
CLOSINGS FOR
ON BEHALF OF MAGWATCH

n.b. all page references in footnotes are to electronic page numbers

Introduction

1. Please may we commence by thanking the Local Planning Authority for hosting the inquiry so professionally.
2. As stated in opening this is a 2010 solution to a 2030 problem. The evidence you have heard throughout this inquiry confirms that this proposal is not needed, is not beneficial and is not justified.
3. This closing is split into nine sections:
 - a. Scope and calibrating remarks.
 - b. Relevant Policy Background
 - c. Need
 - d. Carbon Capture Readiness and Combined Heat Power (CHP);
 - e. Health
 - f. Climate Change
 - g. Landscape Harms and Visual Amenity
 - h. Catchment Condition
 - i. Green Belt & the overall Planning Balance.

Scope of Closing and Calibrating Remarks

4. We fully endorse the Local Planning Authority's case. They have substantiated their concerns regarding landscape impacts and the impact on green belt. Their evidence was overwhelming, comprehensive and couched in fact and credible professional judgment.

The appellant's evidence by contrast is laced with double standards, inconsistencies and unjustifiable assertions.

5. Accordingly, Magwatch will not repeat matters addressed by the LPA except on a few points where our submissions go further.
6. A few calibrating remarks:
 - a. You are not limited to the reasons for refusal. You are not limited for the reasons for refusal with regard to the scope of matters you consider material. You are not limited by the reasons for refusal in the weight you accord to the evidence. As Mr Ahern said in evidence, the reliance placed on the appellant on LPA's formulation of the reasons for refusal when they fundamentally disagree with the judgment of the LPA is 'ironic.'¹
 - b. We would urge you to consider the evidence in light of the appellant's and other developers' conduct—this is particularly relevant in relation to the catchment condition and the prospect of Portland and Parley coming to fruition.
 - c. We would also urge you to bear in mind that this scheme is being addressed in a context where alternatives already have planning permission within the waste plan area which are not in the Green Belt. In the context of Portland, this was not an allocated site and was approved in a context where policy required that unallocated sites were superior to allocated sites.²
 - d. Much weight is rightly placed on the Portland decision³ by those for and against this development. The Portland decision must be treated carefully—in some areas such as Green Belt there has been no material change in policy, whilst in other areas such as new NPS policies EN1 & EN3 these post-date the decision in that case.
 - e. This development pollutes⁴ and is not limited to feedstock that **cannot** be recycled.⁵ The development is being proposed in the context where the route to

¹ Frank Ahern, 2nd appearance, morning 17 June 2026.

² Local Waste Plan [CD 6.1.1 – Local Waste Plan - Policy 4a- “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”]

³ [CD 9.1.3]

⁴ Paragraph 5.1 of Mr Dearing's proof [CD 12.1.5]. The Net Operational Impact is 88,495 tCO₂e/annum

⁵ Mr Brelsford's proof at [CD 12.1.12, paragraphs 5.11 & 5.12 on page 9] and Mr Asquith in cross-examination on the afternoon 17 June 2026.

Net Zero is ‘very challenging.’⁶ As a consequence, the justification for this proposal must be robust to ensure that such pollution is truly necessary and the risk of incentivising the subversion of the waste hierarchy is fully considered.

- f. Finally, by way of calibration—much is made by the appellant that their proposal is better or similar to other facilities. This is completely the wrong way to consider this proposal; it must justify its existence by policy compliance not whether it marginally superior to past mistakes where the political drive to fully address net zero, secure a circular economy and respect the waste hierarchy was not present.

Policy

7. It is a point of agreement⁷ that the Local Waste Plan (“WP”)⁸ is up to date. However, the WP must be read as a whole. Moreover, since the policy requires need to be assessed dynamically, an acknowledgement that the WP is up to date does not equate to acceptance that the guide figures on need are accepted as up to date.⁹
8. We will not comprehensively address every single policy relevant to the development as they are comprehensively covered by the LPA. However, we would like to draw attention to the following policies we say are breached:
 - a. Policy 1 requires that a development respects the underlying principles of the waste plan: the waste hierarchy, self-sufficiency and proximity.¹⁰
 - b. Policy 3, inset 8 allocated a significant uplift of c.25kt per annum.¹¹
 - c. Policy 4a provides critical context in relation to Portland and Parley when it states: “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”¹²

⁶ Mr Dearing in cross-examination.

⁷ [CD 8.1.2]

⁸ [CD 6.1.1].

⁹ Mr Brelsford, re-examination 16 June 2026.

¹⁰ [CD 6.1.1, page 20]

¹¹ [CD 6.1.1, page 31]

¹² [CD 6.1.1, page 35]

- d. Policy 7 requires a “clearly established need for the additional waste disposal”. Accordingly, the need must correlate to the proposal—it is not sufficient to point to some need.¹³
9. At this stage, it is useful to address the point raised by Mr Asquith in his proof at paragraphs 3.6.5.5 onwards¹⁴ that the allocation allows for a development of this size. However, that is comparing apples with pears and as Mr Brelsford put it succinctly in his proof: “Consented mechanical treatment capacity does not generate an implied entitlement to incineration at a scale of the Applicant’s desire.”¹⁵ Mr Asquith accepted in cross examination that these are different processes.¹⁶
10. Policy 7 is clarified by paragraph 7.7 of the Waste Plan:¹⁷

7.7 Information set out in this chapter and, where relevant, **updated details of waste arisings and capacity drawn from published monitoring reports should be used to demonstrate need**, as part of any planning application for the disposal of waste. In addition, the following information **should be used** to demonstrate need:

- the nature and origin of the waste to be managed
- a review of existing or permitted operating capacity within the Plan area and reasonable proximity dealing with specific waste streams in question
- the potential shortfall in capacity or market need that the proposal seeks to address;
- Consideration of alternatives,
- justification for the disposal as opposed to management options further up the waste hierarchy, and
- **other available information on waste arisings where it is more up to date than published monitoring reports.**

11. It is also a point of agreement that NPS policies EN1, EN3 and the Defra Capacity Notes are all material.¹⁸

¹³ [CD 6.1.1, page 81]

¹⁴ [CD 12.1.2, page 49]

¹⁵ [CD 12.1.12, page 23, paragraph 5.63(iii)]

¹⁶ Cross-examination, Thursday 18 June Afternoon.

¹⁷ [CD 6.1.1, page 37]

¹⁸ [CD 8.1.2]

12. Dealing with those in turn; starting with the DEFRA Capacity Note ('the Capacity Note').¹⁹

This amounted to a step change in the approach for Energy from Waste facilities:

“For far too long, the nation has seen its recycling rates stagnate and relied on burning household waste, rather than supporting communities to keep resources in use for longer. That ends today, with clear conditions for new energy from waste plants...”²⁰

The salient points arising from the Capacity Note are as follows:

- a. The capacity note should be given full weight: “This note is intended to support decision makers in planning for residual waste treatment to support our national resources and deliver a circular economy.”²¹
- b. The capacity note repeatedly and emphatically warns against overcapacity.²²
- c. The capacity note requires decision makers to take into account emerging capacity²³ rather than merely operational capacity, which Mr Asquith acknowledged was an evolution from the NPPW.²⁴
- d. The common-sense acknowledgement that not every site will come forward and should be seen as a pool of potential capacity is not, as the appellant appears to suggest, a licence for “anything goes”.²⁵ The policy still heavily and emphatically cautions against over capacity and requires a ‘clearly defined need.’²⁶

13. Policies EN1 and EN3 are material, but Magwatch accepts that they are NPSs and have statutory role in relation to NSIPs. They still represent a clear evolution in government policy and place additional hurdles for a planning permission. In Magwatch’s submissions those additional requirements should be given full weight. Further, it is important to note that the EN1 & EN3 policy statements post-date the North Lincolnshire decision.²⁷

14. Paragraph 1.2.2 of EN1 is clear that the relevance of an NPS is dependent upon whether there are additional requirements that go beyond the requirements of the local development plan:

¹⁹ [CD 9.1.1]

²⁰ Paragraphs 54 and 55 of UKWIN’s May 2025 objection [CD9 1.47 (b)]

²¹ [CD 9.1.1, page 25]

²² [CD 9.1.1, pages 4, 6, 25, 27 and 36]

²³ [CD 9.1.1, page 15 for example]

²⁴ Cross examination, afternoon 17 June 2026.

²⁵ Mr Brelsford, evidence in chief, afternoon 16 June 2026.

²⁶ [CD 9.1.1, page 26]

²⁷ 13 March 2025 [CD 9.1.34b, page 1]

Whether the policies in this NPS are material, and to what extent, will be judged on a case-by-case basis and will depend upon the extent to which the matters are already covered by applicable planning policy.²⁸

15. The following are additional requirements of the NPS that should be given full weight since they are not found in the WP:

a. Paragraph 3.3.38 of EN1 requires that proposals must demonstrate that:

“Can be built Carbon Capture ready, in accordance with the government’s ‘Decarbonisation Readiness’ requirements once they come into force; and Demonstrate that making use of the heat they produce is viable and they can connect to a heat network within three years of the plant’s operation.”²⁹

b. Paragraph 3.3.40 of EN1 requires that in assessing a proposal:

The availability of feedstock will reduce over time in accordance with the statutory residual waste reduction target. Proposals **must** therefore be in **accordance with meeting this statutory target**.³⁰

c. Paragraph 2.7.8 of EN3 fundamentally alters the planning judgment on whether other potential proposals should be considered:

“...Applicants in England must demonstrate that they are meeting a residual waste treatment need that cannot be met by existing EfW facilities and EfW facilities in **active development**”³¹

d. Paragraph 2.7.50 of EN3 provides that promoters must demonstrate:

“how they intend to ensure that recyclable materials, including those that may be recyclable in the future, will be separated and sent for appropriate treatment. In accordance with the waste hierarchy, recyclable material must not be combusted.”³²

16. Mr Asquith appeared to argue that since the scale of the proposed development was not an NSIP that the NPS should not be given their full weight.³³ This is unsustainable; it

²⁸ [CD 9.1.20, page 7]

²⁹ [CD 9.1.20, page 38]

³⁰ [CD 9.1.20, page 35], the statutory targets are those arising from The Environmental Targets (Residual Waste) (England) Regulations 2023 at [CD 9.1.28]. This section is drawn to the inquiry’s attention without prejudice to the submission that Magwatch’s case does not depend on an arid predictive exercise of future need.

³¹ [CD 9.1.21, page 19]

³² [CD 9.1.21, page 24]

³³ Cross-examination on 17 June 2026, afternoon.

would run counter to clear direction of Government policy if the necessary and ambitious government policies could be circumvented by a phalanx of schemes that come under the NSIP thresholds. Further, it would run counter to the clear injunction contained in EN1 that relevance is not assessed by reference solely to scale but to the extent that matters are addressed in the WP.

17. Against that policy background and the policy background laid out by the LPA, we now address the main issues we seek to address:

- a. Need
- b. Carbon Capture Readiness and Combined Heat Power (CHP);
- c. Health
- d. Climate Change
- e. Landscape Harms and Visual Amenity
- f. The Catchment Condition
- g. Green Belt & the overall Planning Balance

Need

18. This development is not needed. It will result in overcapacity.³⁴

19. Magwatch submits that the evidence of need must meet the exacting threshold of ‘clearly defined.’ Breaking that down, the requirement for need must be clear (i.e. there should be real as opposed to speculative doubt that other projects will not come forward). Need must also be defined; it must explain why alternatives are not feasible and take into account the best information available. Magwatch addresses the case for regional and local need first, before addressing the issue of other facilities.³⁵

Regional and Local Need

20. Magwatch notes that during the discussion of conditions, the appellant brought the most recent up to date information it had on local authority generated waste to ensure a fully informed decision was made.³⁶

³⁴ The case for need is also summarised in Mr Brelsford’s note at [ID25]

³⁵ There is no suggestion from the appellant that there is a national need for this facility.

³⁶ Conditions discussion, 18 June 2026. The figure of 160,000 tonnes per annum was mentioned by the appellant.

21. Magwatch submits that the same approach should apply to the actual planning permission, not just because it is an affront to common sense to rely on elderly data when more recent data is available but because policy requires it:

- a. The WP states at policy 7 that proposals for final disposal of non-hazardous waste must demonstrate that there is a 'clearly established need'.
- b. Paragraph 7.7 explicitly points to annual monitoring requirements should be used to demonstrate need.
- c. The capacity note repeatedly and emphatically cautions against overcapacity.
- d. EN-3 requires a 'clearly defined need'
- e. The WP figures are not sacrosanct as demonstrated by the Portland inquiry and accepted in cross examination.

22. Accordingly, Magwatch invite the inspector to conclude that the appellant has not demonstrated the need for this proposal.

- a. The most recent annual monitoring report shows a considerably lower level of waste generation than the WP, table 7.³⁷

Waste Data - Summary								
Authority	Recycled	Composted	Reused	Landfill	Energy from Waste (EfW)	Incineration (without EfW)	Other	Total
Dorset Council	55,212	51,523	318	5,613	59,037	0	6,325	178,028
BCP Council	53,544	36,097	342	26,710	54,822	0	23,999	195,514

Source: 2021 Minerals and Waste Annual Monitoring Report, Dorset Council and BCP Council (published 9 May 2024), p.6.

- b. These are corroborated by recent freedom of information figures generated by both BCP and Dorset council.³⁸

³⁷ [CD 9.1.12, page 46]

³⁸ [CD 9.1.12, page 46]

Table 2: WPA Residual Waste Arisings 2023/2024 (Fol Data) summary

Authority	Landfill (tonnes)	Incineration (tonnes)	Combined Total (tonnes)
BCP Council	18,722	81,109	86,921
Dorset Council	9,885 (using 6.13% of total LACW per DC10620)	58,885	68,770
Grand Total	28,607	139,994	155,530

23. The appellant sought to attack the AMR figures in four ways:

- a. **First**, they argued they were superseded by the Portland decision—they were not considered or grappled with in the Portland decision.³⁹
- b. **Second**, they argued that they did not consider commercial or industrial waste—the report clearly did.⁴⁰
- c. **Third**, they argued that they did not tell us anything useful—they did, they specify the amount of local authority collected residual waste and were produced in accordance with the waste plan.
- d. **Fourth**, they argued (in re-examination) they were from 2021 so carry little weight. They are more recent than the figures in the waste plan and are the best evidence available. Whilst it would be preferable to have an even more updated AMR, they are the most up to date published figures and the desire for even better figures does not undermine their relative strength. They are in short, the best you have to go off.

24. In light of these figures which were not disputed and the overwhelming steer from local and national policy that figures contained in the WP are not fixed, Magwatch submits that the appellant has simply failed to demonstrate the need for a development of this size.

25. The figures are stark and were presented by Mr Brelsford in his proof:

- a. Against the AMR and FOI based figures, this development alone (260,000 tonnes per annum('tpa')) creates overcapacity (139, 994 tpa (FOI) or 113,859 tpa (AMR)).

³⁹ As accepted in cross examination by Mr Asquith, Wednesday 17 June 2026 Afternoon.

⁴⁰ [CD 6.1.1c, page 6]

- b. It is only when the original outdated figures from Table 7 of the WP are used that there is a potential need for a development. That does not mean that this development, given its size, is required. Mr Asquith accepted in cross examination, provision beyond Portland and this development would be overcapacity.⁴¹
26. It is important to emphasise that Magwatch is explicitly not inviting you to undertake an arid and speculative forward looking exercise but to base your judgment on the most recently available figures and take those as representative of need.⁴² The AMR is the latest formal expression on need produced by the Waste Plan Authority, and is part of the WP, not separate.
27. Further, any suggestion that MVV has made its case based on the needs of the greater South West region and beyond is not sustainable. Hampshire is extending contracts to all three EfW plants until 2036,⁴³ and is investing £50.5 million into a state of the art MRF; and their updated waste plan does not call for any further recovery capacity.⁴⁴ The consented Westbury plant has a secure waste stream,⁴⁵ and is designed to serve the region, moreover Wiltshire County Council is not even able to meet its current minimum tonnage guarantees for residual waste and has suffered financial penalties as a result;⁴⁶ and Somerset holds long-term residual waste contracts to 2045 with Avonmouth ERF operators.⁴⁷ Finally, Mr Carey's proof explains that Marchwood ERF has spare capacity and 'often' treats Dorset's waste.⁴⁸
28. On that basis the appellant's case fails to demonstrate need.

Alternative Facilities

29. Trying to read the tea leaves and decide whether Portland and Parley are definitely going to come forward is also an arid exercise. So do not do it. It is a question of applying planning policy based on evidence as to whether those proposals, in the words of the capacity note, are in active development. The onus is on the appellant to demonstrate need,

⁴¹ Mr Asquith's cross-examination on Wednesday 17 June 2026, Afternoon.

⁴² Were the inspector minded to look beyond the AMR, then Magwatch continues to adopt UKWIN's analysis contained at section 8 of Mr Brelsford's proof [CD 12.1.12, at page 30 onwards] which provides comprehensive modelling that demand will decrease materially over time. Further, such an approach would be consistent with EN1 3.3.40 that requires that "Proposals must therefore be in accordance with meeting this statutory target" contained in the Environmental Target Regulations 2023 [CD 9.1.28]

⁴³ [CD 15.1.9 Mr Brelsford's Capacity & Need Rebuttal Appendix 1, page 13, para 1.1]

⁴⁴ [CD 14.1.8 Updated Hampshire Waste Plan]

⁴⁵ [CD 12.1.12 Mr Brelsford's Proof, Appendix 1, page 95, paragraph 8]

⁴⁶ [CD 12.1.12 Mr Brelsford's Proof, Appendix 1, page 116]

⁴⁷ [CD 12.1.12 Mr Brelsford's Proof, Appendix 1, pages 77-78]

⁴⁸ [CD12.1.1 Mr Carey's Proof, para 7.1.6]

not on anyone else. Both Portland and Parley have planning consent, Parley has discharged its conditions and Portland has an environmental licence. The Portland decision has survived (no doubt at great expense to its promoters) an even longer planning appeal than this, a high court judgment and a Court of Appeal judgment. In that context, the appellant has not provided anything approaching sufficient evidence to demonstrate that those consented plans coupled with Canford will not create overcapacity and exceed need. No one has provided evidence that they are being mothballed or in a permanent state of abeyance. There is no basis to conclude otherwise than that they are in “active development.”

30. For the avoidance of any doubt, the burden is not on objectors to prove Portland & Parley will be built.
31. The appellant places considerable reliance on the references in the capacity note on a pool of capacity references and the North Lincolnshire decision⁴⁹ where the secretary of state held that “just enough” capacity would undermine necessary resilience. These can be addressed briefly: not even the appellant sought to argue that the combination of either this development and Portland or Portland, Canford and Parley would amount to “just enough.” Treating potential projects of a pool of capacity does not equate, as the appellant came close to suggesting, to presuming all non-operational plants which secured planning permission and applied for environmental licences were unviable until proven otherwise. As stated above, the requirement is on the appellant to demonstrate need and that includes demonstrating that alternatives are not viable, rather than just hoping they were not. Further, the more exacting requirements of NPS Policies EN1 and EN3 post-date the North Lincolnshire decision.
32. The appellant relies on the evidence of Mr Carey on this point.⁵⁰ However, he has a clear incentive to minimise the credibility of Portland and Parley who are commercial rivals and has not made a declaration in accordance with a professional association. Any weight placed on his view must be decided in that context.
33. Accordingly, the appellant has not demonstrated that this development will not result in overcapacity. Even putting aside Portland and Parley, if the most up to date available figures are used (in accordance with the WP), there will be substantial overcapacity based on the figures contained in the AMR which is the latest expression of the WP.

⁴⁹ [CD 9.1.34(c)]

⁵⁰ [CD 12.1.1] Paragraph 2.1.14.

Carbon Capture Readiness and Combined Heat & Power (CHP)

34. Magwatch maintains that the proposal cannot sufficiently demonstrate that it is Carbon Capture ready, nor that CHP is in-fact viable. The applicable policies require a demonstration that the development is Carbon Capture ready.

Carbon Capture Readiness

35. In relation to Carbon Capture readiness, EN1 addresses the overarching policy context on Carbon Capture and Storage at section 4.9. At paragraph 4.9.28 EN1 provides the requirements that must be addressed in order for an applicant to demonstrate that a proposal is Carbon Capture ready. The guidance requires:

- that sufficient space is available on or near the site to accommodate carbon capture equipment in the future;
- the technical feasibility of retrofitting their chosen carbon capture technology;
- that a suitable area of deep geological storage offshore exists for the storage of captured CO₂ from the proposed combustion station;
- the technical feasibility of transporting the captured CO₂ to the proposed storage area; and
- the economic feasibility within the combustion station's lifetime of the full CCS chain, covering retrofitting, transport and storage.

36. The subsequent paragraphs 4.9.29 to 4.9.31 provide additional information about the requirements including that *“Applicants should conduct a single economic assessment which encompasses retrofitting of capture equipment, CO₂ transport and the storage of CO₂. Applicants should provide evidence of reasonable scenarios, taking into account the cost of the capture technology and transport option chosen for the technical CCR assessments and the estimated costs of CO₂ storage, which make operational CCS economically feasible for the proposed development.”*⁵¹

37. Magwatch maintains that the Appellant has failed to meet those requirements.

38. **First**, the space that is available for the Carbon Capture Plant is not sufficient.

- a. The space allocated for the Carbon Capture Plant at the application stage was a mere 1100 square meters⁵². The Appellant's feasibility assessment doubled the

⁵¹ [CD 9.1.20] paragraph 4.9.31

⁵² Area identified as “ID23” in [CD2.1.21]; Mr Carey, cross-examination, 3 June 2026

space allocation to 2500 square meters⁵³, and Mr Carey accepted that the space remains subject to change, stating that “it can go up, and can go down”.⁵⁴ The fact remains that the space required has only gone up.

- b. The Appellant’s own feasibility assessment notes that “*for a plant of this capacity, the typical required area would be larger*”⁵⁵. The Haverton Hill facility in the Tees Valley, Durham, offers a comparator, where a plant of equivalent capacity had 10 000 square meters allocated for a carbon capture and storage⁵⁶. As accepted by Mr Carey, this is an area over nine times larger than that proposed by the Appellant at the application stage, and four time larger than the one considered by the feasibility study. Further afield, the AVR Netherlands EfW plant has approximately 4000 square meters allocated for Carbon Capture and Storage⁵⁷, for a capacity less than half that of the proposed development. It remains the case that the Appellant provides no real-world examples of a carbon capture plant built on such a highly constrained site.
- c. Further, the area reserved for the Carbon Capture Plant, is also allocated as a maintenance and laydown space. Despite Mr Carey’s assurances that the space for maintenance and laydown can be moved around the site⁵⁸, it remains the case that this is not detailed on any of the indicative plans that helpfully illustrate the layout of buildings and uses across the proposed development.

39. **Second**, there is simply insufficient detail to be assured of the technical feasibility of accommodating a Carbon Capture Plant on such a highly constrained site. The Appellant’s feasibility study is qualified and vague. It is based on assumptions as to the allocation of space and is subject to further significant optimisation measures⁵⁹. Mr Carey put faith in the fact that KVI say the technology can be stacked upwards and stated that the design will evolve⁶⁰, but it remains the case that this far it has evolved in only one direction – by increasing the footprint of the area required to accommodate the technology. In the absence of any real-world examples where the technology has been deployed and reduced

⁵³ [CD 12.1.1(d), page 21]

⁵⁴ Mr Carey, cross-examination, morning 3 June 2026

⁵⁵ [CD 12.1.1(d), page 21]

⁵⁶ [CD 12.1.11, page 76] Paragraph 7.1.16

⁵⁷ [CD 14.1.13, sections 3 to 3.2 at pages 6 to 7] “*Carbon capture from EfW A low hanging fruit for CCS deployment in the UK*” (Oxford Institute for Energy Studies)

⁵⁸ Mr Carey, cross-examination, morning 3 June 2026

⁵⁹ [CD 12.1.1(d), pages 21 to 23]

⁶⁰ Mr Carey, cross-examination, morning 3 June 2026

in footprint to fit such a highly constrained site, the Appellant's claims as to feasibility are merely theoretical and unproven.

40. **Third**, there is insufficient detail to be assured of the technical feasibility of transporting the captured CO₂. The proposed pipeline routes for transporting captured CO₂ are all constrained by proximity to urban and residential areas, environmentally sensitive and protected habitat areas, high density infrastructure, sensitive developments and watercourse and terrain features.⁶¹ Two examples illustrate the significant challenges of these constraints.

- a. The route to the Fawley Refinery is assessed as not technically feasible due to the cumulative impact of passing through urban environments and protected habitats, as well as interference risk with third party assets infrastructure constraints.⁶² The route to the railhead at Furzebrook faces significant constraints and a considerable engineering challenge as a result of passing through Purbeck Heaths National Nature Reserve.⁶³
- b. Such heightened public safety and environmental considerations are present across all proposed routes. Yet the methodology of the feasibility study undertook no population-density analysis, no site surveys or ground investigations, and relied solely on aerial data rather than detailed field-verified information.⁶⁴ Given the recognised constraints, there is simply insufficient detail to be confident in the feasibility of transporting the capture CO₂ from this location.

41. **Fourth**, there are no suitable areas of deep geological storage offshore.

- a. In so far as the Appellant relies on storage within the English Channel saline aquifer, that concept is a non-starter. There is no Government support for a cluster project for CO₂ storage in the English Channel. Further, the leading commercial supporter for the so-called Solent Cluster, Exxon Mobil, withdrew from the project due to lack of certainty over Government policy and timelines, as well as due to the fiscal and market environment. Mr Carey did not dispute that⁶⁵, nor did he present any evidence that this state of affairs is likely to change.

⁶¹ Mr Carey, cross-examination, morning 3 June 2026 and [CD12 1.1(e), page 15]

⁶² [CD 12.1.1(e), page 17]

⁶³ [CD 12.1.1(e), page 42]

⁶⁴ [CD 12.1.1(e), page 15]

⁶⁵ Mr Carey, cross-examination, morning 3 June 2026

- b. The alternative concept for storage proposed to use of empty oil wells at Wytch Farm, but this was equally unsupported by evidence. Mr Carey made vague references to discussions with Perenco, who are the owners of the Wytch Farm oil field, about the use of the location for storage but accepted that there was nothing before the Inquiry from Perenco.⁶⁶ Any reliance on Wytch Farm as a storage location would therefore be highly speculative.
 - c. Finally, Mr Carey made vague reference to transporting CO₂ by rail from Furzebrook.⁶⁷ However, that ignores the identified challenges of transporting the capture CO₂ by pipeline and fails to provide detail as to where the CO₂ would be transported.
42. As things stand the Appellant has produced no evidence on which it can reasonably be relied upon to conclude there would a suitable area of geological storage either onshore or offshore.
43. **Fifth**, there is no economic feasibility assessment. Despite all of the technological, the regulatory, and the planning challenges of executing carbon capture and storage on this site, as well as the lack of support from government and major commercial entities for suitable storage offshore, the Appellant has chosen not to commission any economic feasibility assessment.⁶⁸ There is therefore no basis on which the economic feasibility of Carbon Capture readiness can be accepted.
44. Overall, the proposal does not meet the five requirements set out in EN1, and as a result no weight can be attached to the claim that it is Carbon Capture ready.
45. You do not need to accept Magwatch's word for this; instead you can rely on Mr Dearing. As part of his assessment of carbon impacts and in accordance with the appropriate guidance he split mitigation between embedded mitigation and potential mitigation. When differentiating between the two he applied the following criteria:

Where embedded/committed mitigation is relied upon in the assessment of effects, the practitioner must form a clear judgement that this mitigation is:

- 1. Evidenced in the design for the project

⁶⁶ Mr Carey, cross-examination, morning 3 June 2026

⁶⁷ Mr Carey, cross-examination, morning 3 June 2026

⁶⁸ Mr Carey, cross-examination, morning 3 June 2026

2. A committed goal that is secured, e.g. forming part of the description of development, a specific planning condition/requirement, or a legal agreement
3. Realistic and achievable to deliver.⁶⁹

When he applied that criteria, he found that Carbon Capture was either not evidenced in the design for the project, a secured goal or realistic and achievable to deliver or a combination of all three.

Combined Heat and Power

46. In relation to CHP viability, EN1 at paragraph 4.8.12 provides that “if the application is related to biomass and waste combustion as part of an EfW plant, the application **must** detail how the plant will maximise the amount of heat available **and** provide heat to a heat network within three years of entering operation”.⁷⁰

- a. Firstly, on the Appellant’s own information supplied to the Environment Agency in 2025 the proposed CHP would not be technically, nor commercially, viable as a result of the need to supply heat over a large geographic area to multiple disparate consumers.⁷¹ While the prospects to supply heat to a residential and commercial development may look different now, the improved prospects of heat export are broadly as a result of the proposed Canford Garden Village development⁷². On that, Mr Carey fairly accepted that Canford Garden Village development is only at the planning application stage and there is no guarantee it would be built.⁷³ This is a typical example where speculative development that supports their policy is cited, but planning permissions that have survived appeal, a judicial review, a visit to the Court of Appeal and acquiring an environmental permit such as Portland are dismissed.
- b. Secondly, on the evidence the earliest that the proposed development could use heat to supply electricity to the national grid is 2036.⁷⁴ Mr Carey accepted that the only evidence before the Inspector was the SSEN date for connection.⁷⁵ Therefore

⁶⁹ [9.1.85, page 30]

⁷⁰ [CD 9.1.20, page 86]

⁷¹ [CD 12.1.11, page 161] Appendix 8

⁷² Mr Chesterfield, cross-examination, morning 3 June 2026

⁷³ Mr Carey, cross-examination, morning 3 June 2026

⁷⁴ [CD 12.1.11, page 82] Paragraph 7.2.2

⁷⁵ Mr Carey, cross-examination, morning 3 June 2026

little, or no weight, can be placed on the prospect of using heat to generate electricity.

47. As it stands there is a lack of clarity and certainty over the level of heat export that would be achievable, whereas EN1 requires that a proposal must be able to demonstrate that use of the heat produced is viable and that it can connect to a heat network within three years of the proposed plant's operation. This in Magwatch's submission is clear incompatibility with material policy.

Mental Health and the Perception of Harm

48. The impact on public health and well-being, and the perception of harm by the local community are material considerations.⁷⁶ The appellant's evidence is inadequate on multiple fronts.
49. On the impact on public health and well-being, Dr Buroni agreed that there was more than a theoretical link that this type of development could cause harm, indeed this is precisely why assessments are carried out.⁷⁷ It followed that the effects of the development should be modelled properly.⁷⁸ The main point of contention was the approach to modelling sensitivity.
50. Dr Buroni accepted that using individual LSOAs would be an alternative reasonable approach to the ward level view he had undertaken.⁷⁹ Further Dr Buroni did not disagree that the effect of using a ward level view was to mask pockets of deprivation.⁸⁰
51. Magwatch maintains that the ward level approach is inappropriate because it materially lowers the combined Bearwood and Merley score and does not reflect Bearwood's areas of deprivation. The effect was that sub-populations with significantly higher levels of deprivation according to the Index of Multiple Deprivation, which amongst other things also accounts for health deprivation, were not clearly identified.⁸¹ The relevant individual LSOAs should have been classified with a high sensitivity receptor score.
52. On the perception of harm, (i) fear and concern must be real and have some reasonable basis, though falling short of requiring the feared outcome to be proved as inevitable or

⁷⁶ [CD 8.1.2, page 26] Paragraph 7.1(k) in Statement of Common Ground

⁷⁷ Dr Buroni, cross-examination, morning 5 June 2026

⁷⁸ Dr Buroni, cross-examination, morning 5 June 2026

⁷⁹ Dr Buroni, cross-examination, morning 5 June 2026

⁸⁰ Dr Buroni, cross-examination, morning 5 June 2026

⁸¹ [CD 12.1.11, page 127]; and [CD 15.1.10, pages 6 to 7] Paragraphs 3.1 to 3.6

highly likely; and (ii) the object of that fear and concern must be the use, in planning terms, of the land.⁸²

- a. **First**, irrespective of how successfully potential harmful effects are mitigated or prevented, developments such as the proposal have associated hazards that are capable of having an effect on human health and the environment. The community's fears are based on reality.
- b. **Second**, as Mr Brelsford explained, public exhibitions by the Appellant had not been well advertised and ultimately failed to allay fears.⁸³ In addition to Magwatch, submissions by Interested Parties, as well as Councillors and Vikki Slade MP, all raise real concerns around pollution and the impact on local communities. Further, the Appellant's own research showed a significant proportion of objections were based on the fear of impact on air quality and human health.⁸⁴ The reality and seriousness of these fears has been recognised by the Dorset branch of the national mental health charity Mind and should be treated with the seriousness they deserve.⁸⁵ In the Archers Field appeal the volume of objections confirmed a genuine concern and fear over health consequences.⁸⁶
- c. **Third**, there have been incidents with the current site such as a large fire⁸⁷, and leachate contamination⁸⁸. Mr Brelsford explained that the current site has a permit and is regulated but things still go wrong, and there is a lack of trust the same will not happen at the proposed development.⁸⁹ In the Archers Field appeal it was an important consideration, not present in other appeals, that there was local first-hand experience of major problems caused and associated with waste management developments in the neighbourhood.⁹⁰
- d. **Fourth**, the ward level approach to assessing the significance of impact on the local communities means that vulnerable communities may not see themselves properly reflected in the assessment, which in the context of an EIA assessment

⁸² [CD 14.1.17] *Smith v First Secretary of State* [2005] EWCA Civ 859; and [CD 9.1.22] paragraph 81 in Land South of Archers Fields Close Appeal Decision (APP/Z1585/W/24/3357445)

⁸³ Mr Brelsford, evidence in chief, morning 5 June 2026.

⁸⁴ [CD 9.1.91, page 5] Figure 2.2

⁸⁵ [CD 12.1.11, page 65] Paragraphs 6.4.45 and 6.4.46

⁸⁶ [CD 9.1.22] paragraphs 82 in Land South of Archers Fields Close Appeal Decision (APP/Z1585/W/24/3357445)

⁸⁷ [CD 12.1.11, pages 137-143]

⁸⁸ [CD 9.1.80]

⁸⁹ Mr Brelsford, evidence in chief, morning 5 June 2026.

⁹⁰ [CD 9.1.22] paragraphs 86 and 107 in Land South of Archers Fields Close Appeal Decision (APP/Z1585/W/24/3357445)

with principles of public participation and transparency is harmful on its own terms. EIAs and public participation are premised on the belief that the public are a repository of valuable environmental information. Indeed, a more detailed analysis of sensitivity may have assisted in allaying fears.

- e. **Fifth and finally**, as Mr Brelsford explained⁹¹, the concerns raised about possible impacts on mental health were based on the Appellant's own identification of the issue⁹², the greater vulnerability of those parts of the community that had higher levels of deprivation that were masked by the ward level assessment, and the apparent gap in research.⁹³ Mr Brailsford further explained that it is inconsistent for the UKHSA to state categorically that living in close proximity to a modern EfW facility does not pose significant risks to health, while at the same time accept that mental health was not part of the study and research underpinning that opinion.⁹⁴ It remains the case that there is fear that potential health and environmental hazards associated with an EfW development have been underestimated, which has given rise to stress and anxiety.

53. Overall, there are real and reasonable fears across the community that have not been allayed. In the circumstances, the perception of harm should add at least a material and **moderate** amount of weight against the proposal.

Climate Change

- 54. Policy 3(c) of the WP requires consideration of the cumulative impact of the scheme. Any consent will require a full consideration of all the circumstances of this case and that includes carbon impacts. The 2024 NPPF explicitly requires that climate change compatibility be considered as part of the journey to net zero by 2050.
- 55. This development will produce a considerable amount of carbon dioxide (and equivalents) of 144,200 tCO₂e/annum.⁹⁵
- 56. This is not consistent with a net-zero pathway. In the Environmental Statement the appellant concluded:

⁹¹ Mr Brelsford, evidence in chief, morning 5 June 2026.

⁹² [CD 1.1.27(a), pages 2 and 5]

⁹³ [CD 12.1.11, page 67] Paragraph 6.4.56

⁹⁴ Mr Brelsford, in response to the Inspector's questions, morning 5 June 2026.

⁹⁵ [CD 12.1.5] Paragraph 5.1. The Net Operational Impact is 88,495 tCO₂e/annum

“Taking the above factors into consideration, the long-term impact of GHG emissions from operating the Proposed Development without CCUS, which is the balance of direct and indirect impacts of combustion, transport, use and disposal of its outputs, is judged to cause a **moderate adverse effect** that is **significant**, using the definition in paragraph 7.2.33.”⁹⁶

Yet the carbon impacts appear nowhere in the planning balances undertaken by Mr Asquith.

57. Mr Dearing was the co-author of the guidance *Assessing Greenhouse Gas Emissions and Evaluating their Significance*, 2nd Edition⁹⁷ and against that standard the development is found to have a significant adverse effect upon the environment.

58. The appellants rely on the counterfactual of business as usual to disregard these agreed impacts. This is a deeply unattractive submission:

- a. First, an argument that the development is marginally better than polluting alternatives is not an argument in favour of consent; it is an argument that others should be more tightly and retrospectively regulated. It is whataboutery in its laziest form that could be replicated elsewhere compounding challenges.
- b. Second, it renders the instruction under the guidance that developments are to be assessed against their compatibility with a net zero pathway nugatory. The guidance anticipates the use of convenient counter-factuals and rejects such an approach wholesale.
- c. Third, it relies on the belief that waste is immune to the iron laws of supply and demand as is ‘inelastic.’ As Mr Brelsford noted in his proof and Mr Asquith did not deny in cross examination, the appellant is planning to burn material that **is** not recycled rather than merely material that **cannot** be recycled. One might argue that if they were so confident of not diverting material from recycling they would be happy to suggest a condition to that effect.
- d. Fourth, the evidence used to support the proposition that waste was immune from the rules of supply and demand was threadbare and amounted to the appendix to the environmental statement⁹⁸ which Mr Asquith commented was a ‘very simple

⁹⁶ [CD 1.1.20(a)] Paragraph 7.5.25 of Chapter 7 of the 2023 ES

⁹⁷ [CD 9 1.85]

⁹⁸ [CD 11.1.18, page 2]

table'. That table confirms that whilst the mean average price for recycling is lower than energy from waste, there is a material overlap where incineration is the cheaper option. Waste disposal is not an act of charity. The data presented only the range of prices, so you have no evidence to go on regarding the extent and frequency of overlaps arising from the measure of spread. Accordingly, the evidence does not suggest that waste is immune from the most basic of economic principles. As Mr Dearing conceded in cross examination, the counter-factual is only superior if there is substitution.⁹⁹ The evidence of substitution is wanting for the reasons above.

- e. Fifth, the suggestion that Canford would be superior to its competitors relied on modelling as opposed to confirmed figures of efficiency and heat export which is not guaranteed. Accordingly, very limited weight should be afforded to the prospect that emissions from Canford are materially different from every other energy from waste facility.

59. The counterfactual that the appellants rely upon must be assessed against a future baseline where every other energy from waste facility will either have to close or eliminate their emissions in the face of a rising carbon tax¹⁰⁰ to secure compliance with the net zero target. This development has been assessed against the industry guidance and found incompatible with that trajectory. At one point, Mr Asquith suggested that the appellant should be rewarded for not performing mental gymnastics to shoehorn their proposal into compliance with policy.¹⁰¹ The only mental gymnastics are those where the appellant seeks to disapply an industry guideline because it does not like its outcome by relying on the exact logic that guidance rejects

60. For all these reasons, the carbon impact of this scheme when weighed against the “very challenging”¹⁰² net zero pathway should weigh heavily against this scheme and that is before we have addressed the unnecessary embedded carbon costs of construction and demolition.

⁹⁹ Cross examination on 9 June 2026.

¹⁰⁰ Mr Carey in response to an inspector’s question during the roundtable discussion of conditions. Thursday 18 June 2026.

¹⁰¹ Cross examination, Wednesday 17 June 2026 Afternoon.

¹⁰² Mr Dearing in cross-examination.

Landscape and Visual Impact Harm

61. This development will scar the landscape and blight precious views. A 50m elephantine carbuncle and 110m tower could not do anything less. The following and more restrained description from the Archers Field decision at paragraph 25 could apply to this development.¹⁰³

25. The design approach is appropriate for the use and industrial environment. The enclosure and containment of processes would do much to assist the integration of the development into the industrial townscape. Nevertheless, the cross-section plans show the building, by reason of its height and site coverage, would be relatively large even in its immediate context. There would be a substantial change to the character and appearance of the site, that would go well beyond tidying up. Site size, building and operational requirements and the character of the locality constrain the opportunity and appropriateness of introducing soft landscaping.

62. Magwatch will not seek to replicate the case of the Local Planning Authority regarding landscape which it endorses wholeheartedly. Magwatch does, however, consider that the attempts to artificially dissect visual harms from landscape harms in their questioning of Mr Reynolds unhelpful and counter to the GLIVIA guidance that foregrounds perceptual elements of landscape.

63. The inquiry is invited to adopt the conclusions of Mr Reynolds comprehensively. To that we would like to ask that Mr Ahern's observations as a long standing member of the community are taken into account (39 years and counting). On landscape impacts Mr Ahern observed:

- a. First, **to the North**, there is the beautiful setting of Canford Village which will be undermined by the alien intrusion of the development on the horizon. Canford school and grounds achieves near perfect tranquillity with its closeted grounds. An alien industrial chimney will take anyone out of that serene setting. The limited exposure to alternative elements such as AFC Bournemouth are trivial compared to the aggressive chimney haunting the horizon. The inquiry is invited to consider Mr Ahern's evidence at appendix six on the sensitivity of the landscape.

¹⁰³ [CD 9.1.22]

- b. Second, **to the East**, the inquiry will recall Mr Ahern articulately explained the sudden and near complete transposition that occurs when one leaves Bearwood and heads out to Canford Magna. The Magna Road has clear and uninterrupted sightlines both North and South which will be undermined by the structure and chimney.
 - c. Third and most importantly, **to the South**, there is the irreplaceable and sublime heath with panoramic views stretches for miles; the expanse of the heath which has not changed for 3,000 years, replete with the sound of Nightjars and Cuckoos, would be brutally compromised by a looming facility of industry. The existing facility is barely perceptible and does not create a precedent for destruction. It is completely understandable why Mr Ahern described this as the nub of Magwatch's objection.
 - d. Fourth **to the West**, the inquiry will recall that Mr Ahern was incisive in his linkage between history and character and the glimpses of the heath and how those will be broken notwithstanding the urbanising elements.
64. With regard to the visual impacts, the evidence presented by Mr Cook on behalf of the appellants was open to significant criticism. Despite the clear instruction from GLVIA 3 that there are not to be hard and fast rules with regards to significance, a rigid table was applied although Mr Cook acknowledged in cross examination that the inquiry was free to find significance on a moderate impact.¹⁰⁴
65. With regards to the magnitude of harm, the evidence of Mr Cook was simply not credible. Focusing on view 10, the inquiry will recall that Mr Cook refused to accept that the development would be clearly visible, retracted his answer that it was visible and held onto the assertion that the development was merely appreciable. He even held onto that view when it was pointed out that the exact contours of the shape of the main building were clear. This was simply not credible:

¹⁰⁴ In contrast, the LVIA undertaken as part of the ES found that a moderate impact was significant, table 12-5, page 8 of [CD3-1.5a]



66. The inquiry does not need to merely agree with Mr Ahern that the development will be alien and incongruous. That was the finding of the appellant's own LVIA which described the impact in the following terms:

"In views northwards from the heath, the Proposed Development is openly visible in the middle distance (1.5km). Users of this route along the most elevated section of the OAL will be able to see the top of the proposed building alongside the chimney. The existing chimney can be identified in existing views; however, the Proposed Development forms a new element in the view which would be identifiable to users. Although this location affords 360° panoramic views, the Proposed Development is experienced across a moderate geographical extent and is therefore considered to result in a high magnitude of change."

In the short and long-term, receptors at this viewpoint will experience a worst case major/moderate adverse level of effect which is significant in visual terms. ¹⁰⁵

67. Despite Mr Cook's insistence that urbanising elements out of view such as pylons and water towers undermined the visual experience, these were considered and discounted by

¹⁰⁵ [CD 3.1.5(c), page 20]

the authors of the LVIA. Further, the obvious point is that they were not materially present in the view. The green covered landfill is not urbanising now that it is mature whilst the future prospect of a glimpse of further solar panels sitting plane with the ground do not in any way undermine the visual violence done to the horizon. Instead, the reliance placed on future solar panels reveals the appellant's double standards where planning permissions are 'banked' where they support the appellant's proposal but disregarded when they undermine their case.

68. Mr Cook's disagreement with the LVIA during cross-examination, placing reliance on the need to consider the 360-degree view in seeming oblivion that the LVIA had dealt with that issue, may lead the inquiry to consider how closely Mr Cook reviewed the LVIA prior to forming his opinions.¹⁰⁶
69. Further other photographs confirm the harm that this development will cause to receptors and the inquiry is kindly requested to play close attention to the findings of the LVIA and work through the critical photographs individually (particularly viewpoint 10), Mr Ahern's assessment of those pictures¹⁰⁷ and also Mr Harper's photographs.¹⁰⁸ Since Mr Harper's photographs and concerns regarding the LVIA did not feature in spoken evidence, Magwatch merely requests that these are considered in your ultimate findings.
70. The Inspector is invited to prefer the LVIA conclusions over the revised oral evidence because the LVIA was the structured assessment produced under the relevant methodology. However, the LVIA itself is open to criticism. Magwatch fully endorse Laird Bailey's critique of the LVIA:

that the LVIA and ES Chapter at present downplay anticipated visual effects in relation to receptors travelling along footpath routes 3, 5 and 29, and the Stour Valley Way within the wider context, under the proviso of the receptor's 'general acceptance' of development over time. I consider that perceived change would be greater than assessed and would in fact have an additional significant adverse and long term visual effect upon these four additional receptors, which would extend as far as 3.5km from the proposal boundary.¹⁰⁹

¹⁰⁶ Cross examination of Mr Cook.

¹⁰⁷ [CD 12.1.11, pages 37 to 46]

¹⁰⁸ [CD 9.1.48 and appendices]

¹⁰⁹ Quoted at [CD 12.1.11, page 43]

Instead of acknowledging Laird Bailey’s fair critique, Mr Cook found that there was less visual harm than the LVIA—this is wholly unsuitable. Like a castle in a theme park, the development will sit prominently upon the horizon and draw the eye in and overwhelm all the pleasant and enjoyable visual features.

71. In short, for the reasons advanced by the LPA and Mr Ahern, the landscape harm will be significant and adverse. The impact on visual amenity will be substantial particularly on the most critical view: the view from the Heath and the Bowl Barrows. Not only will the development be clearly visible, appreciable and offending, it will introduce an alien industrial element to beautiful heathland.
72. Magwatch speaks on behalf of the community and that community adores the heath—they feel a deep connection to its beauty, its history and its nature. Where else nearby can you escape the urban capture to be confronted with the sound of the cuckoo? Yet this development will impose an industrial monolith upon history, upon nature and upon beauty.
73. The remark made by the Inspector on return from the site visit, that one was “away from civilisation”¹¹⁰ is one Magwatch fully recognises.

Catchment Condition

74. Magwatch considers the condition on catchment area proposed on the final day of the inquiry wholly inadequate and makes the following observations.
- a. **First**, the justification for a less restrictive condition was couched in commercial considerations and “investment approval”.¹¹¹ You are obviously concerned with the use of land, not investment risk. Such considerations are not material.
 - b. **Second**, whilst Magwatch do not wish to appear to be churlish given that the appellant’s proposed wording that (finally) acknowledges that the self-sufficiently and proximity principle can only be satisfied by the inclusion of a requirement that at least some of the waste must remarkably come from the waste plan area, the figure of 20% is grossly inadequate and only makes derisory contribution to dealing with local waste. Dealing with such a small amount hardly seems consistent with

¹¹⁰ 10 June 2026

¹¹¹ Conditions discussions on 18 June 2026.

meeting a purportedly pressing local need which the appellant values in excess of its contribution.

- c. **Third**, as far as Magwatch is concerned, if the appellant truly believes that they are meeting a local need there is simply no justification for the continuing refusal to sign up to a more exacting condition. As stated at the commencement of these closing—it is far better to judge the scheme by the appellants’ choices rather than their words.
- d. **Four**, as far as comparisons with Portland are concerned (which is not subject to such a condition), these are moot—the Portland inquiry predates the more exacting requirements of EN1, EN3, the Capacity Note and publication of the most recent AMR.
- e. **Fifth**, the appellant’s proposed wording is inherently problematic: the phrase ‘sourced from’ rather than ‘originate from’ is of deep concern since that creates a loophole where waste that does not originate from the waste plan area still “counts.” It would also allow the scheme to run counter to the Capacity Note to maximise use of existing capacity, which may well be nearer to the sources of waste without a sufficiently precise and stringent condition.

75. Accordingly, no weight should be given to the argument that this condition secures compliance with the self-sufficiency and proximity principle.

Green Belt and Planning Balance

76. Magwatch do not wish to repeat the LPA’s shutdown of the appellant’s unsustainable green belt assessment, and only makes the following brief comments on the three gateways:

- a. **First**, in relation to gateway **one, previously developed land** (paragraph 154(g) of the NPPF), all parties agree that openness is a multi-faceted and open assessment taking into account all the circumstances and sensitivities of this proposal on this site. An arid dissection of spatial, visual and experiential openness does not get any further than the faultline exposed in photograph 10. This will be an incongruous alien imposition of an elephantine structure visible in excess of 40 years from delicate heathland. This will amount to substantial harm to openness.
- b. **Second**, also in relation to gateway **one** there has been no authority cited before you that “land **has been** lawfully developed” includes land immune from

enforcement when all parties agree it was not lawfully developed.¹¹² Magwatch notes that the language used land which “has been” rather than “is” lawfully developed noting the past tense. The phrase “has been lawfully developed” refers to the original act of development, not merely the current legal status of the land. Magwatch is deeply concerned that the appellant is benefiting from others’ unlawful conduct and circumventing protections to the Green Belt baked into the NPPF. In that context, Magwatch invites the inquiry to consider the infill section of the land as NOT previously developed land.

- c. **Third**, in relation gateway **two**, grey-belt land (paragraph 155 of the NPPF) Magwatch does not consider this land grey belt for the reasons advanced in the two previous green belt assessments and Mr Ahern’s knowledge and assessment of the area. Development of this site would fail to check urban sprawl and would fail to prevent the separate towns of Merley and Poole from merging. Magwatch notes that Merley and Poole have been found to be separate towns in two different green belt reviews¹¹³ and the appellant has offered only the most cursory assessment of whether they are separate towns (only in evidence in chief and not in their proof) and there is no basis to depart from those previous assessments, one of which was tested in examination.
- d. **Fourth**, also in relation to gateway **two** (specifically paragraph 155(a) of the NPPF). Even if all of the site is deemed to be Grey Belt, the spatial and visual impacts of the proposed development, by reason of its size, would clearly undermine the purposes (taken together) of the remaining Green Belt of the Local Plan. This would render it unable to meet the requirements of NPPF paragraph 155(a). A precedent will be set if is considered that a 162m by 50m building, with a height of 50m and a chimney of 110m, which everyone agrees is not shielded, can be approved in a Green Belt parcel that achieves the fourth highest of all 18 parcels of land in the Poole Green Belt Review.¹¹⁴ As a result this would consequently mean that almost any development would be considered appropriate across any of the 15 parcels of the Green Belt area that score similarly or lower if this logic were cross-applied.

¹¹² This is also a change in wording from previous iterations of the NPPF.

¹¹³ [CD 6.1.18, page 10 and CD 6.1.19, page 25]

¹¹⁴ [CD 6.1.18]

- e. **Fifth**, also **in relation to gateway two**, the appellant has simply failed to demonstrate the requisite need.
- f. **Sixth**, in relation to gateway **three (very special circumstances)**, these simply do not exist as the benefits do not clearly outweigh other considerations. Further, even if the benefits did outweigh other considerations, the inquiry will still need to make a separate qualitative judgment as to whether circumstances are indeed *very* special.
- g. **Seventh**, this development will be generational—that the development is due to be dismantled eventually some forty years hence should only have the most marginal of difference. For context, some of the barristers of this inquiry were not born forty years ago.
- h. **Eighth**, in the context of which Mr Cook agreed that there was no comparison to a site visit and the Canford site had been exhaustively considered by a planning inspector, the appellant is inviting you to depart from the following judgments:¹¹⁵
 - i. “It occupies a very sensitive location environmentally” [paragraph 12.102]
 - ii. It would “obviously be inappropriate form of development in the Green Belt, and an **enormous** imposition that would **massively** reduce openness” [12.105]
 - iii. The level of Green Belt harm would be “very high indeed” [12.105]
 - iv. Any considerations to justify development on this green belt site would have to be “very weighty indeed” [paragraph 12.106]
 - v. Portland shows that a suitable development can be considered outside the Green Belt and therefore it is “difficult to see how the necessary very special circumstances could be shown.” [12.107]
 - vi. The harm to the green belt is insurmountable notwithstanding that the Canford site may perform better against the spatial strategy [12.108]
 - vii. The inspector in the Portland decisions came to this view despite over 40 pages of submissions from the appellant in this case.¹¹⁶

¹¹⁵ [CD 9.1.3]

¹¹⁶ Cross examination of Mr Asquith on Thursday 18 June 2026.

77. The adverse impacts of this scheme do not outweigh the benefits. The impacts are legion, go further than the LPA's concerns and deserve substantial weight in the overarching planning judgment:

- a. Overcapacity inverting the waste hierarchy, undermining recycling and the circular economy. Further, if the plant was built without energy recovery it would drive waste down the hierarchy as it would be classed as disposal akin to landfill.
- b. Harm and normalisation of harm arising from carbon emissions.
- c. Perception of harm arising from health impacts.
- d. Landscape harm.
- e. Severe Visual amenity Harm.
- f. Heritage Harm¹¹⁷
- g. Ecological Harm¹¹⁸
- h. Definitional harm to the Green Belt.
- i. Harm arising from the near- permanent damage to Green Belt openness.
- j. Breaches of the requirements of policies EN1 & EN3.
- k. Breaches of policies under the WP—specifically this is not compliant with Inset 8, Policy 7 and Policy 1's requirements for respect for the waste hierarchy, self-sufficiency and proximity principle.

78. The benefits of this scheme, such as they are, come nowhere close to outweighing those weighty considerations. Any suggestion that this proposal will reduce waste miles or result

¹¹⁷ Magwatch relies on the evidence of the LPA on this point and Historic England who noted [CD4 1.11]:
"Historic England Advice on the 12th September 2023 .

"The proposal for a Energy from Waste Combined Heat and Power Facility (EfW CHP Facility) will cover an area of 10.1 hectares and includes a 110 m high chimney.

Given the scale and massing of the proposal the proposed development is likely to be visible across a large area and could, as a result, affect the significance of heritage assets some distance from this site itself?

"We wish to highlight in particular how the grounds of Canford School (originally Canford Manor) make a significant contribution to the setting of the Grade I listed building. The former lawns, now sports pitches, are edged by mature parkland trees which act as a screen. The proposed chimney would form an incongruous industrial feature in this context"

¹¹⁸ Following Inspector's suggestion in her note of 18 May it was agreed the topic of Ecology could be dealt with in written representations. Magwatch did not make a further submission because, having read the Appellants' Ecology Appendix and the Ecology Rebuttal Note [ID22], Mr Ahern stands by what he stated in his proof: that the compromise in the chimney height will reduce the polluting emissions but not eliminate them; that mitigation is not avoidance; that S106 measures imply potential harm and cannot guarantee the avoidance of harm. Professor James Bullock's letter of 8 June to the Inquiry states "mitigation can never stop harm". Professor Bullock is a globally leading expert in biodiversity and was writing in support of Dorset Wildlife Trust's submission of 29 May 2026 [ID35 & CD 16.1.16]

in co-location must be discounted based on the fact the MBT is accepted as a “transfer station” and the appellant has suggested it is not viable. Further, based on the miserly condition suggested by the appellant, there can be no reduction in waste miles assumed. The economic benefits of employment and revenue merely replicate the benefits of Portland. No weight should be given to delivery energy security: the Government’s Clean Power 2030 Action Plan states that the Government's view is that: “EfW developments are not critical to meeting the Clean Power 2030 Mission”.¹¹⁹

79. In the Archer’s Field decision where the visual impact was similarly serious, the weight given to that harm (alongside perception of health risks) outweighed the benefits and we invite the inspector to repeat that approach.¹²⁰
80. The circumstances of this case are not very special, they are a developer seeking to squeeze in an application before the environmental permitting regime further tightens and alternatives such as Portland become operational even if that means imposing an elephantine structure on a delicate and beautiful landscape. In that context, there is only one word to describe this application and the appellant’s commercial approach—ordinary.
81. The appellant has not demonstrated that this facility is necessary, policy-compliant, or capable of delivering its claimed benefits — while the harms are certain and generational. Accordingly, Magwatch humbly requests that this appeal is dismissed.

Joseph Thomas
Rossen Roussanov
Landmark Chambers
25 June 2026

¹¹⁹ [CD 9.1.10]

¹²⁰ [CD 9.1.122, at paragraph 177 on page 34].