

Our Ref: 262701

29 September 2023

By email only:

[gareth.ball@bcpcouncil.gov.uk](mailto:gareth.ball@bcpcouncil.gov.uk)

[planning.poole@bcpcouncil.gov.uk](mailto:planning.poole@bcpcouncil.gov.uk)

FAO Mr Gareth Ball  
BCP Council – Planning  
Civic Centre  
Bourne Avenue  
Bournemouth  
BH2 6DY

Dear Mr Ball

**APP/23/00822/F - PROPOSED CANFORD ENERGY FROM WASTE (EFW) FACILITY AND ASSOCIATED INFRASTRUCTURE AT CANFORD RESOURCE PARK, ARENA WAY, MAGNA RAOD WIMBORNE**

We write on behalf of Powerfuel Portland Limited (PPL) to **object** to the above planning application.

As the Council may be aware, PPL has pursued a planning application for its own Energy Recovery Facility (ERF), on land at the Port of Portland, Dorset. This application (ref: WP/20/00692/DCC) was refused by Dorset Council and is now the subject of an appeal, which will follow the inquiry procedure and opens on 5<sup>th</sup> December 2023.

The Portland ERF proposal is on an allocated employment site, on brownfield land and which falls outside of the Green Belt. It is a waste recovery facility which can meet the need for which the Canford EfW scheme has been proposed. In fact it is more appropriately scaled to meet local need and can do so without causing any harm to the Green Belt and significantly less other harm. Further, it would deliver greater overall benefits associated with its unique location. As such, it is a material planning consideration in your authority's determination of the Canford EfW scheme.

Accordingly, we request that full regard be given to the contents of this letter of objection, which we believe demonstrates that the Canford EfW facility application should be refused on its own terms.

Further, determination of the application should be deferred until the outcome of the Portland ERF appeal is known (the Inspectorate's target decision date is 26<sup>th</sup> January 2024), as in the event the appeal is allowed, which we strongly believe will be the case, the Canford scheme must fail to demonstrate very special circumstances and breach Waste Local Policy 21, as an alternative, suitable non-Green Belt site will have been proven to exist.

Our objection covers a number of areas and all subsequent points have been numbered for ease of future reference.

## ***The Dorset Waste Plan Allocation and the Correct Application of Green Belt Policy***

1. The Dorset Waste Plan (DWP) Policy 3 allocates a number of sites for waste management including for intensification and re-development. These include for facilities for the management of non-hazardous waste. One such allocation is Land at Canford Magna, Magna Road, Poole (i.e. land which includes part of the Canford EfW facility). The site is identified as Inset 8 and any development must meet (all) four criteria in Policy 3 which comprise:
  - a. Compliance with other relevant DWP policies.
  - b. Satisfactorily addressing the relevant 'Development Considerations' as set out in the site specific Inset 8.
  - c. Causing no unacceptable cumulative impacts.
  - d. Not adversely affecting the integrity of European designated habitats.
2. The 'Development Considerations' in Inset 8 relevant to the Canford site include:
  - a. Given the site's location within the South-East Dorset Green Belt, applications will be considered against national policy and DWP Policy 21. An EfW plant is by definition inappropriate development (DWP paragraph 12.105).
  - b. The provision of sufficient information to enable Habitats Regulations Assessment (HRA) screening and if necessary appropriate assessment, to inform an assessment of effects, include studies that demonstrate that any emissions from development will not impact on the features (species and habitats including lichens and bryophytes) of the nearby European Sites.
  - c. The retention of existing vegetation to reduce visual impacts.
3. Inset 8 recognises the existing waste facilities in the overall allocation, including the partly constructed Low Carbon Energy Facility. In this context it then identifies that the 'Potential Additional Capacity' of the site has been assessed for circa 25,000 tpa of additional capacity (exact capacity considered on an individual proposal basis). Finally, it identifies the allocation site as comprising previously developed land (PDL).
4. As a general point of principle, waste site allocations such as the above in Green Belt, require considerable caution. Whilst they are an allocation, that allocation itself (and in this case Policy 21 as well) necessitates that applications still have to prove that very special circumstances (VSCs) exist in order for permission to be granted. Further, that a key consideration in establishing VSCs is the absence of being able to meet the need for the development on an alternative suitable non-Green Belt site. In this case Policy 21 specifically requires absence of non-Green Belt alternatives to be proven. Such Green Belt waste site allocations are by no means unique within England and have resulted in a number of high profile planning cases / failures.<sup>1</sup>

---

<sup>1</sup> For example in the Surrey Waste Plan where Green Belt allocations at Capel and at Trumps Farm failed to deliver successful EfW permissions, despite planning applications; and in the Hertfordshire Waste Site Allocations Local Plan where the Secretary of State called-in and refused the New Barnfield EfW proposal on an allocated site in the Green Belt.



5. Thus, national Green Belt policy is judged to be the key planning consideration for the Canford scheme. The applicant for the Canford scheme has significantly misunderstood the correct interpretation and application of national Green Belt policy.
6. The first question is whether a specific development is appropriate or inappropriate development. All new buildings within the Green Belt are by definition inappropriate development unless comprising a building(s) listed in NPPF paragraph 149 a) to g). An EfW facility does not fall within the list. The only caveat is whether the EfW facility complies with part g) of paragraph 149 which considers a building appropriate where it is:
 

*“limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; ....”*
7. The applicant, in its Planning Statement (PS) paragraph 8.2.2, identifies the site as currently occupied by an 800m<sup>2</sup> building (circa 37m by 22m) which is 13.4m height with a 35m high chimney. This development is associated with the aforementioned partly constructed Low Carbon Energy Facility. The applicant describes how this would be demolished as part of the scheme and then postulates that their new EfW facility with a buildings footprint of 11,816m<sup>2</sup>, with the main building being 162m by 62m and having a roof height of up to 50m,<sup>2</sup> together with a 110m high stack; might somehow be appropriate development by virtue of NPPF paragraph 149 g). Such a claim is hopeless and a misinterpretation of national and DWP policy. As explained below, the proposal is very significantly larger and has a much greater impact on openness than the existing development and does not fall within paragraph 149(g) of the NPPF.
8. PPL estimate that the Canford EfW facility has a building volume in excess of **42 times** the Low Carbon Energy Facility building which would be demolished (~452,000m<sup>3</sup> compared to 10,720m<sup>3</sup>).
9. There is no merit in the applicant’s argument (PS paragraph 8.2.2) that account should be taken of the unimplemented portion of the Low Carbon Energy Facility development, as quite plainly, for the purposes of NPPF paragraph 149 g), it is not **‘existing development’**. Further:
  - a. It relates to a planning permission dating back to 2013 for a failed development (technology failure), of which there is no prospect whatsoever of it ever being built out.
  - b. Even if it had been fully built out, the built volume of the proposed Canford EfW would be over **6.5 times** greater than that of the entire Low Carbon Energy Facility development.
  - c. All such considerations completely ignore the proposed 2,700m<sup>2</sup> grid connection compound (77m by 47m), and its associated built development, which is not on previously developed land; and thus to which NPPF paragraph 149 g) has no relevance. We return to this component of the scheme (which does not fall within the DWP allocation) subsequently.

---

<sup>2</sup> See ES paragraphs 3.4.4 & 3.4.6

10. Turning to ‘openness’, with which the applicant struggles to grapple, as set out in paragraph 137 of the NPPF, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The courts have determined that: “Openness is the counterpart of urban sprawl and is also linked to the purposes to be served by the Green Belt.”<sup>3</sup>
11. It is well established (and set out in the Planning Practice Guidance (PPG) and determined by the courts) that: “openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume...”<sup>4</sup> PPG further indicates duration of development and degrees of activity can feed into considerations around openness, however, these are still matters that relate either to spatial openness or visual openness. The spatial dimension relates to keeping land open and free from development. As PPG states, volume [of development] is relevant. The visual aspects encompass a perceptual dimension i.e. it is relevant to consider how a development may affect the perceived openness of the Green Belt.
12. Taken very briefly, the Canford EfW facility adds a building in the Green Belt circa **42 times** the volume of the building to be demolished. As a matter of fact, impact on the spatial openness of this part of the Green Belt would be harmed to a far greater degree than is the case with the existing development.<sup>5</sup>
13. In terms of the visual dimension, by reference to the application photomontages (extracts reproduced below), a very large and visible building plus its 110m high stack (with aviation warning light) would be introduced into the Green Belt. There would undoubtedly be a very real and evident reduction in the perceived openness of this part of the Green Belt i.e. there would be a far greater perception of built development.



Viewpoint 2 - View south-west from footway along southern edge of the A341 - Magna Road

<sup>3</sup> Lord Carnwath paragraph 22 in *R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council* [2020] UKSC3

<sup>4</sup> Planning Practice Guidance: Paragraph: 001 Reference ID: 64-001-20190722

<sup>5</sup> It is completely opaque to what sort of spatial dimension the applicant is referring to in PS paragraph 8.2.6.





Viewpoint 10 – View north east from Bridleway 23 within Open Access Land at Canford Heath



Viewpoint 12 – View east view from Footpath 5 at Corfe Hills

14. It is indisputable therefore, notwithstanding the applicant's claims to the contrary, that the Canford EfW facility would be **inappropriate** development for the purposes of Green Belt policy. It lacks any credibility that they have claimed otherwise. Thus, in such circumstances, NPPF paragraphs 147 and 148 apply. The former recognises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 is reproduced below in order to highlight the applicant's misunderstanding of the policy requirement.

*“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.*

15. The applicant's misunderstanding is encapsulated in two paragraphs of their PS.
- a. 8.2.14: *“Based on the above, if there is harm to openness, its weight is relatively slight”.*
  - b. 8.2.61: *“VSC conclusion - Overall, there are a number of strong Very Special Circumstances supporting the Proposed Development. The strength of these*

*outweighs the weight that might be attached to the harm to the Green Belt that might be created by the Proposed Development”.*

16. With regard to the former, NPPF paragraph 148 dictates that the starting point for any harm to the Green Belt is that it be given **substantial** weight. The applicant is simply wrong in asserting it can be given any lesser weight. Moreover, given the points made above with regard to the significant increase in scale of the proposal over the existing development, the harm by reason of inappropriateness alone (apart from other issues) should carry substantial weight against the grant of permission.
17. With regard to their paragraph 8.2.61, the applicant has made numerous errors. Very special circumstances (VSCs) are not individual planning considerations which weigh in favour of inappropriate development. VSC are what exist if the harm to the Green Belt (by virtue of inappropriateness), and any other harm it causes, are clearly outweighed by other considerations. Hence, their conclusion of VSCs outweighing Green Belt harm, is non-sensical and addresses the wrong test.
18. What national Green Belt policy actually requires is that the totality of the harm to the Green Belt is properly established and given substantial weight (as a minimum). Then any other harm arising from the proposal is added to the weighing exercise against the scheme. Only then is the totality of this harm weighed against considerations which fall in favour of the scheme. VSCs will only be established if the considerations in favour of the scheme **clearly** outweigh the totality of the harm (NPPF para. 148). This is not an “on balance” assessment.
19. The term ‘any other harm’, in paragraph 148 of the NPPF, was explained in *Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government* [2015] J.P.L. 416. In this case the Court of Appeal held that the words “any other harm” in the Framework were unqualified and that all other considerations (which by definition would be non-Green Belt factors) must be included in the weighing exercise (irrespective of whether they are determinative in their own right or not).
20. The Canford EfW application, as submitted, contains no assessment of the proposal against the proper requirements of national Green Belt policy, as is required by DWP Policy 3.

### ***Harm to the Green Belt***

21. The first element of assessing Green Belt harm is understanding whether the area of Green Belt in question has particular sensitivities or pressures, noting that whilst any harm to any part of the Green Belt through inappropriate development must be given substantial weight (as a minimum), the weighting can increase in sensitive locations.
22. The Green Belt defined in the Poole Local Plan (November 2018) was informed by and assessed in the Poole Green Belt Review (July 2017). In a manner very similar to documents of this type prepared across the country, it divides the authority’s Green Belt into individual parcels and scores each against set criteria. The Review adopts three scoring criteria as follows, which effectively establish the importance of each parcel in Green Belt terms:



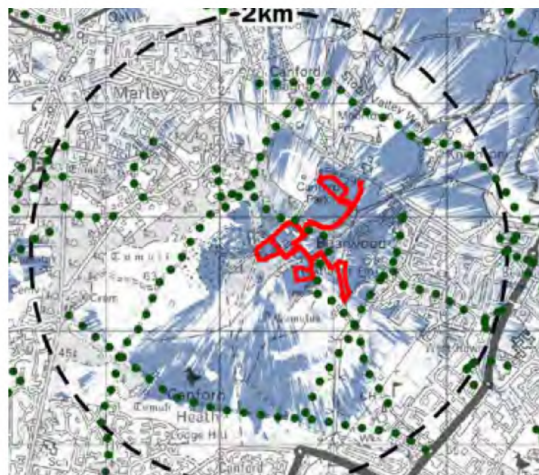
- a. The 'openness' of the parcel – ranked high, medium, low and none.
  - b. The 'permanence' of the parcel – again ranked high, medium, low and none.
  - c. Its contribution to the first four Green Belt purposes (as per NPPF paragraph 138) – again ranked high, medium, low and none, with each scored 3, 2, 1 or 0, respectively.
23. The authority's Green Belt was divided into 18 parcels, of these only 4 were of any relevance to the fourth Green Belt purpose (preserving the setting and special character of historic towns). Thus, the maximum score any of the remaining 14 Green Belt parcels could score would be: high for openness; high for permanence; and 9 out of 9 for contribution to purposes.
24. The Canford EfW application site is located almost centrally within Parcel 16 – titled 'Tract of land to south of A341 Magna Road between Merley and Bearwood'. The Parcel scores:
- Openness – **High**
  - Permanence – **High**
  - Contribution to purposes:
    - Purpose a) To check unrestricted sprawl of large built up areas: 3
    - Purpose b) To prevent neighbouring towns merging: 2
    - Purpose c) To safeguard the countryside from encroachment: 3
    - Total: **8 out of 9**
25. Thus, it can be seen the Green Belt Parcel within which the Canford EfW proposal is located, almost achieves the highest possible score. In overall terms, it scores 4<sup>th</sup> highest of all 18 of the Parcels, and is one of only 5 Parcels where there is no potential to change the Green Belt boundary without harming the overall role and purpose of the South East Dorset Green Belt (see pages 110-111 of the Review).
26. In the DWP process, the Canford site was not considered in terms of a non-Green Belt alternative at the Port of Portland, which was not advanced as a site in the plan process. However, it is of considerable relevance (set against a lengthy history of the Canford allocation which has yet to deliver significant residual waste management facilities<sup>6</sup>) that a non-Green Belt alternative has now emerged and will be considered at appeal before the end of the year.
27. In conclusion, and based upon the Review's assessment of Parcel 16, the Canford proposal is located in an important and sensitive area of Green Belt which sits between Bearwood and Merley, the former forming part of the large built-up area which sits at the eastern boundary of the Parcel. The Parcel is predominantly open, bar the collection of industrial buildings associated with the existing waste facility which introduce built form and act as an urbanising influence. The Parcel has particular importance for the first purpose, preventing urban sprawl of a large built-up area. It has medium importance in maintaining the physical gap between Bearwood and Merley and high importance in

---

<sup>6</sup> As opposed to smaller scale intermediate treatment facilities or transfer stations etc.

terms of safeguarding the countryside from encroachment by virtue of appearing predominantly open and rural in character.<sup>7</sup>

28. A very important characteristic of the area is that whilst it contains the current waste facilities, they are limited in height (buildings below 13.5m) and very well screened by existing woodland and topography, to the extent that many people would not know of their presence. Moving around the area there is a strong perception of a lack of development and sense of openness. This is a key characteristic which contributes towards giving this particular Parcel its importance compared to other parts of Poole's Green Belt.
29. The spatial harm to the Green Belt through the introduction of the Canford EfW with buildings with a significantly increased built form and with a footprint of 11,816m<sup>2</sup>, although only partially / marginally mitigated by the site being PDL and the demolition of the existing 800m<sup>2</sup> existing building. However, the 2,700m<sup>2</sup> grid connection compound would not be on PDL and would include a range of built elements causing further spatial harm to the Green Belt. Overall, there would be significant spatial harm.
30. However, the perceived, visual harm to openness would be far greater. The Canford EfW, with the main building at up to 50m in height, a vast volumetric mass and 110m high stack, would give rise to a significant incremental change in the perception of the openness of the Green Belt Parcel. It would extend prominently above the woodland and raised ground which encapsulate the current waste facilities. The submitted ZTV of the EfW building itself - ES Figure 12.9 shows that the building would be visible across the majority of the entire stretch of Green Belt between Bearwood and Merley (see extract below).



<sup>7</sup> It is notable that the subsequent BCP Council & Dorset Council Strategic Green Belt Study Stage 1 (LUC December 2020), which whilst not yet tested at a Plan examination, confirms the sensitivity of the Green Belt where the Canford site is located. It places it in a Parcel referenced OA31 (which has a different area to Parcel 16 of the Poole study). The Parcels, including OA31, are again scored against the Green Belt purposes, but on a 5 point scale. OA31 is scored in the second highest category (of 5) on Green Belt purposes 1 and 2; and the absolute highest category in relation to purpose 3.



31. The above ZTV and the submitted Photomontages (3 of which have been reproduced as extracts previously) show that:
- a. The EfW would be clearly visible from all points of the compass and particularly so from the north, north-east, south-west and the west.
  - b. From viewpoints (VPs) 2, 5 and 6 it would be viewed breaking the horizon and against the sky.
  - c. From VPs 10 and 12 it would actually sit on the horizon and be entirely sky lined.
  - d. In none of the Photomontages is there any clear view of the existing waste management buildings at Canford, providing confirmation that these existing facilities, due to their limited height, mass and scale, are screened as a result of existing woodland and topography and as such their perceived impacts on the Green Belt is limited.
32. By contrast, due to its size, the Canford EfW would result in very significant harm to the visual / perceived openness of the Green Belt.
33. The facility, together with its grid connection compound, would give a perception of urban sprawl from the large built-up area lying close by to the east, harming the first Green Belt purpose. Whilst, a gap would still be retained between Bearwood and Merley, the overall scale of development would give a degree of perception of erosion of that gap. With regard to the third purpose, there would be a real perception of encroachment into the countryside.
34. In conclusion, the Canford EfW would significantly adversely affect both the spatial and visual openness of the Green Belt, very significantly in the case of the later; and cause harm in relation to the first three Green Belt purposes. Given the importance of this area of Green Belt (as confirmed by the Green Belt Review), the overall harm caused to the Green Belt should, in our judgement, be afforded very substantial weight.

#### ***Any Other Harm***

35. **Landscape and Visual Effects:** We have not undertaken a complete review of the landscape and visual effects of the Canford EFW and will reserve our position to do so. The applicant's own assessment finds permanent significant visual impacts from 4 of the 14 VPs (see ES paragraph 12.12.4). Thus, some significant adverse visual effects weigh against the scheme.
36. However, even an initial review of the submitted landscape and visual impact assessment (LVIA) highlight some significant concerns about the approach and judgment / statements which are made. By way of example:
- a. The visual effects for VP 12 (see Photomontage extract reproduced previously) are described in the assessment tables (ES Appendix 12.2) as being of a **low** magnitude of effect resulting in no significant impact. The assessment states: "*It is anticipated that the top of the building and the chimney will be identifiable in the view, against the existing horizon*". It would be fair to say that this statement hugely understates the effects of seeing a 50m high EfW perched on the horizon.

- b. VP 6 (see the Photomontage extract reproduced below) has a **very high** receptor sensitivity. However, the magnitude of effect is assessed as **very low** which is the only way the assessor could again avoid concluding a significant effect. In determining the magnitude of change, the assessment states that: “A Photomontage of this location is included within Technical Appendix 12.1, Appendix EDP 4. It is anticipated that the building may be identifiable in the distance, however the roofline does not break the horizon over the Heath behind, the chimney may be identifiable against the skyline”. The assessment is plainly wrong as the EfW is more than ‘identifiable’ and the roof line plainly sits way above the skyline.



Viewpoint 6 - View south-west from Footpath 3/Ferndown, Stour and Forest Trail Long Distance Route

- c. A sense of the local landscape character and the effects of the proposal on it, can be gained from the Photomontages reproduced in this letter. The LVIA describes the relevant character area within which the proposal sits (‘Heathland / Farmland Mosaic’) as only being of **Medium** sensitivity and the development only have a **Medium** magnitude of effect, once again avoiding a significant impact. Given the scale of the scheme and its stark appearance in a landscape which has areas of high landscape quality, PPL disputes this judgement.
37. PPL’s initial review of the submitted LVIA shows it lacks credibility in a number of areas. It is strongly recommended that the Council procures an independent detailed peer critical review of the work by Landscape Architecture professionals.
38. Even by the applicant’s own LVIA, significant adverse, permanent effects would occur. PPL believe the actual level of adverse impact which would occur has been materially understated. It is critical that the correct level of adverse impact is determined and applied in the context of harm and specifically in the context of Green Belt and the consideration of ‘any other harm’ and the balancing exercise which must be undertaken.
39. **Heritage:** ES Chapter 10 (10.10 Summary) finds that the Canford EfW facility would result in a change to the setting of 3 Scheduled Monuments, all of which are Barrows lying to the south / south-west of the site. The effects are described in the ES chapter as minor adverse resulting in less than substantial harm (in NPPF terms). No other harm to any other heritage assets is referenced.



40. The ES Chapter itself lacks much detail and defers to ES Appendix 10.1 for the fuller assessment. This identifies (paragraphs 6.3.52 and 6.3.53) that the Photomontage for VP 10 (reproduced above) represents a view from the most distant of the 3 Scheduled Barrows. It identifies that: *“The open expanse of the landscape would have contributed to the setting of the barrows and continues to do so”* and that: *“the undeveloped nature and open character of their setting does positively contribute to their significance”*. It then finds: *“The Proposed Development would be highly visible and legible in the setting of the Scheduled barrows to the south and south. Whilst the sense of openness would remain until the Proposed Development is seen from particular locations and angles, it will be legible as much more than an individual tall element in the widest setting of the monuments”*. Paragraph 6.3.54 then simply dismisses the effect as being minor and at the lower end of less than substantial harm, without any justification for such a finding.
41. Notably, VP 10 is one of the 4 VPs from where significant visual effects were predicted. It is difficult to reconcile how the visual effects and acknowledged change to the setting result in an effect on a Scheduled Monument at this location at the lower end of less than substantial harm.
42. No assessment is provided in relation to the 2 Barrows (both also Scheduled Monuments) which are actually located much less than half the distance from the EfW facility than the Barrow at VP 10. On the assumption that any harm attributed to these closer Scheduled Monuments would be at least equal, and very possibly greater than, the assessment provided for the more distanced Scheduled Monument, PPL believe this needs further attention and consideration.
43. Once again, on the applicant’s own assessment, material harm would occur in relation to 3 Scheduled Monuments. It appears highly likely, based on the foregoing, that such harm has been underplayed. It is recommended the Council undertakes its own review of the harm to the setting of all 3 Scheduled Barrows. Irrespective, harm would occur that needs to be carried through to the overall Green Belt policy balancing exercise.
44. **Ecology:** The submitted Shadow Habitat Regulations Assessment (SHRA) identifies potential harm arising from exceedances of relevant acid deposition thresholds which are predicted for woodland / bog / grassland / heathland habitats within the Dorset Heaths SAC / SPA / Ramsar site. This harm would occur with a proposed stack height of 110m and is dependent on the Environmental Agency agreeing to an ELV of 5mg/Nm-3 for ammonia; both of which are specific mitigation measures in relation to these habitats. The SHRA states that (paragraph 5.44): *“when a habitat’s critical load is already exceeded, scope for further small increments is necessarily limited. In addition, NE’s information on monitored features on units of the SAC shows that Annex I habitats depressions on peat substrates of the Rhynchosporion, European dry heaths and Northern Atlantic wet heaths to be in an unfavourable condition on most of the SSSI parcels covered by the relevant 1% Critical Load contours. This may limit their capacity to withstand additional small increases potentially caused by the Proposed Development”*.
45. A further mitigation package (in addition to a stack height of 110m and an ELV of 5mg/Nm-3 for ammonia) is proposed to address the effects of the harm on the Dorset Heaths SAC / SPA / Ramsar site in the form of a financial contribution towards

monitoring and management of the designated site by Natural England (NE) to be delivered via:

- A Biodiversity Enhancement Contribution and Trickle Fund; and
- A Monitoring and Supportive Management Plan.

46. The Biodiversity Enhancement Contribution is proposed to be paid by the applicant prior to commencement of their development, in addition to an annual Trickle Fund to be paid during the lifetime of the proposal. These funds would be used by the planning authority for the appropriate management of habitats within the SAC aiming to reduce and/or prevent potential effects from acid deposition and would be secured through a section 106 agreement. This agreement would also include preparation of a Monitoring and Supportive Management Plan, which would set out a schedule of future soil sampling and bryophyte and lichen monitoring surveys and action to be taken should this monitoring indicate deterioration of the habitats.

47. The provision of the Biodiversity Enhancement Contribution is an acknowledgement that the Canford proposal would cause harm to the designated site.

48. To address the in-combination effects of their proposal, the applicant is reliant on the Eco Sustainable Solutions (ESS) ERF scheme providing its own mitigation (in the form of a monitoring and supportive management plan alongside financial contributions), agreed with NE and controlled by a section 106 agreement. The SHRA states that it is assumed and understood that this mitigation would be provided.

49. There is no indication that the applicant has any understanding of the mitigation measures proposed by the ESS ERF scheme and whether these would be sufficient to fully mitigate the impacts of the in-combination effects. The SHRA is also silent on whether any mitigation is required to address the impacts of the contribution from the Whittle Power Facility.

50. The conclusion of no adverse effects on integrity (harm) from the project alone and in-combination is based on the implementation of unquantified levels of mitigation required not only by the applicant but also a third-party (ESS). The legal requirements of the Habitats Regulations are well-established (see e.g. *R (Champion) v North Norfolk DC* [2015] 1 WLR 3710 and *R (Wyatt) v Fareham BC* [2022] JPL 1509). As the CJEU formulated the test (accepted by Lord Carnwath in *Champion* at [14]) in *Sweetman v An Bord Pleanala* (Case C-258/11) [2014] PTSR 1092 at [40]:

*“Authorisation for a plan or project, as referred to in article 6(3) of the Habitats Directive, may therefore be given only on condition that the competent authorities once all aspects of the plan or project have been identified which can, by themselves or in combination with other plans or projects, affect the conservation objectives of the site concerned, and in the light of the best scientific knowledge in the field are certain that the plan or project will not have lasting adverse effects on the integrity of that site. That is so where no reasonable scientific doubt remains as to the absence of such effects.”*

51. Adopting the precautionary approach, which is applicable in such circumstances, the applicant has not demonstrated that the acknowledged harm would be fully mitigated and therefore doubt remains and the application fails the legal test and must be refused.



52. **Airfield:** At present the Canford application is subject an objection from Bournemouth Airport. At the EIA Scoping stage, the Council wrote the following response to the applicant:

*“The Applicant’s specialist safeguarding consultant contacted their counterpart at Bournemouth Airport and commented that if the proposed development would not penetrate any safeguarded surfaces, then there would be no requirement for an Instrument Flight Procedure (IFP) check to be undertaken. IFP design relates to route planning for aircraft and is a complicated, technical and highly regulated process. The Airport’s representative carried out a brief initial assessment in this regard which indicated that there would be no effect on some relevant surface, approach and departure area considerations. However, it also identified a significant penetration of the Airport’s “Type A” surface. The “Type A” surface describes parameters which enable an aircraft operator to comply with the relevant International Civil Aviation Organisation (ICAO) limitations. The responsibilities of the ICAO include establishing the requirements that exist internationally for aviation safety. These limitations are intended to ensure that for each flight, accurate take-off performance calculations are made and, in the event of an engine failure, an aircraft can either abandon the take-off run and stop safely or become airborne and clear obstacles by the required margins. Such assessments are not generic. Rather, they are unique to the aircraft type being used by the individual airline at the specific setting, so any one airline may have different assessments against the same obstacle environment. The Applicant’s consultant was therefore advised that an in-depth IFP assessment would be required to support an application. This would be needed in addition to provision of other relevant details, including for example in relation to risk of bird strike.*

*If the Applicant’s IFP assessment identifies any performance impacts in relation to current arrangements, then this is very highly unlikely to be acceptable to the Airport and the airlines operating from it as it may (for example) demand reduced payloads or changes in the type of aircraft operating. Any changes to IFPs to accommodate the scheme would also be unacceptable. Even if an alternative could be identified it would have to be agreeable to the airlines and acceptable in terms of the altered impacts on local people from modified flight paths, and even then, go through a full redesign and approval process which would be expected to take a period of years. In essence, any impact from the proposed development in this regard is unlikely to be acceptable. The Airport represents infrastructure of considerable economic importance to the BCP area and wider sub-region. It was impacted heavily by the pandemic and any threat to its recovery from that will be strongly opposed. In this context any planning application for a facility of the nature anticipated at Canford will be subject to very careful scrutiny”.*

53. The ES for the current application does not cover aviation safeguarding in any way. Instead, the submitted Planning Statement contains a brief Aviation Impact Assessment as Appendix 3. This sets out, as advised at the Scoping stage, that the top of the EfW stack would sit just less than 5m below the Outer Horizontal Surface and the Approach Surface. However, no IFP assessment was undertaken, despite the explicit request to do so in the Scoping Opinion. In this regard the submitted ES does not comply with Regulation 18(4)(a) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.



54. Whilst it will ultimately be a matter for Bournemouth Airport to determine whether it maintains its objection or is ultimately content that it could co-exist with the EfW facility, a degree of harm is considered likely and the Council should weigh this in the balance.<sup>8</sup>
55. **Compliance with the Allocation:** The DWP Inset 8 covers the Canford Magna site allocation and describes how there are opportunities to intensify waste management uses to manage larger quantities of waste and provide the ability to manage waste further up the waste hierarchy, within the existing site (6.08ha) and on land to the west, referred to as the 'Extension' comprising 0.66ha of land. Under the heading 'Potential additional capacity', it states that the: *"Site has been assessed for circa 25,000tpa of additional capacity for residual waste management"*.
56. As stated in our point 2 previously, the allocation is subject to 'Development Considerations' including compliance with DWP Policy 21, HRA assessment and retention of existing vegetation to reduce visual impacts.
57. The proposed Canford EfW, at 260,000 tpa, would be over **10 times** the capacity assessed in making the allocation. The EfW building would be over 35.5m taller than the existing buildings on the site and the new stack 75m taller and significantly wider than the existing stack on site. At such a scale, the existing vegetation, retained or otherwise, would play no role whatsoever in reducing the visual impacts of the upper half of the development.
58. In addition, the proposal includes the creation of a single track permanent road through open countryside and outside of the allocation, terminating in the point of grid connection circa 700m to the south east of the main EfW building. The grid connection requires a permanent 2,700m<sup>2</sup> compound, again in open countryside and outside of the allocation, surrounded by a 2.4m high metal palisade fence and containing a variety of electrical equipment, two 29m high masts and a new building with a circa 33m<sup>2</sup> footprint.
59. The Canford application contains no structured alternative site assessment such that the lack of suitable non-Green Belt sites can be discounted and thus is judged to be in conflict with DWP Policy 21. In respect of the Portland ERF, it simply relies upon the decision of Dorset Council's planning committee to refuse the application and dismisses it on that premise. However, that application is now subject to a planning appeal and as such remains a live application and entirely capable (indeed considered likely) of being granted planning permission.
60. The Canford proposal is clearly at odds with the scale of development considered to be potentially acceptable in making the allocation and, for the reasons stated previously, does not comply with the allocations 'Development Considerations'; and therefore fails

---

<sup>8</sup> As considered by the Inspector in another Green Belt case where the Warren Farm Motorway Service Area (MSA) resulted in non-determinative harm to Denham Airport, a general aviation aerodrome. At para 63 of the decision (APP/X0415/W/21/3272171) the Inspector stated: *"Therefore, the existence of the airport would be unlikely to be prejudiced or its overall economic value in serving business, leisure, and training needs reduced, as referred to in paragraph 106 of the Framework. Moreover, the MSA would not place unreasonable restrictions on the airport. Furthermore, I do not see the increase in risk being of a magnitude which would be sufficient, in itself, to justify dismissing the appeal. But it is an issue that should be attributed some harm in the overall planning balance"*.



to meet the required criteria in DWP Policy 3. Thus, any such comforts the scheme could glean from an allocation in the Green Belt, which we suggest are precious few, fall away.

### **Considerations Weighing in Favour of the Canford Proposal**

61. The claimed benefits of the Canford EfW facility proposal are listed under the (incorrect) heading 'Very Special Circumstances' on page 101 in the submitted Planning Statement (PS). Each is considered below, adopting the applicant's headings.
62. **Fighting Climate Change:** PS paragraph 8.2.18 states: "*As ES Chapter 7: Climate Change and Greenhouse Gases concludes, the Proposed Development will have a net effect of reducing GHG emissions associated with waste management*". This is then afforded great (positive) weight.
63. In fact the actual conclusions of ES Chapter 7 say nothing of the sort. Minor adverse effects are predicted during construction, but for the more important operational phase paragraph 7.7.72 and 7.7.3 reads:
- "With implementation of the further mitigation measures, excepting CCUS, the Proposed Development's residual effects have the potential to be reduced to **minor adverse** and not significant in the short term. In the longer term, considering the necessary decarbonisation trajectory for the UK to 2050, the residual effect of the Proposed Development is likely to remain **moderate adverse and significant**.*
- When compared to the Proposed Development and evaluated on the same basis, the business-as-usual future baseline would also be considered to be causing moderate adverse or greater effects. In this comparison, there would therefore be little or no material net change in environmental effects in the with-development scenario compared to the do-nothing future baseline scenario. While a non-significant or beneficial residual effect of the Proposed Development cannot be concluded under the methodology and effect definitions set out in paragraph 7.2.33, the likely significant adverse effects also occurring in the baseline scenario should be borne in mind".*
64. It appears that the author of this part of the PS has not read ES Chapter 7 and the conclusion that significant adverse climate change effects would occur. Thus, when taken on the basis of its own assessment, the Canford proposal offers no benefits in terms of fighting climate change.<sup>9</sup>
65. We do note that the applicant has a second stab at dealing with climate change in PS sub-section 9.4, but even this only gets as far stating the scheme benefits will increase greatly when carbon dioxide is captured from the exhaust gases and despatched to permanent geological storage. However, this is not a part of the proposal and we comment further on carbon capture below.
66. **Pattern of Waste Management:** This relates to the locational benefits of providing a residual waste management facility at Canford and that it would be more convenient for

---

<sup>9</sup> The methodology adopted by the applicant is not one that PPL would advocate or has used in relation to our own proposal. PPL considers that the applicant may have understated the potential carbon benefits of the Canford proposal but notes that the Portland proposal, incorporating shore power, would have greater benefits.

it to go there because currently some mixed residual waste goes there and historically more waste went there. It is acknowledged that the existing Canford MBT plant received circa 118,000 tpa of waste and exported circa 82,000 tpa of RDF to Europe in 2020; and that co-locating the EfW plant at Canford could have some benefits in relation to this waste. However, based on the submitted Canford application documents, it does not appear clear whether the EfW would take waste from the adjacent MBT plant, or whether it would ultimately seek to take the residual waste directly, bypassing the MBT plant entirely. If the latter, clearly any co-locational benefit falls away. Furthermore, and irrespective of the preceding point, the balance of waste for the EfW plant, potentially up to 178,000 tpa, is not going to Canford at present. Thus, this is a limited benefit which attracts some modest positive weight.

67. **Proximity principle, self-sufficiency and spatial strategy:** This relates to the provision of local residual waste management infrastructure and the avoidance of extensive transportation of residual waste from the BCP and Dorset Council areas. Whilst in this section the applicant confuses the meaning of the proximity principle and self-sufficiency (which relates to the UK as a whole),<sup>10</sup> we do believe the provision of new local residual waste management infrastructure (as the applicant expands upon in sub-section 9.1 of the PS) is the main benefit of the proposal and should be afforded significant positive weight.

68. **Co-located development:** This is partially a second bite of the same cherry as set out under the Pattern of Waste Management heading above. It is afforded no further weight by virtue of duplication. The slightly new element is a statement about potential opportunities for IBA processing at White's pit, which we do not believe gets a mention anywhere else in the entire application, and an unfathomable statement that: *"There is also potential for co-ordination of energy production and use with both the existing landfill gas engines and the newly constructed solar farm at White's Pit"*. We cannot see any benefit in this which should be afforded weight in a Green Belt balancing exercise. We further note that high-performing IBA processing facilities, as a general rule, are typically located independently and serve multiple EfW plants due to the scale efficiencies required to afford the more sophisticated technology that is required to maximise recovery of recyclate from the IBA and optimise re-processing. There is no suggestion that such a 'strategic' IBA processing facility could be located at Canford or White's pit.

69. **Heat network and private wire potential:** Heat off-takes from EfW facilities and private wire connections are very complex to provide for multiple reasons including: cost; lack of fiscal incentives; seasonality; resilience and back-up; and the regulation of the energy distribution network and consumer choice. In addition, the required infrastructure involves significant upfront capital investment that is only repaid over many years and therefore any proposal needs to consider the commitment and credit worthiness of the heat off-taker. As such, under prevailing conditions, CHP off-takes and / or district heating networks and private wire are almost universally limited to:

- Single large credit-worthy industrial users with a high process power or heat (steam) demand – e.g. Ineos in relation to the Runcorn EfW facility.

---

<sup>10</sup> As prescribed under the heading 'Principles of self-sufficiency and proximity' in The Waste (England and Wales) Regulations 2011 (as amended), Schedule 1, paragraph 4(2) – see: <https://www.legislation.gov.uk/ukxi/2011/988/schedule/1/paragraph/4>



- Institutional uses generally under a single ownership / control, such as hospitals, university campuses and prisons.
- Feeding into Council owned pipe networks which then serve predominantly Council owned clusters of properties including municipal buildings and council houses.
- To a lesser extent, some new build projects where the developer installs the network.
- Large single power demand and high credit quality users such as data centres.

70. Where CHP off-take, district heating and private wire typically does not work, and rarely if ever has been delivered, is:

- Retrofit into residential housing and in particular single dwellings.
- Retrofit as space heating in small and medium scale production, storage and distribution units.
- Retrofit into other small scale buildings (say less than 1,000m<sup>2</sup>) e.g. retail uses, offices etc.
- Into buildings in multiple ownership and with regular turnover of ownership.
- Private wire into buildings / uses without a high power demand.

71. The Canford EfW application is supported by a CHP Assessment (PS Appendix 4). This identifies that a CHP connection 'corridor' would be provided. This simply appears to be a route on a piece of paper. Reference to the applicant's proposed planning conditions (PS Appendix 7) shows at condition 17, there is no intention to install and CHP pipework or cabling etc. unless future viable opportunities are assessed as feasible. Even then, the applicant's commitment is only to run pipework / cabling to the site boundary.

72. The CHP Assessment identifies, at its Appendix B, the CHP off-take opportunities are:

**B2**  
Combined Heat and Power Assessment



B.1 Within the 1.5 km radius, additional to Magna Business Park, the building types with possibility of connection to the heat network and some technical data about the network are as shown in the tables below:

| Building Types            | Number |
|---------------------------|--------|
| Clinic                    | 2      |
| Residential dwellings     | 110    |
| Garages                   | 8      |
| Industrial                | 4      |
| Place of worship          | 1      |
| Primary types (communal?) | 72     |
| Residential               | 1,323  |
| School                    | 1      |
| Service                   | 178    |
| Supermarket               | 1      |
| Unclassified              | 15     |
| Sum                       | 1,715  |

73. Why residential is split in two is unclear. These are all existing dwellings / houses (almost all privately owned) under construction, or houses on which the report states construction will start imminently. Given the applicant provides an estimated operational date for the EfW facility of 2027 (ES paragraph 3.9.1), which is subject to planning and judged to be extraordinarily optimistic in any event; these properties would be built before the plant. Hence, any CHP provision would need to be retrofit and is judged to be extremely improbable.
74. The other buildings are generally small scale, based on the description and review of aerial photography and again retrofitting CHP into this type and scale of development is extremely improbable.
75. This leaves Magna Park which is a new development. This site is allocated for 16,000m<sup>2</sup> of 'B1, B2 and B8' uses and is understood to also be consented for the same. The first 3 units are on the market and comprise something approaching 10,000m<sup>2</sup> divided across 3 mid-sized distribution 'sheds'. Again these are highly likely to be built and occupied long before the EfW facility could ever be operational. Further, the Canford application provides no information regarding the credit quality of the off-taker and therefore unless the owners of Magna Park commit to guarantee the heat infrastructure payback, it is highly unlikely that this investment would ever be made. Thus, in reality, Magna Park represents a very small and very unlikely outlet for direct power and or heat provision from the EfW proposal.
76. In conclusion, CHP off-take does not form part of the planning application and the local 'opportunities' appear to be retrofit to residential property and some mid-sized distribution sheds. All of the evidence nationally, points towards a very low likelihood that the applicant would ever secure an off-take in relation to such uses. To put this in its true perspective, there is no known, existing CHP scheme serving such a development mix anywhere in the UK. Accordingly, it is judged CHP potential should be given very limited weight at best.
77. Surprisingly, neither this sub-section, nor any other part of the 'very special circumstances' case make any mention of the direct energy generation benefits of the proposal, although the generation of renewable energy from the biogenic fraction of the waste fuel (circa 50% of the throughput) is referenced as an advantage of the scheme in sub-section 9.2 of the PS.
78. Thus, whilst overlooked by the applicant, in reality, the development of new domestic energy generating infrastructure, which would use an indigenous fuel source, contributing to energy security; and generate energy which is partly renewable and fully dispatchable (i.e. non-intermittent), is the second main benefit of the proposal and should be afforded significant positive weight.
79. **Carbon capture and storage potential:** Carbon capture does not form part of the planning application and the ES (paragraph 3.4.51) indicates the proposal: "... has been designed to allow sufficient space for the plant and equipment for a CCS facility if required in the future (including plant and equipment to capture carbon dioxide (CO<sub>2</sub>) from the flue gas emissions of the EfW CHP Facility and transport this to a storage facility)". It then explains: "The area proposed for the laydown/maintenance and future



*environmental requirements area (ID23 Figure 3.1) as part of the Proposed Development could accommodate a future CCS facility”.*

80. We make a number of comments on this claim:

- a. All EfW facilities require space for laydown / maintenance facilities which are critical to accommodating the materials required for shutdown maintenance. The Canford EfW is on a very tight site constrained on all sides by a combination of protected vegetation and an existing building. In the event a CCS facility was developed on this area, discussed below, there would be no space left for laydown / maintenance facilities.
- b. We measure the CCS space as being circa 900m<sup>2</sup>, which it is less than half the space required for any currently deployable CCS technology. It simply would not fit. Should the applicant question this, which we very much doubt, they should be asked to produce an indicative scheme to demonstrate their claim is feasible.
- c. The CCS facility would require planning permission and would represent further inappropriate development in the Green Belt. It would also be of a significant scale, with an absorber column typically around 45-50m in height and a stripper, up to 30m in height, and result in a further perception of intensification of development within the Green Belt. Setting aside the fact CCS could not be delivered in the available space, the construction of a CCS facility in this sensitive location would further add to the significant harm to the openness of the Green Belt that already arises from the EfW itself, both in spatial and visual terms.
- d. The site is generally poorly located for CO<sub>2</sub> capture. It is not within or close to any of the identified carbon capture clusters. It would seem extraordinarily unlikely that it would be viable to lay a new pipe over several kms to the sea straight through the Poole / Bournemouth conurbation. Transporting CO<sub>2</sub> by road for an unknown distance, for the balance of the life of the plant, is a singularly unattractive proposition.

81. Based on the foregoing, we believe this matter does not weigh in favour of the Canford proposal, but rather counts against it.

82. **Biodiversity Net Gain:** The applicant claims that increasing biodiversity net gain (BNG) over the statutory threshold of 10% and which are closely related to a proposal can be afforded significant positive weight. They then cite an appeal decision. We are unclear as to the precise context of that appeal decision and do not agree with such a proposition unless there are specific circumstances that seek to maximise BNG in a particular location (which may have been the case in the cited decision). In short, we cannot see how the additional BNG can be secured or its 30 year management guaranteed. If it is not necessary for the grant of planning permission it would fail the test to be included in either a planning condition or obligation.

83. We are supported on this point by the Inspector in a conjoined appeal for two MSA schemes in Solihull (APP/Q4625/W/21/3273047). This was a specific Green Belt case and in consideration of the planning balance, the Inspector stated (at paragraph 77 of his decision): *“It was argued that additional positive weight should be attached to the scheme providing the greatest net gain. That is not an approach I support, even if gains significantly above the minimum necessary are provided, which was the case in particular for Appeal B and accepted by its witnesses. Whilst a greater net gain is*

*undoubtedly a good thing, it is not necessary to make the development acceptable in planning terms and so it cannot attract additional weight in the planning balance, or indeed be secured by condition or obligation”.*

84. We suggest that there is no specific requirement for the Canford EfW facility to provide ‘additional’ BNG; thus it cannot be secured and should not be afforded additional weight in the planning balance.
85. **Increased investment locally:** Under this heading the applicant says that heat and private wire power connections, which do not form a definitive part of the scheme, would deliver discounted energy, of which there is no proof or certainty, which would then likely result in increased investment in the local area, which is an entirely speculative statement. We cannot see how any material positive weight is attributable to such an uncertain claim.
86. Surprisingly, this sub-section makes no mention of the economic benefits through the capex and opex of constructing and operating the proposal and its associated employment benefits, although these are subsequently referenced as advantages of the scheme in sub-section 9.3 of the PS. The applicant does not afford them any degree of weight, but we take the view they should be afforded moderate beneficial weight.
87. **No suitable alternative sites:** As referenced previously, the applicant provides no detailed, structured alternative site assessment. However, the subject is covered briefly within the VSC section of the PS covering four sites.
88. We agree with the applicant’s conclusions in relation to the Parley, Mannings Heath and Binnegar Quarry sites.
89. In terms of the fourth site, our site and proposal at Portland, the applicant undertakes no material analysis and simply references Dorset Council’s decision to refuse the application on 24<sup>th</sup> March 2023. That decision is now appealed and will be heard by inquiry in December 2023 with the target date for the Inspector’s decision being 26<sup>th</sup> January 2024.
90. The Portland ERF scheme was the subject of a very comprehensive and detailed planning application which was in determination for 3.5 years. Unlike the position at Canford, the Portland planning application was twin-tracked with an Environmental Permit application (as considered best practice), which we expect will be granted shortly, and before the appeal is heard. It has also been given a clean bill of health in relation to appropriate assessments carried out by both Dorset Council and the Environment Agency.
91. The Portland ERF proposal is on an allocated employment site within an operational industrial port, on brownfield land and falls outside of the Green Belt. It is a waste recovery facility which can meet the need for which the Canford EfW scheme has been proposed and can do so without causing any harm to the Green Belt and significantly less other harm. Further, it would give rise to a series of benefits greater than those which an EfW at Canford would, or could, deliver. As such, it is a material planning consideration in your authority’s determination of the Canford EfW scheme.



92. In the event that the Portland appeal is allowed, which we believe will be the case, the identified need will be shown to be capable of being met on a site outside of the Green Belt. Thus, the Canford EfW proposal could not demonstrate that very special circumstances exist and therefore could not comply with DWP Policy 21. Accordingly, it must then be refused. Hence, your authority should not determine the Canford application until the Portland appeal decision is known, expected on 26<sup>th</sup> January 2024.
93. It is not the purpose of this letter / objection to exhaustively describe the merits of the Portland ERF scheme or all of the advantages of developing an ERF at the Portland site over the Canford allocation. However, in summary, the benefits of the proposal are that it would:
- a. Provide Dorset and BCP Council's with some commercial scale residual waste treatment capacity (noting that it presently has none, nor any active disposal sites), which would move the management of residual waste up the hierarchy, reduce the requirement for the Council's to export their waste out of their administrative areas and allow them to take greater responsibility for their own waste.
  - b. Provide on-shore low carbon energy supply for the Port and specifically berthed ships (via provision of Shore Power infrastructure and energy) which will result in a general improvement in air quality for the local area, help ensure the continued cruise ship business that provides significant local socio-economic benefits and facilitate the continued commercial business and employment at the Port.
  - c. Provide a source of dispatchable, low carbon / partial renewable energy generation, using new generation infrastructure and utilising an indigenous fuel source.
  - d. Result in a net reduction in CO<sub>2</sub> emissions over its design life.
  - e. Provide an identified, deliverable and credible opportunity to provide district heating to two local prison facilities that have the credit quality to allow the required investment to be delivered with potential for future expansion to other heat users.
  - f. Represent a circa £180 million capital investment, and create skilled jobs (construction and operational phases), plus a further positive GVA added throughout the plant's life.
  - g. Provide a Heritage Mitigation Strategy which would include removing a Scheduled Monument from the 'At Risk' Register.
  - h. Provide an important footpath link which would complete the 'round the island' footpath.
  - i. Has sufficient adjacent space to install a carbon capture facility and a coastal location with potential synergies for proximate undersea CO<sub>2</sub> geological storage.
  - j. Opportunities to move waste and residual materials to and from the site by sea, rather than by road, a further unique benefit derived from the site's port location.
94. Dorset Council's reasons for refusal are judged to be narrow and based around conflicting technical consultee responses. PPL believes our planning prospects at appeal are very strong and that this is reflected in our Statement of Case, a copy of which is attached as Annex A to this letter.

### ***The Green Belt Balancing Exercise and Conclusions***

95. The Canford proposal is demonstrably inappropriate development in the Green Belt and would significantly affect both the spatial and visual openness of the Green Belt, very significantly in the case of the later; and cause harm in relation to the first three Green Belt purposes. The overall harm caused to the Green Belt should be afforded very substantial weight.
96. In terms of 'any other harm' there would be significant landscape and visual effects and harm to the setting of 3 Scheduled Monuments, all barrows, which whilst constituting less than substantial harm, would represent a real change to their settings; and is not accepted as being at the lower end of the scale. The landscape and heritage harm should be afforded considerable weight.
97. The applicant has not demonstrated that acknowledged harm to European protected habitats would be fully mitigated and thus, on a precautionary basis, this harm weighs against the proposal. A degree of harm to the operation of Bournemouth Airport also weighs against the scheme.
98. The applicant concludes that the greenhouse gas (CO<sub>2</sub>) effects of the proposal would be moderately adverse and significant. Ordinarily this would result in considerable harm weighing against it. However, we doubt the efficacy of the applicant's work in this regard. The applicant then specifically relies on CCS to mitigate this harm which, as a matter of fact, does not form part of the proposal. Further, despite the applicant's claims, the scheme / site is not capable of accommodating a carbon capture plant as the only possible location for such an element is way too small. This is a significant shortcoming of the proposal, highlighting its lack of future resilience and should be afforded considerable adverse weight.
99. Finally, a prospective alternative non-Green Belt site exists on which an appeal decision should be delivered by 26<sup>th</sup> January 2024. This is located on an allocated, brownfield employment site, can meet the need for which the Canford EfW scheme has been proposed, and can do so without causing any harm to the Green Belt, and significantly less other harm. In addition, it would have greater overall benefits than the Canford proposal. As things stand, this should be afforded considerable weight. If the appeal is allowed that would become very substantial weight and a determinative factor against the Canford proposal in its own right.
100. In terms of considerations weighing in favour of the proposal, we attribute significant positive weight to both the provision of 'local' residual waste management infrastructure which would deliver better environmental outcomes for BCP's / Dorset's waste; and the provision of new domestic energy generating infrastructure and its associated benefits.
101. In addition, there is moderate weight afforded to overall economic benefits and modest positive weight afforded to how the proposal fits with the overall 'pattern of waste management' by virtue of co-location.
102. We attribute very limited weight, at best, to the opportunities to deliver a heat network and / or private wire, and no positive weight to the overprovision of BNG, or wholly speculative 'increased investment locally', by virtue of elements which are not even part



of the proposal. Further, the proposal takes no benefit through being on an allocated site as it clearly falls well outside of the scope of development planned for by that allocation.

103. In summary, the considerations weighing for the proposal, two of which attract significant weight, are the standard, typical benefits of delivering an EfW facility. However, this is self-evidently a case where there is very significant harm to the Green Belt coupled with multiple other harms which in combination weigh very heavily against the scheme. We cannot see how, when reviewed objectively, the positive considerations **clearly** outweigh the harm to the Green Belt and the totality of the other harm. Accordingly, the application should be refused.
104. Looked at simply, the proposal would effectively deliver the same waste management, energy and economic benefits as the 'typical' or 'average' UK EfW, but would result in far greater harm than would be associated with such a plant. Further, unlike many contemporary EfW proposals, it lacks credible future CHP opportunities and the site cannot physically accommodate a carbon capture plant based on any currently deployable technology.
105. Finally, we reiterate that our Portland ERF scheme is an important material consideration in your authority's determination of the Canford application. If our appeal is allowed, the Canford proposal cannot demonstrate very special circumstances or comply with DWP Policy 21. We advise that unless your authority moves to refuse the Canford application swiftly, it should not otherwise determine the application until the Portland appeal decision has been issued.

We trust that the foregoing is self-explanatory and will be given full regard in your determination of the Canford EfW facility application. Please do not hesitate to contact us should you have any queries regarding the contents of this letter.

Yours sincerely



**Giles Frampton**  
Director on behalf of Powerfuel Portland Limited

Annex A  
Portland Energy Recovery Facility (ERF) – Statement of Case



**Portland Energy Recovery  
Facility (ERF)**


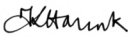

STATEMENT OF CASE

Appellant: Powerful Portland Limited

August 2023

tor  
&CO



|                                      |  |                  |   |
|--------------------------------------|--|------------------|---|
| Issue / revision                     | Issue 1 v7                                     | Prepared by      | Paul Rogers   |
| Reference                            | 262701   | Signature        |  |
| This document is issued for          |  | Date             | 11 August 2023  |
| <input type="checkbox"/> Information | <input type="checkbox"/> Approval              | Checked by       | Tim Hancock   |
| <input type="checkbox"/> Comment     | <input checked="" type="checkbox"/> Submission | Signature        |  |
| Comments                             |  | Date             | 11 August 2023  |
|                                      |  | Authorised by    | Tim Hancock   |
|                                      |  | Signature        |  |
|                                      |  | Date             | 11 August 2023  |
|                                      |  | Please return by |   |

© tor&co 2023. All rights reserved.

No part of this document may be reproduced in any form or stored in a retrieval system without the prior written consent of the copyright holder.

All figures (unless otherwise stated) © tor&co 2023.

©Crown Copyright and database rights 2022 OS Licence no. AC0000849896

Contains OS data © Crown copyright and database right 2022. Licensed under the Open Government Licence v3.0.

Aerial imagery © Getmapping plc



## Contents

|  |           |
|--|-----------|
| <b>1.0 Introduction and Context</b> .....  | <b>3</b>  |
| Introduction.....  | 3         |
| The Appeal Proposal.....   | 3         |
| Revisions to the Appeal Proposal .....   | 6         |
| Framework Heritage Mitigation Strategy – Footpath Extension.....                                 | 6         |
| Proposed Revisions to ERF Building Cladding .....  | 7         |
| The Need for the Appeal Proposal .....   | 8         |
| Waste .....  | 8         |
| Sustainable Energy and Climate Change .....  | 11        |
| Socio-Economic .....   | 12        |
| <b>2.0 Dorset Council’s Determinations and Reasons for Refusal</b> .....                         | <b>14</b> |
| Introduction.....  | 14        |
| Planning Context .....   | 14        |
| The Reasons for Refusal.....   | 15        |
| Reason for Refusal No.1 (Waste Policy) .....   | 15        |
| Sufficient advantages over allocated sites .....   | 16        |
| Proximity to the main sources of Dorset’s residual waste generation.....                         | 18        |
| Opportunities for co-location with other waste management facilities .....                       | 19        |
| The extent to which the Appeal Proposal would be an unsustainable form of waste management ..... | 20        |
| Reason for Refusal No.2.....   | 21        |
| Reason for Refusal No.3.....   | 25        |
| Planning considerations that weigh in favour of the Appeal Proposal .....                        | 28        |
| Consideration in the planning balance .....  | 30        |
| <b>3.0 Matters Raised by Interested Parties</b> .....  | <b>32</b> |
| <b>4.0 The Appellant’s Position in Respect of the Appeal</b> .....                               | <b>33</b> |
| Relevant Facts and Arguments to be Relied On .....   | 33        |
| Policies / Documents on Which the Appellant Intends to Refer or Rely .....                       | 37        |
| Areas of Agreement / Dispute .....   | 37        |
| Topics and Approach .....  | 41        |
| Planning Conditions and a Planning Obligation .....  | 42        |

## **APPENDICES**

- Appendix A Revised Drawings of the Proposed Footpath Link and Fencing
- Appendix B Revised Elevation Drawings and Details
- Appendix C Summary of Matters Raised by Interested Parties and the Appellant's  
Summary Response (Excluding matters already dealt with in respect to  
Reasons for Refusal)
- Appendix D Schedule of Policies and Documents to which the Appellant Intends to  
Refer or Rely
- Appendix E Carnival Letter of Support and Clarification



## 1.0 Introduction and Context

### Introduction

- 1.1 This Statement of Case (**SoC**) is made on behalf of Powerfuel Portland Limited (**PPL**), which is the Appellant in this appeal. It has been prepared in accordance with the Planning Inspectorate's Procedural Guide – Planning Appeals - England (13<sup>th</sup> June 2023 version).
- 1.2 On 3<sup>rd</sup> September 2020, PPL applied (ref: WP/20/00692/DCC) to Dorset Council (**DC**) as the waste planning authority for full / detailed planning permission for the proposed Portland Energy Recovery Facility (**ERF**), on brownfield land located within Portland Port, off Castletown, Portland, Dorset (the **Appeal Site**). DC registered and validated the application on 7<sup>th</sup> September 2020. The development is hereafter referred to as the '**Portland ERF**' or '**Appeal Proposal**'.
- 1.3 DC's Strategic and Technical Planning Committee (**STPC**) refused the planning application on 24<sup>th</sup> March 2023 for three reasons. These related to compliance with waste policy, adverse landscape and heritage impact.
- 1.4 The Appellant has provided the requisite advanced notification (minimum of 10 working days) of this appeal to both DC and the Planning Inspectorate (**PINS**).

### The Appeal Proposal

- 1.5 A full description of the Appeal Proposal is provided in Chapter 2 of the Environmental Statement (**ES**) and is also summarised within the ES Non-technical Summary (**NTS**).
- 1.6 The Appeal Proposal is a thermal treatment plant for the recovery of energy from waste (**EfW**) and is referred to throughout as an energy recovery facility. It is for a conventional, single line, moving grate combustion plant for the recovery of energy from refuse derived fuel (**RDF**), this being residual waste derived from local authority and commercial and industrial (**C&I**) sources which has been subject to pre-processing to a specification.
- 1.7 The ERF would be capable of generating approximately 18.1 megawatts (**MW**) (gross) of electricity from the controlled combustion of a maximum of 202,000 tonnes of non-hazardous residual waste (RDF) per year. If operated as a power only facility (i.e. with no heat offtake) 15.2 MW of electricity would be available for export to Port-based businesses, visiting vessels and the local grid, net of parasitic load required within the plant.
- 1.8 The entire application site has an area of 6.29 hectares (Ha). The triangular area, where the main ERF building would be located, extends to 2.14 Ha. The remainder of the application site area, 4.15 Ha, comprises electricity cable routes to the substation and to multiple berthing piers within the port (the latter is part of the shore power installation referenced subsequently).
- 1.9 The proposed site layout includes two main buildings. The larger one to the west would house the ERF plant and the smaller building to the east would house office and welfare facilities.

- 1.10 The principal plant would be within the main ERF building and comprise the following elements:
- Reception hall;
  - RDF storage area;
  - Bunker;
  - Boiler hall;
  - Turbine hall;
  - Incinerator bottom ash (IBA) storage; and
  - Flue gas treatment plant.
- 1.11 The main ERF building would be between 19 m and 47 m high, while the office building would be between 6 m and 17 m high. The roof of the ERF building, above the RDF storage area, would be fitted with 3,389 m<sup>2</sup> of photovoltaic panels, which would generate electricity for use within the plant or for export independent from the plant. The air-cooled condensers would be located above the turbine hall wing at the north eastern end of the ERF building. The 80 m high stack, with a width of 2 m, would be around 10 m to the north of the main building and would be painted battleship grey to minimise visibility.
- 1.12 The Appeal Proposal also includes other smaller ancillary buildings and structures that support the main facilities. These include the following:
- Transformer compound;
  - Vehicular access, service yard and internal circulation space;
  - Vehicle weighbridges and weighbridge gatehouse;
  - Employee and visitor parking / bicycle parking including active and passive EV charging;
  - Cable route for electrical connection to off-site substation;
  - Electric distribution cables between the ERF and shore power compound (comprising main switchgear substation, converters and transformers) and the ship berths;
  - Surface water drainage;
  - Service connections, including mains and foul water;
  - Security fencing and gating;
  - Lighting and CCTV;
  - Areas of hard and soft landscaping;
  - Fire water tank and associated pump house;



- Tanks / silos (containing auxiliary fuel oil, chemical/FGT residues, water);and
  - Standby generator.
- 1.13 Electrical distribution cables would be provided to the berths at Queens Pier and Coaling Pier to allow the provision of shore power to moored ships. Up to 20.2 megawatts of power would be available for berthed ships as a result of the project (being the 15.2 MW generated by the Portland ERF and 5 MW of import capacity controlled by the project). This would obviate the need for moored ships or similar to continue to run their engines to generate power, with associated emissions.
- 1.14 The Appeal Proposal would also allow for the future export of heat to a local heat network and would be equipped to offer combined heat and power (**CHP**). There are two prisons (HMP the Verne and HMP Portland) in close proximity to the Appeal Site and the Appellant and the prisons (together with their respective technical advisers) have established that a heat network could be installed in future to provide heating to both prisons, replacing their existing fossil fuelled boilers.
- 1.15 The Portland ERF would be a 'merchant plant' and has been designed to recover energy through the controlled combustion of a maximum of 202,000 tonnes per annum (tpa) of non-hazardous residual waste (RDF). Some of the input would be local authority collected waste (**LACW**), where the third-party suppliers have local authority contracts, and some would be from commercial and industrial (**C&I**) sources. It may also include combustible fractions of the construction and demolition (**C&D**) waste stream where these fractions are permitted, consistent with the RDF fuel specification. All wastes received at the site would be classed as 'residual' having been subject to pre-treatment, through source segregation or direct pre-processing via a Mechanical and Biological Treatment (**MBT**) plant. It would not accept any hazardous wastes.
- 1.16 RDF would be delivered by sea in the form of wrapped bales and / or by road in loose or baled form in HGVs. The storage capacity for bales within the ERF would be suitable for a full ship cargo (approximately 2,500 tonnes). The majority of loose RDF would be delivered directly to the pit, where there would be short term storage space in an area of approximately 247 m<sup>2</sup>. A crane grab would take the waste from the pit to the bunker, which would have an area of approximately 545 m<sup>2</sup>.
- 1.17 The ERF would normally operate 24 hours a day, seven days a week. Any HGVs delivering any waste material, process consumables or removing material or residues (including bottom ash and air pollution control residues (**APCR**)) would only occur between the hours of 07.00 and 19.00 daily, with no such movements permitted on Christmas Day or on Boxing Day. There would be periods of annual maintenance when RDF processing is much reduced. It is estimated that the facility would operate for an average of 8,000 hours per year over the operational lifetime of the facility.
- 1.18 The operation of the Appeal Proposal would give rise to the following average daily HGV movements / numbers assuming all inputs/outputs are delivered by road (which was the cautious assumption adopted by the Environmental Impact Assessment (EIA)):

- Input: Residual Waste 50 HGV movements (25 in + 25 out)
- Consumables: 2 HGV movements (1 in + 1 out)
- Output: Ash / APCR Exports: 20 HGV movements (10 in + 10 out)
- Total (Input + Output): 72 HGV movements (36 in + 36 out).

1.19 However, to allow for variations in the total amount of RDF required per day, and ensure a realistic worst-case assessment, the EIA has been based on a total of 40 HGV trips each way (80 HGV movements in total).

## **Revisions to the Appeal Proposal**

### ***Framework Heritage Mitigation Strategy – Footpath Extension***

- 1.20 The Appellant submitted a Framework Heritage Mitigation Strategy (ES Addendum Appendix 6.1). One of the overall objectives of the strategy was to provide *“Enhanced public access through the extension of the footpath at East Weare (known as Cemetery Road) to allow an “around the island” circuit of the coastal path by creating a new section of permissive footpath through currently inaccessible parts of the secure port estate to connect to the existing public accessible land/rights of way.”*
- 1.21 The footpath extension, forming part of the Framework Heritage Mitigation Strategy, was submitted as ‘further environmental information’ in August 2021. This was part of a wider response to DC’s request under Regulation 25 of the Town and Country Planning (Environmental Impact Assessment Regulations 2017 (as amended) and section 62(3) of the Town and Country Planning Act 1990 (as amended). The Framework Heritage Mitigation Strategy including the footpath extension has previously been subject to full public consultation.
- 1.22 The extension of the footpath would support the objective to increase public access to the East Weare to facilitate public appreciation and interpretation of the heritage assets situated in this area. Whilst the footpath extension is first and foremost a fundamental component of the heritage mitigation strategy, its provision would also result in some secondary leisure and recreation benefits. These include the completion of a missing link in the around the Isle of Portland footpath network.
- 1.23 Late in the application process in early 2023 objections were received from a new DC Conservation Officer, Historic England and Natural England, primarily in respect to the proposed type and height of security fencing and the effect on the setting of the heritage assets. The Appellant sought to address these concerns, but it became clear that these could not be satisfactorily addressed prior to determination of the application. The Appellant therefore reluctantly withdrew the footpath extension and this was not considered by the STPC.
- 1.24 The Appellant disagreed with the objections raised to the footpath extension, considering this to be an important part of the Framework Heritage Mitigation Strategy, it has revised the proposed fencing type and requests that the Inspector accepts and considers this element of the scheme as part of the Appeal Proposal. Since the amendments are made at this stage and the revisions made public now it should not prejudice any interested party.



- 1.25 Revised drawings and details of the proposed footpath link and fencing are provided in Appendix A.
- 1.26 The Appellant will provide evidence to demonstrate that the proposed footpath extension and its associated fencing would not lead to any unacceptable impact on the significance of heritage assets in this location or more widely, and together with other heritage mitigation measures (such as works to remove the E Battery scheduled monument from the 'at risk' register), would offset the "less than substantial harm" to the heritage assets arising from the Appeal Proposal such that there would be no or minimal harm to the significance of heritage assets overall.
- 1.27 Matters relating to heritage impact are addressed in Section 2 of this statement in respect to Reason for Refusal no.2.

### ***Proposed Revisions to ERF Building Cladding***

- 1.28 As described in the Design and Access Statement (**DAS**), detailed consideration was given to the architectural design of the main ERF buildings, including the type and form of the external cladding.
- 1.29 Various options were considered, and the Appellant proposed use of a printed PVC mesh that would be stretched across some parts of the external façade covering the green metal cladding system behind it. It was suggested that the mesh could be printed with a camouflage pattern that would complement the design strategy to blend the building in with the vegetated cliff face. This recessive design strategy was agreed with DC landscape, Dorset AONB and Jurassic Coast Trust officers during the pre-application dialogue.
- 1.30 Whilst some concern was subsequently raised as to the effectiveness and durability of the proposed PVC mesh material, DC officers were satisfied that the precise colour and form of the cladding to be used could be addressed by means of a suitably worded planning condition.
- 1.31 Notwithstanding the foregoing, the Appellant has reviewed the external treatment options and proposes to remove the facing printed PVC mesh in favour of a metal cladding system. The Appellant proposes to apply a range of colours to the cladding system which will assist in assimilating the building in its context. The Appellant remains content to leave the precise detail of the external materials to be dealt with by means of a planning condition.
- 1.32 Various options for the treatment of external cladding (including that described above) were considered within the submitted DAS. This document has been subject to statutory consultation and has been available in the public domain since September 2020. The Appellant considers that its decision to adopt a variant of one of these alternative cladding options is a reasonable one and would not lead to any interested party being prejudiced. For these reasons, the Inspector is requested to accept the revised drawings as part of the Appeal Proposal.
- 1.33 Revised elevation drawings and details of the revised elevational treatment are provided in Appendix B.

## The Need for the Appeal Proposal

- 1.34 By their very nature, developments such as the Portland ERF bridge two industrial sectors. They have their roots in residual waste management but are also equally important in terms of securing domestic energy generation, providing partially renewable and low carbon energy generation and associated climate change benefits.
- 1.35 There is no Government policy that requires, as a matter of general principle, applicants or appellants to demonstrate that there is a need for their development. However, it is widely recognised that the need for a particular scheme may be a material planning consideration, that weighs in its favour.

## Waste

- 1.36 In terms of waste policy, the approach to demonstrating need is manifest in the National Planning Policy for Waste (**NPPW**) (paragraph 7), which only expects a market need to be demonstrated where proposals are not consistent with an up-to-date Development Plan. In such cases, planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need.
- 1.37 In this regard the adopted 2019 Bournemouth Christchurch and Poole Waste Plan (the **Waste Plan**) provides a forecast of required need and a spatial strategy for the development of waste management facilities up to 2033.
- 1.38 Table 7 of the Waste Plan shows that Dorset's projected arisings/need for non-hazardous residual waste treatment capacity will continue to rise over coming years with a shortfall of 234,000 tonnes of residual waste treatment capacity by 2033. Paragraph 7.74 of the Waste Plan states that: *"Given the scale of the identified shortfall in capacity, it is appropriate to plan for the provision of additional recovery capacity for non-hazardous residual waste in the Plan area to ensure that Bournemouth, Christchurch, Poole and Dorset can aim for net self-sufficiency."*
- 1.39 As there is no remaining operational residual waste landfill capacity, or operational thermal treatment facilities within Dorset (other than for clinical wastes), the main method for treatment for residual waste is export to landfill or energy recovery facilities elsewhere in the UK, or to energy recovery facilities in continental Europe. Some of the UK energy recovery facilities used by the Dorset waste authorities to manage its residual waste (Marchwood EfW in Hampshire and Lakeside EfW in Slough) are now operating at full capacity with the former EfW required to prioritise treatment of Hampshire's waste arisings.
- 1.40 At present, the only large-scale residual waste treatment facility operating within Dorset, accepting local authority waste is the Canford Magna MBT facility. DC and, Bournemouth Christchurch and Poole (**BCP**) Council send some of their waste arisings to this facility.
- 1.41 The MBT facility only offers intermediate treatment, converting the input material into RDF. This is then exported to be used in an ERF facility, either elsewhere in the UK (e.g. some of the RDF may be used at the new Bridgwater ERF in Somerset, a distance of around 120km from Canford Magna) or in Europe, in each case with the associated environmental and cost disbenefits.



- 1.42 Dorset has, through recent waste local plans and waste management strategies, supported a shift away from an historical reliance on landfill towards more sustainable methods of waste management. In doing so, they have identified both sites and preferred waste management technologies, for achieving this objective and for managing expected needs for additional waste treatment capacity in Dorset.
- 1.43 However, despite previous waste plans predicting shortfalls in capacity and identifying sites, little capacity has been delivered in the way of residual waste treatment, with the exception being the Canford Magna MBT plant. Whilst planning permissions were granted for advanced thermal treatment facilities at Winfrith in 2010 and Canford Magna in 2013, neither were technically or commercially viable and they were never fully built and are not operating.
- 1.44 To address this, the Waste Plan allocates three specific sites for the provision of new facilities for the management of residual waste, plus additional capacity at the existing MBT facility at Canford Magna, with an assumed total capacity of 385,000 tpa with the aim of providing flexibility should some allocated sites not come forward.
- 1.45 Since the submission of the Portland ERF planning application in September 2020, planning permission has been granted by Bournemouth, Christchurch and Poole Council (in September 2022) for an ERF at Parley (with a thermal treatment capacity of 50,000 tpa) on an allocated site operated by Eco-Sustainable Solutions. This facility has not yet been built. Public consultation has taken place for a proposed ERF (with a thermal treatment capacity of 260,000 tpa) at the allocated Canford Magna site. A planning application has been recently submitted. Irrespective of this activity (and regardless of whether need is required to be demonstrated in this case), NPPW paragraph 7 makes it clear that in determining planning applications (in this case an appeal), regard should only be had to 'existing operational facilities'. There are none in Dorset. Moreover, in a Ministerial Statement made by Rebecca Pow MP on 1.12.22 she stated:
- “DEFRA has no plans to introduce a moratorium on new energy-from-waste capacity in England, because we expect the market itself to assess the risks and determine the economic viability and deliverability of developing the new infrastructure. There is no financial advantage for the public sector or the market in delivering overcapacity in the energy-from-waste provision in England. Through the resources and waste strategy, we have committed to monitoring residual waste treatment capacity and we intend to publish a fresh analysis of that in due course.”
- 1.46 The Appellant contends that all of the Waste Plan allocated sites are subject to significant constraints, which are recognised in the Waste Plan (including Green Belt locations and proximity to protected habitats). There is substantial doubt as to whether ERFs of the scale allocated in the Waste Plan and required would be consented.
- 1.47 The Waste Plan therefore adopts a flexible approach to the provision of new waste infrastructure in recognition that the allocated sites for residual waste management are subject to significant planning and environmental constraints and that some, or all, of the allocated sites may not come forward to provide the required capacity. It therefore permits new waste management facilities to come forward on unallocated sites (under Policy 4), provided relevant criteria are met.

- 1.48 The Appeal Site is an unallocated site, but as will be demonstrated it can meet the relevant policy tests and is capable of delivering the residual waste management capacity required to meet Dorset's unmet need and contribute to a wider regional and national need.
- 1.49 As set out in the application submission, the need case is multi-faceted but can be summarised as follows:
- As a merchant plant capable of sourcing waste from the waste market, the proposed ERF is well placed to meet Dorset's residual waste treatment needs. There is a pressing need to divert more of this waste away from landfill, the least sustainable option, and further up the waste hierarchy via energy recovery.
  - In addition to LACW, significant volumes of C&I wastes are generated in the county, with significant volumes being exported to landfill. A need exists for an ERF located in Dorset that would be capable of diverting some of this C&I waste away from landfill towards energy recovery, reducing waste exports and thereby supporting the self-sufficiency and proximity principles.
  - There are no operational ERFs in Dorset to manage its residual waste and most is exported out of the county to landfill, or EfW plants, in other authority areas or in Europe. Dorset needs to reduce its reliance on the export of residual waste, become more self-sufficient and treat more of its residual waste in Dorset closer to where it arises, in line with the proximity principle.
  - Little new residual waste management infrastructure has been delivered over recent years in Dorset and historic proposals for advanced thermal treatment facilities have proven not to be viable. The county is now heavily reliant upon the export of its residual waste out of county and out of the country. There is a need for a proven, reliable and commercially viable facility that capable of meeting Dorset's needs in the long term.
  - Without any action taken there will be an increasing shortfall in residual waste treatment capacity in Dorset reaching 234,000 tonnes by 2033. There is an urgent need for new waste management infrastructure to meet this significant projected shortfall.
  - Four sites are identified in the Waste Plan to provide additional residual waste treatment capacity. Whilst the Waste Local Plan accepts that not all of these sites will be needed, their significant planning and environmental constraints mean that they are either unlikely to come forward and deliver any capacity, or alternatively could only accommodate small scale facilities that are less likely to be viable and deliverable. The introduction of the UK Emission Trading Scheme (UK ETS) will make landlocked sites less viable due to limited potential for carbon capture and storage (**CCS**). A need exists for a large-scale ERF facility as proposed at the application site, which is viable and deliverable.
  - A merchant ERF, as proposed at Portland, would help meet Dorset's need for flexibility being able to adapt to changing waste market conditions and by reducing the practice of residual waste export can secure a value for money solution for Dorset residents.



- At the regional and national level there are significant volumes of residual arisings (both household and C&I wastes) being generated, a proportion of which after recycling should be sent to energy recovery rather than to landfill.
  - Finally, the Appellant will demonstrate that delivery of the Appeal Proposal is consistent with the overall future sub-regional waste management requirements, having regard to DEFRA's long-term targets for residual waste management.
- 1.50 Overall, there is a compelling national and regional need case for the provision of new energy recovery facilities to divert more residual waste away from landfill and enable more of the RDF material produced in the UK to be managed in the UK to provide more sustainable lower carbon energy and reduce exports.
- 1.51 Further, based on the foregoing, the Appellant will show that the Appeal Proposal accords with the relevant policies of an up-to-date Local Plan and thus there is actually no requirement for need to be demonstrated in this case.

### ***Sustainable Energy and Climate Change***

- 1.52 With regard to renewable energy and climate change policy, the position on need is clear. The National Planning Policy Framework (the **Framework**) is unequivocal and states at paragraph 158: *“When determining planning applications for renewable and low carbon development, local planning authorities should... not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions”*.
- 1.53 There are many aspects to the need for sustainable energy at the local and national levels and this is summarised as follows:
- There is a need in Dorset for the delivery of more renewable and low carbon energy generation infrastructure to address the Dorset and UK climate emergency declarations.
  - There is a need to provide shore power, supplied by lower carbon energy facilities, nationally and locally at Portland Port in Dorset, to meet the existing demand and help the UK shipping industry meet national targets to reduce carbon emissions and other pollutants. A compelling need case exists for Portland Port (the **Port**) to secure sufficient electricity to provide shore power to its customers and deliver local air quality improvements.
  - However, there is insufficient power available within the distribution grid, to facilitate the provision of shore power and it is not economically viable for the Port to secure an upgrade to the electricity grid, with such an upgrade unlikely to be delivered for over 10 years given the limited capacity on the distribution grid. There is therefore a need for a distributed energy solution.
  - There is a need for a wide mix of energy infrastructure, including EfW, to increase national energy security. The lack of energy security has had an adverse impact on business costs and the cost of living. The Appeal Proposal would be one of the largest baseload generators within Dorset.

- There is a national need for urgent action to reduce the emission of greenhouse gasses in accordance with international agreements, such as the 2015 Paris Agreement and to meet the UK's statutory net greenhouse gases emissions target of 100% by 2050 relative to the 1990 baseline.
  - There is a need for investment in energy efficiency and clean energy technologies, and to grow the low carbon economy by rolling out low carbon heating, by building and extending heat networks across the country.
- 1.54 Overall, a compelling national, regional and local need case exists for the provision of renewable and low carbon energy to tackle the effects of climate change. There is also a local energy need for the provision of shore power to the Port.

### ***Socio-Economic***

- 1.55 The Isle of Portland has suffered significantly from structural changes to its local economy. The 2016 Economic Vision for Portland notes that until the 1990's much of the local economy was dependent upon the Ministry of Defence and Royal Navy establishments at the Port. With the closure of the naval base and other facilities, the Isle of Portland suffered from job losses and the associated impact on the wider local economy.
- 1.56 There are many complex and interrelated elements that demonstrate a socio-economic need for the ERF as summarised below:
- There is a need for new economic investment at Portland to help address existing socio-economic concerns and generate sustainable growth by taking advantage of Portland's assets, opportunities and excellent growth potential.
  - There is a need to create more high quality and well paid jobs to help retain and attract younger people to the Portland area, and provide opportunities for training and education to increase education, skills and knowledge for local people
  - There is a need for investment in Portland to improve overall standards of living, including helping to address relatively low levels of pay, diversifying the mix of employment opportunities and reducing a dependence on lower paid seasonal sectors, also providing job opportunities locally that reduce the need to out commute for work.
  - There is a need for investment and stimulation of economic growth and regeneration to help address the existing pockets of social deprivation that are evident on some parts of Portland.
  - There is a need for transformational change at Portland to unlock key employment sites, such as within Portland Port, to exploit the area's strengths and potential opportunities in respect to the development of renewable energy and low carbon technologies and support other tourism related activities, such as the cruise ship sector.
  - There is a need at the UK level for new development that is capable of delivering economic growth and supporting the drive to transform the UK



into a dynamic economy through investment in low carbon infrastructure, and a focus on skills and knowledge to increase productivity and generate greater prosperity for all.

- There is a need for the planning system to support the delivery of sustainable development, especially development that can contribute towards building a strong, responsive and competitive economy, support strong, vibrant and healthy communities and protect the environment, whilst also supporting the move towards a low carbon UK economy

1.57 The Appeal Proposal would make a significant contribution towards meeting the national and local need for economic growth and lead to substantial socio-economic benefits.

## 2.0 Dorset Council's Determinations and Reasons for Refusal

### Introduction

- 2.1 The Appeal Site's planning history is fully described in the planning application documents and within section 4 of the draft Statement of Common Ground (SoCG) respectively. This section of the statement summarises DC's relevant determinations on this site and addresses the reasons given for refusal.

### Planning Context

- 2.2 Of particular relevance to this appeal is the former Weymouth and Portland Borough Council's decision to grant full planning permission in early 2010 to develop land within Portland Port for an energy plant (application reference: 09/00646/FULES and 09/00648/LBC).
- 2.3 That 2010 scheme comprised 1,337 m<sup>2</sup> of new built development (1,154 m<sup>2</sup> industrial space and 183 m<sup>2</sup> of office space). The process involved the pre-treatment of imported vegetable oils in order to create a fuel, by means of a power oil production plant, which would then be combusted using two 8.9MWe engines. The plant had a designed output capacity of 17.8MW, which would have been exported to the National Grid. The exhaust gases produced by the power generation plant would be discharged via two 27 m tall stacks. The approved plant included a:
- 'power' oil production facility capable of processing up to 40,000 tpa of vegetable oil which would be converted into 30,000 tpa of 'power' oil to be used in a power plant;
  - power plant comprising two 8.9MW modified marine diesel engines;
  - tank farm for the storage of up to 10,000 tonnes of vegetable oils; and
  - step up transformer to allow an electrical connection to the local grid.
- 2.4 By means of planning condition the approved energy plant was to be fuelled by "vegetable oil" whilst the description in various application documents clarified this included "waste oils". Whilst the proposal was to bring all vegetable oils into the site by sea, no planning restrictions were placed on the approved scheme in respect to the amount of oils that could be brought to the site by ship or by road and used to fuel the facility.
- 2.5 In 2013, the conditions of planning permission 09/00646/FULES were varied through a section 73 application to enable waste rubber crumb from end-of-life tyres to be used as an alternative fuel source under application 13/00262/VOC.
- 2.6 The rubber crumb was to undergo thermal treatment similar to pyrolysis in an advanced conversion technology, rather than being directly combusted, producing oil, gas and carbon black. The oil and gas were intended to be combusted in generators for power generation. The originally consented development includes two 8.9 MWe engines and two 27 m high stacks, while the revised consent added four smaller generators with a total capacity of 6 MW. The 2010 and 2013 permissions were not mutually exclusive and were not restricted so as to be phased.



- 2.7 In 2019, the Appellant applied for a certificate of lawful use or development in relation to the demolition of building 214 within the site of planning permissions 09/00646/FULES (for the construction of an energy plant) and WP/13/00262/VOC (variation of condition 2 of planning approval ref 09/00646/FULES) to the use of rubber crumb (recycled rubber from tyres) in addition to vegetable oil in its power oil production and power generation plant.
- 2.8 In October 2019, Dorset Council issued a Certificate of Lawful Use or Development confirming that the 2010 planning permission granted for the construction of an energy plant had been lawfully implemented and that the consent remained extant (09/00646/FULES). The Appellant considers that both the 2010 and 2013 consents have been lawfully implemented and remain extant such that it would be possible to fully implement either consent, although its intention by means of this Appeal is to construct the proposed Portland ERF.
- 2.9 The Appellant contends that the planning history of the Appeal Site confirms that the construction and operation of a large scale industrial energy generation facility, capable of using oils (including waste oils) and/or waste rubber material as a fuel to produce power has previously been acceptable, and that the Appeal Proposal is a similar type of activity using waste materials to produce power.

#### **The Reasons for Refusal**

- 2.10 The Committee Report for the Appeal Proposal contains DC's analysis of the planning application in respect to its compliance with the development plan and its conclusion on the overall planning balance.
- 2.11 The Appellant finds significant error in both the individual analysis, and the weight afforded to key planning considerations by DC officers in their overall planning judgement, culminating in a recommendation that the application be refused for three reasons.

#### ***Reason for Refusal No.1 (Waste Policy)***

- 2.12 Reason for refusal No.1 states:

*1. The proposed development, being located on a site that is not allocated in the Bournemouth, Christchurch, Poole and Dorset Waste Plan 2019, fails to demonstrate that it would provide sufficient advantages as a waste management facility over the allocated sites in the Plan. This is by reason of its distance from the main sources of Dorset's residual waste generation and the site's limited opportunity to offer co-location with other waste management or transfer facilities which, when considered alongside other adverse impacts of the proposal in relation to heritage and landscape, mean that it would be an unsustainable form of waste management. As a consequence, the proposed development would be contrary to Policies 1 and 4 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan 2019 and paragraph 158 of the NPPF.*

- 2.13 This reason for refusal centres primarily on the matter of sustainable waste management and can be broken down into the following considerations:
- *Sufficient advantages over other Waste Plan allocated sites*
  - *Proximity to the main sources of Dorset's residual waste generation*

- *Opportunities to offer co-location with other waste management facilities*

2.14 The references to adverse impact on heritage and landscape in reason for refusal 1 are addressed in respect to reasons for refusal 2 and 3 below.

**Sufficient advantages over allocated sites**

2.15 The locational advantages of the Appeal Proposal are set out fully in the Planning Supporting Statement and Supplementary Planning Supporting Statement. However, the main advantages are set out as follows:

- I. **Scale:** The Portland ERF can deliver sustainable waste management at scale to meet much of Dorset's needs, whereas this cannot be guaranteed at the other allocated sites. The consented (but not implemented) ERF at the Eco-Sustainable Solutions site (Waste Plan Inset 7) is limited to small scale capacity (50,000 tpa thermal) as a direct consequence of locational constraints whereas the Waste Plan had assumed 160,000 tpa of capacity. As a result, less than a third of the Waste Plan anticipated capacity has been consented and there is no known evidence of any clear intention to deliver it in any event.

Similarly, a proposal for a large ERF with a capacity of 260,000 tpa at the Canford Magna site (Waste Plan Inset 8) is in the Green Belt and would be considered 'inappropriate development', and in proximity to new housing, such that very special circumstances must be demonstrated. The availability of other suitable non-Green Belt locations, such as the Appeal Site, indicate in policy terms (Waste Plan Policy 21) that very special circumstances would not exist. This and other constraints, proximity to protected heathland habitat, indicate that a planning consent should not be forthcoming for a facility of this scale at this location.

It is therefore unclear how the capacity assumptions made in the Waste Plan will be delivered.

- II. **Shore power:** The Appeal Proposal is located within Portland Port and can provide shore power to visiting cruise liners, the Royal Navy RFA and other equipped vessels. This cannot be delivered practicably or viably by means of a local grid connection. Shore power would help reduce the use of fossil fuel and related carbon emissions and reduce unabated emissions to the air from ship exhausts, leading to an improvement in local air quality, net of any limited emissions from the ERF. This is a significant locational benefit that is unique and one that other allocated sites simply cannot achieve.

Without the ability to provide shore power in an economically viable way, the Port is unable to offer this facility to its commercial customers, including the growing cruise liner business. Shore power is increasingly requested by the cruise operators as is evidenced by the letter of support provided at application stage by Carnival, the world's largest cruise operator (Appendix E to this statement). The Navy has also expressed clear interest in taking up shore power if provided.

The inability to provide shore power to its customers risks the Port becoming uncompetitive with other ports that are increasingly able to offer this facility, leading to a significant decline in business and associated socio-economic impacts on the local and wider economies. This potential



impact is detailed in the socio-economic assessment (ES Chapter 6 and ES Technical Appendices F1 and F2).

- III. **Heat network:** The Appeal Proposal is in close proximity to two existing HM Prisons, both of which have a significant heat demand that is currently met by the use of fossil fuels. The Appellant has engaged with the Ministry of Justice which has confirmed that it would take heat from a local heat network if provided. A local heat network connection to the prisons is technically, environmentally and economically viable. Potential also exists to in future to extend the heat network to connect other local community heat users.

The Appeal Proposal's proximity to two HM Prisons is a unique advantage to its Portland location. Whilst there may be some CHP potential at other Waste Plan allocated sites the opportunities for heat recovery are limited due to a lack of suitable heat users that could support the level of upfront investment required for a heat network to be economically viable. The Portland ERF is 'CHP ready', but unlike allocated sites, there is a high degree of confidence that a suitable, credit worthy, and willing heat off-taker exists and that a viable local heat network can be delivered, supplied by the Portland ERF.

- IV. **Port location:** The Portland ERF is located with Portland Port, an operational commercial port, and as such has access to shipping berths. An opportunity exists for materials to be imported and exported, such as the import of RDF and the export of incinerator bottom ash (IBA). The ability to move materials by sea would reduce vehicle movements on the local road network and is a locational benefit that other allocated sites simply cannot match as these are all situated inland and are fully reliant on road transport.
- V. **Carbon capture and storage:** The UK Government has recently announced that the EfW sector will be included in the UK ETS from 2028. The ability to deliver carbon capture and storage (**CCS**) has become even more important. CCS is more likely to occur, and more quickly, where EfW plants are located within a carbon hub, or where there is potential for captured carbon to be transported for storage/use via sea tanker vessels.

EfW sites located outside of these areas are much less likely to be able to deliver CCS practicably or viably. The Appeal Site's Port location, with access to additional employment land and port facilities for export of captured carbon by sea, is significantly better placed to deliver CCS in future than any of the allocated sites, all of which are located inland and would be reliant upon the movement captured carbon by road.

- VI. **Land use suitability:** The Appeal Site is both allocated and safeguarded as employment land in the Development Plan and comprises previously developed land. Furthermore, the Appeal Site has an extant permission for an energy plant that, inter alia, permitted the combustion of waste derived fuel.

- 2.16 The Appellant will demonstrate in evidence that the Appeal Site's locational benefits comply with Waste Plan Policy 4 (criterion a) and that advantages exist over other Waste Plan allocated sites.

### ***Proximity to the main sources of Dorset's residual waste generation***

- 2.17 The reason for refusal indicates that the Appeal Proposal is unsustainable because other Waste Plan allocated sites are closer to the Bournemouth, Poole and Christchurch conurbation, which is considered to be the primary location of residual waste arisings.
- 2.18 It is considered that the Portland ERF complies with the Proximity Principle. The Waste Plan (3.16) states that *“The waste infrastructure network must enable waste to be managed in one of the nearest appropriate facilities, through the most appropriate methods and technologies, in order to ensure a high level of protection of the environment and public health”* (emphasis added).
- 2.19 When looking at the Proximity Principle from a legislative viewpoint,<sup>1</sup> the Appellant will show that it is very specific in terms of waste types, and very wide ranging in terms of geography (formerly the whole of the EU and now, post-Brexit, the whole of the UK). Hence, DEFRA's publication 'Energy from Waste: A Guide to the Debate' (2014) (the **Guide**) looks to clarify the position, albeit in the pre-Brexit context.
- 2.20 Paragraph 152 of the Guide states:
- “The proximity principle arises from Article 16, “Principles of self-sufficiency and proximity”, of the revised Waste Framework Directive (2008/98/EC), the EU legislation that governs waste management. The principle is often over-interpreted to mean that all waste has to be managed as close to its source as possible to the exclusion of other considerations, and that local authorities individually need the infrastructure required to do so. This is not the case. Indeed, the final part of the Article itself states: “The principles of proximity and self-sufficiency shall not mean that each Member State has to possess the full range of final recovery facilities within that Member State”. Clearly if not even the entire country needs to have the full range of facilities, a specific local authority does not have to. While there is an underlying principle of waste being managed close to its source, there is no implication of local authorities needing to be self-sufficient in handling waste from their own area.”*
- 2.21 Paragraph 154 (extract) goes on to say:
- “...There is nothing in the legislation or the proximity principle that says accepting waste from another council, city, region or country is a bad thing and indeed in many cases it may be the best economic and environmental solution and/or be the outcome most consistent with the proximity principle...”*
- 2.22 Thus, in this context, it cannot sensibly be maintained, that treating Dorset / BCP waste arising from private households (no other waste is relevant to the Proximity Principle) in a residual waste management facility in Dorset, when compared to exporting this to Bridgwater and/or out of county landfill or overseas ERF, somehow fails to adhere to the Proximity Principle.
- 2.23 Accordingly, the Appellant will show that DC has wrongly misinterpreted the Proximity Principle and has incorrectly applied this to its own policies in this respect. Notwithstanding this serious error, the Appellant will also demonstrate

---

<sup>1</sup> The Waste (England and Wales) Regulations 2011 as amended by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019).



that other allocated sites, considered by DC to be more proximate to waste arisings are less suitable and are subject to constraints that weigh heavily against them (e.g., Green Belt).

- 2.24 Further, the Appellant will demonstrate through evidence that the Appeal Proposal accords with Proximity Principle and does not conflict with Policies 1 and 4 of the Waste Plan.
- 2.25 The evidence will also address this matter in context of the Waste Plan's flexible approach to unallocated sites coming forward where they have advantages over the allocated sites. The Appellant contends that DC, in misapplying the Proximity Principle, applies too much weight to this factor, and conversely should have given greater weight to the advantages set out above.

### ***Opportunities for co-location with other waste management facilities***

- 2.26 Waste Plan Policy 2 states "*Proposals for waste management facilities which incorporate different types of waste management activities at the same location, or are co-located with complementary activities, will be supported unless there would be an unacceptable cumulative impact on the local area.*" (emphasis added)
- 2.27 Whilst some allocated Waste Plan sites may have opportunities for co-location with other waste management uses and facilities, there is no certainty that these would come forward and that co-location would occur given their other significant planning and environmental constraints, not least of which is that most of the Dorset coast is designated as a World Heritage Site making shore power and seaborne transport to an ERF unachievable in most locations within the county.
- 2.28 Whilst the co-location of new waste management facilities with other waste management uses is encouraged within waste planning policy frameworks, it is not a mandatory requirement. Furthermore, given the Appeal Scheme's unique port location and availability of safeguarded employment land, future opportunities would exist to promote the co-location of other waste related facilities within the Port to recycle/reuse products extracted from the incoming waste stream (in line with the circular economy), reducing the non-biogenic content of the fuel mix and displacing CO<sub>2</sub> emissions associated with the production of products and feedstocks, which the extracted products would replace.
- 2.29 Importantly here, Waste Plan Policy 2 supports waste management facilities that "*are co-located with complementary activities...*" as well as those that incorporate different types of waste management activities at the same location. The Appeal Proposal can achieve co-location with other complementary activities, as recognised and encouraged by the Waste Plan (3.22), which states that "*Co-location of waste management facilities with complementary activities is also encouraged. This may include opportunities for co-location with potential users of low carbon energy and heat; fuels; recyclates and soils.*"
- 2.30 The Waste Plan (3.23) recognises the importance of co-location with complementary heat and energy users stating that "*Energy recovery facilities provide particular opportunities to provide low carbon energy and heat to customers and suppliers. In particular, combined heat and power schemes provide opportunities for providing efficient, low carbon energy to sites such as*

*hospitals, leisure centres, commercial buildings, factories, and industrial estates, although small businesses and residential developments can also benefit. Applications for energy recovery should demonstrate that opportunities for co-location with potential heat customers and heat suppliers have been sought.”*

- 2.31 The Appeal Scheme significantly benefits from its unique location within an operational port, where there are opportunities to forge links with existing complementary activities, such as engineering and shipping expertise, and activities associated with the availability of heat and power (e.g., shore power).
- 2.32 The Appellant will demonstrate through evidence that the Appeal Scheme complies with Waste Plan Policy 2 and is sustainable given the current co-location with complementary activities, including co-location with users of low carbon energy heat and fuels and the potential for future co-location of waste related uses.
- 2.33 The Appellant disputes DC’s claim that co-location opportunities at the Appeal site are ‘limited’ and will demonstrate that Policy 2 has been misapplied. DC has incorrectly placed too much weight on potential co-location with existing waste management facilities at other allocated sites, when balancing this against the Appeal Site’s advantages. This error is further compounded by the lack of certainty that other allocated sites would secure consents for a large scale ERF and that the envisaged co-locational benefits could be realised.

**The extent to which the Appeal Proposal would be an unsustainable form of waste management**

- 2.34 Waste Plan Policy 1 requires proposals for waste management to demonstrate that they can support delivery of the following:
- The waste hierarchy
  - Self-sufficiency
  - Proximity
- 2.35 The Appeal Proposal would sustainably manage residual waste arisings in Dorset, regionally and nationally, through thermal treatment and the recovery of heat and power, that might otherwise be disposed of to landfill. This clearly accords with the provisions of the waste hierarchy and Waste Plan Policy 1 and Policy 4 (criterion c).
- 2.36 Dorset does not have sufficient capacity to manage its existing or future residual waste arisings and new infrastructure is urgently required to meet this need. The Canford MBT plant is an intermediate technology producing RDF that still requires final treatment by thermal treatment with energy recovery, or disposal to landfill. Additionally, there remains a need for capacity to manage RDF regionally and nationally, given that large volumes of RDF are still being exported out of the UK and large volumes of waste are still subject to landfill.
- 2.37 The Portland ERF would make a significant contribution towards enabling Bournemouth, Poole, Christchurch and Dorset to move towards net self-sufficiency in line with Waste Plan Policy 1. It would also support the objective

of national and regional self-sufficiency, by reducing the export of residual waste.

- 2.38 The Appellant considers that DC has failed to apply the Proximity Principle correctly. The Appeal Proposal would provide one of the nearest installations for the treatment of Dorset's residual waste and thus significantly reduce the export of this waste out of county, in line with Waste Plan Policy 1 and Policy 4 (criterion c).
- 2.39 Overall, the approach that DC has applied in respect to Proximity Principle and co-location with waste management facilities is flawed, and the Appellant disputes DC's conclusion that the Portland ERF is an unsustainable form of waste management.
- 2.40 Based on the foregoing, the Appeal Proposal would not breach Policies 1 and 4 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan 2019 and paragraph 158 of the NPPF.

**Reason for Refusal No.2**

- 2.41 Reason for refusal No.2 states:

*2. The proposed development, as a result of its scale, massing and height, in the proposed location, would have a significant adverse effect on the quality of the landscape and views of the iconic landform shape of the Isle of Portland within the setting of the Dorset and East Devon Coast World Heritage Site, particularly when viewed from the South West Coast Path and across Portland Harbour. As such, the proposal is contrary to Policy 14 of the Waste Plan, Policy ENV1 of the West Dorset, Weymouth & Portland Local Plan, Policies Port/EN7 and Port/BE2 of the Portland Neighbourhood Plan, and paragraph 174 of the NPPF.*

- 2.42 There are three main facets to the second reason for refusal:

- I. Consideration of the design of the facility, in particular its scale, massing and height;
- II. Alleged significant effects on the quality of the landscape and of views of the 'iconic' shape of Portland; and
- III. That the alleged significant effects occur within the setting of the Dorset and East Devon Coast World Heritage Site (**WHS**) – 'the Jurassic Coast', and particularly those parts of the WHS containing the South West Coast Path and views across Portland Harbour.

- 2.43 The Appellant will show, consistent with the relevant positive technical consultee responses received, that the design of the facility is a well-considered and 'imaginative' solution, whose volume has been minimised and with the eastern elevations informed by the shapes and geology of the Portland land mass that would form its backdrop from the vast majority of views. Further, the roof lines and detailing have been carefully designed to help the building sit sympathetically within the Appeal Site.

- 2.44 In addition, the printed PVC mesh finish which previously partially covered the ERF building has been omitted in favour of a more simple and robust cladding



solution, aligned to one of the alternative finishes suggested in the Addendum DAS, with details of the final materials, finishes and colours controlled by planning condition. Refer to Appendix B of this SoC containing relevant details.

- 2.45 The Appellant will demonstrate that the plume from the ERF stack, would only be visible for an average of 24.2 hours per year and would have a variable length over even these limited hours, being less than 50m in length for more than half of this period. Hence, the plume would not be a frequent or readily identifiable characteristic of the Appeal Proposal.
- 2.46 In terms of location, the Appeal Site lies within the Port of Portland and outside of any protective landscape designations and the WHS. Whilst acknowledged that new development within the Port must take account of surrounding nature, heritage and landscape designations, the West Dorset, Weymouth & Portland Local Plan 2015 states (paragraph 8.2.4) that: *“Portland Port – is a major employment site with planning consent for port-related and B1, B2 & B8 uses”* and (paragraph 8.3.2) that: *“Approximately 35 hectares of port land is consented for B1, B2 and B8 uses and statutory harbour undertaking and an additional 17 hectares of seabed has consent for marine works including reclamation to create dockside operational land”*.
- 2.47 In terms of the future ‘vision’ for the Port, the Plan goes on to say (paragraph 8.2.1): *“Portland Port will have maintained and expanded its role as a port of national and international importance and a location for job creation”* and that (8.2.2): *“The future economic opportunities for the island will be based on maximising the potential of existing major employment sites and Portland Port”*.
- 2.48 At paragraph 8.3.3, the Plan states: *“ .... The SEP [Strategic Economic Plan] proposes that the port could achieve far reaching development of unique natural port assets supporting industrial development, freight, exports and bringing a radically larger sector of the cruise market to the Dorset tourist economy. The port is identified as a key employment site and associated policies in the plan allow for its protection and the provision of employment (ECON 1 and ECON 2). These employment policies support the expansion of existing employment sites subject to other policies within the plan. Additional land may be required within the port for sustainable development and these policies cater for the port’s need for long-term growth”*.
- 2.49 In addition to its allocation and consents, the Port also has permitted development rights, through both Harbour Revision Orders and The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which allow extensive development works without further recourse to the planning system.
- 2.50 Shipping and berthing activities have been present on and around Portland for over 500 years and the current harbour was under construction over 150 years ago. The Port has constantly changed and evolved through history and represents a dynamic environment with an ever-changing visual context. No one has sought to preserve it at some fixed point in time
- 2.51 Accordingly, the Port constitutes a major focal point for development and represents a dynamic environment in which change, over a large area, has occurred and is planned to occur in the future.

- 2.52 In addition, the Port has a strong sense of place, siting at the southern end of the expansive Portland Harbour, overshadowed and backdropped by Portland's northern slope / cliff face, which rises from just above sea level to around 125m AOD.
- 2.53 The Appeal Proposal is judged to be one of the UK's few EfW projects, where the scale of the development is dominated by its context, as opposed to vice versa.
- 2.54 The Appellant will show that, in the foregoing context, the Appeal Proposal would cause no material detrimental harm to the character of the Appeal Site itself, which lacks notable landscape or scenic / visual quality and would, by virtue of the introduction of a well-considered new building, in fact result in a degree of enhancement.
- 2.55 Further, any changes to surrounding landscape character areas would be very localised and no significant effects would occur on the character of the surrounding character areas, including those lying with the designated WHS, Dorset Area of Outstanding Natural Beauty (AONB) – referenced further below - and the defined Heritage Coast.
- 2.56 The conclusions of the LVIA (ES Chapter 9 and Technical Appendix J) are summarised in the ES NTS. It states that *"The introduction of the ERF buildings and stack will change views of the site from the surrounding area. Visibility of the proposed development will be largely contained by the surrounding landscape and relatively few residential areas are predicted to see the development, which will mainly be visible from the immediate surrounding area, the sea and beaches, and elevated areas of the countryside. As a result, moderate, significant adverse effects are predicted on views from Portland Port, marina and harbour, public rights of way along the cliffs to the south and south west of the site, and Sandsfoot Castle, park and garden. A moderate to slight, significant adverse effect is predicted on views from Nothe Fort.*
- Slight effects that will not be significant are predicted on views from residential areas in Weymouth, the South West Coast Path, the South Dorset Ridgeway and Osmington White Horse, Weymouth beachfront, public rights of way south of Littlemoor, public rights of way in the Ringstead Bay area, the Dorset AONB, the West Dorset heritage coastline, and the Dorset and East Devon Coast WHS. Negligible effects that will not be significant are predicted on views from the A354, the A353, and the B3155."*
- 2.57 The adverse visual effects of the Appeal Proposal on some localised views were recorded as moderate or moderate to slight (these being deemed to be 'significant' using the definitions within the LVIA methodology utilised in the submission documents). The areas subject to such effects are located close to the Appeal Proposal and are relatively restricted in their extent. Evidence will be prepared to demonstrate that the effects of the Appeal Proposal on these areas would not be unacceptable.
- 2.58 As noted above, the scale of the Appeal Proposal at Portland is dominated by its context, as opposed to vice versa, which is typically the case for other ERF's because of the large-scale of the buildings required. As such, the identification of effects that at their maximum are moderate adverse in respect of localised views in this case represents a lower level of visual impact than is typically the

case, where the most notable adverse visual impacts of an ERF are more often assessed as being either substantial or very substantial.

2.59 Moving away from the localised effects, the degree of adverse visual effect on other locations including the Dorset AONB, West Dorset Heritage Coastline and the Dorset and East Devon Coast WHS is assessed as being only slight or negligible.

2.60 The WHS spans 155 km of largely undeveloped coast, but has 7 distinct breaks within it, related urban and developed areas. These breaks include, relevant to the Appeal Site, along the town's seafront at Weymouth and the north coast of Portland centred on the Port and including the Appeal Site.

2.61 The Outstanding Universal Value (OUV) of the WHS relates to an outstanding combination of globally significant geological and geomorphological features.

2.62 The Jurassic Coast Trust also define the setting of the WHS and describe it as follows: *"The surrounding landscape and seascape, and concerns the quality of the cultural and sensory experience surrounding the exposed coasts and beaches.*

*Although factors such as natural beauty, wildlife, and cultural heritage are not included in the World Heritage designation, they are an important part of its setting and for visitor's experience. Furthermore, geology underpins many of these other features, meaning the Jurassic Coast can act as a unifying story for the broader heritage values of the Dorset and East Devon coastline".*

2.63 The Appellant's evidence will provide a structured assessment of effects on the setting of the WHS and in particular effects on the features in the environment of Portland that can be considered 'attributes' of the WHS. This will show that the development can be satisfactorily accommodated in a manner which would not distract from appreciation of wider coastline, nor disrupt the perception of its natural qualities including the prominence and distinctiveness of exposed stratigraphy within the landscape. Accordingly, the overall quality and character of the landscape would be maintained, and the Appeal Proposal would not detract from the experience of visitors to the WHS.

2.64 Further, that the coastline can accommodate the change imposed by this proposed development whilst maintaining the overall quality and character of the landscape and not detract from the experience of visitors to the WHS, including in relation to users of the South West Coast Path and in views across Portland Harbour.

2.65 The Appellant's evidence will have particular regard to the visibility, appearance and context of views of the visible parts of the Appeal Proposal from the west, over the Harbour and from Chesil Beach. It will show that the portion of the 'arc' around the coastline experiencing views of the Appeal Proposal without the backdrop of the island, is distant and limited and not sufficient to justify a reason for refusal. Further, that from this direction, and elsewhere, any perceived conflict with, or harm to, the 'shape' of Portland similarly does not warrant refusal.

2.66 The Appeal Site lies circa 7.5 km from the boundary of the Dorset Area of Outstanding Natural Beauty (**AONB**) at its nearest point, with all elevated views



from within the designation being further away still. At such a distance, the Appeal Proposal would:

- Only appear as a distinct feature in favourable weather conditions and not be visible at all in bad weather e.g., rain.
- Form a tiny component of huge panoramic views dominated by the sea and in which the large, developed areas of the town of Weymouth and Portland (the Port and its infrastructure, Osprey Quay, Fortuneswell etc.) would also be readily visible.

2.67 To be a readily discernible feature at such a distance, the visible plume would need to be at its longest. It only exceeds 100m for an average of 4 hours per year.

2.68 The Appellant will show that that the Appeal Proposal has been sensitively located and designed with regard to the AONB and would thus avoid and / or minimise adverse impacts on this designation. Such effects that would occur would typically be negligible and there would be no significant adverse impacts. Thus, the landscape character and scenic beauty of the AONB would be conserved. Further, its special qualities of uninterrupted panoramic views to appreciate the complex pattern and textures of the surrounding landscape; and an exceptional undeveloped coastline, would equally be conserved.

2.69 Based on the foregoing, the Appeal Proposal would not breach: Policy 14 of the Waste Plan; Policy ENV1 of the West Dorset, Weymouth & Portland Local Plan; Policies Port/EN7 and Port/BE2 of the Portland Neighbourhood Plan; nor paragraphs 174 and 176 of the Framework. As such, the second reason for refusal cannot be sustained.

### **Reason for Refusal No.3**

2.70 Reason for refusal No.3 states:

*3. The proposed development would cause 'less than substantial' harm to a range of heritage assets. Public benefits of the scheme have been assessed, taking account of the mitigation proposed, but are not considered sufficient to outweigh the cumulative harm that would occur to the individual heritage assets and group of heritage assets, with associative value in the vicinity. As a result, the proposal is contrary to Policy 19 of the Waste Plan, Policy ENV4 of the West Dorset, Weymouth & Portland Local Plan, Policy Port/EN4 of the Portland Neighbourhood Plan and Paragraph 197 and Paragraph 202 of the NPPF.*

2.71 The third reason for refusal is, at a high level, plain in its meaning. However, when read alone, or in combination with the technical consultee responses and Committee Report, there is no identification of:

- Specifically, to which heritage assets harm would occur;
- What the impacts would be on the identified significance of each asset; nor
- How the substantive heritage benefits of the scheme, provided as mitigation to offset any identified harm, have been weighed in the balance by the Council with regard to the overall impact of the Appeal Proposal to the setting of individual heritage assets.

- 2.72 Such lack of specificity is unusual as is some of the terminology used as to the degree and extent harm. For example, the use of 'considerable', when ordinarily in a planning context the degree of harm would be described in Framework terms and be phrased as either less than substantial harm or substantial harm.
- 2.73 To aid transparency, robustness and consistency in understanding, the Appellant's evidence will present a structured and comprehensive assessment of the significance of the various heritage assets in the vicinity of the Appeal Proposal (i.e., within the Port, adjacent harbour and the north east face of Portland) and an informed, heritage-based assessment of impact on the identified significance of each asset.
- 2.74 The Appellant is committed to working with the key heritage stakeholders, Historic England and the DC Conservation Officer, to produce a heritage specific Statement of Common Ground reflecting such an assessment, to enable the parties to clearly identify the significance of assets, how such significance might be harmed, and the extent to which the heritage benefits of the Appeal Proposal, provided as mitigation, offset any identified harm. This should enable the key areas of agreement and disagreement, if any, to be clearly identified.
- 2.75 The Appellant's evidence will include consideration of the following designated assets:
- I. The Dorset and East Devon Coast World Heritage Site (WHS).
  - II. The East Weare batteries on the north-east face of Portland, which are made up of five batteries, gun emplacements and other supporting buildings which variously survive in different states of repair and access. Three of these batteries, known historically as A, C and E batteries, are separately Grade II listed as is the nearby barracks house known as East Weare Camp. Whilst this is a specific building, the entire area was historically known as East Weare Camp and was associated with the military fortress of the Verne Citadel sitting immediately above the Appeal Site at the top of the cliff.
  - III. The Verne, which is a Scheduled Monument with many of its individual buildings which are separately Listed. The area at the top of the cliff also supports two further Scheduled Monuments being the remains of a Second World-War, Heavy Anti-Aircraft battery and a Cold War period early warning radar station (RAF Portland).
  - IV. E battery, which is a single structure with three gun platforms and associated magazines 180m east of Portland Royal Naval Cemetery and it is this building which is to undergo enhancement works as part of the application. As well as being Grade II Listed, E battery and the area immediately around it is also a Scheduled Monument.
  - V. Within Portland Port and Harbour there are several listed structures. The nineteenth-century, Grade II Listed Dockyard Offices have a separate listing whilst most other nineteenth-century structures are also Grade II Listed under a single listing. These structures include the breakwaters themselves; commemorative stone; two jetties (the Coaling and Storehouse jetties); the two breakwater forts and the Coaling Shed. The breakwater and groyne to the north of the harbour are also Listed as are

the Second-World War Mulberry Harbour Caissons located between the Port and nearby Portland Marina.

- VI. Portland Castle (Scheduled Monument) and Grade I Listed Building.
  - VII. Sandsfoot Castle remains, Grade II\* Listed Building.
  - VIII. Several buildings within Castletown on the route to the Port entry are also Listed, not least of which is the Grade I Listed / Scheduled Portland Castle. Castletown is wholly within the Underhill Conservation Area.
- 2.76 With regard to the WHS, it is judged this is primarily a matter to be dealt with in relation to the second reason for refusal. From a direct heritage effects perspective, harm to the unique geological and geomorphological features, little impacted by humanity, that reflect the OUVs of the WHS, cannot reasonably arise from the siting of the Appeal Proposal outside of the WHS.
- 2.77 Finally with regard to the WHS, by locating the Appeal Proposal in this coastal location, from which significant locational environmental and public benefits would flow, it would be in one of the limited number of coastal areas in the region excluded from the WHS. Thus, harm to the WHS would be mitigated at a regional level, which should be afforded some modest weight in heritage terms that can be brought to bear in the weighing up of heritage harm and benefits of the Appeal Proposal.
- 2.78 With regard to the direct heritage benefits of the Appeal Proposal, the Appellant will show that the enhancements to Grade II listed/Scheduled E Battery – and its removal from the “at risk” register - would be a significant enhancement not only to the Listed battery itself but also to the wider group value of nineteenth-century military structures of the NE coast of Portland (the East Weare Batteries and East Weare Camp; the Verne Citadel; unlisted Portland quarries and Listed structures within the port associated with the nineteenth-century Portland Harbour of Refuge). Similarly, the proposed refurbishment and clearance works would preserve and better enhance understanding of the E Battery as a Scheduled Monument.
- 2.79 As a result of the Port’s secure boundary, there is currently no location where a member of the public can view the scale and extent of the East Weare batteries and their relationship with other nineteenth-century military structures across the north from a land-based position including the Verne and the port structures. However, the Appeal Proposal would introduce public access to the East Weare batteries via a permissive path and would allow unobstructed views over the wider extent of nineteenth-century military buildings. In addition, the Appeal Proposal would include public interpretation boards explaining the interrelationship between the military structures and their history. This would contextualise the historic (and current) military features spread across Portland, which has supported military defences since pre-Roman times and, remarkably, continues to do so today some two thousand years later. Further, the Appellant and Port has agreed to enable / facilitate managed access to the SM for educational and special interest groups.
- 2.80 This is a significant heritage benefit, allowing public access to the Port and batteries for the first time in their history. Significantly, this would also join up footpaths S3/72 and S3/81 which would complete public access around the Isle



of Portland itself allowing better access to and appreciation of historic Portland and the wider historic context of the site. This is itself a heritage benefit.

- 2.81 The Appellant will show that any harm to the designated heritage assets within the Port and the north-east coast of Portland could, at most, be considered to be at the lowest end of less than substantial harm and, in some instances, the effect of the Appeal Proposal on historic significance would be neutral or an enhancement. Further, when the substantive heritage benefits of the Appeal Proposal, provided as mitigation to offset any identified harm, have been adequately weighed in the balance, there would be, in most cases, an enhancement of the significance of most heritage assets.
- 2.82 Notwithstanding this, should the Inspector determine any residual harm does occur, this is a case where the wider public benefits of the Appeal Proposal would clearly and demonstrably outweigh any remaining harm.
- 2.83 Based on the foregoing, the Appeal Proposal would not breach: Policy 19 of the Waste Plan; Policy ENV4 of the West Dorset, Weymouth & Portland Local Plan; Policy Port/EN4 of the Portland Neighbourhood Plan; nor be in conflict with paragraphs 197, 200 and 202 of the Framework. Accordingly, the second reason for refusal cannot be sustained.

#### **Planning considerations that weigh in favour of the Appeal Proposal**

- 2.84 The reason for refusal contends that the Appeal Proposal has insufficient benefits as a waste management facility for it to be considered preferable to other Waste Plan allocated sites. The Appellant does not accept this for the reasons as set out above.
- 2.85 The Appellant will demonstrate that the primary benefit of the Appeal Proposal is that it would meet Dorset's shortfall in residual waste treatment capacity and contribute to the regional and national need. This includes a shore power facility, in a rare, undesignated coastal location in an otherwise 155 km stretch of World Heritage Site coastline where few opportunities for coastal facilities of this type exist. It will show that the Portland ERF is deliverable and not subject to any overriding matters, including in respect to landscape and heritage, that should preclude it from being granted consent.
- 2.86 There are a range of material planning considerations that together weigh heavily in favour of the Appeal Scheme, in context of the following primary considerations:
- I. There are currently no significant operational waste management facilities for the treatment and recovery of energy from residual waste arising within the Dorset area.
  - II. Dorset is reliant upon the export of its residual waste for treatment at facilities located elsewhere within the UK or in Europe, which is not sustainable in the future. Existing ERF's in neighbouring areas are now operating at capacity and the availability of other treatment options are increasingly uncertain.
  - III. Dorset, by exporting its waste volumes either increases UK RDF exports to Europe (with associated cost and environmental disbenefits) or

displaces other UK waste volumes, indirectly contributing to the UK's overall landfill volumes. This is not a sustainable practice.

- IV. The Portland ERF would address the current and predicted future shortfall in Dorset's recovery capacity (234,000 tpa by 2033) and would generate low carbon energy.
- V. Dorset is heavily reliant upon the import of power and energy for the majority of its power and energy need. The Portland ERF would make a material contribution to efforts to create greater energy self-sufficiency, and a greener mix of energy supply in response to the ongoing climate emergency.
- VI. The supply of a shore power facility at Portland Port would reduce carbon emissions from berthed vessels and would also deliver local air quality improvements from reduced shipping related emissions to air, whilst supporting the port's existing commercial operations and unlocking future regeneration potential. This would also benefit the local economy.
- VII. The Appeal Proposal would have the capability to supply low carbon heat, via a potential new local heat network, to existing heat users on Portland making efficient use of energy from residual waste. The Ministry of Justice has confirmed that it would be a willing heat off-taker for use at its two Portland prisons. [Plan accommodates DH to the maximum extent and opens up future opportunity to expand the heat network into the local community – which is the direction of national policy in support of greening domestic heat in UK].
- VIII. The Appeal Proposal, by means of its port location is well placed to import and export materials, such importing RDF and exporting residues such as IBA. This reduces traffic impact and related emissions.
- IX. The Appeal Proposal by means of its commercial port location, sitting within previously developed industrial land, is well placed to accommodate carbon capture storage (**CCS**) technology in future enabling captured carbon to be transfer by sea. This is preferable to inland locations where the potential is very limited and is unlikely to be economically viable.
- X. The Appeal Proposal fully accords with national policies for the sustainable management of waste and the generation and distribution of renewable / low carbon energy.
- XI. There are no statutory landscape, ecological or cultural heritage designations within the Appeal Site.
- XII. The Appeal Site is not within the South East Dorset Green Belt or other such restrictive land use designations. The development of an ERF on an allocated Green Belt site would be 'inappropriate development'. In such locations very special circumstances must be demonstrated to exist that outweigh the harm caused to the Green Belt and any other harm arising. This is a high bar as confirmed by Waste Plan Policy 21, under which the consideration of very special circumstances must



include the availability of other suitable non-Green Belt locations, such as the Appeal Site.

- XIII. The Appeal Proposal would deliver a range of local socio-economic benefits, including job creation, and training/apprenticeships, and would support the regeneration of the Portland economy through investment in key target sectors (such as renewable and low carbon energy), helping to raise local living standards and tackle pockets of social deprivation.
- XIV. The Appeal Proposal fully accords with the provisions of the Dorset Waste Plan. The Appeal Site has specific advantages over allocated sites, has an extant consent for an 'energy plant' using waste materials, and has previously been identified by Dorset Council Waste Service (formerly the Dorset Waste Partnership) as a location for a strategic waste management facility.
- XV. The Appeal Proposal fully accords with the provisions of all relevant applicable plan policies relating to carbon and energy at all levels from national level through to local.
- XVI. The Appeal Proposal is also consistent with the Government's drive to stimulate a 'Green Recovery' designed to boost the economy post Covid-19 pandemic. The environment and climate change has been pushed to the front of the political agenda and displayed as a tool through which economic, social and environmental objectives can be combined and achieved.
- XVII. A comprehensive environmental impact assessment (**EIA**) has been undertaken and the results of this are presented in the Environmental Statement (**ES**). The ES concludes that with appropriate mitigation, the impact of the Appeal Proposal on interests of acknowledged importance are acceptable.

2.87 The Appellant will present further evidence to demonstrate that there are numerous benefits arising from the Appeal Proposal, in respect to its role as a waste management facility and more widely in respect to supply of low carbon heat and power to identified users and associated wider social, economic and environmental benefits.

### **Consideration in the planning balance**

2.88 In the context of the reasons for refusal, the Appellant contends that DC's Committee Report contains significant omissions, misrepresentations, inaccuracies and errors such that it is deemed to be fundamentally flawed. Advice given by officers over the time of the application has varied over time, been inconsistent and failed to consider properly the issues. Despite being highlighted by the Appellant these have not been adequately addressed and the report's conclusions cannot reasonably be relied upon.

2.89 The DC Committee Report has ascribed clear weight to aspects that have been identified by officers as negative but provides little or no explanation of the weight, if any, applied to the many positive benefits. It therefore fails to provide a proper and robust consideration of the benefits of the Appeal Scheme against the harm identified resulting in an unbalanced conclusion.



- 2.90 When pressed by the Appellant, DC issued an Update Sheet at the start of the Committee Meeting, a week after publication of the Committee Report, in response to the Appellant's concerns about the unsatisfactory approach to determining the application. It provides a summary schedule of the Appeal Scheme's identified benefits and DC's view as to the weight attributed to them in the planning balance.
- 2.91 Whilst DC agreed with the Appellant that the majority of the benefits should be attributed either full or moderate positive weight, it sought to attribute minimal weight to the heritage mitigation programme (to slight weight), and a reduction in climate change impacts (to neutral) and the provision of new waste management capacity in Dorset (to limited weight). The Appellant disagrees with the DC allocation of weighting in these respects and will provide evidence to further support its view.
- 2.92 Despite accepting that many benefits were to be attributed full or moderate weight in the planning balance, DC provided no commentary on how it reached its conclusion that the perceived harm of the proposal outweighed the numerous positive benefits it had identified in the Update Sheet and maintained its conclusion that the overall planning balance would come down against the Appeal Proposal.
- 2.93 This conclusion, in part, can be attributed to DC's flawed opinion that the Appeal Proposal would result in significant adverse landscape and visual impact, and less than substantial harm (at the higher end of less than substantial harm), to heritage assets, neither of which can be satisfactory mitigated.
- 2.94 The Appellant refutes DC's conclusions in respect to the potential degree of harm caused to landscape and heritage and the proposed mitigation has been downplayed for no good or transparent reason.
- 2.95 The Appellant will demonstrate through evidence that reason for refusal 1 is unsound and cannot be substantiated on the grounds that:
- a. The Appeal Proposal would not breach Policies 1 and 4 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan 2019 or paragraph 158 of the NPPF
  - b. The benefits of the Appeal Proposal, if properly recognised and appropriately weighted, would clearly outweigh any limited residual harm on landscape and heritage, having taken account of proposed mitigation.
- 2.96 The Appellant will also demonstrate through evidence that reasons for refusal nos. 2 and 3 are unsound and cannot be substantiated on the grounds that the Appeal Proposal would not breach the relevant development plan policies or the provisions of the Framework.
- 2.97 The Appellant will show in evidence that the overall planning balance exercise undertaken by DC, and its resulting conclusion is defective in its approach and fundamentally flawed in its outcome.

### **3.0 Matters Raised by Interested Parties**

- 3.1 A large number of matters were raised by interested parties during the determination stage for the Appeal Proposal.
- 3.2 The Table in Appendix C sets out a summary of the matters based upon the summary of consultee and public responses, as set out in the officer report for the STPC, excluding matters already dealt with in respect to reasons for refusal.

## 4.0 The Appellant's Position in Respect of the Appeal

### Relevant Facts and Arguments to be Relied On

- 4.1 The relevant facts and arguments upon which the Appellant will rely are summarised as follows:
- I. There are extant planning permissions, comprising the 2010 Permissions ref: 09/00646/FULES and 09/00648/LBC and the 2013 Permission (ref: 13/00262/VOC) that have been lawfully implemented. Together these establish the principle of this site being suitable for an energy plant, fuelled in part by waste materials. As such, a facility recovering energy has been considered to be acceptable in principle in this location.
  - II. There is no requirement in this case for the Appellant to demonstrate a need for the Appeal Proposal. Notwithstanding this, the Appellant's position is that the Appeal Proposal would deliver much needed sustainable waste management infrastructure for the treatment of residual waste within Dorset and the surrounding sub-region and nationally; and in doing so would deliver secure domestic energy generation, which would be partially renewable and thus low carbon, and for which there is also a clear need.
  - III. There is a clear and demonstrable need, as confirmed by the Waste Plan, for the delivery of additional residual waste management capacity in Dorset to meet an expected shortfall of 234,000 tonnes of residual waste by 2033.
  - IV. This need for capacity is now even greater given that Dorset over successive plan periods has failed to deliver any large scale energy recovery facilities, with the exception of an intermediate MBT facility, and the closure of landfill sites.
  - V. The Appeal Proposal is designed to manage RDF, pre-treated via source segregation and/or processing via MBT. As such, it would only manage truly residual LACW or C&I wastes and would have no adverse impact on Dorset's ambition to maintain and improve its existing high levels of recycling.
  - VI. The Appeal Site is not an allocated site within the Waste Plan. Nonetheless, Policy 4 (criterion a) permits unallocated sites to come forward where it can be demonstrated that the non-allocated site provides advantages over allocated sites. The Appeal Site has advantages over other allocated sites because of its port location. The most significant being:
    - The ability to deliver shore power to berthed shipping at Portland Port with associated carbon and emission savings, noting that there is no viable alternative.
    - The ability to supply heat via a future heat network and the presence of the Ministry of Justice as an identified and viable heat off-takers (**HM Prisons**) in the locality.



- The availability of direct access to marine berths at the Port facilitating the sustainable import and export of materials (import of RDF and export of IBA), reducing the need for transportation of materials on the local road network.
  - The ability to accommodate an ERF of significant scale to meet Dorset's needs, as opposed to allocated sites where planning and environmental constraints are likely to restrict or preclude delivery of an ERF at large scale.
  - The ability to deliver carbon capture and storage in future and, as a direct consequence of its industrial/port location, the ability to export captured carbon by sea tanker.
- VII. Whilst not allocated in the Waste Plan, the Appeal Site has previously been identified by DC's Waste Service as a potential location for a strategic waste management site.
- VIII. The Appeal Site comprises previously developed and safeguarded employment land, within a commercial port. It accords with Policy 4 (criterion e) and (criterion g) in being located within allocated or permitted employment land (for Class B1, B2 and/or B8 uses); and / or on previously developed land suitable for employment or industrial purposes.
- IX. The Portland ERF complies with the waste hierarchy as required under Waste Plan Policy 1 and Policy 4 (criterion c). It would divert some of Dorset's residual waste (and other waste likely to be landfilled as a consequence of the continued export of Dorset's waste to other areas thereby taking up its local energy recovery capacity) from landfill.
- X. The Appeal Proposal would enable Dorset to become more self-sufficient in managing its residual waste, reducing the need for export of waste outside of the county and provide capacity to manage RDF that is currently being exported out of the UK to Europe for thermal treatment. Thereby, enabling Dorset, the region and the UK as a whole to become more self-sufficient in managing RDF in accordance with Waste Policy 1.
- XI. The Appeal Proposal would provide urgently required residual waste management capacity within Dorset in line with the Proximity Principle, representing an opportunity to locally manage residual waste arisings from the LACW and C&I waste streams. It would allow Dorset's waste to be dealt with more proximate to its source of arisings, than current practice of exporting waste over long distances by road or sea to other facilities. In managing RDF arisings locally, regionally and nationally, the Appeal Facility complies with the Proximity Principle in line with Waste Plan Policy 1 and 4 (criterion c).
- XII. The allocated Waste Plan sites are subject to significant planning and environmental constraints. This is recognised in the Waste Plan itself, which accepts that not all sites are likely to come forward, hence the inherent flexibility provided for unallocated sites to come forward under Waste Plan Policy 4 (criterion a). Where a consents for an ERF has been granted on an allocated site (Inset 7 – Eco-Sustainable Solutions, Parley) this has been of very modest capacity (50,000 tpa) in the context

of the required need (234,000 tpa), as a consequence of planning and environmental constraints. Furthermore, this has not been implemented and may not be.

- XIII. The treatment of IBA arising from the Appeal Proposal is consistent with Waste Plan Policy 6. DC has misunderstood and misapplied this policy to the Appeal Proposal within the context of the Proximity Principle. Policy 6 requires IBA facilities to be located near to **(IBA)** waste arisings, not that potential ERF facilities should be located near to existing IBA facilities. The Appellant is not aware of any such meaningful sized facility operating in Dorset and logically DC's position would mean that no ERF could be delivered in Dorset without a complementary IBA facility also being delivered.
- XIV. Under Waste Plan Policy 21 proposals for waste management facilities (if inappropriate development) cannot be permitted unless the harm to the Green Belt and any other harm caused is clearly outweighed by other considerations, such that very special circumstances exist. This includes demonstrating that the need cannot be met by alternative suitable non-green belt sites. The Appeal Proposal is a suitable non-Green Belt site and hence allocated Green Belt waste sites (specifically Canford and Parley) cannot demonstrate very special circumstances and therefore cannot be permitted or delivered.
- XV. The Portland ERF has been carefully designed to respect its locality to minimise landscape and visual effects and enabling the proposal to blend into its surrounding context. The Appeal Proposal is entirely appropriate within its industrial port setting which is characterised by other large scale/tall port structures.
- XVI. The findings of the submitted LVIA concludes that the facility would not have any significant landscape or visual effects on many areas including the Dorset AONB. Whilst there may be some adverse impact on localised views these are deemed to be moderate or moderate to slight (significant). The setting is unusual such that the site context dominates the Appeal Proposal, rather than vice versa, as is typically the case. In contrast, the DC landscape assessment is flawed and over estimates the extent and significance of any visual harm. In doing so, it contradicts the professional opinions expressed by DC landscape officers and independent landscape consultants appointed by DC who assessed the scheme at earlier stages of the determination process.
- XVII. The degree of harm to heritage assets is considered to be less than substantial in the context of the Framework (paragraph 202). The Framework Heritage Mitigation Strategy, comprising a package of heritage benefits and improvements is deemed to more than outweigh any limited harm caused to the setting of these heritage assets alone, and most certainly when taking account of the wider public benefits of the proposal. Historic England's response regarding the level of harm is not specific or consistent with the Framework but DC Conservation has relied on this to exaggerate the degree of harm cause to the setting of heritage assets within the Framework context of 'less than substantial harm', with DC Conservation concluding that the harm is deemed to be at the higher end. In doing so, this contradicts the professional opinion expressed by the DC Conservation Officer who assessed the scheme at

earlier stages of the determination process and concluded a lower level of harm to these assets.

XVIII. The ES supporting the planning application for the Appeal Proposal is considered to be fit for purpose and is not deemed to be deficient in any significant way.

XIX. As set out in the draft SoCG, the Appeal Proposal would not give rise to any unacceptable effects (or breaches in Development Plan or national policy) in relation to the following matters: -

- Traffic and highways
- Ecology
- Surface water management
- Air quality and public health
- Amenity
- Flood risk
- Noise and vibration
- Land contamination / stability
- Socio-economic
- Energy

XX. The Appeal Proposal cannot be operated without an Environmental Permit. The Appellant has applied for an Environmental Permit to the Environment Agency (ref: EPR/AP3304SZ/A001). At the time of writing this statement the process had reached an advanced stage and the Appellant is confident that there are no outstanding matters that would preclude the issue of a permit. An Environmental Permit is likely to be issued shortly and this would be forwarded to PINS as part of the Appellant's case.

XXI. Irrespective of the status of the Environmental Permit, this is a case where paragraph 188 of the Framework applies i.e., that: "*The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities*".

XXII. The Government has published legislation confirming that residual waste volumes should be reduced per capita by 50% from 2019 levels by 2042. The Environmental Targets (Residual Waste) (England) Regulations 2023', came into force on 30 January 2023. Whilst the



residual waste reduction target is acknowledged and respected, the Appeal Proposal would still be required for multiple reasons including:

- a. For the diversion of residual waste from landfill or export in the period up to 2042.
  - b. That by 2042 a number of the older existing UK EfW facilities will be at or beyond the end of their operational life.
  - c. For the sustainable management of the residual waste that will remain in 2042 and beyond if the target is met.
  - d. For the sustainable management of the residual waste that will remain in 2042 and beyond if the target is not met,
  - e. The Appeal Proposal would represent a more efficient modern technology for the treatment of residual waste than legacy facilities.
- XXIII. The Appeal Proposal accords with the policies of the Development Plan when read as a whole and there are no material planning considerations that indicate determination of the appeal should be other than in accordance with the Development Plan. In fact, the key material planning considerations that exist, reinforce the logic for doing so.
- XXIV. DC's overall planning balance presented in the Committee Report is based on significant omissions, misrepresentations, inaccuracies and errors such that it is deemed to be fundamentally flawed and is unjustifiably biased in favour of other Waste Plan allocated sites. Unsubstantiated negative weight is applied to the degree of landscape and heritage harm, and the appropriate degree of positive weight has not been given to Appeal Proposal's many benefits. It provides no indication on how the identified positive benefits were considered against the identified harm in coming to its recommendation for refusal. Had it done so the conclusion on the overall planning balance would overwhelmingly fall in favour of the Appeal Proposal and permission would be granted.
- XXV. The Appellant will therefore demonstrate that the Appeal Proposals are in accordance with the Development Plan and national policy and, to the extent that it might be considered otherwise, material considerations (including the considerable benefits) would nonetheless support the grant of permission.

#### **Policies / Documents on Which the Appellant Intends to Refer or Rely**

- 4.2 A list of policies and documents on which the Appellant will rely, consistent with those identified in the Committee Report for the Appeal Proposal, is provided at Appendix D.

#### **Areas of Agreement / Dispute**

- 4.3 The Appellant has submitted a draft Statement of Common Ground (**SoCG**) and is committed to working with DC to finalise it within the 5-week period from the Appeal Start Date.

4.4 This includes full or partial agreement in relation to the following topic areas, which are extensive and not repeated in this SoC:

- Waste need (in part)
- Principle of the appeal proposal (in part)
- Waste plan policy 4 – unallocated sites
- Climate change (in part)
- Traffic and highways
- Ecology
- Flood risk
- Air quality and public health
- Amenity
- Noise
- Land contamination and stability
- Socio-economic
- Energy
- The weighting of benefits (in part)

4.5 The Appellant will also, as necessary, work with any other Rule 6 party to produce a SoCG.

4.6 The areas of disagreement between the Appellant and DC are specifically believed to relate to the three reasons for refusal. Further, in so far as the reason for refusal adopts a planning balance, there are elements of DC’s approach to the constituent elements of that balance (not explicit in the reason for refusal), as set out in the Committee Report, with which the Appellant also disagrees.

4.7 There are also areas of agreement between the Appellant and DC which are, based upon the Committee Report, understood to be those matters included in the draft SoCG.

4.8 The main topic areas of disagreement are set out in the Table below.

| Ref | Topic                        | Commentary  |
|-----|------------------------------|---|
| 1   | Sustainable waste management | The Appellant does not accept the alleged view that the Appeal Proposal is an unsustainable form of waste management. |

|    |  |   |
|----|--|---|
| 2. | Waste hierarchy                        | The Appellant does not accept the view that the Appeal Proposal would not contribute towards moving waste management further up the waste hierarchy by reducing the need for landfill disposal.   |
| 3  | Proximity principle                    | The Appellant does not accept the approach taken by DC to assess and apply the proximity principle in context of a) Dorset's spatial strategy, b) the existing requirement to export all of its residual waste out of the county to other UK or European ERFs or landfill, and c) the contribution the Appeal Proposal would make to managing RDF exported out of the south west region and the UK for treatment at other ERF facilities.   |
| 4  | Self-sufficiency                       | The Appellant with the lack of recognition and weight given by DC to the contribution that the Appeal Proposal would make towards enabling Dorset to become more self-sufficient in respect to its residual waste management.   |
| 5  | Climate and carbon                     | The Appellant does not accept DC's approach to assessing carbon scenarios. Specifically, the carbon savings that would be achieved by the Appeal Proposal in respect to road emissions, shore power and CHP (heat networks), relative to export of waste to European ERFs, the Bridgwater ERF, or other allocated sites. DC has applied too much weight to transport related carbon emissions in moving RDF from the Canford MBT (in context of the Proximity Principle) to Portland, which in carbon terms is negligible.  |
| 6  | Landscape and visual                   | The Appellant does not accept DC's assessment of landscape and visual harm. Whilst the Appellant accepts that the Appeal Proposal would result in some visual harm, this is moderate and largely restricted to some localised views. This impact must also be considered in the context of the industrialised nature of its Port setting, comprising large scale industrial buildings, structure and cruise liners. Any harm to the setting of the Dorset AONB and the WHS is slight or negligible and the level of harm attributed by DC cannot be substantiated. Furthermore, DC's approach to the assessment of landscape and visual impact is flawed, highly inconsistent and often entirely contradictory. |
| 7  | Harm to the setting of heritage assets | DC deduces that less than substantial harm (at the higher end of the scale) would be caused to the setting of heritage assets and that proposed mitigation is insufficient to offset this high degree of harm. The Appellant rejects this view contending that any harm   |



|     |   |  |
|-----|---|--|
|     |   | caused to these assets is less than substantial (at the lower end of the scale or is neutral). Notwithstanding this, the Appellant's proposed framework mitigation strategy is compelling and provides more than sufficient heritage benefit to outweigh any harm caused and notes this was accepted by the previous DC Conservation Officer. Even if any residual harm, then remains the wider public benefits of the Appeal Proposal are brought to bear, and these would clearly outweigh any residual harm to heritage assets. Historic England and DC's approach to the assessment of heritage impact is flawed, highly inconsistent and often entirely contradictory.  |
| 8   | Relative advantages of the Appeal Site over the Waste Plan allocated sites and relative weighting | The Appellant fundamentally disagrees with DC's assertion that the advantages of the Appeal Site over Waste Plan allocated sites are not sufficient to justify an approval. The Appellant contends that the Appeal Site has unique advantages that other Waste Plan allocated sites cannot match. Also, that DC has applied excessive weight to the benefits of allocated sites and insufficient weight to the significant benefits of the Appeal Site such that the overall judgement is unfairly skewed and biased.  |
| 9   | Suitability of Waste Plan allocated sites   | The Appellant does not accept DC's view that allocated sites are better placed to meet the Waste Plan's needs. The consented ERF at Parley is of modest scale and if constructed cannot alone meet Dorset's projected needs. No planning application has yet been submitted for a large-scale ERF at Canford Magna, which is on a Green Belt site and subject to other significant environmental constraints. There is no certainty that the Waste Plan allocated sites (either with consents or proposals for ERFs) will ever be implemented as a consequence of their constraints and DC's view that the allocated sites are better placed to meet the Waste Plan need is contested. In any case NPPW paragraph 7 makes it clear that in determining planning applications (in this case an appeal), regard should only be had to 'existing operational facilities'. |
| 10. | Compliance with the development plan  | The Appellant does not accept DC's view that the Appeal Proposal is contrary to the Development Plan and instead contends that it is in accordance with the Development Plan when read as a whole. Even if not in all respects, material considerations nonetheless support the grant of permission.   |
| 10  | The overall planning balance  | The Appellant does not accept DC's judgment on the overall planning balance. DC initial  |

|  |  |  |
|--|--|--|
|  |  | <p>failed to demonstrate in its Committee Report that it had given any weight to the Appeal Scheme's benefits in coming to a view on planning balance. When prompted to do so it agreed with the Appellant that many of its benefits were of 'significant/full' or 'moderate' positive weight but provided no commentary on how it reached its conclusion that that perceived harm of the proposal outweighed the numerous positive benefits identified such that it could maintain its conclusion that the overall planning balance would come down against the Appeal Proposal.</p> <p>The Appellant contests the 'limited' weight applied by DC in respect to meeting Dorset's need for residual waste management capacity and 'neutral' weight applied to the Appeal Proposal's contribution to reducing climate change impacts and carbon reduction. DC has failed to apply the correct weightings to the benefits of the Appeal Scheme.</p> <p>Furthermore, the Appellant contests the degree of weight attributed to perceived landscape and visual harm and harm to the setting of heritage assets (taking account of proposed mitigation), which are not justified.</p> |
|--|--|--|

## Topics and Approach

- 4.9 The Appellant has requested that the appeal should follow the inquiries procedure. However, subject to the agreement of the appointed Inspector, it supports a 'combined procedure' with some issues potentially dealt with by means of Round Table discussion and / or Written Statements as may be appropriate.
- 4.10 The Appellant sees merit in the main issues being dealt with by cross-examination, "need" being dealt with via round table discussion and other matters, that feed into the planning balance or address third party objections, by Written Statements.
- 4.11 Thus, a possible suggested approach could be as follows:
- Planning policy – proofs of evidence and cross-examination;
  - Landscape and visual effects – proofs of evidence and cross-examination;
  - Heritage effects - proofs of evidence and cross-examination
  - Climate change and carbon - proofs of evidence and cross-examination;
  - Air quality and human health - Written Statement;
  - Traffic and transportation including highway safety – Written Statement;

- Need – Round Table Discussion;
- Socio-economic effects – Written Statement;
- Ecology and nature conservation – Written Statement;
- Any other third party issues by Written Statements.

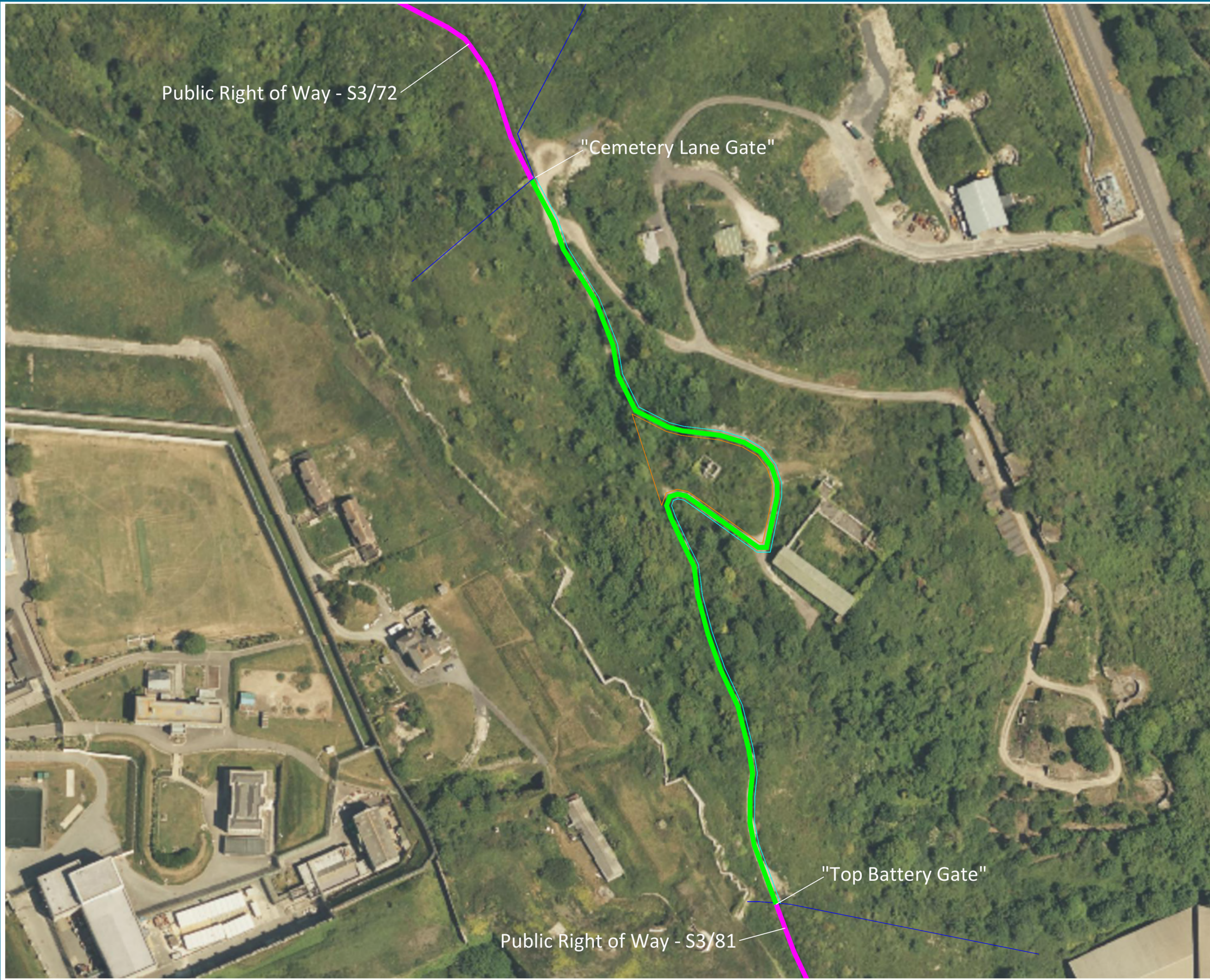
#### **Planning Conditions and a Planning Obligation**

- 4.12 Suggested planning conditions and reasons are provided as an Appendix to the draft SoCG.
- 4.13 The Appellant proposes a planning obligation. A draft copy of the obligation will be submitted to the Planning Inspectorate no later than 10 working days before the Inquiry.



**Appendix A Revised Drawings and Details of the Proposed Footpath Link and Fencing**





Drawing not to scale.  
For information purposes only.  
Not for construction.  
All drawings are for indicative purposes only and  
may be subject to variations.

Notes:

Postcode: DT5 1EH W3W: nails.overpower.happy

Key:

- Existing Public Access
- Existing Security Fence
- New Public Access
- Security Fence (Port Side)
- Stock Fencing (Landward)



**POWERFUEL**

Powerfuel  
Suite B, The Core  
Gore Cross Business Park  
Bridport  
Dorset  
DT6 3FH

Email: [energy@power-fuel.co.uk](mailto:energy@power-fuel.co.uk)  
©Powerfuel Ltd.

**Project Name:**  
Powerfuel Portland

**Document Name:**  
Proposed Footpath  
Extension

**Document Reference #:**  
1081-02-39-1

Scale: 1:1500@A3

Produced:  
RC

Date:  
August 2023

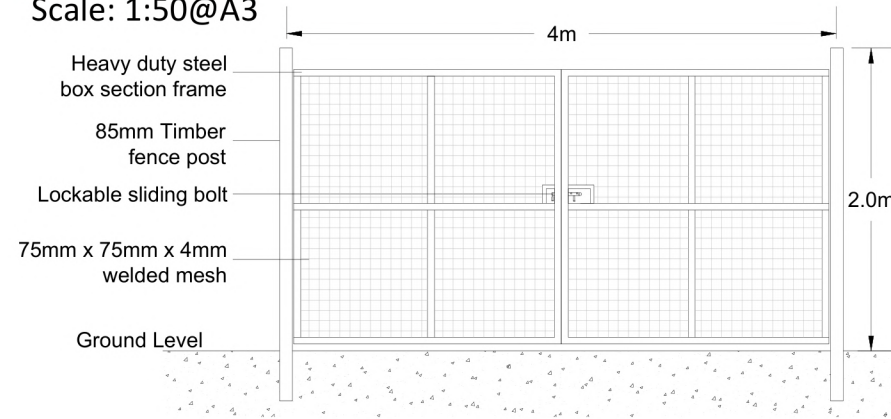


Drawing not to scale,  
For information purposes only.  
Not for construction.

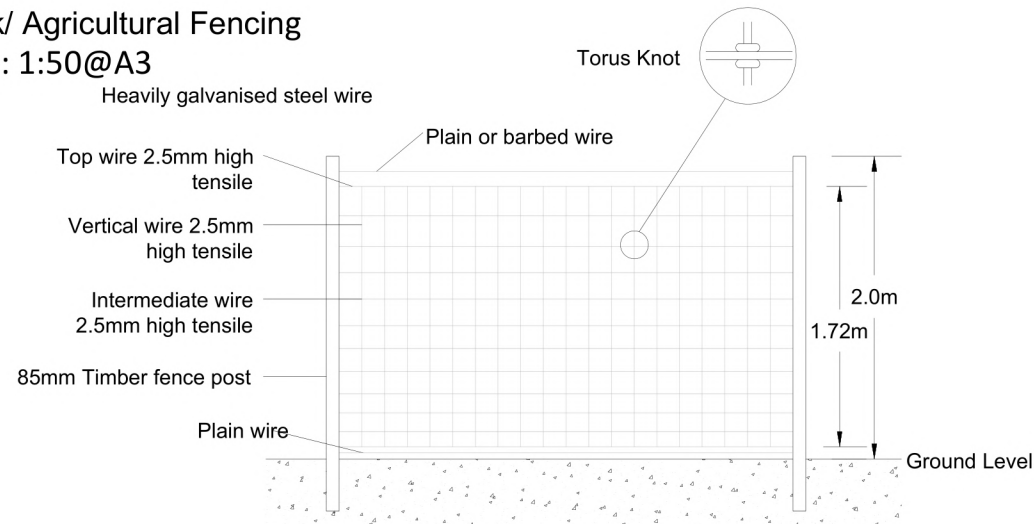
Notes:  
Precise details to be agreed with relevant  
regulating parties

Postcode: DT5 1EH W3W: nails.overpower.happy

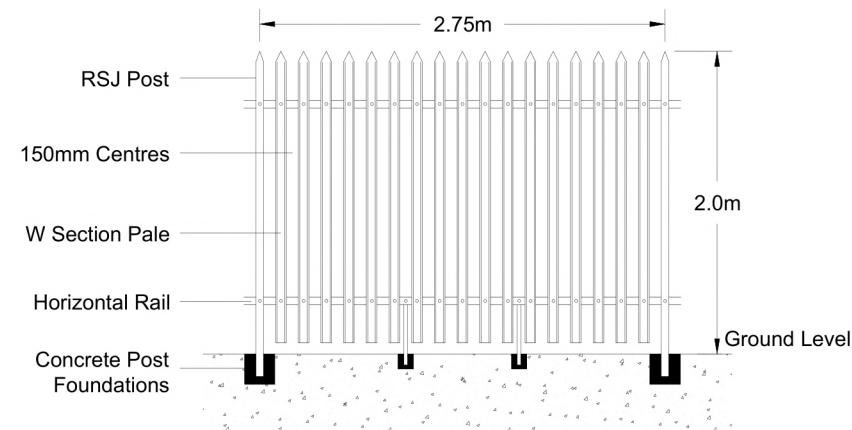
Gate  
Scale: 1:50@A3



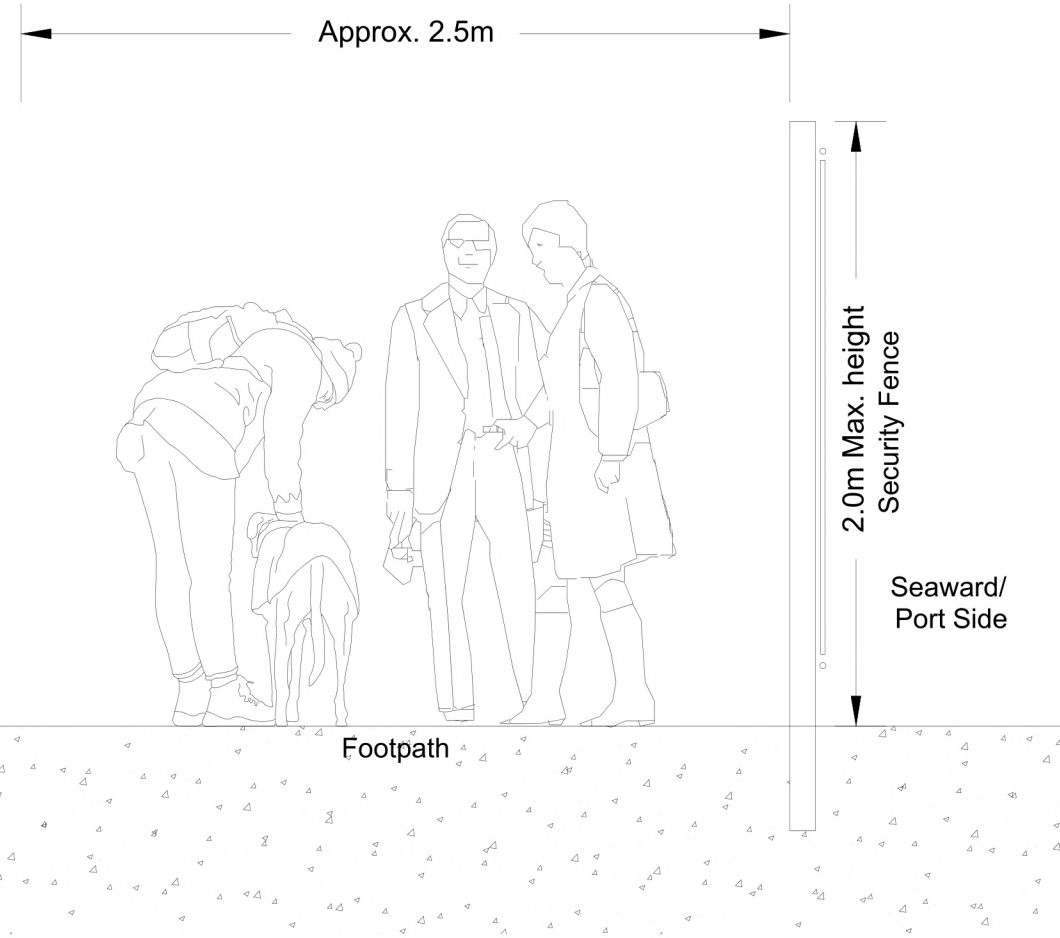
Stock/ Agricultural Fencing  
Scale: 1:50@A3



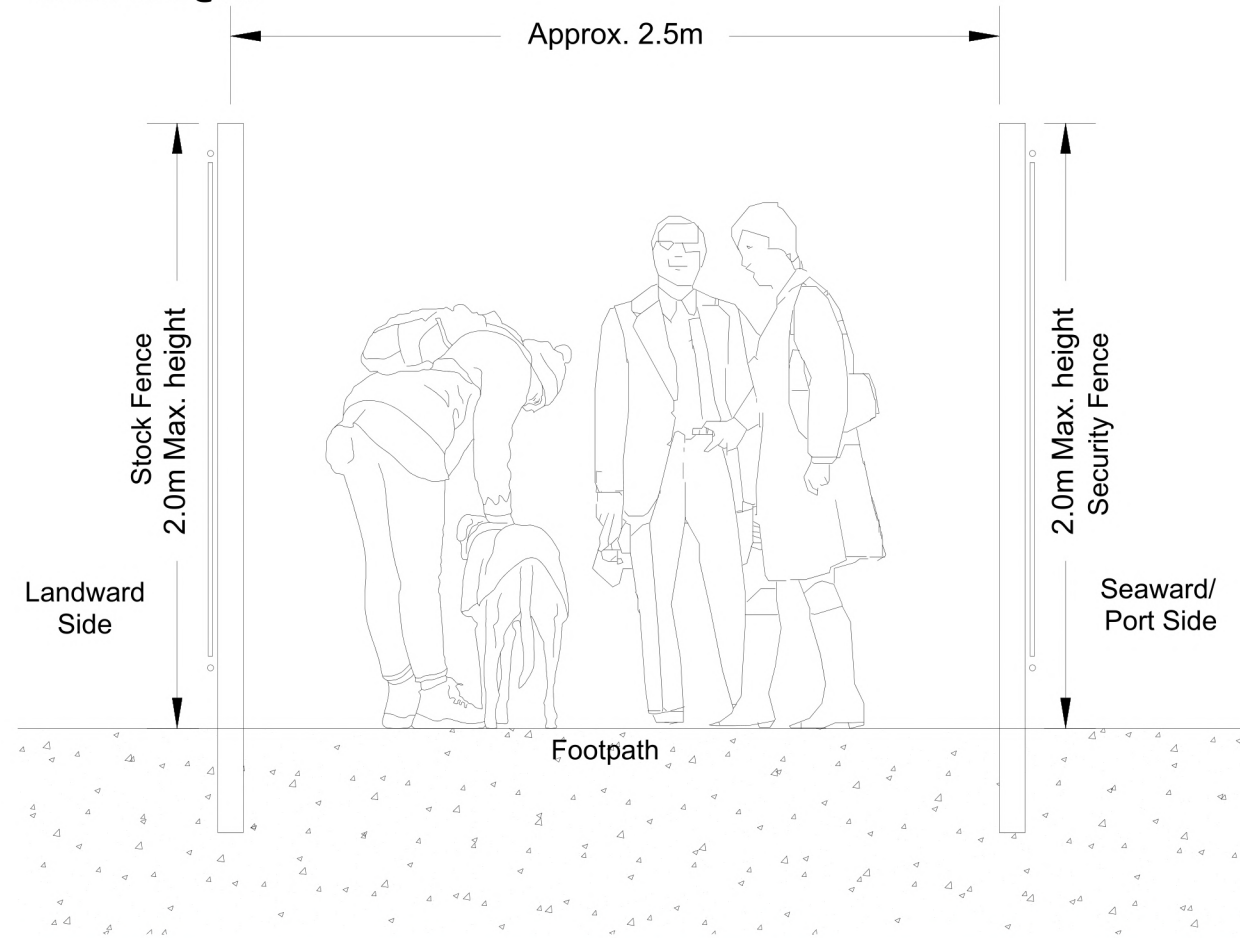
Security Fencing  
Scale: 1:50@A3



Installed Fence Cross Section - Security Fencing Only  
Scale: 1:25@A3



Installed Fence Cross Section - Security & Stock Fencing  
Scale: 1:25@A3



**POWERFUEL**

Powerfuel  
Suite B, The Core  
Gore Cross Business Park  
Bridport  
Dorset  
DT6 3FH  
Email: [energy@power-fuel.co.uk](mailto:energy@power-fuel.co.uk)  
©Powerfuel Ltd.

Project Name:

Powerfuel Portland

Document Name:

Indicative Fencing Detail

Document Reference #:

1081-02-46

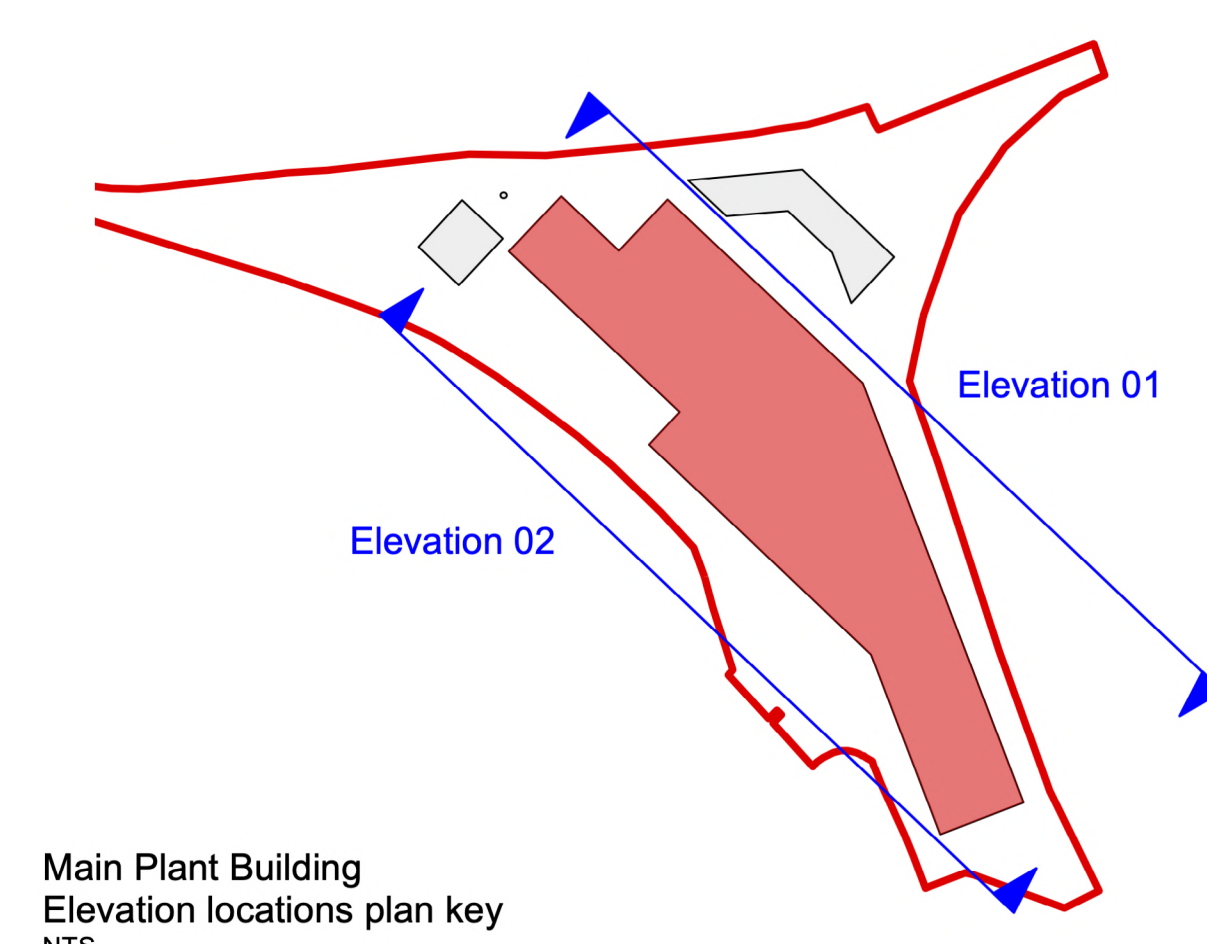
Scale: As Shown@A3

Produced:  
RC

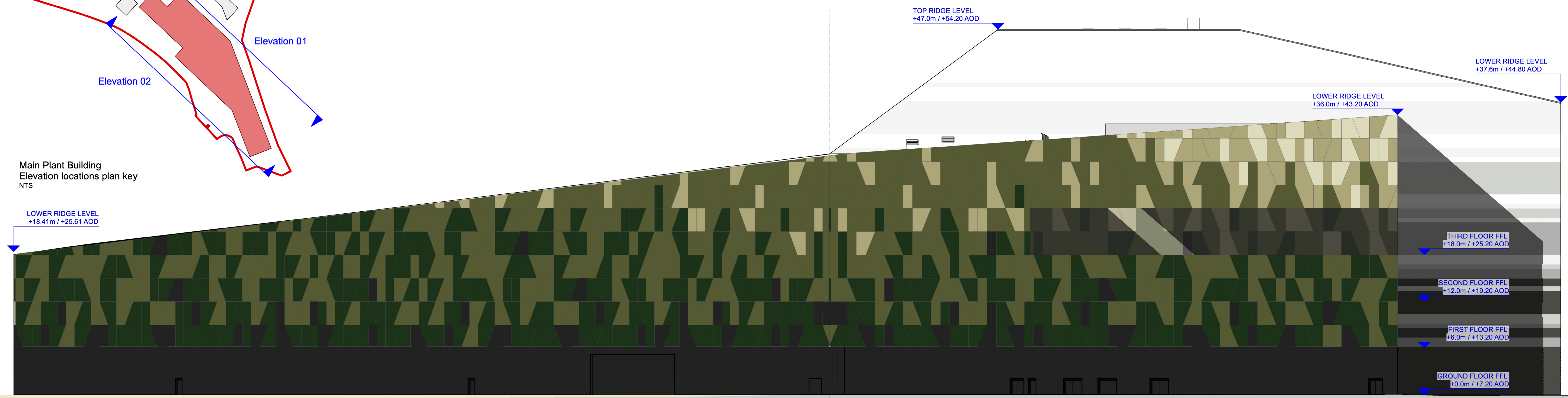
Date:  
August 2023



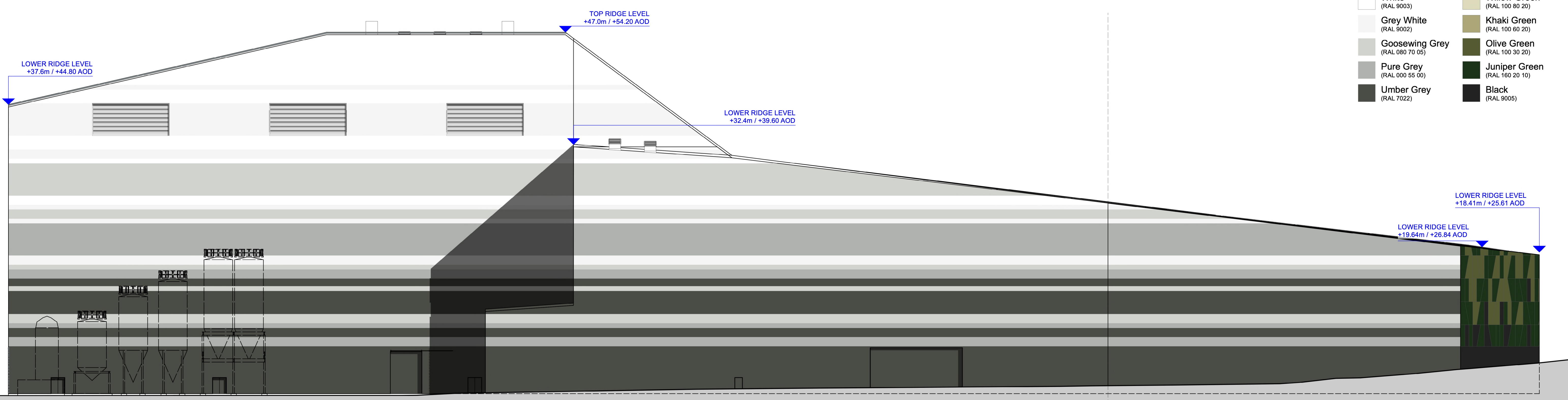
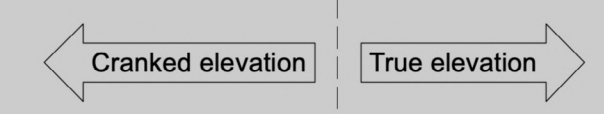
## Appendix B Revised Elevation Drawings and Details



Main Plant Building  
Elevation locations plan key  
NTS

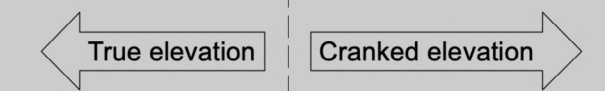


01 Elevation 01 (north-eastern)  
1:250 @ A1 / 1:500 @ A3

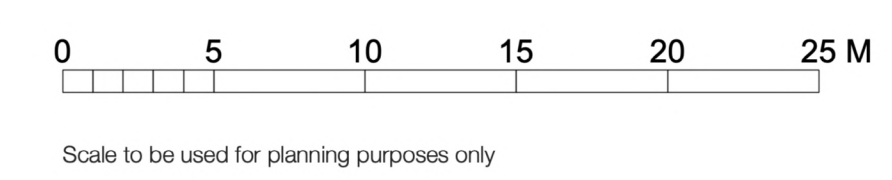


Dashed lines denotes external urea tank & silos in front of south-western elevation

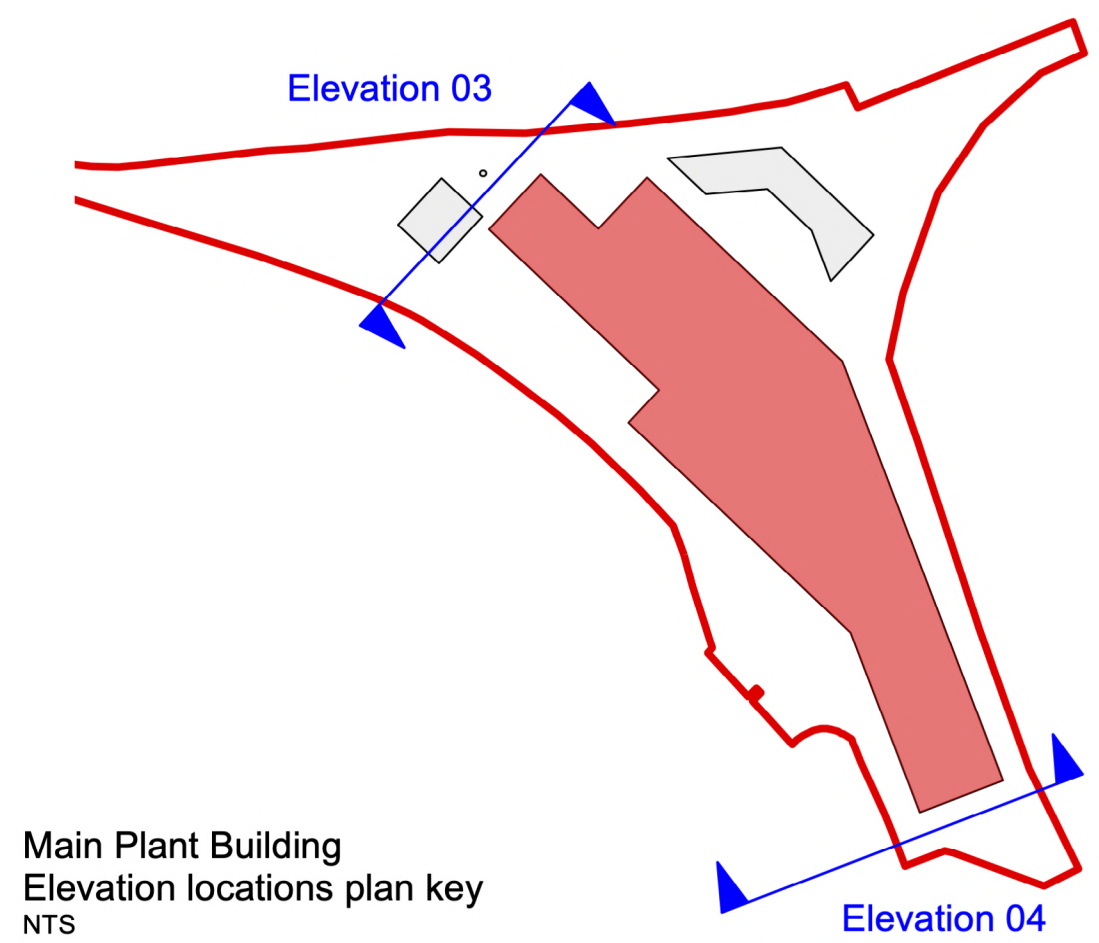
02 Elevation 02 (south-western)  
1:250 @ A1 / 1:500 @ A3



|  |                                   |  |                                  |
|--|-----------------------------------|--|----------------------------------|
|  | White<br>(RAL 9003)               |  | Willow Green<br>(RAL 100 80 20)  |
|  | Grey White<br>(RAL 9002)          |  | Khaki Green<br>(RAL 100 60 20)   |
|  | Goosewing Grey<br>(RAL 080 70 05) |  | Olive Green<br>(RAL 100 30 20)   |
|  | Pure Grey<br>(RAL 000 55 00)      |  | Juniper Green<br>(RAL 160 20 10) |
|  | Umber Grey<br>(RAL 7022)          |  | Black<br>(RAL 9005)              |

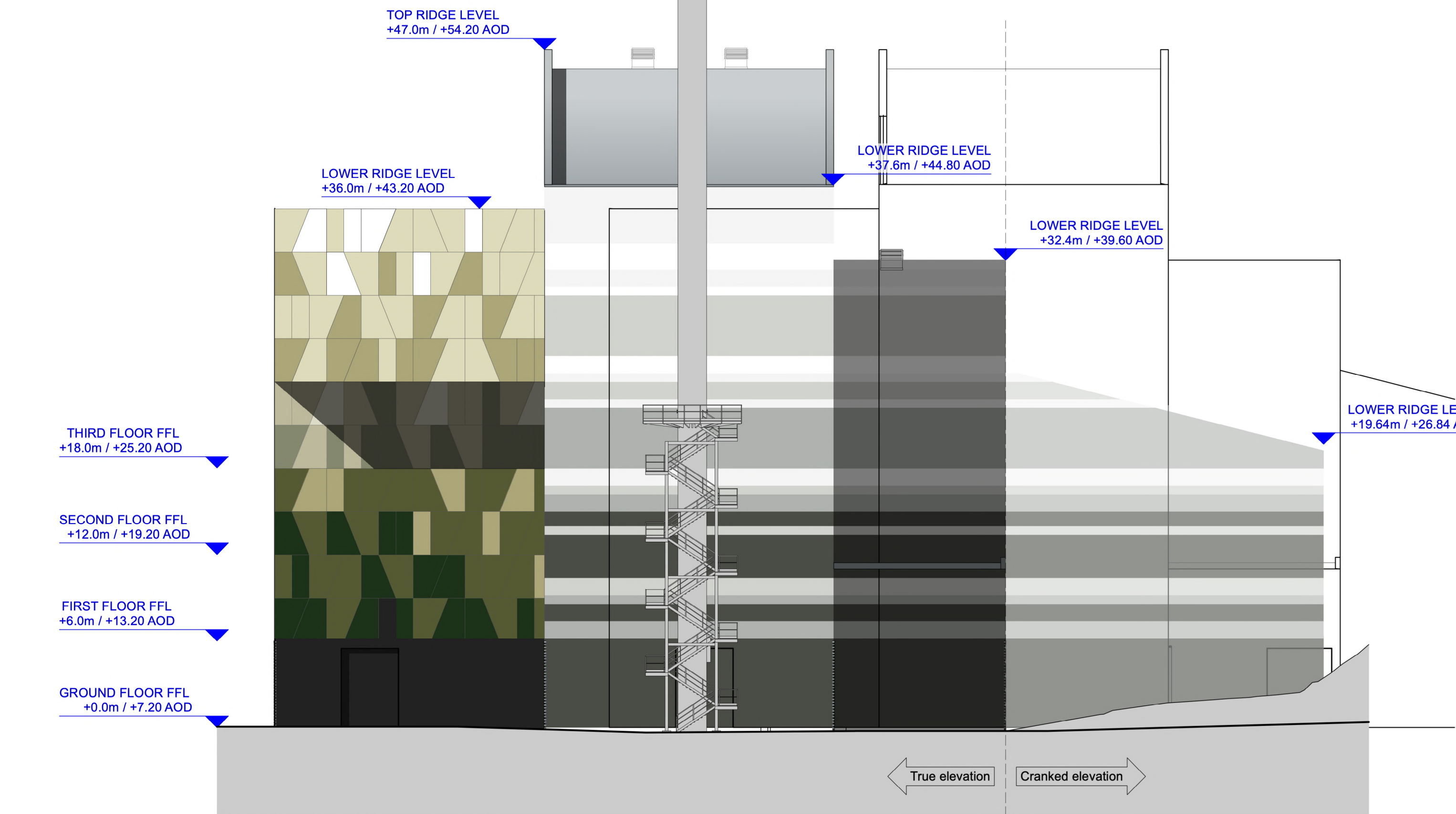




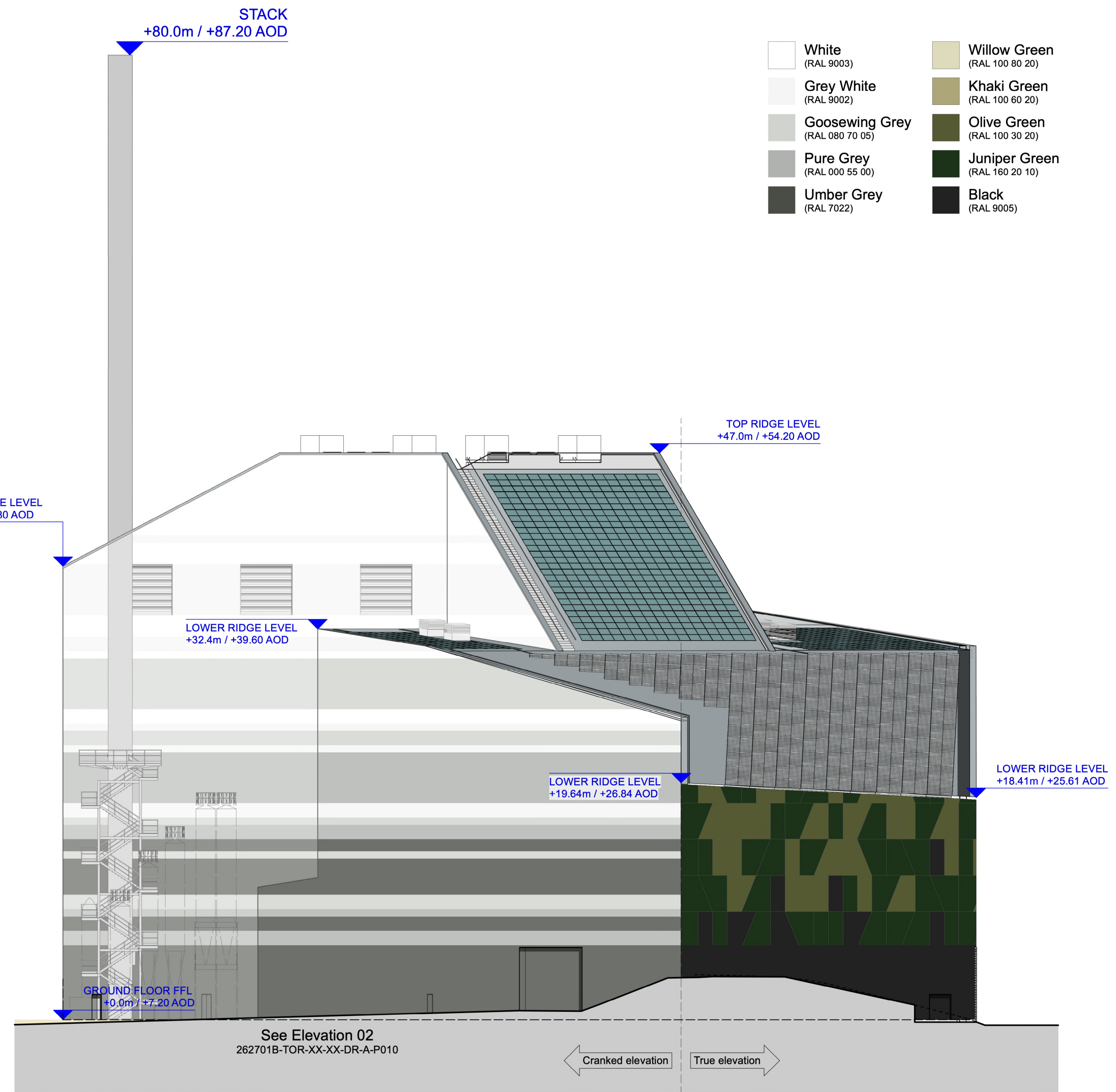


Main Plant Building  
Elevation locations plan key  
NTS

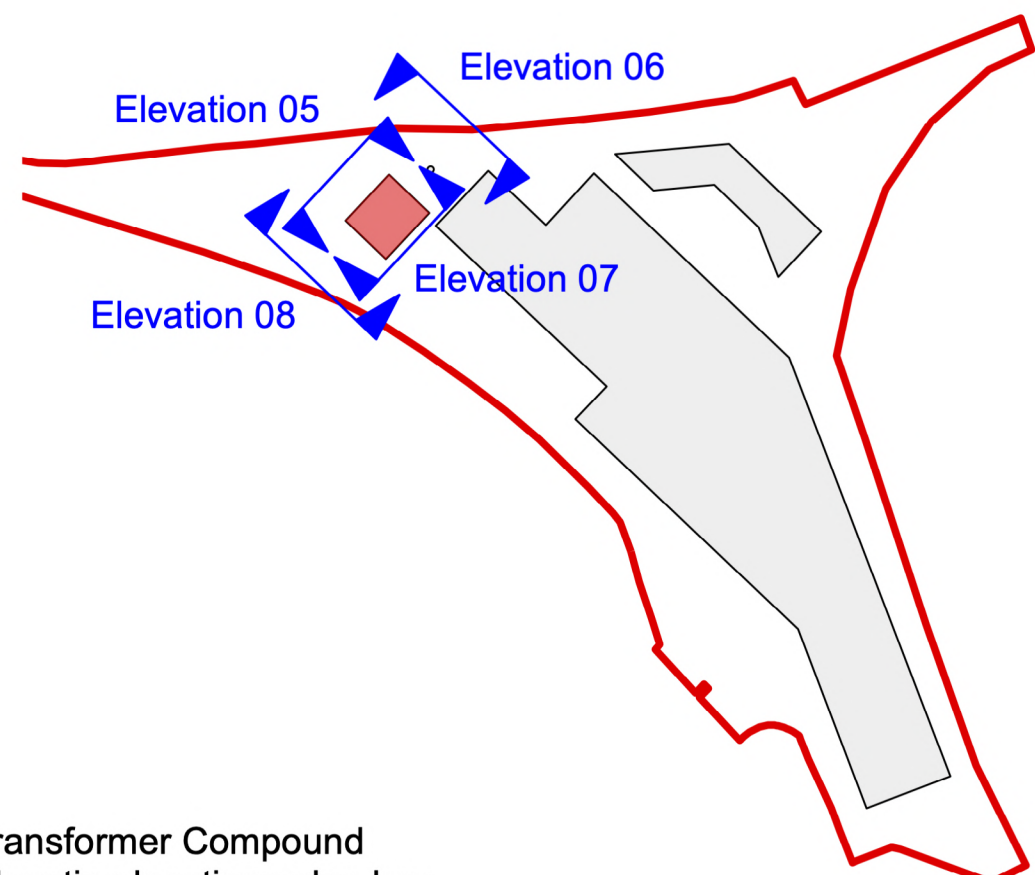
|                                   |                                  |
|-----------------------------------|----------------------------------|
| White<br>(RAL 9003)               | Willow Green<br>(RAL 100 80 20)  |
| Grey White<br>(RAL 9002)          | Khaki Green<br>(RAL 100 60 20)   |
| Goosewing Grey<br>(RAL 080 70 05) | Olive Green<br>(RAL 100 30 20)   |
| Pure Grey<br>(RAL 000 55 00)      | Juniper Green<br>(RAL 160 20 10) |
| Umber Grey<br>(RAL 7022)          | Black<br>(RAL 9005)              |



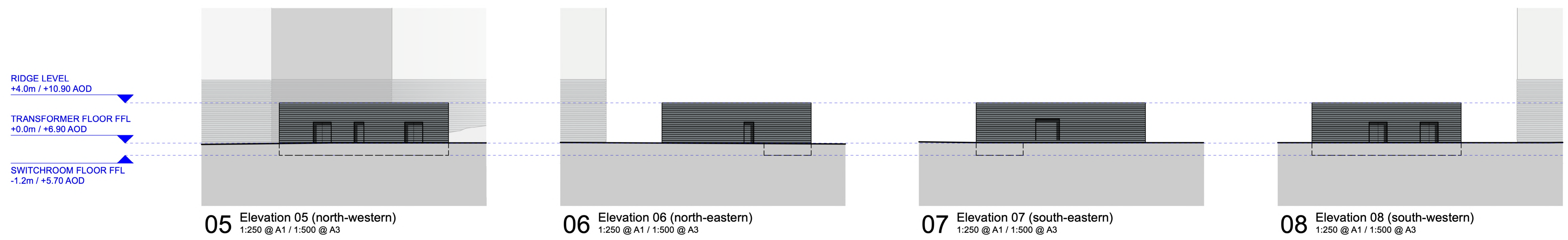
03 Elevation 03 (north-western)  
1:250 @ A1 / 1:500 @ A3



04 Elevation 04 (south-eastern)  
1:250 @ A1 / 1:500 @ A3



Transformer Compound  
Elevation locations plan key  
NTS

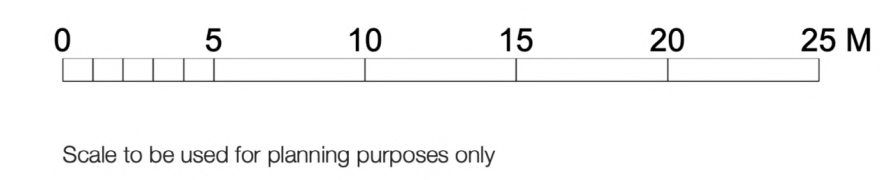


05 Elevation 05 (north-western)  
1:250 @ A1 / 1:500 @ A3

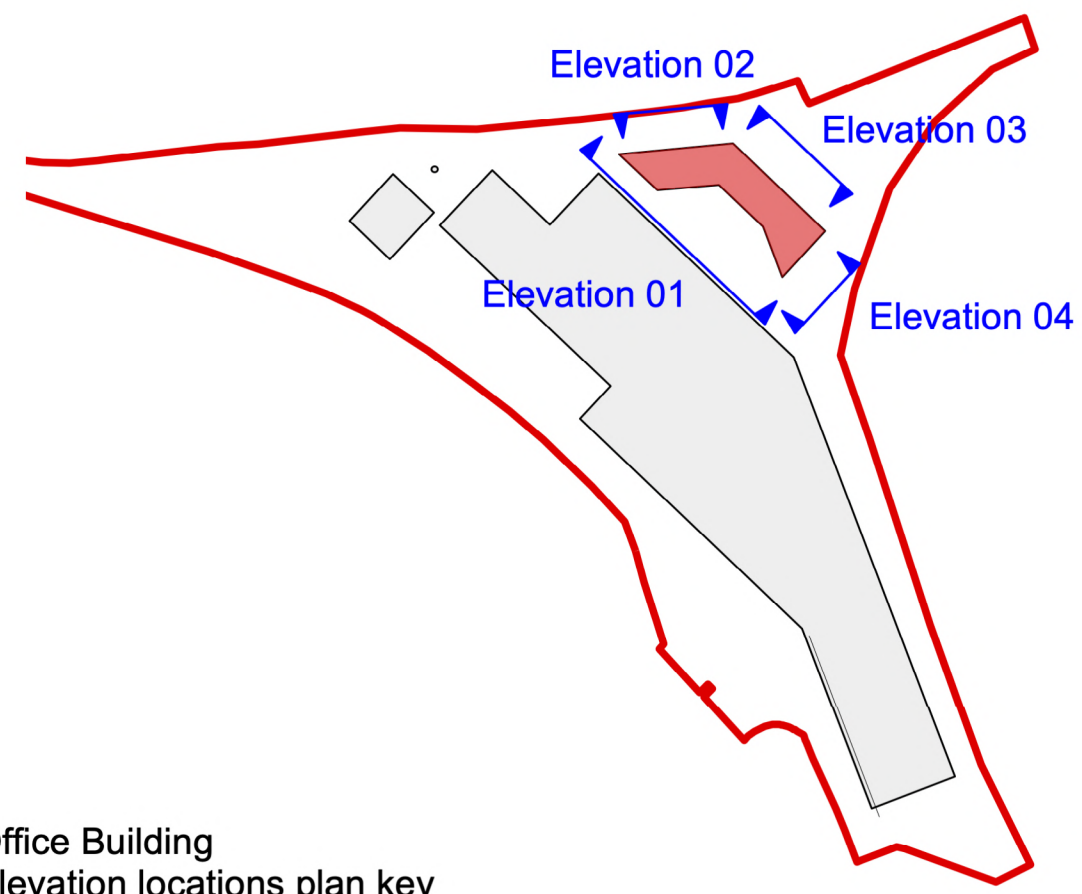
06 Elevation 06 (north-eastern)  
1:250 @ A1 / 1:500 @ A3

07 Elevation 07 (south-eastern)  
1:250 @ A1 / 1:500 @ A3

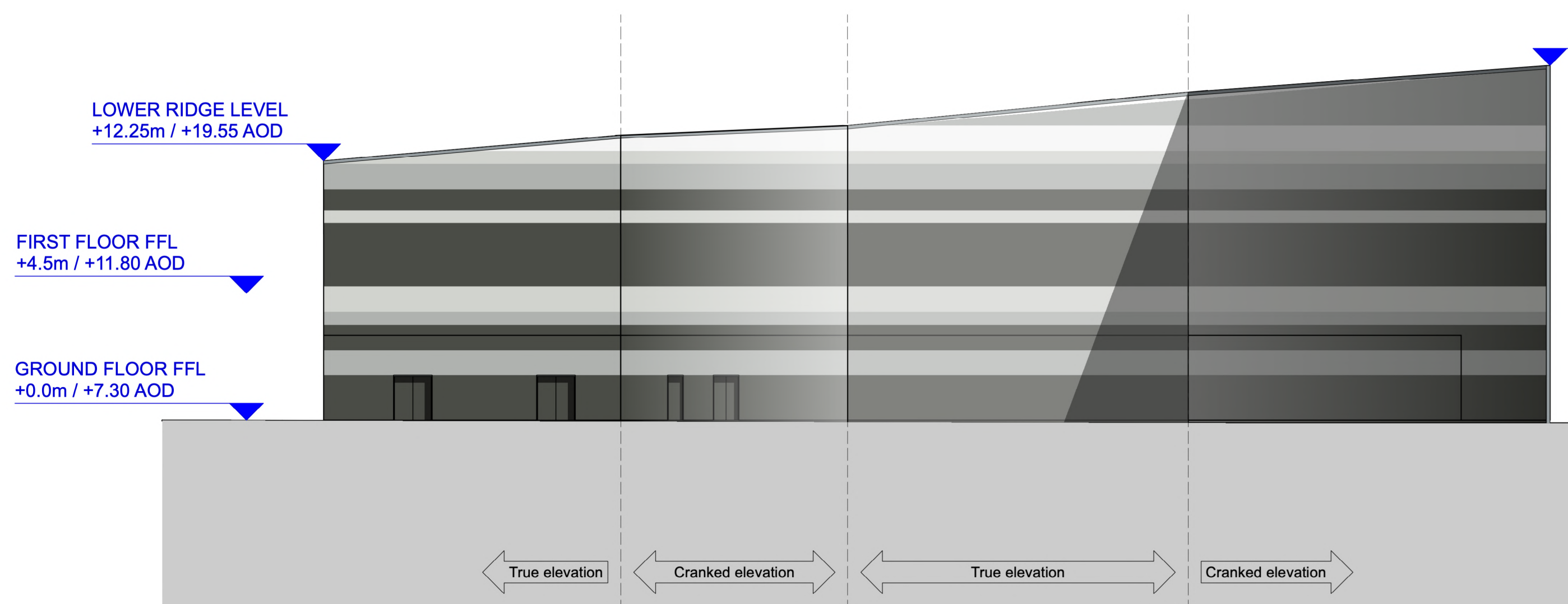
08 Elevation 08 (south-western)  
1:250 @ A1 / 1:500 @ A3



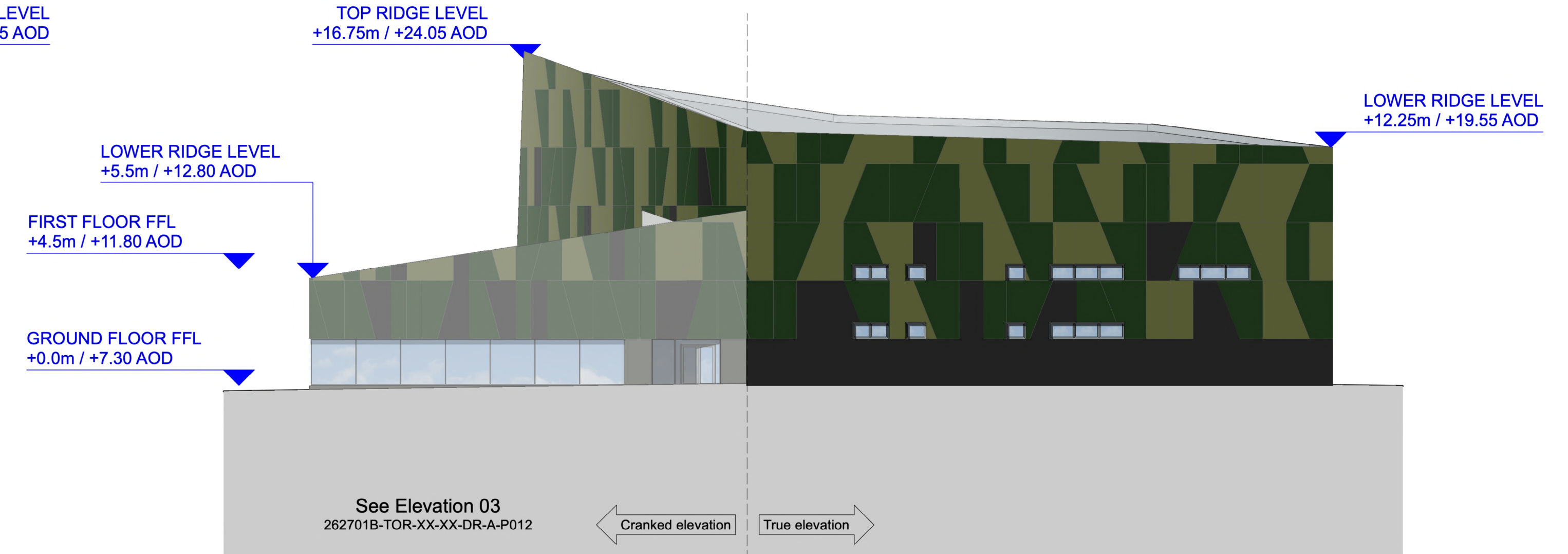




|  |                                   |  |                                  |
|--|-----------------------------------|--|----------------------------------|
|  | White<br>(RAL 9003)               |  | Willow Green<br>(RAL 100 80 20)  |
|  | Grey White<br>(RAL 9002)          |  | Khaki Green<br>(RAL 100 60 20)   |
|  | Goosewing Grey<br>(RAL 080 70 05) |  | Olive Green<br>(RAL 100 30 20)   |
|  | Pure Grey<br>(RAL 000 55 00)      |  | Juniper Green<br>(RAL 160 20 10) |
|  | Umber Grey<br>(RAL 7022)          |  | Black<br>(RAL 9005)              |



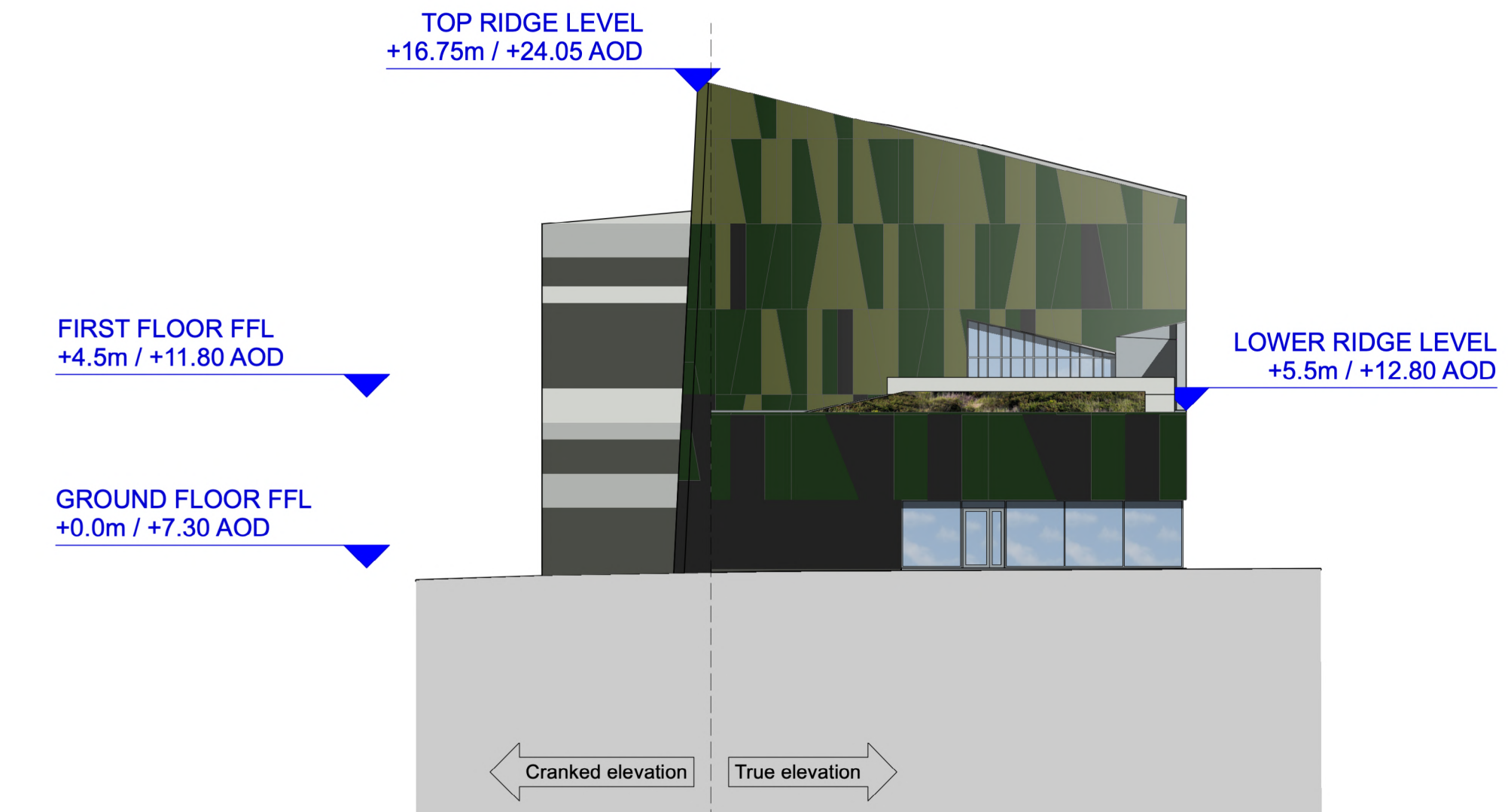
**01** Elevation 01 (south-western)  
1:200 @ A1 / 1:400 @ A3



**02** Elevation 02 (northern)  
1:200 @ A1 / 1:400 @ A3



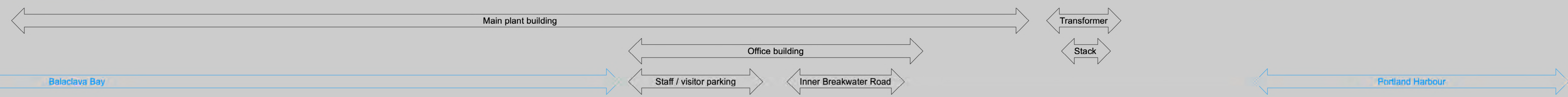
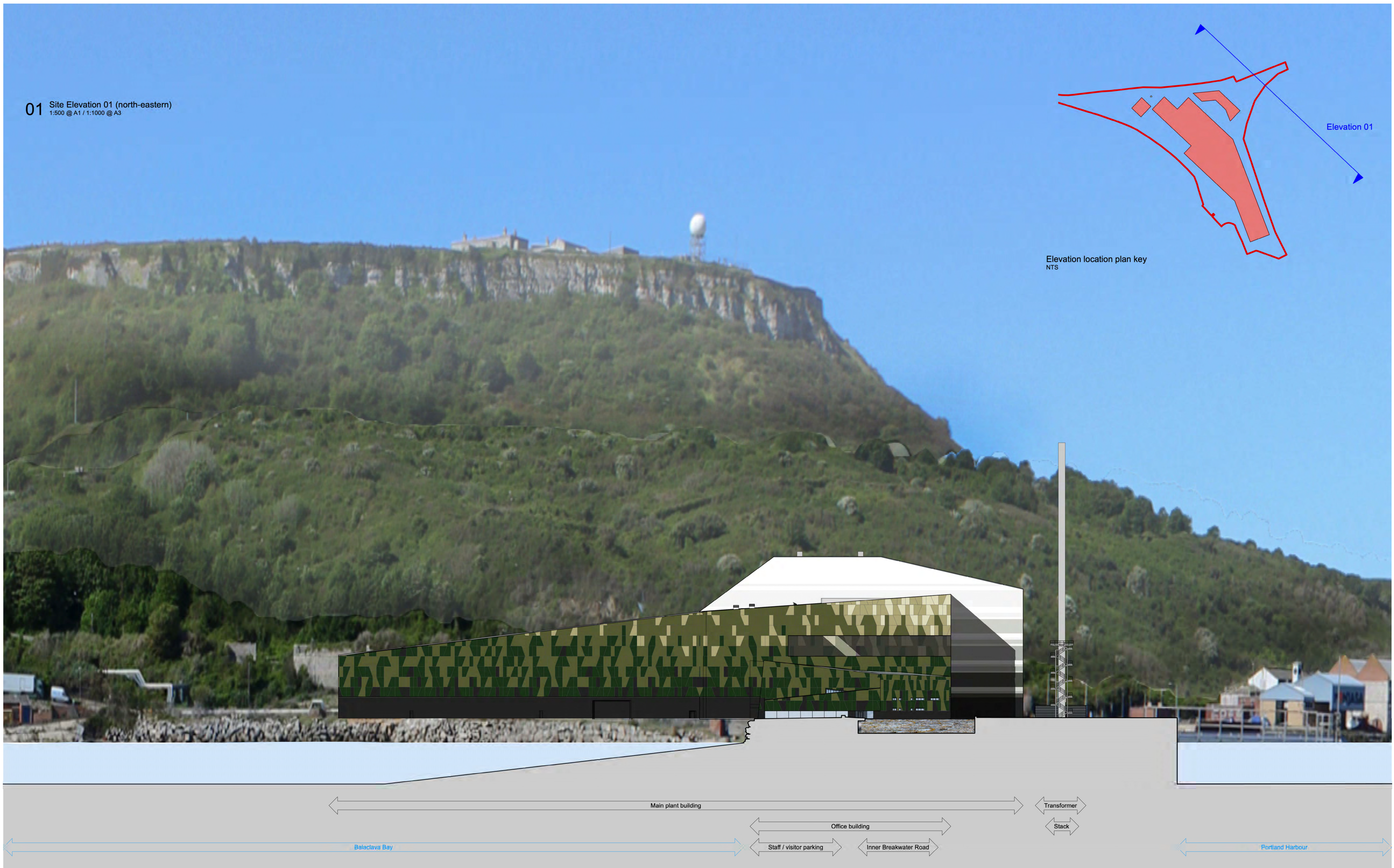
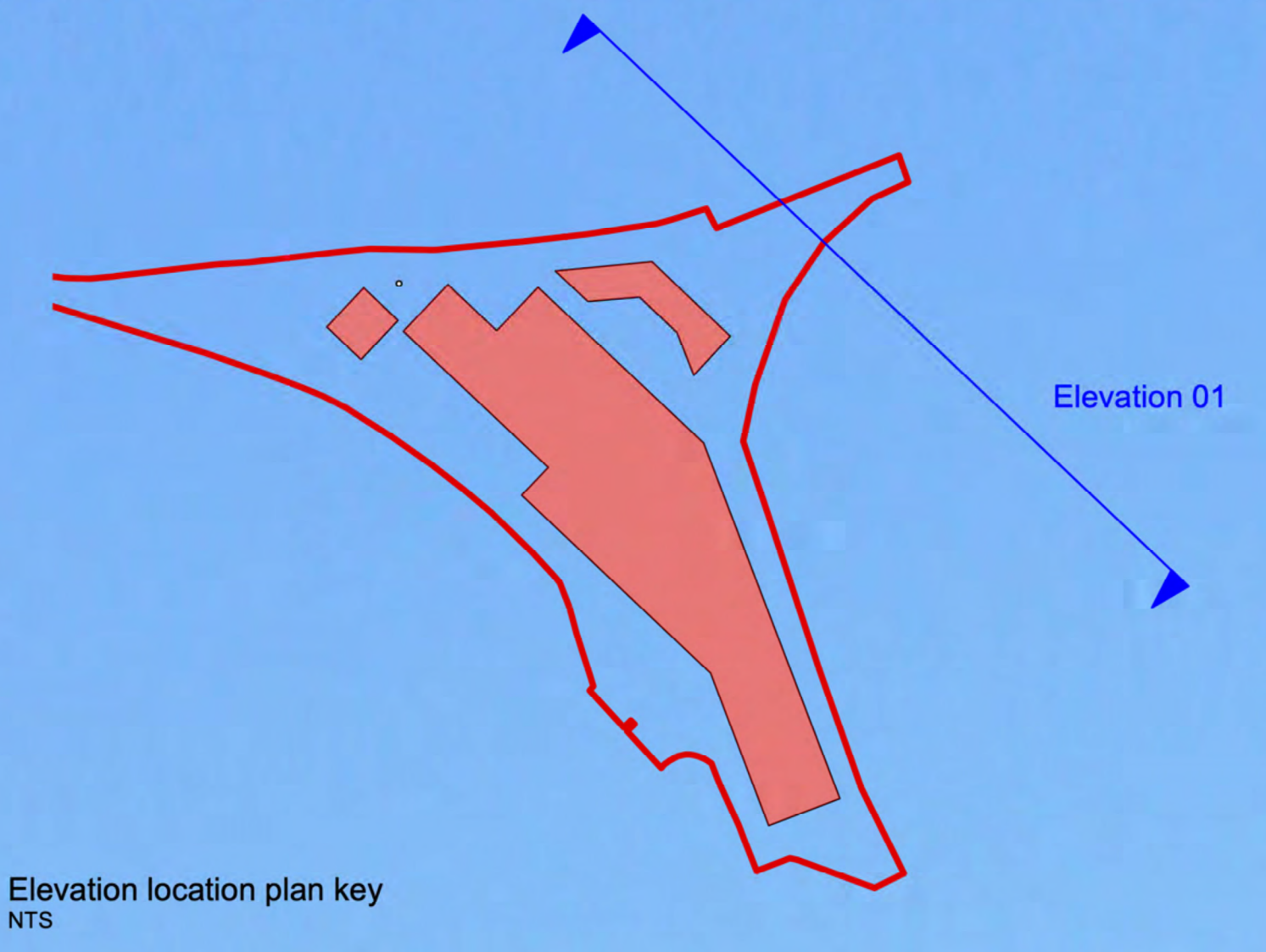
**03** Elevation 03 (north-eastern)  
1:200 @ A1 / 1:400 @ A3



**04** Elevation 04 (south-eastern)  
1:200 @ A1 / 1:400 @ A3



01 Site Elevation 01 (north-eastern)  
1:500 @ A1 / 1:1000 @ A3





**Appendix C Summary of Matters Raised by Interested Parties and the Appellant's Summary Response (Excluding matters already dealt with in respect to Reasons for Refusal)**

| No.                            | Summary of comments in relation to other matters raised by Interested Parties  | Appellant's summary response   |
|--------------------------------|--|--|
| <b>Alternatives</b>            |  |  |
| 1.                             | There is a misinterpretation of Policy 4 criterion a in respect to the assessment of allocated Waste Plan sites.       | The Appellant's assessment of allocated sites was undertaken to demonstrate that the Appeal Site and the proposed ERF has advantages over the allocated sites in being capable of delivering an ERF of the type and capacity proposed, as required by Policy 4 (criterion a),  |
| 2.                             | The role that Waste Plan allocated sites can play in meeting Dorset's shortfall in residual waste management capacity. | The Appellant has not sought to demonstrate that the Waste Plan allocated sites could not manage the predicted shortfall residual waste. However, from its assessment of the allocated sites and their constraints relative to the Appeal Site, there is significant doubt as to whether the allocated sites will be able to deliver sufficient capacity to meet all of Dorset's stated needs.   |
| 3.                             | The comparative site assessment is flawed.   | The Appellant considers the comparative assessment exercise to be sound, robust and the comments made in respect to individual criteria are either entirely unfounded and/or would make no difference to the outcome of the assessment, which concludes that the Portland site has significant advantages over the Waste Plan allocated sites.   |
| 4.                             | The Portland site should have been brought forward for assessment through the preparation of the Waste Plan.           | The site was not considered in the Waste Plan even though the site was known to the Dorset Waste Partnership and was actively being discussed as a potential location for a strategic waste management facility to serve Dorset. Promotion of an unallocated site with clear advantages over other allocated sites is entirely permitted under Policy 4 (criterion a) and in no way undermines the Waste Plan.   |
| <b>The fallback scheme</b>     |  |  |
| 5.                             | The planning consents granted for the energy plant scheme (the fallback position) are not extant.                      | DC's position is that the relevant consents have been implemented through a material start on site and that the permission is extant. The applicant is now seeking planning permission to construct the Appeal Proposal. However, the planning permission granted for an energy plant fuelled by vegetable oil and/or waste tyres and the subsequent Certificate of Lawful Development together confirm the principle of locating an energy recovery facility in this previously developed industrial port location. |
| <b>Combined heat and power</b> |  |  |
| 6.                             | The proposal does not make provision for combined heat and power (CHP).  | The ERF is designed to provide both heat and power and would be equipped to deliver CHP, through the provision of electricity to the shore power facility and/or the wider electricity distribution network and energy in the form of heat to a district heating network.  |

| No.   | Summary of comments in relation to other matters raised by Interested Parties                                      | Appellant's summary response  |
|---|--|---|
| 7.  | The district heating network is unlikely to be deliverable.  | The district heating network, whilst not part of the application, is fully deliverable and viable in policy, technical and commercial terms. The heat network would initially provide heat to the two Portland prisons, with the network expanding in future as other users come forward.   |
| 8.  | Terrain is a significant constraint to building a district heating network   | The District Heating Strategy Paper identifies an indicative route between the Appeal Site and the two prisons, utilising existing road corridors (which provides a conduit for other utilities and services). Terrain is not a constraint to implementation of the heat network infrastructure. The ES Addendum has also concluded that there are no overriding environmental constraints to a local heat network.                                   |
| <b>Electrical generation and distribution</b> |  |   |
| 9.  | No information provided on the method of connection to the electricity grid network.                               | The grid connection would comprise a new cable that would be buried beneath the existing public highway similar to other utilities infrastructure. The potential environmental effects are considered in the ES and the impact is not significant. Any potential effects would be temporary during the construction phase   |
| <b>Shore power</b>                            |  |   |
| 10.   | Cruise liner visits to Portland will decline as a result of impact from the Covid 19 pandemic.                     | Whilst the Covid 19 pandemic inevitably had an impact on the cruise industry, this has been temporary. Post easing of Covid 19 restrictions, the Port has seen a surge in bookings, and these are in excess of those used in the shore power and socio-economic modelling for the planning application.   |
| 11.   | Only half of visiting cruise liners to Portland are equipped to connect to shore power and capable of benefiting.  | The number of cruise liners (equipped with shore power) visiting Portland will increase over time as new ships join the fleet with in-built shore power capability and older ships are refitted and retrofitted with shore power capability. Many ships including the stationed RFA fleet are already equipped to accept shore power.   |
| 12.   | Doubt is cast on the number and duration of stay of large ship visits to Portland.                                 | The figures for cruise ship calls were provide by the Port and the basis for the numbers is as described in the application documentation.  |
| 13.   | More information is required on the Royal Fleet Auxiliary (RFA) contract, number and duration of RFA ship docking. | The Port's contract with the Royal Navy is confidential. However, the figures for RFA ship calls were provided by the Port and form the basis for the numbers is as described in the planning application documentation. For assessment purposes the assumed number of days that RFA ships will be docked at the Port is 260. However, this is a conservative figure, and the number of berth days has typically been 20-30% higher than this figure. |
| 14.   | Doubt is cast over the likely loss of cruise ship visits due to the absence of shore power at Portland.            | The Port is seeking to attract more cruise liner visits to Portland and secure greater economic benefit for Portland and the wider Dorset area, from growth in the cruise sector. However, the predicted increase in ship visits is unlikely to be sustained over future years if the Port cannot provide shore power (see Appendix E).   |



| No.                                  | Summary of comments in relation to other matters raised by Interested Parties  | Appellant's summary response   |
|--------------------------------------|--|--|
| 15.                                  | Use of shore power for ships delivering RDF to Portland.   | The fuel supply ships are relatively small in terms of power requirement and would only be docked for a short period of time (a few hours) and it has never been claimed that shore power would be made available for these vessels. The benefit of shore power is related to larger cruise liners and RFA shipping that will be in dock for longer periods of time (days) and will have significantly greater power demands.  |
| 16.                                  | Doubt is cast on the credibility of number of visits of cruise ships and RFA ships and the weight applied to shore power.                                      | The figures for ship calls were provided by the Port and are highly credible. The provision of shore power and its associated environmental and economic benefits should be afforded substantial positive weight in the overall planning balance.  |
| <b>Design and material</b>           |  |  |
| 17.                                  | Use of profiled cladding and printed PVC mesh would not reflect any seasonal changes in the surrounding vegetation and its long term durability is questioned. | The printed PVC mesh has been replaced by a traditional metal cladding system, with a range of colours. The details of external materials can be agreed by means of a suitably worded planning condition.  |
| 18.                                  | Alternative elevational options.   | The Appellant considered potential elevational treatment options within the submitted DAS and has now applied a variation of these to the Appeal Scheme, as part of its Appeal Proposal.   |
| <b>Air quality and public health</b> |  |  |
| 19.                                  | Concerns over public health impacts from air and other pollution.  | The emissions from the ERF have been modelled using sophisticated air quality modelling and this has been subject to independent checking by DC's own technical consultants and is also subject to rigorous review by the Environment Agency under the Environmental Permitting regulations, the statutory authority for controlling emissions. The Human Health Risk Assessment (HHRA) and Health Impact Assessments (HIA) and updates together demonstrate that the Appeal Proposal would not have an adverse impact on public health. |
| 20.                                  | Air quality - Impacts on staff and inmate health at the HM Prisons.  | Updated analysis concludes, consistent with the original submitted analysis, that the impact on occupants at HMP The Verne from the ERF alone would be negligible. Public Health England responded to the original analysis, confirming the modelling and assessment criteria used were in line with UK guidance and good practice and further that it was satisfied the approach taken was conservative, but not over-precautionary in terms of approaches to assessing the potential risks.  |
| 21.                                  | Emissions from shipping – Evidence of potential health benefits.   | Shore power would reduce impacts of existing emissions from vessels docked in port which would otherwise be using onboard engines to provide power which generally results in a general improvement to air quality and human health, relative to the existing position.  |
| 22.                                  | Health Impact Assessment – Potential impact on physical and mental health and well-being.  | These matters are addressed in the update to the Human Health Risk Assessment (HHRA) and Health Impact Assessment (HIA), appended to the   |

| No.  | Summary of comments in relation to other matters raised by Interested Parties | Appellant's summary response  |
|--|---|---|
|  |   | ES Addendum. There is no significant impact on physical and mental health and well-being.   |
| 23.  | Exclusion of on-site emissions – Back up diesel generator.                    | The inclusion of the operation of the back-up diesel generators does not change the conclusions of the assessment that “the impact on air quality is not significant”.  |
| 24.  | Overall air quality assessment conclusions                                    | The air quality assessment has provided sufficient consideration of the combined impacts of process and traffic emissions associated with the proposed development. Potentially significant air quality impacts on the SAC were identified but this has been fully considered in the shadow Appropriate Assessment and subsequently DC's Appropriate Assessment.  |
| <b>Carbon balance and greenhouse gas emissions</b> |   |   |
| 25.  | Use of landfill as the comparator for carbon assessment.                      | Residual waste, being that which cannot be practicably recycled, can only be treated by ERF or landfill. Comparing it with landfill is realistic. If insufficient ERF plants are built, then more landfills will be required.   |
| 26.  | Alternative carbon assessment scenarios.                                      | The revised Carbon Assessment includes a more detailed comparison of the current treatment methods for Dorset's waste with the proposed Portland ERF and demonstrates that there is carbon benefit.   |
| 27.  | Alternative carbon assessment scenarios – Marchwood or Lakeside ERF.          | Power generated at Lakeside and Marchwood, while beneficially displacing power from other power stations, cannot displace diesel engines used on ships. This can only be done by generating power at the port. The slight benefit of Lakeside over Portland is not dismissed, but the potential benefits of shore power need to be considered as well. Similarly, the potential for CHP is greater at Portland. |
| 28.  | Alternative carbon assessment scenarios – Export to European ERF              | In 2018 52 million tonnes of municipal waste was sent to landfill and 58 million tonnes was incinerated in Europe. This suggests that there is more than enough waste available to keep all of the ERF plants in Europe operating at full capacity, which is the most economically sensible approach.   |
| 29.  | Alternative carbon assessment scenarios – Dorset Waste Plan allocated sites   | Whilst transporting waste to Portland would lead to marginally higher carbon emissions from transport, this is outweighed by the benefit of generating power at the port. There is insufficient power available at the port to export power to ships. It is also outweighed by the ERF's ability to supply a district heat network, with the Ministry of Justice identified as an anchor network customer.      |
| 30.  | Carbon assessment - CHP   | The facility, with the provision of shore power, has a carbon benefit over landfill and all other identified UK based ERF options in both cases, with the benefit further increasing if heat is exported. The conclusion that there would be a significant beneficial effect is valid whether CHP is provided or not.   |



| No.                                    | Summary of comments in relation to other matters raised by Interested Parties                                      | Appellant's summary response  |
|--|--|---|
| 31.                                    | Carbon assessment – CHP and environmental effects from construction.   | The Carbon Assessment provides information on the impacts without heat generation, which is only assessed as a possible additional benefit that could occur if heat is to be provided in future. In the unexpected event that heat was not provided the Portland ERF (with Shore Power) would outperform all other identified UK processing options, including landfill and other existing and potential ERFs. The effects of constructing the network via these routes has been assessed through the ES Addendum.  |
| 32.                                    | Carbon neutrality and position on carbon capture and storage.  | The Appellant is prepared to consider carbon capture and storage technologies as and when these become technically and economically viable. The Appeal Site has the significant advantage of being located within a commercial port. Potential exists to utilise existing port infrastructure for carbon capture, storage and transportation.   |
| 33.                                    | Inappropriate use of counterfactual baseline.  | The counterfactual baseline (landfill) is appropriate as the UK does not have enough capacity to treat all residual waste, so significant volumes of waste is landfilled. If a new EfW is built in the UK, this means that less waste overall will be sent to landfill and therefore, at a national level, the correct comparator is landfill. This approach is supported by national guidance.   |
| 34.                                    | Cost estimates for carbon mitigation or estimates regarding the profitability of the facility to cover mitigation. | This is not a planning consideration.   |
| <b>Economic effects and jobs</b>       |  |   |
| 35.                                    | Economic effects of shore power (cruise business).   | While future cruise calls are likely to turn out to be more than envisaged in the economic analysis (and the actual number is higher than the higher assumption used), meaning that the Appellant and its technical consultants adopted a conservative approach. Doing so ensures that neither energy infrastructure and associated costs are underestimated, nor the economic impact of the scheme is exaggerated.   |
| 36.                                    | Employment creation – use of multipliers.  | The multipliers used are realistic and appropriate.   |
| 37.                                    | The waste management costs, and potential savings figures provided are misleading.                                 | Local authorities are expected to be able to realise significant monetary savings by substituting their current use of landfill for waste treatment at the Appeal Proposal site. This is because landfill rates are likely to be more expensive than the plant gate fees. Even if the amount of waste disposed of to landfill reduces over time, this is still likely to result in significant financial cost, aside from the environmental costs associated with landfill being the least sustainable waste management option under the waste hierarchy. |
| <b>Ground conditions and hydrology</b> |  |   |
| 38.                                    | It is unclear whether the extent of the study area is sufficient to assess the impacts of the cable route.         | The main development site was the focus of the study as the works along the cable routes only comprise shallow linear excavations within the existing road network.   |

| No.                     | Summary of comments in relation to other matters raised by Interested Parties   | Appellant's summary response  |
|-------------------------|---|---|
| 39.                     | It is unclear whether the grid connection will be buried or will be overground, with potential for significant construction impacts.            | The cables are to be buried, and construction is not expected to give rise to any significant impacts.  |
| 40.                     | Suitability and extent of ground investigation, the need for further ground investigation and validity of ES conclusions.                       | Sufficient information has been submitted to support the ES assessment and conclusions. Further extensive ground investigation will be required to fully assess risks associated with contamination, to inform a remediation strategy and to satisfy environmental regulators. This would be addressed through suitable planning conditions and other regulation.   |
| 41.                     | There is potential for ground instability at this location, and therefore any planned mitigation measures, have not been adequately considered. | A Preliminary Slope Stability Assessment has concluded that the Appeal Proposal would not give rise to any significant ground stability issues that would preclude construction of the ERF in this location.  |
| <b>Natural heritage</b> |   |   |
| 42.                     | There are multiple technical deficiencies within the shadow Habitat Regulation Assessment (sHRA).   | An Updated Shadow Appropriate Assessment was submitted to provide additional technical information, where this was deemed to be necessary. This was reviewed by both DC and Natural England. DC's specialist HRA advisor considered this to be comprehensive and robust, allowing DC as the 'competent authority to undertake its Appropriate Assessment. The Environment Agency has also completed its Appropriate Assessment in relation to areas of the project within its jurisdiction further evidencing the robustness of the sHRA.   |
| 43.                     | Impact on the Chesil Beach and the Fleet SPA/Ramsar site.   | DC's Appropriate Assessment has been reviewed by Natural England and it agrees with its conclusion that there would not be Likely Significant Effects on European or internationally designated sites as result of traffic emissions related to the development. The Environment Agency is also undertaking an Appropriate Assessment under its Environmental Permitting regime. The Appellant understands that this also concludes that there would not be Likely Significant Effects on European or internationally designated sites as result of process emissions arising from the development. As such, there would not be likely significant effects on the Chesil Beach and the Fleet SPA/Ramsar site. |
| 44.                     | Impact on the Portland to Studland Cliffs SAC   | DC's Appropriate Assessment has been reviewed by Natural England and it agrees with its conclusion that there would not be Likely Significant Effects on European or internationally designated sites as result of traffic emissions related to the development. The Environment Agency is also undertaking an Appropriate Assessment under its Environmental Permitting regime. The Appellant understands that this also concludes that there would not be Likely Significant Effects on European or internationally designated sites as result of process emissions arising from the development. As such, there would not be likely significant effects on the Portland to Studland Cliffs SAC.            |



| No.                          | Summary of comments in relation to other matters raised by Interested Parties  | Appellant's summary response   |
|------------------------------|--|--|
| 45.                          | Omissions within the ecology baseline and incorrect application of survey methodology .  | There are no omissions within the ecology baseline. The methodology and extent of ecological survey undertaken was fully considered by the Dorset Natural Environment Unit (DNET) and Natural England and has been considered to be satisfactory.  |
| 46.                          | Adverse Impact upon on-site ecology and loss of priority habitats.   | The ecological value of the site is generally low. However, any loss is mitigated through the proposed Biodiversity Plan. The Biodiversity Plan includes on-site provisions and financial contributions to relevant local off-site projects, and this has been agreed with the DNET. The enhancement proposals would provide habitats of a significantly better quality than those currently present, focussing on mitigation for the loss of on-site habitats and ensuring an overall net gain. |
| 47.                          | There is no provision made for biodiversity net gain.  | The policy for achieving biodiversity enhancements in Dorset, is specified through the DNET Biodiversity Appraisal Protocol (BAP). This requires a Biodiversity Plan to be produced, which provides detailed mitigation and enhancement strategies for the site. A Biodiversity Plan has been approved by DNET ensuring an overall net gain of biodiversity.   |
| 48.                          | Adverse impact on the marine environment and protected areas, including the Studland to Portland Marine Protected Area (MPA), South of Portland Marine Conservation Zone and the Chesil Beach and the Stennis Ledges Marine Conservation Zone. | Potential impacts on the marine environment were assessed by specialist marine consultancy ABPmer (ES Addendum Appendix 9.3). This concluded that the ERF would not have any significant effects (in respect to potential emissions to the air or water) on the marine environment, protected areas or associated human health.  |
| 49.                          | Adverse impact on the Portland SSSI.   | The ES and related addendums have considered potential effects on the Isle of Portland SSSI and has concluded that there would be no significant impacts. This is the agreed position with DC and Natural England.   |
| <b>Traffic and transport</b> |  |  |
| 50.                          | The Transport Assessment is technically deficient.   | Whilst a minor transcription error was identified, this has since been corrected and it does not change the conclusion of the Transport Assessment, which concludes that there would not be any significant impacts on the road network. The Transport Assessment has been technically assessed by the DC highways authority and is deemed to be comprehensive and robust in all respects.   |
| 51.                          | Potential adverse impact of HGVs on the England Coast Path route.  | The Portland ERF would cause only one vehicle every 15 minutes to pass the location of the England Coast Path crossing point, which is considered to be a normal level of interaction with traffic. Dropped kerbs and traffic islands exist to assist safe pedestrian crossing, such that there would be no significant impact on the England Coast Path.  |
| <b>Policy/Guidance</b>       |  |  |
| 52.                          | Contravenes Waste Plan Policy 6 (Recovery facilities) – (Treatment of IBA and APCR)  | Waste Plan Policy 6 requires that processing facilities for incinerator bottom ash (IBA) must be located at or close to the source of the waste arising. This is an unusual requirement as most IBA arising  |

| No.          | Summary of comments in relation to other matters raised by Interested Parties | Appellant's summary response   |
|--------------|---|--|
|              |   | from other UK ERFs is sent to specialist reprocessing facilities. None of these facilities are located in Dorset. The Appellant has demonstrated that the port location allows IBA to be exported by sea to re processing facilities located at Greenwich or Avonmouth. This would enable IBA to be moved sustainably to one of the nearest appropriate reprocessing facilities and complies with the policy intent which is to ensure sustainable transport of IBA.   |
| <b>Other</b> |   |  |
| 53.          | There are concerns over fire safety.  | Fire prevention would be strictly managed under the Environmental Permit process (a Fire Prevention Plan has been submitted as part of that process) and the Appellant is confident that this would ensure that fire risk is minimised and in the unlikely event that a fire occurs that appropriate procedures would be put in place to manage this effectively.  |
| 54.          | Potential for noise impacts.  | The submitted and updated noise assessment has concluded that the noise effects on local residents and businesses, from the construction and operation of the facility are not considered to be significant. It also highlighted that construction noise would be controlled through best practice means of working and operational noise through the ERF building design. The submitted HIA has also considered the potential for health impacts associated with noise during construction and operation of the ERF and concluded that this would not give rise to any significant health impacts. The concerns expressed in respect to noise are unfounded.  |
| 55.          | Potential for odour impacts.  | Odour was scoped out of the EIA as not significant. Chapter 2 of the ES sets out the mitigation measures that would be put in place to control odour. The Environmental Permit will also include conditions to prevent fugitive emissions beyond the boundary of the site. The concerns expressed in respect to odour are unfounded  |
| 56.          | Potential impact on tourism   | <p>The submitted EIA demonstrates that the ERF would deliver substantial economic benefits for Portland, Weymouth and Dorset and the provision of shore power at Portland Port would safeguard existing jobs and support future local economic growth in tourism and other related activities associated with the cruise liner visit business.</p> <p>There is no evidence that the ERF would have an adverse economic effect on Weymouth and Portland as destinations. There are examples of ERFs being located in tourist locations, including the Spittelau facility in Austria and Amager Bakke facility in Denmark, which through their designs have become local tourism attractions in their own right.</p> |



| No. | Summary of comments in relation to other matters raised by Interested Parties | Appellant's summary response   |
|-----|---|--|
|     |   | The Portland ERF has been carefully designed to be recessive in its setting, and whilst it is clearly not a tourist destination in its own right, it would as a consequence of its unique architectural design be a feature of some interest.  |
| 57. | Potential for water pollution.  | The potential environmental effects of the Appeal Proposal are considered in the ES, taking account of the measures proposed to protect the water environment. These control measures, relating to the control of surface water drainage and waste water are set out in Chapter 2 of the ES. Potential environmental impacts are also addressed in Chapter 8 of the ES (ground conditions and water quality). This details a number of measures that would be taken as part of an environmental management system to safeguard water quality. The assessment has also considered the potential for spillages from vehicles and from the delivery of RDF material to the site by ship. A Framework Construction and Environmental Management Plan (CEMP) has been submitted, to be agreed with the Environment Agency and Dorset Council, to ensure that there are no adverse impacts on coastal water or ground water quality. The operation of the site would also be controlled through the Environmental Permit. As such the potential for any pollution of the water environment is considered to be negligible and not significant. |
| 58. | Impact from light pollution.  | The Lighting Statement considered the potential for light spill taking account of the existing lighting conditions and the proposals for lighting at the ERF. It sets out a range of mitigation measures to minimise the potential for light spill and a lighting strategy. It concludes that operational requirements can be met whilst minimising light spill beyond the site and the surrounding area.  |
| 59. | Employment potential for local people.  | The Appellant has set out in the Planning Supporting Statement its intention to employ local people where possible for construction and operation of the facility and also its commitment to encouraging construction contractors to operate an apprenticeship scheme. The ambition is to develop a longer term apprenticeship scheme, working with local colleges and companies.  |
| 60. | Impact on local property values.  | Potential effect on property values is not a planning issue. Nonetheless, it is not expected that the ERF would result in any significant change in property values, based on experience from other UK locations where ERFs have been developed.   |

## **Appendix D Schedule of Policies and Documents to which the Appellant Intends to Refer or Rely**

### **Development Plan**

#### **Bournemouth, Christchurch, Poole and Dorset Waste Plan 2019**

- Policy 1 Sustainable waste management
- Policy 2 Integrated waste management facilities
- Policy 4 Applications for waste management facilities not allocated in the Waste Plan
- Policy 6 Recovery facilities
- Policy 12 Transport and access
- Policy 13 Amenity and quality of life
- Policy 14 Landscape and design quality
- Policy 15 Sustainable construction and operation of facilities
- Policy 16 Natural resources
- Policy 17 Flood risk
- Policy 18 Biodiversity and geological interest
- Policy 19 Historic environment
- Policy 21 South East Dorset green belt
- Policy 22 Waste from new developments

#### **West Dorset, Weymouth and Portland Local Plan 2011-2031 (2015)**

- INT1 – Presumption in favour of sustainable development
- ENV 1 Landscape, seascape and sites of geological interest
- ENV 2 Wildlife and habitats
- ENV 3 Green infrastructure network
- ENV 4 Heritage assets
- ENV 5 Flood risk
- ENV 9 Pollution and contaminated land
- ENV 10 The landscape and townscape setting
- ENV 12 The design and positioning of buildings
- ENV 13 Achieving high levels of environmental performance
- ENV 16 Amenity
- SUS 2 Distribution of development
- ECON 2 Protection of key employment sites



- COM 7 Creating a safe and efficient transport network
- COM 9 Parking standards for new development
- COM 11 Renewable energy development

#### **Minerals Strategy (2014)**

- SS1 Presumption in favour of sustainable development
- SG1 Mineral safeguarding area
- SG2 Mineral consultation area

#### **Portland Neighbourhood Plan (2020)**

- Policy Port/EN0 Protection of European Sites
- Policy Port/EN1 Prevention of flooding and erosion
- Policy Port/EN2 Renewable energy development
- Policy Port/EN4 Local heritage assets
- Policy Port/EN6 Defined development boundaries
- Policy Port/EN7 Design and character
- Policy Port/BE1 Protecting existing employment sites and premises
- Policy Port/BE2 Up- grading of existing employment sites and premises
- Policy Port/BE3 New employment premises
- Policy Port/BE6 The northern arc
- Policy Port/ST1 Sustainable tourism development
- Policy Port/ST3 Tourist trails

#### **Other Policy/Material Considerations**

- National Planning Policy Framework (July 2021).
- National Planning Policy for Waste (October 2014).
- National Planning Practice Guidance
- Waste Management Plan for England 2013 & consultation (2020)
- 'Energy from Waste – a guide to the debate' (2014).
- 'Our Waste, Our Resources: A Strategy for England' (December 2018).
- Climate Change Committee – 'progress' and other reports.
- The National Policy Statement for Renewable Energy Infrastructure ('EN-1')
- The National Policy Statement for Renewable Energy Infrastructure ('EN-3')
- Consultation on National Energy Policy Statements, specifically EN-1 and EN-3.
- Energy White Paper (2007)

- The UK Low Carbon Transition Plan (2009)
- UK Draft Integrated National Energy and Climate Plan (NECP) 2019
- The Carbon Plan: Delivering our Low Carbon Future (2011)
- The Clean Growth Strategy (2017)
- A Green Future Our 25 Year Plan to Improve the Environment (2018)
- National Infrastructure Plan (2014)
- Fixing the Foundations: Creating a More Prosperous Nation (2015)
- Industrial Strategy: Building a Britain Fit for the Future (2017)
- Net Zero Strategy Build Back Greener (2021 as amended)
- Maritime 2050: Navigating the Future (2019)
- Clean Maritime Plan, 2019
- Bournemouth, Dorset and Poole Renewable Energy Strategy to 2020
- Future Portland – Portland Economic Vision and Plan (2016)
- A Strategic Economic Vision for Dorset (2016)
- Western Dorset Economic Growth Strategy (2016)
- Long-term Economic Plan for the South West (2015)



## Appendix E Carnival Letter of Support and Clarification

15<sup>th</sup> December 2022  
M Garrity Esq  
Head of Planning  
Dorset Council  
DORCHESTER  
DT1 1UZ

Dear Mr Garrity,

**Portland Energy Recovery Facility, Portland Port, Dorset**  
**Application Reference: WP/20/00692/DCC**

Letter of Support

**Introduction**

I am writing in respect of the above planning application for an Energy Recovery Facility (ERF) at Portland Port, and Carnival Corporation's specific interest in the infrastructure that would allow power from the proposed ERF to provide shore power to ships at berth in the Port (the **Portland ERF Shore Power Facility**). This letter explains our intent that if shore power is available at Portland Port, Carnival cruise ships visiting the Port which are capable of receiving shore power would connect to and use the ERF Shore Power Facility, consistent with our published corporate sustainability policies, and subject to viable commercial terms and agreements being reached.

**Carnival Background and Sustainability Commitment**

Carnival Corporation is the world's largest cruise operator and parent company of nine global cruise line brands. These include AIDA, Carnival, Cunard, Costa, Holland America, Princess, P&O Cruises and Seabourn.

Carnival is an important customer of Portland Port and a number of our ships call at this port including some of the largest ships in our fleet. This relationship has been established through consistent calls over many years. We have additional bookings with Portland Port in 2023.

As a major international cruise operator we take sustainability seriously. Our Sustainability Policy "*From Ship to Shore*" (available [here](#)) sets our sustainability goals for 2030, and aspirations for 2050, developed to reflect the United Nations' Sustainable Development Goals. Our 2030 goal is aligned with the International Maritime Organization's commitment to reduce carbon emission intensity by 40% by 2030 and we aspire to achieve net carbon-neutral ship operations by 2050. In addition to decarbonisation we have committed to targeting initiatives that reduce air quality emissions. To meet these goals we are actively improving the existing fleet's energy efficiency and specifically "*expanding shore power capabilities*".



## Shore Power

Carnival have a specific goal to *“Increase fleet shore power connection capability to 60% of the fleet by 2030”* and we are currently on track, with 43% already having this capability.

Our Sustainability Report notes: **“Shore Power Connections:** *Cruise ships equipped with shore power capabilities can plug into specific port connection facilities, allowing the ship to receive electricity from the electrical grid in the port instead of using the ship’s engines and fuel to generate power. We developed the first port with shore power capability for cruise ships in Juneau, Alaska in 2001. Currently there are approximately 21 ports worldwide that have the infrastructure capable to provide shore power connections to our fleet.”*

Whilst there are details to be addressed, we understand that subject to the approval and construction of the ERF, Portland Port expects to be able to offer the 60Hz shore power to the capacity that even our largest cruise ships require, in the relatively near term. It is well recognised in the industry that despite the benefits, commercial viability is the main impediment to the delivery of shore power in the UK and that energy grid constraint and the costs of connecting to the electricity network is a critical factor, as noted in the recent UK Government shore power consultation that can be reviewed [here](#).

We understand the Portland ERF will be able to offer shore power as a component of a wider ERF project business case (that also provides a solution for Dorset’s waste management needs). This is advantageous as it reduces the need for customer investment or public subsidy.

## Carbon and Emission Reduction Benefit

The use of shore power would significantly reduce the carbon impact of our fleet whilst it is berthed at Portland Port, consistent with our “Climate Action” objective. In addition, shore power would reduce particulate emissions and other emissions from cruise ships berthed at Portland Port, leading to an improvement in air quality in the local area consistent with our corporate objective to *“Reduce absolute particulate matter air emissions by 50% relative to our 2015 baseline”*.

## Commitment

If shore power is provided at Portland Port we would expect that our cruise ships which visit the Port which are capable of receiving shore power would connect to and use the ERF Shore Power Facility, subject to the power being made available on commercially viable terms.

As mentioned, 43% of our fleet is already equipped to accept shore power and the roll out across our fleet is increasing rapidly so we would expect to benefit from the ERF Shore Power Facility as soon as it is available.

Carnival would be pleased to share information with Powerfuel Portland Limited and Portland Port/Portland Harbour Authority to ensure that the shore power infrastructure is suitable for our fleet. We have developed a standardised requirement for 60Hz shore power systems we require which we understand will be provided at Portland.

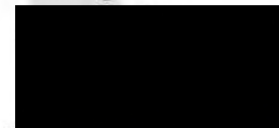
**ERF Infrastructure not a barrier to Cruise calls**

We understand that certain objector parties have claimed that the presence of the ERF would significantly reduce Portland Port's attractiveness and reduce cruise calls. Our ships already visit a number of ports globally where power stations are co-located and we do not expect that the presence of the Powerfuel Portland ERF would dissuade Carnival, its customers or other cruise ship companies from visiting Portland. By way of example, Southampton was one of the first UK Port's to offer shore power, provided by a private wire supply from the Veolia Marchwood Integra Energy from Waste facility (a 220,000 tonne pa EfW plant) which is located directly across the River Test from the cruise terminal. The presence of the Marchwood plant in the port location has not changed our approach to calling at Southampton and Carnival's ships have benefited from shore power from the Marchwood EfW plant.

**Protecting the Economic Contribution from the Cruise Business**

The availability of the ERF Shore Power Facility at Portland should ensure that it remains an attractive destination for inclusion for Carnival Group cruise calls. In turn, this will protect the local tourist economy with contributions to the local tourist economy with excursions, casual spend and port dues.

Kind regards



**Tom Strang**  
**Senior Vice President, Maritime Affairs**  
**Carnival Corporation & plc**



6<sup>th</sup> February 2023

M Garrity Esq  
Head of Planning  
Dorset Council  
DORCHESTER  
DT1 1UZ

Dear Mr Garrity,

**Portland Energy Recovery Facility, Portland Port, Dorset**  
**Application Reference: WP/20/00692/DCC**  
**Letter of Support - Clarification**

I refer to my letter dated 15 December 2022 (**December Letter**) in respect of the above planning application for an ERF at Portland Port that confirmed Carnival Corporation's interest in the proposed provision of shore power should it be made available at Portland Port.

**Technical Clarification**

In my **December Letter** I stated that "Southampton was one of the first UK Port's to offer shore power, provided by a private wire supply from the Veolia Marchwood Integra Energy from Waste facility (a 220,000 tonne pa EfW plant) which is located directly across the River Test from the cruise terminal.". This was a misunderstanding.

Having clarified the technical detail with the operator of the shore power system at Southampton (the port operator, ABP) I can confirm:

- There is currently no private wire supply provided from the Marchwood EfW to the ABP shore power infrastructure. However, there have been discussions (involving Southampton City Council, ABP and AECOM) about the Marchwood EfW providing a private heat and power supply, directly under the river to the Port, as part of a project supported financially by Government.
- There is a private wire supply from another local generator that is part of the Southampton District Energy Scheme. Additional electricity used for shore power is provided by on-site solar generation and the local electricity network. Power generated by the Marchwood EfW is largely exported to the local electricity network; the local electricity network then provides significant power to the shore power facility.

Further, the Marchwood EfW plant provides a treatment facility for residual waste produced on our vessels. Post-sorting for recyclables, residual waste is collected and transported to Marchwood EfW where it is sustainably processed in line with UK national waste policy objectives.

.../..

**Cruise Ship Power Requirements**

We understand a question has been raised regarding the power consumption of an average cruise ship. We confirm that the average power consumption of our fleet when using shore power is 8MW, and the range is between 3MW and 12MW.

Historically loads of up to 15-20MW were required for cruise ships but industry focus on energy efficiency in recent years, eg LED lighting and efficient propulsion, has reduced this significantly. Ongoing energy efficiency upgrades are likely to further reduce future power requirements.

This is consistent with Carnival Corporation's experience and I trust clarifies the position.

Notwithstanding the technical error in our **December Letter** that is explained above the key conclusions of the December Letter remain unchanged.

We remain available to discuss this or any other questions you may have,

Kind regards



**Tom Strang**

Senior Vice President, Maritime Affairs  
Carnival Corporation & plc