVIA by inclusion of new landscape and visual receptors, Mr Mason has chosen to adopt a threshold for significance of effects that is radically different from that of the LVIA.
- 7 The LVIA set the threshold at 'slight to moderate' or above. Different assessors may of course have different opinions as to where the threshold should be set, but Mr Mason has chosen to raise the threshold not by one step to 'moderate' but by two steps to 'above moderate'. He states (his PoE para 6.4.3) that the approach he has taken is that effects that are above moderate are 'more likely' to be judged significant, but that effects lower than moderate 'can in some circumstances' be judged significant. However, for the two new landscape assessments and eleven new visual assessments he has undertaken, he has not judged any effects at the 'slight to moderate' level to be significant, and of the nine viewpoints where effects were judged to be 'moderate adverse', in all but one instance these effects were judged to be 'not significant'.
- 8 Mr Mason does not provide any justification for departing so markedly from the LVIA methodology in determining the of significance of effect, other than by stating that it is a matter of professional judgement. Using the original LVIA methodology, the levels of adverse effect found by Mr Mason would have been judged 'significant' for both of the additional landscape receptors and for eight of the eleven new viewpoints, but Mr Mason finds no significant effects on any landscape receptor and despite finding adverse visual effects at the 'moderate' level for seven of the additional eleven viewpoints and both of the LVIA viewpoints that he has re-assessed concludes that in all but one instance these effects would not be significant.
- 9 For both of the re-assessed original viewpoints, Viewpoint 9 (Sandsfoot Castle & Gardens) and Viewpoint 10 (Nothe Fort & Gardens), the LVIA identified significant adverse effects. However, in respect of VP9, Mr Mason finds the same level of adverse effect as identified in the LVIA (moderate) but does not consider it significant. In respect of VP10, Mr Mason judges the level of effect to be **higher** than that identified in the LVIA, but nonetheless judges the effect

to be 'not significant'. The substantial relaxation of the threshold has in my opinion led Mr Mason to materially underplay the significance of adverse effects.

Comparative assessment

- 10 My own assessment of the two landscape receptors in question was included in my main proof of evidence, but for convenience I have attached a comparative table showing my own assessment together with Mr Mason's new assessments (see Table 3 below).
- 11 I have undertaken an assessment of visual impacts in relation to the eleven new viewpoints presented by Mr Mason following the LVIA methodology for determination of level and significance of effect and have summarised the results in Table 4 below. Tables 3 and 4 include an additional column headed 'S-mod' indicating whether effects would be judged significant using the more commonly seen threshold of 'moderate or above' which I would also consider a reasonable approach to adopt as a matter of professional judgement.

Cruise ship impacts

- 12 Mr Mason refers (for example in section 8.4 of his PoE) to the visual impact of large cruise ships visiting Portland harbour and includes photographs in his Appendix JM5 taken on a day when two of the largest class of cruise ships (MSC Virtuosa and MSC Grandiosa) were in port at the same time. This is a very unusual occurrence and most other cruise ships are of smaller size, including the majority of the other 20 cruise ships operated by MSC (see <https://www.msccruises.co.uk/cruises/ships>) I would, however, make the following observations:
- i. Cruise ships are **transient**, whereas the proposed development would be **permanent**;
 - ii. Ships coming and going are an inherent feature of a working port;

- iii. By contrast, large-scale waste recovery facilities are not a necessary or inherent component of a working port;
- iv. Cruise ships are a positive feature of interest that add to the character of a place;
- v. By contrast, it is accepted by the Appellant that the proposed development would have an adverse effect on landscape character and on views;
- vi. The heights of the MSC Virtuosa and MSC Grandiosa are quoted in Mr Mason's PoE (para 8.4.5) as 65m and 75m respectively without any reference to draught, but the note on Figures JM2 and JM4 (in his Appendix JM4) confirms that MSC Virtuosa has a draught of 8.4m so the visible height above the waterline would be only 56.6m, and the visible height of the MSC Grandiosa is presumably also correspondingly reduced;
- vii. The heights of the proposed ERF building and stack are 47m and 80m respectively, but since the land on which they would be sited is at 7m AOD, the maximum height of the building would be 54m AOD and of the stack 87m AOD;
- viii. Mr Mason estimates (his PoE para 8.4.4) that cruise ships would be present in the harbour for approximately one third of the time during the summer months, but the 2024 schedule (<https://www.cruisemapper.com/>) shows a total of 43 days with cruise ships berthed, of which 32 days are during the period May-September inclusive, which is only approximately one day in every five.

13 The World Heritage Site (WHS) lies in close proximity to the Appeal Site. Mr Mason states (his PoE para 7.2.5) that the closest areas of the WHS are on the north side of Portland Harbour located 3.5 to 4.5km from the Appeal Site and the very eastern end of Chesil beach 'which is approximately 3 km away'. The latter figure is incorrect. In fact, the nearest part of the WHS to the red line boundary of the Appeal Site is approximately 120m away (see Fig 7 below), and the nearest part of the WHS to the location of the stack on the proposed ERF building is approximately 1.5 km in a south westerly direction (see Fig 10 below) and approximately 900m in a southerly direction (see Fig 8 below).



Fig 7 Proximity of WHS to Appeal Site boundary (south west)



Fig 8 Proximity of WHS to Appeal Site boundary (south)



Fig 9 Proximity of WHS to proposed stack (north west)

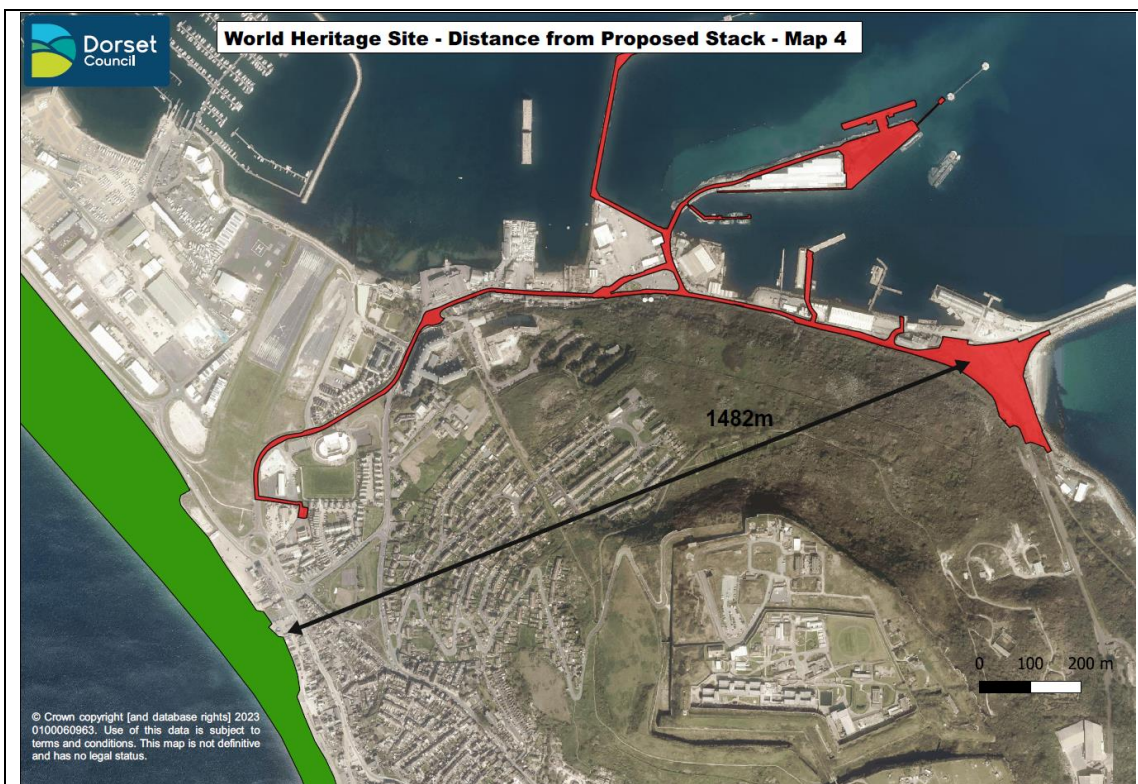


Fig 10 Proximity of WHS to proposed stack (south west)

Table 3

Landscape effects (daytime) – summary comparative assessments
S-LVIA - Effects judged significant using LVIA threshold of ‘slight to moderate’
S-mod - Effects judged significant using threshold of ‘moderate’

Landscape receptor		Sensitivity	Magnitude	Effect	S-LVIA	S-mod	Notes
Chesil Beach, The Fleet & the Causeway LCA (as defined in Weymouth & Portland Landscape Character Assessment 2013)	JM	Medium	Small adverse	Minor to moderate adverse			Not considered significant
	NJW	High	Small to medium adverse	Moderate adverse	S	S	Includes part of Heritage Coast and WHS
Portland Peninsula LCA (as defined in Weymouth & Portland Landscape Character Assessment 2013)	JM	Low to medium	Small to medium adverse	Minor to moderate adverse			Not considered significant
	NJW	High to medium	Medium adverse	Moderate adverse	S	S	Recognises that only a very small part of the character area would be affected

Table 4

Visual effects (daytime) – summary comparative assessments (additional viewpoints)

S-LVIA - Effects judged significant using LVIA threshold of ‘slight to moderate’

S-mod - Effects judged significant using threshold of ‘moderate’

VP			Sensitivity	Magnitude	Effect	S-LVIA	S-mod	Notes
15	East Weare Battery	JM	Medium to high	No change – not visible	None			No visibility or significant effects anticipated. Assessment does not take into account vegetation clearance proposed as part of heritage mitigation measures.
		NJW	Agree	Medium adverse – refer to notes	Moderate adverse – refer to notes	S	S	Proposed vegetation clearance as part of heritage mitigation would open up views and the development would become visible. The precise extent of visibility would need to be determined by wireline testing and accurate modelling of vegetation clearance, but it is reasonable to assume that the magnitude of effect is likely to be similar to that of RN Cemetery East, i.e. medium adverse, in which case the level of effect would be moderate adverse.
16	Jailhouse cafe	JM	High	Small to medium	Moderate, adverse			Not considered significant. Photographs Fig JM9 and Fig JM10 in Appendix JM4 are deliberately angled so that only a tiny proportion of the development is seen. JM accepts that there would be clear close-range views

								of the buildings and stack looking down from this elevated viewpoint but has not illustrated this in his photographs. In this location, the eye would be drawn equally to the foreground as well as to the more distant views across the harbour.
		NJW	Agree	Medium to large	Moderate to substantial	S	S	<p>Given the clear uninterrupted close-range views of the development, JM has underestimated the magnitude of change, which in my view would be medium to large.</p> <p>Standard LVIA photography is normally horizontal, but when considering the impact on close-range views of tall structures from ground level or of developments seen from elevated vantage points, camera angles need to be varied to reflect human perception and experience.</p>
17	RN Cemetery East	JM	High	Medium	Moderate, adverse		S	<p>JM accepts stack would be a clearly visible addition to the view which has no other industrial elements and that the effect would be significant.</p> <p>It is unclear whether or not the assessment of magnitude accords with JM's own Table 4.1 methodology, or whether the effect should have been categorised as 'moderate to major'.</p> <p>LVIA Fig 9.6 (and accepted practice) indicates that with 'high' sensitivity and</p>

								'medium' magnitude, the level of effect would be 'moderate to substantial'.
		NJW	Agree	Agree	Moderate to substantial, adverse	S	S	<p>The stack would be a highly obtrusive alien additional to the view. I concur with JM that the effect would be significant and adverse.</p> <p>At such close range the adverse effect would be temporarily much greater at times when the plume is visible.</p> <p>My assessment of level of effect follows LVIA Fig 9.6 methodology.</p>
18	RN Cemetery West	JM	High	Small to medium	Minor to moderate, adverse			<p>Not considered significant.</p> <p>The stated level of effect does not accord with JM's own Table 4.1 matrix which indicates that for a 'high' sensitivity receptor, a 'small to medium' magnitude of change would result in a 'moderate' effect.</p>
		NJW	Agree	Agree	Moderate, adverse	S	S	<p>The stack would be visible but to a lesser degree than for VP17.</p> <p>At such close range the adverse effect would be temporarily much greater at times when the plume is visible.</p> <p>My assessment of level of effect follows LVIA Fig 9.6 methodology.</p>

19	SW Coast Path adjacent Portland Castle	JM	Medium to high	Very small	Minor adverse		?	Unclear whether this is considered significant or not. JM has introduced a new category of magnitude 'very small' which departs from his stated methodology (Table 3.2 in Appx JM3). The assessment text is contradictory, saying 'proposed development would not be visible' but also that 'the stack would be visible'
		NJW	Agree	Small to negligible	Slight adverse			Not considered significant
20	Hamm roundabout/Osprey Quay	JM	Medium	Very small	Negligible to Minor, adverse		?	Unclear whether this is considered significant or not. JM has introduced a new category of magnitude 'very small' which departs from his stated methodology (Table 3.2 in Appx JM3).
		NJW	agree	Small to negligible	Slight adverse			I do not consider this to be a particularly informative viewpoint to have chosen for assessment purposes.
21	Hamm beach south	JM	High	Small to medium	Moderate adverse			Not considered significant. Choice of viewpoint does not represent 'worst case scenario' – magnitude of change and level of effect would be greater at my Photograph A location.

		NJW	Agree	Agree for this location, but would be 'medium' for my Photo A location	Agree moderate adverse for this location, but would be 'substantial adverse' for my Photo A location	S	S	Levels of effect follow LVIA Fig 9.6 matrix. Given that there are nearby viewpoints within the WHS (e.g. my Photograph A) where effects would be greater, the 'worst case scenario' principle has not been followed.
22	Chesil beach	JM	High	Small to medium	Moderate adverse			Not considered significant.
		NJW	Agree	Agree	Agree	S	S	Agree level of effect would be moderate adverse but consider this would be significant.
23	Hamm beach north	JM	High	Small to medium	Moderate adverse			Not considered significant.
		NJW	High	Medium	Moderate to substantial adverse	S	S	Development would appear as a very large man-made structure in relation to the profile of the island. The silo does not breach the skyline in this view, so the ERF would change the view to a greater extent than in VP22.
24	Southwest end of Rodwell Trail	JM	High	Small to medium	Moderate adverse			Not considered significant.
		NJW	Agree	Medium	Moderate to substantial adverse	S	S	Change in view will be similar to that experienced at VP9

25	Rodwell Trail, above Castle Cove Sailing Club	JM	High	Small to medium	Moderate adverse			Not considered significant.
		NJW	Agree	Medium	Moderate to substantial adverse	S	S	Change in view will be similar to that experienced at VP9
9	Sandsfoot Castle Gardens	LVIA	High to medium	Medium adverse	Moderate adverse	S	S	
		JM	High	Small to medium	Moderate adverse			<p>Concurs with LVIA assessment of level of effect but does not consider it to be significant.</p> <p>Agrees that the LVIA underestimated the sensitivity and that it should be 'High'.</p> <p>Downgrades the LVIA magnitude from 'medium' to 'small to medium'. This is illogical, because the development breaches the skyline in this view so the change in view must be significantly greater than for VP10 where it would not, and where JM has also assessed the magnitude to be 'small to medium'.</p>
		NJW	High	Medium	Substantial adverse	S	S	<p>Sensitivity agreed to be High.</p> <p>I concur with the LVIA assessment of magnitude as 'medium'.</p>

10	Nothe Fort and Gardens	LVIA	High to medium	Small adverse	Moderate to slight adverse	S		
		JM	High	Small to medium	Moderate adverse			<p>Agrees that the LVIA underestimated the sensitivity and that it should be 'High'.</p> <p>Agrees that level of effect was underestimated in the LVIA but does not consider effects to be significant.</p>
		NJW	High	Small	Level agreed to be moderate adverse, but considered significant	S	S	<p>I concur with the LVIA assessment of magnitude but JM and I agree that sensitivity was underestimated.</p> <p>Magnitude and effect are less than for VP9 because development would not breach the skyline.</p>