

Proposed development	Construction of an Energy Recovery Facility
PINS reference	APP/D1265/W/23/3327692
Site Address	Portland Port, Castletown, Portland, DT5 1PP
Local planning authority	Dorset Council
Appellant	Powerfuel Portland Ltd
Rule 6 Parties	SPWI and TPA

CLOSING SUBMISSIONS – RULE 6 PARTIES

All page number references are to electronic page numbers. References to the NPPF are to the NPPF in force at the time at which proofs of evidence were submitted (November 2023)

A. **INTRODUCTION**

1. On the way back from this inquiry, Sir, you will drive along the A354. The sites that you passed on your way here will now be all too familiar. And they may have new meaning.
 - (a) To your left, you will pass Chesil Beach and the foreground of the Jurassic Coast, which may now, in your mind, have become Landscape Character Assessment 1 and the experiential setting of the World Heritage Site.
 - (b) To your right, you will pass Portland Harbour, which may now have become Man-Made Harbour (Seascape Character Type 3A).
 - (c) And as you draw closer to Weymouth, you may catch sight of windsurfers, sailors and fisherman, who now may be more properly described as users of the Active Coastal Waters (Seascape Character Type 3C).

2. This inquiry has inevitably introduced some sterility into the way in which the isle of Portland’s setting and historic environment should be experienced. But the R6 Parties hope that you will nevertheless leave this inquiry with an understanding of the importance of the area’s heritage and sense of place for the local community. Because whilst this understanding can at times get lost in the midst of waste capacity data, character type assessments, and

transport modelling, it is why so many members of the community care so strongly about the future of Portland and why so many have objected to, and spoken out against, this proposal.

3. These closings will consider: (B) Tranquillity; (C) Seascape and Landscape; (D) Heritage; (E) Waste and Climate; and (F) Transport, Amenity and Socio-economics. They will then briefly provide an overview of our assessment of the overall planning balance at (G).

B. TRANQUILLITY

4. Tranquillity is an important feature of Dorset's landscapes and seascapes. It is described as a key perceptual attribute of several landscape and seascape character types, and of the experiential setting of the World Heritage Site.¹ And as JdB, JC and CB have noted, tranquillity can currently be experienced in the vicinity of the Site, including:

- (a) At the footpath which heads south from the cemetery before stopping at a gate to Port owned land (footpath S3/72), which, according to CB, has tranquillity scores of (a) "*fair*" to "*excellent*" when the port is noisy and (b) "*good*" to "*excellent*" when the port is not noisy.²

- (b) And at the path that connects footpath S3/72 with footpath S3/81, which, according to CB, currently has tranquillity scores of "*excellent*" when the port is noisy and when the port is not noisy. This path is the permissive footpath that forms part of the Appellant's Heritage Mitigation Strategy ("**HMS**").

5. Both of these locations are important. They form part of the setting of the World Heritage Site. And footpath S3/72 is regularly used by walkers and visitors, who are able to enjoy the peacefulness of the location at day and night.³

6. As CB has demonstrated, the ERF would have a significant adverse effect on the tranquillity that can be experienced at both locations. There would be a significant loss of tranquillity along the southern parts of footpath S3/72, as well as a smaller (though still important) loss of tranquillity at the northern end of footpath S3/81. And the tranquillity which would

¹ PPF35, pp. 32-33.

² PPF42, p.15, §5.5.

³ PPF35, pp. 37-38, §§4.24-4.33.

otherwise be experienced along the permissive path would be lost. The loss would be experienced more acutely when the port is not busy, as CB's Figures A5 and A7 indicate. But even when the port is noisy, there would a perceptible and material loss of tranquillity, as Figures A4 and A6 indicate:

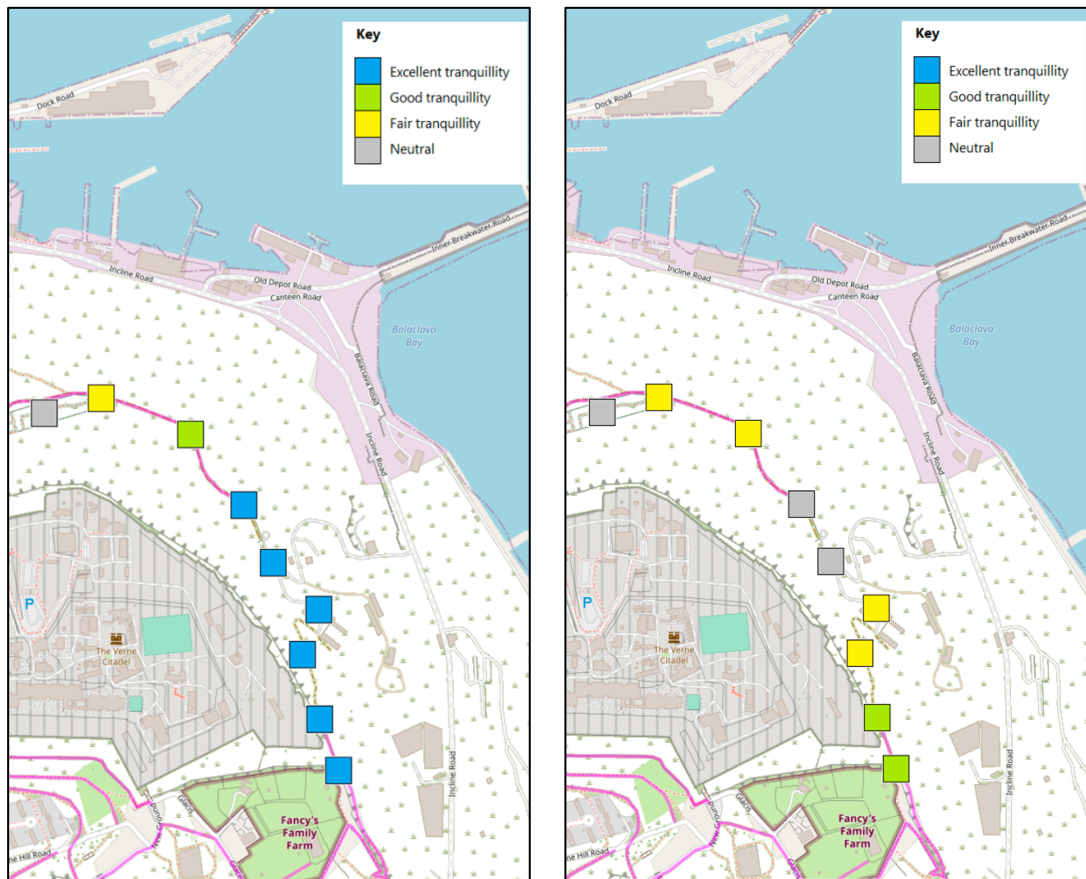


Figure A4 (left) shows the tranquillity that is currently experienced when the port is noisy. Figure A6 (right) shows the tranquillity that would be experienced when the port is noisy and the ERF is operating.

7. In his POE, JM contends that the locations are not tranquil by reference to (a) the CPRE's tranquillity map (2007) and (b) the data that is displayed in the Appellant's noise contour map.⁴ But as CB has explained:

- (a) The CPRE map has significant shortcomings. The full list of shortcomings is set out in CB's POE.⁵ Most notably, the map uses low resolution 500m by 500m grid sizes and fails to consider properly the presence of natural sound. This is why JM himself notes that the map is "*slightly difficult to interpret*" and therefore provides no

⁴ PPF4, p.24, §§6.5.16-6.5.18 (the maps are at PPF02, Appendix NR15, pp. 138-140).

⁵ PPF42, pp. 38-45.

definitive tranquillity score for Portland (let alone the specific locations that CB has assessed).⁶

- (b) The Appellant’s noise contour map is the very map that CB uses to inform his tranquillity assessment. It is the same map that is found at CB’s Figure A3.⁷ The Appellant’s noise contour map therefore does nothing to undermine CB’s findings and conclusions. It simply presents a more optimistic picture of the noise impacts of the ERF by using different colours to the map that is presented in Figure A3.
8. In XX, various points were put to CB, including suggestions that: (a) CB’s findings were somehow rendered immaterial by the fact that the receptors that he assessed were not located in the Dorset AONB or on the Heritage Coast; (b) CB should have included even more detail as to how he carried out his assessment in his POE (for example, in relation to spot checks); (c) CB’s assessment fails to acknowledge that weather conditions would have an impact on tranquillity; (d) CB’s assessment of tranquillity differs from the PPG Guidance on Noise; and (e) the permissive footpath is currently inaccessible, so the “*excellent*” tranquillity which it currently enjoys is irrelevant as a baseline. But none of these points are well-founded since, as CB explained:
- (a) CB’s conclusions support a finding of policy non-compliance, irrespective of whether the locations are within the Dorset AONB or on the Heritage Coast, as I will come on to discuss.
- (b) CB’s methodology is plainly robust. It is supported by detailed evidence. And in XX, CB was prepared to – and did in fact – answer any questions about the methodology that was used (including questions about spot checks).
- (c) People are less likely to go to these locations in periods of bad weather, so the possibility of poor weather conditions makes no difference to the tranquillity that people experience when they do go to these locations.
- (d) CB’s methodology does not conflict with PPG Guidance. The PPG notes that if an area is to justify being protected for its tranquillity, “*it is likely to be relatively*

⁶ PPF4, p. 28, §6.5.17.

⁷ PPF42, p. 21.

undisturbed by noise from human sources that undermine the intrinsic character of the area".⁸ This is precisely why CB assessed the tranquillity of the locations both when the port is busy and when the port is not busy. And it is why, as CB explained, the PPG Guidance reinforces, rather than undermines, his assessment.

- (e) Whilst the permissive footpath would only be made available as a result of the HMS, it is still the case that (i) its recreational benefits would be reduced if its tranquillity were reduced and (ii) there would be a perceptible loss of tranquillity for its users if the footpath could at some point be opened without the HMS. I will come on to both of these points in due course.
9. Stepping back – and as JM acknowledged in XX – the Appellant has provided no acoustics evidence and cannot dispute the methodology and findings of CB. JM fairly accepted that he had no expertise with which to doubt CB’s evidence, given that his expertise relates to landscape matters. And JM candidly acknowledged that he did not understand much of CB’s evidence – and indeed did not even listen to parts of CB’s oral evidence – as a result. In these circumstances, the findings and conclusions of CB should plainly be accepted.
10. Once CB’s findings and conclusions are applied to planning policy, it becomes clear that the ERF would result in policy non-compliance. Paragraph 185(b) of the NPPF states that tranquil areas should be identified and protected,⁹ while Policy ENV16 of the Local Plan (which makes reference to tranquillity in its supporting text, and which NR accepted could in principle be breached by a loss of tranquillity) states that development will only be permitted if it does not generate a *“level of activity or noise that will detract significantly from the character and amenity of the area or the quiet enjoyment of residential properties”*.¹⁰ Both of these policies apply irrespective of whether the locations are in an AONB or on the Heritage Coast. In light of the indisputable findings and conclusions of JdB and CB, both policies would be breached as a result of the ERF.

⁸ PPG on Noise, §8.

⁹ CD9.01, p.53.

¹⁰ CD7.02, p.57.

C. SEASCAPE, LANDSCAPE AND VISUAL IMPACT

11. The R6 Parties support the Council's case on landscape and seascape in its entirety. In particular, the R6 Parties agree with NW that:
- (a) The "*slight to moderate*" threshold for determining the significance of the ERF's landscape and visual effects, which the Appellant adopted in its original LVIA, was appropriate given the proximity of the Site to the WHS and Heritage Coast.¹¹ Without any adequate explanation, JM has adopted a threshold of "*above moderate*" which is far less conservative and which results in JM underestimating the significance of the ERF's adverse effects.¹² In the circumstances, the threshold of "*slight to moderate*" that has been used by NW (and by the Appellant itself in its original LVIA) should be followed.
 - (b) On the application of a proper threshold for significance, the ERF would result in significant adverse landscape and visual impacts on a number of receptors, including the World Heritage Site.¹³ Although the WHS is inscribed for geological and geomorphological reasons and the ERF would not affect its OUV, the ERF's landscape impacts on the WHS can and should be assessed for various reasons.¹⁴
 - (c) As a result of the ERF's significant adverse landscape and visual impacts, the ERF fails to comply with Policy 14 of the Waste Plan, Policy ENV1 of the Local Plan, and Policies Port/EN7 and Port/BE2 of the Portland Neighbourhood Plan.¹⁵
12. However, the R6 Parties consider that additional harm arises from (i) the ERF's impacts on important seascapes and (ii) the seascape setting of the WHS as a result. I will deal with each of these in turn.

¹¹ R07, p. 2, §4.

¹² R07, p. 3, §§6-8.

¹³ R03, p. 8, Table 3.

¹⁴ PPF23, p.10, §§3.15-3.19.

¹⁵ PPF23, p. 35, §5.8.

(i) Seascape

13. The importance of this area’s seascapes should be obvious. They are protected by Policy ENV1 of the Local Plan, which protects the plan area’s “*exceptional landscape and seascapes*” and prohibits development that would “*significant adversely affects the character or visual of the local landscape or seascape*”.¹⁶ And they have been considered in detail in the Dorset Coast Landscape and Seascape Character Assessment 2010 (“**LSCA 2010**”)¹⁷ which, according to para. 2.2.6 of the supporting text to Policy ENV1, should be “*used as a basis to guide decisions about whether development is appropriate in the landscape and provide a framework for the provision of appropriate landscape mitigation*”.¹⁸
14. The LSCA 2010 contains three seascape character types which fall within the ERF’s Zone of Theoretical Visibility (“**ZTV**”)¹⁹ and which therefore have particular relevance to guiding any decision as to whether the ERF is appropriate in landscape terms: (a) Slumped Cliffs – SCT 2C (p. 148 of the LSCA 2010); (b) Man-Made Harbour – SCT 3A (p. 166 of the LCSEA 2010); and (c) Active Coastal Waters – SCT 3C (p. 180 of the LSCA 2010).



Figure 20: Coastal and Seascape Character Types²⁰

¹⁶ CD7.02, p. 24.

¹⁷ CD12.28.

¹⁸ CD7.02, p23, §2.2.6.

¹⁹ PP05b, pp.3 and 5, Figures JM1 and JM3.

²⁰ CD12.28, p.294.

15. Given the importance of these character types for guiding your decision as to the ERF's compliance with Policy ENV1, we ask you to read the LSCA 2010's description each of those seascape character types in full, Sir. But for the purposes of these submissions, I will simply draw a couple of common themes together:
- (a) The first relates to the activity that occurs in these character types. We are told that a "key characteristic" of the Man-Made Harbour is the "*high intensity of water-based recreational activities including watersports, sailing and diving*"; and that the Harbour provides an "*important recreation resource*", hosted the 2021 Olympics, and now hosts Portland National Sailing Academy (in addition to being an "*important setting for Portland and Weymouth*").²¹ With respect to the Active Coastal Waters, we are told that "*key characteristics*" of the character type include its "*high level of activity, often seasonal, from recreational sailing and other watersports*" and its "*valuable fishing activity... [involving] generally small boats, both recreational and commercial*"; and that the character type provides opportunities for bird watchers too.²²
 - (b) The second theme relates to the way in which these character types have and should be evaluated. In its methodology, the LSCA 2010 states that "*In recognition that seascape character assessment is significantly influenced by visual characteristics, notably the views from land to sea, sea to land and along the coastline, special consideration has been given to visual characteristics within the assessment process and to describe the character types*" (emphasis added).²³ In short, we are told that views from "*sea to land*" are visual characteristics which "*significantly influence*" these character types.
16. The importance of these seascape character types for assessing compliance with policy – and, in particular, their users and "*sea to land*" views – seems to be lost on the Appellant. Indeed, its evidence seems to be suffering from a prolonged bout of aquaphobia:

²¹ CD12.28, p. 167.

²² CD12.28, p. 180.

²³ CD12.28, p.11.

- (a) In the original LVIA and JM’s supplemental evidence, the Appellant fails to consider the significance of the Slumped Cliffs and Active Coastal Waters character types entirely – and therefore fails to assess the impact of the ERF on these seascapes and their settings.²⁴
- (b) And although the original LVIA considers the Man-Made Harbour and makes reference to the characteristics that are identified in the LSCA 2010, the LVIA’s assessment of the landscape and visual impacts of the ERF underestimates the sensitivity of this location and the ERF’s effects, as JdB explained. We are provided with just one visualisation (Figure 9.20)²⁵ to illustrate the susceptibility of the Harbour to change: a photograph from the breakwater which, as JM confirmed, is publicly inaccessible. In contrast with the LSCA 2010’s emphasis on the importance of “*sea to land*” views, no visualisations are provided from within the areas of the Harbour in which the recreational activity – which is considered to be a “*key characteristic*” of the character type – takes place. And despite supplementing the original LVIA’s landscape evidence, JM provided no further seascape evidence or visualisations to remedy these deficiencies. The Appellant had a second a bite of the cherry. But it did not even take a nibble.
17. During JdB’s XX, it was suggested that you, Sir, could simply “*infer*” the sensitivities of these character types and the way in which they would be affected by the ERF. And in XX, JM contended that you should use your “*imagination*”. It was not suggested in JM’s POE that you should take this approach to evaluating these character types. And if imagination could be a substitute for evidence, then there would be no need to undertake an LVIA. Although the Appellant does not need to assess the ERF from every possible viewpoint, it does at the very least need to provide some assessment of these character types – accompanied by some relevant viewpoints – if it wants to satisfy you that no significant impacts will arise in relation to these seascapes.
18. As such, irrespective of whether the Appellant’s LVIA is so inadequate as to render the entire ES defective – which, as I made clear earlier in the inquiry, is not a submission that the R6 Parties need to pursue – it is clear that the Appellant’s landscape evidence (a) fails to consider

²⁴ CD1.36j1.

²⁵ CD1.36j1, p. 102.

the susceptibility and sensitivities of these seascape character types and (b) as a consequence fails to consider the full extent of the ERF's impact on them too.

19. So what level of harm to the seascapes should you find, Sir? Although you will now have to use your "*imagination*" to some degree in light of the Appellant's lack of evidence in this respect, the R6 Parties contend that a "*worst-case scenario*" should be used and that a high degree of harm can and should be found, for the following reasons:

(a) First, the Appellant itself tacitly accepts that there is harm to these seascapes and that this harm flows from the impact of the ERF on views from the sea. In considering the "*primary mitigation*" of the scheme, JM considers that the ERF has been designed in such a way that "*when viewed from the sea within the Harbour and from much further away in the AONB it will be sympathetic to and will assimilate to a large degree with the landform backdrop*" (emphasis added).²⁶ Since something necessarily causes harm if it needs to be mitigated (as JM accepted in XX) it is apparent that the Appellant itself considers that the ERF will result in harm to the Man-Made Harbour "*when viewed from the sea*" (and the same logic must of course apply to the Active Coastal Waters character type, to which JM again fails to make reference). Indeed, there has been an assumption from the inception of this scheme that the ERF would result in such a degree of seascape harm that its design needed to provide mitigation. It is why the Appellant spilled so much ink in its Design and Access Statement in considering how the ERF (and in particular its broad-side elevation) would be viewed from the sea and how its design could mitigate the ERF's visual impact.²⁷ Although the Appellant's evidence fails to provide an assessment of the harm, the Appellant's longstanding assumption that harm would be caused is relevant, and it should be taken into account.²⁸

(b) Second, JdB and JC have provided a range of viewpoints from the Man-Made Harbour and Active Coastal Waters in their POE,²⁹ as have other interested parties.³⁰ Although these viewpoints are not LVIA compliant and do not contain visualisations

²⁶ PPF04, p. 16, §5.2.4.

²⁷ See, for example, CD1.21 Part 1 (pp. 7-8), CD1.21 Part 2 (p. 7), CD1.21 Part 3 (pp. 5-6, 27-28, 34), CD1.21 Part 4 (p. 18).

²⁸ NR continues to make reference to CD1.21 Part 4 at PPF01, p. 70, §5.3.12.

²⁹ PPF35, pp. 22-31.

³⁰ See, for example, AD.06.

of the ERF, they can be relied upon to reduce the extent to which you, Sir, will have to use your “*imagination*” to determine the seascape impacts of the ERF. Indeed, JdB has suggested that in light of his evidence, a high degree of harm should be found. Given the absence of any assessment of the impact of the ERF on the Active Coastal Waters and Slumped Cliffs seascapes in the Appellant’s evidence – and the failure to provide relevant visualisations to support an assessment of the impact on the Man-Made Harbour – the R6 Parties submit that JdB’s conclusions should be followed.

(ii) **Seascape setting of the WHS**

20. Seascapes are an important component of the setting of the WHS. Policy ENV1 of the Local Plan states that seascapes should be protected, “*taking into account the objectives of the... World Heritage Site Management Plan*”.³¹ And the Jurassic Coast Partnership Plan, to which the Local Plan makes reference, states:

(a) That the experiential setting of the WHS comprises its landscape and seascape; and that in assessing the impact of any change to the WHS’s setting, the starting point should be an assessment of landscape and seascape character.³²

(b) That, under Policy R4, “*those elements of landscape character, seascape... that constitute the WHS’s functional or experiential setting are protected from inappropriate development*”.³³

(c) And that the evidence base which supports the Local Plan – including “*local landscape and seascape character assessments*” – can support WHS plan policies.³⁴

21. I have already taken you through the three seascape character types in the Landscape and Seascape Character Assessment 2010 which, in the R6 Parties submission, the Appellant has failed to take into account. And so there is no need to consider them in any further detail. But for the reasons just mentioned, it should be apparent that the Partnership Plan considers those seascapes to be relevant evidence in determining whether development complies with WHS

³¹ CD7.20, p. 24.

³² CD12.09, p.22.

³³ CD12.09, p. 45.

³⁴ CD12.09, p. 25.

plan policy (and that the WHS's setting does not only comprise the Heritage Coast and AONB). Indeed, the relevance of these seascapes to the protection of the WHS is why the Jurassic Coast Trust ("JCT") raised concerns about the impact of the ERF on these character types as long ago as September 2021.³⁵

22. You will recall, Sir, that JM made a point in XX that the JCT raised no concerns as to the impact of the ERF on the setting of the WHS as a result of its impact on the Slumped Cliffs. And, in doing so, JM urged you to afford "great weight" to the JCT's views given that the JCT is the designated body that is charged with protecting the WHS. But the JCT did raise numerous concerns in relation to the impact of the ERF on the setting of the WHS as a result of the ERF's impact on: (a) the Limestone Peninsula (LCT 1F); (b) the Hard Rock Cliffs (SCT 2D); (c) the Active Coastal Waters (SCT 3C); and (d) the Man-Made Harbour (SCT 3A). And the JCT concluded that:

"The scale of development may increase prominence of urban aspects and disrupt the perception of the connectivity of this part of the WHS to the wider, more natural coastline, also

The scale of development may distract from the appreciation of wider coastline and disrupt the perception of its natural qualities including the prominence and distinctiveness of exposed stratigraphy within the landscape

The mass and height of the development causes some disruption to the distinctive profile of Portland and therefore may negatively affect the visible association between underlying geology and landscape character from certain viewpoints within the WHS and from certain viewpoints that present the WHS on Portland within the overall context of the Island.

...

The overall scale of this proposal, in a central and highly visible part of the WHS remains a concern."

23. JM was entitled to contend that the JCT's lack of concerns about the ERF's impact on the Slumped Cliffs character type should be afforded "great weight", notwithstanding the JCT's lack of landscape expertise and the fact these were concerns rather than definitive conclusions. But this necessarily cuts both ways: it means that the JCT's concerns, as well as its lack of concern, must be afforded a similar level of deference, even if they too are not

³⁵ CD4.51.

informed by landscape expertise and do not constitute definitive conclusions. As a consequence – and unless JM’s evidence is to be set aside – it has to be common ground between the parties that you, Sir, should afford “*great weight*” to the numerous concerns that the JCT raises in relation the impact of the ERF on the setting of the WHS.

24. As JdB explained, the JCT’s concerns were well-founded.³⁶ The ERF would result in harm to the seascapes which make up the setting of the WHS. As a result of its size and scale, the ERF would result in harm to the three seascapes in the LSCA 2010 to which I have already made reference. Its plume, however infrequent, would exacerbate the adverse impacts of the ERF on the WHS’s setting. And its presence would “*dramatically detract from the geological presentation and special landscape qualities that are perceived from the sea in the immediate setting of the WHS*” and adversely affect the panoramic outlook that can be enjoyed over the WHS coastline. JdB and JC also note that there would be an adverse impact on tranquillity as experienced in the surrounding seascape and landscape within the WHS and its setting as a result of the ERF.³⁷

25. The Appellant responds by asserting, rather ambitiously, that landscape and seascape harm to the WHS can only arise if the WHS’s OUV is affected; and given that the WHS was designated for its geological and geomorphological reasons, and the WHS has no protective buffer zone in policy, any landscape and seascape harm must necessarily be limited. But this suggestion flies in the face of the views of consultees (including the JCT and UNESCO), the policies of the Jurassic Coast Partnership Plan and development plan, and the WHS’s nomination documents. In summary, it would be wrong for you, Sir, not to consider the full landscape and seascape impacts of the ERF on the setting of the WHS given that:
 - (a) First, the WHS’s character is linked to its OUV.³⁸ And as the Jurassic Coast Partnership Plan makes clear, the WHS’s landscape value and setting are integral to visitors’ experience of the WHS and are therefore integral to the WHS’s designation and management.³⁹

³⁶ PPF35, pp. 13-15, §§2.18-2.29.

³⁷ PPF35, p. 14, §2.27.

³⁸ CD12.09, p. 35.

³⁹ CD12.09.

- (b) Second, Local and Neighbourhood Plans draw connections between protecting landscapes and seascapes on the one hand and securing the objectives of the Jurassic Coast Partnership Plan on the other.⁴⁰ And conversely, the Jurassic Coast Partnership Plan makes clear that the WHS is protected through local planning policy.⁴¹
- (c) Third, UNESCO has been clear that the landscape and visual impacts of the ERF on the setting of the WHS should be assessed, given that its setting is an “*important part of the visitor experience of [the WHS] and its World Heritage values*”, and that UNESCO has concerns as to “*the potential increase in industrialisation of the wider setting for the [WHS] and the effect this may have on the naturalness of the [WHS]*”.⁴² And for the reasons given above, the JCT shares these concerns.
- (d) Fourth, the Secretary of State concluded in the Navitus Bay decision that relevant landscape impacts to the setting of the WHS can be taken into account.⁴³

(iii) Conclusions in relation to landscape and seascape

26. Accordingly, the Council’s RFR2 should be upheld, for the reasons given by the Council in its evidence and as a result of the additional seascape harm (including the seascape harm to the setting of the WHS) which JdB and JC have found. The ERF would therefore result in breaches of Policy 14 of the Waste Plan, Policy ENV1 of the Local Plan, Policies Port/ENV7 and Port/BE2 of the Neighbourhood Plan, and para. 174 of the NPPF. In addition, the ERF would fail to comply with Policies R4, IM3 and CSS5 of the Jurassic Coast Partnership Plan.

D. HERITAGE

27. The R6 Parties support the Council’s case on heritage. In particular, the R6 Parties agree with HK’s evidence that:
- (a) There are a large number of designated and non-designated heritage assets that would be impacted by the ERF. Many of these assets have a high degree of significance; and

⁴⁰ CD7.04, p. 32, CD7.02, p. 24, and CD12.09, p. 25.

⁴¹ CD12.09, p.25.

⁴² CD4.97, p. 3.

⁴³ CD12.58 and CD12.08.

together they have a high degree of group significance in conveying the maritime, stone working and naval history of Portland. For many of these assets, their setting makes a significant contribution to their heritage value.⁴⁴

- (b) Although the ERF would not result in physical harm to any assets, it would result in harm to the significance of individual heritage assets and their group value by harming their setting, where setting makes a positive contribution to their significance. NB and HK both consider that the ERF would result in “*less than substantial harm*” at the higher end of the scale to certain assets and towards the middle of the scale for others (although there are differences as to the precise degree of harm for certain assets).

28. However, the R6 Parties consider that additional heritage harm arises from (i) the Appellant’s HMS, (ii) the ERF’s impacts on certain non-designated heritage assets, and (iii) the significance of the WHS. I will deal with each of these in turn.

(i) **Heritage Mitigation Strategy**

29. With respect to the HMS, the R6 Parties support HK’s view that the measures would neither reduce the effect of the ERF on the intervisibility between the heritage assets in important respects, nor mitigate one of the primary causes of heritage harm (i.e. the scale and size of the ERF).⁴⁵ In particular, the HMS would do nothing to mitigate the impact of the ERF on the intrinsically linked group of listed and scheduled structures that comprise the Breakwaters and Dockyard Offices and the defences of the harbour that are provided by The Verne Citadel, East Weare batteries and associated structures. The HMS’s measures are therefore limited – whichever way one looks at them.

30. Indeed, as NB has explained, most of the purported “*benefits*” of the HMS either would be deliverable without the ERF (and the attendant harm that it brings) or would result in indirect heritage harm.⁴⁶ In summary:

⁴⁴ PPF26, p.16, §3.16.

⁴⁵ PPF26, p.30, §5.2.

⁴⁶ PPF36, pp. 51-61, §7.

- (a) Scrub clearance: Whilst the scrub clearance at the East Weare E Battery would be a benefit because it would make the Battery visible, the views towards Portland Harbour would include the ERF (and would therefore be adversely affected by the ERF). Given that the statutory consultee, Historic England, “*remain unconvinced*” that alternative measures for removing E Battery from its risk register (to the Appellant’s proposal) could not be pursued – and these measures, if pursued, would result in the asset being removed from the risk register without the harm caused by the ERF – the R6 Parties contend that the benefits of the Appellant’s proposal should be afforded only very limited weight, particularly since the Appellant has not presented a detailed conservation strategy to secure the long-term management and maintenance of the assets.⁴⁷
- (b) Information boards: Like the scrub clearance, the benefits of erecting information boards to “*better reveal and help interpret*” the structures of East Weare could be delivered without the ERF. As NB has explained – and as Figures 43 to 45 in her POE indicate – boards could easily be erected in the garden of the Jail House Café, whose location above the East Weare assets would enable visitors to appreciate the heritage context, and its relationship to the sea, better than the Appellant’s suggested locations.⁴⁸ In light of this more beneficial and deliverable alternative, the Appellant’s intention to erect information boards can hardly be classed (as WFS seeks to do) as a “*major benefit*”.⁴⁹
- (c) Permissive path: The creation of the permissive path would result in some benefit. However, the benefits would be for recreational amenity rather than heritage and, furthermore, they would be limited in light of (i) the fact that no PROW would be created, (ii) the path could be closed to the public with relative ease, (iii) the ERF would reduce the tranquillity that could otherwise be enjoyed on the path, and (iv) the 2m high fencing would inhibit visitors’ perception and enjoyment of the heritage assets.⁵⁰ In fact, in terms of its heritage impacts, the path could result in heritage harm. As NB explained, the path would puncture the curtilage of East Weare Camp and harm the coherence of the asset by separating the officers’ building from the other

⁴⁷ CD12.79, p.2.

⁴⁸ PPF36, pp. 53-54.

⁴⁹ PPF7, p.51, §7.32.

⁵⁰ PPF36, p. 61, §7.4.4.

buildings, and intruding upon the setting of the important collection of East Weare defences.

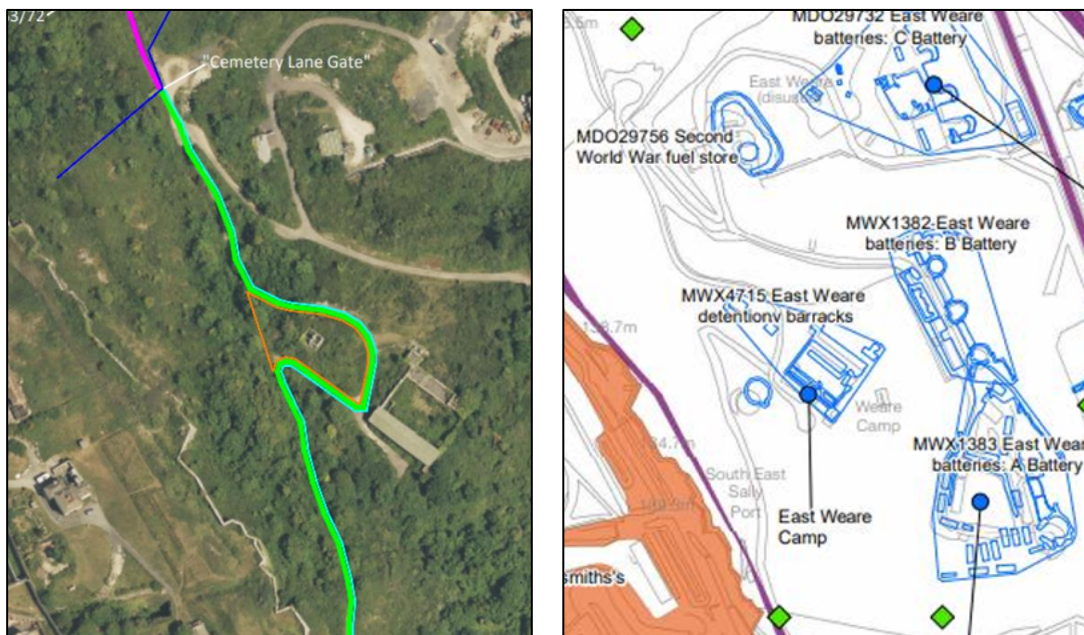


Figure 49 (left) shows the route of the permissive path in green and Figure 46 (right) shows the range of defensive structures and their curtilages in blue⁵¹

31. Accordingly, contrary to WMS’s suggestion, the measures in the HMS would not outweigh the heritage harm caused by the ERF, if an “*internal*” balancing exercise is carried out under para. 202 of the NPPF.⁵²

(ii) **Non-designated assets**

32. NB identifies certain non-designated heritage assets as being impacted by the ERF which WFS fails to identify altogether. These include the isle of Portland itself and various historic features along the isle’s eastern coast, including King’s Pier, Folly Pier, Durdle Pier and Rufus Castle. As NB notes, the piers and Rufus Castle all relate to the quarrying and stone-working history for which Portland is famous.⁵³ King’s Pier and Folly Pier both fall within the ERF’s ZTV⁵⁴ and, as NB explains, King’s Pier “*could be impacted by the proposal as the bulk of the ERF building and its stack will be apparent from the pier*”.⁵⁵

⁵¹ PPF36, pp. 55 and 58.

⁵² PPF7, p.54, §8.2.

⁵³ PPF36, p.14, §5.2.1.

⁵⁴ PPF5b, p.3.

⁵⁵ PPF36, p.14, §5.2.2.

33. Indeed, NB’s evidence is that *“the presence of the ERF plant within the setting of the piers and historic stone workings will take away from their historic integrity reducing the ability to enjoy and fully engage with the history of the east coast of the Isle”*,⁵⁶ which is why, in her judgment, the ERF should be considered to cause a *“moderate level of less than substantial harm”* to the historic environment on Portland’s east coast.⁵⁷ Given that WFS accepts the importance of quarrying and stonework for Portland’s history,⁵⁸ it is regrettable that WFS overlooks the impact of the ERF on historical features which played such an instrumental role in Portland’s contribution to the construction of renowned buildings, such as St Paul’s Cathedral. The harm to these assets which NB identifies should be included in the overall heritage assessment.

(iii) The WHS

34. At least at this inquiry, the Appellant’s experts have been similarly stubborn in denying that the WHS can be affected by the ERF in cultural heritage terms. For numerous reasons, development can plainly affect the significance of the WHS as a heritage asset. These include:

- (a) The Jurassic Coast Partnership Plan: Policy R4 of the Plan states expressly that *“those elements of.... cultural heritage that constitute the WHS’s functional or experiential setting are protected from inappropriate development”*, and *“experiential setting”* concerns the *“quality of the cultural and sensory experience”* surrounding the coasts.⁵⁹ Policy CSS5 states that *“the conservation and enhancement of... the historic environment and landscape character in the WHS and setting will be supported in ways that are complementary with its OUV”*.⁶⁰ And under the heading *“Links between geology, culture and society”*, the Plan states that there are *“deep connections”* between the *“geodiversity of the Jurassic Coast and the cultural stories of Dorset and East Devon”* and that the WHS reflects an *“intimate relationship between people and geodiversity”* since geology has influenced the *“origins, historic*

⁵⁶ PPF36, p.48, §6.9.1.

⁵⁷ PPF36, p.48, §6.9.2.

⁵⁸ See, for example, PPF8, pp. 16, 93 or 96.

⁵⁹ CD12.09, p. 22 and 45.

⁶⁰ CD12.09, P.49.

*fabric, traditional industries and heritage collections” of local communities such as quarrying.*⁶¹

- (b) Historic England: In its latest representation, Historic England have considered that the ERF has the potential to “*impact negatively on the setting of the globally significant geological and geomorphological features*”.⁶² Historic England plainly consider that the significance of the WHS can be harmed in heritage terms otherwise it would not have commented; and given that it is the statutory consultee for heritage matters, its view should be afforded considerable weight.
- (c) The Appellant’s own evidence: Although WFS and JM were resolute in contending that cultural heritage had no material relevance to the WHS, this stands in stark contrast to the position that the Appellant had adopted. In ES Chapter 13, which examines the effect of the ERF on the WHS, the Appellant makes reference to Policy R4 of the Jurassic Coast Partnership Plan (§13.24), before explaining that its assessment will undertake a “*cultural heritage assessment*” (§13.25) and that professional judgment is important in determining the “*overall cultural heritage effects and landscape and visual effects*” on the WHS (§13.36).⁶³ So, as well as acknowledging that the ERF’s landscape and visual effects on the WHS should be considered even though the WHS was inscribed for geological reasons, the Appellant rightly acknowledged that “*cultural heritage effects*” could also be relevant.

35. The Appellant has offered no explanation for the change of position between (a) the ES and (b) WFS’s and JM’s evidence. And in light of the clear wording of the Jurassic Coast Partnership Plan and the respect that should be afforded to Historic England’s opinion, the R6 Parties submit that you should adopt the approach that is outlined in the ES and find that the WHS’s significance can in principle be harmed in heritage terms by the ERF.

36. If this approach is taken, then NB’s evidence as to the effects of the ERF on the significance of the WHS must be accepted. This is because JM and WFS were not able to dispute NB’s findings given that neither had carried out such an assessment.

⁶¹ CD12.09, p. 40.

⁶² CD12.79, p.2.

⁶³ CD1.36n, pp. 6-9.

37. In her POE, NB explains that the ERF would impact the setting of the WHS⁶⁴ and “*the current perception of the historic environment of the WHS in views towards Portland where the settlement pattern and stone working history of the isle relates to geology and geomorphology...*”.⁶⁵ Indeed, as NB explained, in harming the historic features on the isle’s east coast which relate to stone-working – including King’s Pier and Folly Pier – the ERF would adversely affect cultural heritage features that comprise the experiential setting and “*historic environment*” of the WHS, in breach of Policies R4 and CSS5 of the Partnership Plan. By harming the Piers, the ERF would harm the “*historic fabric*” of local communities which, as the Partnership Plan recognises, has been influenced by the WHS’s geology.
38. This approach accords with the development plan and gives effect to its understanding of the connections between the isle of Portland’s heritage and the WHS. Policy Port/ENV5 of the Neighbourhood Plan expressly acknowledges (albeit in the context of pier-related development) that harm to the piers can result in harm to the WHS.⁶⁶ And although the ERF is not pier-related development, the Neighbourhood Plan’s connection between (a) harm to the piers and (b) harm to the WHS must hold fast in other contexts. As such, the Neighbourhood Plan also supports a conclusion that harm to the significance of the WHS can flow from harm to King’s and Folly Piers, as NB finds.

(iv) Conclusions in relation to heritage

39. Accordingly, the Council’s RFR3 should be upheld, for the reasons given by the Council in its evidence and as a result of the additional heritage harm (including the harm to various non-designated assets and to the WHS) which NB has found. This proposal would therefore breach Policy 19 of the Waste Plan, Policy ENV4 of the Local Plan, Policy Port/ENV4 of the Neighbourhood Plan, and paras. 197 and 202 of the NPPF. In addition, the ERF would fail to comply with Policies R4 and CSS5 of the Jurassic Coast Partnership Plan, as a result of its effect on the WHS.

⁶⁴ PPF36, p. 36, §5.5.

⁶⁵ PPF36, p.47, §6.8.1.

⁶⁶ CD7.04, p.31.

E. WASTE AND CLIMATE

40. The R6 Parties have concerns about the ERF's compliance with the Waste Plan and support AP's evidence as to why the ERF would not comply with Policies 1, 4 and 6. We also have doubts about the deliverability of various non-waste "*benefits*" of the ERF, including its provision of onshore power and district heating, and agree with TN's evidence in this respect. We therefore confine ourselves to emphasising a number of points, in relation to waste and climate change, which are of particular concern to the local community.
41. **First**, the ERF does not constitute "*renewable development*". As NR acknowledged, the ERF can at best be described as "*partially renewable development*". And as NPS EN-1 states, energy from waste facilities can only be partially renewable "*due to the presence of fossil-based carbon in the waste*".⁶⁷
42. **Second**, although NR disagrees with the characterisation of EfW facilities in NPS EN-1 and EN-3, both policy statements are crystal clear that "*the primary function of EfW plants... is to treat waste*".⁶⁸ The primary function of the ERF is not the delivery of onshore power. All EfW facilities produce energy. So even if the ERF did produce shore power and this is taken up by ships (which is doubtful for reasons that I will come onto), this should not change the characterisation of this ERF as a waste treatment facility.
43. **Third**, many of the proposal's "*benefits*" are either too uncertain or too unfeasible to be classed as genuine benefits. In particular:
- (a) **Shore power**: The provision of onshore power is entirely dependent on commercial arrangements being agreed and its price cannot be guaranteed. For various reasons, cruise ships often do not take up onshore power even when it is provided.⁶⁹
 - (b) **District heating**: The Appellant claims that the ERF would provide district heating to local receptors, however this forms no part of the application (indeed, it was originally considered not to be viable)⁷⁰ and the MoJ have not committed to the provision of

⁶⁷ CD9.03, p. 31, §3.3.42.

⁶⁸ CD9.03, p. 31, §3.3.39 and CD9.04, p.17, §2.7.6.

⁶⁹ PPF31, p. 5, §3.

⁷⁰ CD12.68, p. 28, §6.1.

district heating at the Verne. Planning permission would be needed to deliver a district heating network, and the Appellant has not made a planning application to this effect. Furthermore, even if district heating were provided, any benefit would be lost during the ERF's four-week shutdown.

- (c) Carbon capture: As the Appellant correctly recognises, carbon capture storage is “*not currently commercially viable*”.⁷¹ Carbon capture storage is also not included within the application. Even if carbon capture storage *were* used in future, it would have a significant parasitic load.
- (d) Transportation by ship: The Appellant contends that “*an opportunity exists for materials to be imported and exported, such as the import of RDF and the export of incinerator bottom ash (IBA)*”.⁷² This “*opportunity*” depends on consents being sought by the Port and granted by the Environment Agency through the permitting regime. And it is the subject of no more than a reasonable endeavours clause in the draft section 106 agreement.

44. **Fourth**, many of the ERF's purported “*benefits*” would be undermined if (a) there were delays to the commencement of the ERF's operation or (b) the ERF operated for longer than anticipated. In summary:

- (a) The Appellant claims that onshore power is needed as a matter of urgency because of existing grid constraints that will last until 2037. The Appellant also acknowledges that the main carbon benefits of the ERF fall early on in the 25-year ERF's lifetime, as a result of the anticipated decarbonisation of the national grid in the coming years, and that the ERF will start to have a negative carbon impact after 2044.
- (b) This means that if there are delays to the ERF's start date, or the ERF operates for longer than 25 years, its carbon benefits would decrease and its negative impacts would increase.
- (c) As PK explained, it is unrealistic to think that the ERF would start operating in 2027. The Bridgewater facility is still undergoing commissioning despite receiving consent

⁷¹ CD2.3, p.79, §5.30.

⁷² PPF01 p.13, § 2.3.17.

in 2015, and there are many stages which need to be satisfied before this ERF could operate. As such, as SO acknowledged, there is a possibility of slippage with respect to the start date.⁷³ Furthermore, there are good reasons to think that the ERF would operate for longer than 25 years. There are references to a 30-year lifetime in its environmental permitting application, and the ERF operator would have an economic incentive to operate the ERF for as long as possible.

(d) As a result, the Appellant overstates the benefits of the ERF and downplays the likelihood of carbon disbenefits occurring in future years.

45. **Fifth**, the ERF would result in local overcapacity. Dorset has good rates of recycling and there is sufficient capacity available to meet its residual waste needs.⁷⁴ Indeed, as the CCC notes, “*capacity in 2022 has surpassed capacity needed to meet waste ambitions by 2035*”.⁷⁵ As PK explains in her POE, if it became economically attractive to send residual waste to the ERF, the construction of a new facility to treat residual waste could undermine the circular economy by reducing recycling rates in Dorset.⁷⁶

46. **Sixth**, granting permission for this ERF would contravene the recommendations of the CCC, whose “*key message*” is that EfW emissions are controlled and reduced and that a moratorium on additional EfW capacity occurs until a review of capacity need is completed.⁷⁷ This ERF would also undermine the objectives of the Clean Maritime Plan. The Plan is clear that it “*sees zero emission shipping as a future whereby no GHGs or air quality pollutants are emitted by vessels (of all types) operating in UK waters or in the ship-to-shore activities required to facilitate those operations*” (emphasis added).⁷⁸ Although NR contended that this objective applies only to vessels, it plainly applies to the “*ship-to-shore activities*” in addition. This ERF would not result in the “*zero emission*” delivery of shore power and, as such, this important objective would be undermined.

⁷³ PPF38, p. 23, §§7.2-7.6.

⁷⁴ PPF33, p. 5, §2.6.

⁷⁵ CD9.23, p. 306.

⁷⁶ PPF38, p.12, §5.

⁷⁷ CD9.23, p. 299.

⁷⁸ CD9.20, p. 15, §38.

47. Accordingly, the Council's RFR1 should be upheld, for the reasons given by the Council in its evidence and as a result of the additional concerns that the R6 Parties have in relation to waste and climate.

F. TRANSPORT, AMENITY AND SOCIO-ECONOMICS

48. The ERF would result in transport and amenity issues. It would also fail to deliver the level of economic benefit which is suggested by the Appellant.

(i) Transport and amenity

49. In terms of transport and amenity, although the R6 Parties acknowledge that no objection to the ERF was submitted by the highways consultees, the consultees did not consider traffic-related amenity issues. As DT has explained in her POE – and as you heard at the IP session on Thursday 14 December – there continues to be considerable concern within the local community in relation to the effects of the HGVs on residential amenity, given the route of the HGVs through the Underhill Conservation Area and in close proximity to residential properties.⁷⁹ There also continues to be concern about the effect on visual amenity of the plume and its aviation lighting.⁸⁰

50. In addition to these general concerns, the R6 Parties consider that the Appellant's transport evidence underestimates the extent of the transport-related issues that could occur, for the following reasons:

- (a) First, it appears that the Appellant's assessment has failed to incorporate traffic flows generated by cruise ship coaches into its baseline modelling. In his POE, IA appears to recognise this deficiency but contends that "*such visits are occasional and would be managed with their own travel planning including the use of occasional coach visits to the port to offload visitors to tour the wider Dorset area.*"⁸¹ However, it is unclear what IA means by "*travel planning*"; and since IA has not presented evidence to this inquiry, or made himself available for questioning so that this evidence can be

⁷⁹ PPF39, pp. 6-10.

⁸⁰ PPF39, p. 10, §§2.17-2.19.

⁸¹ PPF16, p. 18, §6.18.

tested, this point remains unanswered and cannot be dealt with adequately by way of submissions.

- (b) Second, it appears that the Appellant has failed to assess how the ERF's traffic movements would interact with the traffic movements of a key development proposal that is coming forward in Portland: the Eden Project. Although NR suggested that the Eden Project may have been assessed as committed development, the R6 Parties have not been able to find evidence of this; and, again, since IA has not presented evidence to this inquiry, or made himself available for questioning, this point remains unanswered.
- (c) Third, the Appellant has failed to appreciate the extent to which traffic movements could result in heritage harm, in particular to the Underhill Conservation Area. Although IA responds to UNESCO's concerns about the effects of HGV movements on the WHS, he does not appear to acknowledge Historic England Advice Note 15 (Commercial Renewable Energy Development and the Historic Environment).⁸² Advice Note 15 states that "*for a biomass or EfW facility transport impacts also arise throughout the operational life of the development and from a heritage perspective this has the potential to have a significant impact on local amenity and the appreciation of heritage assets. The impact of frequent HGVs carrying biomass or waste materials may be especially noticeable in areas known for their historic character such as conservation areas*".⁸³ In his heritage POE, WFS makes no reference to this Advice Note (or HGVs) either. Indeed, in direct opposition to the Note's concerns, WFS suggests rather that optimistically that the port and its "*traffic-related movements are the raison d'être*" for various heritage assets, including the Conservation Area.⁸⁴ By failing to take into account the Advice Note, both WFS and IA have failed to consider the full adverse impacts of the HGV movements on the Conservation Area.

51. As such, whilst the R6 Parties do not submit that the ERF would have a "severe" impact on the transport network, we do submit that the ERF would result in traffic-related and visual

⁸² PPF16, p.19, §6.20.

⁸³ CD12.75, p.18, §62.

⁸⁴ PPF7, p.49, §7.25.

amenity issues – as well as heritage impacts – that would breach Policy ENV16 of the Local Plan and the heritage policies that are identified above.⁸⁵

(ii) **Socio-economics**

52. The R6 Parties have serious concerns about the effects of the ERF on the local economy and, in particular, its tourism and leisure industries. As DT explained, the development plan recognises the value of tourism and recreational activities for Portland’s economy, as well as the importance of the natural environment and the WHS in sustaining this activity. In short:

- (a) Economic importance of natural environment: As the Neighbourhood Plan states, *“one of Dorset’s economic strengths and ‘drivers’ is its tourism industry. Many tourist visits are heavily dependent on the appeal of the natural environment.”*⁸⁶ And as the Local Plan notes, the *“Vision for Portland”* is for Portland to *“have a broad tourist offer including activity based on sustainable tourism such as water sports, climbing, walking and bird watching, that capitalises on its unique location”* by 2031.⁸⁷ Indeed, the importance of Portland’s landscapes, seascapes and natural environment for its local economy is emphasised repeatedly in the Local and Neighbourhood Plans. It is for this reason that the Neighbourhood Plan notes that *“Portland’s natural focus should be on activity-holidays and adventure-seekers. It supports an approach to tourism that makes Portland an activity hub with reference to diving, mountain biking and climbing responding to distinctive offer and making Island a destination”*.⁸⁸
- (b) Importance of recreational activity: As the Neighbourhood Plan notes, Portland *“offers significant activity and adventure opportunities”*, including the Weymouth & Portland National Sailing Academy which *“hosts world class facilities for sailors”* and Portland Harbour which *“provides a safe venue with a full range of water sports including diving, paddle boarding and kayaking”*.⁸⁹ The Neighbourhood Plan notes

⁸⁵ The effect of the ERF on the public recreational benefits of the permissive footpath are considered above in relation to heritage.

⁸⁶ CD7.04, p. 68, §13.10.

⁸⁷ CD7.02, p. 161, §8.2.1.

⁸⁸ CD7.04, p. 69, §13.12.

⁸⁹ CD7.04, p.67, §13.4.

that Portland's "adventure tourism sector continues to grow and the Island's topography, quarries and wildness are there to be taken advantage of, responsibly".

- (c) Economic importance of the landscape value of the WHS: The Local Plan makes clear that "Portland is an important visitor destination as part of the Jurassic Coast" and that its "tourist offer" for WHS visitors includes its "stunning natural environment" and its "considerable opportunities for outdoor activities such as watersports, rock climbing, walking and bird watching".⁹⁰

53. The tourism and leisure industry is therefore vital for Portland's local economy and for alleviating the deprivation on the isle. This is reflected in the LSCA 2010, which states, in relation to the Man-Made Harbour character type, that "the growth of commercial activities could detract or displace the important sailing and watersports activities that occur within the Harbour and in Weymouth Bay" and, in relation to the Active Coastal Waters character type, that the "expansion of Portland Harbour facilities must be planned to ensure that this does not displace other recreational activities and should take account of visibility from adjacent land and marine areas".⁹¹

54. Yet as DT explained, the ERF would risk undermining Portland's burgeoning tourist and leisure industries. Its adverse landscape and seascape impacts would result in a reduction in the numbers of people visiting the isle to engage in the leisure pursuits and recreational activities that depend on Portland's valued landscapes and seascapes. And irrespective of whether such a concern is well-founded, there would at the very least be a perception that the ERF is environmentally harmful: this too would plainly result in a decrease in the number of people who would choose to visit the isle and take part in its recreational activities.

55. These concerns are shared by local businesses.⁹² As you heard in the IP session on Thursday 14 December, many businesses consider that the ERF would damage the local economy. For example:

- (a) Mr Barrett, on behalf of Weyfish, suggested that Portland's reputation as an attractive place to live and visit would be affected by the ERF, which would deter tourists from

⁹⁰ CD7.02, p. 162, §8.2.7.

⁹¹ CD12.28, pp. 170 and 184.

⁹² PPF39, pp. 14-17.

visiting and affect the viability of businesses to trade all-year round. He stated that granting permission for the ERF would prioritise the interests of one business over the wider economy.

- (b) Ms Wallwork and Ms Holly-Nambi, on behalf of B-Side, stated that the proposal runs counter to the aim of promoting tourism and in particular heritage-related tourism. Ms Wallwork expressed concern that the perception of increased air pollution would affect Portland's economy, and Ms Holly-Nambi suggested that a reduction in B&B tourism would occur.
- (c) Ms Quilter, who manages Eastney Hotel, stated that her guests – who range from sailors to families – would be deterred from visiting Portland if the ERF were granted consent. In her view, undermining the revenue that comes from tourism would be “*madness*”.
- (d) Mr Brooke, on behalf of the Eden Project Portland, suggested that the ERF would be a “*massive disbenefit insofar as it may jeopardise*” the Project, which is set to host 340,000 visitors, employ over 100 people full-time, and (according to Savills) create 500 indirect jobs. Contrary to NR's suggestion that the Project is just a “*twinkle in someone's eye*”, Mr Brooke informed us that the Project has excellent prospects of being delivered, has received numerous endorsements, and has secured funding from a range of sources.

56. None of these points are addressed in SE's POE. SE fails to acknowledge the importance of the tourism and leisure industry – as distinct from the cruise ship industry – for Portland's economy. SE fails to acknowledge the importance Portland's natural environment, and in particular its valued seascapes and landscapes, for Portland's economy and WHS-related tourism. And SE fails to consider the impact of the ERF on the viability and success of important projects, such as the new Sailing Academy development or the Eden Project Portland. By focusing solely on what he considers to be the benefits of cruise ship visitors to his selected study area, SE fails to provide an assessment of Portland's economy as a whole and how the ERF could affect it. The Appellant's failure to consider the full effects of the ERF on the local economy is reminiscent of the Navitus Bay decision, where the ExA found

(and the Secretary of State agreed) that the applicant had understated the negative effects on tourism as a result of the development, in particular at the local level.⁹³

57. Furthermore, the evidence that SE provides in relation to the economic benefits of cruise ship visitors is based on assumptions that are entirely out of kilter with (a) the experiences of people living in and around Portland and (b) the Appellant's own evidence. SE "*estimates*", for example, that by 2025 there would be as many as "*172,998 visitors to Portland*".⁹⁴ Irrespective of whether every single one of the ship's passengers would leave the ship – which, for obvious reasons, is highly doubtful – it is simply not the case that these passengers would visit Portland. As DT explained – and as Mr Wallwork reiterated at the IP session – cruise ship visitors overwhelmingly do not visit Portland. They are bused to further afield. Furthermore, it is entirely unclear how SE's estimate of the hundreds of thousands of visitors squares with IA's characterisation of coach visits from cruise ships as being only "*occasional*" and "*incidental*".⁹⁵
58. Since neither IA nor SE has given evidence at this inquiry, you will have to be the judge of who's right on that particular point. More broadly, Sir, the fact that there has been no opportunity to test SE's evidence through XX necessarily means that less weight must be afforded to it. It was a decision for the Appellant as to whether to call SE, and since you made it clear at the CMC that socio-economic issues were a "*main issue*", the Appellant had every opportunity to do so.⁹⁶ The fact that the Appellant chose not to means that where inconsistencies arise between the evidence of DT and SE, DT's evidence should be preferred, given that she gave evidence at this inquiry and made herself available for questioning (even if the Appellant chose not to question her).
59. Accordingly, the R6 Parties submit that not only have the economic benefits of the ERF been overstated. The ERF would in fact result in harm to the local economy. Accordingly, the proposal would breach Policy INT1 of the Local Plan and undermine the economic objective of sustainable development in the NPPF.⁹⁷

⁹³ CD12.58, p.8, §§36-39.

⁹⁴ PPF13, p.37, §5.3.14.

⁹⁵ PPF16, p.18, §§6.18-6.19.

⁹⁶ In the CMC

⁹⁷ CD11.07, p. 2.

G. PLANNING BALANCE

60. The R6 Parties' planning balance is set out in DT's POE.⁹⁸ But in summary, this proposal would give rise to a range of breaches with national and local planning policy. And it would provide only very limited benefits, many of which are so uncertain that they should only have limited weight. The proposal does not comply with the development plan as a whole and there are no material considerations as to why permission should be granted. Accordingly, the R6 Parties invite you to dismiss the appeal.

BARNEY MCCAY
LANDMARK CHAMBERS
21 DECEMBER 2023

⁹⁸ PPF33, pp. 18-26.