

Date: 08 March 2023  
Our ref: 364855  
Your ref: WP/20/00692/DCC



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**BY EMAIL ONLY**

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CW1 6GJ

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Dear Mrs Hart, Mr Rendle

**Planning consultation: Construction of energy recovery facility with ancillary buildings/works incl. gatehouse & weigh-bridge, cable routes to ship berths and existing off-site electrical sub-station**  
**Location: Portland Port, Castletown, Portland DT5 1PP**

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

## **Objection further information required**

### **Access path strategy Feb 2023**

The proposed extension to two footpaths (S3/70 and S3/81) as described in paragraph 2.6 of the document:

“... to realign the current secure boundary fencing at the terminations of these two paths S3/70 and S3/81, to the eastern edge of the access road”

During a site visit to the area to consider the proposed fencing Natural England was aware of the drawing ref 1081\_02\_38, however not fully aware of the implications of paragraph 3.4 (August 2021 version) which proposes a new fence on the north side of the footpath (Annexe 1 A to B). An omission on our part.

The proposal to erect a new security fence north of the proposed linking path (between the two arrows labelled D on the plan at Annexe 1.) and also partly within the SAC and SSSI, was however considered by Natural England and the impacts on habitats considered to be acceptable subject to a proper survey and detailed methodology at a future date.

It was not apparent that there was a proposal to install a 3.3m (August document) now 2m (Feb document) palisade security fence along the length of S3/70 within the SAC/SSSI (Annexe 1. A to B) without a consideration of alternatives, adequate survey, method statement or consideration of the long term effects on the desired SAC management. At present this pathway is open on both sides and the nature of wooden posted stock fencing proposed south of the footpath is temporary rather than the permanent palisade as is proposed.

The fencing necessary for the security of the ERF, (the subject of the application), is described in para 2.43 of Chapter 2 of the ES and this proposes fencing (2.4m) along the edge of the Port and adjacent but not in the designated sites. This proposal is within the application site boundary and is acceptable to Natural England.

The new security fencing (alongside S3/70) is **not** necessary to the planning application, does not fall within the application site and Natural England advise would be contrary to the Conservation Objectives of the SAC by fragmenting the area of habitat in a permanent manner. Further there are already one or two security fences down the slope within the SAC which are a functional barrier to public access to the port.

In addition to not being required as a part of the planning application, the fencing proposed is of a nature which is highly intrusive in the natural setting and significantly obscures views across the harbour and to the Jurassic Coastline/AONB beyond. The authority *should* require an assessment of the visual and landscape impacts prior to considering this proposal. No such assessment has been carried out in the ES, Chapter 9, para 9.135, assesses visual impacts prior to the proposal being tabled but also fails to consider the objectives of the SSSI/SAC to reduce the proportion of scrub in Unit 33.

Natural England notes that the documents ( dSoCG and Access Path Strategy ) make statements about ecological benefits of the proposals. However, for example at the SAM (E battery) area the clearance of scrub is a side effect of the historic environment requirements and not a matter Natural England would afford particular weight to. There are sufficient legislative mechanisms to secure appropriate management of the SAC and SSSI such that the authority should not afford planning weight to the statements within the *Access Path Strategy Paper Feb 2023 update2* document. With the exception of the additional grazing areas which might be facilitated, other proposals are generated by possible historic and access gains rather than as ecological priorities and may have ecological benefits only in the short term.

The applicant states at 3.13 (*Access Path Strategy Paper Feb 2023 update2*) that all fencing may be erected without any planning permission. The applicant appears unaware of the provisions of The Conservation of Habitats and Species Regulations 2017 (reg 75 to 77). Permitted development which is likely to have a relevant effect on a European designated site is subject to consultation with Natural England and where such an effect is identified the proposer may not commence the implementation of the project until the authority has carried out an Appropriate Assessment and confirmed in writing that the project can commence. With the information provided Natural England advise that the proposal does have relevant effects on the SAC which are harmful and that the authority has insufficient information to authorise the proposal and that it may reasonably reach a conclusion of an adverse effect on the integrity of the SAC.

The applicant has provided no compelling reasons setting out the need for fencing of the nature proposed or considering alternatives. Natural England and Historic England would welcome further engagement concerning sustainable management of Unit 33 and the SAM. It should be noted that neither Natural England nor Historic England (HE) are seeking fencing aimed at excluding local people from this area.

Natural England advise that the proposed security fencing is likely to have *relevant* and harmful effects both directly on the habitats but also in respect of fragmenting the management units of the SAC and preventing future more extensive grazing units rather than smaller areas.

Should the documents currently provided by the applicant be used to secure an authorisation for the palisade fencing as part of the planning application, then Natural England can advise the authority that the proposal would give rise to a likely significant effect on the Isle of Portland SAC and that the authority should carry out an Appropriate Assessment on this project. At this time Natural England advise that there is insufficient information (survey, methodology, working area, timing etc) including a consideration of the alternative solutions. Based on the available information Natural England can advise that the Council may reasonably reach a conclusion that this proposal would substantially compromise the recovery of Unit 33 of the SSSI, which is also SAC, giving rise to an adverse effect on the sites integrity.

Natural England does not follow the approach which is set out in the Access document, that the provision of a path linking two other existing paths provides any measure of mitigation of potential harm to the historic environment from the ERF whose footprint is on the port. The proposal to erect

new palisade security fencing, which is 2m high and which will be in its own right visually intrusive and effectively screen views across the port and coast, appears to further contradict objectives to mitigate visual effects. The permanence and mass of the fence it is its self an adverse impact on the views of the Jurassic Coast and Dorset AONB.

Proposed Viewing Platform (Plan 1081-02-38 (14)), this is detailed on the plan as a proposal however it is within the designated SAC and SSSI and without any further detail Natural England advise that this should be deleted from the plan as it does not fall within the application boundary and there is no certainty that any proposal here would be acceptable. See Annexe 1 (C). Once an adequate proposal is prepared this can be considered through the correct formal processes relating to the biodiversity sites and historic/cultural setting.

### **Unit 33/SAM management**

Following discussions I can confirm that there have not been comprehensive discussions with the two bodies (Natural England/HE), the applicant or Port (landowner) about the management objectives of the area. Both of the designations are though in decline. The proposed palisade fencing is not necessary for the planning application to be determined. Its approval should be subject to a separate appropriate formal consultation, which will allow for alternative solutions to avoid harm and for the sustainable management of the features of both designations to be addressed. This would also include the avoidance of further adverse impacts on views to the nearby designated landscapes and cultural heritage site.

From the discussions with HE it is apparent that our objectives for the designated sites are closely aligned and that there is a high possibility that the applicant/land owner could secure agreement about the appropriate management regime required for both interests. This would inform any future proposal requiring authorisation by the bodies. A Conservation Management Plan for the SAM would be a recognised way of moving forward with agreed actions.

### **draft Statement of Common Ground (dSoCG)**

Natural England has reviewed the above draft document dated January 2022. The document is not agreed by Natural England.

Para 7/8. The SoCG is non specific about the proposed security fencing in Unit 33 which is contrary to nature conservation objectives.

Para 11 – not agreed at this time

Para 15 this needs to be reworded.

The plans at pages 5- 9 need to be reviewed, they still show 3m high fencing and an unspecified viewing platform. Natural England does not support the potential future grazing unit plan.

The matters listed at point 14 (dSoCG) which are beyond the protection/avoidance of harm to the Isle of Portland and Chesil Beach SSSIs need to be addressed. Some modifications to the current wording (provided in Annexe 2) are provided below.

14. Potential projects identified for the receipt of funds from the ERF proposals are:

- a) Creation of scrapes and monitoring of Least Owlet (a moth) within grassland between the A354 and the shore of Portland Harbour (Hamm Beach area)
- b) Regular cutting and management of grassland on Hamm Beach
- c) Shingle scrapes on the area adjacent to the A354 on Chesil Beach to reduce soil development and encourage early successional vegetation stages by restoring disturbance to the shingle communities

- d) Contributions towards schemes to reintroduce grazing at sites on the Isle of Portland including if possible "Portland" breed sheep including grazing manager.
- e) Contributions towards schemes for control of scrub (including native and introduced species eg cotoneaster) within the Isle of Portland SSSI.
- f) Additional fencing costs referred to at para 9 above

These are currently proposed in the dSoCG but the applicant has not confirmed if the measures will be adequately resourced and hence they are unsecured. Natural England advise that the applicant should provide further information confirming/justifying a proposed annual sum to be made available to Dorset Council, annually for the duration of the operation of the plant available for measures in a defined area. This can then be the subject of a suitable planning condition of S106 agreement.

### **Additional matters which the authority will need to secure through planning conditions**

Concerns have been raised about the transfer of Refuse Derived Fuel bales within the port and potential for plastic and other contaminated fuel material to escape into the marine environment. The authority should require a planning condition which ensures that materials are removed from the Portland Harbour and harbour foreshore on a regular at regular intervals eg bi monthly. This will reduce the harmful effects of plastic material on the marine environment as well as reducing the risk of contaminants affecting sensitive local biodiversity.

Natural England is concerned that the scale and nature of activities related to the ERF creates some long term risks for the marine environment. As detailed previously loss of Refuse Derived Fuel material is one risk. A second risk relates to the effective on site management and transportation of Incinerator Bottom Ash (IBA) away from the application site. This may be by either sea or road transport. Natural England advise that the risks to the marine and terrestrial environment from the handling of this waste are difficult to quantify because of the reliance on best industry standards. Therefore Natural England advise the authority that the applicant should be required through a planning condition to submit, prior to commencement, a Monitoring Strategy to allow the assessment of potential impacts on the marine environment in the port and a terrestrial survey of the adjoining parts of the SAC/SSSI at the port. It is advised that following a baseline survey these should be carried out on a 5 year cycle. These surveys will assist the Port and Natural England to meet their duties under the NERC Act 2006 insofar as the local natural environment is concerned.

Natural England is aware that in the case of fire on the site surface water will be prevented from directly running off into the marine habitats supported within the port area. The authority should seek clarification that sufficient contaminated water storage capacity is present according to agreed standards.

### **AONB**

Natural England seeks confirmation or otherwise concerning the advice provided in our letter dated 1/12/2023:

Opportunities for landscape compensatory and enhancement measures might be realised through the provision of an agreed AONB landscape enhancement fund which may be used to deliver landscape and biodiversity benefits within the zone of theoretical visibility of the scheme within the AONB. Any landscape fund should be agreed and administered by the Dorset AONB Team.

It is not clear if the applicant has made provision for any measures as outlined above or not, please can you confirm the current position?

I trust this advice will be of assistance to the Council.

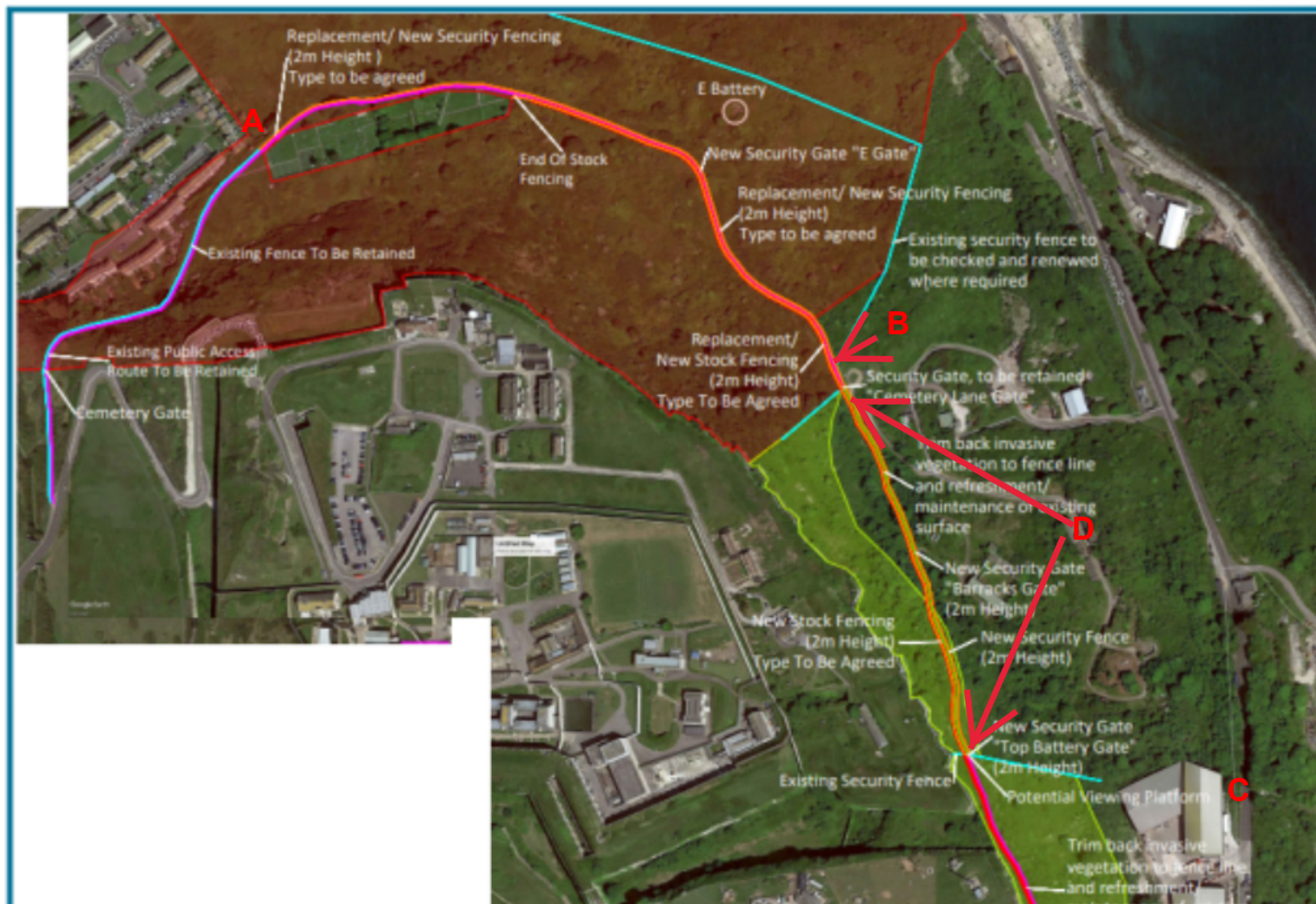
Yours sincerely

Nick Squirrell  
Conservation and Planning Lead Advisor  
Dorset Team  
Wessex Area Team  
Natural England  
Mob: [REDACTED]  
Email [REDACTED]

**Annexe1**

Plan of the proposed path and fencing locations

# 6. Appendix A - Proposed New Access Route



Drawing not to be used for construction. All drawings are for information only and may be subject to change.

Notes:

Postcode: DT5 3DH W3W: =

Issue Log:

Issue:	Revision Details:
01	Initial Issue
02	Route & added
03	(Details revised)
04	Details revised
05	Details updated
06	Details updated
07	Details updated
08	Details updated
09	Details updated
10	Details updated
11	Details updated
12	Details updated
13	Details updated
14	Details updated

Key:

- Existing Public Access Route
- Existing Security Fence
- Proposed New Access Route
- Proposed Security Fence
- Existing Dual Pipeline
- Side of Portland SSSI
- Side of Portland SSSI

**POWER**  
Powerline  
Suite 8, The  
Gore Cross Busin  
Bridport  
Dorset  
DT5 3FH  
Email: energy@power

Project Name:





Allocation of funds to off-site projects within the local area.

12. A key principle of net gain is that the gains are additional to the conservation measures that would have occurred regardless to ensure good practice and avoid double-counting. Biodiversity net gain does not apply to sites of special scientific interest as the Government has already mandated to protect them.
13. A series of potential projects have been identified in the local area where funds could be used to implement projects that deliver measures specifically targeted at species or habitats that are beyond the scope of the measures identified by Natural England for the protection of the SSSI.
14. Potential projects identified for the receipt of funds from the ERF proposals are:
  - a) Creation of scrapes and monitoring of Least Owl (a moth) within grassland between the A354 and the shore of Portland Harbour (Hamm Beach area)
  - b) Regular cutting and management of grassland on Hamm Beach
  - c) Contributions towards schemes to reintroduce grazing at sites on the Isle of Portland including if possible "Portland" breed sheep
  - d) Contributions towards schemes for control of scrub within the Isle of Portland SSSI
  - e) Additional fencing costs referred to at para 9 above
  - f) Add others to list
15. It is agreed by all parties that these projects (to the extent that they are in protected sites) are those that represent additional enhancement within protected sites. They do not represent the funding of standard management practices that are necessary for the protection of these sites.