

Planning Application Number: 20/00961/MAJ

10th September 2020

**Devon and Severn Inshore Fisheries and Conservation Authority's (D&S IFCA's)
Response to the Planning Application for Riverside Boatyard Teign Estuary**

D&S IFCA's response will refer to the planning application and the supporting documents and provides further information which may be relevant to the consideration of the application.

The Planning Application

Within the Planning Application it states that there will not be any new public rights of way to be provided within or adjacent to the site. The design diagrams appear to indicate an access to the foreshore at the downstream end of the site which is not currently in place. Therefore, does this create a new right of way to the foreshore? The foreshore in this part of the Teign is covered by Regulating Orders – [The River Teign Mussel Fishery Order 1966 Statutory Instrument No. 792](#) and [The River Teign Mussel Order \(Variation\) \(Oysters\) Order 1996](#).

A Regulating Order gives the holder the power to regulate and restrict fishing for, dredging, or otherwise taking shellfish covered by the order within a specified area. A holder of a Regulating Order for a shellfishery can:

- issue licences to others allowing them to take shellfish within the designated area
- set conditions and restrictions that licence-holders must observe when they take shellfish
- manage the shellfishery
- exclude unlicensed people from the shellfishery

It is an offence for an unlicensed person to fish for, dredge, or take shellfish from the designated area.

Q.13 of the Planning Application asks if there is reasonable likelihood of any protected species or habitats that could be adversely affected by the site or the land adjacent to or the application site. The answer given by the applicant was no. However, this is incorrect. Within 20m of the site there is an *Ostrea edulis* - native oyster bed. Native oysters are associated with highly productive estuarine and shallow coastal water habitats on firm bottoms of mud, rocks, muddy sand, muddy gravel with shells and hard silt. In exploited areas, suitable habitat is/has been created in the form of 'cultch' - broken shells and other hard substrata (Marine Life Information Network- Marlin website). They are highly sensitive to physical loss and change, and abrasion/disturbance to the surface of the substratum or seabed and to smothering and siltation. Native oyster fisheries are subject primarily to UK shellfisheries conservation legislation. *Ostrea edulis* is a UK Biodiversity Action Plan Priority Species and habitat - UK post 2010 Biodiversity Framework and has its own Species Action Plan. It is a species of principal importance for the purpose of conservation of biodiversity under the Natural Environment and Rural Communities Act 2006. It is included in the OSPAR List of Threatened and/or Declining Species and Habitats (Region II – Greater North Sea and Region III – Celtic Sea). Native oysters and native oyster beds are a "Species and Feature of Conservation Importance respectively (SOCI and FOCI) under Marine and

Coastal Access Act. Naturally occurring native oyster beds are a nationally scarce habitat. The main stocks of native oyster in England are found on the Thames Estuary, The Solent and the River Fal so the establishment by the shellfishermen of the native oyster beds in the Teign is quite significant. The beds within the Teign Estuary lie within one of the few areas along the south coast of England, between Hampshire and Cornwall, that is free from a native oyster disease – *Bonamia ostreae* shown in Figure 1 (Gov.uk Marine science Blog).



Figure 1 Map of confirmed designations for *Bonamia ostreae* in England and Wales (shown in blue)

An oyster fishery has existed in the Teign from the 1850s especially in the areas from Bishopsteignton down to the Shaldon Bridge and therefore has heritage value. The East and West Banks of the Teign Estuary are [Water Framework Directive Shellfish Protected Areas](#). The Teign Estuary has classified shellfish Harvesting Areas which are monitored for quality on a monthly basis. The [maps](#) can be found here.

D&S IFCA has undertaken a survey of the native oyster bed adjacent to the Riverside Boat Yard. The summary report is attached with this response to the planning application and can be read here.



Whilst the application details the intended use of the site providing houses, industrial units office, beach huts and boat storage it details the extension to the original site on the foreshore of the estuary into the Regulating Order Area and onto the shellfish beds which the shellfishermen have managed for decades. As well as native oysters being managed here there are also pacific oysters, and mussels which are harvested from the area. The

shell of the mussels and oysters that remain on the foreshore provide a cultch to the native oysters allowing native oyster larvae to settle and grow. The shellfishermen, namely River Teign Shellfish Ltd, have worked extremely hard to develop the native oyster beds here through the collection of native oyster during their harvesting activities and relaying them in this area to act as brood stock to allow the population and stock to grow. D&S IFCA has concerns that providing the housing and business opportunities and parking on the site will provide increased access to this area of the foreshore which could result in damage and loss of the native oyster beds and could lead to increased hand gathering of shellfish from an area that has been taken out of the public right to fish. The shellfish found here have been relayed and managed by the River Teign Shellfish Ltd and any removal would be theft. Over the past few years there has been increased hand gathering from the public beds downstream of the Shaldon Bridge – so much so that D&S IFCA closed these beds to the removal of mussel as stocks have become severely deplete. Currently D&S IFCA receives many reports, every spring tide, from members of the public concerned about the intense level of hand gathering. D&S IFCA surveys the public beds downstream of the Regulating Order to assess the stocks of cockle and mussels. The area above the bridge (60ft above) is all within Regulating Order area and the mussels and oysters within this area are not open to removal by the public. River Teign Shellfish Ltd have had incidences of members of the public accessing the beds from Polly Steps through the arch of the Shaldon Bridge and removing (stealing) shellfish from the Regulating Order area. Whilst this is not a regular occurrence it has had a financial impact on the company and any increased access to the foreshore from the Riverside Boatyard may increase the removal of shellfish from this area.

The Planning Statement

Within the Planning Statement submitted by Pilcher Planning Consultancy Ltd it describes the development of beach huts which will have direct access to the foreshore – onto the shellfish beds within the Regulating Order. This has been raised as a concern by River Teign Shellfish Ltd and D&S IFCA would also like to raise concern that there is public access directly on to a Shellfish Protected Water and classified shellfish harvesting area within a Regulating Order. It is likely that the houses and industrial units will also have access to this foreshore.

In no part of the planning application and associated documents is the shellfisheries within the Teign mentioned. D&S IFCA wishes to understand if a Marine Licence Application is going to be submitted for the development to extend out from the original site boundary into the intertidal area and for a new slipway to be built. None of this is detailed in the documentation submitted.

There is risk that the redevelopment will impact the established existing use of the intertidal area of the Teign and there is no mention of any mitigation that will be put in place to reduce the impact and prevent access across the shellfish beds.

Site Location Plan

The new site location plan details an extension to the site out onto the foreshore but does not provide the exact distance that it intends to extend out to. The site location plan seems significantly different from the landscape plan and more details of the extension to the site should be provided and easily found within the application and supporting documents. The following figures 2-6 show different plans included in the Planning Application. Figure 2 is the

existing site plan and looks similar to Figure 3 - the site plan, but they are not identical. It is difficult when comparing these two to identify how the proposed development would extend out from the existing boundary. Figure 6, which is a map included on the Teignbridge District Council Planning Application page, appears to show the development location against the existing site extent but there is no scale and no distances included to show how the development will extend onto the foreshore. Figures 4 and 5 are the block plan and landscape plan, which show a very different boundary to the other figures included here. There needs to be a detailed plan that shows the existing site and the proposed site with distances showing the differences between the two and the extension onto the foreshore.

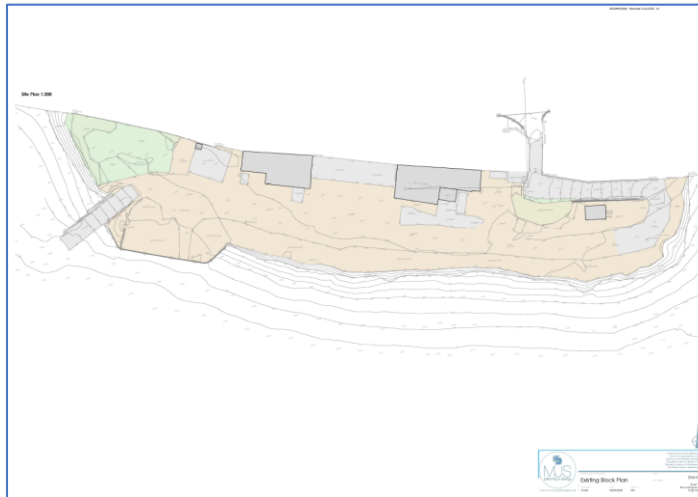


Figure 2 Existing Block Plan

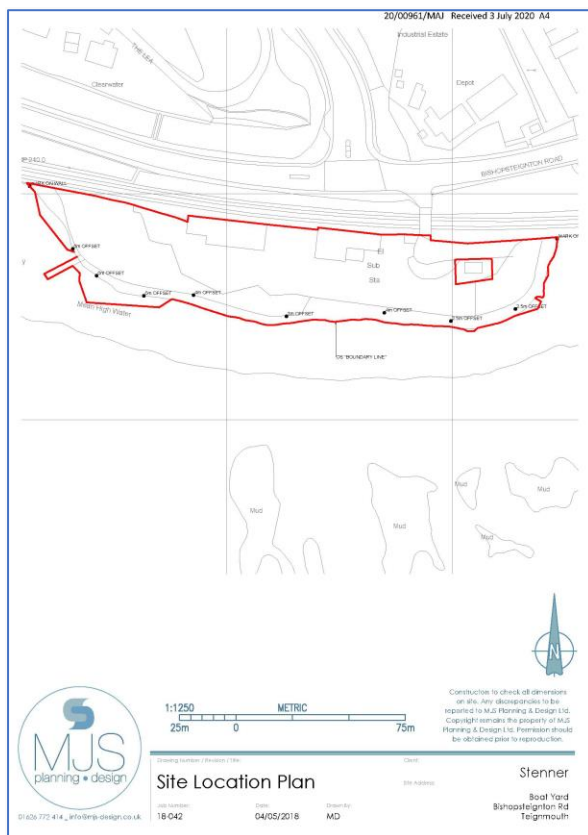


Figure 3 Site Location Plan



Figure 4 Block Plan Cross section

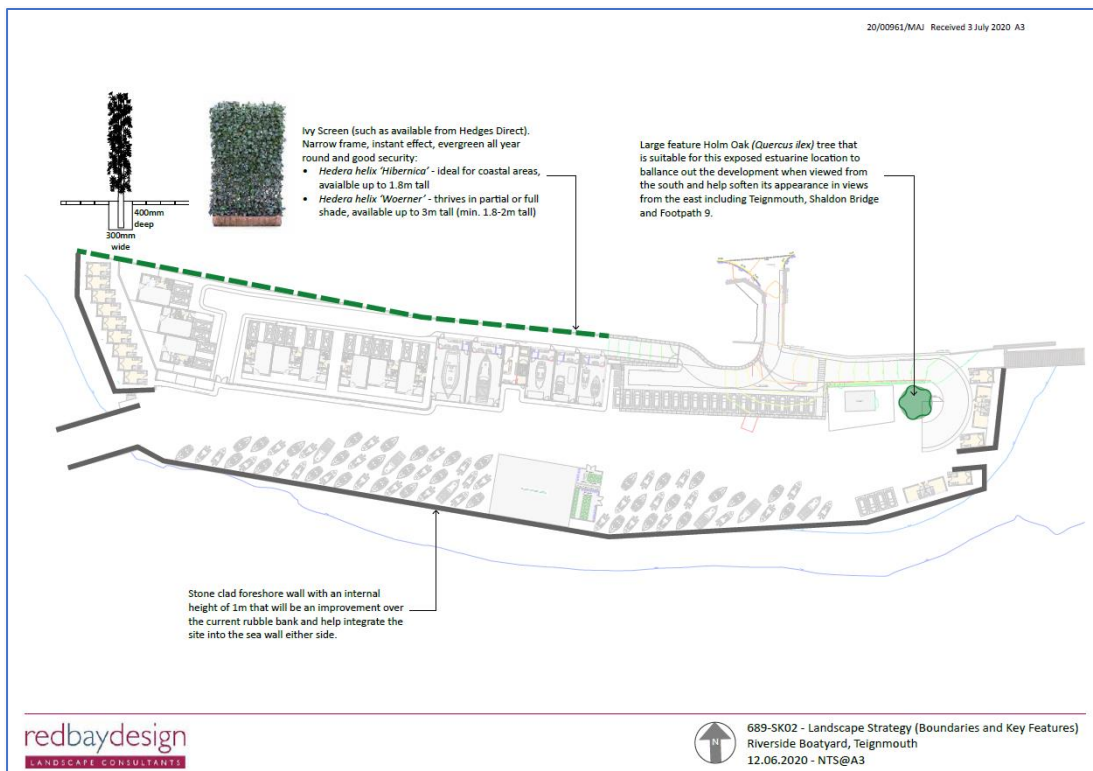
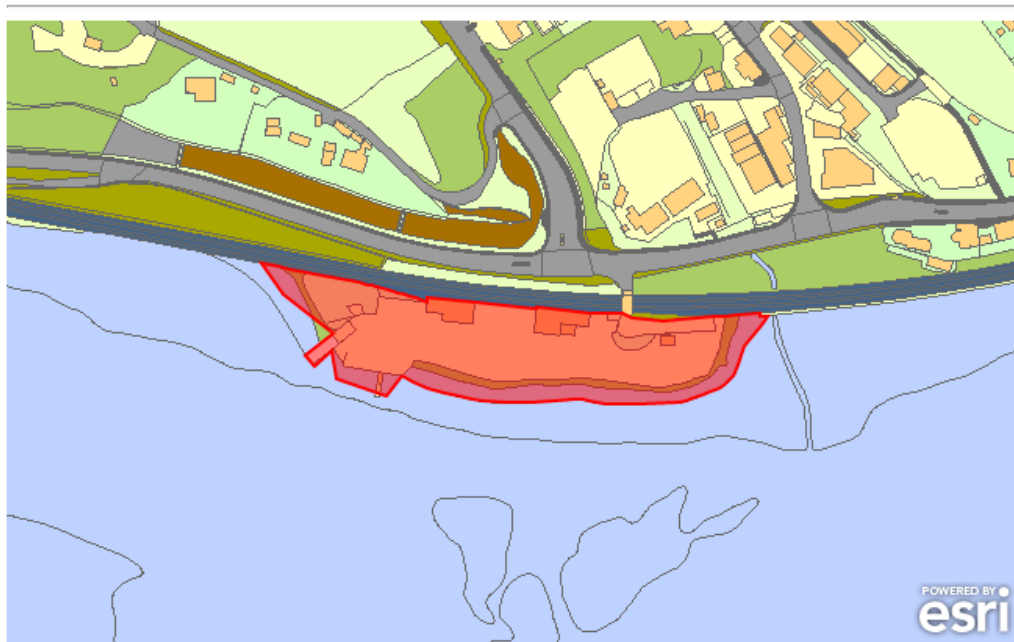


Figure 5 Landscape Plan



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Figure 6 Location Map on the First Page of Application Details '20/00961/MAJ'.
<https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=20/00961/MAJ>

Landscape and Visual Impact Assessment

the impacts of this on the shellfisheries. Within Table 2 under the Landform Site section there is again mention of the extension out onto the foreshore but there are no details as to the distance involved which once again raised concerns on the effect on the shellfisheries – which is likely to be negative.

Geo-Environmental Report

Within the Geo-Environmental Report there is detail of the conclusion of previous studies done on the likely contaminants at the site. The ERL 1993 report states that the Riverside presented an environmental risk to the estuary and was considered it to be the source of contamination to the mussel beds and estuarine sediments as well as contaminating and polluting the foreshore sediments. PAH concentrations in mussel tissues were also found to be high at a level that could be a risk to people. But CELTIC finally concluded that there was uncertainty regarding the site as the source PAHs in the estuary sediment and mussel tissue. This raises concern regarding the risk of contaminants entering the estuary especially as areas within the site have remained untouched by earlier site works and may contain high levels of contaminants. D&S IFCA is concerned that within the report it describes the estuary as not listed as sensitive controlled waters but it is a Water Framework Directive Protected Shellfish Water and therefore any part of the development that increases the likelihood of the listed contaminants entering the ground water and flowing into the estuary over the shellfish beds could cause a significant risk to human health. It is encouraging to see in table 4.2 that further geo-environmental assessments recommended, especially with the information described in this response, that shellfisheries exist next to the site and any contamination would cause a risk to human health. It should be noted that the consideration of risk to flora and fauna does not seem to include the estuarine fauna such as

bivalve molluscs. The report recommends investigation as detailed in section 6 and D&S IFCA would like to see what plans are in place to fulfil these recommendations to reduce the risk of contaminants entering the estuary and shellfisheries within it.

Ecological Impact Assessment May 2020

The Ecological Impact Assessment, undertaken by Western Ecology Ltd for estuarine habitats, identifies that shellfish beds lie adjacent to the proposed development site, which is reassuring. Mussel abundance is highlighted as this area lies within the mussel fishery and there is mention of the remains of commercial pacific oyster farming. There are, in fact, pacific oysters present across the intertidal area adjacent to the site and these make up part of the management of shellfisheries in this area. However, any survey undertaken as part of the Ecological Impact Assessment has failed to identify the presence of native oyster across the intertidal foreshore at the site. The habitat, including mussels, pacific oysters, and native oysters, is of real biodiversity value. Native oysters are not included in Section 4.3 of this report – Species of Conservation Importance.

Under Section 5.2 Construction Phase Impacts there is mention of the vehicles tracking across the shore which could result in damage to the Teign CWS. These works are likely to cause damage to shellfish beds and native oyster habitat. There needs to be a review of the construction activity to remove or reduce the impact to this nationally important habitat and species. Section 6.3 Operational Phase Impacts outlines the loss of foreshore habitats by the proposed development:

786m² of Barren shingle (LS.LCS.Sh.BarSh)

96m² of *Pelvetia canaliculata* and *Fucus vesiculosus* on mixed sediment (LR.LLR.F.Pel & LR.LLR.F.Fves.X)

128m² of mixed sediment with *Mytilus edulis* adjacent to the existing slipway (LS.LBR.LMus.Myt.Mx)

There is no map within this report that shows the areas of these losses to habitats. The conclusion is that any effect on the Teign CWS will be trivial. However due to the omission of the native oyster habitats and the importance of the shellfisheries next to the site D&S IFCA would recommend that the assessment is reviewed and amended. The assessment and other supporting documents should outline what measures would be put in place, should the development be granted, to reduce but ideally remove, the impact of the development and construction on these habitats.

Design Access and Heritage Statement

As previously detailed in other supporting documents there is a description of the slipways and access to the foreshore. This is of concern to both D&S IFCA and River Teign Shellfish who have commercial shellfish beds adjacent to the proposed development and this could lead to trampling of shellfish and illegal removal by recreational hand gatherers. It would be useful for the developer to provide information how any access will not impact the commercial shellfish production business in this area of the Teign Estuary.

In Conclusion:

D&S IFCA has concerns about the lack of detailed information on the distance the proposal will extend out onto the foreshore, adjacent to or over the existing classified shellfish harvesting area. A clear map with the existing site boundary, the proposed site boundary, and the extension distances out on the foreshore around the whole site should be available for scrutiny.

- D&S IFCA has concerns regarding the impact of the development on established commercial shellfisheries, the shellfish operators, their businesses, and their livelihoods on the Teign Estuary.
- D&S IFCA is concerned that there is no mention, in any documentation, of the heritage value of the shellfisheries on the Teign Estuary.
- D&S IFCA has concerns that there is no mention of the commercial shellfisheries in the Teign, the Classified Shellfish Harvesting Area, the Protected Shellfish Waters Designation and the Regulating Orders that exist for shellfisheries in the Teign Estuary and that there has been no assessment on the impact on them.
- D&S IFCA has concerns that the ecological assessment did not identify native oysters during its survey of the foreshore and therefore this nationally important species and habitat have not been covered in the impact assessment. The report did not supply a map of the habitats to be lost by the development.
- D&S IFCA is concerned with the potential increased access by members of the public onto the commercial shellfish beds, which could lead to shellfish removal that will impact the existing commercial shellfish operators.
- D&S IFCA would like to see a programme to outline how the recommendations in the Geo-Environment Report will be implemented with reference to the risk of contaminants entering the estuary.
- D&S IFCA would like to understand what mitigating measures will be put in place to prevent damage to the intertidal habitats and shellfisheries, by the construction activity, including vehicles tracking across the foreshore