

<b>Application Number:</b>	6/2021/0342		
<b>Webpage:</b>	<a href="http://dorsetforyou.com">Planning application: 6/2021/0342 - dorsetforyou.com</a> <a href="http://dorsetcouncil.gov.uk">(dorsetcouncil.gov.uk)</a>		
<b>Site address:</b>	Swineham Farm, Bestwall Road Wareham BH20 4JD		
<b>Proposal:</b>	Use of lake for recreational activities (outdoor swimming) and retrospective siting of shipping container to provide changing room facilities.		
<b>Applicant name:</b>	Mrs Cheryl Weeks		
<b>Case Officer:</b>	Graham Parkinson/Elizabeth Adams		
<b>Ward Member(s):</b>	Cllr Ezzard, Cllr Holloway		
<b>Publicity expiry date:</b>	25 October 2022	<b>Officer site visit date:</b>	Various- latest 11 January 2023
<b>Decision due date:</b>	22 September 2021	<b>Ext(s) of time:</b>	23 February 2023

**This application was deferred at the Planning Committee held on 22 February following additional information about land ownership. Certificate C has now been submitted following the serving of notice on known land owners and publication in a local newspaper to alert any unknown owners to the application. Amendments to the officer report are highlighted in bold.**

**1.0** The Nominated Officer has determined that this application should be referred to the Planning Committee.

**2.0 Summary of recommendation:**

GRANT planning permission subject to conditions.

**3.0 Reason for the recommendation:**

- The use of the lake for recreational swimming in the summer months represents an appropriate recreational use in the Green Belt while retention of the container body and informal car park represents reasonable small ancillary development that does not harm the openness of the Green Belt.
- The small size and unobtrusive siting of the container body and car park has no significant impact on the rural and landscape character of the AONB.
- **The application is supported by evidence that the use will avoid harm to protected species or the integrity of European site.**

**4.0 Key planning issues**

<b>Issue</b>	<b>Conclusion</b>
Principle of development	Accords with the NPPF and policies CO and LHH of the Purbeck Local Plan
Impact on Green Belt	Acceptable
Impact on Dorset AONB	Acceptable
Amenity	Acceptable
Highways and parking	Acceptable
Impact on wildlife	Acceptable subject to conditions and varied legal agreement

## **5.0 Site Description**

- 5.1 The application site lies in open countryside to the east of Wareham, accessed via Bestwall Road, the eastern part of which is a private access road to Swineham Farm which also serves a dwelling 'Curlews'. The land lies within the Green Belt and the Dorset Area of Outstanding Natural Beauty (AONB)
- 5.2 The application site partly comprises 0.16ha of land used for informal car parking and the stationing of a container body located at the junction of the public right of way and access track serving Swineham Farm. The application site also includes part of a lake, formed from quarrying, which has been restored to provide a wildlife habitat.

## **6.0 Description of Development**

- 6.1 Retrospective planning permission is sought to use part of the lake (approx. 400m by 60m) for recreational swimming and retain a container body for changing/meeting room use and informal parking area abutting it.

The detailed description of the use is as follows:

- The swimming season starts in Spring (usually April as it is dependent on the water temperature being consistently above 12 degrees C) and always finishes by the 30 September.
  - The open water swim club has two sessions per week on Wednesdays and Saturdays. Wednesday 1700-1900 hrs and Saturday morning 0800-1130 hrs with no more than 25 swimmers at any one time.
  - Bookings are made in advance with no walk-ins allowed.
  - Marked course keep swimmers away from shore and island with buoys removed between sessions.
  - A 23cubic metre shipping container is used for providing a male/female separated changing facility and club reception, painted green to blend in with the landscape. Additional landscaping to be provided adjacent to southern elevation.
  - Area near container accommodates unmarked parking for approximately 20 cars.
- 6.2 The application originally included retention of a toilet structure but during the course of the application this was removed from the site and from the application.

## **7.0 Relevant Planning History:**

6/1988/0373- Appeal Allowed- 1989

Winning and working sand and gravel, construct access road and bridge

Associated legal agreement dated March 1990 stipulating amongst other matters that *'the Conservation Land will forever thereafter be used only for nature and wildlife conservation purposes and for no other purpose'*.

6/2002/477- Granted 14/04/2003

Variation of conditions VIII, XIII, XV & XXXII of Planning Permission 6/88/387 (Dated 19 February 1991) to modify the approved restoration scheme relating to the wildlife lake & conservation area at Swineham and allow the importation of limited quantities of inert quarry waste by backhaul to assist with this.

## 8.0 List of Constraints

Within Dorset Area of Outstanding Natural Beauty (statutory protection in order to conserve and enhance the natural beauty of their landscapes - National Parks and Access to the Countryside Act of 1949 & Countryside and Rights of Way Act, 2000)

Within Bournemouth Greenbelt

Within Poole Harbour Nutrient Catchment Area

383m from Poole Harbour SSSI

2.6m from Poole Harbour RAMSAR

<5km from various SSSI which form Dorset Heaths Special Area of Conservation and Dorset Heathlands Special Protection Area

Within Purbeck District Council Heritage Coast

Within Flood Zones 2 and 3

Within Area Susceptible to Groundwater Flooding

Within Minerals and Waste Safeguarding Area

## 9.0 Consultations

All consultee responses can be viewed in full on the Council website.

### Consultees

#### 1. Natural England - Somerset and Dorset Team (original comments received 7 September 2021)

**Objection- further information required**

- **The area provides supporting habitat for the Poole Harbour SPA bird populations and is likely to be of particular importance in winter. The lake will also support breeding bird interests. No information on bird interests of mitigation has been provided.**
- **Requested a bird populations assessment and a biodiversity plan.**

**(Further comments received 20/09/2022)**

No objection

- Welcomes and supports the measures proposed within the Biodiversity Plan but remind the Council that account must be had of the legal agreement safeguarding wildlife use of the lake.
- The submitted Biodiversity Plan and its implementation to be secured through a condition as part of the grant of planning permission.

2. **Dorset Wildlife Trust** (comments received 10/09/21 and 16/01/2022)

Objected on the following grounds

- Insufficient ecological information to assess application.

3. **Dorset AONB Team** (comments received 12/10/2022)

- Insufficient details of parking and changing area. Plan of parking area should be provided showing details its layout, surfacing and positioning of the structures.
- Would prefer facilities to be concentrated along the western site boundary with an area of planting to the south of the parking/changing area, thereby helping to mitigate views into the area through the gateway from the bridleway.
- May bring opportunities to improve the appearance of the site through removal of spoil that is presently stored to the north of the parking area and would prefer changing facility to be clad in wood.
- Considers use should be limited in duration and frequency to that proposed.
- May be prudent for temporary permission to granted for a period of 5 years to enable future review of the use and impacts and that use restricted to outdoor swimming only.

4. **Dorset Council - Natural Environment Team** (received 09/11/21)

- Supports Natural England's request for further assessment of bird populations around the lake and a Biodiversity Plan that includes mitigation and net gain measures.

5. **Dorset Council - Highways** (received 12/08/21)

- Advised no objections

6. **Dorset Council- Public Rights of Way** (received 27/01/23)

- No objections but the public right of way must be maintained to the current or higher standard.

7. **Wareham Town Council** (received 27/08/21)

Raises objection on the following grounds:

- Will adversely affect wildlife and as such be contrary to the NPPF and policy BIO of the Purbeck Local plan.
- Container will not positively contribute to rural character of the locality therefore in conflict with NPPF and policy D of the local plan.
- Will generate significant additional traffic on access track which is also a public right of way increasing traffic conflict as a result.
- Remains concerned at the intensification and commercialisation of the area which is counter to the planning designations afforded to the area.

**Representations received**

Total - Objections	Total - No Objections	Total - Comments
7	124	129

Objectors made the following comments:

- Additional traffic harmful to other users of the public right of way serving the site. **Encouraging cars- unsustainable mode of transport**
- Retention of van body harms Green Belt and AONB
- Will harm wildlife- **disturbance and increase in nitrates**
- Insufficient safety measures in place and questions how water quality is to be safeguarded.
- No flood risk assessment carried out.
- **The proposal is against the law**
- **The lane- known as Swineham Lane- is a private road**
- **Light pollution**

Persons raising no objection made the following comments:

- Use provides a local exercise facility contributing significantly to health and well being of users.
- One of few facilities where safe wild swimming can take place.

- Carried on without harm for past two years.
- Well managed facility which has little impact on wildlife.

## **10.0 Relevant Policies**

s38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be in accordance with the development plan unless material circumstances indicate otherwise.

### **Development Plan**

#### **Purbeck Local Plan 2012:**

The following policies are considered to be relevant to this proposal:

Policy SD: Presumption in favour of sustainable development

Policy LD: General location of development

Policy D: Design

Policy LHH: Landscape, Historic Environment and Heritage

Policy CO: Countryside

Policy BIO: Biodiversity & Geodiversity

Policy DH: Dorset Heath International Designations

Policy PH: Poole Harbour

Policy FR: Flood risk

#### **Wareham Neighbourhood Plan**

Policy H4: Nationally, European and Internationally important Wildlife Sites (including Dorset heathlands and Poole Harbour) and protected species and locally important habitats

Policy LDP2: Design of New Development outside Wareham Conservation Area

Policy LDP3: Sustainable Design

### **Other Material Considerations**

Paragraph 48 of the NPPF provides that local planning authorities may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

- the extent to which there are unresolved objections to relevant plan policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan are to the policies of the NPPF, the greater the weight that may be given).

The Dorset Council Local Plan Options Consultation took place between January and March 2021. Being at a very early stage of preparation, the Draft Dorset Council Local Plan should be accorded very limited weight in decision making.

**The Purbeck Local Plan (2018-2034) Submission January 2019** ('the Submitted Draft Purbeck Local Plan') was submitted for examination in January 2019. At the point of assessing this application, examination of the Submitted Draft Purbeck Local Plan is ongoing, hearing sessions and consultation on Proposed Main Modifications and additional consultation on Further Proposed Main Modifications having been undertaken and a further public hearing session held on 19 July 2022. Updates on the latest position on the plan's examination and related documents (including correspondence from the Planning Inspector, Dorset Council and other interested parties) are published on Dorset Council website ([www.dorsetcouncil.gov.uk/planning-buildings-land/planning-policy/purbeck-local-plan/purbeck-local-plan-latest-news](http://www.dorsetcouncil.gov.uk/planning-buildings-land/planning-policy/purbeck-local-plan/purbeck-local-plan-latest-news)).

Having regard to the plan's progress through the examination and Dorset Council's position following consultation on the Proposed Main Modifications and the Further Proposed Main Modifications, at this stage only limited weight should be given to the Emerging Draft Purbeck Local Plan.

In the preparation of this report, account has been taken of the following draft policies of the Emerging Draft Purbeck Local Plan, but for the reasons set out above these policies should be accorded little weight in the determination of the application:

- V2: Green Belt
- E1: Landscape
- E4: Assessing flood risk
- E10: Biodiversity and geodiversity
- E12: Design
- I2: Improving accessibility and transport
- I7: Community facilities and services.

### **Supplementary Planning Documents/Guidance:**

Dorset Area of Outstanding Natural Beauty Management Plan 2019-2024

Dorset AONB Landscape Character Assessment

### **National Planning Policy Framework:**

Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be

approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

Other relevant NPPF sections include:

- Section 4. Decision taking: Para 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available...and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- Section 13 'Protecting Green Belt land'- new development is inappropriate within the Green Belt unless it meets one of the exceptions within paragraphs 149-150 or very special circumstances outweigh harm to the Green Belt resulting from inappropriateness and any other harm.
- Section 15 'Conserving and Enhancing the Natural Environment'- In Areas of Outstanding Natural Beauty great weight should be given to conserving and enhancing the landscape and scenic beauty (para 176). Paragraphs 179-182 set out how biodiversity is to be protected and encourage net gains for biodiversity.

## **11.0 Human rights**

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property.

This recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

## **12.0 Public Sector Equalities Duty**

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have "due regard" to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.



Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty.

. The proposed changing room facilities are not large enough to facilitate use by wheelchair users, nor are there facilities to enable such people to enter the water. Whilst this limitation must be given weight in the planning balance under the Public Sector Equalities Duty, due to the sensitive location the changes that would be required to make the facilities inclusive would be unlikely to be appropriate so this is not a reason for refusal.

### 13.0 Financial benefits:

What	Amount / value
Material Considerations	
None	None
Non Material Considerations	
Business rates	Unknown

### 14.0 Environmental Implications

14.1 Continued use of the lake for recreational swimming will bring health benefits to local people and supporting information identifies that this can take place without harm to environmental assets. Some additional vehicle movements will be associated with the use.

### 15.0 Planning Assessment

15.1 The key planning issues relating to continuation of the use of the lake for recreational swimming and retention of the parking area and shipping container to provide changing facilities are as follows:

- Principle of the development
- Impact on Green Belt
- Design and impact on the Dorset AONB
- Impact on biodiversity
- Impact on amenity
- Impact on highway safety

These and other considerations are addressed below.

#### **Principle of development**

15.2 The application site lies outside of the Wareham settlement so policy CO of the Local Plan applies. Policy CO states that certain development in the countryside will be

permitted where it does not have a significant adverse impact either individually, or cumulatively on the environment, visually, ecologically, or from traffic movements.

- 15.3 Taking into account the location of the lake in the countryside and the rarity of approved locations for wild swimming, the need for a countryside location for the proposed development is accepted. For the purposes of policy CO the development could also be identified as providing a community facility located close to an existing settlement. The lake lies approx. 700m east of the Wareham settlement boundary.
- 15.4 Additionally, the proposal accords with the Government's commitment to sport and physical activity as important for the health and well-being of communities and to sustainable leisure development in the countryside. Paragraph 84 of the NPPF states, amongst other things, that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas through sustainable leisure developments which respect the character of the countryside. Paragraph 98 of the NPPF states, amongst other things, that opportunities for sport and physical activity are important for the health and well-being of communities.
- 15.5 Given the above there is no objection to the development in principle to the proposal but it remains to assess its detailed impacts.

#### **Impact of the development on the Green Belt**

- 15.6 The site forms part of the Bournemouth Green Belt and as such is subject to the provisions of the NPPF relating to Green Belts.
- 15.7 The NPPF makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 15.8 Paragraph 148 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that 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.
- 15.9 Paragraph 149 goes on to say that construction of new buildings is inappropriate in the Green Belt but goes on to set out exceptions to this being, amongst other things, building used for outdoor sport or recreation as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
- 15.10 Open-air recreational activities are permitted within Green Belts as long as the use and supporting facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it (exception (e) NPPF paragraph 150).

Para 145 encourages local planning authorities to plan positively for enhanced Green Belt use, such as providing opportunities for outdoor sport and recreation.

- 15.11 The use of the lake for swimming does not involve any built mass that can be seen to impact on the openness of the Green Belt and does not conflict with the aims of the Green Belt. As such it is only necessary to assess the impact of the associated proposed container body and car park.
- 15.12 The container body is required for on-site changing by swimmers and to provide a reception. It therefore provides a supporting function for the use of the lake for recreational swimming purposes. Under para 149 (b) such facilities are not inappropriate provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The container is modest in proportions- approx. 8m long, 1.7m wide and 1.7m high- so although it has a spatial impact this is very limited. Visually it is well screened to the south and west by hedging while some additional landscape planting would assist to limit impacts in views from the south through the access gate. It is judged that the siting of the container preserves Green Belt openness and will not conflict with the purposes of including land within the Green Belt. It is therefore an appropriate facility benefiting from exception 149(b) of the NPPF so is not inappropriate development in the Green Belt.
- 15.13 The area identified as an informal car parking area is approx. 50m long. It is grassed and there is no proposal to amend the surfacing. It is proposed to accommodate approximately 20 vehicles during swimming sessions and when not being used will have minimal/no visual impact. The limited amount of parking provided is considered proportionate to and necessary to support the proposed recreational swimming use. The material change of use is judged to accord with the exception at NPPF para 150(e) subject to conditions controlling the timings of use of the site so that vehicle parking remains transient.
- 15.14 For the above reasons it is considered that the container body and parking area are reasonable ancillary elements of the swimming use taking place and that their limited visual impact cannot be seen to materially impact on the openness of the Green Belt. As such they are considered to be appropriate development in the Green Belt and do not have to be accompanied by a case of very special circumstances.

### **Design and impact on the Dorset AONB**

- 15.15 The site falls within the Dorset Area of Outstanding Natural Beauty (AONB). Paragraph 176 of the NPPF states, amongst other things, that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. Furthermore, the scale and extent of development should be limited, with development sensitively located and designed to avoid or minimise any adverse impacts.
- 15.16 Neighbourhood Plan policy LDP2 requires that '*All new development must demonstrate good quality design which responds to and integrates with the site's*

*context.* Policy D of the Local Plan similarly requires proposals to positively integrate with their surroundings and policy LHH requires that development will conserve, amongst other things, the setting, appearance and character of landscape assets. *'In considering the acceptability of proposals the Council will assess their direct, indirect and cumulative impacts relative to the significance of the asset affected, and balance them against other sustainable development objectives.'* Where appropriate enhancement will be expected.

- 15.17 The site lies within the Frome Valley Pasture character area which has a strong undeveloped rural character. The overall objective in this area of the Dorset AONB is to conserve the strong open, undeveloped character and the visual unity of the valley. Maintenance of appropriate boundaries is encouraged, with planting and built form to be sympathetic to landscape character

*Container body:*

- 15.18 The container body abuts the western side of the parking area and is tucked up against a hedgerow running along the access track serving Swineham Farm to the north. It is also set just under 25 metres back from the public footpath to the south but with only end on views available to it from this footpath.
- 15.19 Although the container body has no architectural merit, it is unobtrusively sited with a low profile ensuring that its visual impact is limited. **The container has internal lighting but no external lighting is proposed and this can be controlled by condition (no. 6).** The container is currently painted green and it does not materially impact on the landscape and rural character of the AONB. Although its degree of permanence means that it is being considered as a building, its physical attributes mean that it is reasonable to require its removal from the site in the event that the use of the lake for swimming ceases.

*Car park:*

- 15.20 This is only to be used when the swimming use is taking place which is limited by the season and by the number of sessions per week so is for relatively short periods outside of which the site will remain as open land. As such it is not considered that its use to date has resulted in material harm to the landscape and the rural character of the AONB.
- 15.21 The AONB Team have raised concerns and have requested further details of the layout of the car park, however officers judge that the informal use of the land would be preferable to any design that required parking to be formalised as this would likely lead to visual impacts outside of the periods of use.
- 15.22 While the AONB Team would prefer facilities to be concentrated along the western boundary, with an area of planting to the south of the parking/changing room building, the application has to be determined as submitted. The site already benefits from boundary screening to the west and south. Additional planting is proposed immediately to the south of the container and with this secured by condition it is

considered the impact of the development is nominal and the rural character of the AONB will be preserved.

- 15.23 It is accepted that it would be desirable to improve the appearance of the wider site through removal of spoil stored to the north of the parking area. Whilst the removal of the spoil is not necessary to make the current proposal acceptable, an informative note will bring the need to remove the spoil to the applicant's attention.
- 15.24 Regarding the suggestion of a temporary 5 year approval, officers note that Planning Practice Guidance is clear that conditions to limit any permission to a temporary period need to be justified, for example by anticipated changes in the planning circumstances or because a trial run is needed in order to assess the effects of the development. The proposed use has already been undertaken at the site without authorisation and this has provided the opportunity to assess the impacts, including impacts on protected species and the AONB landscape.
- 15.25 In these circumstances it is not considered necessary to impose a condition limiting the duration of the permission, but a condition requiring the removal of the container body should the use cease is considered appropriate and necessary because this is a temporary structure and to protect the openness of the Green Belt.
- 15.26 The development is therefore considered to comply with the provisions of the NPPF relating to the protection of the AONB and policy LDP2 of the Neighbourhood Plan and policies D and LHH of the Local Plan.

### **Impact on wildlife**

- 15.27 Policy H4 of the Neighbourhood Plan requires that development must avoid an adverse effect upon the integrity, either alone or in-combination, directly or indirectly on sites designated at a national or international level and on protected species. Features of local nature conservation/biodiversity interest should also be protected wherever possible and appropriately managed. This policy is in accordance with policy BIO and the NPPF requirements.
- 15.28 The lake is in relatively close proximity to internationally designated sites (Poole Harbour and Dorset Heathland). Additionally, the lake provides a significant wildlife habitat in its own right.
- 15.29 A section 106 legal agreement appended to the mineral extraction planning permission required that the lake and surrounding areas should only be used for nature and wildlife conservation purposes. It also requires that the nature conservation interest of the site must be retained in perpetuity.
- 15.30 Natural England has confirmed that the area provides '*supporting habitat for the Poole Harbour SPA bird populations and is likely to be of particular importance in winter supporting breeding birds.*'
- 15.31 The application as originally submitted lacked information on the impact of the use on over wintering birds or mitigation measures to address any impact identified. It

was therefore necessary to secure an assessment of the bird populations along with a suitable package of measures to ensure recreational disturbance associated with the use does not harm wildlife interests. It also needed to address monitoring of the breeding and winter bird populations by allowing access for breeding bird surveys and bird ringing activities. Additional information has been provided during the course of the application.

- 15.32 Following Breeding Bird Surveys conducted on the 21<sup>st</sup> April and the 24<sup>th</sup> May 2022, Natural England are now satisfied the swimming use is not causing significant effects to the designated features of breeding birds of the Poole Harbour Special Protection Area.
- 15.33 Natural England has advised that any permission granted should take account of the protection provided by the original legal agreement which required the lake “to be used only for nature and wildlife conservation purposes and for no other purpose”. Water based activities can disturb water birds with the potential to reduce the ornithological value of the lake.
- 15.34 In order for any planning approval to be lawfully implemented it will be necessary for the applicant to apply to amend the legal agreement because swimming would normally be considered as an “other purpose”. Given the site’s sensitive location the requirement for a strict nature conservation after-use for this former quarry lake remains, so only recreational swimming should be permitted. This can be secured by the required variation to the existing legal agreement. A condition preventing swimming from taking place outside the current summer season would also be necessary to protect biodiversity.
- 15.35 A Biodiversity Plan (BP) has also been submitted identifying proposed enhancement measures: a House Martin tower, Tern raft, woodland management and bat boxes.
- 15.36 Although these are to be undertaken outside of the application site area, they are on land within the same ownership and the land owners’ agreement has been obtained. A condition to secure the works would meet the test of reasonableness, with the exception of the House Martin tower, which would require separate planning permission due to its scale. The Dorset Natural Environment team who certified the Biodiversity Plan have confirmed that the House Martin tower would be beneficial but is not essential to make the proposal acceptable. An informative note can be added to the decision to encourage a separate planning application for this element.
- 15.37 **An objection has been raised about the use of the land in relation to the potential increase in nutrients entering Poole Harbour SPA associated with swimmers. The swimming operation has previously been served by an ancillary portable cassette toilet. As the proposal is for a temporary use with limited numbers of visitors who are likely to live in the vicinity, no likely harm by reason of nutrient enrichment has been identified. A condition can reasonably control the toilet facilities on site ensuring that they are seasonal only.**

- 15.38 It is considered that subject conditions restricting the numbers of swimmers and periods when swimming can take place, the use can continue without materially affecting the lake's wildlife. Natural England has confirmed that they are now satisfied that the proposed level of summer activity (April until end of September) is unlikely to have a significant effect on the Poole Harbour SPA / Ramsar Site designated interests. The introduction of bat boxes, a Tern raft and woodland management anticipated in the Biodiversity Plan would result in net gain for biodiversity.

**Impact on amenity:**

- 15.39 The lake is remote from any dwelling so no harm to amenity is identified from the recreational swimming use of the lake. Concern was raised however that noise and disturbance from cars gaining access to the car park serving the lake was harmful to aural amenity.
- 15.40 Access to the site is gained via Bestwall Road which is fronted by numerous houses before leaving the built up area in the form of a single width track. Beyond this there is one dwelling 'Curlews' fronting this track. It is recognised that the use will result in an increase in traffic, however given the proposed restrictions over the periods in which the activity can take place (April-September, 6 hours per week) and the number of swimmers (25 swimmers at a time), it is not considered there will be a material erosion to the aural amenity for the residents of this property justifying refusal.

**Impact on highway safety**

- 15.41 Bestwall Road is a public right of way, footpath SE2/20 & 25. Given the small numbers of people using the proposed swimming facility and that access to the lake is via narrow access road which encourages low speeds, no material conflict with other users of the access road has been identified. It is anticipated that this will continue to be the situation and no objection has been raised by the Dorset Rights of Way Team. In the absence of objection from Dorset Council's Highways team on harm to the free flow of traffic or highway safety in the locality, it is considered the highway impacts of the use continuing are acceptable.

**Other issues**

- 15.42 Objectors have raised concerns about safety issues. The access road serving the site is large enough for emergency service vehicles. It is the responsibility of the operator ensure that the open swimming use is operated safely.
- 15.43 **Objectors have suggested that the site lies within a Flood Risk zone but the Environment Agency's records show that the site lies within Flood Zone 1 and is not at risk from surface water flooding. The site will not be used during the winter months when the ground is more likely to be waterlogged. The proposal is not anticipated to contribute to increased flood risk.**

- 16.0 **Conclusion:**

- 16.1 The use of the lake for recreational swimming in the summer months represents an appropriate recreational use in the Green Belt while retention of the container body and informal car park represent reasonable small ancillary development that does not harm the openness of the GB.
- 16.2 It is also considered that the small size and unobtrusive siting of the container body and car park has a nominal impact on the rural and landscape character of the AONB.
- 16.3 Subject to conditions to restrict the number of swimmers and when and where swimming can take place, together with implementation of proposed wildlife enhancement measures the use can continue without materially affecting wildlife.
- 16.4 In the circumstances it is considered an appropriate balance has been struck between enabling the use to continue while ensuring wildlife interests are still given priority. It is therefore recommended that retrospective planning permission is granted.

## **17.0 Recommendation:**

### **Grant subject to the following conditions:**

1. The development hereby approved shall be undertaken only as shown on drawing no: Location Plan Rev B and 5926-SWIM revision A

Reason: To ensure the development remains as permitted in the interests of amenity.

2. The recreational swimming use hereby permitted shall only take place between 1 April and 30 September each calendar year and shall not take place outside of that period.

Reason: In the interests of wildlife.

3. No more than 25 people in connection with the use hereby permitted shall be on site at any one time and no more than 25 people shall swim in the lake at any one time. There shall be no more than 6 hours of swimming sessions in total at the site in any given week.

A written record of swimming sessions and the number of participants at each shall be kept and made available to the Local Planning Authority upon request.

Reason: In the interests of wildlife.

4. Swimming shall only take place in the areas shown on drawing no: 5926 - SWIM scale 1:2500. All marker buoys shall be removed immediately at the end of each swimming session.

Reason: In the interests of wildlife.



5. Within the first planting season (November to March) following the granting of this permission no. 5 *Cornus sanguinea* (Dogwood) shall be planted 0.6m apart alongside the southern edge of the container body.  
If any of the plants are removed or dead, dying or diseased in the first five years they shall be replaced with specimens of the same species, same size and in the same location in the next planting season (November to March).

Reason: In the interests of wildlife and visual amenity

6. No external lighting whatsoever shall be placed on the container body or within the red outline areas shown on drawing no: 5926 – SWIN rev A.,

Reason: To safeguard the night-time rural environment and in the interests of wildlife.

7. The container body shall be removed from the site and the land reinstated to its former condition within 6 months of the permanent cessation of the outdoor swimming use.

Reason: To ensure redundant structures are removed in order to retain the openness of the Green Belt.

8. The Lakeside Woodland Management identified in the Biodiversity Plan certified by the Dorset Natural Environment Team on 20/10/2022 shall be undertaken in the summer of 2023 in accordance with the details set out in the Biodiversity Plan.

Reason: In the interests of biodiversity

9. Bat boxes and a Tern raft shall be installed in accordance with the Biodiversity Plan certified by the Dorset Natural Environment Team on 20/10/2022, before 31 December 2024 and shall thereafter be retained.

Reason: In the interests of biodiversity

- 10. Toilet facilities shall be limited to one cassette toilet to be removed from the site between 1 October and 31 March (inclusive) each calendar year.**

**Reason: In the interests of biodiversity, the AONB and Green Belt openness**

## **Informatives**

1. The applicant is advised that the lake cannot be lawfully used for swimming as hereby approved until the legal agreement which is in force on the land is

varied. Please contact the Case Officer to progress this. A legal fee will be payable.

2. The House Martin Tower proposed in the biodiversity plan would require separate planning permission.
3. The applicants are reminded that driving on a footpath is an offence under Section 34(1) of the Road Traffic Act 1988 unless the express permission of the owner of the footpath has been obtained.
4. The applicants are reminded of the need to maintain the surface of the public right of way which serves the application site.
5. The land owner is advised that the spoil heaps north of the application site should be removed in the interests of the AONB.
6. Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.