

Mr Chris Banks,  
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West Sussex, BN16 1EF

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Email: [bankssolutionsuk@gmail.com](mailto:bankssolutionsuk@gmail.com)

Dear Mr Banks

### **ADDITIONAL INFORMATION RE ISSUES AND MATTERS - March 2019**

CAN: Community Action Newhaven is a local group which seeks to empower local people to take part in the planning processes for Newhaven. We also campaign for the 'clean green' Newhaven enshrined in the planning documents and strategies for the area.  
See <https://www.facebook.com/community-action-newhaven> for more information.

We have set out some additional information below. Our earlier consultation response, available at [https://www.lewes-eastbourne.gov.uk/\\_resources/assets/inline/full/0/277620.pdf](https://www.lewes-eastbourne.gov.uk/_resources/assets/inline/full/0/277620.pdf) (page 63, Representation ID: REP/322/E1/A) is referenced here rather than repeated within the text.

Although we have responded to more than one Matter below, all of our response relate to Policy E1, so feel free to bracket all under Matter 6 if this is more helpful for the inspector, especially as it is unlikely we will be able to attend for more than one day of hearing.

Yours sincerely  
Emily O'Brien  
On Behalf of Community Action Newhaven

### **Matter 2 - Sustainability Appraisal (SA) and Habitats Regulation Assessment (HRA)**

#### *2.2 What evidence is there that the SA has influenced the Plan and/or undertaken a full assessment of realistic alternatives?*

SA: In relation to Policy E1, there are numerous errors in in Table 36 (p.79) and in the final summary table 113 (page 210) appraising this site (option C) against the sustainability objectives, which were they corrected would make this policy fundamentally inconsistent with national planning requirements and sustainable development.

There is additionally no evidence that the sustainability appraisal has been used to determine the most suitable site. Even in its current form, which does not accurately appraise the E1 area, the SA shows the other employment site options appraised are clearly more suitable. Were the errors in appraisal of E1 corrected, this failure would be even starker. See the CAN consultation response for detail of the errors.

We therefore argue under Matter 6 that policy E1 should be removed or at the very least substantially reduced.

*2.3 Do any adverse effects identified in the SA require significant mitigation, and how does the Plan address these issues? Has appropriate account been taken of the recent Sweetman 2 Judgment in the European Court of Justice (ECJ)? Is there still a need for an Appropriate Assessment?*

In relation to Policy E1, the important wildlife and recreational benefits of the area have been made clear in numerous responses including the response from ourselves, Newhaven Town Council and Seaford Town Council and from Natural England. These are also to an extent identified in the Plan's (inaccurate) Sustainability Appraisal.

We welcome the additional requirements introduced belatedly by the minor modifications document, following widespread criticism of E1, which would require greater mitigation in the event that this site were developed. These requirements do not however address the fundamental problem that this site is unsuitable for development. There is no mitigation that could compensate for the loss of such an important recreation and leisure site especially given that the West Beach, historically the main beach used by both locals and for tourism, has been closed by the landowner. This is a vital recreation and wellbeing resource, in an area of high health inequalities, and is made more important as other other aspects of this plan (the very high housing allocation) will inevitably worsen the congestion and poor air quality in the town centre, as well as the noise and dust associated with high levels of industrial use, which are a main contributor to these health inequalities.

We therefore believe that policy needs to be removed or at the very least substantially reduced in size.

**Matter 5 - Are the Plan's provisions for the protection and enhancement of its environmental, landscape, biodiversity, open space, recreation and leisure and heritage assets in accordance with national policy?**

*5.7 Is coastal erosion an issue within the plan area, and if so, should it be addressed by a policy?*

As stated in our earlier submission, we are concerned that coastal erosion has not been considered by an expert in relation to E1, so there is no evidence that it meets the requirements of national policy.

The beach at Seaford Bay and currently the Environment Agency spends thousands of pounds annually in moving the shingle back along the beach.

Additionally, the stretches of chalk cliff which start on either side of Seaford Bay i.e. from Seaford Head heading East, and from Newhaven Fort heading west, are subject to high

levels of erosion and have had numerous high-profile collapses<sup>1</sup>. There is evidence that shingle beaches can act as an important defence against coastal erosion<sup>2</sup>. The area of policy E1 stretches down close to the higher water mark, and if developed would require the land to be substantially raised, which would reduce the area of shingle available in the event of high seas and flooding. This may make a negligible difference to erosion of cliffs however we are concerned that there is no evidence either way and this important issue does not seem to have been considered.

To meet the requirement of national policy an expert analysis should be undertaken or alternatively, as argued elsewhere in our response, E1 should be removed or substantially reduced.

## **Matter 6 - Are the policies to manage and promote the Local Economy and Employment Areas and Allocations sound?**

*6.1 Is the policy framework in the Plan for employment land provision, which includes policies E1, for land at East Quay, Newhaven, and E2, for land adjacent to American Express Community Stadium, Village Way, Falmer, together with the approach for sustainable economic growth in core policy 4 in Part 1 of the development plan, and the policies in this Plan (DM 9, 10 and 11) for rural areas, justified and realistic to meet the plan area's economic needs during the plan period?*

*6.2 Regarding policy E1, for land at East Quay, Newhaven:*

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<sup>1</sup> E.g. 2018 Oct

<https://www.dailymail.co.uk/news/article-6278271/Sussex-cliffs-crumble-Coastguard-warns-Storm-Call-um-rain-makes-massive-rockfalls-likely.html>

<https://www.theargus.co.uk/news/16983495.pictures-show-dramatic-cliff-fall-site/>; 2018 August

<https://www.bbc.co.uk/news/uk-england-sussex-45075842>; 2017 June

<https://www.telegraph.co.uk/news/2017/06/22/body-found-two-major-cliff-falls-amid-fears-east-sussex-coastline/> plus numerous smaller falls only locally reported e.g. 2019

<https://www.zonezine.co.uk/our-community/report-of-cliff-fall-at-friars-bay-in-peacehaven>

<sup>2</sup> See for example **East Sussex Vegetated Shingle Management Plan, Tim Smith 2009**

[https://eastsussexgovuk.blob.core.windows.net/media/1946/shingle\\_mgmt\\_plan.pdf](https://eastsussexgovuk.blob.core.windows.net/media/1946/shingle_mgmt_plan.pdf) Page 10:

“4. Shingle structures as a form of coastal protection and flood defence. In recent years climate change has become a serious concern and most of us have now witnessed its effects. Weather patterns have become more erratic, sea temperatures are rising and polar ice sheets are retreating (Houghton et al., 2001; Robinson et al. 2005). This has led to an increase in sea level rise, and the possibility of an increase in regularity and severity of storm events. These factors add to the issue of erosion and will likely amplify the problem. In the UK, issues of coastal protection and flood defence have always been of primary importance. The geology of the East Sussex landscape makes it particularly susceptible to coastal erosion with the county's soft chalk cliffs eroding at a rate of between 0.5 - 1m per annum (Dornbusch, 2002). Shingle beaches offer a natural form of protection for numerous areas of our coastline and for generations they have helped to protect our homes, businesses and many areas of natural importance. The composition and structure of the beaches allows them to act as very efficient sea defences, reducing the impact of storms, effectively absorbing wave energy and protecting coastal areas from the threat of erosion and flooding. However with growing coastal development and the introduction of anthropogenic coastal defences such as groynes, breakwaters and sea walls, the natural processes of shingle migration have been disrupted, severely reducing the efficiency of shingle beaches to act as a natural line of coastal defence

*(i) The site is located within and adjacent to Tide Mills shingle beach/distinctive wildlife area, and close to the South Downs National Park. In addition to its sensitivity in terms of its biodiversity and landscape, the site is also part of an area which is used for recreational and leisure purposes and functions as a tourism/visitor attraction.*

*(ii) Given this background,*

*(a) what is the evidence to support the need for the proposed employment development (such as a business plan ID/2 7 and any employment land need studies)?*

As set out in our earlier consultation response, we do not believe the inclusion of E1 is either justified or positively prepared as there is no evidence of need for it. In more detail:

#### **(A) Failure to demonstrate need for a new ferry terminal site as set out in NH20**

The original site (NH20) was included in the earlier local plan in order to allow for a specific port-related development - a new passenger ferry terminal (see appendix 1 for original wording). This use is no longer needed as the ferry terminal facilities have since been located at the transport hub adjacent to Newhaven Town Railway Station which brings together the ferry terminal, bus terminus, cycle parking, taxi facilities and rail station. There no mention of any intended ferry port relocation in the local plan, nor in the Newhaven Port Master Plan nor any other strategic documents relating to this area, including the July 2018 business plan for the related Newhaven Port Access Road (at <https://www.eastsussex.gov.uk/media/11589/newhavenportaccessroadbusinesscasefinalmainredacted.pdf>).

There is therefore no evidence of need for this policy as there was when NH20 was agreed.

#### **(B) Failure to demonstrate need for general employment use**

As stated elsewhere, Policy E1 reinvents NH20 as a policy on general employment use.

As we and other respondents (including Newhaven Town Council and Natural England) have pointed out, the employment quota is already fulfilled and there is no evidence of a need for the area of E1, as indeed is acknowledged elsewhere by Lewes District Council in relation to NH22 and NH23<sup>3</sup>

The [Employment Land Review](#) that informed this plan estimates that the need for employment Space in Newhaven is between **17,820 sqm** (5 hectares) at the lower end based on historical growing patterns, and **35,580** (7.5 hectares) in a scenario of accelerated growth due to regeneration.

The same review estimates that the Newhaven Enterprise Zone (EZ), which covers 8 sites over 79 hectares, will develop **55,000 sqm** of **new** commercial floorspace, as well as refurbishing an additional **15,000 sqm** of existing floorspace.

Therefore there is clearly more than sufficient employment provision up to 2030, even were

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<sup>3</sup> “carrying forward the remaining ‘saved’ policies within the operational port area (Policies NH22 and NH23 of the Lewes District Local Plan 2003) is not considered necessary ... In quantitative terms, the Council’s latest monitoring data demonstrates that **Newhaven has sufficient employment space** to meet the business needs arising from future growth scenarios to 2030 (Source: Newhaven Employment Land Review July 2017).”

extra demand to arise for example from Brighton & Hove under the Greater Brighton Economic Strategy.

Moreover the the land in policy E1 is **not** in the EZ so does not benefit from any of the development incentives associated with the EZ sites such as reduced business rates. Additionally, other sites are much more suitable for development given the issues with land stability, flooding and ecological sensitivity of this land.

It should also be noted that in Newhaven, an *Article 4 Direction* took effect in November 2018, withdrawing permitted development rights for changes of use from offices or light industrial to residential. This introduction further reduces the need for policy E1 as the sites within the EZ will be safeguarded under this policy.

*(b) if there is a need for more employment land, which other sites were considered?*

Part 1 of the local plan states that “We need to work in partnership to deliver the regeneration of vacant, underused or poor quality sites and premises and improve accessibility before allocating new green field sites for business development, particularly at Newhaven.”

Yet there is no evidence that other sites have been explored in Newhaven, despite the proliferation of vacant brownfield and underused sites. There is no evidence that other areas of the District have been considered, in order to ensure a good spread of employment areas and avoid undue impact on one area. This is a particular failing given that in the drafts of the Local Plan circulated prior to the inclusion of E1, Newhaven had already been identified to take the highest level of housing allocation in the district and given the cumulative impact issues with infrastructure, congestion and air quality.

As stated in our response to 2.1 above, the sustainability appraisal has clearly not been used to determine the most suitable site. Even in its current form, which does not accurately appraise the E1 area, the SA clearly shows the other employment sites looked at are more suitable. Were these errors in appraisal of E1 corrected, this failure to seriously consider alternatives would be even starker.

*(c) is the policy supported by the SA and HRA?*

The sustainability appraisal in relation to Policy E1 includes crucial errors in Table 36 (p.79) and the final summary table 113 (page 210) appraising this site (option C) against the sustainability objectives. These errors are set out fully in section 2A of our earlier consultation response and referenced above under matter 2.1. If these errors were corrected it would be absolutely clear that employment use for this site is not compatible with sustainable development. In fact, given the basic mistake over which flood zone the site it is in (The SA states zone 2 where much of the site is in zone 3) it is arguable whether it is even practical as a development site.

The HRA does not consider this site as it only looks at sites with a European designation. We cannot comment on the correctness of this approach however we would note that this does apparently leave a vacuum when considering a site of such ecological importance

which is a priority 1 habitat, a Local Wildlife Site (LWS), on the border of the South Downs National Park and within the UNESCO Living Coast Biosphere area.

The assumption that the HRA for part 1 has already fully appraised the cumulative impact of the housing and employment site for this plan also seems unlikely as the full extent of both housing and employment allocation in relation to this area was not set out in Part 1.

In terms of process, please also note our comments in relation to matter 10 that we do not believe a fair and sound consultation process has been undertaken in relation to E1.

*(iii) Have any constraints to effective development of the policy, such as the construction of the port access road, been overcome? Is the date of 2020 in the Plan for the completion of the road aspirational? Have the flood risk issues been satisfactorily addressed in the Plan? How critical are other potential adverse factors, such as air and noise pollution, traffic congestion and impact on the marine environment?*

This policy will not be effective as the site is unsuitable for development due to its flood risk. Concerns have already been raised by the Environment agency as well as ourselves, but we would like to add further detail from one of our members who is a Senior Civil Engineer with 50 years experience in the water industry.

- A) The area is sandwiched between the sea and a tidal creek, and close to the mouth of the Ouse River within whose original flood-plain it sits, as originally the Ouse had its outlet at Seaford, and the 'cut' allowing the river to exit at Newhaven is only kept open by continual maintenance,
- B) The undeveloped area of this site consist of a free draining material, laid down over thousand of years. It therefore absorbs water and protects the areas around from flood risk. Whilst the composition is a disadvantage as a development area (requiring deep foundations - up to 60m in the case of the Rampion building adjacent) the loose ground is an advantage for drainage of flood water.
- C) Other new developments both within and immediately adjacent to E1 will already increase the risk of flooding. These confirmed new developments include the recently built Rampion headquarter building and tarmac car park. There will also be the new port access road and its terminating roundabout, and new link roads which will lead from the port access road to the port (exact routes tbc but likely to be two further roads). There is also a substantial area West of E1 which has planning permission for development. Any rain falling in all of these areas will in future no longer be absorbed but run off into adjacent areas. Each of these developments will therefore increase the amount of runoff water that needs to be absorbed by the areas around them, whilst at the same time reducing the free-draining area available to do the absorbing.
- D) This would be a particular concern should there be a combination of circumstances which could include an exceptionally high tide and/or strong onshore winds and/or very heavy rainfall and/or the River Ouse in state (high flow from rainfall upstream). There are also longer term risks caused by likely sea level rise. If E1 were developed, the combination of some or all of these would very likely lead to flooding, and it is unlikely that even technical solutions in any development such as underground tanks (which due to their high cost and energy requirement are in any

case fundamentally incompatible with the principles of sustainable development) would be able to cope.

- E) Because of the ecological sensitivity of adjacent sites especially the creek, flooding could be catastrophic for local ecosystems as well as for businesses.
- F) Given these risk factors, to add a further development in the undeveloped area of policy E1 is in the professional opinion of this civil engineer “incomprehensible madness.”

Additionally, air quality and noise/dust issues are not adequately dealt with, and we would reference our previous submission. We note the failure to do any kind of air quality impact assessment in relation to the cumulative effect in combination with the high levels of housing allocated for the same area, and the effect on the Town Centre Air Quality Management area.

*(iv) What are the arguments which tip the sustainable balance in favour of employment development rather than keeping the site undeveloped to protect its wildlife and recreation, leisure potential, tourism/visitor attraction and its potential harmful impact on the setting of the National Park?*

We fail to see any arguments which justify this, and see every argument for maximising the opportunities for leisure and tourism and enhancing the setting of the National Park.

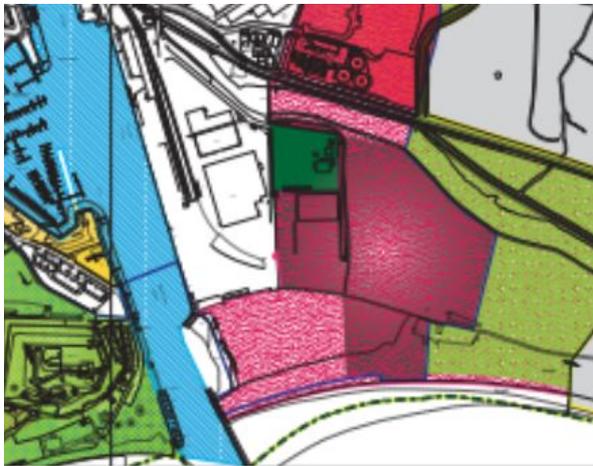
This area a greatly cherished area, and one of the few locations where the South Downs meet the shore. The draft *South Downs Local Plan* identifies Newhaven as a sustainable tourism gateway. Tourism is an important and growing part of the local economy, as clearly set out in part 1 of the local plan. There is no analysis in any of the appraisal or impact assessment of the potential lost revenue from removing this important tourism asset for development.

*(v) Based on the outcome of the arguments in (iv) above, is there a sustainable case for reducing the extent of the proposed employment land, to secure an ‘appropriate’ balance between conserving the biodiversity of the site, its landscape character, the setting of the National Park and the recreation and employment use?*

Yes. We believe E1 is not sound and not compatible with sustainable development and should be entirely removed from this plan, for all the reasons stated above and in our original submission and submissions by others including Natural England.

If it is retained, however, we would like to see the area reduced to one of the following two areas:

(1) Our preferred option is to reduce the area of E1 to the existing area of development, which is also the area which LDC 'accidentally' consulted on in the map used in its pre-submission public consultation (see our earlier submission and our response to Matter 10 for more detail of consultation errors) ie the area in dark green on the map below:



Lewes Local Plan Part 2 (September 2011)

-  DM1: Planning Boundary
-  Countryside Policies (*Policies DM2, DM4, DM5, DM6, DM7, DM9, DM1, DM12*)
-  DM18: Recreation and Rivers
-  DM34: Areas of Established Character
-  E1: Land at East Quay, Newhaven
-  NH01: South of Valley Road
-  NH02: Land at the Marina

(2) if you are convinced that the inclusion of any area of E1 is sound, then we suggest that the new port access road should form the Eastern boundary, as in the drawing below:



(3) In any case, but especially if you decide not to reduce the area of E1, we believe that to be an effective policy it is absolutely essential that a tighter definition of 'port related' is included which is closer to the original intent of NH20 (see appendix 1 for wording) e.g. adding the wording from the original policy "land is allocated to provide a sufficient area to accommodate fully satisfactory operating conditions for an operator of cross-channel ferries.' Failing that, a definition of 'port-related' should be included, for example the one used in the Town and Country Planning Act,<sup>4</sup> to avoid ambiguity. The term 'port related' on its own is so vague it can be used to justify almost any industrial process, which we do not believe was the original intent of NH20 with its focus on passenger ferry expansion, and we do not think in its current form this wording will be effective as a policy, as it is too open to interpretation.

### **Matter 7 – Are the Transport, Infrastructure, Implementation, and Monitoring provisions of the Plan sound?**

*7.7 How serious are the problems of connectivity, for example along the A259 coastal route, and should the Plan include specific policies to address this issue?*

As stated above, we concerned there has not been an analysis of the cumulative impact of employment policy E1 in Newhaven, along with the very high housing allocation, on air quality or on congestion. Anyone who lives in the area knows that the A259, at certain times of day, is already at breaking point even when traffic flows "normally". any kind of impact (such as the swing bridge opening) causes lengthy delays, with more serious hold-ups such as accidents causing hours of gridlock.

### **Matter 10 – Site Allocations in the Plan**

*10.2 Are the Employment Site Allocations acceptable in terms of*

*(a) environmental impact including whether the loss of land currently in local wildlife sites (LWS) is acceptable;*

*(b) impact on the living conditions of existing and/or future residents;*

*(c) whether a safe and acceptable vehicular access can be secured;*

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<sup>4</sup> "Permitted development "in respect of dock, pier, harbour, water transport, or canal or inland navigation undertakings" is defined as:

*(a) for the purposes of shipping, or*

*(b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or with the movement of traffic by canal or inland navigation or by any railway forming part of the undertaking*

*(d) whether there is a willing land owner(s) for all the land concerned; and*

*(e) any other relevant infrastructure, planning or viability constraints in addition to the Key Development Considerations already set out?*

- *Policy E1 Land at East Quay, Newhaven Port*
- *Policy E2 Land Adjacent to American Express Community Stadium, Village Way, Falmer*

We do not think that policy E1 is acceptable under (a) or (b) above, as explained in our answers to Matter 6, and that the only way to make the policy acceptable is its removal or substantial reduction.

In terms of (b) we also think it is important to point out that there is a great deal of new housing both under development currently, and allocated in this part of the plan therefore the needs of future residents in terms of congestion, air quality and access to recreational spaces needs to be considered.

**Matter 11 – Are there any other issues of soundness which this Examination should cover?**

As explained in detail in our our earlier consultation response we are concerned that the consultation process did not allow for proper comment on E1 as it was added so late in the process. We note that this late inclusion was flagged up by statutory consultees who felt it had affected their involvement for small groups and members of the public such as ourselves it excluded us from meaningful participation which surely cannot be considered a sound process.

We also believe that LDC should have corrected the map (inset 2) that showed a much smaller area for E1 than intended and which caused confusion. Whilst we all make mistakes we brought this failure to their attention early in the consultation period yet they did not see the need to correct it. Arguably, LDC have in fact inadvertently consulted on the area of E1 that we argue above is a more appropriate area.

## Appendix 1 :

Original wording for NH20 (also at [http://www.lewes-eastbourne.gov.uk/ldcllocalplan/lewes\\_local\\_plan/written/cpt12.htm](http://www.lewes-eastbourne.gov.uk/ldcllocalplan/lewes_local_plan/written/cpt12.htm)).

**Our highlights - they show the intent which we think have not been reflected in the 'carry forward' of policy NH20 to policy E1.**

(Note that Area B has since been given over in mitigation for development on another port area so only Area A referred to below is included in E1).

## Newhaven Harbour

### Upgrading and Expansion of The Port

*NH20 Land at East Quay and East Beach, as defined on Inset map No 2 (Area A), is allocated for the upgrading and expansion of the port, provided that:*

- (a) a full environmental impact assessment is submitted with the planning application*
- (b) the proposed access road has been, or is in the process of being, provided*
- (c) provision is made for access to The Port by public transport*
- (d) adequate screening is provided along the eastern edge of the proposal site*
- (e) the proposals are in compliance with all appropriate District-Wide Policies.*

*Encroachment onto other land between Mill Creek and the former railway line, as separately defined on Inset Map No 2 (Area B), may be permitted (to the minimum extent necessary) if it can be demonstrated to be essential to the expansion of the port in order to support the continuing operation of a modern cross-channel passenger and freight vehicle ferry service. In such event planning permission will only be granted within Area B for open storage uses, including vehicle and trailer parking.*

*Any planning permission for Area B would be dependent on acceptable measures being taken to minimise the visibility and impact of the use through the design of any lighting, fencing, earth bunds and other features.*

12.79 The District Council recognises that the expansion and enhancement of the Port is a vital component to help revitalise the economy of the local area. **Therefore, land is allocated to provide a sufficient area to accommodate fully satisfactory operating conditions for an operator of cross-channel ferries.** Although Newhaven is a relatively small port, it still provides important maritime links to mainland Europe and beyond.

12.80 Newhaven's corresponding ferry port of Dieppe has benefited from a new outer harbour ferry terminal building. It is considered necessary to encourage investment in

modern port infrastructure, to take advantage of the important strategic location of Newhaven and to respond to opportunities to introduce new, faster services such as the larger high-speed catamaran.

12.81 In order to cater for modern-day shipping/maritime requirements it is necessary to expand the Port. It is proposed that this expansion should take place on land east of East Quay and East Pier. However, in order to minimise the impact of the use on the open appearance of the Ouse Valley and the beach area, the development of Area B, as shown on the Proposals Map, will only be acceptable if it is demonstrated to be essential to the expansion of the port in order to support the continuing operation of a modern cross-channel passenger and freight vehicle ferry service. Also, to protect this sensitive area only open storage will be acceptable.

12.82 It is recognised that the scale of the proposed development will, undoubtedly, have an impact on the environment of the area. Therefore, the starting point for any project of this scale would be to undertake an Environmental Impact Assessment to ascertain the necessary mitigation measures which need to be taken into account to ensure that the project does not have an adverse impact on the environment of the area, both marine and terrestrial.

12.83 To accommodate the additional vehicular movements which will be generated by the new facilities it is important that the proposed port access road is provided, or at least under construction by the time the new facilities are operational. The use of Beach Road for this level of traffic would be unsatisfactory both in terms of capacity and safety.

12.84 Due to a risk of flooding, any new development at Newhaven Harbour must include an appropriate standard of flood protection, and provision for its future maintenance.