

**RE : LAND AT CANFORD RESOURCE PARK, ARENA WAY, MAGNA ROAD, WIMBORNE BH21
3BW**

APPEAL REF : 6002440

**CLOSING SUBMISSIONS ON BEHALF OF BOURNEMOUTH, CHRISTCHURCH AND POOLE
COUNCIL ('BCP')**

[In these submissions witnesses are referred to by their initials: CW (Chris Whitehouse); HK (Helena Kelly); PR (Paul Reynolds); PC (Paul Carey); CM (Dr Chris Miele); AC (Andy Cook); RA (Rob Asquith); FA (Frank Ahern)]

1. At the heart of this case are the wide-ranging consequences of seeking to construct a building rising to 50m in height (Above Ordinance Datum ('AOD') 94.65m¹), the equivalent of a 17-storey building, alongside an industrial chimney of 110m (AOD 154.65m) in height, as tall as a 37-story building. In particular, the consequences for the Green Belt, for landscape, and for designated heritage assets.
2. The Inspector has identified the following main issues:
 - i. Whether the proposal would be inappropriate development in the Green Belt, based on the exceptions and tests in paragraphs 154 and 155 of the Framework ;
 - ii. The effects of the development on (i) landscape character and appearance of the surrounding area (ii) the significance of designated heritage assets (iii) protected habitats and biodiversity ;

¹ This figure has been calculated based on the reference in the Planning Statement that the Finished Floor Level is 44.65m AOD - CD1.1.1 para 4.8.67.

- iii. Whether the proposed development is an acceptable use of land at Canford Resource Park, taking into account the site allocation in the Waste Plan ('WP'), surrounding land uses, effects on public health and community well-being ;
 - iv. The effect of the development on sustainable waste management facilities in the WP area in the context of local and national policy objectives.
3. BCP's position on the main issues is, in summary, as follows:
- i. **Main issue 1:** The proposal amounts to inappropriate development in the Green Belt, as explained below ;
 - ii. **Main issue 2(i):** The proposal would result in harm to the landscape character of the area, arising from the height, scale, bulk and mass of the proposed main building and chimney stack ;
 - iii. **Main issue 2(ii):** The proposal will result in harm to designated heritage assets ;
 - iv. **Main issue 2(iii):** The impacts on protected habitats and biodiversity are addressed by the s.106 agreement and conditions ;
 - v. **Main issue 3:** The use that is proposed is acceptable as a matter of principle: it is not BCP's case that there would be an unacceptable impact on the surrounding land uses or on public health and community wellbeing ;
 - vi. **Main issue 4:** It is accepted that there is a need but the proposed development significantly exceeds the level of need.
4. These submissions will address the following:
- i. Inappropriate development in the Green Belt ;
 - ii. Designated heritage assets ;
 - iii. Landscape character ;
 - iv. Need ;
 - v. Benefits and planning balances.

Inappropriate Development in the Green Belt

5. The site is located within the South East Dorset Green Belt.

6. National policy is clear² that the Government attaches great importance to Green Belt.
7. RfR 1 which raises Green Belt relates solely to the proposed EfW CHP main building and chimney stack.
8. Consequently, attention is focussed on the “main site” (2.4 ha) rather than the whole appeal site (8.8ha).
9. The central question arising is whether the appeal development is inappropriate development in the Green Belt. This gives rise in the circumstances of this case to four questions :
 - i. Will the development of previously developed land in this case result in substantial harm to the openness of the Green Belt ? If yes, it would not benefit from the exception to inappropriate development provided by paragraph 154g).
 - ii. If not, does the land strongly contribute to purpose a) ie checking the unrestricted sprawl of large built-up areas ?
 - iii. If it does not strongly contribute to purpose a), does it strongly contribute to purpose b) ie to prevent neighbouring towns merging into one another ?
 - iv. If the answers to ii and iii are ‘No’, does the harm to designated heritage assets provide a strong reason for refusing the development proposed per the Framework, footnote 7.
10. If the development would not result in substantial harm to the openness of the Green Belt then it would benefit from the exception to inappropriate development provided by paragraph 154g). If the answers to ii, iii, and iv are all ‘No’, then the development would fall within the meaning of Grey belt and would benefit from the exception to inappropriate development provided by paragraph 155.

² The Framework, para 142

Paragraph 154g

11. The main parties agree on the approach to assessing the effect on the openness of the Green Belt, namely by reference to the (non-exhaustive) factors identified in the PPG³ :

- i. The spatial aspect ;
- ii. The visual aspect ;
- iii. Duration and remediability ;
- iv. Degree of activity likely to be generated such as traffic generation.

Spatial aspect

12. For reasons which are obvious, AC was keen to divert attention away from volumetric focus when discussing spatial impact. But the PPG is clear that volume is where the main focus should be :

Openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume.

13. That form of words in the PPG infers by the use of “in other words” that the spatial aspect is principally about volume.

14. AC’s attempt in oral evidence to characterise the spatial increase which would be the result of the proposed development as “modest relative to what is already on site” is not a credible position, and reflected a markedly unbalanced approach throughout his evidence. The facts are these :

- i. The maximum heights of the building and chimney on site are approximately 15m (building) and 35m (chimney) ;

³ 64-013-20250225

- ii. If the extant permission was built out in full, the maximum heights would be the same as what is there now ;
 - iii. The maximum height of the chimney proposed is 110m (above ground, with an AOD of 154.65m) and the maximum height of the building proposed is 50m, increases in height alone of 333% (building) and 314% (chimney) ;
 - iv. In volumetric terms, the extant permission if built out would be 67,000 cubic metres, against a proposed volume of 294,000 cubic metres, an increase of 439%.
15. AC's refusal in XX to agree that the building and chimney would be "enormous" was simply counter-factual (especially since in his Proof, he regarded the existing building as "substantial"⁴).
16. AC wished to focus on footprint instead. It is not suggested that the Inspector cannot also consider footprint (although the PPG is clear that it is volume that really matters in the spatial aspect), but even based on footprint there would be a significant increase from 5000m² (CW EIC) to 8000m².⁵
17. AC's oral evidence could not have made clearer that he had under-stated the spatial impact on openness ("moderate"⁶), and that CW's assessment of a "significant"⁷ impact was plainly more realistic.

Visual aspect

18. Both AC (as confirmed in XX) and CW (in XX and in Proof⁸) identified an adverse impact on the visual experience of openness from all four points of the compass. The Inspector may think that in itself is telling.

⁴ AC Proof para 8.11.

⁵ Planning Statement, page 6 - CD1 1.1.

⁶ AC Proof para 8.11

⁷ CW Proof para 8.65

⁸ Para 4.67

19. CW identified that this visual impact would be experienced from Magna Road and the SANG to the North, by the users of Bridleway 23 on the Heath to the South, by the users of FP5 to the West, and by the residents of Provence Drive to the East.
20. The Inspector may have been unimpressed by AC's encouragement to her (in both EiC and XX) to rely on his position as to visual openness on the basis that he had written more than CW in his Proof.
21. AC's approach to Canford Heath was telling in what it revealed about his consistent under-playing of the impacts. VP10 provides useful assistance – and (as was put to him in XX) it was agreed⁹ that this viewpoint is representative. The before and after imagery provides a powerful demonstration of the open views from the Heath in the direction of the site now, and the change if the appeal proposal was built out. AC accepted that there is a strong sense of openness associated with Bridleway 23¹⁰, but then claimed that the proposal would have only a limited effect on that. He appeared to rely on the arguments that what is experienced is a 360 degree view, that looking towards the site there is a view of the landfill and solar panels, and that as result of a further permission more solar panels could appear in the view. The Inspector may think that these arguments are resourceful but wholly unpersuasive : he already accepted – rightly - in his Proof that even with existing features in view there is a “strong sense of openness” and as CW said in EiC additional solar panels will make little material difference. VP10 is telling.
22. Once again, it is BCP's position that AC in concluding a “moderate”¹¹ degree of harm with respect to the visual aspect of openness had under-stated reality, and that CW's assessment of significant¹² should be preferred.

⁹ SOCG at para 6.5 v. of the SOCG

¹⁰ AC Proof para 8.27

¹¹ AC Proof para 8.40

¹² CW Proof para 4.67

23. Most importantly, of course, will be the Inspector's judgments based on her site visit – she will have been able to experience the sense of visual openness from North, South, East and West, and the visual imagery will assist her in understanding the impact of the proposed development on that openness.

Duration and remediability

24. Were consent to be granted, the operational period would be 40 years. As RA accepted in XX, the construction period and decommissioning period will add 4-5 years to that period.

25. That is, as HK, PR and CW all said, a generational period. FA for the R6 party put it well during his oral evidence, a period which will span much of the lifetime of his grandchildren.

26. The fact that the site may return to openness in another era does not mitigate the harm in the long intervening period. Nor does the Appellant's argument that the extant permission would not be time-limited – that is the reddest of herrings, because as CW set out in EiC, that extant consent was not judged to cause unacceptable harm to the Green Belt.

Degree of activity

27. The only evidence available to go on in respect of traffic generation is presented in the Appellant's Transport Assessment. As set out in CW's Proof¹³, the construction period would provide a peak of 100 HGV and 200 car movements per day across a 120hour working day, over a 36 month construction period ; during operation, up to 170 two-way HGV movements and 94 two-way LGV/car movements per day. That against a current baseline of nil movements.

¹³ Para 4.70

28. Albeit recognising that he did not rely on other types of activity because other activity would essentially be contained inside the building, CW described that increase in activity as significant¹⁴. RA accepted in XX that the movements would be viewed from outside the site – in views through to the site for example from Provence Drive, and from views of the access to/from the site. RA’s attempt to water this down should be given little weight – as he accepted in XX, there is no quantified evidence of traffic generation in respect of the extant consent (nor, in fact, is there evidence from the Appellant that the extant consent would be built out in full if this appeal failed).

Approach to substantial harm to openness

29. The Framework refers to “substantial” harm to openness in paragraph 154g).

30. That is not defined, and in the usual way what does or does not amount to substantial harm is a matter of judgment for the decision-maker.

31. RA’s attempt¹⁵ to introduce caselaw relating to the approach to ‘substantial harm’ in the context of heritage policy was badly-judged :

- i. National heritage policy introduces the concept of “substantial” and “less than substantial” harm in the context of heritage policy, this distinction is not drawn anywhere else in the Framework, including within the Green Belt chapter ;
- ii. The PPG in its Heritage chapter sets out advice in the approach to substantial harm, but the government have not done this in the Green Belt chapter ;
- iii. The Bedford case relied upon by RA¹⁶, which was the precursor to the advice in the PPG, was specifically dealing with the approach to substantial harm in relation to heritage, and the court explicitly expressed the position in the context – and only in the context – of harm to the significance of designated heritage assets ;

¹⁴ CW Proof para 4.70

¹⁵ RA Proof paras 7.4.37 to 7.4.38

¹⁶ RA Proof para 1.4.37

- iv. The Appellant does not point to a single authority or appeal decision which supports RA's proposition that Bedford should be carried across to paragraph 154g) of the Framework ;
- v. As was put to him, RA was in effect inviting the Inspector to re-write the PPG on Green Belt.

32. Even more extraordinarily, RA then seeks to introduce into the approach to harm to the openness of the Green Belt the concept of "less than substantial harm" (see, for example, his Table 10.1¹⁷).

33. RA's approach is manifestly wrong and should be given short shrift, as it deserves.

Level of harm

34. CW's judgment is that the overall harm to the openness of the Green Belt would be substantial.

35. The Inspector is respectfully invited to draw the same conclusion. In these circumstances, BCP's position is that the exception to inappropriate development provided by paragraph 154g) of the Framework does not apply in this case.

Paragraph 155

36. The PPG provides guidance as to assessing the level of contribution to the relevant purposes in the context of paragraph 155. It is very important to note that:

- i. Assessing the level of contribution is a matter of planning judgment, and the PPG chapter is clear that assessing whether proposals utilise grey belt land involves "reaching a judgment"¹⁸ ;

¹⁷ RA Proof page 159

¹⁸ PPG 64-009-20250225

- ii. Where the PPG provides guidance on the approach, the factors identified are described as “considerations for informing these judgments”¹⁹, and they should not be treated as if they are criteria or prescriptive in any sense;
- iii. The factors identified are described as no more than “illustrative” ;
- iv. The presence of illustrative features as indicative of the type of contribution is put no higher than “likely” ;
- v. In a question put by the Appellant to CW, it was accepted by the Appellant that the PPG is not a straightjacket in respect of the approach to Grey belt.

Contribution to Purpose a)

37. There can be no serious dispute that the appeal site is close/near to a built-up area. Having puzzlingly denied this in his Proof, RA accepted this in XX, and questions were put to CW in XX on that basis. It is well-established that checking the unrestricted sprawl of built-up areas does not require land to adjoin the built-up area²⁰.

38. In respect of the illustrative features listed in the PPG for a strong contribution, CW accepts that the site is not free of existing development. However :

- i. In his judgment, there is a lack of physical features in reasonable proximity restricting and containing development – because there is insufficient screening, topography, landscape features etc to contain/restrict vertical development of the type proposed. To deal with a general matter of approach here, it cannot be a correct interpretation that the PPG invites a decision-maker to consider any type of conceivable development, for the guidance to make sense it must relate to the development proposed ;
- ii. In his judgment, if developed the result would be an incongruous pattern of development. Again, it must be correct that this matter has to be considered on the basis of the development proposed, otherwise if it meant “any type of development” that could be tested by considering underground development

¹⁹ PPG 64-005-20250225

²⁰ See CW Rebuttal para 2.5 and decision letter at CD14 1.3, para 42.

for example, such that the existence of this illustrative feature could almost never be established.

39. The argument set out by RA in his extensive Proof on this topic was frankly baffling²¹ :

- i. He wrote that the PPG provided “a definition of what land must be like to make a strong contribution”, which he retracted in XX ;
- ii. He wrote that the land was not near a built-up area, which he eventually retracted in XX, CW having been XX’d on the basis that the land is near a built-up area ;
- iii. He treated the illustrative feature “result in an incongruous pattern of development, (such as an extended finger …)” as “result in an incongruous finger of development”, which is entirely different since it treats the finger of development as the feature rather than the pattern of development of which that is an example.

40. In XX of CW, it was put that the ‘moderate’ contribution in the PPG must be met because at the very least the site is near to a large built-up area, and contains existing development and is subject to other urbanising influences. In XX of RA, the same point not having been put to him in EiC, he was asked whether he now accepted that the contribution in his judgment was “moderate” rather than “nil” as he had said in his Proof. He agreed, and that “nil” could be substituted by “moderate” in his Proof, and that the difference between his position and that of CW was therefore whether the contribution was strong or moderate. An attempt to recover that position in Re-Ex did not dilute the position.

41. CW drew some support from the Green Belt Assessment 2020. Of course that predated the PPG and considered the position against a different scale, and formed part of an evidence-base for a Local Plan which did not progress to adoption, but he never suggested that this provided a definitive position. But it is plainly material that the site

²¹ RA Proof paras 7.5.9 and 7.5.10

formed part of a parcel known as OA31. In CW's opinion the assessment was sufficiently granular and took account of development which post-dated the 2017 Green Belt Review, and OA31 "held true of the site itself"²². In XX, CW accepted that the relevant appeal land was only around 2% of the OA31 parcel, but he was clear that the land is representative of the parcel. That document concluded that OA31 made a "relatively strong"²³ contribution to purpose a).

42. It is BCP's case that as a matter of judgment the site makes a strong contribution to the purpose of checking the unrestricted sprawl of large built-up areas.

Contribution to Purpose b)

43. It was agreed between CW and RA that the site sits within a gap in development, which CW measured at 1.25km²⁴ (a measurement which was not challenged).

44. CW accepted²⁵ that the site would not form a substantial part of that gap.

45. However, it is difficult to understand how RA can maintain that the development would not result in the loss of visual separation (another example of how non-sensical it would be to read the illustrative features as relating to "any development") when it would interpose a 50m high building and a 110m high chimney into the gap.

46. In XX, CW said "the failure to accord with visual separation is so significant that the failure to be a substantial part of the gap is not influential in my conclusions on a strong contribution, because the appeal proposal would be so visually dominant".

47. The real issue here is likely to be whether the gap is between towns. The meaning of a town is not defined in the Framework or in the PPG and again is plainly a matter of judgment. CW's position is that Merley is a town, which he bases on the approach

²² CW Proof para 4.18

²³ Defined at Table 4.2 in the Assessment

²⁴ CW Proof para 4.44

²⁵ CW Proof para 4.42

taken in both the GBR and the GBA²⁶, and he effectively treats the other town as Bournemouth by relying on “the Bearwood urban area of Bournemouth”²⁷. The Inspector is respectfully invited to conclude, as CW does, that the gap is between towns (and even if the Inspector identifies those towns by different names that does not affect the level of contribution).

48. Again, it is noted that the GBA recorded that Parcel OA31 makes a relatively strong contribution to purpose b).

49. Once again RA’s approach was infected by his misreading of the PPG (“must” etc)²⁸, and it is respectfully submitted that CW’s judgment that the land makes a strong contribution to purpose b) should be preferred.

Conclusions on inappropriate development in the Green Belt

50. BCP invite the Inspector to conclude :

- i. That the proposed development would result in substantial harm to the openness of the Green Belt ;
- ii. That the land makes a strong contribution to purpose a) and to purpose b) ;
- iii. Even if the Inspector did not agree that the contribution to either a) or b) was strong, the harm to designated heritage assets provides a strong reason for refusing the development proposed ;
- iv. That the proposed development would not benefit from the exception in either paragraph 154g) or paragraph 155 ;
- v. That the development amounts to inappropriate development in the Green Belt.

²⁶ CW Proof paras 4.34 and 4.38

²⁷ CW Proof para 4.44

²⁸ RA Proof para 7.3.11

Designated Heritage Assets

Introduction

51. The site is located within the setting of a range of heritage assets. BCP's case relies on harm to the following assets:

- i. The following Scheduled Monuments: Bowl barrow cemetery and four other bowl barrows on Canford Heath; Bowl barrow on Canford Heath 650m south of southern corner of New Covert; and Bowl barrow on Canford Heath 730m south east of Alhambra ;
- ii. Canford School (Grade I listed)²⁹ ;
- iii. South Lodge of Canford School (Grade II listed) ;
- iv. Gates and Gate Piers at South Lodge of Canford School (Grade II listed) ;
- v. Canford Magna Conservation Area.

52. The central question arising is whether the appeal development would result in less than substantial harm ('LTSH') to the significance of designated heritage assets that needs to be weighed against the public benefits of the proposal.

53. There is a great degree of consensus between CM and HK as to the building blocks of the analysis, with CM and HK then differing in their judgments as to harm.

Policy, Guidance and Statutory Duties

54. The following points relating to the relevant statutory duties and applicable policies are agreed between CM and HK, as confirmed by CM in XX :

- i. The duty in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Listed Buildings Act') does not arise in this case because the site is not within a Conservation Area ;
- ii. The duty in section 66 of the Listed Buildings Act arises if the Inspector takes the view that a Listed Building or its setting will be affected. If the duty arises,

²⁹ Also referred to as 'Canford Manor' or 'the House' in these submissions.

- and the Inspector works through the provisions in paragraphs 213-215 of the Framework, she is likely to have complied with that duty, per *Jones v Mordue*³⁰;
- iii. When considering the impact of the development on designated heritage assets, the Inspector must give great weight to the asset's conservation, and the more important the asset, the greater the weight should be³¹ ;
 - iv. Significance derives not just from a heritage asset's physical presence, but also from its setting.³² Significance means the same as 'interest' or 'value' ;
 - v. 'Setting' means the surroundings in which a heritage asset is experienced. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.³³ Setting has twin roles: it can contribute to the significance of a heritage asset, and it can allow that significance to be appreciated³⁴ ;
 - vi. The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting³⁵ ;
 - vii. If there are harmful effects on the significance of a designated heritage asset, the Inspector has to decide whether that amounts to substantial or LTSH.³⁶ There is no suggestion of substantial harm to any of the relevant assets ;
 - viii. LTSH does not equate to a less than substantial objection to the grant of planning permission - *Barnwell Manor*³⁷ ;
 - ix. Where there is LTSH to an asset, the extent of the harm may vary and should be clearly articulated on a spectrum.³⁸ Where LTSH is negligible that should nonetheless be treated as a harm, rather than as a neutral factor (*R (James Hall and Company Limited) v Bradford*³⁹) ;

³⁰ [2015] EWCA Civ 1243, para 28; CD9 1.119

³¹ The Framework, para 212

³² The Framework, Glossary

³³ The Framework, Glossary

³⁴ GPA3, paragraph 3

³⁵ GPA3, page 2

³⁶ The Framework para 212

³⁷ [2015] 1 W.L.R. 45, para 29; CD9 1.115

³⁸ PPG Historic Environment, paragraph 018

³⁹ [2019] EWHC 2899 Admin para 34, CD9 1.121

- x. The policy test requires that LTSH be weighed against public benefits.⁴⁰

Approach

55. Historic England recommends a 5-staged approach to taking decisions on setting.⁴¹ Both experts have aligned themselves with the GPA3 approach, and these submissions adopt this structure. Steps 2 and 3 are the most relevant for this inquiry.
56. GPA3 also recognises that a matrix approach may be used provided that it is supported by a non-technical narrative setting out 'what matters and why'. HK provided a narrative assessment. However, to assist with comparing apples for apples, alongside her narrative, HK also provided a matrix assessment aligned with the Savills heritage assessment (with caveats set out at paragraph 2.28 of her Proof). CM did not provide any such matrix analysis.
57. In addition, HK was clear in XX and in Re-Ex that in her assessments she was mindful that there were aspects of setting other than the Heath that would contribute to the significance of the heritage assets. It would clearly be inappropriate to give HK's assessment less weight on the basis that she properly and proportionately focussed her analysis on the aspects of setting that are relevant to the appeal proposal.

Heritage assessments

58. Taking a step back, five heritage experts have assessed the relevant assets. The conclusions of each expert are set out below, noting that HK and CM agree that a negligible effect should not be treated as neutral ⁴²:
- i. Environmental Statement, Savills⁴³:
- a. **Bowl Barrows**: Minor adverse impact, at the lower end of less than substantial harm⁴⁴ ;

⁴⁰ The Framework, para 215

⁴¹ GPA3

⁴² CM Proof para 1.26; HK Proof para 2.28.2

⁴³ Environmental Statement Chapter 10; Table 10-4 - CD1 1.23(a)

⁴⁴ Environmental Statement Chapter 10, Appendix 10.1; para 6.3.54 - CD1 1.23(b)

- b. **Canford School:** Negligible harm ;
 - c. **South Lodge:** Negligible harm ;
 - d. **Canford Magna Conservation Area:** Negligible harm.
- ii. BCP's Senior Conservation Officer, Margo Teasdale found less than significant harm to the setting of numerous heritage assets, including Canford School (by which she clearly meant less than substantial harm)⁴⁵ ;
- iii. Historic England, Sasha Chapman - Inspector of Ancient Monuments recommended that "...the proposed development would result in harm and given the great weight that needs to be given to the conservation of heritage assets of the very highest significance...".⁴⁶ Comments were made in the body of Historic England's letter indicating harm to Canford School and the Conservation Area ;
- iv. HK concluded as follows⁴⁷:
 - a. **Bowl Barrows:** Minor adverse effect, towards the lower end of LTSH ;
 - b. **Canford School:** Moderate adverse effect, towards the mid-range of LTSH;
 - c. **South Lodge:** Minor adverse effect, towards the lower end of LTSH ;
 - d. **Gates and Gate Piers:** Negligible effect, being at the lowest end of LTSH ;
 - e. **Conservation Area:** Minor adverse effect, towards the lower end of LTSH ;
- v. CM found no harm to any of the five assets.

59. CM is the only expert to find no harm to any asset. One out of five. CM's answer to being such an outlier was to say that the other experts have made fundamental errors, but without any proper basis for make those accusations. For example:

- i. Of the conservation officer, CM stated that BCP's Senior Conservation Officer equated visual change with harm.⁴⁸ This is clearly not a fair reading of the consultation response. The Conservation Officer discusses the "incongruous industrial appearance above the skyline" in relation to viewpoint 10; and in relation to viewpoint 3 concludes "[t]he view creates the impression of an alien

⁴⁵ CD4 1.22

⁴⁶ CD4 1.11

⁴⁷ See summary table at HK Proof, para 4.1

⁴⁸ CM Proof para 3.48.

industrial structure quite out of place with the natural landscape character along the tree line”.⁴⁹ Having made those observations, she concludes: “the PD would make a negative contribution to the significance of the affected heritage assets.”⁵⁰ It is simply not a fair reading to conclude that the officer simply equated visual change with harm ;

- ii. Of the Historic England consultation response, HK confirmed in EiC that Ms Chapman is an experienced regional inspector who deals with this area extensively. CM makes three criticisms of Ms Chapman’s assessment. First, that it does not consider the separating distance.⁵¹ This is flatly wrong. Historic England’s response considers that the development would “affect the significance of heritage assets some distance from this site itself”⁵² and “would have on the numerous heritage assets nearby and further afield”.⁵³ Second, CM asserts that Historic England does not consider the presence of other features which present in the affected setting.⁵⁴ That is also incorrect: Historic England considers the gravel extraction at the former energy facility, and the existing buildings on the site.⁵⁵ Third, CM claims that Historic England does not relate the impact back to the significance of the asset. On the contrary, Historic England’s response refers to the “significance” on the first page, and concludes less than substantial harm on the third page - clearly indicating their awareness and understanding of the relevance of significance. It is frankly absurd to suggest that HE do not understand that what matters is the impact on significance ;
- iii. In XX, CM also tried to attack the Savills assessment on the basis that the assessment did not explain why the points they discussed detract from the evidential or archaeological value. It was put to CM in XX that it would be surprising if the heritage team at Savills didn’t understand that what was being

⁴⁹ CD4, 1.22 pages 4-5.

⁵⁰ CD4, 1.22 page 5.

⁵¹ CM Proof para 4.93.

⁵² CD4 1.11, page 1.

⁵³ CD4 1.11, page 2.

⁵⁴ CM Proof para 4.93.

⁵⁵ CD4 1.11, page 3.

considered was the impact on the significance of the asset or the ability to appreciate it. He agreed. CM's criticism is plainly unrealistic ;

60. The short point is that of the five heritage experts whose judgments are in front of the inquiry, only one (CM) finds no harm. Of course, it is not a numbers game, but it is telling, and CM's response is to effectively suggest that only he understands how to make a heritage assessment.

Bowl Barrows

Significance

61. HK's position is that the Bowl Barrows are of high value, which relates primarily to their evidential value (archaeological interest). Indeed, paragraph 214 of the Framework identifies scheduled monuments as heritage assets of the "highest significance".

62. Three further points are relevant to the significance of the Bowl Barrows.

63. **First**, GPA3 recognises that: "Heritage assets that comprise only buried remains may not be readily appreciated by a casual observer...While the form of survival of an asset may influence the degree to which its setting contributes to significance and the weight placed on it, it does not necessarily follow that the contribution is nullified if the asset is obscured or not readily visible."⁵⁶ Other Historic England guidance similarly recognises that "Few barrows survive in an undamaged state....".⁵⁷

64. CM stated that the evidential value of the Bowl Barrows is "diminished by the relative difficulty in locating them and the absence of an interpretative scheme."⁵⁸ In light of the guidance above, that comment must be placed in the context that CM still recognises that one can identify the Heath as "a single funerary landscape".⁵⁹ Further,

⁵⁶ GPA3, page 5

⁵⁷ "Prehistoric Barrows and Burial Mounds - Introduction to Heritage Assets" - CD12 1.4

⁵⁸ CM Proof, para 3.23.5

⁵⁹ CM Proof, para 3.28.5

CM agreed in XX that it will often be the case that Bowl Barrows will not be readily identifiable by casual observers. BCP's position is that the Bowl Barrows retain their value even if the Inspector were to find that they are not easily located. That is their nature.

65. **Second**, CM and HK agree that the distribution of the Bowl Barrows is part of their evidential value.⁶⁰ This accords with Historic England's guidance.⁶¹

66. **Third**, it was put to HK in XX that the Bowl Barrows have not been excavated. Clearly, as HK stated in Re-Ex, this does not impact their significance.

Step 2: Contribution of setting to significance

67. CM and HK agree that the Heathland and the wider setting of the Bowl Barrows positively contributes to an appreciation of their significance. The following factors are of particular importance, and are agreed between CM and HK :

- i. The topographical situation of the monuments occupying an elevated position allows for views towards Poole harbour⁶² ;
- ii. Distribution of, and intervisibility between the Bowl Barrows⁶³ ;
- iii. Openness of views across the Heath and between the Bowl Barrows⁶⁴ ;
- iv. The "open character of the Heath and of the wider setting" and the "separating distances between the features and modern developments"⁶⁵. HK describes as the "relatively unchanged landscape in terms of the heath itself"⁶⁶ ;
- v. CM describes the "surrounding landscape character of the Heath, providing the backcloth for the monuments and enabling one to identify this as a single funerary landscape".⁶⁷

⁶⁰ HK confirmed in EiC, CM Proof para 3.23.2.

⁶¹ "Conservation Principles, Policies and Guidance", para 40 - CD9 1.16; and GPA 3 page 6, paragraph 12

⁶² CM Proof para 3.28.1 and in oral evidence; HK Proof para 3.8.1

⁶³ CM Proof para 3.28.6, confirmed in XX; HK Proof para 3.8.1

⁶⁴ CM Proof para 3.28.8; HK Proof para 3.8.1

⁶⁵ CM Proof para 3.28.8

⁶⁶ HK Proof para 3.8.2

⁶⁷ CM Proof para 3.28.5

68. In EiC, CM clarified paragraph 3.28.4 of his Proof, explaining he was not seeking to justify the appeal proposal on the basis that modern development would improve the appreciation of significance. This was clearly an appropriate concession.

Step 3: Effect of the proposed development on significance or ability to appreciate it

69. Step 3 is where CM and HK diverge in their judgments. It is agreed that Viewpoint 10 is sufficient to assist the Inspector in forming a judgment on the potential setting impact of the proposal, and the impact that may have on significance.⁶⁸ The existing view from Viewpoint 10 is as follows⁶⁹ :



70. The visualisation of Viewpoint 10 with the appeal proposal in situ is as follows ⁷⁰:

⁶⁸ Heritage SOCG, para 5.9 - ID11

⁶⁹ ES Appendix 12.1 - CD1 1.25(b), page 80

⁷⁰ ES Appendix 12.1 - CD1 1.25(b), page 81



71. In EiC, HK invited the Inspector to have regard in particular the following parts of the GPA Checklist 3 when considering the attributes of setting that may have implications for the significance of a heritage asset: Prominence, dominance, or conspicuousness; Competition with or distraction from the asset; Dimensions, scale and massing; Proportions; Change to skyline; Change to general character (eg urbanising or industrialising).

72. CM agreed in XX that it is open to the Inspector to consider whether or not :

- i. The proposal would intrude into the wild, undeveloped nature of the setting ;
- ii. The change to the skyline will undermine the appreciation of significance ;
- iii. The industrial character of the proposal will affect the ability to appreciate the significance of the Bowl Barrows, having regard to their distribution.

73. CM concluded that there would be no harm to the Bowl Barrows. His reasons include (mapped to the GPA3 checklist 3 so far as possible) :

- i. “The proposals do not alter the monuments’ shared landscape setting on the Heath, or the wild, undeveloped nature of that setting....”⁷¹ ;

⁷¹ CM Proof para 3.32.4

- ii. **Industrialising:** “The industrial character of the development is similar to the existing development....”⁷² ;
- iii. **Physically or visually isolating asset:** “The proposals will not physically isolate the monuments from their important heathland plateau setting and will not interpose between the monuments, undermining their group value”⁷³ ;
- iv. **Distraction from the asset:** The proposal would not “distract” from the ability to appreciate the individual monuments or their grouping, such that “the change to skyline does not undermine the significance of the assets”⁷⁴ ;
- v. **Scale and massing:** “The proposals have a materially greater scale and presence on the Heath” but this scale of change is limited relative to the “broad and expansive” Heathland⁷⁵ ;
- vi. **Permanence:** A 40-year permission means any impact “is not permanent”.⁷⁶

74. The facts are as follows. The proposed development sits on the edge of open heathland. The maximum heights of the building and chimney currently on site are approximately 15m (building) and 35m (chimney). The maximum height of the chimney proposed is 110m (AOD of 154.65m) and the maximum height of the building proposed is 50m (AOD 94.65m). The photomontages from Viewpoint 10 illustrate clearly the difference between the extant building and the appeal proposal.

75. In that context, any conclusion that there is no change to the skyline; intrusion onto the landscape; industrialisation of the general character; addition of a dominant, prominent or conspicuous feature; or distraction from the ability to experience or appreciate the monuments is self-evidently unrealistic. The Inspector may think that HK’s evidence offers a far more realistic assessment, concluding as follows (mapped to the GPA3 checklist so far as possible) :

⁷² CM Proof para 3.33.5

⁷³ CM Proof para 3.33.4

⁷⁴ CM Proof para 3.33.7

⁷⁵ CM Proof para 3.33.6

⁷⁶ CM Proof para 3.33.9

- i. The appeal proposal would be “readily apparent in views across the heath that include views of and from the scheduled barrows”.⁷⁷ The development would not interrupt or visually isolate any of the barrows, but “would introduce a visually prominent and dominant modern feature into views that currently convey the open, elevated heathland location of the barrows and their relationship with each other”⁷⁸ ;
- ii. **Industrialising:** The proposal would “change the skyline in views of and from the barrows, would introduce an industrialising element into those views”.⁷⁹ In EiC, HK stated that “in views across the heath, the appeal introduces a very large industrial feature which erodes the ability to appreciate the evidential value of the barrows” ;
- iii. **Scale and massing:** In EiC, HK stated that the proposal would be a significantly greater scale and mass to the extant development, and the 110m chimney would “definitely” not be similar to what is there at present ;
- iv. **Distraction from the asset:** The proposal “would be a conspicuous and detracting element in those views that would erode this experience of the asset and the contribution made by setting to their heritage value”⁸⁰ ;
- v. **Permanence:** A 40-year period is significant, stretching beyond a generation (HK EiC). CM accepted in XX that any impact of the development would “probably” occur for the present generation and at the very least the next one.

76. HK concluded that there would be a small magnitude of change to these high value assets, resulting in an effect of minor adverse significance, equivalent to LTSH towards the lower end of that scale. This is hardly overstating the position.

Step 4 - Explore ways to maximise enhancement and avoid or minimise harm

77. HK’s assessment included that the inherent mitigation in the ES would not mitigate the impact of the proposals, and that no offsetting or enhancement measures appear

⁷⁷ HK Proof para 3.11

⁷⁸ HK Proof, para 3.11

⁷⁹ HK Proof para 3.14

⁸⁰ HK Proof para 3.11

to have been advanced.⁸¹ HK was asked in XX about the potential impact of interpretation boards. HK was clear in Re-Ex that such boards may ameliorate but would not overcome the harm that she had identified, nor would it take the harm to a different level within her matrix.

Overall conclusion

78. BCP respectfully invites the Inspector to adopt HK's conclusion, namely LSTH (towards the lower end of the spectrum). Indeed, the Inspector will make her own judgments based on the site visit - she will have been able to experience the openness of views across the Heath and between the Bowl Barrows, and the relatively unchanged landscape. The visualisations will assist her in understanding the impact of the proposed development on their setting.

Canford School

Significance

79. The following points (*inter alia*) are agreed. Canford School is a Grade I listed building, which is of the highest significance in the language of the Framework.⁸² It is one of only 18 Grade I listed buildings within the BCP Council area.⁸³ Further, the Pevsner guide⁸⁴ comprises a reliable description of the history and architectural interest of the property.⁸⁵ It describes Canford Manor as a "Victorian mansion par excellence...one of the best things that Barry ever designed".⁸⁶
80. HK concluded that Canford School is very high value within the ES matrix because it is a Grade I listed building by renowned architects with substantial historic associations.⁸⁷ However, in EiC, HK was clear that her overall conclusion is not impacted whether Canford School is treated as an asset of high or very high value.

⁸¹ HK Proof para 3.15

⁸² HK proof para 3.16; CM agreed in XX

⁸³ HK proof para 3.16; CM agreed in XX

⁸⁴ HK Proof, Appendix V

⁸⁵ Heritage SOCG, para 6.4, ID11

⁸⁶ HK Proof, Appendix V

⁸⁷ HK Proof, para 3.30

Step 2: Contribution of setting to significance

81. The key question for the Inspector is the relationship between Canford School and the Heath. CM and HK agree that there is a historical relationship between the House and the Heath (confirmed by CM in EiC and XX). Indeed, the Savills assessment identifies the “historical role of Canford Manor as the headquarters of a rural estate.”⁸⁸ (For example, there was clear evidence that the Heath was used by the House for hunting parties.) CM agreed in XX that historically this was a fair way to describe Canford Manor, and that the heathland was in the same family ownership as Canford Manor.
82. CM and HK differ on the visual relationship between the House and the Heath. GPA3 provides :

- i. “The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part...” (emphasis added)⁸⁹ ;
- ii. “Many heritage assets have settings that have been designed to enhance their presence and visual interest or to create experiences of drama or surprise... Furthermore they may, themselves, have a wider setting: a park may form the immediate surroundings of a great house, while having its own setting that includes lines-of-sight to more distant heritage assets or natural features beyond the park boundary”⁹⁰ ;
- iii. “...development further afield may also affect significance, particularly where it is large scale, prominent or intrusive.”⁹¹

83. The elements of the visual relationship that are in issue between CM and HK are :

- i. Whether there are views from the House to the Heath ;

⁸⁸ CD1 1.23(b), para 4.3.2

⁸⁹ CD9 1.18, page 2

⁹⁰ CD9 1.18, page 5

⁹¹ CD9 1.18, page 5

- ii. Whether the towers and the windows in the towers were designed in order to make that view available ;
- iii. Whether the tree lined drive was intended to provide a guided view towards the Heath ;
- iv. The role of South Lodge in providing a connection between House and Heath.

84. HK invites the Inspector to conclude that there were designed views from the House to the natural features on the Heath. HK relies on the following points :

- i. The House is oriented south south-east allowing for views towards the Heath⁹²;
- ii. Towers and turrets: There are two towers: the octagonal tower (early 19th Century) and the square Victorian tower (attributed to Sir Charles Barry).⁹³ HK's oral evidence was that in the Victorian tower there are three windows with an arch style, facing south, south-east and south-west elevations. These windows are relatively smaller than those in the octagonal tower, but are still "quite long". From these windows, there are views towards the Heath, in particular of trees which are on the Heath. The windows indicate an intention for the views towards the Heath to be seen by people within the House. HK was XX'd on the basis that one cannot see the towers from the Heath. HK was clear in Re-Ex that this is clearly not a complete answer as there are views from the House towards the Heath showing the heathland landscape. It is simplistic to compare ground level views from the Heath with views from a tower in the House ;
- iii. The tree lined drive to South Lodge was designed to emphasise a guided view⁹⁴ ;
- iv. On the other side of South Lodge there was historically a continuation of the tree lined avenue up to the Heath⁹⁵ ;

⁹² HK Proof, para 3.25, clarified in XX

⁹³ HK Proof para 3.17

⁹⁴ HK Proof para 3.24

⁹⁵ HK oral evidence, and Proof para 4.4

- v. The parkland was also laid out by Barry and contributes to this connection. It has been eroded, but HK's view is that it is still readily discernible.⁹⁶

85. BCP invites the Inspector to conclude that there is a visual connection between the House and the Heath. The Inspector will have formed her own view during her site visit. In particular, she will have experienced the size of the windows of the Victorian tower and the expansiveness of the views that they offer; and the relationship between the House, the drive, the South Lodge and the Heath.

Step 3: Effect of the proposed development on significance or ability to appreciate it

86. In his Proof, CM's stated "a chimney seen over some distance would not distract attention from the experience of being in that space"⁹⁷ and that the chimney would not be "intrusive, and that being so neither incongruous nor alien"⁹⁸.

87. The Inspector may think that it is simply unrealistic to suppose that a 110m high industrial chimney would not be a distracting feature, or that it would be neither incongruous nor alien. Indeed, CM accepted in XX that the chimney was plainly industrial. Further, CM agreed in XX that if the Inspector accepts that the heathland contributes to the significance of the House or the ability to appreciate it, and if the Inspector accepts that the chimney is an incongruous and industrial feature, then it would take some mental gymnastics to find that the chimney would not harm the ability to appreciate the significance of the House.

88. HK considers that in the views from the House the chimney would be incongruous and alien, as an industrial feature of considerable scale. HK concludes that there would be a small magnitude of change, which when combined with a very high significance, results in a moderate adverse effect towards the mid-range of LTSH.⁹⁹

⁹⁶ HK Proof para 3.20 and Heritage SOCG, para 6.8

⁹⁷ CM Proof para 4.77

⁹⁸ CM Proof para 4.80

⁹⁹ HK Proof, para 4.1

Step 4 - Explore ways to maximise enhancement and avoid or minimise harm

89. No additional mitigation, enhancement or offsetting measures were advanced.¹⁰⁰

Overall conclusion

90. BCP respectfully invites the Inspector to adopt HK's conclusion that there would be a mid-range of LTSH to Canford School, an asset of the highest significance.

South Lodge and Gate Piers

91. HK explained in EiC her view that South Lodge has high value, as it is a Grade II listed building attributed to Sir Charles Barry. However, HK's conclusions would not differ when applying the Savills matrix even if the value is taken as medium.

92. HK draws the following conclusions¹⁰¹ :

- i. South Lodge: Small magnitude of change resulting in LTSH at the lower end of the scale, "[g]iven that the lodge forms part of the original design and composition of views towards the heath" ;
- ii. Gates/Gate Piers: Negligible magnitude of change, equivalent to LTSH on the lowest end, because while "the gate piers and gates are likely to have been moved to their current location so may not have been part of the original design intention...they read as a group with the South Lodge in these views as currently experienced (and have done for the previous 90 years at least)."

93. BCP respectfully invites the Inspector to adopt these conclusions.

¹⁰⁰ HK Proof, para 3.34

¹⁰¹ HK Proof para 3.43

Conservation Area

94. CM wrongly assumed that the basis of BCP's position as regards the Conservation Area was parasitic on the House.¹⁰² The issues for the Inspector in relation to the harm to the Conservation Area identified by HK are :

- i. Whether the Heathland including the appeal site contributes to significance, in particular by providing a rural setting to the estate village ;
- ii. Whether the appeal proposal would impact the significance of the rural setting of the Conservation Area. In that context, it is relevant to consider whether or not the industrial feature of the chimney affects the rural setting.

95. HK assessed that :

- i. The Conservation Area is of high value, reflecting its historic interest, and the value of a village that illustrates 19th century architecture and its association with the 1st Baron and Baroness Wimborne¹⁰³ ;
- ii. The rural surroundings and available views of field and Canford Heath illustrate the history of Canford Magna as a rural estate village and make a positive contribution to appreciating and understanding the heritage value and character of the Conservation Area.¹⁰⁴ The openness of views into and out of the Conservation Area is identified in the conservation area leaflet¹⁰⁵ ;
- iii. There are a limited number of views from the Conservation Area in which the appeal site would be apparent, however, there would be a change to these views which would affect its setting and heritage value ;
- iv. There would be a small magnitude of change, resulting in LTSH towards the lower end of that scale.

¹⁰² CM Proof para 4.2

¹⁰³ HK Proof para 3.48

¹⁰⁴ HK Proof para 3.51

¹⁰⁵ HK Proof, Appendix 11

96. The Inspector may think this is a proportionate and realistic assessment of the harm to the Conservation Area, which BCP respectfully invites the Inspector to adopt.

Conclusion on harm to heritage assets

97. BCP invites the Inspector to conclude :

- i. That the Proposed Development would result in LTSH to a range of heritage assets, and in the case of Canford School, at the mid-range of that scale of effects ;
- ii. Paragraph 215 of the Framework is therefore engaged - such harm must be weighed against the public benefits of the proposal ;
- iii. BCP's position on that balance is set out in CW's Proof. Namely, the proposal fails to bring forward sufficient public benefits to outweigh the LTSH, CW ascribes very significant weight to the LSTH.¹⁰⁶

Landscape character

98. RfR2 was clearly drafted to allege harm to landscape character arising from the "excessive height, scale, bulk and mass" of the proposed EfW CHP main building and chimney stack.

The visual aspect of landscape character

99. The Appellant, and its witness AC in particular, have approached the RfRs as if they have struck gold because there was not a RfR referring to visual harm, indeed it will not have escaped the Inspector that AC seemed to think this was the answer to almost everything no matter what the question. The Inspector will no doubt take great care with that point – it is plain and obvious that the reference to "excessive height, scale, bulk, and mass" relates to the visual aspect of landscape character. PR in his Proof was very clear that landscape character has a perceptual aspect and that the visual perceptive sense is a part of this. That approach is clearly supported in GLVIA :

¹⁰⁶ CW proof paras 4.111-4.113.

- i. GLVIA page 86, para 5.35 : within the section on ‘Predicting and describing landscape effects’, the effects on landscape are likely to include “change in and/or partial; or complete loss of elements, features or aesthetic or perceptual aspects that contribute to the character and distinctiveness of the landscape” ;
 - ii. GLVIA page 90, para 5.49 : within the section on ‘Magnitude of landscape effects’, judgments about the size or scale of change in the landscape should take account of “the degree to which aesthetic or perceptual aspects of the landscape are altered either by removal of existing components of the landscape or by addition of new ones – for example, removal of hedges may change a small-scale, intimate landscape into a large-scale, open one, or introduction of new buildings or tall structures may alter open skylines” ;
 - iii. GLVIA page 93, para 5.57 : Within the summary section for assessment of landscape effects “[...] consider how the proposal will affect the elements that make up the landscape , its aesthetic and perceptual aspects, its distinctive character and the key characteristics that contribute to this” ;
 - iv. GLVIA page 126, para 7.25 : within the section on identifying landscape effects and assessing their significance, further references to aesthetic or perceptual attributes and aspects.
100. A further reason for the emphasis on the visual aspect of the perceptual approach in this case arises from the exercise that was undertaken with AC in XX. There were a total of 48 key characteristics listed for the Heath/Farmland Mosaic LCT and North Poole Heath / Farm Fringe LCA, the Lowland Heathland LCT and Canford Heath LCA, the River Terrace LCT and the Merley-Canford River Terrace LCA. Many of these clearly related to visual aspects. Only a single listed characteristic (“some quiet relatively isolated areas”) related to any of the other senses, and that was for a LCT/LCA where neither PR nor the Appellant identified a significant effect (River Terrace LCT). 1 out of 48. 0 out of 32 for Heath/Farmland Mosaic LCT and North Poole LCA, Lowland Heathland LCT and Canford Heath LCA. In pausing to consider this, it should be remembered how extensively in his written evidence AC had emphasised

the effect on key characteristics at the heart of his evidence – it would be extraordinary for the Appellant to now say that the listed key characteristics don't really matter. [Pausing there, the Inspector will recall that when in XX AC was being taken to the list of key characteristics he refused to look at PR's list as he said that PR had missed some out – this gratuitously unfair comment had to prompt a laborious exercise in XX of taking AC through the extensive list to demonstrate that PR had listed all 48.] For all ABKC's rhetorically-attractive attempt to articulate the landscape case by reference to the experience of standing on Chesil Beach, the reality is that the landscape character in this case is driven by an assessment of the effect on key characteristics which [with one River Terrace exception] have nothing to do with the non-visual senses – there are no waves crashing, there are no pebbles under the feet.

Alignment of methodologies

101. At the CMC the Inspector was keen to ensure that Inquiry time was not spent trying to compare apples with pears, in other words to ensure that the experts aligned where possible on methodology and focussed instead on judgments. BCP assured the Inspector at the CMC that this would be its approach, and accordingly PR followed the methodology in the Appellant's LVIA. It came as a surprise to BCP, therefore (and no doubt to the Inspector) to see that the Appellant through AC had employed a different methodology, utilising different tiers within the various assessment tables, a different narrative criteria, and even different landscape receptors. The Inspector may think that this was both unhelpful and unnecessary. It was particularly surprising since AC did not actually set out any criticisms of the approach in the LVIA. Even as to the number of tiers, GLVIA is clear that anywhere between 3 and 5 categories in word scales are acceptable (GLVIA p38 para 3.27).

Year 1 and Year 15

102. The LVIA set out the effects at construction stage, at Year 1, and at Year 15. PR did the same. This was consistent with the guidance in GLVIA, which suggests that effects are described for short term, medium term or long term, with each specified

in years (GLVIA p39, para 3.27), and gives as examples (GLVIA p91 para 5.51) of each 0-5 years (short-term), 5-10 years (medium term) and 10-25 years (long-term). The approach set out in the LVIA and followed by PR was clearly agreed in the SOCG : in terms of landscape character and visual amenity it was agreed that “it is appropriate to consider the effects at Year 1 and Year 15 [...]”¹⁰⁷. AC followed that approach for his visual impact section but ignored it for landscape character, choosing instead to consider the positions only at Year 1 and post decommissioning. That was unhelpful.

Plumes

103. It is well-established in decision-making that plumes can draw attention to development such as chimney stacks¹⁰⁸, and PR incorporated the impact of plumes into his assessment¹⁰⁹. This approach had been agreed in the SOCG¹¹⁰. It may have come as something of a surprise therefore that in his pages and pages of evidence on landscape character AC made not a single reference to the effect of plumes. In XX he confirmed that he had incorporated into his landscape section every factor which he considered to be relevant. However, his only reference to plumes was in a later chapter in his evidence headed ‘Rule 6 Issues – Effect on Visual Amenity’. He then back-tracked by claiming he had also included this in his landscape character assessment. The Inspector will have to make what she will of this confusion and contradiction.

National Character Area

104. PR was criticised by the Appellant for not having set out in his Proof reference to and analysis against the relevant National Character Area. This was an unfair and frankly pointless detour :

¹⁰⁷ SOCG para 6.5 vi.

¹⁰⁸ See, for example, decision letters for Javelin Park CD9 1.125 and Archers Field CD9 1.22

¹⁰⁹ PR Proof para 4.3.48

¹¹⁰ SOCG para 6.5 vi.

- i. The SOCG had set out relevant character area documents¹¹¹ which included Poole and Dorset assessments but not the NCA ;
- ii. The LVIA at the application stage had concluded that the more localised assessments were of much greater use”¹¹² ;
- iii. AC in any event concluded that the key characteristics of the NCA would not be materially affected,¹¹³ a position confirmed by PR in his rebuttal and in EiC.

Significance of Effects

105. Both the LVIA and PR had treated effects at moderate or above as “significant”.

106. AC once again chose to take a different approach. He claimed that he was following GLVIA in doing so, by treating only ‘major’ effects as significant. However, that was not a balanced representation of what GLVIA actually advises (at para 5.56 on p92-93). GLVIA identifies two ‘extremes’ : (1) “major loss or irreversible negative effects, over an extensive area, on elements and/or aesthetic and perceptual aspects that are key to the character of nationally valued landscapes” which are “likely to be of the greatest significance” (2) reversible negative effects of short duration, over a restricted area, on elements and/or aesthetic and perceptual aspects that contribute to but are not key characteristics of the character of landscapes of community value” which “are likely to be of the least significance” and “may, depending on the circumstances, be judged as not significant”.

107. However, in between these two “extremes” GLVIA is clear that the matter as to what is “significant” is left to professional judgment.

108. So far, so good.

¹¹¹ SOCG para 5.4

¹¹² Para 4.3 LVIA Addendum CD3 1.5(2)

¹¹³ AC Proof para 6.14

109. However, what AC proceeded to do was to treat only ‘major’ effects – the highest tier of harm on his methodology – as “significant”¹¹⁴. His narrative descriptors¹¹⁵ describe ‘major adverse effect’ as “substantially” being at variance with the character of the landscape, or “substantially” degrading or diminishing the integrity of a range of characteristic features and elements or cause them to be lost, or “substantially” change a sense of place. In short, he had clearly set the bar for “significant” effects too high, thus enabling him to treat his conclusions of “moderate” effects (to the main site¹¹⁶ and to North Poole Heath / Farm Fringe LCA¹¹⁷) as “not significant”.

110. It is respectfully submitted that the more balanced approach taken by the authors of the LVIA and by PR to what effects should be treated as “significant” should be preferred.

Enhancements

111. A cautious approach should be taken to AC’s reliance on enhancements, so as not to fall into the error of :

- i. Treating enhancements to the DNC compound¹¹⁸ as material to the effect on the “main” site ;
- ii. Treating matters of mitigation as enhancements, noting what GLVIA has to say about this¹¹⁹ and the description in the LVIA Addendum of “Inherent Design Mitigation”¹²⁰.

¹¹⁴ See AC Methodology at his App 14, para 5.2 and Table 11

¹¹⁵ AC Methodology at his App 14, Table 12

¹¹⁶ AC Proof para 5.30

¹¹⁷ AC Proof para 6.46

¹¹⁸ See AC Proof paras 5.11, 5.12.5.20

¹¹⁹ GLVIA para 3.39 at p 43

¹²⁰ LVIA para 12.4.2

Approach to effect on key characteristics

112. AC's analysis relies heavily on asking himself the question (as articulated in his Proof) whether the key characteristics "remain or prevail"¹²¹.

113. The flaw in that approach, as explained by PR in EiC, is that it overlooks or at least underplays where a key characteristic is adversely affected. AC's approach effectively simply asks whether or not a key characteristic would be wiped out. This is why in XX he was taken to the Introduction to the Poole LCA¹²² which says "If the key characteristics which are identified were to change or be lost there would be significant consequences for the current character of the landscape". PR's position is that a weakening of a key characteristic is a change to it.

LCAs and LCTs

114. AC did not seem to agree with the approach of the LVIA, followed by PR, in aligning the LCTs identified in the Dorset Landscape Character Assessment¹²³ with the LCAs identified in The Poole Landscape Character Assessment¹²⁴. However, as AC agreed in XX, each LCA in the Poole document reflects a single LCT in the Dorset document – that is plainly why the authors of the LVIA and PR considered the 'twinning' approach to be a sensible one in this case. PR was clear in XX that his summary table "relates to the LCA part of the LCT".

The site

115. PR agreed in XX that since the issue arising related to the main building and chimney, the focus for landscape purposes in respect of the effect on the appeal site should be on the EfW CHP Facility Site.

¹²¹ AC Proof para 6.38 re North Poole Heath / Farm Fringe LCA, para 6.50 re Canford Heath LCA, para 6.5 re Merley/Canford River Terrace LCA

¹²² CD6 1.16, para 3 on page 3.

¹²³ CD 6.1.17

¹²⁴ CD 6.1.16

116. PR assessed a medium sensitivity (combining a low value with a medium susceptibility). Combined with a high magnitude of change for Year 1, this would produce via the LVIA matrix a moderate adverse effect for Year 1 (significant). By Year 15 mitigation planting may reduce the magnitude of change to medium/high, which would still result in a moderate adverse effect (significant) for Year 15.
117. The LVIA agreed with a medium sensitivity but claimed a lower magnitude of change resulting in an adverse but reduced (minor) level of effect at Year 1 and Year 15.
118. AC agreed that there would be a high magnitude of change for Year 1 (only he knows what he considers to be the position in Year 15). As to sensitivity, as was put to him in XX he assessed the susceptibility to change to be low on his methodology. He accepted in XX that references in his narrative table criteria to “type of development proposed” means the actual development proposed, not simply for example “industrial development”. However, this means (his Table 3) that for low susceptibility (a) the scale of enclosure has a high capacity to accommodate a 50m high building with 110m high industrial chimney (b) the landscape has extensive existing reference or context to a 50m high building and 110m high industrial chimney (c) the existing features / infrastructure has a dominating influence on the landscape. However, the existing 15m high building and 35m high chimney do not dominate the landscape because they are screened ; nor can the scale of enclosure be described as having a high capacity to accommodate these heights, because the enclosure cannot screen them ; nor does the existing 15m high building and 35m high chimney provide an extensive reference to a building and chimney each more than 300% taller than what is there now. The facts simply do not fit the criteria for low susceptibility in Table 3. The Inspector may think that at the very least the narrative in AC’s Table 3 for medium susceptibility is a more realistic fit. This matters. Because if a medium susceptibility is plugged into AC’s other findings for the site, then on his matrix this would produce a medium sensitivity (AC Table 4) which alongside his high magnitude of change would result in major effect via his matrix (Table 11), a significant effect even on his high bar for significance (contra his stated position of moderate adverse).

Heath Farmland Mosaic LCT & North Poole Heath / Farm Fringe LCA

119. This is the area which contains the facility site.
120. PR assessed a Medium/High Sensitivity. Alongside a Medium/High magnitude of change for Year to produce a Year 1 effect of Major-Moderate (significant). For Year 15, he says that the magnitude of change could reduce to Medium, although this would not change the overall effect.
121. The LVIA also concluded adverse effects for Year 1 and Year 15, albeit at a lower level (Moderate-Minor).
122. AC's assessment was infected by his "remain/prevail" approach to key characteristics, but the Inspector may have found it daring to suggest as he did that the proposed development would result in a "seamless blend"¹²⁵. This no doubt played its part in why he once again concluded a low susceptibility¹²⁶ - if the Inspector takes the view, as set out for the site above, that he had under-stated this element, then once again on his methodology the conclusion would be a major (significant) effect.

Lowland Heathland LCT & Canford Heath LCA

123. The Inspector will no doubt have formed her own judgments about Canford Heath from her site visit. The key characteristics for this LCA refer to "a distinctive open heathland landscape with characteristic wooded sloped edges". PR assessed its sensitivity to be very high, and the magnitude of change to be medium for Years 1 and 15, resulting in a Major-Moderate (significant) effect for Year 1 and Year 15. Of course the Inspector will have regard to the various factors identified in the evidence: the LCA as a whole, the influence of existing detractors etc. However, a medium magnitude of change, considered against what that means in the LVIA methodology¹²⁷, is hardly overkill : "Partial loss/alteration to one or more key receptors/characteristics ;

¹²⁵ AC Proof para 6.39

¹²⁶ AC Proof para 6.40

¹²⁷ Table EDP A2.5

addition of elements that are evident but do not necessarily conflict with the key characteristics of the existing landscape”. As to the very high sensitivity, the Inspector is invited to consider the narrative for this in Table EDP A2.1:

Value: Nationally/internationally designated/valued countryside and landscape features; strong/distinctive landscape characteristics; absence of landscape detractors.

Susceptibility: Strong/distinctive landscape elements/aesthetic/perceptual aspects; absence of landscape detractors; landscape receptors in excellent condition. Landscapes with clear and widely recognised cultural value. Landscapes with a high level of tranquillity.

Against that descriptive narrative the Inspector may see merit in PR’s judgment, but even if she only considered the sensitivity to be High, that would still produce a moderate (significant) adverse effect.

124. The LVIA found the magnitude of change to be Low, although still leading to adverse effects in Years 1 and 15, but the Inspector is respectfully invited to consider with the assistance of representative viewpoint 10 whether a judgment of Low Magnitude of Change is an under-statement.

125. As for AC, he found the sensitivity to be high, but found the magnitude of change to be negligible because it would “only relate to the visual context of Canford Heath”. There are three things to say about this :

- i. On AC’s methodology, a negligible magnitude of change means¹²⁸ “No notable or appreciable introduction of new elements into the landscape or change to the scale , landform or pattern of the landscape” ;
- ii. The Inspector may think his approach effectively pulls up a drawbridge around the boundary of an LCA – however, an LCA can plainly be affected visually by

¹²⁸ AC Methodology App 14 Table 6

development beyond the boundary, hence PR's evidence¹²⁹ that "the scale and verticality of the appeal scheme [...] will be clearly visible from a large part of the LCA" ;

- iii. On AC's matrix¹³⁰, even a medium magnitude of change would produce a major (significant) effect when combined with the high sensitivity.

River Terrace LCT & Merley-Canford River Terrace LCA

- 126. These submissions address this LCT/LCA only briefly, as PR did not find the effects to be significant, however it remains pertinent and he found there to be a Moderate/Minor adverse effect in Year 1 and Year 15, and the LVIA also found that there would be (minor) adverse effects at both stages.

Decommissioning

- 127. AC steers his assessment to effectively jump from Year 1 to decommissioning at the end of a 40 year operational period. However, PR's approach to this is respectfully commended to the Inspector : " [...] the prospect of decommissioning should in my view be given very little weight in the context of the assessment of impact on landscape character largely because 40 years is a very long generational period"¹³¹.

Landscape character conclusion

- 128. BCP's position as to harm to landscape character is encapsulated by CW, based on the expert evidence he read¹³² and heard, namely that the development proposal would result in significant adverse effects on landscape character which should be given significant weight in the planning balance. [Note: in addition to the relevant development plan policies, the proposal breaches paragraphs 135, 139, and 187(a) of

¹²⁹ PR Proof para 4.3.36

¹³⁰ AC Methodology App 14 Table 11

¹³¹ PR Rebuttal para 2.22

¹³² CW Proof para 4,87

the Framework - paragraph 139 refers to the National Design Guide, and it is plainly incorrect of the Appellant to suggest that this does not apply to industrial developments.¹³³].

Need

129. In the Appellant's opening, BCP's position on need was plainly mischaracterised. At no stage have BCP sought to identify need as an objection, but it is plainly a material issue because the Appellant relies on it as part of their Very Special Circumstances case and the Inspector has identified it within her Main Issue (iv).

130. BCP accept that there is a need. However, the proposal significantly exceeds this need, and this will result in overcapacity which the Government are seeking to avoid.

131. A summary of BCP's position on need is set out in CW's summary note dated 15 June 2026.¹³⁴ Table 7 of the WP records an identified shortfall of residual waste capacity against need by 2033 of 234,000tpa. In the Portland Appeal,¹³⁵ the Inspector adjusted the need table figure by 95,000tpa on the basis of underperformance of the existing MBT facility at Canford Resource Park. Further, the Appellant has suggested that this should be revised by an additional 20,000tpa due to further underperformance of the MBT facility.¹³⁶ CW is not in a position to gainsay the Appellant's evidence on this point. It is therefore agreed between the Appellant and BCP that the WP waste need is 349,000tpa.

132. At the heart of this debate is the question of whether the facilities at Portland and Parley will come into operation.

¹³³ RA in XX was taken to a series of paragraphs of the NDG to demonstrate this, namely: page 2 para 3; page 4 paras 5 and 13; page 11 para 41; page 20 para 71.

¹³⁴ ID26

¹³⁵ CD9 1.3

¹³⁶ Asquith Proof, para 5.3.5

Portland

133. BCP's position is that the following factors are relevant material factors for the Inspector to reach a judgment as to the likelihood of this facility coming forward:

- i. In a question to PC, the Inspector said in respect of the planning application and appeal that "this indicates to me that a lot of time, effort and money has been put into gaining a planning permission". BCP considers that is indicative of commitment to the scheme ;
- ii. In addition, permission was granted relatively recently, in September 2024¹³⁷;
- iii. The environmental permit was granted in February 2025 and the application to vary was made in November 2025.¹³⁸ In his Proof, PC advances as a positive factor for Canford the fact that it has a permit,¹³⁹ so it would be unbalanced to then not recognise that as a factor supporting the position in Portland ;
- iv. In May 2026 a press release from the director of Powerfuel Portland set out that matters are on track. It is not appropriate to take a cynical approach to this, and it should be taken at face value, not least because it is supported by other factual evidence of steps being taken such as the granting of permission and dealing with the environmental permit ;
- v. PC puts forward three arguments: (a) it is not economically viable; (b) it is not near waste arisings (c) the owners of Portland (and Parley) have no track record. As to economic viability, PC confirmed that MVV has no direct involvement with this scheme and there is no evidence in front of the inquiry from the owners, operators, or promoters of the Portland site to say that it is not economically viable. As to the point that Portland is not near waste arising, the Inspector and the Secretary of State in the Portland appeal had no concern that Portland was going to be too remote from the waste arisings. As to track records, there is no actual evidence in front of the inquiry as to the track record for the owners of Portland (and Parley), but in any event: (i) as CW said,

¹³⁷ CD9 1.3

¹³⁸ CD9 1.117

¹³⁹ PC Proof para 3.1.1

that does not mean they are unable to deliver (ii) once upon a time, MVV would have had no track record.

Parley

134. BCP's position is that the following factors are relevant material factors for the Inspector to reach a judgment as to the likelihood of this facility coming forward:

- i. The Inspector's comment at (i) above also applies in relation to Parley, as do the points in (v) relating to economic viability and track record ;
- ii. Further, the permission process for Parley has also been relatively recent: permission was granted in December 2022¹⁴⁰ and was varied in March 2025¹⁴¹ ;
- iii. The Inspector examining the WP found the allocation to be sound ;
- iv. There was discharge of the pre-commencement conditions between December 2024 - November 2025.¹⁴² In response to a point raised by PC, CW explained in EiC that the discharge of pre-commencement conditions was not required for the Parley promoters to build out the anaerobic digester facility. CW's evidence was that the fact that the Parley promoters varied the permission for the EfW facility and discharged the conditions had regard to the fact that the variations accounted for the EfW facility to work in conjunction with the anaerobic digestion facility in layout terms. This is therefore an indicator that the promoters of the Parley scheme intend to develop both the EfW and the anaerobic digestion scheme. Further, in his rebuttal evidence, PC relied on the absence of a discharge of pre-commencement conditions as a factor indicating that the Portland scheme will not come forward.¹⁴³ In XX, PC agreed that the discharge of pre-commencement conditions is therefore a factor that is relevant to deciding whether a development is going to come forward. As such, the fact that pre-

¹⁴⁰ CD9 1.35

¹⁴¹ CD9 1.35(b)

¹⁴² Confirmed in the letter from the promoters of the Parley scheme dated 2 March 2026 - CD9 1.35(a)

¹⁴³ PC Rebuttal para 2.1.1

commencement conditions have been discharged in Parley is an indicator that the development will come forward ;

- v. The letter from Union for Planning in March 2026,¹⁴⁴ and the continued engagement of professional advisers indicates an intention to bring the project forward ;
- vi. PC prayed in aid the fact that the Parley promoters are seeking a new permission means that the old permission is not going to be built out.¹⁴⁵ That is plainly not a safe inference to draw. Indeed, RA agreed in XX that it is possible for a development scheme or proposal to become less viable without becoming unviable. If the inference that the Appellant invites (that an application for renewed permission means an extant permission is unviable) was a sound inference, then this calls into question what should be inferred from the status of the extant planning permission at the appeal site. If this inference were drawn for the extant planning permission, then that is totally inconsistent with the Appellant's reliance on the extant planning permission as, in effect, a fallback or baseline in respect of matters such as landscape harm and matters relating to openness, such as traffic generation ;
- vii. As to the suggestion that seeking to vary a permit indicates that the planning permission is not viable and will not come forward, that inference should be given no weight, not least in the light of RA's acceptance in XX that a scheme which has become less viable does not mean that it has become unviable.

135. The Appellant subsequently passed comments in questions put to other witnesses about PC's evidence on this being unchallenged. This was not a fair representation because whilst PC was plainly entitled to his views, it was clearly put to him in XX by BCP that there were a series of factors that were material to the Inspector's judgment on this issue, and he agreed.

¹⁴⁴ CD9 1.35(a)

¹⁴⁵ PC Proof para 2.1.14, footnote 7

Overcapacity

136. DEFRA's guidance 'Residual waste Infrastructure capacity note' ('the DEFRA Note'),¹⁴⁶ which post-dates the NPPW and the WP, refers to overcapacity on 4 occasions in addition to the Executive Summary. These are:

- i. "A proposed plant must not compete with greater waste prevention, reuse, or recycling, or result in overcapacity of residual waste treatment"¹⁴⁷ ;
- ii. "The results presented should be used to ensure that we do not deliver overcapacity, especially where this risks compromising waste prevention or recycling now or in the future"¹⁴⁸ ;
- iii. "We do not, however, support the development of overcapacity of energy recovery infrastructure in England and will work to strengthen planning considerations to ensure that this does not happen"¹⁴⁹ ;
- iv. "To that end, government does not support overcapacity of energy recovery treatment regardless of the technology used and all new developments must demonstrate the genuine need for additional or replacement energy recovery treatment capacity"¹⁵⁰ ;

137. The Appellant looks to respond to this by referring to references in the DEFRA Note to a pool of capacity, in particular:

- i. "Consented capacity, therefore, should be viewed as a pool of potential projects that may or may not be constructed in line with local residual waste management needs"¹⁵¹ ;
- ii. "As detailed above, consented facilities should be considered a pool of potential projects, not a guarantee of development of those facilities."¹⁵²

¹⁴⁶ CD9 1.1

¹⁴⁷ DEFRA Note page 6 para 2

¹⁴⁸ DEFRA Note page 25 para 1

¹⁴⁹ DEFRA Note, page 27 para 2

¹⁵⁰ DEFRA Note, page 36 para 4

¹⁵¹ DEFRA Note, page 15 para 3

¹⁵² DEFRA Note, page 16 para 2

138. CW's position in EiC is that the two references to a 'pool of capacity' are made in relation to the methodology that was used to forecast residual waste infrastructure capacity. The DEFRA Note at this point was setting out the assumptions made when calculating existing capacity in light of sites which already have planning consent but are not yet built out. It was not concerned with providing advice on future planning consents. This stands in contrast to the consistent references throughout the DEFRA Note to preventing overcapacity: the clear message is that overcapacity will not be supported.

139. RA accepted in XX that the DEFRA Note should be read as a whole. It cannot be fairly read as a whole without attaching weight to the references made over and over again (in a relatively short document) to avoiding overcapacity.

140. To support its interpretation of the DEFRA Note, the Appellant relies on the decision letter in the North Lincolnshire Green Energy Park project, dated 13 March 2025.¹⁵³ The primary paragraphs that the Appellant points to:

"4.87....The Secretary of State also notes that should the project be unsuccessful in securing an adequate waste supply, it will not receive the necessary finance for its construction. Defra's note supports these assertions as it states that consented development that cannot secure a long-term contract for feedstock supply is highly unlikely to receive financing and proceed to construction and some of this consented capacity may also constitute replacement capacity for existing facilities nearing end of life.

4.88. The Secretary of State sees some merit in the arguments put forward by the Applicant regarding market forces."

141. Of all of the ways that the Secretary of State in the North Lincolnshire decision could have expressed the point, he chose the words 'some merit'. This is a single observation which cannot be treated as an endorsement of the Appellant's position

¹⁵³ CD9 1.34(b). The Examining Authority report CD9 1.34(a) pre-dated the DEFRA Note, and so it was not considered in that report.

that the “pool of capacity” concept somehow trumps the five clear references in the DEFRA Note to avoiding overcapacity, nor that future decision-makers should treat it as such.

Relevance of the geopolitical climate

142. The Appellant, through the oral evidence of RA, sought to rely on the current geopolitical climate as a relevant factor in the need equation. However, this is an ever-changing climate and on the Appellant’s own evidence the appeal scheme, if allowed, would not come into operation for around 5 years. The Inspector may think that it would not be appropriate to attach weight in her determination to a planning consultant’s view about the current geopolitical climate in an ever-changing world and in respect of a proposed development which, on any view, is years away.

Catchment condition

143. This is an appropriate point at which to consider the issue raised by the proposed catchment condition. Through months in the lead up to the inquiry, the Appellant refused to accept BCP’s proposed condition which would have required some of the waste to originate in the Waste Authority’s area, instead proposing a condition whereby none need arise in the Waste Authority’s area. Little or no weight can be given to PC’s warm words as to intentions to treat waste arising locally. What matters is whether that is secured or not. At the eleventh and a half hour, after RA had been XX’d on the basis that the Appellant’s condition would mean that the treatment of literally no waste from the Waste Authority’s area would be secured, the Appellant cobbled together a new version of its condition offering that not less than 20% of the waste be sourced from within the WP area. The Inspector may think that the Appellant’s position on this is important because it puts up a fight about where the waste should come from at the same time as it claims to be meeting the need in the Waste Authority’s area. The Inspector may think that this has a material impact on the weight that she can give to the issue of meeting need in the planning balances.

Benefits and Planning Balances

144. There is little dispute between the parties as to the range of benefits that need to be recognised in the planning balance. The difference arising is principally as to weight.

Benefits

145. BCP recognises the following benefits and weighs them accordingly in the planning balance:

- i. **Renewable and low carbon energy** (significant weight, as per paragraph 168a of the Framework). Renewable and low carbon energy is defined in the Framework as follows: *“Includes energy for heating and cooling as well as generating electricity. Renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun and also from biomass and deep geothermal heat. Low carbon technologies are those that can help reduce emissions (compared to conventional use of fossil fuels).”* This therefore incorporates renewable energy, CHP, and carbon capture readiness. In accordance with the Framework, CW attributes significant weight to this benefit. In the interests of completeness, and to assist the Inspector, CW has disaggregated this benefit, without prejudice to the overall weighting of significance.¹⁵⁴ RA attributed substantial weight to the generation of renewable energy. However, the Framework recognises the difference between substantial weight (for example harm to Green Belt) and significant weight, and at paragraph 168a, clearly and deliberately refers to significant weight. [Pausing here, CW was criticised in XX for not referring to every matter for every point which could amount to a material point, but the same is true of RA. For example with all his experience as a planner in the waste sector, he made no mention at all of paragraph 168a of the Framework, at the same time as he gave substantial weight to benefits covered by paragraph

¹⁵⁴ CW Proof paras 5.17-5.25

168a. It was not suggested to RA that he had sought to deliberately mislead the inquiry and nor was it appropriate to make any such suggestion to CW.] As to carbon capture readiness, although it is recognised that “not all details would be available at this stage of the development process and economic changes may occur in future”¹⁵⁵, the latest report from KVI is loaded with caveats and uncertainties. CW accepted in EiC that there had been some progress in information provided since he wrote his proof, but there remained conditions, caveats and a lack of economic assessment which all go to uncertainty.¹⁵⁶ PC and the Appellant team are at pains to point out that KVI are “best in class”. It may give the Inspector even more cause for concern that the “best in class” has clearly struggled to devise a scheme for carbon capture readiness that is not heavily uncertain. These uncertainties include considerable issues arising from the layout.¹⁵⁷ In addition, in answer to a question from the R6 party, PC stated that there would be an effect of the area identified for carbon capture on the area which has also been identified as a maintenance area. Further, in XX from the R6 party, PC accepted that there was no commercial viability assessment in front of the inquiry, there was therefore no evidence that it was economically feasible. In answer to this, PC stated “it is not necessary and it’s too early so I deliberately asked them [KVI] not to bother”. This is despite the implications for economic viability associated with the complications arising largely from the layout issues.¹⁵⁸ It would be wrong to treat the Appellant’s evidence as demonstrating carbon capture readiness, when it is buried so deep in unresolved uncertainties. In

¹⁵⁵ Archers Field, para 145 - CD9 1.22

¹⁵⁶ CW Rebuttal para 3.4-3.5.

¹⁵⁷ PC Proof Appendix MVV5. See, for example under the heading ‘6 Layout’:

- “...the typical required area would be larger...”;
- “To minimise the required footprint of the CCP, several systems and facilities are assumed to be located on or provided by the EfW site”;
- “The compact layout results in: • Increased complexity due to equipment stacking, lifting requirements, piping arrangements • Restricted access for construction, inspection, and maintenance.”

Under the header ‘7 Summary’:

- “The plant layout can accommodate all main process units within the available footprint; however, this requires significant optimisation measures, including equipment stacking and multi-level arrangements.”

¹⁵⁸ PC Proof Appendix MVV5, under the heading ‘6 Layout’: “...limited space availability is expected to result in increased costs.”

the end, however, the Inspector may think that there is little between CW and RA to the extent that RA gives carbon capture readiness only slight weight in the planning balance¹⁵⁹ and CW gives it limited weight¹⁶⁰ ;

- ii. **Deliver efficiencies and sustainability benefits from co-locating waste facilities together** (moderate weight) ;
- iii. **Moving waste up the waste hierarchy** (limited weight) ;
- iv. **Locating waste management infrastructure close to where waste arises in BCP and Dorset and contributing to self-sufficiency of waste management** (limited weight). This is quite obviously a recognition of the proximity principle and RA acknowledged in XX that the “the environmental benefit of reducing the environmental consequences of waste coming from a wider area”¹⁶¹ is precisely what the proximity principle means. The Appellant’s comment in opening that BCP had not even recognised the proximity principle in its evidence was one of a series of poorly judged pot shots in the Appellant’s opening and RA acknowledged in XX that it would not be fair to suggest that CW had ignored the proximity principle in his evidence, since he was clearly treating it as a benefit ;
- v. **Economic benefits** (moderate weight). This weighting is largely consistent with the weighting ascribed to this benefit in the Archers Field decision, where the Inspector ascribed “small to moderate” weight.¹⁶² In that decision, the Inspector did not find it necessary or helpful to set out different types of economic benefit for separate weightings in the way that RA has done. CW is clear that this approach amounts to double-counting, because RA attributes substantial weight each of different elements of economic benefit¹⁶³ ;
- vi. **Use of previously developed land** (moderate weight) ;
- vii. **Extension of the Heathland Support Area** (significant weight) ;
- viii. **At least 25% Biodiversity Net Gain** (moderate weight) ;
- ix. **Remediate the site to better than the current condition** (limited weight) ;

¹⁵⁹ RA Proof page 159

¹⁶⁰ CW Proof para 5.24

¹⁶¹ CW Proof para 5.10

¹⁶² Archers Field, para 150 - CD9 1.22

¹⁶³ CW Rebuttal para 4.13

- x. **Improvements to local odour and noise** (limited weight).

Planning balances

146. The relevant adopted Development Plan documents for the purposes of this appeal are:
- i. The Bournemouth Christchurch and Poole and Dorset Waste Plan adopted in December 2019 ;
 - ii. The Poole Local Plan, adopted in November 2018.
147. BCP's case is that the proposal conflicts with:
- i. WP Policies 3, 14, 19, 21 ;
 - ii. PLP Policies PP2, PP27, PP29, PP30, PP31.
148. It is BCP's case that the harm to designated heritage assets is not outweighed by public benefits, and provides a strong reason for refusing the development.
149. This proposal amounts to inappropriate development in the Green Belt. This is by definition harmful. Other harms are harm to the openness of the Green Belt, harm to the significance of designated heritage assets, and harm to landscape character. These harms will not be clearly outweighed by other considerations, therefore Very Special Circumstances do not exist.
150. There are no material considerations to displace the statutory presumption in favour of the Development Plan.
151. It is respectfully submitted that this appeal should fail.

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25th June 2026