

<b>Application Number:</b>	P/FUL/2023/02429
<b>Webpage:</b>	<a href="https://planning.dorsetcouncil.gov.uk/">https://planning.dorsetcouncil.gov.uk/</a>
<b>Site address:</b>	Part Of Tout Quarry Priory Road Portland
<b>Proposal:</b>	Enhancement of existing aggregates pathway in the Tout Quarry Sculpture Park & Nature Reserve with geological interpretation spaces & erection of Portland stone archway to be relocated from Grade II listed building at 81 Fleet Street, London.
<b>Applicant name:</b>	The Portland Sculpture And Quarry Trust
<b>Case Officer:</b>	Robert Parr
<b>Ward Member(s):</b>	Cllr Huges, Cllr Kimber and Cllr Roper

**1.0** In accordance with the Council's scheme of delegation this application is brought to committee for determination as Dorset Council owns land on the application site.

**2.0 Summary of recommendation:**

GRANT subject to conditions.

**3.0 Reason for the recommendation:**

- Would enhance and not harm character and appearance of the area.
- Acceptable impact on highway.
- No adverse impact on European Protected Site or wildlife and habitat.
- No significant adverse harm to Portland Area of Archaeological Potential.
- No unacceptable risk from contamination.
- No significant adverse impact on amenity.
- There are no material considerations that would warrant refusal of this application.

**4.0 Key planning issues**

<b>Issue</b>	<b>Conclusion</b>
Principle of development	<p>Outside the defined development boundary Local Plan Policy SUS2 sets out that development will be strictly controlled, but it does allow for tourism, educational/training, recreation, or leisure related development subject to the detailed considerations of other policies in the adopted local and neighbourhood plans.</p> <p>Therefore, as the proposed development is considered to be tourism, educational/training, recreation, or leisure related development, subject to further assessment against the limitations set out in the local and neighbourhood plans, the principle of development is accepted under Policy SUS2.</p>

Impact on character of area	The design would be in keeping and would enhance the character of the area.
Highway Safety	No significant adverse impact on highway or traffic movement.
Wildlife and Habitat	Within 5km of Chesil Beach and the Fleet European Protected Site. Proposals are not considered to have a significant adverse effect on the integrity of the designated site. Application supported by a NET Approved Biodiversity Plan. Ground nesting birds' mitigation required through planning condition.
Area of Archaeological Potential	No significant adverse harm.
Contaminated land	Would not result in an unacceptable risk from contamination.
Amenity	Acceptable impact.
Response to Other Issues Raised	Other issues raised have been satisfactorily addressed.

## 5.0 Description of Site

The application site is located on the north west plateau of Portland and approximately 75m south west of the Portland Heights Hotel. Pedestrian access to the site can be achieved at the northern end of the site from Wide Street and Vehicle access and car parking accessed from Tradecroft to the south. There are numerous other pedestrian access/routes to the site by virtue of the public rights of way that crisscross the site. The existing site is a Quarry Sculpture Park and Nature Reserve offering visitors free and open access to a mix of art, natural history, ecology, geology and quarrying heritage.

The application site is outside the Defined Development Boundary, is not within the Dorset Area of Outstanding Natural Beauty, is not in a Conservation Area, is not a Listed Building or considered to be within the setting of the Grade II Listed Bridge in Touts Quarry. The site is in an area recorded as having a low probability of flooding. The site is within the Portland Area of Archaeological Potential (includes whole island), part of the site is within a Site of Special Scientific Interest (SSSI), Historic Landfill Contaminated Land (Tradecroft Estate) and Public Rights of Way (ROW) cross the site.

## 6.0 Description of Development

The proposed development is to carry out enhancement of the existing aggregates pathway in the Tout Quarry Sculpture Park & Nature Reserve, the addition of geological interpretation spaces and the erection of a Portland stone archway to be relocated from the Grade II listed building at 81 Fleet Street, London. The proposals would also include environmental improvements by clearing invasive species of plants (buddleia, cotoneaster, brambles), creating new habitats & micro-climates using waste

stone to encourage indigenous species including south facing slopes flora & fauna, creation of temporary rainwater pools for vertebrates including lizards and birds, the reinstatement of artifacts of geological and historical importance from Portland's quarrying heritage and interpretive letter cutting into the path or seating blocks.

## 7.0 Relevant Planning History

Application No.	Proposal	Decision	Decision Date
WP/15/00001/FUL	The development of a new sculpture/interpretation area for Tout Quarry with the formation of a new pedestrian access off Wide Street into the top of Tout Quarry, opposite the Heights Hotel	Granted	11/05/2015
09/00102/FUL	Creation of new car park	Granted	01/07/2009
01/00126/FUL	Sculpture park including 2 workshop areas	Granted	14/08/2001
99/00062/FUL	Construct open scaffold structure and covered shelter with screeded floor	Granted	24/03/1999
95/00473/FUL	Formation of access tracks and parking area	Granted	07/12/1995

## 8.0 List of Constraints

Land Outside Defined Development Boundaries

Portland Neighbourhood Plan; Status 'Made' 22/06/2021

Grade: II Listed Building: BRIDGE IN TOUTS QUARRY AT NGR SY 685 727 List Entry: 1281839.0; - Distance: 24 (statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990)

Area of Archaeological Potential; Portland

Right of Way: Footpath S3/95; - Distance: 33.76

Right of Way: Footpath S3/55; - Distance: 0

Right of Way: Footpath S3/100; - Distance: 0

Key Employment Site; Tradecroft Industrial Estate, Portland

Historic Landfill Site: Landfill Site at Wide Street Depot, Portland

Minerals and Waste Safeguarding Area

Contaminated Land – Historic Tradecroft Landfill Site at southern end of access track within application site.

Nutrient Catchment Areas

Portland Quarries Nature Park

SNCI Varied site with rich calcareous grassland; Portland Heights

Dorset Wildlife Trust Reserve: Tout Quarries

Natural England Designation - RAMSAR: Chesil Beach & the Fleet (UK11012); -  
Distance: 3000.56

Special Area of Conservation (SAC) (5km buffer): Chesil & The Fleet (UK0017076); -  
Distance: 438.36

Site of nature conservation interests (SNCIS): SY67/018 - Portland Heights; -  
Distance: 0

Medium pressure gas pipeline 25m or less from Medium Pressure Pipelines (75mbar  
- 2 bar); - Distance: 20.75

## 9.0 Consultations

All consultee responses can be viewed in full on the website. Two phases of consultation were carried out, one in October 2023 and again in February 2024 due to an amended location plan that included access to the site from Tradecroft.

### Consultees

#### 1. Natural England

No objection - The location for the proposal lies outside the Isle of Portland SSSI and also avoids land which has been identified as supporting habitat for the Isle of Portland to Studland Cliffs SAC.

Although the application site lies near the SSSI boundary Natural England is satisfied the proposals are unlikely to harm SSSI interests.

#### 2. Ramblers Association

No response received.

#### 3. Dorset Wildlife Trust

Insufficient information has been provided to allow assessment of impacts.

Part of the application boundary lies within the DWT Reserve. DWT need to be sure work carried out is done safely and with provision for future maintenance. DWT seek assurances that adequate Risk Assessment (including visitor safety) and onward maintenance plans will be provided.

No mitigation measures have been provided for the potential impact of the work on nesting birds. Scrub clearance work must be undertaken outside the nesting season (March – August inclusive). If this is not possible, then a breeding bird check must be undertaken, and clearance is undertaken under ecological supervision. If evidence of breeding birds is discovered during scrub removal operations, work must cease until the nest is no longer active.

DWT has been named within the submitted Biodiversity Plan as taking partial responsibility for the scrub management work but there has been no discussion with us regarding this aspect of the proposed work in association with this planning application. As the application needs to deliver enhancement that is additional to the existing ongoing management work on the site, it is essential that a suitable agreement is made to ensure that this can be resourced prior to planning approval being granted.

Any work carried out under this proposal would need to meet conditions set out in a Memorandum of Understanding regarding the Sculpture Park area between, DWT and the PQST, with particular reference to management of priority habitat, scrub management and visitor safety.

#### **4. Highways**

Due to the existing use, on balance the Highway Authority could not recommend refusal of the application. A condition and informative is recommended.

Dorset Council Bridges and Structures team have requested the applicant submit calculations to substantiate the arch structures stability.

#### **5. Rights of Way Officer**

No objection

#### **6. Minerals & Waste Policy**

No response received.

#### **7. Archaeology**

No response received.

#### **8. Asset & Property**

No response received.

#### **9. Portland Ward 1, Ward 2, Ward 3**

No response received.

#### **10. Natural Environment Team (NET)**

A NET approved Biodiversity Plan has been submitted in support of application.

#### **11. Archaeology**

No response received.

#### **12. Building Control Weymouth Team**

No comment

### **13. Portland TC**

Support subject to satisfactory comments from Dorset Wildlife Trust and the Highways Officer.

#### **Representations received**

Objections – 0

Support – 21

Summary of comments:

- Would provide an educational resource.
- Would enhance tourism offering.
- Would enhance the aesthetic appeal of the quarry.
- Proposal would inspire interest in the next generation of craft people.
- Proposal would help to increase and enhance biodiversity and ecology of the proposed site.

### **10.0 Duties**

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.

The Planning (Listed Buildings and Conservation Areas) Act 1990 - section 66 in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

### **11.0 Relevant Policies**

#### **Development Plan**

- INT1. Presumption in favour of sustainable development
- ENV1. Landscape, seascape and sites of geological interest.
- ENV2. Wildlife and habitats
- ENV4. Heritage assets
- ENV9. Pollution and contaminated land
- ENV10. The landscape and townscape setting.
- ENV12. The design and positioning of buildings
- ENV16. Amenity
- SUS2. Distribution of development
- ECON2. Protection of key development sites
- ECON5. Tourism attractions and facilities
- COM4. New or improved local recreational facilities.
- COM7. Creating a safe and efficient transport network
- PORT3. Portland Quarry Nature Park

## Portland Neighbourhood Plan – 2017-2031 ('Made' 22/06/2021)

- Policy No. Port/EN3            The Portland Quarries Nature Park
- Policy No. Port/EN4            Local Heritage Assets
- Policy No. Port/EN7            Design and Character
- Policy No. Port/ST1            Sustainable Tourism Development
- Policy No. Port/ST3            Tourist Trails

### Material Considerations

#### **Emerging Local Plans:**

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**

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

#### **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 making': 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 6 'Building a strong, competitive economy', paragraphs 88 and 89 'Supporting a prosperous rural economy' promotes the sustainable growth and expansion of all types of business and enterprise in rural areas, through conversion of existing buildings, the erection of well-designed beautiful new buildings, and supports sustainable tourism and leisure developments where identified needs are not met by existing rural service centres.
- Section 12 'Achieving well designed and beautiful places' indicates that all development to be of a high quality in design, and the relationship and visual impact of it to be compatible with the surroundings. In particular, and amongst other things, Paragraphs 131 – 141 advise that:

The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development.

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

- Section 15 'Conserving and Enhancing the Natural Environment'- Paragraphs 185-188 set out how biodiversity is to be protected and encourage net gains for biodiversity.
- Section 16 'Conserving and Enhancing the Historic Environment'- When considering designated heritage assets, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (para 205). The effect of an application on the significance of non-designated heritage assets should also be taken into account (para 209).

#### Other material considerations

Dorset Council Interim Guidance and Position Statement Appendix B: Adopted Local Plan policies and objectives relating to climate change, renewable energy, and sustainable design and construction. December 2023.

Weymouth & Portland Urban Design (2002)

Landscape Character Assessment (Weymouth & Portland)

### **12.0 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.

### **13.0 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. In this instance it is not considered the proposal would impact anyone with a protected characteristic.

#### **14.0 Financial benefits**

There would be no direct financial benefits to Dorset Council as a result of this proposal.

#### **15.0 Environmental Implications**

Natural England has advised that development which results in an increase in population within 5km of the Chesil Beach and the Fleet European site may contribute to an unacceptable increase in recreational pressures on the features of the designated area. Therefore, in accordance with habitat regulations the proposal has been screened to consider the potential impact of the development on the protected sites. The application is for the enhancement of the existing tourism attraction/recreation space and would therefore not create an additional residential unit or holiday accommodation. As such, there are no likely significant effects associated with this proposal on the European protected sites. As the screening process concluded that the application would have no likely significant effect on the European protected sites, the requirement for an appropriate assessment has not been triggered as set out in the Habitat Regulations.

The application is supported by a NET approved Biodiversity Plan.

#### **16.0 Planning Assessment**

##### Principle of development

Outside the defined development boundary Local Plan Policy SUS2 sets out that development will be strictly controlled, but it does allow for tourism, educational/training, recreation, or leisure related development subject to the detailed considerations of other policies in the adopted local and neighbourhood plans. Furthermore, Local Plan Policy PORT3 sets out that Tout Quarry is allocated as part of the Portland Quarries Nature Park to promote sustainable tourism, management of conservation and heritage interest.

Therefore, as the proposed development is considered to be tourism, educational/training, recreation, or leisure related development, subject to further

assessment against the policies set out in the local and neighbourhood plans, the principle of development is accepted under Policy SUS2 and PORT3.

#### Impact on character of area

The character of the existing site can be summarised as a former quarry, now a quarry sculpture park and nature reserve offering free visitor and open access to a mix of art, natural history, ecology, geology, and quarrying heritage. According to the Design and Access Statement submitted with the application, the site includes 60 art installations, including art by nationally/internationally known sculptors, such as work by Antony Gormly.

Given the proposal seeks to use Portland stone for the re-located archway, and other features/landscaping, the materials are considered in keeping with the site. By virtue of the design of the proposals it is considered they would be in harmony with the site, would not overpower the site or its setting, would conserve and enhance the local landscape and the tourism attraction, would not harm the Regionally Important Geological and Geomorphologic site and would have wider benefits by enhancing the recreational facility for the local community as well as visitors.

Furthermore, it is considered the proposals would increase the quality and diversity of the tourism offer in the local area, although the scale of the development is not considered to result in a significant increase in vehicle movements or requirement for ancillary visitor facilities, beyond those currently provided.

Given that no alterations are proposed to the vehicular access that runs through the Tradecroft Estate, the proposal is not considered to have an adverse impact on this protected employment site.

Therefore, it is considered the proposals would result in an enhancement to the site and as such are acceptable in terms of design and their impact on the character of the area. As such the proposal is considered to accord with Policies ENV1, ENV10 and ENV12 of West Dorset, Weymouth & Portland Local Plan 2015, and Policy PORT/EN7 of the Portland Neighbourhood Plan 2017-2031.

#### Wildlife and habitat

The applicants have followed the Dorset Council Biodiversity Protocol and have submitted an NET approved Biodiversity Plan and NET Certificate of Approval, both dated 02/02/2024.

The Dorset Wildlife Trust have highlighted through the application consultation that no mitigation measures have been provided for the potential impact of the work on nesting birds. As such it is considered that a planning condition is reasonable and necessary to ensure the proposed development does not result in harm to nesting birds.

Therefore, subject to conditions requiring the development to be carried out in accordance with the approved Biodiversity Plan and to mitigate the impact on nesting birds, the proposals are considered acceptable in terms of wildlife and habitat impact. As such the proposal is considered to accord with Policy ENV2 of West Dorset, Weymouth & Portland Local Plan 2015.

### Impact on Area of Archaeological Potential

The island of Portland is recorded as an area of archaeological potential. However, given no objection or comment has been received from the County Archaeologist and the development would be carried out either above ground or involve excavation of small areas of previously quarried land, it is not considered that the development would have a significant impact on the site's archaeology.

### Highways/Access

It is considered that access to the site is well served by existing rights of way, pedestrian footpaths and vehicle access/parking. The Highway Authority has raised no objection due to the existing use, subject to a pre-commencement condition for a Construction traffic management plan to be submitted and approved.

Therefore, subject to agreement to the proposed pre-commencement condition, the proposal is considered acceptable in terms of its impact on the highway and access.

### Pollution and contaminated land

A short section of the southern end of the track that is required to provide access to the development site is within an area recorded as historic land fill contaminated land. However, as no development is proposed on this section of land and it is only included within the application site for access, it is considered that the proposal would not result in an unacceptable risk from contamination.

### Amenity

Given the significant degree of separation between the application site and residential dwellings, it is not considered the proposal would result in a significant adverse impact on amenity. As such the proposal is considered acceptable in terms of amenity impact.

### Other matters

#### *Structural Calculations for Archway*

The Design and Access Statement sets out that the proposed re-located Portland Stone Archway would be installed with a structural frame and foundations designed by chartered engineers to ensure it is stable. It is considered that the structural integrity of the proposed archway is covered by other legislation, including but not limited to the Construction (Design and Management) Regulations 2015 and the Health & Safety at Work Act 1974, and as such is not a material consideration in this planning decision.

#### *Health and safety of works*

The Dorset Wildlife Trust have raised concerns that the development must be carried out safely and with provision for future maintenance. It is considered that the health and safety requirements in carrying out the proposed development are covered by other legislation and as such this is not a material consideration in the planning decision.

#### *Memorandum of Understanding between Dorset Wildlife Trust (DWT) and the Portland Quarry and Sculpture Trust (PQST)*

The DWT have raised concerns that any work carried out under the proposed development would need to meet conditions set out in a Memorandum of Understanding between, DWT and the PQST, with particular reference to management of priority habitat, scrub management and visitor safety. It is considered that this is a private matter between the two parties and as such is not a material consideration in the planning decision.

## **17.0 Conclusion**

The development has been assessed against the policies of the West Dorset, Weymouth & Portland Local Plan 2015, the Portland Neighbourhood Plan 2017-2031, the policies of the NPPF (2023) and other material considerations. It has been concluded that subject to conditions the development would comply with the West Dorset, Weymouth & Portland Local Plan 2015, the Portland Neighbourhood Plan 2017-2031 and the policies of the NPPF (2023). The recommendation has been taken in compliance with the requirement of the NPPF to foster the delivery of sustainable development in a positive and proactive manner.

## **18.0 Recommendation**

Grant permission subject to conditions:

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

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location plan – Dwg No. PSQT\_001 Rev: D

Arch details, Elevation and Plan - Dwg No. PSQT\_002 Rev: B

Proposals Plan – Dwg No. PSQT\_003 Rev: D

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Before the development hereby approved commences a Construction Traffic Management Plan (CTMP) must be submitted to and approved in writing by the Planning Authority. The CTMP must include:
  - construction vehicle details (number, size, type and frequency of movement)
  - a programme of construction works and anticipated deliveries
  - a framework for managing abnormal loads
  - contractors' arrangements (compound, storage, parking, turning, surfacing and drainage)
  - wheel cleaning facilities
  - vehicle cleaning facilities
  - a scheme of appropriate signing of vehicle route to the site
  - a route plan for all contractors and suppliers to be advised on
  - temporary traffic management measures where necessary

The development must be carried out strictly in accordance with the approved Construction Traffic Management Plan.

Reason: To minimise the likely impact of construction traffic on the surrounding highway network and prevent the possible deposit of loose material on the adjoining highway.

4. The detailed biodiversity mitigation, compensation and enhancement/net gain strategy set out within the approved Biodiversity Plan or Landscape Ecological Management Plan (LEMP) certified by the Dorset Council Natural Environment Team on 02/02/2024 must be implemented in accordance with any specified timetable and completed in full (including photographic evidence of compliance being submitted to the Local Planning Authority in accordance with section J of the Biodiversity Plan/ the LEMP) prior to the substantial completion, or the first bringing into use of the development hereby approved, whichever is the sooner. The development shall subsequently be implemented entirely in accordance with the approved details and the mitigation, compensation and enhancement/net gain measures shall be permanently maintained and retained.

Reason: To mitigate, compensate and enhance/provide net gain for impacts on biodiversity.

5. Scrub clearance required to be carried for the development hereby approved must be undertaken outside the nesting season of March to August.

Reason: To enhance or protect biodiversity.

### Informatives

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 applicants/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.

Informative Note: Contact Dorset Highways

The applicant should contact Dorset Highways by telephone at 01305 221020, by email at [dorsethighways@dorsetcouncil.gov.uk](mailto:dorsethighways@dorsetcouncil.gov.uk), or in writing at Dorset Highways, Dorset Council, County Hall, Dorchester, DT1 1XJ, before the commencement of any works on or adjacent to the public highway, to ensure that the appropriate licence(s) and or permission(s) are obtained.