

Agenda Item:

7

Regulatory Committee

Dorset County Council



Date of Meeting	18 December 2014
Officer	Head of Economy
Subject of Report	To consider planning application WP/14/00041/DCC for the retention of fill material, addition of further fill material consisting of quarry overburden and its grading and restoration of land to nature conservation use (calcareous grassland) and relocation of a permissive footpath over the filled area at part of disused railway cutting, land south of Park Road and adjacent to ex-Bottomcombe Masonry Works, Easton, Portland, Dorset.
Executive Summary	The application seeks planning permission for the retention of material already placed on site and the placement of further material to provide for restoration to nature conservation use. A permissive footpath will be formed over the area. Revised plans have been submitted that show reduced gradients along the route of the proposed permissive path.
Impact Assessment:	Equalities Impact Assessment: The report concerns the determination of an application for planning permission and not any changes to any new or existing policy with equality implications.
	Use of Evidence: The recommendation has been made after consideration of the application and supporting documents, the development plan, government policy and guidance, representations and all other material planning considerations as detailed in the main body of the report.
	Budget/Risk Assessment: No budget/risk assessment implications.

Recommendation	That, planning permission is granted subject to the conditions set out in Section 8.1 of this report.
Reason for Recommendation	The reasons for granting planning permission are summarised in paragraphs [6.42-6.45] of this report.
Appendices	1. Site Location Plan. 2. Proposed Revised Layout Plan.
Background Papers	PA File WP/14/00041/DCC NB: Copies of representations may be inspected in the Directorate for Environment and the Economy and will be available for inspection in the Committee Room prior to the meeting.
Report Originator and Contact	If you have any queries on this report please contact: Name: Mr Stephen Cornwell Tel: (01305) 225767 Email: Steve.Cornwell@dorsetcc.gov.uk

1. Background

- 1.1 Following a report that unauthorised work consisting of the infilling of a section of the former Easton railway line had commenced, investigations by officers confirmed that planning permission was required. This view was expressed to the operator who ceased infilling work and engaged in pre-application discussions. A formal application was submitted in January 2014.
- 1.2 Shortly after the infilling commenced, a local resident made an application to have a path that runs in the base of the former railway cutting recorded as a public footpath on the definitive map of public rights of way. That application has yet to be determined. The claimed route runs through the application site and continues for a distance of 150 metres to the northwest to Park Road.
- 1.3 Although the red lined application site itself has no planning history the land to the north and south forms part of the 324 hectares granted planning permission for mineral working in 1951. Its omission from that application site reflects its use at the time as part of the public railway network on Portland. After the railway closed, the land was acquired by the adjoining mineral operator, but does not appear to have been put to any alternative use. Some infilling of the former railway track has occurred in the past at the eastern end of the application site with material having been pushed up to a bridge to provide part of a mineral haul route for traffic running north-south.

2. Site Description

- 2.1 The application site is 0.17 hectares in size. It is roughly rectangular in shape, 20 metres wide at its western end and 30 metres wide at its eastern end. It is 94 metres in length. It was part of the former Easton & Church Hope railway line that looped around the southern side of Easton and also the junction where a spur line ran off to the south east to serve a mineral quarry. The main line ran in a cutting and to the east of the site continued under a bridge towards Wakeham Street. The route under the bridge is now blocked by the formation of a haul road but a path allows walkers to drop down onto the old railway line and follow the original route eastward after the bridge. To the northwest the line also ran in a cutting towards Easton Station. At the bottom of Park Road a residential development is taking place on a section of the line that was filled in when a screen bund was formed in 2000. Beyond Park Road, to the northwest, the former railway cutting had been filled in for some time. A new Tesco's store has recently opened on what was formerly part of the stone yard and workshop that was located on land north of the railway line.
- 2.2 The site and the surrounding area exhibit a number of signs of its former use. The railway cutting continues for a distance of 150 metres to the northwest. Several old metal posts on the south side of the application site provide an indication of the alignment of the branch line that ran off to the southeast. To the west of the site, the southern face of the cutting was stabilised through the use of stone walling to the cutting, whilst the northern side of the cutting was left as a graded slope.
- 2.3 The area is crossed by a number of paths. A definitive footpath (S3/25) runs parallel to the railway cutting on its southern side. Between this definitive

path and the application site is a low bank that also shows signs of a path on top. Indications on the ground show that a well worn path ran in the bottom of the cutting emerging at the northwest end by climbing the slope just before the new properties out onto the road. The original eastern end of this path is now buried under the material deposited on the site.

- 2.4 The general character of the area is open and windswept. Off to the north is the remaining Bottomcombe Quarry which is used as a stock yard, whilst to the south are the remains of former worked areas with the active Cottonfields Quarry beyond. The applicant owns all the land adjoining and surrounding the site. The nearest residential properties lie off to the northwest at the foot of Park Road 150 metres away. A new residential development is taking place off to the southeast. The site is typical urban fringe land on the outskirts of Easton.

3. The Proposal

- 3.1 This application proposes:
- the retention of the existing material that has been placed in the cutting;
 - the grading and re-profiling of the material to merge it into adjoining bank to create an area that will favour a calcareous grassland; and
 - the creation of a permissive footpath over the infill material.
- 3.2 The material used to infill the cutting consists of quarry overburden. It is not intended to fill in any further section of the cutting. As tipped, the infill material was left with a steep face towards the remaining part of the cutting. The original ground level at the eastern end of the site was 73.6 metres Above Ordnance Datum (AOD) and at the western end 71.33 metres AOD. The greater depth of material has been placed towards the western end of the site with the maximum depth of material of 4.5 metres. The plans submitted with the original application showed the intention to form a path with a gradient of 1 in 6.
- 3.3 The intention is to link the in-filled area with a '*butterfly bank*' that has been developed on the north slope of the cutting. A capping layer is to be spread over the tipped material to create favourable conditions for growth and the ground will then be sown with an appropriate seed mix. The whole area will be managed under a conservation management plan. The site will be integrated within the larger nature conservation corridor that extends from Broadcroft in the east through Bottomcombe, Lomand, Perryfield and Combe field to West Cliff. The application states that this will be a positive enhancement of the area replacing bramble and ivy.
- 3.4 A statement submitted with the application addresses a range of issues including archaeology, ecology, dust, hydrology, hydrogeology, landscape and visual Impact, land Stability, noise and Rights of Way.
- 3.5 In May 2014 the applicant returned to the site and undertook some re-grading work.. Revised plans have since been submitted showing the proposed path would have a gradient of 1 in [35]. The plan also contains a number of notes from which the following have been taken:
- Path to be surfaced with 10 cm of stone scalplings.
 - Large stones at eastern end to be removed and ground levelled.

- Landform to be covered with limestone scalping.
- 5 year aftercare proposed to include annual inspection and eradication of invasive alien species.

4. Consultations and Representations

4.1 The original application was advertised in the local press and by site notice. A copy was placed in the local Library. Further consultation on the revised plans involved additional site and press notices as well as the direct notification of all respondents to the original application. Summarised below are the representations received to the original scheme and the further comments in response the revised plans.

4.2 Weymouth & Portland District Council

Original scheme:

- No objections subject to the agreement of a suitable scheme to ensure land made suitable for nature conservation purposes.

Further comments in response to revised plans:

- No further comments to make.

4.3 Portland Town Council

Original scheme:

- Object on grounds of loss of both footpath and a natural habitat. Request strongly that fill material already present be removed as a matter of urgency.

Further comments in response to revised plans:

- Have received a number of representations from members of the public against the application to establish a permissive path and also concerning the lack of reinstatement of the original railway cutting.
- Town Council supported these objections and is concerned that the County Council has not replied directly to the Town Council's letter of 23rd July on the subject.
- Since this letter was sent, Weymouth & Portland Borough Council has conducted a Conservation Area Appraisal on Portland. Although the railway cutting is not within the Easton Conservation Area, the current condition of cuttings was referred to in the report under the section "*Concerns and General Condition*" in these terms:-
"The working quarry at Bottomcoombe (sic) is changing the landscape character demonstrably due to storage of extracted material associated with temporary mineral working. The quarry is required to be restored as a green open space. Fly tipping of stone spoil into railway cuttings."

The report recommended a form of words to cover the need for restoration of quarries and workings. However Dorset County Council as the Mineral Planning Authority requested a change to the proposal with the following:

"Liaise with the Mineral Planning Authority to ensure that the Review of Old Mineral Planning Permissions takes account of the need to enhance the setting of the conservation areas."

- Appears that the County has accepted the need for sensitive restoration of these sites, which supports the Town Council's position in regard to the reinstatement of the Railway Cutting and the logical recognition of a public right of way which would allow the general public to enjoy one of the last remaining features of the railways on Portland as well as re-establishing a sensitive site for nature conservation.
- Noted that material used to fill the cutting is actually quarry waste which should have been used to backfill the quarry site.

4.4 **Highway Liaison Engineer**

Original scheme:

- No objection.

Further comments in response to revised plans:

- No objection.

4.5 **Weymouth & Portland District Council EHO**

Original scheme:

- No comment.

Further comments in response to revised plans:

- None received at time of writing report.

4.6 **Rights of Way**

Original scheme:

- The route shown as a permissive path is subject of a claim lodged with the Definitive Map Department that a public right of way exists.
- The slope of the path at the NW end is too great at 1:6. 1:20 would be ideal with a maximum of 1:120.
- Path S3/25 will not be affected directly but may be blocked by machinery.

Further comments in response to revised plans:

- It may be beneficial for the land owner to dedicate the route mentioned in the planning application as a permissive path, as a public footpath.
- The free passage of the public on all rights of way must not be obstructed at any time.
- If the public are unlikely to be able to exercise their public rights on a public right of way then a Temporary Path Closure Order must be obtained.

4.7 **Environment Agency**

Original scheme:

- No objection.

Further comments in response to revised plans:

- None received.

4.8 **Senior Landscape Officer**

Original scheme:

- None received.

Further comments in response to revised plans:

- From a landscape and visual point of view proposals have a minor adverse impact on cultural heritage of this part of Portland.
- Cultural significance of old railway line has been significantly compromised already by past development to which means this scheme in comparison is felt to be not significant.
- Grading and ground shaping at least retains some of shape of old cuttings as well old fence line posts which both helps to conserve and enhance some of the original features of the old rail track.
- On balance feel it would difficult to uphold a landscape and visual objection.

4.9 **Natural Environment Manager**

Original scheme:

- Accept that part of SNCI has been filled with quarry overburden.
- Only a proportion of this overlap area held any wildlife interest of any significance. Estimate lost area was 0.05 ha.
- Not aware of anything lost that does not occur elsewhere on Portland.
- Remainder of SNCI had lost its grassland and invertebrate interest through lack of management and scrubbed over to degree only way to reinstate interest would be to cover with overburden and start process of ecological succession again.
- It is continual turnover of ground on Portland that has led Portland to become important wildlife site and enable grasslands to thrive despite lack of management.
- Bottomcombe Quarry supports range of key butterfly species. Perhaps of most value is large population of small blues which breed on west facing bank below masonry yard that lies outside SNCI. This largest colony in Dorset.
- This bank created in 1990s and now supports strong colony.
- Creation of grassland and a Small Blue butterfly colony in a matter of a decade or less and its survival today demonstrates speed at which it is possible to create important biodiversity site on Portland.
- Expect colony to extend into application site particularly if original bank not managed and becomes overgrown and less favoured habitat to small blues.
- Wish to see application site capped with 0.5 to 1 metre of overburden taken from Purbeck slate bed which will create ideal conditions for right grasses to thrive.
- Happy to offer applicant advice on seeding.
- Look to work with applicant in management of land for its wildlife interests.
- Confident if supported current application will more than replace small lost area of grassland (a 25 times replacement) and within a decade provide good habitat to extend life of colony of Small Blue butterfly.

Further comments in response to revised plans:

- None received at time of writing this report.

4.10 **Senior Archaeologist**

Original scheme:

- Note application accompanied by archaeological appraisal.
- Request clarification on how features identified in appraisal are to be incorporated into scheme.

Further comments in response to revised plans:

- Work undertaken since application submitted are undoubtedly an improvement and should allow the line of the former railway to remain discernible.
- If permission granted, conditions to protect retaining wall, low bank and iron fence posts would be appropriate.

4.11 **Other Representations:**

Original Scheme:

Thirty Seven responses received. The main points can be summarised as:

- Disused railway line used as long as I can remember as a footpath.
- Application for path to be adopted has been made.
- Object to overburden being spread on old railway line.
- Sufficient space elsewhere in quarry for this spoil to have been placed.
- I am disabled and use mobility scooter. Before infill placed in cutting I could reach bottom of slope at western end.
- Old line is part of island history and a haven for wildlife.
- Not happy with change in status from a highway (railway track) to a permissive path.
- If site becomes grassland will need importation of right material for this to occur.
- Concerned over drainage.
- Concerned this cheap attempt to make situation acceptable when material should be removed.
- Infill material has destroyed an area of ground that already was part of butterfly reserve.
- Note offer of a permissive path but this means can be closed at any time.
- Who will manage wildlife area?
- Site was capable of being used by people with mobility difficulties to study nature and take photos.
- This was a sheltered path offering safety from horse riders.
- Material should be removed.
- Area part of history of Portland with link to railway.
- Site used a footpath ever since railway line taken up.
- Work has damaged archaeological features of significance to island.
- Given condition and management of applicants other land holdings question if this area will be maintained to satisfactory standard.
- Concerned land will eventually be lost to housing.
- Focus has been on creating butterfly area and ignored loss of unique open space.

- Question context of applicant's ecological and archaeological reports.
- Path has been used for sufficient time (over 20 years) to qualify to become dedicated as a highway.
- Sunken nature of cutting creates micro climate allowing wide variety of flora and fauna to thrive. Scheme resulted in loss of one third of this area.
- Question if both planning application and submission to rights of way should not be considered together.
- Work has resulted in loss of wildlife.
- Do not accept this accident.

Further comments in response to revised plans:

Twelve further responses received:

- Original objections still stand.
- Infill has covered area full of wildflowers.
- Course of railway line into Easton lost.
- Consider better areas on Portland that could accommodate the infill material.
- Note attempts made to shape infill but it has not been removed.
- Area still inaccessible and waste covers much of wild grass lands and railway cutting.
- Railway line walked unrestricted by local people and visitors for many years since 1960s, long before applicant bought site from Hanson. This only ceased when current infilling took place forming barrier to walkers.
- Claim already lodged that path should be recognised as public footpath because it has been in use for more than 20 years.
- Path formed about a week before planning committee visit.
- Path still obstructed by large stones.
- Infilling does not conform to provisions of 1951 quarry act which states waste should be placed behind as they go.
- Offer of a permissive path totally different to a public footpath. Use would be restricted at certain times.
- Previously accessed site on motorised scooter from southern end but this no longer possible.
- See no reason for large stones as consider sufficient signage regarding haulage traffic.
- Consideration of this planning application should not leapfrog the application to change status of path.
- Sunken nature of cutting makes it unique.
- Seems paradoxical that claim made can create a wildlife area only by destroying another.

5. Planning Policy Framework

- 5.1 Applications for planning permissions must be determined in accordance with the development plan unless material considerations indicate otherwise. The term 'other material considerations' is wide ranging, but includes national and emerging planning policy documents.

The Development Plan

- 5.2 The development plan includes the Bournemouth Dorset and Poole Minerals Strategy (adopted May 2014), the remaining saved policies of the Dorset Minerals & Waste Local Plan (originally adopted April 1999) and the saved policies of the Weymouth & Portland District Wide Local Plan originally adopted in 2005.
- 5.3 The most relevant policies in the Minerals Strategy are:
- Policy SSI (Presumption in Favour of Sustainable Development).
 - Policy PD5 (Restoration of Sites on Portland).
 - Policy RS1 (Restoration, Aftercare and Afteruse of Minerals Development).
 - Policy DM1 (Key Criteria for Sustainable Minerals Development).
 - Policy DM2 (Managing Impacts on Amenity).
 - Policy DM3 (Managing Impacts on Surface Water and Ground Water Resources).
 - Policy DM4 (Protection and Enhancement of Landscape Character and the Countryside).
 - Policy DM5 (Biodiversity and geological interest).
 - Policy DM7 (The Historic Environment).
- 5.4 The most relevant policies of the Dorset Minerals and Waste Local Plan 1999 are:
- Policy 6 (Relating to applications outside the Preferred Areas).
- 5.5 The most relevant policies of the Weymouth & Portland Local Plan are:
- D1 Development Boundary.
 - D2 Important Open Gap.
 - B4 Site of Local Archaeological Potential.
 - N16 Site of Nature Conservation Interest, Regionally Important Geological Sites & Nature Reserves.

National Planning Policy

- 5.6 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. The framework is an important material consideration and can be accorded significant weight. Particularly relevant provisions relate to:
- Presumption in favour of sustainable development (paragraph 14).
 - Building a strong, competitive economy (paragraphs 18 & 19).
 - Promoting healthy communities (paragraphs 69, 70 & 75).
 - Conserving and enhancing the natural environment (paragraph 109, 114, 117, 118, 120 and 123).
 - Conserving and enhancing the historic environment (paragraph 128 and 131).
 - Facilitating the sustainable use of minerals (paragraph 144)
 - Decision taking (paragraphs 186, 187, 196, 197, 203 and 206).
- 5.7 Further Government direction is provided by Planning Practice Guidance. Amongst other matters, relevant guidance is provided on minerals, the natural environment, noise, open space, recreation facilities,

6. Planning Assessment

6.1 Having regard to the provisions of the development plan, the information submitted in support of the application, consultee responses and the representations received, the main planning considerations in determining the application are:

- i. the acceptability of the principle of the proposed development;
- ii. whether the impact on the landscape character and visual amenity of the surrounding area is acceptable;
- iii. impact on the amenity of nearby residential properties;
- iv. impact on the archaeological assets; and
- v. impact on the ecological value of the site.

6.2 However, prior to assessing these issues, it is appropriate to review whether the planning application should be considered in combination with or independently of the application for the path that runs in the base of the former railway cutting to be recorded as a public footpath on the definitive map of public rights of way. Close liaison has taken place with the Rights of Way team on this point. Section 31 of the Highways Act 1980 provides that where a right of way over land has been “actually enjoyed” by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it. The relevant period of twenty years is calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice or otherwise. The application for the Modification Order was submitted in the summer of 2013 and has not yet been processed so that no investigation of or consultation on the application has taken place yet. Discussions have taken place with the applicant on the possibility of a dedication agreement that would formalise public rights over the claimed route. The applicant has expressed a willingness to engage positively with this process, but it has since emerged that the public claim on the use of the route may extend to include cyclists and horse riders as well as pedestrians. To achieve a satisfactory dedication agreement for this level of use would require significant works to improve the slope at the western end of the railway cutting. Such works would fall outside the current planning application site and necessitate the submission of a second planning application.

6.3 The relevant considerations for determining the application for the Modification Order is the evidence at the time that the application was made. Works undertaken subsequently do not prejudice consideration of the claim. Impact of proposed development on a claimed public right of way can be a material planning consideration and has been assessed in this instance.

6.4 As originally submitted, the application proposed the formation of a permissive path over the filled area, but concern was expressed over the gradient of the proposed route. Improvements to the gradient of this path were included as part of the revised proposal which provides for an acceptable gradient and alignment. The boulders currently situated at the

eastern end of the cutting will also be removed. In these circumstances, the impact of the proposed development of the claimed right of way is considered to be acceptable and the planning application can be determined in advance of any dedication agreement or the detailed assessment of the Modification Order application.

Principle of Development

- 6.5 This application relates to the disposal of overburden arising from stripping work undertaken in the locality to facilitate the working of a stone reserve. The working of the mineral is being undertaken under a planning permission granted in 1951 which applies to a large area of land on Portland, although it does not apply to the application site itself.
- 6.6 The site lies outside the development boundary and within an area of land identified in the Weymouth and Portland Local Plan as an important open gap (Policy D2). Such tracts of land identified as important in preserving the identity of settlements, by preventing the coalescence or merging of two distinct areas, and by providing open green corridors of aesthetic and wildlife value, and by linking open areas that extend from the open countryside into the heart of urban areas. They are also considered to be particularly vulnerable to incremental development that can gradually erode their open character. As proposed, the application site will remain open and the overall character and identity of the important gap will be maintained. The proposal for permissive access is also consistent with the purposes of the gap. The proposal is therefore not considered to be contrary to Policy D2.
- 6.7 The most recent comments from Portland Town Council refer to work on the Easton Conservation Area Appraisal undertaken by Weymouth & Portland Borough Council. The application site lies well outside the conservation area boundary and consequently any comment in the conservation area appraisal can carry only limited weight. The proposal is not contrary to the requirements of the 1951 planning permission and there are not considered to be any policy reasons why this site may not be a suitable depository for overburden subject to the consideration of other issues.

Impact on Landscape Character and Visual Amenity

- 6.8 Minerals Strategy Policy DM4 (Protection and Enhancement of Landscape Character and the Countryside) provides that minerals development will only be permitted when the proposals include provisions to protect and/or enhance the quality, character and amenity value of the countryside and landscape.
- 6.9 The application site does not lie within any nationally designated landscape area, but is located within the Portland Peninsula landscape character assessment area. Characteristics features of this area are identified to include:
- A dramatic and distinctive wedge shaped limestone peninsula with prominent cliffs.
 - An open skyline with sweeping views along the coast.
 - The pale grey Portland limestone rock dominates the natural and built landscape, and results in areas of calcareous grassland.
 - An exposed, windswept, rocky and raw landscape.

- Quarrying and military activity has, and continues to significantly impact upon the island's character.
- Little tree cover on the plateau and an historic strip field pattern, traditionally separated by dry stone walls.
- Areas of the more sheltered north eastern coast are dominated by scrub, trees and woodland.
- Networks of open spaces separate the settlements and provide an important buffer to urban and industrial development.
- Restored quarried landscapes of high amenity, biodiversity and recreational value.
- A number of distinctive landmark features such as Portland Bill and the lighthouse, and The Verne.

6.10 The assessment also identifies the following detrimental features:

- The open skylines are dominated by manmade structures and features.
- Impacts of active quarrying works through visual intrusion, noise and movement of large scale plant.
- Often a neglected and disjointed feel, resulting from a complex and diverse range of land uses both historic and current.
- Urban fringe land uses, including equine development have resulted in the erosion of the historic field pattern.
- Traditional stone wall field boundaries are often in poor condition or have been removed and replaced with wire or temporary plastic fencing.

6.11 The area surrounding the application site exhibits strong signs of former and current disturbance associated with past and present mineral workings. The former railway line is one component that makes up the landscape character. Large sections of the route of the railway line to the west have already been lost. Parts have been built over totally obliterating any indication of a former use whilst other sections have been filled in and put to new uses. Prior to work commencing the line had already been altered to the east with the build up of material to the side of the bridge to facilitate an HGV crossing point to allow access into the stockyard. With this feature to the east and the in-filled area to the west where the new terraced properties are nearing completion, this section of cutting had seen its contribution to any open linear feature degraded. There is no formal strategic plan to protect the former railway line in the context of a landscape feature and Weymouth and Portland Borough Council does not object to the proposal. The sites contribution to the open character of this area will also be maintained retained even if this application is supported. The proposal is therefore not considered to be detrimental to the landscape character of the area.

Impact on Residential Amenity

6.12 Minerals Strategy Policies DM2 (Managing Impacts on Amenity) and saved Policy 6 (Applications Outside the Preferred Areas) of the Dorset Minerals & Waste Local Plan each seek to protect residential amenity and other sensitive land uses. The majority of the work associated with the proposed development has already been undertaken. Further work is required. but not on the scale as previously experienced. There is a continuous presence of activity on the eastern edge of the site with the passage of haul vehicles

travelling to and from the stock yard. These factors and the separation distance to the nearest sensitive properties (150 metres to the west) should ensure that any further disturbance is limited. The Borough Council's Environmental Health Officer has no comment to make and given the outstanding work and the proposal to apply a condition restricting working hours, there should be material harm to residential amenity.

Impact on the Archaeological Assets

6.13 Minerals Strategy Policy DM7 (The Historic Environment) and Weymouth & Portland Local Plan Policy B4 (Site of Local Archaeological Potential) both seek to protect local features of archaeological interest. The archaeological appraisal submitted with the application identifies 5 features of note;

- main cutting;
- retaining wall;
- low bank;
- junction to Perryfield sidings; and
- row of surviving iron fence posts.

6.14 Two of these features (the main cutting and the Perryfield sidings) would be impacted by the proposed. However, both have already been impacted upon by previous changes to ground levels and whilst it is recognised that the main cutting holds some value as an industrial archaeological feature, this is not considered to be of such weight that planning permission should be withheld.

6.15 The Council's Senior Archaeologist supports this view and consequently there is not considered to be any policy conflict.

Impact on the Ecological Value of the Site

6.16 Minerals Strategy Policy DM5 (Biodiversity and Geological Interest) and Weymouth & Portland Local Plan Policy N16 (Site of Nature Conservation Interest, Regionally Important Geological Sites & Nature Reserves) both seek to protect features of ecological value

6.17 The site is part of a Site of Nature Conservation Interest (SNCI) which extends over the bank to the north west. The ecological value of the site before work commenced is uncertain. The applicant refers to it being predominantly overgrown although some of the local residents refer to it as holding wider ecological value. The intention behind the proposed capping the site with limestone chippings and seeding is to promote a calcareous grassland cover as an extension to a butterfly bank that lies to the northwest. This type of habitat is a result of disturbed ground and occurs in the locality. However, whilst very attractive to butterflies in the early years, as the vegetation matures it loses its appeal as a habitat. Accordingly the continuous creation of new areas that support calcareous grassland is beneficial to the survival of these butterfly species. Whilst there is merit in a broad range of habitat to attract an equally broad range of wildlife, in this instance, the focus towards small blue butterflies is considered justified. The site would link up with the adjoining bank and form a large area capable of supporting butterflies. Although an area of some wildlife value has been lost, it is considered that the overall benefit outweighs any loss. Support for this position has come from the Council's Natural Environment Manager.

6.18 Under these circumstances there is not considered to be any policy conflict.

Conclusion

6.19 This application seeks planning permission for the retention and completion of works commenced without consent. Whilst not condoning the apparent breaches of planning control, Council Officers have worked with the applicant in a positive and proactive manner so that a conditional grant of planning permission can be recommended. Taking into account the information submitted in support of the application and the representations received, it is considered that the proposal is in general accordance with the development plan and that there are no material considerations that suggest the application should be determined other than in accordance with the development plan. Due regard has been given to the presence of a claimed public right of way across the site, but it is not considered that the grant of planning permission will in any way prejudice that claim. Accordingly, planning permission can and should be granted.

7. Human Rights Implications

7.1 The provisions of the Human Rights Act and the principles contained in the Convention of Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols of particular relevance are:

- i. Article 8 - Right to respect for private and family life; and
- ii. The First Protocol, Article 1 - Protection of Property.

7.2 Having considered the impact of the development, as set out in the assessment above as well as the rights of the applicant and the general interest, the opinion is that any effect on human rights does not outweigh the granting of the permission in accordance with adopted and prescribed planning principles.

8. Recommendation

8.1 That planning permission is granted subject to the following conditions:

SCHEDULE OF CONDITIONS

Time Limit

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

Reason

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

Development in Accordance with Approved Plans

2. Unless otherwise approved in writing by the Mineral Planning Authority or required by the conditions of this permission, the

development hereby permitted shall be carried out in strict accordance with the approved plans and drawings comprising:

- Drawing number E/BC/201310/01 entitled Site Location Plan dated 17 December 2013;
- Drawing number E/BC/201310/04-A entitled Restoration Details dated 13 August 2014; and
- Drawing number 1120-S-200-1 an untitled plan containing levels details.

Reason

For the avoidance of doubt and to ensure proper control of the development in the interests of local amenity having regard to Policies DM1 (Key Criteria for Sustainable Minerals Development) and DM2 (Managing Impacts on Amenity) of the adopted Bournemouth, Dorset and Poole Minerals Strategy.

Limitation on Extent of Work

3. All development hereby permitted shall be confined to the land edged red on Drawing number E/BC/201310/04-A entitled Restoration Details dated 13 August 2014.

Reason

For the avoidance of doubt and to ensure proper control of the development in the interests of local amenity having regard to Policies DM1 (Key Criteria for Sustainable Minerals Development) and DM2 (Managing Impacts on Amenity) of the adopted Bournemouth, Dorset and Poole Minerals Strategy.

Limits of Covering Existing Vegetation

4. No work shall be undertaken on the site which involves the grading out of any material into an area of existing undisturbed vegetation until the applicant has submitted an assessment of the ecological value of the vegetation to be lost and a scheme of works to the mineral planning authority for approval. No work in these areas shall take place until the assessment of ecological value and scheme of works has been approved by the mineral planning authority and any work shall then be limited to the approved details.

Reason

To protect the ecological value of the surrounding area having regard to Policy DM1 (Key Criteria for Sustainable Minerals Development) of the adopted Bournemouth, Dorset and Poole Minerals Strategy.

Capping and Seeding of Overburden

5. Within 6 months of the date of this permission the site (excluding the proposed path) shall be capped to a depth of 0.5 metres with free draining limestone scalplings such as Portland Slat. In the event that any material other than Portland Slat is to be used the prior agreement in writing of the mineral planning authority shall be obtained for the use of such material. In that situation only the agreed substitute material shall be used.

Reason

To protect the ecological value of the surrounding area and maximise opportunity for the creation of habitat of ecological value having regard to Policy DM1 (Key Criteria for Sustainable Minerals Development) of the adopted Bournemouth, Dorset and Poole Minerals Strategy.

Establishment of Vegetation.

6. The site (excluding the path) shall be seeded with locally collected wildflower seed as soon as practical following the capping of the overburden at the rate of 5grams per square metre so as to create a calcareous grass sward. The source and mix of the seed shall be agreed in advance with the mineral planning authority and only a seed mix of the agreed specification shall be used.

Reason

To protect the ecological value of the surrounding area and maximise opportunity for the creation of habitat of ecological value having regard to Policy DM1 (Key Criteria for Sustainable Minerals Development) of the adopted Bournemouth, Dorset and Poole Minerals Strategy.

Management of Grassland

7. For a period of 5 years after the restoration is completed, the site shall be managed to promote the establishment and ongoing presence of calcareous grassland in accordance with a aftercare scheme that shall be submitted to and approved in writing by the mineral planning authority. The submitted scheme shall make provision for the annual removal of any Buddleia and Catoneaster between August of one year and February of the next year.

Reason

To protect the ecological value of the surrounding area and maximise opportunity for the creation of habitat of ecological value having regard to Policy DM1 (Key Criteria for Sustainable Minerals Development) of the adopted Bournemouth, Dorset and Poole Minerals Strategy.

Completion of Work to Surface of Path

8. Within 4 months of the date of this permission, the footpath as identified on Drawing number E/BC/201310/04-A entitled Restoration Details dated 13 August 2014 shall be surfaced using Portland stone scalplings to a depth of 10 cm and then rolled using a vibrating roller. No work shall be undertaken which results in the gradient of the footpath being steeper than 1 in 15.

Reason

To maintain a suitable route across the site having regard to Policy DM1 (Key Criteria for Sustainable Minerals Development) of the adopted Bournemouth, Dorset and Poole Minerals Strategy.

Removal of Large Stones

9. Within 4 months of the date of this permission the large stones located at the eastern end of the site and referenced on Drawing No E/BC/201310/04-A entitled Restoration Details and dated 13th August 2014 shall be removed and the ground levelled through to the adjoining track.

Reason

To maintain a suitable route across the site having regard to Policy DM1 (Key Criteria for Sustainable Minerals Development) of the adopted Bournemouth, Dorset and Poole Minerals Strategy.

Operating Hours

10. The work necessary to complete the development hereby permitted shall be carried out within the application site between the following times:

- 08:00 and 18:00 Monday to Friday; and
- 08:00 and 13:00 Saturdays.

No operations shall take place outside of these hours or on Bank Holidays or Public Holidays.

Reason

To protect the amenities of the surrounding area having regard to Policy DM2 (Managing Impacts on Amenity) of the adopted Bournemouth, Dorset and Poole Minerals Strategy.

8.2 INFORMATIVES

Statement of Positive Engagement

1. In accordance with paragraphs 186 and 187 of the NPPF, the Council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The Council worked with the applicant/agent in a positive and proactive manner by:
 - i. providing a pre-application advice service;
 - ii. updating the applicant/agent of issues as they arose in the processing of the application;
 - iii. discussing possible solutions to potential planning issues; and
 - iv. providing the applicant with the opportunity to address issues so that a positive recommendation to grant permission could be given.

Further Information

2. Further details including application documents and Planning Officers report can be viewed using the Application No. above at the following url:

<http://countyplanning.dorsetforyou.com/ePlanningOPS/searchPageLoad.do>

Matthew Piles

Head of Economy

December 2014