



Application Reference: APP/23/00822/F

Address: Canford Resource Park, Arena Way, Magna Road, BH21 3BW

Proposal: 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 and Temporary Construction Compounds and associated buildings and ancillary car parking.

Case Officer: Gareth Ball

Objection to APP/23/00822/F

The application for the Canford Magna ERF was due to be decided at the Planning Committee meeting of 12th September, 2024. The Case Officer's Report (COR) was posted on the BCP website a week before the meeting. It recommended approval of the application. However, on lawyers' advice that a flawed report and incomplete documentation would render any decision made at the meeting unlawful, determination of the application was deferred by the committee.

The Case Officer's argument for approval rested on three key propositions, which will be examined below. Since the deferral of the meeting on 12th September, there has been an important development: the approval, on appeal, of the Portland ERF by the Secretary of State for Housing, Communities and Local Government on 16th September 2024.

This Magwatch objection argues that when (if?) APP/23/00822/F next comes before the planning committee, the Case Officer should feel compelled to recommend refusal of the application.

1. Three Key Assumptions behind Case Officer's Recommendation of Approval

The Case Officer's Report (5th Sept) recommending approval for the Canford Magna ERF is predicated on the three assumptions.

i. Compliance with the Waste Plan

Reference is repeatedly made to the Bournemouth, Christchurch, Poole and Dorset Waste Plan (BCPDWP) and compliance to it stressed.

Officers consider the proposal [for the Canford Magna ERF] to comply with the relevant planning policy constraints of Bournemouth, Christchurch, Poole and Dorset Waste Plan (2019) Policy 3 (Sites allocated for waste management development). (COR 9.11.4)

ii. Allocation and Location

Emphasis is given in the report to the fact that the site is allocated under the Bournemouth, Christchurch, Poole and Dorset Waste Plan (BCPDWP). The appropriateness of the site is

stressed:

In summary, given the number of substantial site-specific benefits of the Site, officers consider it to be the most appropriate location within the plan area for the proposed development. (COR 9.11.6).

And

The application proposes a waste facility of an appropriate scale, location and type. The proposal is acceptable in terms of the proposed land use. (COR 9.11.7)

iii. Development on Green Belt land

COR para 26.4.6 quotes from the Bournemouth, Christchurch, Poole and Dorset Waste Plan:

The National Planning Policy for Waste states that there are particular locational needs for some types of waste management uses that should be recognised, which may lead to the need to locate such facilities in the Green Belt **if a suitable site does not exist outside the Green Belt**. Any proposal for the development of permanent waste facilities in the Green Belt would need to demonstrate very special circumstances that outweigh the harm to the Green Belt and any other harm and would be judged on the locational needs of the development. (BCPDW 12.108) [My emphasis]

To argue that there are ‘very special circumstances’ that allow for the Canford ERF to be developed on Green Belt land, the COR relies very heavily on the fact that – at the time the report was written –

An application (ref WP/20/00692/DCC) was refused planning permission at Dorset planning committee in March 2023 for Construction of an Energy Recovery Facility (ERF). (COR 3.2.4)

This is a reference to the Portland ERF.

Later the COR states that

The application on the Portland site has substantial issues and does not benefit from a planning permission. (COR 26.5.7)

2. Approval of Portland ERF application

All three of these assumptions are rendered invalid by the Secretary of State’s determination, on 16th September 2024, of an appeal, in which she approves the Portland ERF application. In her judgement, she accepts the recommendations of the report prepared for her by Planning Inspector Paul Griffiths, who was appointed by the SoS’s predecessor and who reported on 24 June 2024. The Inspector recommends that the appeal be allowed, and planning permission granted.

In the light of the SoS approval now given to the Portland site, Policy 4 of the BCPDWP comes into play.

3. Allowance of non-allocated site

The Planning Inspector’s report states that

‘The Waste Plan 2019 also includes provision for waste management facilities to come forward **on sites that are not allocated**. This is an unusual approach; Policy 4 is permissive of proposals for waste management facilities on unallocated sites where, amongst other things, the non-allocated site provides advantages over the allocated

Policy 4 – Applications for waste management facilities not allocated in the Waste Plan (BCPDWP)

Proposals for waste management facilities on unallocated sites will only be permitted where it is demonstrated that they meet all of the following criteria:

- a. there is no available site allocated for serving the waste management need that the proposal is designed to address or the non-allocated site provide advantages over the allocated site;

site (IR 12.11) (My emphasis)

and that

the workings of Policy 4 require the decision-maker to make a qualitative comparison between the proposal at issue here, and the allocated sites. If it can be concluded that the proposal [Portland] provides advantages over the allocated site, then, subject to other relevant policies, it could be found to comply with the Waste Plan 2019. (IR 12.13)

4. Qualitative Comparisons

i. Historic Environment and Landscape

With regard to qualitative comparisons, the planning inspector states his intention first

to deal with those policies that are most relevant namely Policy 19 (historic environment) and Policy 14 (landscape and design quality). (IR 12.14)

He notes that the Portland site

is within a working commercial port that used to be a significant naval base. The port, or former naval anchorage, is the reason why most, if not all, the assets cited, are where they are, and take the form that they take. (IR 12.16)

Further, he does

not consider that the proposal would appear out of scale, or out of place. Rather, it would take its place as another functional building or structure of significant scale, within the immediate and wider port context. (IR 12.25)

He concludes with his view that

the proposal would have no harmful landscape or visual effects from receptors on land or at sea. Put very simply, that is because the proposal would sit comfortably in the context of the existing port. Consequently, I find that the proposal would accord with Policy 14 of the Waste Plan 2019 and Local Plan Policy ENV1. (IR 12.72)

This is in stark contrast to the proposed Canford Magna ERF, the size and location of which are quite inappropriate.

ii. Comparison with Canford Magna Site

Against the suitability of the Portland site, the planning inspector notes that the Canford site is

in the Green Belt, in a very sensitive location environmentally' (IR 12.102)

and is

located adjacent to a SPA, SSSI, and SNCI. (IR 8.23)

Further,

The size of the [Canford Magna] ERF is over ten times the size referred to in the allocation, extending beyond the allocation boundary further into the Green Belt. This proposal would be in clear conflict with Policy 3 of the Waste Plan 2019, and **Policy 21 which does not permit facilities in the Green Belt, where alternatives outside the Green Belt exist.** (IR 8.37) (My emphasis)

Policy 19 - Historic environment (BCPDWP)

Proposals for waste management facilities will be permitted where it is demonstrated that heritage assets and their settings will be conserved and/or enhanced in a manner appropriate to their significance...

Policy 14 Landscape and design quality of BCPDWP

Proposals for waste management facilities will be permitted where they are compatible with their setting and would conserve and/or enhance the character and quality of the landscape.

b. appropriate use of scale, form, mass, layout, detailing, materials and building orientation;

Policy 3 Sites allocated for waste management development of BCPDWP

Proposals within the Allocated Sites, listed below, will be permitted where they are in accordance with the allocated uses set out in Insets 1 - 12, and where it is demonstrated that they meet all of the following criteria:

a. the proposal complies with the relevant policies of this Plan;

Policy 21 – (South East Dorset Green Belt) of BCPDWP

Proposals for waste management facilities will only be permitted in the South East Dorset Green Belt where:

a. the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations to an extent that can demonstrate very special circumstances, including a need for the development that cannot be met by alternative suitable non-Green Belt sites;

He emphasises that

one of the first questions the decision-maker must ask about a proposal like that at Cranford Magna in the Green Belt, is whether the provision could be made outside the Green Belt. The scheme at issue here shows that it can be, and, in that situation, ***it is difficult to see how the necessary very special circumstances could be shown.*** (IR 12.107) (My emphasis)

5. Inspector's Conclusion

In weighing the merits and demerits of the Portland site, he concludes that:

For the reasons set out, I find that the proposal at issue [Portland ERF] here would have very clear advantages over the allocated sites (and the proposals for them) and as such, it complies with Policy 4. On the basis that it complies with Policy 4, I also find that it accords with Policy 1 [of the BCPDWP]. (IR 12.109)

6. Secretary of State's Comments

Paragraph 4:

For the reasons given below, the Secretary of State agrees with the Inspector's conclusions except where stated, and agrees with his recommendation. She has decided to allow the appeal and grant planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

Paragraph 17 of the Secretary of States judgement deals with "the Inspector's comparative analysis between the proposed site and sites allocated within the WP at Parley and Cranford Magna (*sic*)." She makes the following points: in para 17:

- For the reasons given at IR12.11-12.13 and IR12.100-109, the Secretary of State agrees with the Inspector that the site at Parley could not cope alone with the residual waste needs set out in the WP 2019, and it is in the Green Belt (12.101).
- The Secretary of State also agrees that the 'red line' of the planning application at Cranford Magna (*sic*) is well beyond the confines of the allocation which suggests that the allocated site is too small to cope with the residual waste needs in the WP (IR12.104).
- She further agrees that although the proposal at Cranford Magna might well perform better in terms of the spatial strategy in the WP that would have to be balanced against the Green Belt harm and any other harm (IR12.108).
- Overall, the Secretary of State agrees with the Inspector that the proposal would have clear advantages over the sites allocated within the WP (and the proposals for them) and as such, it complies with Policy 4 of the WP, and further agrees that it accords with Policy 1 (IR12.109).

Policy 1 - Sustainable waste management (of BCPDWP)

When considering development proposals, the Waste Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work proactively with applicants to promote the circular economy and find solutions which mean that proposals can be approved where appropriate to secure development that improves the economic, social and environmental conditions in the area.

Proposals for the development of waste management facilities must conform with, and demonstrate how they support the delivery of, the following key underlying principles of the Waste Plan:

The Waste Hierarchy -

facilities that contribute to moving waste up the waste hierarchy and demonstrate that waste is being managed at the highest appropriate level

Self Sufficiency - facilities that enable the Bournemouth, Christchurch, Poole and Dorset area to move towards net self-sufficiency

Proximity - facilities that adhere to the proximity principle through being appropriately located relative to the source of the waste.

In para 17 The Secretary also makes mention of submissions made to her *after* the deferral of the determination of Canford Magna ERF on 12th September, 2024:

In reaching this conclusion, the Secretary of State has taken into account the representation received from Savills on 13 September 2024 on behalf of the applicant for the proposal at Canford Magna (APP/23/00822/FUL), which draws her attention to the fact that the Canford Magna application, which has been recommended for approval by officers, was due to be determined by the LPA on 12 September 2024, but has been deferred to a later committee. She has also taken into account the representation from Stop Portland Waste Incinerator dated 14 September 2024 which draws the committee report on the Canford Magna proposal to her attention, and the representation from tor&co dated 16 September 2024 which provides a legal opinion on the Canford Magna proposal. The Secretary of State does not consider that this information changes her conclusions on the compliance of the proposal which is the subject of this decision letter with Policy 4 or Policy 1 of the WP, and does not change her decision overall. She further does not consider it is necessary to refer back to parties on this matter before reaching her decision.

7. Conclusion

In the light of this comprehensive analysis of the requirements of the Bournemouth, Christchurch, Poole and Dorset Waste Plan (2019) and relative merits and demerits of the three ERF sites analysed by the Planning Inspector, it is abundantly clear that the application for the Canford Magna ERF should be refused.

Magwatch
Frank Ahern
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25th September 2024