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13<sup>th</sup> March 2018  
Our Ref: SW18/E1879/MDL1  
Application reference: LW/799/CM(EIA)

Dear Mr Davies,

### **Fisher's Wharf, Newhaven Port, Newhaven – Response to Comments from County Ecologist**

Thank you for forwarding the comments submitted by Dr Kate Cole, the ESCC ecologist, in respect of the planning application referenced above. Her response comments as follows;

- i. *“The proposed development lies within and adjacent to the Tide Mills Site of Nature Conservation Importance (SNCI), designated in part for its vegetated shingle habitat and associated communities. Whilst it is recognised that phases 1 to 3 of the proposed development lie within areas that have already been developed, no consideration has been given to the potential impacts on the surrounding SNCI, including but not limited to, disturbance, compaction, and air pollution.*
- ii. *The reptile surveys reported in the Ecological Impact Assessment (Bioscan, September 2017) were not carried out in accordance with best practice, and as such, may not accurately reflect reptile populations on site. All survey visits were carried out at a sub-optimal time of year and over a compressed period of time, with some visits being conducted during unsuitable conditions, e.g. wet and/or too hot. Despite the limitations to the surveys, a reportedly small population (although without the data, this cannot be verified) of common lizards were recorded. No mitigation for reptiles is proposed.*
- iii. *It is stated that the proposed development will connect to the Port Access Road once complete, but no consideration is given to the additional impact those connections will have on the SNCI. Cumulative and in combination effects have not been considered.*
- iv. *No consideration has been given to how the proposed development could enhance biodiversity, as required under the NERC Act and NPPF.”*

We have provided a response to these comments in turn below.

#### *i) Impacts on Tide Mills SNCI*

We note that Dr Cole correctly confirms that no part of the undeveloped SNCI will be directly affected by the proposals. On this basis we would suggest that there can be no scope for the proposed development to result in compaction effects on the SNCI.

In respect of potential disturbance effects, Table 5 of the submitted EclA considers the scope for the proposals to affect the ambient noise levels within the SNCI based on information provided by the noise consultant (WBM). The conclusion reached is that *“Noise levels generated are therefore assessed to around the same or below the baseline”* and on this basis no significant effect is anticipated.

Lastly, the air quality consultant for the project (RPS) have assessed the scope for effects from the construction and operation of the site on the adjacent SNCI in respect of possible airborne pathways and we would refer Dr Cole to their assessment.

*ii) Reptile survey*

We would disagree with Dr Cole’s suggestion that the results from the reptile survey may not accurately reflect the status of reptile within the development site and that the survey is not sufficient on which to base the determination of the application. Whilst it is recognised that the survey visits were carried out across June, Froglife Advice Sheet 10 states simply that “*the most profitable months for surveying tend to be April, May and September*”. It cannot be concluded that a survey at other times of the year is therefore unable to confirm presence or likely absence, as appears to be the suggestion of Dr Cole.

The submitted EclA sets out that the survey recorded common lizard on land outside the application boundary (results provided in Table 1 below) and as such the survey was effective in identifying reptiles. As such, it is not unreasonable to conclude that if reptiles were present within the application boundary the survey would have recorded their presence also, or conversely that as no reptiles were recorded in application boundary they are unlikely to be present, despite the ‘limitations’ suggested by Dr Cole. We would suggest then that there is sufficient information on which to conclude that the proposals are unlikely to have a significant effect on reptiles (as far as this relates to stages 1 to 3).

Table 1 – Reptile survey results from land to the west of the application boundary.

Date	Common lizard	
	Adult	SA
01/06/2017	1	
06/06/2017		
13/06/2017		
16/06/2017	2	
21/06/2017	1	
22/06/2017		
29/06/2017		
30/06/2017	2	

Lastly, no mitigation for reptiles is proposed as no reptiles were recorded within the application boundary and there is no identified requirement for mitigation as a result.

*iii) Additional impacts on the SNCI*

Direct impacts of the Port Access Road on the SNCI are outside of the scope of the assessment as this road is not located within the application boundary and would not form part of the planning consent if granted. I understand that at a meeting on 28 July 2018 between Brett and ESCC officers it was confirmed that the new port access road extension would be the subject of a separate application prepared and submitted by the Port Authority (the road link application). Direct impact on the SNCI of the construction and use of the links would therefore (and would need to be) addressed in the road link application together with its ‘in combination and cumulative effects’ with this proposed development.

*iv) Consideration of enhancements*

Dr Cole is incorrect in suggesting that no consideration has been given to the inclusion of enhancement measures. This is addressed under section 7.2 of the EclA.

I trust the above is of assistance and please do not hesitate to contact us to discuss anything further if necessary.

Regards

FOR AND ON BEHALF OF BIOSCAN (UK) LTD



Samuel Watson MCIEEM  
Senior Ecologist

