

Town and Country Planning Act 1990 (“TCPA”)
Planning and Compulsory Purchase Act 2004 (“PCPA”)
Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 (SI 2000/1625)

Before Inspector D Lewis BA(Hons) MCD MA LLM MRTPI

In the matter of a public inquiry into an appeal pursuant to s.78 TCPA 1990 by:

MVV Environment Limited (“the Appellant”)

Against a refusal of planning permission by the waste planning authority:

Bournemouth, Christchurch and Poole Council (“the Council”)

Concerning land known as

Canford Resource Park, Arena Way, Magna Road, Wimborne, BH21 3BW

For

The demolition and removal of existing structures and the erection of a carbon capture retrofit ready energy from waste combined heat and power facility with associated combined heat and power connection, distribution network connection, a temporary construction compound, and associated buildings and ancillary parking (main facility for an operational period of 40 years) (“the Proposals/the Appeal Scheme”)

PINS reference: 6002440; Council reference: 23/00822/F

CLOSING SUBMISSIONS ON BEHALF OF THE APPELLANT

Abbreviations/acronyms: as above and *as per* the Main SoCG **CD8.1.1** and the Appellant’s Opening (“Opening”), unless altered here (where abbreviations/acronyms are considered sufficiently established after 11 inquiry sitting days, they are not reintroduced below).

References to core documents (CDs) and inquiry documents (IDs) are in **bold**.

INTRODUCTION AND SUMMARY

1. By this Closing, the Appellant reflects on the evidence now heard.
2. There is no dispute regarding the primacy to be given to the development plan, by virtue of statute,¹ and the Framework,² nor that of the plan’s two elements it is the up-to-date Waste Plan 2019 (“WP”) that is both more recent, and of principal relevance.

¹ As *per* Opening, s.70(2) of the TCPA and s.38(6) of the PCPA ask: are the Proposals in accordance with the statutory development plan?; if they are, do other material considerations nonetheless mean that permission should not be granted?; or, if they are not, do other material considerations mean that permission should nevertheless be granted? The test contains a (rebuttable) presumption in favour of the development plan, which must be taken as a whole, with recognition that policies may be in tension.

² At Paragraph 11(c): proposals that ‘accord with an up-to-date development plan’ should be approved ‘without delay’.

3. That is of particular importance in this case, which concerns an allocation, and not just any allocation. It concerns the standout strategic residual waste management allocation in the WP, and Proposals that would deliver what the WP seeks: needed strategic EfW to deal with SE Dorset’s residual waste, whilst producing useful energy in the process.
4. The plan is to be taken as a whole, and it is also well understood that planning decision-making generally requires judgments to be made in the round, holistically. In the circumstances, it is unsurprising that the Proposals do accord with the development plan taken as a whole. Material considerations outside the plan also favour them.
5. Planning officers so concluded, decisively, not once but twice. This was not a case of officer recommendation “on narrow balance”: officers, most recently Dr Manna, author of the 2025 OR, were in no doubt.³ So too the (slim) minority of the Planning Committee,⁴ contrary to the (slim) majority’s rejection of officer advice.
6. However, from the time that slim majority decided to reject Dr Manna’s advice, the Council’s approach has been to consistently fail to take a holistic view, and rather focus on narrow perceived negatives. Its case to this Inquiry has sought to confine matters, incorrectly so, to e.g. a particular slice of affected heritage setting, a part of the landscape where the Proposals might be seen, and so on, forsaking a global perspective.
7. In Opening, the Appellant noted the significant benefits of the Proposals and the relatively modest disbenefits. In Closing, the Appellant advances four propositions at the outset.
8. (*Proposition 1*) The Proposals will deliver strategic residual waste management at the strategic residual waste management allocation in the WP (the Inset 8 allocation), going a long way to meeting the need in SE Dorset that the WP identifies, which need is a key aspect of the WP’s Spatial Strategy,⁵ and doing so in accordance with the waste proximity principle, the waste hierarchy and the principle of self-sufficiency.⁶ It is common ground the allocation envisages this type of residual waste management

³ In September 2024 (see officer report to Committee, **CD5.1.2(a)**, at section 26 (which starts at p.71) and in particular sub-section 26.6 at pp.75-77, and see also addendum report **CD5.1.2(b)**, at pp.8-9) and then in June 2025 (see Dr Manna’s officer report to Committee, **CD5.1.2(c)** (“the 2025 OR”), in particular at Paragraphs 339-347 at pp.74-75 (of 98), and see also Dr Manna’s addendum report **CD5.1.2(d)** in particular at p.4).

⁴ See the June 2025 Planning Committee meeting minutes **CD5.1.4**.

⁵ We deal later with Mr Whitehouse’s striking denial of what the WP says about where the need primarily is.

⁶ As to the Proposals’ compliance with/contribution to all three principles, see Main SoCG **CD8.1.1**. at 6.3 ii, iii & viii, iv and vii (but see below for the Council’s convolutions at proof stage regarding Main SoCG 6.3(vii) and the proximity principle generally).

(EfW), and the evidence of Mr Carey, namely that viable merchant EfW has to be of essentially this size in terms of bulk, scale, mass, is not in any way disputed; there was no XX to his evidence on this issue, nor did any other witness advance a substantive case on this point on behalf of any other party (a point we reflect on below).⁷

9. The Appellant ventures that this appeal might be said to boil down to a single question: are the people of SE Dorset, and so the main WP area conurbation,⁸ to deal with their own residual waste, responsibly, sustainably, as the WP has carefully planned for them to do, or will they continue to make it someone else's problem, elsewhere, contrary to their own WP? Mr Asquith did not mince his words (XC), rightly so: a conurbation dealing with its waste is a basic sanitary function, that should be fulfilled, as per the WP.⁹
10. (*Proposition 2*) The Proposals will bring additional and obvious benefits, not least (but not only): considerable co-location benefits, useful energy, adding jobs and generally supporting the local (and national) economy, assisting in reducing greenhouse gas emissions ("GHGs"), whilst future-proofing for carbon capture, improving energy security, removing or reducing existing environmental impacts, such as odour, flies and the associated impacts of what are manifestly unsatisfactory arrangements at the CRP "MBT", and increasing biodiversity. There will be others too (including the money the Council will stand to save when it can have the conurbation's residual waste dealt with proximately). The benefits, which we address below, thoroughly accord with the drive for sustainable development.
11. The question of the degree of need aside (not a RfR), this is all either common ground, or not disputed. Given the Proposals will do all this at the strategic residual waste management allocation, with the built form the subject of the RfRs all on previously developed land ("PDL"),¹⁰ there could hardly be a more effective use of this land.¹¹

⁷ Mr Carey's evidence on these points was given on Day 1. Mr Grant's XX did not challenge it, and there was no XX from Magwatch. Nor, in any event, was Mr Carey's evidence on these points challenged when he returned on Day 2, and gave evidence regarding carbon capture and combined heat and power.

⁸ South-east Dorset, which includes the conurbation of Bournemouth, Christchurch and Poole, contains some 65% of the WP area's population, in some 18% of the WP area.

⁹ Mr Asquith in XX by Mr Grant described it as 'obscene' that SE Dorset does not do so. That is strong language, but it is not inaccurate.

¹⁰ Common ground with the Council, and note that the Framework definition of PDL can only reasonably be read such that "lawfully developed" includes land immune from enforcement (see further below).

¹¹ Framework, Chapter 11.

12. (*Proposition 3*) It is common ground with the Council that the Proposals will deliver their benefits without harm to any designated landscape, or to any ecological designation, and without unacceptable impact on visual amenity,¹² which is striking given the rich BCP/Dorset context. This is testament to the WP allocation and the Scheme design, including its embedded landscape-sympathetic design mitigation. The Proposals will also do so without harm to health, despite Magwatch’s unjustified and misconceived stance there (which stance did not withstand scrutiny).
13. (*Proposition 4*) No statutory consultee has maintained an objection to the Proposals, subject to conditions. This includes Natural England, Historic England, the Environment Agency and Bournemouth Airport.¹³ Given the Council’s reliance on “heritage harm”, not least as regards Green Belt Grey Belt policy, the fact of Historic England’s lack of objection is notable. As is the lack of objection from Natural England, the Environment Agency and the Airport as regards Magwatch’s additional points.
14. Even taking the Council’s alleged harm at its highest, it is clearly outweighed by the benefits – and that is even if the Council is right regarding the alleged policy non-compliance set out by RfR1-3 (which the Council is not).
15. There is a great opportunity here to do something both necessary and sustainable, which should be seized. The Appellant is ready to meet the moment, and has been throughout.
16. This Closing will now sum up regarding: the Appellant; why the Proposals are needed and should go here, on the CRP, given the allocation and what is (or rather is not) in dispute about it; the main issues/RfRs; and then benefits and the balance.

THE APPELLANT

17. As explained throughout, the Appellant really does know what it is about; it is in the business of delivering and operating EfW CHP facilities, including in the UK.¹⁴
18. The Inquiry has now heard a deal of evidence from Mr Carey, and respectfully his experience shone through, both regarding the workings of the technology from an engineering and ‘lived-experience’ perspective, but also regarding the workings of the waste market, again with the benefit of hard-won real-world experience. This matters for a number of issues before the Inspector.

¹² See Main SoCG at 6.5(i).

¹³ See Main SoCG at 6.20 and see MVV/Magwatch SoCG at 6.17, plus see MVV/BIAL SoCG **CD8.1.3**.

¹⁴ See Mr Carey Proof at e.g. Paragraph 1.3.3 and his XC.

19. Amongst the points Mr Carey’s evidence explained, without challenge, are that:

- (1) the days of private finance initiative long-term-contract-tied EfW are well behind us, and all new EfWs now are likely to be merchant facilities;¹⁵
- (2) EfW merchant plants have to be a certain physical size to function effectively, efficiently and so be viable, and that size is as set out by Mr Carey, with visual illustration from the helpful diagram in his Proof;¹⁶
- (3) separate to this, there is a “right size” for an EfW facility in terms of tonnage per annum, dependent on its host area, and 260,000 tpa is the right size for this WP area (whereas more than double that is the right size for the Wisbech area where the Appellant is building its Medworth facility)¹⁷;
- (4) in order to be able to offer appropriate gate fees that allow it to accord with the proximity principle and be viable, a merchant EfW must have a certain freedom as to its catchment area. In this particular case, the Proposals should naturally attract the proximate waste from the SE Dorset conurbation, the limited road miles and existing links to the CRP making this the manifestly logical choice both in terms of sustainability and economics. However, residual waste suppliers do not operate in narrowly defined spatial planning areas, and an overly restrictive catchment condition (as the Council’s is) will mean the Proposals cannot be built as they will not be a viable proposition (such strictures would leave the operator at ransom).

20. By way of comparison, Mr Carey also explained why neither the Portland nor Parley proposals are sensible propositions in market terms.¹⁸ Although there was some (limited) challenge to that, the facts regarding both are rather stark: Portland is obviously out on a spatial limb (literally an island connected by a causeway, far from the main conurbation), making transport of waste to it unattractive,¹⁹ and undersized (affecting gate fees), whilst the Parley planning permission is obviously too small, evidenced by the operator’s decision to try for a different planning permission (and, note, there is no reason to think that even now the Parley promoter has it right).

¹⁵ See Mr Carey Proof at e.g. 2.1.7 and XC.

¹⁶ See Mr Carey Proof at 4.1.7-4.1.8, plus Figure 4.1 and Table 4.1, and XC.

¹⁷ See Mr Carey Proof at e.g. 2.1.6 and his XC.

¹⁸ See Mr Carey Proof at e.g. 2.1.12-2.1.14, 3.1.3 and his XC.

¹⁹ This is before consideration of the obvious difficulty presented by Portland being limited to 40 lorry loads a day, explained and discussed by Mr Asquith in his Proof Appendix 3 at 1.6.1-1.6.8, and not disputed.

21. As Mr Carey set out, neither of those projects have had the benefit of the practical experience of EfW CHP that the Appellant has, and has in spades. By contrast, the Inspector can be confident these Appeal Proposals are the right ones, and will work in all senses (technological, market, sustainability etc). Nor, incidentally, do the promoters of Portland or Parley have the benefit of the Appellant's access to German funding (and inward investment into the UK is not to be disregarded as immaterial).²⁰

NEED AND THE ALLOCATION (why these Proposals, and why here?)

22. As *per* Opening, our nation generates residual waste, which policy requires be dealt with,²¹ and dealt with in accordance with the waste hierarchy (recovered, and only as a last resort disposed of). Even the best performing authorities struggle to re-use or recycle much more than 60% of their local authority collected waste ("LACW"),²² before consideration is given to non-LACW waste.

23. The waste planning authorities, BCP Council and Dorset Council, have done their plan-making job. Through the WP (CD6.1.1) they have:

- identified the need for residual waste management, and that it is primarily in SE Dorset (an agreed geographical definition²³), where the main conurbation is found, as *per* the WP's Spatial Strategy, at WP p.27 *'The need for strategic residual waste treatment facilities will primarily be addressed through new capacity in south east Dorset.'*

- assessed how much of that need is unmet, the WP answer being that it is largely unmet, and the update to that answer being that in reality it is effectively entirely unmet, given the "MBT" does not fulfil its intended role.²⁴ Hence the Council does not gainsay Mr Asquith's evidence the WP unmet need figure of 234,000 tpa should be uplifted, not just to the 329,000 tpa in line with the approach taken by Inspector Griffiths on the Portland appeal, but to 349,000 tpa, in light of the current information regarding the "MBT";²⁵

²⁰ See Mr Carey Proof at e.g. 1.3.1, 3.1.4 and XC.

²¹ It should not need to be said, but landfill is contrary to policy (save for the small fraction of residual waste not suitable for combustion), and not dealing with residual waste at all is unthinkable.

²² LACW is also sometimes referred to as "municipal waste", but the two terms mean (subtly) different things. For definition of terms, see <https://www.gov.uk/guidance/local-authority-collected-waste-definition-of-terms>.

²³ See Main SoCG 6.22 and see MVV/Magwatch SoCG 6.19.

²⁴ Although Mr Carey's description of the MBT plant as a "waste of energy" plant was colourful, it is accurate.

²⁵ Agreed by Mr Whitehouse in XX.

- made provision for dealing with that unmet residual waste management capacity need through allocation of four existing waste sites, only one of which, the CRP which would contain the EfW CHP Facility Site, merits its own description on the WP's "Key Diagram", which marks it with a star as '*existing strategic capacity for residual waste treatment*'.²⁶ It is striking not only that the CRP is the only site marked "strategic", of all the sites marked on the Key Diagram (which cover the range of waste management, not just residual waste management), but also that the diagram key does not refer to any other site as regards '*residual waste treatment*'. This chimes with the WP's Spatial Strategy as regards residual waste management need in SE Dorset, quoted above, and also what the WP has to say about strategic facilities more generally.²⁷

24. Mr Whitehouse gave evidence that the WP's Spatial Strategy words '*The need for strategic residual waste treatment facilities will primarily be addressed through new capacity in south east Dorset*' are simply referring to the fact that most of the allocations are in SE Dorset, asserting also that the WP does not approach matters on the basis the need is primarily in SE Dorset. That twisting of the Spatial Strategy, which Mr Whitehouse set out in his Proof,²⁸ and refused to give up on the stand (XX), is plainly wrong, and is one of the examples of the Council's gymnastics referenced in Opening. Inspector Palmer²⁹ made the position clear in his report on the WP **CD6.1.1(a)**, at Paragraph 24:

'24. Because the population is concentrated in the south-east of the plan area, within Bournemouth, Poole and Christchurch, strategic provision is required close to those urban areas...'

25. Mr Whitehouse did not dispute the meaning of that text, as aligned with the Appellant's reading, but nonetheless rejected that interpretation of the WP Spatial Strategy words.

²⁶ See the WP Appendix 1 "Key Diagram", at internal p.149 (the CRP is marked with a green star and labelled by the key '*existing strategic capacity for residual waste treatment*').

²⁷ See WP supporting text 2.29 at p.14 '*The Waste Plan addresses the need for both strategic and local facilities. Strategic facilities are those that will contribute significant capacity to meet an identified capacity gap, may manage waste arising from the whole Plan area and are fundamental to the delivery of the Waste Plan, such as residual waste treatment facilities. The need for these facilities has been identified following a comprehensive review of existing waste arisings, permitted capacity and anticipated growth during the Plan period. This takes account of future planned housing and wider population and economic growth projections. Local facilities serve a local need, identified as a result of a need for improvement of existing facilities to bring up to modern standard, serve an increasing population and/or facilitate the sustainable movement of waste.*'

²⁸ See Mr Whitehouse Proof at 4.131 and generally, which denies that the WP identifies a need for residual waste management in SE Dorset. One of the Council's several untenable positions noted in the Opening.

²⁹ Inspector Nick Palmer BA (Hons) BPI MRTPI.

26. Similarly, Inspector Griffiths³⁰ shared the Appellant’s reading of those Spatial Strategy words in his Portland appeal report (see **CD9.1.3** at 12.108), which was again accepted by Mr Whitehouse, yet he nonetheless continued to insist on his different interpretation.
27. It is, of course, agreed the Proposals are consistent with the WP Spatial Strategy insofar as it identifies need for residual waste management including EfW in SE Dorset.³¹ The Spatial Strategy does identify that need, and the Proposals are thus consistent with it.
28. At present, BCP/Dorset send virtually all their residual waste out of area (the *de minimis* “MBT” material recovery/process loss is the minute exception).³² Mostly for treatment, including by export, some to landfill. Hence the undisputed unmet need of 349,000 tpa.
29. Against this, the WP allocates the CRP, and with the particular significance apparent from the Spatial Strategy Key Diagram. Why the CRP is so singularly marked is self-evident: it is near the main conurbation, with superior transport links by comparison with the other allocations,³³ it is the predominant existing waste management site, offers significant co-location opportunities, it is already developed, and there is considerable potential capacity in the allocation, which Mr Asquith has explained collectively sums to 260,000 tpa,³⁴ a figure that was ultimately not challenged (the Council presumably having thought better of Mr Whitehouse’s previous approach).³⁵ This is before we come to the synergy with the White’s Pit waste aggregates operation next door.
30. It is common ground with the Council (and not something to which Magwatch raised a challenge of Mr Asquith), that this type of development (EfW) is in accordance with the allocation policy for the CRP (WP Inset 8). Rightly so, as Inset 8 marks it for residual waste management, notably including EfW, so long as it does not lead to adverse effects upon the integrity of European protected sites. It is clear from the WP as a whole that strategic EfW was envisaged here, not just by that proviso, and by the

³⁰ Inspector Paul Griffiths BSc(Hons) BArch IHBC.

³¹ See Main SoCG 6.17(iii). Note the absence of this in the MVV/Magwatch SoCG: this is amongst the many items Magwatch dispute without evidence/in the face of the evidence.

³² It is agreed (despite the confusing title to Main SoCG 6.23) that there are no operational residual waste management facilities in SE Dorset, the minimal contribution made by the CRP “MBT” aside.

³³ Mr Asquith’s Proof at Paragraphs.2.1.20-2.1.22, not challenged in XX.

³⁴ Mr Asquith’s Proof at Paragraphs 3.6.5.5-3.6.5.15 (not challenged in XX). Mr Asquith also explained in his Rebuttal, at paras. 2.5-2.8, why Mr Whitehouse’s calculation of potential additional capacity in the allocation (see Mr Whitehouse Proof at e.g. 3.16, 4.115) of 125,000tpa, based on the Low Carbon Energy Facility’s 100,000 tpa and the Inset 8 ‘extension’ area adding c.25,000 tpa, is wrong (as it looks only at the EfW CHP Facility Site, not the whole allocation). Mr Asquith’s Rebuttal evidence here was not raised with Mr Whitehouse in XC, nor was Mr Asquith challenged on it in XX, rightly so.

³⁵ See footnote above.

allocation's recognition of potential for intensification and redevelopment, and addition of the extension area (which, taken in the round, produces that substantial potential capacity of some 260,000 tpa), but also the WP's need figures, the Spatial Strategy, its Key Diagram and by e.g. WP Policy 6(d)).

31. The plan makers recognised the Green Belt location, but even in the context of then-Green Belt policy (not as favourable to the Proposals as the present Framework), gave weight to the land being PDL.³⁶ Similarly they recognised the proximity of Canford Heath and its ecological designations, but as a matter to be addressed and satisfied (and that feature of the allocation is entirely consistent with envisaged EfW). In short, they recognised the disbenefits, but also the need and the benefits, and were satisfied.
32. The Appellant looked carefully at the waste plan area before deciding the CRP was the right site. That was for good reason (and the contrast with other sites is a marked one).
33. In this context, before turning to the Main Issues/RfRs, it is worth reflecting on the significance of Mr Carey's, and Mr Asquith's,³⁷ unchallenged evidence regarding size,³⁸ and the agreed principle of EfW here, at the CRP allocation.
34. Every one of the Council's RfRs, and even most of Magwatch's objections, concern the size of the EfW CHP Facility. But it is not disputed, as summarised by Mr Asquith, that *'Mr Carey's evidence...shows that even plants with substantially lower throughput are not necessarily significantly lower in terms of their building heights. The particular circumstances...are such that a plant of much less throughput is likely to require a large building'*. Notably, Dorset Council is now supportive of the proposed 260,000 tpa throughput.³⁹ The reality of the Council's case, and (of course) Magwatch's, is that they are objecting to EfW of any meaningful throughput here, contrary to the WP.
35. Finally under this heading, is the question of the Defra Residual Waste Infrastructure Capacity Note (Mr Asquith's "R-WIC-N") of December 2024. Although the Council sought to erect a "need" obstacle to the Appeal Scheme via RWICN, that argument goes nowhere. As is plain from the document, and as Mr Asquith has explained, it is of course concerned to avoid over capacity, but over capacity ultimately occurs only when

³⁶ Inset 8 plainly envisages development on the allocation in the Green Belt, at consideration 5, as note in particular: *'High standards of design and landscaping will be expected for development within the Green Belt'*.

³⁷ It is important to bear in mind that Mr Asquith is not only an expert planner, but an accredited waste expert, and, as he explained, with decades of experience in the residual waste field, including many EfW projects.

³⁸ In addition to Mr Carey's Proof, noted above, see Mr Asquith's Proof at 2.2.1-2.2.2.

³⁹ **CD4.1.6.**

more EfW is built than needed. Hence the “pool” of potential capacity approach written in to RWICN and, importantly, recognised and supported by the Secretary of State’s own decision-making in the North East Lincolnshire Green Energy Park DCO **CD9.1.34(b)**. The Council’s attempts to play on the words “some merit” used in that context are unjustified. Reading the decision fairly and as a whole, the Secretary of State’s approach is perfectly clear: it is compliant with RWICN to grant more capacity than required, as the market will then decide what is built. To treat consented potential capacity equally with built operational capacity, as Mr Whitehouse did in his Proof, is simply not tenable; such approach necessarily involves disregarding the express discussion within RWICN of the ‘pool of consented capacity’⁴⁰. Further, the lack of merit in the approach was well illustrated by Mr Whitehouse’s attempts, and the Council’s general attempts, to avoid the force of the Secretary of State’s decision-making. This is also the only approach sensibly reconcilable with National Waste Planning Policy (“the NPPW”) (**CD6.1.4**), which is not only extant, but recognised as such by the present Framework and plainly not displaced by RWICN.

36. Still further, as Mr Asquith has explained, there is clear need in the SW region, more than sufficient for the capacity of the Proposals. But the focus must be the up-to-date WP, and the need it identifies for SE Dorset, as well as the WP area as a whole.
37. That there is a regional need for the Proposals’ capacity is itself a weighty benefit, but that the Proposals would meet the spatial need the WP identifies goes well beyond that.

MAIN INQUIRY ISSUE 1: GREEN BELT

38. The fact that the EfW CHP Facility Site (here “Main Site”) is designated as Green Belt is evidently relevant to the determination of the Appeal: the Inquiry will have noted that the fact of the designation is fundamental to the basis on which the Council resists the Appeal. That is, it is only because the Council considers the EfW CHP Facility (here “Main Plant”) to be inappropriate that it maintains permission should not be granted.

⁴⁰ For Mr Whitehouse in his Proof there was no material difference between facilities merely permitted, and facilities constructed and operational (see Mr Whitehouse Proof Section 3 and 4.121-4.128), a position which is contrary to RWICN, and how the Secretary of State has applied RWICN (and also contrary to the NPPW, as well as sound planning generally) yet one which the Council sought to defend throughout; e.g. attempts to downplay the Secretary of State’s reasoning. This is another of the Council’s untenable positions noted in the Opening.

In the event the Inspector does *not* find the Main Plant inappropriate development in the Green Belt, the Council does not suggest that permission should be refused.⁴¹

39. Turning to Green Belt policy, and its application here, the Council and the Appellant have worked constructively to narrow issues, and the Inspector can note the following:

Grey Belt

- (i) If the Main Site is held to comprise Grey Belt, then the Main Plant is not inappropriate. In that context, and having regard to relevant guidance in Framework Paragraph 155 and Glossary, the Council agrees that⁴²:
 - The Main Plant would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - There is a demonstrable unmet need for the type of development proposed;
 - The development would be in a sustainable location by reference to Framework Paragraphs 110 and 115;
 - The ‘Golden Rules’ do not apply ; and
 - The Main Site does not contribute strongly to Green Belt Purpose (d).
- (ii) In these circumstances, the only questions remaining for determination are:
 - Whether alleged heritage impacts provide a strong reason to refuse permission?
 - Whether the Main Site contributes strongly to Green Belt Purpose (a)? and
 - Whether the Main Site contributes strongly to Green Belt Purpose (d)?

Paragraph 154(g)

- (i) If the Main Plant on the Main Site comprises development of previously developed land (“PDL”) which would not result in substantial harm to the openness of the Green Belt, then the Main Plant would not fall to be considered inappropriate. It is

⁴¹ Mr Whitehouse’s Proof, Section 5, addresses ‘planning balance’, and the only balancing exercise undertaken comprises a ‘Very Special Circumstances’ (“VSC”) balance, which is of course predicated on the fact of the Main Plant being held to be inappropriate. No exercise was carried out to assess the position in a scenario where the Main Plant is found *not* to be inappropriate. The fact that Mr Whitehouse does not assert that planning permission should be refused in such scenario was noted by Mr Asquith (XC). He was not challenged (XX) on this point.

⁴² See Paragraph 15 of the Council’s opening submissions (ID2) (confirmed by Mr Whitehouse in XX).

agreed (as between the Council and the Appellant⁴³) that the Main Site comprises PDL. Accordingly the only matter at issue is:

- Whether the Main Plant would cause substantial harm to the openness of the Green Belt.

Very Special Circumstances (“VSC”)

- (i) Where development is properly regarded as inappropriate, planning permission can and should be granted in respect of it where VSC exist so as to justify the grant of permission. Such circumstances will only exist where any harm which the Main Plant would cause to the Green Belt – together with any other planning harm – is clearly outweighed by other considerations (those considerations essentially being the benefits which the Appeal Scheme would deliver).

40. These Closing Submissions now address each of the above scenarios in turn, giving consideration to the relevant points in dispute.

Grey Belt

Heritage

41. There is agreement between the planning witnesses (Mr Asquith (XC) and Mr Whitehouse (XX)) that the approach which the Inspector should adopt when determining whether or not heritage impact provides a ‘*strong reason for refusal*’ in the context of Framework Fn7, is the “internal heritage balance” at Framework Paragraph 215. That is, the Inspector should reach conclusions as to the extent of any

⁴³ Magwatch through Mr Ahern (Mr Ahern XX) does not accept that all of the Main Site should be regarded as PDL for the purposes of Framework Paragraph 154(g); he maintains that an area of hardstanding should not. Such position is not only in conflict with the opinion of the Appellant’s witness Mr Asquith, it is also contrary to the view of Mr Whitehouse (XX) and also Dr Manna (see Paragraph 178 **CD 5.1.2(c)**). All three of these qualified planning professionals correctly regard the Main Site as PDL. That such conclusion is correct necessarily follows from Mr Ahern’s concession (XX) that the development (being the laying of hardstanding) on the relevant part of the Main Site is immune from enforcement action (see also Mr Ahern Proof at 4.3.3). The fact that development which is immune from enforcement action is lawful, is established as a matter of law by reason of s.191(2)(a) TCPA 1990. Insofar as the Inspector queried (InspX Asquith) the fact that the relevant development was carried out in breach of planning control, there is no significance in this issue. The definition of PDL in the Framework Glossary refers to land ‘...*which has been lawfully developed*’. The insertion of this clause in the December 2024 Framework (it was not present in the December 2023 iteration) served to address the lacuna wherein it was arguable that land accommodating development could be said to comprise PDL even in circumstances where that development was unauthorised, and its removal could be secured by enforcement action. There is no significance beyond that. In this regard the Appellant notes it would be nonsensical were land not to be viewed as PDL where it accommodates significant development which is lawful and where its removal cannot be secured. Further, it is notable that whilst the definition of PDL in the Framework Glossary expressly excludes various categories of land, there is no such exclusion of land which was developed in breach of planning control, but where that development has since become lawful.

less than substantial harm (“LTSH”) to heritage from the Main Plant, and should then weigh that harm as against the various benefits which the Appeal Scheme would deliver.

42. The parties’ respective positions as to heritage harm are addressed elsewhere in this Closing, and that analysis is not repeated here. Suffice it to say that whilst the Appellant maintains the evidence of Dr Miele was shown to be robust, and should be preferred to that of Ms Kelly, the Appellant further notes the limited degree of LTSH that Ms Kelly claimed to identify. Even putting the Council’s case at its highest, the alleged “heritage harm” would not be sufficient to outweigh the scheme benefits in this case (as per Mr Asquith (XC)). It is also notable the Council does not contend permission should be refused on the basis of heritage harm alone, nor heritage harm with landscape harm: as such, the Council itself reveals the lack of substance in its own ‘*strong reason*’ case.

43. Thus the issue of heritage is no bar to the finding that the Main Site is Grey Belt.

Green Belt Purpose (a)

44. It is respectfully submitted that the Council’s case in respect of this issue does not withstand scrutiny.

45. In this context it is common ground that the relevant assessment as to whether the Main Site makes a “strong” contribution to Green Belt Purpose (a) falls to be undertaken by reference to the relevant guidance in the PPG (**CD6.1.11**). In this regard, whilst Mr Whitehouse was keen to emphasise the extent of “*planning judgement*” allowed in the application of that guidance, he ultimately accepted (XX), that:

- the PPG should inform the Inspector’s judgement; and that
- the PPG provides the only guidance to inform that judgement.

46. Such matters are self-evident, but must nevertheless be noted expressly in light of the way the Council’s case was put.

47. Turning to that guidance (i.e. the PPG), the first point to note – and perhaps the shortest way to deal with this issue – is that Mr Whitehouse accepted in terms (XX) that the Main Site met the criteria in the PPG for a “moderate” contribution to Purpose (a).⁴⁴ In circumstances where Mr Asquith agreed also (XX) that the criteria for “moderate”

⁴⁴ Indeed, Mr Grant adopted the position, and put it to Mr Asquith in XX.

contribution is met, the Inspector may think there is no need to go further. There is unanimity of approach that the “moderate” criteria are met, and therefore it cannot sensibly be said that the land in question makes a “strong” contribution for the purposes of the guidance. To meet the “moderate” criteria, of course, requires land to include *‘one or more features that weaken the land’s contribution’*; i.e. features that are contrary to a “strong” contribution towards the purpose.⁴⁵

48. Looking beyond that initial matter, the Appellant points also to the conclusion of Mr Asquith (ReX) that the land also satisfies the criteria for a “weak or none” contribution: it is near to a large built up area and already contains *‘significant existing development’*. Again, in these circumstances, it cannot sensibly be said that the site makes a “strong” contribution.
49. That leaves the criteria for “strong” contribution. Here Mr Whitehouse accepted (XX) – as he had to – that the Main Site does not satisfy the requirement that land be *‘likely to be free of existing development’* (although of course the Appellant recognises the element of latitude which the term *‘likely’* necessarily imports into the guidance).
50. Next, as regards the requirement that the site *‘lack(s) physical feature(s) in reasonable proximity that could restrict and contain development’* Mr Whitehouse maintained a position that this requirement was satisfied, but it is respectfully submitted that such position is misconceived.
51. In this regard, Mr Whitehouse accepted that the relevant belts of trees (and the adjacent landfill mound) were physical features in reasonable proximity, but asserted that they did not serve to restrict or contain development because the EfW CHP Facility and its chimney would still be visible beyond them (as per his Proof at Paragraph 4.27). Such assessment is flawed and erroneous, in terms of its principle of approach. Purpose (a) is concerned with the prevention of urban sprawl. That concept is, at bottom, a lateral one. It seeks to prevent development advancing laterally beyond an existing built up area. It is for that reason physical features (whether natural ones such as rivers, or

⁴⁵ As per the purpose (a) illustrative features:

Assessment areas that contribute moderately are likely to be adjacent or near to a large built up area, but include one or more features that weaken the land’s contribution to this purpose a, such as (but not limited to):

- *having physical feature(s) in reasonable proximity that could restrict and contain development*
- *be partially enclosed by existing development, such that new development would not result in an incongruous pattern of development*
- *contain existing development*
- *being subject to other urbanising influences*

infrastructure such as roads) have previously been held capable of containing/restraining development in the context of Purpose (a), notwithstanding they do not serve to provide any visual “screen”. Where the PPG is concerned with visual matters (as in the context of Purpose (b)) it will say so; it does not say so here. Thus Mr Whitehouse’s judgement is based on a false premise. The same principled analysis applies to other “non physical” restricting features around the Main Site, such as the SAC/SPA/SSSI.

52. Relevant in this context also, was the extent to which Mr Whitehouse sought to blur the lines between the contribution which land (in this case the Main Site) makes to Green Belt Purposes, and the development proposed upon it. In this regard, as Mr Asquith rightly noted (XC), the definition of Grey Belt in the NPPF Glossary is concerned with *‘land that...does not strongly contribute to any of purposes (a), (b) or (d)’* (emphasis added) (so too the PPG is concerned with *‘land’*, and *‘areas’*). Time and again Mr Whitehouse fell back on the nature of the Appeal Scheme as justification for his finding as regards Purpose (a). That argument does not stand. Combined with his position as to the “visual” approach to containment (see previous paragraph), what that argument results in, of necessity, is a *variable* conclusion as to the contribution which land (in this case the Main Site) makes to Green Belt Purpose (a). That is:

- Where proposed development is “small” (such that the physical features – tree belts – do screen it), then those physical features do contain/restrain development, so that the contribution which the land makes to Green Belt purpose (a) could not be “strong”, and would instead be “moderate”.
- However, where proposed development is “large” (such that it breaks e.g. a treeline and is visible), those physical features do *not* contain/restrain development, so that the contribution which the land makes to Green Belt purpose (a) would be “strong”, instead of “moderate”.

53. That, evidently, does not reflect what the Framework means by Grey Belt and is not how the guidance in the PPG is intended to work. There should be one judgement; not a spectrum. In fact, the futility and flaws in the nature of Mr Whitehouse’s argument are laid bare by his reliance on the LUC GBA 2020.⁴⁶ That study, and the judgement regarding Purpose (a) of *‘relatively strong contribution’* to which Mr Whitehouse

⁴⁶ CD6.1.9.

attaches “*significant weight*” (XX), was necessarily undertaken without reference to the development which the Appellant now proposes for the Main Site. Instead – quite correctly – it was a *blind* assessment; one that has regard to the nature of the land under assessment, and not a particular form of development that might come forward on it. Mr Whitehouse cannot say that it is the form of development which dictates the contribution which land makes to a Green Belt Purpose, and then rely on an assessment which reached findings without reference to that form of development.⁴⁷

54. The only further point to note with reference to the “strong” contribution criteria in the PPG, is that which relates to the criterion concerning whether land ‘...*if developed, [would] result in an incongruous pattern of development (such as an extended “finger” of development into the Green Belt)*’ (emphasis added). Here, as was put to Mr Whitehouse (XX), there is evidently another misalignment. It is agreed that the Main Site has *already* been developed; indeed there is significant development already there in the form of a 15m high industrial building and a 35m high chimney. Thus the conditionality in the criterion relating to the prospect of the land being developed does not apply. Evidently, this criterion links back to the earlier clause in the definition, stipulating that land will ‘*likely be free of existing development*’. In circumstances where it is not so free, the pattern of development – incongruous or otherwise – *has already been established*. Thus there is no way that Mr Whitehouse can properly say that this criterion is satisfied either.

55. In these circumstances, and for all these reasons, it is respectfully submitted that the assertion of Mr Whitehouse that the Main Site makes a “strong” contribution to Green Belt Purpose(a) must be disregarded, and the evidence of Mr Asquith preferred: the land makes either a “nil” – or at most a “moderate” contribution.

⁴⁷ In this context, the Appellant notes a wider observation regarding the reliance placed by Mr Whitehouse on the GBA 2020 Study. It is submitted that such reliance is inappropriate in circumstances where, quite apart from the fact that the study was conducted specifically with a view to identifying appropriate locations for urban extensions (Asquith XC), and where it was not scrutinised as the evidence base for any local plan at examination (again, Asquith XC), the simple chronological point is that it significantly predated current guidance in the PPG regarding how the question of “contribution to Green Belt Purpose” is to be approached. In that regard, the criteria relied upon by the authors of the study (for example, in respect of ‘*relatively strong contribution*’) bear very little resemblance to those now stipulated in the PPG as being applicable to sites making a “strong” contribution. Further, at more than 105ha (where the EfW Main Site runs to some 2.3ha), the study in respect of the relevant Parcel (OA31) is manifestly lacking the requisite granularity to give any assistance to the Inspector. The reliance of Mr Whitehouse on this study is therefore misplaced.

Green Belt Purpose (b)

56. The position here is similarly straightforward: once again the evidence of Mr Whitehouse overreaches, and once again it falls foul of the PPG.

57. Turning to that guidance, the Appellant notes that – as with Purpose (a) – the initial “hurdle” criterion is that land is *‘likely to be free of existing development’*. It is agreed that here, the Main Site is not. Moving on to the remainder of the criteria, as Mr Asquith rightly noted (ReX) those criteria fall to be applied on a “stepped” basis. “Step 1” is that the land – in this case the Main Site – should comprise *‘a substantial part of a gap between towns’*. Here, even on Mr Whitehouse’s own case, it is accepted that the Main Site does not comprise such a “substantial part” of any gap.⁴⁸

58. In these circumstances, the clear formulation of the PPG is that one does not get to “Step 2”, which exercise would have required consideration of whether or not development of that *‘substantial part of the gap’* would *‘be likely to result in the loss of visual separation between towns’*. Thus, as a matter of fairly reading the relevant guidance, there cannot be any conclusion that such criteria are satisfied. Certainly, there is absolutely no basis to declare “irrelevant” – as Mr Whitehouse does⁴⁹ – the fact that the Main Site does not comprise a substantial part of the gap between towns.

59. There are two further points which fall to be made regarding the erroneous nature of Mr Whitehouse’s assessment:

- The first of these can be taken shortly. It is that Mr Whitehouse misunderstands/misapplies the PPG as regards *‘loss of visual separation’*. The proposed development (Main Plant) will indeed be visible from both the communities that Mr Whitehouse relies upon (being “Merley” (regarding which see next point) and Bournemouth (again, see next point)). However, that is not the same as a *‘loss of visual separation between towns’*. A pylon located between two villages may be seen by inhabitants of both villages, but that does not mean “visual separation” of the settlements has been lost. In the present case there would still be significant extent of undeveloped land (wooded and otherwise) within the “gap” that Mr Whitehouse has identified.

⁴⁸ See Paragraph 4.42 of Whitehouse Proof (and XX).

⁴⁹ See Paragraph 4.45 of Whitehouse Proof.

- The second issue is as regards Mr Whitehouse's approach to "towns" for the purposes of the guidance. In this context it is right to say that neither the PPG nor the Framework provide guidance as to what a town is comprised of, save to say that it is '*not a village*'. It is respectfully suggested that it would not be unreasonable to extrapolate from that position that a town is not merely 'a collection of villages' or alternatively 'a collection of neighbourhoods'. The fair reading of "town" must be that is precisely that: a town. The concoction of neighbourhoods/a village (Merley, Canford Magna, Oakley) that Mr Whitehouse relies upon is not a town: evidently the inhabitants of Canford Magna (we only have Mr Ahern and Mr Asquith as local residents who have spoken on the point) do not regard it as such. Mr Whitehouse's fallback position, is to claim that the relevant "*towns*" are Poole (Merley) and Bournemouth (Bearwood) (XX).⁵⁰ However, once again, that position does not hold. The GBA 2020 Study on which Mr Whitehouse places such reliance, itself *expressly* identifies Bearwood as part of the town of Poole, not the town of Bournemouth.⁵¹ Thus Mr Whitehouse is measuring a gap between one part of the town of Poole, and another part of the same town (that is, Poole). That is not what the guidance in the PPG is concerned with.

60. Accordingly, in this context also, the assertion made by Mr Whitehouse that there is a "strong" contribution to the Green Belt purpose does not hold up. It is respectfully submitted that the assessment of Mr Asquith (nil) is – when one applies the PPG – the right one. Whatever the position is, the contribution is self-evidently not "strong".

Conclusion on Grey Belt

61. Having regard to the above matters, the Appellant respectfully submits that the Main Site is properly regarded as Grey Belt, and that all relevant criteria in the Framework are satisfied such that the Main Plant should not be regarded as inappropriate. The Appellant further notes that were the Inspector to reach the same conclusion, that would leave a position where the Council does not resist the Appeal.

⁵⁰ See also the Proof of Mr Whitehouse at Paragraph 4.44.

⁵¹ See **CD6.1.10(b)** and also **ID28** and this repeated refrain regarding the parcels considered: '*The parcel is located on the north eastern edge of Bearwood, Poole. Poole is part of the large built-up area and is a town.*' See also **CD6.1.9** at 3.11 '*With regard to Purpose 1, the Bournemouth / Poole conurbation including the neighbourhoods of: Broadstone, Bearwood, Canford Heath, Creekmoor, Hamworthy, Upton, Corfe Mullen, Kinson and West Howe was considered to constitute the large built-up area.*'

Paragraph 154(g)

62. The position as regards Paragraph 154(g) can be taken much more shortly in these Closing Submissions. That is not because there is any the less substance in the Appellant's case in respect of it, but because the point at issue is a narrow one, and turns largely on the Inspector's judgement.

63. In this regard there is no dispute between the Council and the Appellant as to the relevant law and guidance relating to how impact of development on Green Belt openness should be assessed: all the principles and considerations set out in caselaw and policy are well understood. It is a question of applying those principles and considerations to the facts, having regard to the competing opinions of Mr Whitehouse (*'substantial harm to openness'*) and Mr Asquith/Mr Cook (*'moderate harm to openness'*). However, in this context the Appellant notes that the following considerations are relevant:

- (i) First, it is in fact not simply a question of the view of Mr Whitehouse versus the views of Mr Asquith and Mr Cook. There is also the opinion of Dr Manna (the case officer) to consider. Following a thorough assessment of the position in the 2025 OR, Dr Manna concluded that the Main Plant would not result in substantial harm to Green Belt openness.⁵² This is not a matter without importance, notwithstanding that Mr Whitehouse did not consider it sufficiently significant to comment on in either his written evidence or in XC. Dr Manna is an experienced planner, and is particularly familiar with the Main Site and the Main Plant.⁵³ What this means is that with Dr Manna siding with the Appellant's witnesses, it is Mr Whitehouse whose opinion is the outlier.
- (ii) Second, Mr Whitehouse accepted (XX) that the threshold of "substantial harm" is a high bar; he agreed that the term "substantial" was used in the Framework as the very highest qualitative tier (whether in terms of weighting or otherwise). That is significant, as it serves to underscore the scale of the challenge facing the Council in seeking to demonstrate that the requisite degree of harm would be caused to disentitle reliance on Framework Paragraph 154(g).

⁵² See Paragraph 186 of the Officer Report, **CD5.1.2(c)**.

⁵³ And Mr Whitehouse agreed in XX that Dr Manna is more experienced regarding the Appeal Site than him.

- (iii) Third, Mr Whitehouse acknowledged (XX) that his assessment as to the degree of harm caused did not make any allowance for the fact that the Main Plant is not ‘permanent’. Given the Framework expressly recognises that one of only two key characteristics of Green Belts is their permanence,⁵⁴ the Appellant submits that such approach on the part of Mr Whitehouse is erroneous. In so saying, the Appellant readily acknowledges that the 40 year lifespan (extended by construction and decommissioning periods, as Mr Cook and Mr Asquith both properly volunteered) is a long one: “*generational*”, as various witnesses stated. However, this is not a “999 year lease” or some other consideration that is fairly regarded as effectively permanent. After 40 operational years, the land will be restored, and indeed restored in a form far superior to its current condition. That is a consideration that Mr Whitehouse has failed to engage with properly.
- (iv) Fourth, and finally, the Appellant notes that delivery of the Main Plant on the Main Site will materially reduce the levels of visible activity across the CRP. In particular, the stream of vehicles transporting waste bales *away* from the existing MBT will cease: that is the only reasonable conclusion to draw from development of the Appeal Scheme. Further, the external activities associated with the MBT – the baling, wrapping with plastic, and movement of wrapped bales by forklift – will, in all probability, cease also. This necessarily follows from the fact that in circumstances where there is a modern, efficient, EfW at CRP, there will be no role for the MBT – which now serves simply as a waste transfer station (Asquith and Carey XC,⁵⁵ unchallenged) – to fulfil. When those premises close, the activities associated with them will cease, which cessation will comprise a *positive* development in terms of Green Belt openness. Further, this will also mean the end of the flies, odour, and other unpleasant effects generated by the MBT’s existing operations. The cessation of those effects will also be beneficial in terms of Green Belt openness (openness *not* being a solely visual matter, but experiential).

64. Stepping back, the Appellant readily acknowledges – indeed Mr Cook and Mr Asquith were entirely open in this respect – that the Main Plant will result in the construction of a very significant new building, the presence of which building will only partly be offset by the existing structure (or indeed the remaining consented development) on the Main

⁵⁴ Framework, Paragraph 142.

⁵⁵ For Mr Carey the MBT is a “waste of energy” plant, and that is a fair assessment.

Site. That consideration – impacting as it does on the volumetric and visual elements of openness – should be at the forefront of the Inspector’s analysis. However, it must only comprise part of that analysis. Other considerations, in particular those identified above, must also inform the assessment. It is on that basis that the Appellant – through the evidence of Mr Asquith – maintains that the impact of the Main Plant on Green Belt openness will amount to “moderate harm”. The Council’s own case officer concurs.

65. Again, and as with the Grey Belt analysis, on this basis the Appellant respectfully submits that all relevant criteria in the Framework are satisfied such that the Main Plant should not be regarded as inappropriate, by virtue of Paragraph 154(g). Again, the Appellant further notes that were the Inspector to reach the same conclusion, that would result in a position where the Council does not resist the Appeal.

Very Special Circumstances

66. The final element of analysis as regards Green Belt, relates to the existence of VSC. This element of the Appellant’s case is advanced entirely without prejudice to its primary case: that the Main Development should not be regarded as inappropriate in the Green Belt by reason of one or both of Grey Belt/Paragraph 154(g). However, in the event that – for whatever reason – the Inspector were to reject the Appellant’s case on those two issues, it would then fall to her to grapple with the question of whether VSC exist so as to justify the grant of planning permission.

67. These Closing Submissions return to that issue in the context of the Planning Balance. However, it is sufficient to note at this point that were this issue to arise, it is the Appellant’s case that “*other considerations*” are such as to clearly outweigh the harm caused to the Green Belt, together with the other limited planning harm which would result from the development.

MAIN INQUIRY ISSUE 2: PROTECTED HABITATS, LANDSCAPE and HERITAGE

PROTECTED HABITATS (AND BIODIVERSITY)

68. As to the effects of the Proposals on protected habitats (and biodiversity), and RfR5, Natural England is content that with the mitigation secured there will not be an adverse

effect on the integrity of the Dorset Heaths SAC, Dorset Heathlands SPA and Ramsar,⁵⁶ and necessarily also on the contiguous SSSI,⁵⁷ and the Council agrees RfR5 can be resolved via the s.106 and conditions. The Appellant has dealt with the small number of points raised during the Inquiry through the XC of Dr Gair (regarding the Dorset Council press release concerning heathland ammonia deposition levels, **ID14**) and the written evidence of Mr Wigglesworth (**ID22**, regarding the Dorset Wildlife Trust's representation on the Reg 25 ES further information, and Prof. Bullock's comment on that). There is nothing in the Magwatch case here.⁵⁸

LANDSCAPE (RfR2) (AND VISUAL AMENITY, RESPONDING TO MAGWATCH)

Preliminary

69. The Inquiry heard evidence from all main parties (the Appellant, the Council and Magwatch) on landscape issues. Without meaning any disrespect to Mr Ahern, these Closing Submissions focus on the evidence relied upon by the first two, and not on the evidence advanced by the Rule 6 Party. It is submitted that such approach is appropriate in circumstances where Mr Ahern's assessment, although clearly well-intentioned, is necessarily subject to some degree of partisan influence given his strong personal desire to see the Appeal dismissed. Further, in circumstances where he is not a member of any professional institute which would require objectivity in his analysis, Mr Ahern's observations must be approached with at least an element of caution.
70. Turning towards the task facing the Inspector, the Appellant notes that landscape issues (as with visual ones) necessarily entail a significant degree of subjective assessment. In that regard, the Inspector will arguably have been most significantly informed regarding the potential impacts of the Appeal Scheme by her series of site visits; she will form her own view. However, the expert evidence of the professionals who have given evidence at the Inquiry will also assist the Inspector.

⁵⁶ See **CD10.1.15**.

⁵⁷ For the designations on a plan, see drawing 'Statutory Designated Sites within 10km' at electronic page 55 of **CD1.1.21b** and at electronic page 86 of **CD11.1.19** (also helpful for a broad understanding of the extent of Canford Heath).

⁵⁸ See also Mr Wigglesworth's Rebuttal of the Magwatch ecology evidence (**CD15.1.6**).

71. In contending that the assessment of Mr Cook (for the Appellant) should be preferred to that of Mr Reynolds (for the Council), the Appellant respectfully submits that the assessment of the latter is not a reliable one.

Mr Reynolds' Approach

72. In this regard the Appellant notes firstly that Mr Reynolds accepted the instruction and (apparently) determined he could support the Council's RfR2 without visiting the Main Site or indeed the area more generally. Whilst of course that is not fatal to his assessment, that lack of rigour continued in, and was evident from, his subsequent analysis. Indeed, by way of headline, it was notable that he accepted in terms (XX) that he hadn't previously undertaken the granularity of assessment that he was now seeking to provide to the Inquiry in his oral evidence.

73. The problem appeared to lie partly in the fact that Mr Reynolds was (to some degree) confused about his role. In this regard he asserted repeatedly (XX) that in providing his proof of evidence he had sought to provide a response to the LVIA. It was only later that he accepted (XX) that in fact his role was to substantiate RfR2.

74. It was in light of this confusion that he provided assessments of impacts on the various elements of the site (e.g. DNC, CHP connection, TCC1) in his main proof and in his Appendix A, which he subsequently was forced to concede had no relevance to the RfR. It was also in these circumstances that he ultimately agreed that a '*red line*' should be put through Rows 2-5 of that Appendix. This was on the basis that:

- Impacts of the developments on those locations did not comprise part of RfR2; and
- Impacts of the development on the Main Site on those locations were wrapped up in the landscape character area ("LCA") assessment for the host LCA (so that to have regard to it otherwise would be double counting).

75. Such errors on the part of Mr Reynolds' assessment are not without consequence. For example, in the context of assessing impacts on the host landscape character type ("LCT") (XC), he relied upon impact arising from development on the DNC Compound. He only withdrew this element of his case when it was pointed out to him (XX) that the Council did not identify any landscape harm associated with that development.

76. The lack of substance in his assessment was most obviously demonstrated by the fact that Mr Reynolds provided the bulk of his analysis in respect of impact on key characteristics of the relevant LCTs and LCAs in (XC). That such analysis was not set out in his main proof, nor even in his rebuttal, but instead given “on the hoof” must speak to the reliability of the assessment that he had carried out. In circumstances where conclusions have been reached in advance of analysis, even with the best of intentions there must always be a substantial risk that such analysis is then shaped to fit the conclusions already identified. Notably, when asked (XX) why he had not provided his analysis in his written evidence, Mr Reynolds had no answer.
77. The reality is that, as was put to him (XX), Mr Reynolds reached conclusions on the basis of a superficial assessment, and then sought at the Inquiry to provide “after the fact” justification to try and make those conclusions hold up.
78. In this regard, it is notable that Mr Reynold’s analysis, such as it was, was entirely reactive (*‘responding to the LVIA’* as noted above, rather than undertaking his own, free-standing assessment) and did not demonstrate any internal cogency or direction. No regard was had to all sorts of matters that were relevant, whilst analysis on other fronts was mistaken/confused. In particular, by way of example, the Appellant notes of Mr Reynolds’ approach:
- The NCA was disregarded
 - o (Whilst this is clearly of far lesser import than the LCA and LCT analysis, the NCA documentation provides relevant and important context, as Mr Cook explained (XC)).
 - The existing setting of the Canford Heath was also disregarded
 - o (There was no attempt by Mr Reynolds to grapple in his written evidence with the presence of the Inert Waste Facility, its massive spoil heap, the Solar Farm (both existing and consented), the Water Tower, the Pylons and other urbanising/industrial features which provide a context within which the landscape of the Canford Heath is experienced as a “baseline”).
 - It was assumed that the LCT/LCA were identical, in circumstances where (as Mr Cook’s evidence made clear) they were not

- (Not only are the areas different in some cases, the key characteristics were different. Only a comprehensive analysis of the type undertaken by Mr Cook can properly provide a basis for conclusions as to the landscape impacts of the Appeal Scheme).

79. Further, and critically, whilst the “perceptive” aspect of landscape character was the bedrock of Mr Reynolds’ case, the only perceptual sense to which any attention was paid was the visual one (he accepted (XX) that his evidence made no reference to any other ‘senses’; all were disregarded save the visual one).

80. In this regard, the Appellant readily accepts that visual, experiential considerations materially inform an assessment of landscape impacts. However, such considerations necessarily comprise only part of that assessment. In this context:

- Firstly, it was significant that Mr Reynolds had paid no regard to other sensory experiences, notwithstanding he agreed that perceptual landscape assessment was informed by them. This was particularly relevant in terms of sound/noise: Mr Reynolds disregarded entirely the extent to which industrial noise from the CRP already informs the landscape baseline of both the Canford Heath and host LCAs. Such existing impacts necessarily lessen the extent to which the presence of the Appeal Scheme on the Main Site would result in adverse landscape impact.
- Secondly, and of lesser significance, Mr Reynolds had paid no heed to the odour issues arising out of operation from the existing MBT, and the extent to which those impacts also inform the landscape baseline, in terms of the olfactory perceptual element of landscape (or, indeed, e.g. flies).
- Thirdly, it was also important to note that whilst Mr Reynolds was keen to emphasise the extent to which there was no industrial/urbanising form in the immediate backdrop of the Main Plant, when viewed from Canford Heath (in particular from Viewpoint 10), that is not a fair or reasonable basis of assessment. As Mr Cook repeatedly (and properly) emphasised, views of a particular development are not akin to snapshots taken by a camera (the c.90 degree field of view of a photomontage). Instead, visual appreciation is a kinetic, 360 degree experience. On that basis the visual element of landscape impact is overstated by Mr Reynolds.

Central Issue

81. This brings the Inquiry to the central flaw in Mr Reynolds’ appraisal. In truth what Mr Reynolds was advancing was a visual RfR case, in circumstances where RfR2 (as Mr Reynolds noted in XC) was concerned with landscape character, and in circumstances where Mr Reynolds agreed (XX) that he was present at the Inquiry to substantiate RfR2 and nothing more.
82. Significantly, the Council determined to refuse the Appeal Scheme permission on the basis of landscape, and *not* visual concerns, having been informed by the assistance of expert landscape architects, Laird Bailey. It was on the basis of that expert input, that Members concluded there was not sufficient material visual harm to justify a visual impact RfR. Instead, they found that there was landscape harm and RfR2 was drafted accordingly.
83. The difficulty here, is that whilst Mr Reynolds confirmed (XX) that it was no part of his or the Council’s case (as per RfR2) that the Main Plant would result in unacceptable visual impact, he relied exclusively on visual considerations to underpin the Council’s landscape impact RfR. That, as a matter of logic, is simply not tenable – particularly in circumstances where the “visual element” of landscape is only one of many such elements which inform the landscape assessment. If visual impacts are not enough to ground a RfR where they comprise the entirety (100%) of the substance (as per a visual impact RfR), how can they be sufficient to ground a landscape RfR where those impacts comprise only one segment of the various considerations which would inform landscape impact?
84. In these circumstances, it is respectfully submitted that the Council’s landscape case is not credible.

Concluding Remarks

85. The truth is, consistent with Mr Cook and Mr Asquith’s approach, there is some degree of landscape harm, but that harm is limited in terms of its substance. Similarly, whilst Mr Reynolds has not pointed to material visual harm, the Appellant accepts that there is a degree of visual harm also⁵⁹. But that harm too is limited⁶⁰.

⁵⁹ Both landscape and visual harm are included in Mr Asquith’s planning balance.

⁶⁰ In this context, the Appellant notes briefly the evidence of Mr Harper, and Magwatch’s reliance on it. The Appellant stands by the critique of Mr Harper’s images as provided by Mr Cook (both in his rebuttal proof, and subsequently in ID32). Again, whilst the Appellant does not doubt Mr Harper’s sincerity or good intentions, the

86. The reality is that the Main Site is not an attractive location in either landscape or visual terms. Indeed, neither is the broader CRP. The introduction of the Main Plant will evidently result in some degree of landscape and visual harm, but that should not be overstated.
87. In this context, the Appellant of course recognises that the Main Plant is significant in scale, and will be “*visible*” and “*appreciable*” from a wide spectrum of locations (as Mr Cook accepted (XX)). However the attempts to over-egg this pudding – as in the XX of Mr Cook by the Council and by Magwatch, which pressed him repeatedly to agree to the development being “*clearly visible*” – are misconceived. Mr Cook resisted these propositions not because the development will not be visible – it will. He resisted them because the development will be visible in the context of other urbanising and industrialising development (whether the solar farm, the waste aggregates facility, the pylons, the water tower or simply the conurbation of Poole). When seen in its actual context, as part of a kinetic experience, the Main Plant will not ‘*draw the eye*’ (as per the “Princesses’ Castle” in Disneyland, as was remarkably suggested (Magwatch XX) – that is exactly what that Castle is *designed* to do, to the extent that roads are designed to lead to it, whereas the contrast with the Proposals, with their built-in design mitigation intended to harmonise with the surrounding landscape could not be more stark); rather the Main Plant will read as one of a number of significant industrial/urban features in the landscape. Whatever Mr Reynolds or Mr Ahern may wish to be the case, the reality is that Canford Heath is not remote and untainted by modernity. Rather, it sits cheek by jowl with the modern world. The Main Plant will not lie within the Heath, it will sit amongst a collection of existing waste disposal/recovery buildings on the CRP in a different landscape character area (Cook XC/XX). In so doing, it will simply comprise the latest addition to the broader visual context.
88. The landscape and visual impacts of the Main Development should be judged accordingly.

Landscape Institute advocates a particular approach to the creation of visualisations with good reason; it is all too easy for such images to mislead and go astray. It is on that basis that Type 4 Imagery, which is verifiable by wireframe, is the only robust and reliable approach. It is on that basis that the Appellant rejects the imagery provided by Mr Harper, and stands by that which it has itself provided.

HERITAGE SIGNIFICANCE (RfR3)

89. The Appellant will not rehearse the see-sawing in the Council’s position over time. It seems the Inquiry will never know what heritage assets the Members who voted to refuse the Proposals had in mind (Ms Kelly did not). Instead, the Inquiry is to consider the handful of designated heritage assets that Ms Kelly considers will be harmed.
90. On this, the Inspector now has the very best evidence from Dr Miele, who has combined his vast experience and unrivalled depth of knowledge with a conspicuously careful approach to the facts of this case.
91. There is no dispute that the impact here, if any, is only to the setting of heritage assets, and only by reason of effect on views, not any of the other aspects of setting. Nor is there any dispute that all of the assets in question draw the majority of their significance from themselves, *not* their setting.
92. In the circumstances, some fundamental principles merit repetition.
93. Every heritage asset has a setting of some form, the contribution from which (if any) is to be assessed in the round.⁶¹ It is common ground that it is not necessarily the case that elements of an asset’s setting will contribute to the asset’s heritage significance.⁶² As *per* Historic England’s (“HE’s”) general practice advice note 3 (“GPA3”), at Paragraph 9, the importance of an asset’s setting ‘*lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance*’ (those two being separate concepts).⁶³ A designed setting such as those discussed at GPA3 Paragraph 9 (p.5) is an example of a setting that might directly contribute to significance, and would often be a designated heritage asset in its own right, e.g. a registered park or garden.⁶⁴ Some potential examples of views which might contribute more to understanding the significance of a heritage asset are in GPA3 at Paragraphs 11-13.⁶⁵
94. It follows, and is again common ground,⁶⁶ that views from or including a heritage asset, might or might not contribute to its significance/contribute to the ability to appreciate

⁶¹ Agreed by Ms Kelly in XX.

⁶² Ms Kelly XX and see Framework glossary: *Setting of a heritage asset: The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. 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.*

⁶³ Agreed by Ms Kelly in XX.

⁶⁴ Agreed by Ms Kelly in XX.

⁶⁵ Agreed by Ms Kelly in XX.

⁶⁶ Ms Kelly XX.

its significance (and see GPA3 at Paragraph 6). But views are only one aspect of setting, as the way an asset is experienced extends to all the senses (and noise in particular is a feature here),⁶⁷ and the above applies equally to non-visual aspects of setting: they might or might not contribute to significance/ability to appreciate significance.

95. Equally, an effect on setting does not necessarily affect significance.⁶⁸ Indeed, as Dr Miele observed (Proof, 3.41), and as Ms Kelly accepted,⁶⁹ even a substantial change to setting may have no impact on significance or the ability to experience/appreciate it.

96. The designated heritage assets the Council now allege will be harmed are taken in turn, with more time spent on those on which the Council focused (the bowl barrows and Canford School) (and for the barrows and the School, this Closing follows (briefly) the accepted stepped process set out by GPA3).

Bowl barrows on Canford Heath

97. There are many agreements between the experts as regards these scheduled monuments, as Dr Miele observed.

98. In fact, the point of substance on which the experts disagree rests on the point that Ms Kelly acknowledged was not in her written GPA3 Step 2 assessment in her Proof. This is her contention that the view northwards from the bowl barrows to the Appeal Site, beyond Canford Heath, makes a positive contribution to the heritage significance of the barrows/the ability to appreciate their significance,⁷⁰ on which Ms Kelly's bases her claim that the addition of the Proposals to that view will cause heritage harm.

99. With respect, Ms Kelly's contention is a bad one, and Dr Miele's evidence is to be preferred. The key here, is a proper understanding of the barrows' significance.

100. ***Heritage significance of the bowl barrows*** It is now agreed that the barrows' heritage significance/interest/value is only archaeological interest/evidential value.⁷¹ Not (as Ms Kelly's Proof might have been thought to suggest⁷²) that it is *primarily* that, and *also* something else. The fact that archaeological interest/evidential value is the

⁶⁷ Also historical connection.

⁶⁸ Agreed by Ms Kelly in XX.

⁶⁹ Ms Kelly XX.

⁷⁰ Ms Kelly XX: accepted it was not there. This was after XX had worked through her Proof 3.8-3.9 and Ms Kelly had agreed that there would be no change to the things she marked as positive contributors by reason of the Appeal Proposals.

⁷¹ See Heritage SoCG (**ID11**), Section 5, and Ms Kelly XX.

⁷² Ms Kelly Proof at 3.8.

entirety of the barrows' significance is of obvious importance for assessment of impact.

101. The Framework Glossary definition of archaeological interest is clear,⁷³ and Ms Kelly agreed, as she had to, that it requires that the asset '*holds or potentially holds, evidence of past human activity worthy of expert investigation at some point*'. It is also agreed,⁷⁴ that HE's general practice advice note 2 ("GPA2") (CD9.1.17) further assists in defining archaeological interest, by contradistinction with historic interest (its Paragraph 16 (p.5), beginning:⁷⁵ '*Archaeological interest...differs from historic interest because it is the prospects for a future expert archaeological investigation to reveal more about our past that need protecting...*', GPA2 also,⁷⁶ at Paragraph 8, offers assistance with the distinction between archaeological and architectural interest⁷⁷).
102. Keeping proper focus on the nature of the barrows' heritage interest, and not falling into the trap of assessing the barrows as if their heritage interest was architectural/aesthetic/artistic, or anything else (which is the only explanation for the position Ms Kelly has reached), inevitably shows Ms Kelly's approach as flawed.
103. ***Contribution to/appreciation of significance from bowl barrows' setting and impact of Proposals (GPA3, Steps 2 and 3)*** It is common ground (see the Heritage SoCG ID11, in particular at 5.3-5.5) that the barrows' archaeological interest resides in their potential to provide information about Bronze Age society and burial rites, reinforced by their shared setting within Canford Heath, which setting contributes to the ability to experience or appreciate their evidential value/archaeological interest.

⁷³ Archaeological interest: There will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.

⁷⁴ Agreed by Ms Kelly in XX.

⁷⁵ The full paragraph is: 16 Archaeological interest, as defined in the NPPF, differs from historic interest because it is the prospects for a future expert archaeological investigation to reveal more about our past that need protecting. Caring for an asset that has a well-understood historic interest, but no substantial archaeological interest, will be relatively straightforward as our existing knowledge of the asset will guide how it can be managed in order to sustain its significance. However, if for example there is good reason to suspect that a bare field which has never been investigated contains important remains, or that an apparently ordinary building contains a hidden medieval timber-frame, the task of managing it would be different.

⁷⁶ Agreed by Ms Kelly in XX.

⁷⁷ Which reads:

8 Understanding the nature of the significance is important to understanding the need for and best means of conservation. For example, a modern building of high architectural interest will have quite different sensitivities from an archaeological site where the interest arises from the possibility of gaining new understanding of the past.

104. There is no dispute that in heritage terms Canford Heath is a well-defined landscape context, and that its extent is shown by the green boundary line on Dr Miele's (corrected) figures submitted as part of his errata (**ID12**).⁷⁸ It is, in short, the SSSI, and its present, and historical, extent, is little changed, something Ms Kelly herself observes.⁷⁹ (and note, these matters are also relevant to the Canford Magna assets).
105. There is no question, as it is obvious, that the CRP in which the Main Site the subject of RfR3 sits lies beyond Canford Heath, to the north of the (in heritage terms) "funerary landscape" of the bowl barrows, and with a tree screen in between (as the Inspector will now have seen through her site visits). Also beyond the Heath are the profiled slopes of the former landfill site, with its obvious solar panels and other features, including the mound of the inert waste recycling/secondary aggregates facility (and its noise, including loud clanking, is quite a feature across the Heath).
106. Ms Kelly accepted Dr Miele's list at his Proof 3.23 regarding the barrows' significance, with the exception of 3.23.5, where Dr Miele noted that their evidential value is diminished by the relative difficulty in locating them, the absence of an interpretative scheme and that they have been damaged.⁸⁰ It is curious Ms Kelly cavilled at that: were the barrows easier to identify in the landscape, and undamaged, that could only add to their evidential value. But, in any event, all of these points go to what is more fundamental (and which the Council's ReX of Ms Kelly did not grapple with): (i) the difficulty one experiences in perceiving the barrows in the landscape; (ii) that they are none of them more aesthetically pleasing 'disc' barrows or 'fancy' barrows;⁸¹ and (iii) that they have been disturbed by man and beast, but not in a way that has revealed their evidence;⁸² these are all factors which underline that their heritage interest is purely archaeological, not at all architectural/aesthetic/artistic, and very much potential (as we know nothing material about what is in inside, or what they were used for, bar, we surmise, burial).
107. As a result, we can rule out, as Ms Kelly agreed,⁸³ the various points relevant to aesthetic value described in what was then English Heritage's *Conservation*

⁷⁸ Agreed by Ms Kelly in XX. See Dr Miele's corrected Figures 1.1, 1.2, 1.4, 3.1 and 4.2.

⁷⁹ Ms Kelly Proof at 3.7.

⁸⁰ Ms Kelly ReX.

⁸¹ See Historic England's 'Prehistoric Barrows and Burial Mounds', Dr Miele's Appendix L.

⁸² See ReX of Ms Kelly.

⁸³ Ms Kelly XX.

Principles (2008),⁸⁴ at Paragraph 46 onwards.⁸⁵ The barrows' value does not derive from those, so putting something in the setting is necessarily not interfering with a conscious aesthetic or design choice that goes to significance, as the assets do not demonstrate an '*integrity of a design concept*' to interfere with.⁸⁶ Thus the barrows can be contrasted with other types of scheduled monument, whose heritage significance goes beyond only archaeological (such as the ruined castle example accepted by Ms Kelly⁸⁷), with inevitable consequence for the role played by their setting. The barrows are not remotely such an asset.

108. Rather, the aspects of setting that make a positive contribution are unchanged by the Proposals, as consideration of Ms Kelly's Proof ("HKP") paras.3.8-3.9 confirmed:⁸⁸

- HKP at 3.8.1 *'The assets physical surroundings: the barrows occupy an elevated position which allows for views towards Poole harbour and retains intervisibility between the barrows' (emphasis added). All unchanged.⁸⁹ *'The group of the barrows is part of their evidential value'* (emphasis added). Unchanged. *'understanding and appreciating the group, its intervisibility and the openness of views across the heath between the barrows is a key part of their special interest'*(emphasis added). Again, unchanged.*
- Then HKP at 3.8.2 *'The experience of the assets: The barrows are experienced in a relatively unchanged landscape in terms of the heath itself, although there has*

⁸⁴ **CD9.1.16.**

⁸⁵ The text begins: *46 aesthetic value derives from the ways in which people draw sensory and intellectual stimulation from a place.*

47 Aesthetic values can be the result of the conscious design of a place, including artistic endeavour. Equally, they can be the seemingly fortuitous outcome of the way in which a place has evolved and been used over time. Many places combine these two aspects – for example, where the qualities of an already attractive landscape have been reinforced by artifice – while others may inspire awe or fear. Aesthetic values tend to be specific to a time and cultural context, but appreciation of them is not culturally exclusive.

48 Design value relates primarily to the aesthetic qualities generated by the conscious design of a building, structure or landscape as a whole. It embraces composition (form, proportions, massing, silhouette, views and vistas, circulation) and usually materials or planting, decoration or detailing, and craftsmanship. It may extend to an intellectual programme governing the design (for example, a building as an expression of the Holy Trinity), and the choice or influence of sources from which it was derived. It may be attributed to a known patron, architect, designer, gardener or craftsman (and so have associational value), or be a mature product of a vernacular tradition of building or land management. Strong indicators of importance are quality of design and execution, and innovation, particularly if influential.

⁸⁶ All agreed by Ms Kelly in XX.

⁸⁷ The example put in XX being a ruined castle, which has in addition to archaeological interest pronounced architectural interest too, for its design and detailing and materials which are striking and perceived easily by the sense of sight, and may have historic interest also.

⁸⁸ Ms Kelly XX and Dr Miele XC/XX.

⁸⁹ And in terms of contribution to setting from the fact they are intervisible to each other across the Heath, see e.g. HE GPA3 at Paragraph 12.

been significant development around it. The views between the assets and from the assets towards Poole harbour are however readily available and the lack of development on the heath is an important aspect of experiencing these assets’ (emphasis added). Again, as regards those positive contributors, unchanged (and note the acknowledgement of significant existing development around the Heath).

- Likewise HKP at 3.9 ‘*The setting of the three scheduled monuments is the open heathland of Canford Heath and this makes a positive contribution to appreciating their evidential value*’ (emphasis added) again that open heathland will be unchanged.

109. So, in short, no change to any of the setting points that Ms Kelly’s Proof identified as positive contributors (and, again, the setting also includes noise from, notably, the waste aggregates facility at White’s Pit, and traffic noise, aircraft noise etc, and these are all things that are there anyway, in the baseline).

110. The experts’ agreement on these points is striking, not least regarding the positive contribution of the view down to Poole and the harbour. The barrows that are positioned towards the edge of the plateau were surely put there because they looked over those important things. It is obvious. It aids an appreciation of their evidential value to be able to appreciate that view. By contrast, there is nothing of that to the north. Nor is there any reason to believe there ever was.

111. Tellingly, Ms Kelly offered no reasoning to substantiate a deliberate positioning of the barrows by reference to what lies to the north, let alone did she point to any evidence, including anything present today to the north, or even present in prehistoric times, that would suggest the barrows were positioned by design so as to relate to it. Moreover, if there ever was something there, it is not there now. And it is the contribution of setting now, and the change to that present setting, that is crucial. Respectfully, Ms Kelly’s theory has no support, at all.

112. As regards the position of HE,⁹⁰ it is agreed this is not an objection to the Proposals on any basis,⁹¹ and it is further agreed that Ms Chapman, author of HE’s substantive consultation response, is an inspector of ancient monuments (not of historic

⁹⁰ CD4.1.11.

⁹¹ Ms Kelly accepted that when HE wish to object, they say so, in clear terms (XX).

buildings), so of all the assets at issue, these relate to her specialism (the Canford Magna assets do not). It is also agreed that she identified no harm to the barrows.

113. That said, whilst it is of course the case that the views of HE must be afforded great weight, as the Government's statutory heritage advisor, equally we must be careful not to make the HE letter something it is not: it is not remotely a full assessment of the kind that the Inquiry has the benefit of from Dr Miele, nor has it been tested.
114. Whilst the Appellant acknowledges that Dr Manna found harm, as did the ES, respectfully neither drilled down into the fundamental importance of the fact the barrows' significance lies purely in their potential to provide evidence, which a view to the north altered by the Proposals will not harm in any way. Correctly understood, whilst visual aspects of the setting will change, there will be no harm to significance. As *per* Dr Miele.
115. **Mitigation:** Ms Kelly did not suggest that there had been any failure to understand the barrows' significance at the Proposals' formative stage with a view to embedded mitigation, and she acknowledged the embedded design mitigation that seeks to respond to the landscape (rather than stand out, draw attention etc – again, no Disneyland Princesses' Castle this, contrary to Magwatch's suggestion). Whilst Ms Kelly did not consider the embedded design mitigation served to mitigate the harm she identified, she did not suggest some other mitigation should have been pursued.⁹² She accepted that a landscape/ecology interpretative scheme that included explanation of the 'funerary landscape' would 'ameliorate' the harm she had found. In ReX she confirmed that, but under questioning then said that the amelioration would nonetheless not reduce the harm she had found on her LTSH scale. Very odd.
116. The Appellant has offered the interpretative scheme, previously in the s.106, now by condition, in the event the Inspector finds merit in the Council's case regarding landscape and heritage impacts. However, the Appellant notes the Council's position (set out at the conditions session) that the condition is not necessary to make the Proposals acceptable. The Inspector may think the Council's position revealing.

⁹² Accepted by Ms Kelly in XX.

Canford School (by which we mean the School building, the Manor House, not the school premises as a whole) (Grade I)

117. The Canford Magna assets start, most importantly, with the School, and here there is less agreement between the experts.

118. Fundamentally, that is because Ms Kelly advances a number of core propositions that simply cannot be right. They are based on an impressionistic “*it can be seen therefore it causes harm to heritage significance*” approach to the chimney, all of which Dr Miele has explained as manifestly unfounded. Dr Miele, although he only diffidently pointed to it, has remarkable expertise regarding the late Georgian/Victorian period; it is respectfully submitted that this shone through during the course of his XC/XX (including, perhaps, to Ms Kelly after she came to read Dr Miele’s appended publications list for the first time when invited to do so during her XX).

119. In terms of the spread of professional views, the ES did not find harm,⁹³ the Conservation Officer did, but to a vast sweep of assets, unsupported by Ms Kelly. HE suggested harm, but without anything approaching a full analysis, and from a specialist in ancient monuments rather than historic buildings, and (again) including assets unsupported by Ms Kelly, Dr Manna did not find harm, and nor does Dr Miele.

120. ***Heritage significance of School:*** The School’s heritage significance lies in its architectural, historic and archaeological interest, and primarily in the building, not in its setting.⁹⁴ Matters ultimately appear to turn on Ms Kelly’s contention regarding impact on its architectural interest, as to which the School, as Dr Miele explained, is an eminent work of Gothic revival architecture, which displays all the features of the genre (irregularity in silhouette producing a varied and interesting skyline, varied massing, fine detail based on Gothic and late medieval precedents, a variety of building forms – all calculated to give impression of something that has grown over time⁹⁵), and as to which he commended Pevsner to the Inspector.⁹⁶

121. ***Contribution to/appreciation of significance from School’s setting and impact of Proposals (GPA3, Steps 2 and 3)*** The School sits in former parkland, agreed as

⁹³ Despite the suggestion to the contrary put to Dr Miele in XX, which was addressed in ReX of Dr Miele of reference to the relevant paragraphs of the Heritage Impact Assessment part of the ES.

⁹⁴ Ms Kelly XX.

⁹⁵ Dr Miele XC.

⁹⁶ For Pevsner, see Ms Kelly’s appendix (v), in particular at p.17.

degraded (to the extent that some no longer exists at all, some has been turned to playing fields etc), and which it is common ground is not even a non-designated heritage asset.⁹⁷ It is also common ground that the most important parts of the setting are those close to the building, not least the formal Italianate terrace (that features in Ms Kelly's Proof Figure 7), from where one can appreciate the School's architecture (not e.g. at Viewpoint 3 where there is no/no appreciable view due to tree screening).

122. Ms Kelly's case regarding the School relies, as Mr Grant acknowledged when XXing Dr Miele, on the Inspector finding '*designed views from the House to the Heath*'. Mr Grant put matters thus (this note is near verbatim):

'...in terms of the framework, the component parts of the visual relationship that are in issue between you and Ms Kelly are – first are there views from House to Heath, second were towers and windows designed to make that view available, and third whether the tree lined drive was intended to provide a guided view towards the Heath – those are the three principal issues between you and Ms Kelly...whether there was intended to be a designed view to the Heath'

123. Dr Miele explained his complete disagreement with Ms Kelly on these points, and did so compellingly: it is respectfully submitted that nothing of Ms Kelly's theorising stands up.

124. Dr Miele pointed out that when designed views exist for late Georgian/Victorian estates, they are deliberate, and obvious as to the extent of ownership (he referred to the designed views at Blenheim Palace, to the similar approach taken by the Rothschilds and so on). He spoke of '*emphatic gestures that are unambiguous*', and/or something that is obvious and legible over a long distance (such as a monument).

125. None of which exists on the facts of this case. There simply was not, and is not, the designed relationship between the School and the Heath Ms Kelly claims.

126. There is a deal to say about Ms Kelly's claims, but it boils down to this: Ms Kelly has again equated some visibility of the chimney with heritage harm. A false analysis.

No intervisibility/material intervisibility between the School and the Heath

127. The extent of the Heath as corresponding to the SSSI (see Dr Miele's corrected figures at **ID12**), and that it is little changed since the estate was laid out, are common ground.

⁹⁷ Confirmed by Ms Kelly in XX, also by Dr Miele in XC.

128. That one cannot now, and could not then, see the Heath from the School or the School from the Heath is a straightforward answer to Ms Kelly's claim of a designed relationship. As Dr Miele explained, the position at the time the School was built and the once expansive parkland was laid out, is clear from the historic mapping (including the OS in the ES Appendix 10.1 Heritage Impact Assessment **CD1.1.23(b)** at Figure 3-4): the thick woodland belt between the School and the Heath was well established then (as were other non-Heath features, like what became White's Pit landfill). That thick woodland belt it is still there now. This was not, and is not, a long distance view of a designed object on a hill, or another heritage asset, but a woodland that is just woodland, not of any apparent aesthetic value. Ms Kelly's attempt to claim (see ReX) that the Heath 'includes the woodland', cannot possibly stand.

129. Lack of actual intervisibility is surely fatal to claimed planned intervisibility.

130. But there is much more against Ms Kelly's claims, as Dr Miele set out.

School not orientated to Heath

131. The orientation of the School building does not fit with Ms Kelly's (unsupported) theory. As per Dr Miele's Rebuttal, and as Ms Kelly was eventually willing to accept in XX, the building is orientated south-east, not towards Canford Heath.

The "natural" not valued

132. Late Georgians/Victorians did not value the "natural" (that came later, at the turn of the 20th century). They valued productive agricultural land, or designed landscape. Parkland, the taking of productive agricultural land and turning it to designed estate, displayed wealth. If they wanted to contrast their designed landscapes with "natural", they would create "natural". Whereas the Heath was unproductive waste, neither parkland nor productive agricultural land, lacking the intrinsic value of either (again as per Dr Miele).

The towers were not belvederes to the Heath

133. The School sits on low ground (by the River Stour), the Heath is higher, and the towers on which Ms Kelly placed such store, in her Proof the Victoria Tower, in her XC the octagonal tower, were plainly not designed to afford the owners, or their guests, views of the Heath, and it is doubtful they were intended as belvederes in any material way

(and if intended as belvederes to the Heath, they would have had to be much higher, for a start).

134. The Victoria tower, the tallest, is at the back, and thus plainly not sited for the Heath. With a narrow winding stair. Not one for the Lord and Lady of the House or their party. The windows provide southerly views across the parkland in that direction (amongst others⁹⁸), but those views even from the uppermost room are closed by the woodland discussed above, and are not of the Heath. The woodland is set some hundreds of metres from the House, and some hundreds of metres north of the Heath. The rooftop is not, contrary to Ms Kelly's initial suggestion, a viewing area.

135. As for the (lower) octagonal tower, with its narrow, high-silled windows, plainly this is not a belvedere. The windows are there primarily for reasons of design composition, rather than for aesthetic contemplation of parkland, let alone the distant Heath (which is not visible anyway).

136. If the towers were belvederes, one would have expected Pevsner to note that. Their role was as vertical elements within a designed Gothic revival composition, as Dr Miele explained, consistent with the many examples of country houses, in a similar style, and having a comparable date, which he gave in his Rebuttal.⁹⁹

The south drive was not designed to provide a guided view of the Heath (or anything)

137. The south drive on which Ms Kelly further relies similarly does not support her case. First, and contrary to Ms Kelly's fundamental case, it is not designed to give a view. It curves, with trees either side. As Dr Miele explained, the intention was not to channel a distant view. The overlapping boughs of an avenue of trees is not a landscape form designed to do so: the trees are there to contain views as someone approaches the House from the south, then to open up some way north of Magna Road to dramatically reveal the strikingly designed House at closer quarters.

138. Second, despite a deal of discussion about the drive leading from the South Lodge, across the Magna Road, into open land, through the woodland and then finally across the Heath, on the drive down to Poole, the line of that drive is now lost, and the route now undifferentiated from the many routes that criss-cross the Heath.

⁹⁸ See Dr Miele's Rebuttal Appendix 4.0 and the reproduction there of the Magwatch photographs.

⁹⁹ See Dr Miele's Rebuttal at 3.32-3.37.

139. In addition, this was not even the main drive. As per Dr Miele's Proof (and explored in XX with Ms Kelly) there were drives east, west (where the grand entrance Lodge was and still is) and to the south east (the latter heavily treed with ornamental circular features).
140. In short, none of Ms Kelly's theories are supported by evidence and none stand up to scrutiny.
141. Moreover, Ms Kelly's Step 2 had focused overwhelmingly on these claimed designed links between the House and the Heath, along with the fact that the Heath was used for shooting parties, such that one would be forgiven for thinking that the far distant Heath in the setting was the most significantly contributing element of the setting. The reality is anything but. From the River Stour to the north, to the main entrance lodge, parish church and village to the west, to the formal Italianate terrace immediately to the south, with the Rosary to the south-west and the grand ornamental drive to the south-east, there are numerous positively contributory elements of setting, as Ms Kelly acknowledged.¹⁰⁰ At best, Ms Kelly treated all these positive contributors in the setting with a remarkably light touch, as also shown by her reaching a striking finding of "moderate" LTSH to the School, despite the tiny aspect of setting affected. Ms Kelly's mechanical application of an EIA "matrix" had resulted in an assessment of degree of LTSH that, even on her own case, was manifestly disproportionate.
142. As Dr Miele explained, appreciation of the School's architectural, and as relevant historical, interest, is derived from an experience that the Proposals' distant, slender chimney will in no way harm, if it even impinges on the experience of the School at all. It is only the Viewpoint 3 area that is said to be affected, and the notion that significance might be harmed by sight of the chimney from those southerly playing fields, that afford no/no material view of the School, due to deliberate tree screening, and which have lost so much of their former estate character, is simply fanciful.¹⁰¹
143. **Mitigation** Again, whilst Ms Kelly did not consider the embedded design mitigation mitigated the harm she identified, she did not suggest there had been a failure to

¹⁰⁰ Ms Kelly XX.

¹⁰¹ Ms Kelly contended in XX that the School is visible from the PROW from which Viewpoint 3 was prepared. The Inspector has been to that spot on her site visit and will have seen the (lack of a) view of the School. Even if there were such a view, one would have to turn one's back on the chimney to look at the School, through 180 degrees, hence there is no intervisibility of the chimney with the School, which is surely the principal pathway for an adverse effect on significance through setting on the facts of this case.

understand the School's significance at the Proposals' formative stage, nor that some other mitigation should have been pursued.¹⁰²

South Lodge, gates and piers (all Grade II)

144. The South Lodge is a modest, domestic scale cottage building, with gates and piers that the listing, notably, suggests were not originally there in any event, but moved from elsewhere.¹⁰³ Its setting is self-contained, commensurate with its scale, and the positive contributors from its setting are its relationship to the drive, with its trees, the gates and piers, Magna Road, and its function as a boundary marker, and an entry point for the estate, along with its architectural affinity with the House (as Dr Miele put it, lodges were 'trumpets' for the House).¹⁰⁴ It cannot be seen from the School, or vice versa,¹⁰⁵ and deliberately faces east, to its drive. It is not easy to identify a place where one could see the Lodge and understand those relationships, where the far-off chimney would interpose or distract from the fine detail of the building (and it is self-evident, and accepted, that views of the Lodge/gates/piers from the public right of way from which Viewpoint 3 is taken are heavily filtered by the trees of the drive).
145. Ms Kelly could not point to any tenable way in which significance would be harmed, and it will not be: the possibility of seeing the chimney at points where one may also be conscious of the Lodge, does not result in harm.
146. This is true also as regards the gates and the piers, whose narrow setting is their relationship with the Lodge and with Magna Road (the A341), the latter now markedly more urbanised, complete with cycle lane, and whose detailing means one appreciates them close up. The chimney will not impact on that.

The Canford Magna Conservation Area

147. The Conservation Area has many positive features, not least the School itself, and its grounds, and the village, a picturesque example of Victorian philanthropy. Both are notable for their enclosure, as Dr Miele explained. Once more, this asset's significance is primarily from itself, not its setting.

¹⁰² Accepted by Ms Kelly in XX.

¹⁰³ For the listing, see Dr Miele's Appendices at p.71.

¹⁰⁴ Dr Miele EiC.

¹⁰⁵ Ms Kelly EiC/XX.

148. As to that setting, and alleged harmful impact on it, Ms Kelly's case here hinged ultimately on reference to views of '*open countryside south from the School*', referred to in the (non-standard) conservation area leaflet, as to which '*open countryside south*' Ms Kelly pointed to the pony paddocks over the A341 from South Lodge. The paddocks there to the south-south-west of South Lodge are "open" from the Magna Road southern boundary of the Conservation Area. Whether they meet the description '*open countryside*' is another matter. As is what the leaflet means by "School" (probably the House itself). However, even if by "School" is meant the school premises, looking south from that boundary, all else, including anything to the south-south-east is not "open" but closed off by trees. Ms Kelly's (limited) case does not withstand first inspection: once more, the only orientation from which an impact is alleged is that represented by Viewpoint 3, where the view towards the chimney is not open due to trees, and is still not open when standing on Magna Road, beyond the school grounds and its boundary trees, looking south-east towards the chimney: that land is again not "open" due to trees (as the Inspector will have seen on her site visit). The view of the "open" paddocks to the south-south-west is away from the direction of the chimney, and unaffected. And on the other side of the busy A341. For this asset too, Dr Miele is right to conclude there is no harm to significance.

Concluding Remarks

149. The heritage issue saw a contest of expertise and competing views, but in truth it was not an even contest. Dr Miele's views are founded in a depth of expertise, in the evidence, and in rigorous analysis. It is respectfully submitted that in contrast, Ms Kelly's views were largely comprised of unsupported theories. The evidence of Dr Miele should be preferred.

150. However, even if the Inspector, contrary to what the Appellant regards as the clear position, accepts Ms Kelly's views, she can note the (limited) harm that Ms Kelly identifies, and that, ultimately, the Council does not contend the Proposals should be refused on heritage grounds, or indeed any other grounds, if they are not inappropriate development in Green Belt terms.

MAIN INQUIRY ISSUE 3

151. As regards the first limb of this Issue ‘*Whether the proposed development is an acceptable use of land at Canford Resource Park, taking into account the site allocation in the Waste Plan,*’ the answer is a resounding “yes”, as already discussed.
152. As regards the second and/or second and third limbs, ‘*surrounding land uses, effects on public health and community well-being*’, the proximate surrounding land uses offer a range of co-location benefits, unmatched in the WP area.
153. As to the rest, none of which the Council raises issue with, this is very much Magwatch’s business, and none of Magwatch’s case or evidence has any material substance. In particular, Magwatch’s case that the Proposals could cause many suicides, and self-harm, has been shown for what it is: simply, and wholly inappropriate, scaremongering. The Inspector has the air quality evidence of Dr Gair, and the human health evidence of Dr Buroni. Dr Gair explained the radical difference between modern EfW and the properly so-called “incinerators” of the 1980s. As Mr Brelsford, the proponent of the Magwatch theory, had to accept, EfW has been present for decades, in great numbers, and the subject of huge research, yet he could point to not a single peer reviewed paper or similar to support his claims. He himself has no relevant expertise. Dr Buroni did not hide his strength of feeling for the inappropriateness of Magwatch’s unsupported suggestions. The Appellant suggests the Inquiry draw a veil over this unfortunate part of Magwatch’s case.
154. As to what the Inspector should conclude regarding application of the test explained by *Smith v Secretary of State* (Court of Appeal) [2005] EWCA Civ 859; [2006] JPL 386 **CD14 1.17**, and whether the “perception” of harm is capable of being a material consideration at all on the basis the fear has a reasonable basis, the Appellant, frankly, does not consider there is a reasonable basis for Magwatch’s position (or concerns expressed by interested parties regarding harm to health more widely). However, and equally frankly, if the Inspector were minded to grant planning permission, the safest course, legally, might be to find that the “fear” is a material consideration, but one attracting nil or very limited weight.

MAIN INQUIRY ISSUE 4

155. Dealt with above: the effect of the Proposals will be to deliver what the WP seeks, in circumstances where there are no effective residual waste management facilities in

operation in the WP area, and the authoritative evidence before the Inquiry, from Mr Carey, supplemented by Mr Asquith, is that neither the Portland nor the Parley consents should be relied upon to deliver capacity. Not that Parley would present an overcapacity issue if it did come forward. That putative claim belongs to Portland, yet the Portland promoter's silence at the Inquiry has been notable¹⁰⁶.

BENEFITS AND OTHER ADDITIONAL MATTERS (INCLUDING TRAFFIC)

Traffic

156. As regards traffic, the Inspector now has a further explanatory note from PBA **ID21** addressing the points raised by Vikki Slade MP on behalf of her constituents (and raised by others). There will be no traffic impacts such as to raise a policy objection. As PBA and Mr Asquith have explained, Scenario 2 (as contained in the original Transport Assessment¹⁰⁷) is itself conservative, and on a more realistic, but still conservative, basis, the Proposals would add only net 118 annual average daily traffic ("AADT") to the highway network, whilst even on considerably inflated figures (the Scenario 1 figures, which are the basis on which the highway authority assessed the Proposals and confirmed no objection) the network would remain within capacity.¹⁰⁸

Benefits

157. Whilst there is a deal of agreement between the Appellant and the Council as to the Proposals' benefits, there are material disputes, which the Appellant suggests go some way to explaining why the Council says that VSC are not made out.

Need

158. The Council agrees the Proposals will meet an unmet need for residual waste management in the WP area, in compliance with the waste hierarchy, the proximity principle and the principle of self-sufficiency, at the only allocation for this in the WP

¹⁰⁶ In this regard, the Inspector will note that it was open to the promoters of the Portland development to participate in the Inquiry, and make good the various propositions they have advanced in the 'press releases' and media articles relied upon by the Council and Magwatch. They have not done so. To participate would have meant advancing a witness whose evidence on these issues (securing investment, waste contracts, etc) could have been contested and disputed by the Appellant. In the absence of such evidence/participation, the 'positive case' relating to Portland, as set out in the press materials before the Inquiry, can attract no material weight.

¹⁰⁷ **CD1.1.28(b)**.

¹⁰⁸ See ES Update, Technical Note from Paul Basham Associates **CD11.1.16** and **ID21**.

singled out as “strategic”.¹⁰⁹ However, the Council, importantly, denies that the WP (its own WP) identifies a need for residual waste management in SE Dorset. As to that position, which is clearly incorrect, see above.

Energy generation

159. It is agreed the Proposals will generate worthwhile energy (electricity and heat) in the process of dealing with the waste (some 28.1MW net (31MW (gross)), the Proposals being a (very efficient) recovery operation for the purposes of the waste hierarchy, again in accordance with the WP.¹¹⁰ However, the Council, has sought to cast doubt on whether heat will be distributed, simply because no contracts are yet in place (why would they be, pre-planning permission?), and attaches no importance to the Proposals’ reliable baseline energy contribution to the UK’s energy security, the Council’s position being that whilst the world is volatile now, it might not be when the Proposals are built, hence energy security will not be a benefit.¹¹¹ Respectfully, this is plainly wrong.

Low carbon

160. At best for the Council as regards low carbon benefits generally, the Council has taken an approach, in writing at least, that lumps them all together, not separately acknowledging various matters that merit recognition in their own right (see Mr Whitehouse Proof Paragraphs 5.17-5.25). Amongst the benefits are that the Proposals will result in a reduction of GHG emissions as against the EfW baseline, due to greater efficiency and reduced transport miles, before addition of carbon capture (as per Mr Dearing’s evidence). The Appellant questions whether the Council had actually understood that prior to sight of Mr Dearing’s Proof, or even his XC (rather than (merely) understanding that roughly half of the energy generated will be renewable (due to biogenic content)) At close of evidence, Mr Whitehouse appeared to be giving the net reduction in GHGs against the baseline some weight as a benefit, but it was not entirely clear.

¹⁰⁹ As regards compliance with the proximity principle, the Council was at pains, through XC of Mr Whitehouse and XX of Mr Asquith, to confirm that Mr Whitehouse does consider the Proposals’ compliance with the proximity principle a benefit. That is plainly correct, and whilst Mr Whitehouse did not refer to compliance with the proximity principle as a benefit in his Proof, the Appellant can now happily remove that one of the complaints set out against Mr Whitehouse in Opening.

¹¹⁰ For this, and the associated figures, see Main SoCG 4.5.

¹¹¹ Mr Whitehouse XX and questions put in XX to Mr Asquith.

Carbon capture readiness (“CCR”)

161. The Council, through Mr Whitehouse, on the one hand recognises this element as an “important” part of the planning balance,¹¹² but on the other seeks to cast doubt on CCR, and so “moderate” the benefit. The Council did so, based, again, on a singular reading of a word out of context, in this case an instance of “could” in the Kanadevia Inova AG (“KVI”) Feasibility Study.¹¹³
162. This is an unsustainable position on the Council’s part. The Inquiry has the very best engineering evidence from Mr Carey and from KVI,¹¹⁴ that carbon capture can be delivered here and that the Proposals are CCR, with nothing to gainsay it from any witness with any relevant expertise or experience (not Mr Whitehouse, not Mr Chesterfield, no-one). There is no dispute that KVI are best in class when it comes to engineering in the field.
163. It was both disappointing, and revealing, to hear the Council (through Mr Whitehouse and the questions asked of him in XC) dismiss Mr Carey’s evidence as mere “say so” (here and elsewhere). That fails entirely to have regard to his expertise and experience.
164. The inquiry also has the benefit of the evidence of Mr Dearing. He co-authors the strikingly stringent ISEP EIA climate change assessment guidance.¹¹⁵ He is confident that not only is carbon capture and storage for EfW technically feasible in the UK, but also deliverable and something that will be achieved for the sector, in line with the “balanced pathway” outlined by the Committee on Climate Change in its carbon budgeting, with 80% of the EfW sector to be capturing carbon by 2040.¹¹⁶
165. The Proposals will be climate positive when the market is ready for that technology.¹¹⁷

Economic benefits

166. As to economic benefits, it is agreed the Proposals will generate substantial numbers of jobs during construction and operation (including 32 FTE during operation).

¹¹² Mr Whitehouse XX.

¹¹³ the KVI Feasibility Study at Appendix MVV5 (CD12.1.1(d))

¹¹⁴ See Mr Carey Proof at 5.2, plus the KVI Feasibility Study at Appendix MVV5 (**CD12.1.1(d)**) and Mr Carey EiC.

¹¹⁵ **CD9.1.86.**

¹¹⁶ Mr Dearing Proof and XC.

¹¹⁷ As to which, the Department for Energy Security and Net Zero is investing heavily (some £22bn) to bring forward a commercially viable carbon capture and in perpetuity storage market. It is not unreasonable to expect that the result will be similar to the renewable energy support mechanisms that have made e.g. wind and solar price-competitive.

However, the Council appears reluctant to attribute weight to the likely saving to its own purse as regards residual waste management costs, despite not disputing the evidence that will occur as presented by Mr Asquith. Financial considerations are, expressly, a material consideration by virtue of s.70 TCPA 1990. The same applies to increased business rates, and also the saving to the UK in terms of balance of payments, from the UK not having to pay to export waste, and pay to import electricity.

Other

167. Mr Asquith has listed other benefits, which the Council does not appear to caveat, being:

- (1) considerable co-location benefits (again in accordance with the WP);
- (2) addition of further, permanent, land to the heathland support area, so assisting diversion of recreation, including dog walking, from Canford Heath;¹¹⁸
- (3) increase in biodiversity¹¹⁹; and
- (4) reduction or removal of existing amenity impacts, including problems with flies and odour associated with the existing “MBT” (in reality with no “B”) facility.

168. Of these, the Appellant notes that the co-location benefits are truly striking, from the synergy with the CRP MRF (and also the CRP “MBT” if it survives), and the waste aggregates facility at White’s Pit that is the obvious place to deal beneficially with the incinerator bottom ash (“IBA”) the Proposals will produce.

Additional matters (including conditions and s.106)

169. The position vis-à-vis Bournemouth Airport is now resolved, subject to one minor dispute over the wording of draft Condition 9 provided to the Inspector.

170. As regards the conditions generally, only one calls for further comment: the question of a catchment condition. As to this, and as the Appellant has explained, it is difficult to see the justification for a catchment condition at all, but if one is required, it must be the Appellant’s version. Not the Council’s, that would make the Proposals a non-starter as the Council/DC and other holders of residual waste in the WP would have the Appellant over a commercial barrel. Notably, Inspector Griffiths did not feel it

¹¹⁸ The net increase will be 7,700m².

¹¹⁹ By 25%.

appropriate/necessary to impose such a condition in the context of the proposed Portland development, and the evidence of Mr Carey on this topic (as set out at length in his Proof)¹²⁰ was not subject to material challenge in XX. No one else with any experience of the waste sector gave evidence before the Inquiry which could gainsay Mr Carey's assessment as to the extent to which a catchment condition such as the Council propose would be counter-productive, and in fact serve to work against delivery of a facility which would enable SE Dorset to deal with its own waste. Any suggestion that the Appellant's condition is to be criticised as it offers 'only' a minimum of 20% from the WP area fails to recognise that basic reality.

171. The s.106 is now in place, having been adjusted in light of the Inspector's helpful Note of 23 June 2026, and ready to be signed.

BALANCE AND CONCLUSION

172. As *per* Opening, despite the sound and fury inherent in the cases run against the Proposals by the Council and (particularly) Magwatch, the Appellant respectfully submits that the answer to the overarching statutory test is clear cut: the Proposals accord with the development plan taken as a whole, which should come as no surprise given they do the very thing the strategic residual waste management allocation in WP is meant to do, and material considerations outside the plan also favour them.

173. Whilst the planning balance is never a mathematical exercise, the benefits of the Proposals are overwhelming, and clearly outweigh the harm even if the Council's case is taken at its highest. The sooner permission is granted, the sooner the Appellant can get on and provide the facility needed to deal with the WP area's residual waste as it should be dealt with. In this regard:

- (a) The Main Plant does not comprise inappropriate development in the Green Belt (whether by reason of coming forward on Grey Belt land, and/or because the Proposals satisfy the criteria within NPPF Paragraph 154(g)). On this basis the Council and the Appellant are agreed that planning permission should be granted.
- (b) Alternatively, even if it falls to the Inspector to consider VSC, such very special circumstances exist, such that permission should be granted for the Proposals.

¹²⁰ The Appellant also relies upon the clear evidence given in XC/XX by Mr Asquith on the 'catchment issue'.

174. The Inspector is respectfully asked to allow the appeal.

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25th June 2026