

**DEVON & SEVERN  
INSHORE FISHERIES AND CONSERVATION AUTHORITY**

Minutes of the Byelaw and Permitting Sub Committee Meeting  
held on 23rd May 2016 at Larkbeare House, Exeter

Present:                    David Rowe (Chair)                    Simon Toms  
                                 Mike Williams                         David Morgan  
                                 John May                                 John Butterwith  
                                 David Cuthbert                         Cllr Chris Clarence  
                                 James Marsden

Also Present:             Mat Mander and Neil Townsend

Apologies:                Rachel Irish, Stephen Gledhill, Jim Portus, Richard White

**Introduction**

The Chair thanked officers (present and not present) for the creation and circulation of all the papers for the meeting. Other members also showed their appreciation for recent efforts relevant to this byelaws review process including the extended pre-consultation phase. James Marsden made special reference to the Impact Assessment (that will accompany any new netting permit byelaw), feeling it was of good quality and a good start to build upon.

**1. Minutes of the last meeting held on 7<sup>th</sup> March 2016**

The minutes were read through. A point of accuracy (on page four) was highlighted by Simon Toms. The inaccuracy related to the statement that salmon and sea trout are designated as a “feature” of Plymouth Sound SAC. It was explained by Simon Toms that (Allis shad) are a feature of Plymouth Sound SAC and salmon a “feature” for the river Tavy (part of the Dartmoor SAC).

No additional inaccuracies were highlighted by the members.

***That the minutes be amended and then approved as a true and accurate record***

***Proposed:     Mike Williams                    Seconded:     John Butterwith***

***All Agreed***

**2. Business Arising**

Discussions began amongst the members in regards to any additional evidence in relation to the proposal to extend the boundary line in Plymouth Sound. DCO Mander was able to confirm that four stakeholder engagement meetings (drop in sessions) had

produced some additional evidence but not specifically related to Plymouth Sound. James Marsden commented that in his view the D&SIFCA had completed a substantial period of pre-consultation regarding this and other proposals. David Rowe explained that he had attended several of the sessions himself and had some information with particular relevance to Salcombe estuary to elaborate on. David Rowe reminded members that there would be opportunity to discuss the findings of the drop in sessions in more detail following the officers' summary (Item 6 on the agenda).

With no additional "business arising" matters to be discussed, the Chairman moved to item three.

### **3. To review the Terms of Reference for the Byelaw and Permitting Sub-Committee**

David Rowe acknowledged that DCO Mander had circulated the Terms of Reference to members along with some advice offered from Devon County Council. Members recognised that any formal sub-committee must be open with provisions made for the public to attend if they so wish, notwithstanding the fact that specific items of a potentially sensitive nature can be addressed once the public have vacated the meeting.

DCO Mander explained the terms of reference used in the main Authority meetings could be adopted for use by the sub-committee. An alternative approach of a closed meeting via a "working group" approach was not favoured with members expressing a preference to continue with the D&SIFCA policy of remaining as open and transparent as possible in the byelaw review process. Mike Williams added that there is a significant difference between inviting a range of people to allow a balance of views and allowing random input from non-invitees.

Logistical difficulties of keeping the meetings open for public attendance was discussed with some focus given to how notice can be provided to wider audiences in good time and how engagement is facilitated.

James Marsden was able to report on his past experience using live streaming (web based) at other (non-IFCA) meetings; although he did recognise that attendance at D&SIFCA meetings didn't appear to be in high demand from the majority of the general public.

Cllr Chris Clarence was able to draw on his considerable experience of attending other meetings (such as those involving planning application disputes) and offered some advice regarding public attendance and interaction of public members wishing to speak and present at meetings. A three to five minute time period to address members was suggested.

Mike Williams and some other members could see the value in utilizing a time allotment system; however given the range of subject matters and the possible long traveling by stakeholders with potentially significant differences in opinions offered, John May suggested that it would be prudent to give control to the chair to monitor and control the length of presentations. Persons wishing to engage with the members could be advised in advance to

tailor their presentations to suggested time limits and if a group was to be represented this could be achieved by a single spokesperson.

The issue of recording voting actions was also raised and after extended discussions it was suggested that the names of members could be used in the recording of voting if individuals request this level of detail.

**It was agreed that DCO Mander review and amend the terms of reference for this sub-committee.**

**4. Update on Counsel's draft advice on the responsibilities of IFCA's to protect Salmon and Sea Trout**

DCO Mander reported to the members that draft advice had been expected by the 18<sup>th</sup> May, however at this stage only the first part of this advice had been received. Acting on advice from the D&SIFCA prosecuting solicitor DCO Mander was not able to provide detailed information. That said, DCO Mander advised members that the Impact Assessment had been drafted to reflect the Authority's position regarding its responsibilities to consider the conservation of salmon and sea trout prior to the agreed action to seek Counsel's opinion. DCO Mander suggested that this position should be maintained until Counsel's opinion potentially suggested otherwise.

**5. To consider the Officers' summary report on commercial netting activities in Somerset and the Severn area.**

DCO Mander referred members to pre-circulated information that was compiled by IFCA staff members Libby Ross and Laura Bullock following their efforts to meet fishers in these areas. At this stage the fishers mentioned in the reports are believed to be the only netters that are active in at least some form of commercial fishing. The additional reporting of historical fishing practices (appearing in the Impact Assessment as an annex) also provided discussion points. James Marsden thanked officers involved in the creation of the reports and raised his view that the D&SIFCA should attempt to preserve the historical stake net fishery at Stolford where a mudhorse was traditionally used, to access fishing grounds. It was suggested that the Netting Byelaw permit conditions be utilized to allow this small scale fishing method to continue. Some members reported that they had some difficulties opening some of the attached reports sent out electronically via e-mail and DCO Mander was requested to summarize the Somerset and Severn reports verbally to the group.

During the subsequent presentation DCO Mander was able to explain historic control measures that were established (licences) via Natural England in order to allow access through the Bridgwater Bay National Nature Reserve so fishermen could set their nets and retrieve their catch. DCO Mander explained that a series of zones were created to segregate different fishers with a selection of netting methods but also explained that fishing effort in these areas appears to have declined. DCO Mander reminded members that any new headline restrictions in the Somerset area would end all of the stake net fisheries. DCO Mander explained that the

permit mechanism contains a spatial management element and this could be utilized to allow potential access and achieve acceptable balance in a conservation and social context. In considering access the IFCA have undertaken a preliminary assessment of the impact of the activity in relation to *Sabellaria sp* within the SAC, this has been submitted to Natural England.

John May and James Marsden again emphasized that the D&SIFCA should have full regard to preservation of historical fishing whenever the correct balance can be achieved. Mike Williams agreed to some degree with this view point but raised concerns over making specific exceptions to heritage fishing in general and in particular any attempts to define “heritage” in any legal interpretations used in the new netting byelaw. Mike Williams explained that different options were available in the byelaw drafting process and after discussions it was felt that the specific control elements of any new byelaw (permit conditions) would present the most appropriate mechanism to both allow and also control the activity.

Simon Toms aired some concern regarding a relative lack of control in this area of the district and was able to inform members of some historical legislation that was in place prior to the formation of ID&SIFCA that had since been revoked and not replaced. Simon Toms explained that it had been the Environment Agency’s expectation that the this lack of regulation would be reviewed by D&SIFCA and would lead to the re-instatement of these restrictions (via new byelaw) in due course. Simon Toms confirmed that he would, circulate the historic lost Wessex region byelaws and has prepared information in advance of the forthcoming salmon and sea trout review meeting that will further inform this process.

The members agreed that this proposal offered a suitable well balanced management approach in a conservation and social context. In consideration of the management measures that should apply, in the first instance in the coastal waters of the Somerset and Severn areas of the D&SIFCA district the members voted on the proposal to:

***To re-instate the restrictions contained in the revoked Wessex netting byelaws into a netting permit byelaw***

***Proposed: Mike Williams                      Seconded: John Butterwith***

***For 8  
Against 0  
Abstentions 1***

**6. To consider the Officers’ summary report on the four drop in sessions conducted between 10<sup>th</sup> and 14<sup>th</sup> May 2016**

David Rowe introduced this agenda item by expressing thanks to all officers, but in particular project manager Laura Bullock for the significant amount of work undertaken preparing display material and organizing the four events. DCO Mander returned the gesture by thanking members David Rowe and John May for their highly valued contribution in attending some of the sessions and assisting the officers in this important work stream.

David Rowe and John May reported to members explaining that the events had been in their view of great use, relatively well attended, and importantly enabled some stakeholders' views and opinions relevant to the netting review process to be recorded. Both suggested that the D&SIFCA should attempt to repeat these focused types of engagement sessions in the future but at the same time also recognized the difficulties associated with making audiences aware of the dates, locations and key themes. DCO Mander explained that the sessions did present a resource cost to the Authority but also felt that more regular events would aid the general awareness about this engagement opportunity for stakeholders and that they have been, and will continue to be, of significant benefit to the overall communication strategy of the D&SIFCA.

DCO Mander summarized the information that was collated after the four sessions and also referred to the "drop in session" spreadsheet that had already been circulated to members. DCO Mander explained that the additional evidence in regards to netting within estuaries indicated that a blanket ban on fixed and drift netting within all estuaries was seen as too restrictive by some commercial netmen, with a seasonal opening favored as one potential alternative. DCO Mander was able to report a range of ideas that had been suggested to allow potential access for netting within estuaries but explained that the majority of these ideas had already been highlighted by officers in a previous discussion paper<sup>1</sup> and discussed in the byelaw and permitting sub-committee meeting on 24<sup>th</sup> November 2015.

John Butterwith initiated more focused discussions centered on North Devon and the Taw Torridge estuary by questioning some of the MMO data in regards to the number of vessels (14) known to net in the area and the level of income generated (approx £18,000). DCO Mander was able to respond by explaining that there are identified weaknesses associated with the MMO data which have been explained in the Impact Assessment, but confirmed that individual boat names were not known and the landing figures being discussed were only those attributed to Bideford. John Butterwith was aware, that the day to day control of Appledore Fish dock had been taken over by Torridge District Council who owned this site and had previously leased it to Bideford Trawlermen's co-operative. DCO Mander reported that the site was being managed by Paul Labistour and that Councillor Hackett had been in contact to raise his and the commercial fishermen's concerns over the proposed byelaw restrictions of netting.

John Butterwith was able to draw on his own knowledge of fishing activity in the area and report to the group. In doing so, he stated that the netting activity conducted was mainly on a part-time basis with income often used to supplement shellfish orientated business. He further explained that in his view only a small percentage of income would actually go through the Appledore market.

Simon Toms explained that he believed the original bass nursery boundary lines in the Taw Torridge estuary were located to preserve activity of only two commercial netters but changes in circumstances, including the increase in the minimum conservation reference size of bass

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<sup>1</sup> Estuary Netting – Options for management discussion paper

has now become more of a concern. In addition he added that any increase in mesh size to catch larger bass (possibly 4 inch or more) would negatively impact on fresh water species within the estuary.

John May raised his concerns over the general stock levels of bass within both estuaries and along the coast highlighting the disparity that now exists between the amounts of bass that can be taken by the commercial and recreational sectors. Simon Toms was also able to highlight existing evidence that indicates that commercial vessels within the D&SIFCA district were not impacted by the monthly quota limits for bass that now apply. John Butterwith agreed that estuary netting is a concern but explained that coastal netting in North Devon has been identified as relatively small scale and would not impact on overall stock levels of bass.

DCO Mander emphasized the fact that the new byelaw will address the need to seek to balance the different needs and the closure of estuary netting coupled with the opportunity to control mesh sizes via permit conditions are two contributing factors.

David Cuthbert and David Morgan were able to draw on their professional expertise of fishing. They were both able to explain to members that fishermen will often change gear (including mesh sizes) without the need of specific legislation. Changes in fishing practices will often be made in order to accommodate changes in other factors such as increases in minimum conservation reference sizes and therefore promote sustainability. Sometimes these changes in fishing practices can occur relatively quickly but cost of replacing equipment can sometimes dictate the speed of change.

DCO Mander asked for some clarity on the intentions of the members in regards to netting in the North Devon Area for both estuaries and coastal restrictions. It was explained that in the immediate absence of additional evidence the initial stand point could be to continue with the current three metre headline restriction in the coastal areas of North Devon.

David Rowe initiated a proposal and vote.

***To maintain the netting restrictions of legacy byelaw number 17 and introduce a prohibition for fixed and drift netting within the estuaries (in North Devon) via a permitting byelaw***

***Proposed: Mike Williams      Seconded: David Morgan***

***All Agreed***

Simon Toms switched the focus of the discussions to netting on the South coast of Devon and explained that netting activity on this coastline is more of a concern in relation to salmon and sea trout. Mike Williams raised concerns regarding a decision (vote) made by members in regards to a planned meeting between the EA and the D&SIFCA that has yet to be completed. This meeting was to discuss differences in opinion on the evidence submitted relating to the impacts of current and proposed

headline restrictions in relation to fresh water species and potential by-catch in coastal fixed nets. In addition Mike Williams raised concerns over the absence of Counsel's Advice at this stage of decision making. DCO Mander explained to members that the salmon meeting was yet to be arranged however maintaining momentum was important in this process and it was anticipated that this byelaw would be ready to present to the full Authority in June 2016. In regards to extension of headline restrictions the flexible permit mechanism can be used to amend conditions (including extension of headline restrictions) if agreed evidence supports this need.

David Cuthbert voiced great concern in regard to any extension of coastal fixed net headline restrictions. While he accepted there was a lack of detailed evidence from commercial netters obtained within the pre-consultation phase, he heavily emphasised his expert view that a headline change would severely impact on the fishing opportunities and incomes of commercial netters. Large areas of ground would be lost, and the significance that the provision relates to "at any state of the tide" should not be underestimated. Dave Cuthbert suggested that in order for members to visualize the impact of increasing the headline restriction to five metres they could imagine a ten metre contour line on a chart, which would equate to a close estimation of the potentially lost fixed netting areas.

DCO Mander reminded members that the potting permit byelaw was able to proceed even though there were some concerns relating to the size of whelks evident in the creation phase. The permit conditions allow flexibility and the review process allows potential to change this size but importantly provides time for additional evidence to be collected with a focussed consultation process via direct communication with permit holders affected. DCO Mander went on to say that the initial stand point of retaining current coastal netting restrictions in conjunction with estuary closure offers significant protection to salmon and sea trout and any delay in the short term will not strengthen conservation of these species.

James Marsden added to comments made by David Cuthbert that the current three metre headline restriction is in reality a stronger conservation factor than it appears, as the clearance between the headlines of legal nets and the water surface often exceeds three metres due to tidal rise and fall. James Marsden added that in his view the byelaw should continue using the current coastal headline restrictions as the initial stand point.

Members agreed that subject to the Impact Assessment being amended to clearly state that the initial three metre headline restriction would be subject to amendment following collection of additional evidence, a proposal could be formulated and voted taken.

***To continue with current headline restrictions in the current areas set out in byelaw 17.***

***Proposed: James Marsden      Seconded: David Cuthbert***

***For: 8***

**Against: 1**

**7. To review the draft Netting Permit Byelaw, Permit Conditions and Impact Assessment**

DCO Mander began discussions by thanking Mike Williams and the D&SIFCA prosecuting solicitor Fred Howell for their assistance with byelaw and permit drafting and explaining that refinement associated with the structure and content of these documents could also be used to improve (via amendment process) existing permit byelaws and permits. The use of deeming clauses was explained to members and importantly the changes now required removing them from new Byelaws due to the advice received from Defra regarding them. In the absence of deeming clauses DCO Mander explained that permit conditions (catch restrictions) would be amended to replicate the effect of deeming clauses but in an acceptable legal format and that this reasoning has been detailed within the Impact Assessment.

With no issues raised over drafting of the byelaw or permit conditions, DCO Mander began a presentation on the development of the Impact Assessment. James Marsden repeated earlier comments and commended the work completed to date and suggested that formatting, referencing and footnotes all be double checked for accuracy. Mike Williams commented that he had already read the document and had suggested some amendments on a returned copy. David Rowe suggested members read the main document page by page to identify any immediate errors or discussion issues. This process began with notes taken of minor errors discovered by members and the reading paused on request.

David Morgan identified a weakness on page five relating to an under estimation of the costs involved of registering a vessel for commercial fishing and the operator of the vessel purchasing mandatory safety equipment.

Simon Toms referred to page 15 and the paragraph relating to the impacts of nets on bass, salmon and sea trout. Simon Toms suggested that he would be able to add more content to this section and was thanked by DCO Mander for this offer.

James Marsden suggested that the document be expanded to include more detailed costings (financial and time) associated with the whole pre-consultation process and relevant meetings.

Plymouth Sound

This section of the Impact Assessment prompted members into a discussion. For the reasons specified within the document the members accepted that there should be no initial change to the boundary line in this area and therefore this area would continue to be managed as a coastal area rather than an estuary.

Taw Torridge

This section of the Impact Assessment prompted members into a discussion. For the reasons specified within the document the members agreed that the boundary lines for this area be



extended. John Butterwith asked if the new boundary lines would be changed to the headlands around the estuary and this was confirmed by DCO Mander.

#### Salcombe Estuary

David Rowe wanted to clarify to members and have it recorded in the minutes a matter related to Agenda Item 6. He reported that as he had attended several of the drop-in engagement sessions he had recorded notes of his discussions with stakeholders. In regards to conversations regarding Salcombe estuary he explained that he compiled a report of these discussions and submitted them to DCO Mander prior to this meeting. DCO Mander confirmed that he had taken these submitted notes into account while giving his verbal presentation associated with Agenda Item 6.

Other minor errors in the document were discovered by members and all noted. At the end of the read through, James Marsden recommended that a meeting be arranged between officers and Elaine Hayes (Chair of the D&SIFCA) so the document can be fully explained and then signed if approved.

With closure of estuaries discussed, David Rowe asked members to vote on the following proposal:

***To maintain the existing estuary closing lines in Plymouth Sound and to extend the estuary closing line in the Taw Torridge as set out in the pre-consultation proposals***

***Proposed: Mike Williams      Seconded: James Marsden***

***All agreed***

**8. To review consultation strategy in preparation for formal consultation of the Netting Permit Byelaw**

DCO Mander asked members for any comments regarding this subject. James Marsden suggested that the officers could try and target future drop-in sessions as best they can to reach stakeholders most affected by any changes. David Rowe suggested that he meet with officers and discuss the drop-in sessions that have already been completed and see if there is any scope for improvement. John May agreed and also said he may be able to do the same.

**9. Any other business**

David Rowe explained that elements of the Skerries bank voluntary angling code have been reported as failing highlighting on specific incident when large numbers of plaice were reportedly being caught and retained by shore based anglers. Although not

positive news, David Rowe felt that this news goes some way in showing the compliance weakness that voluntary codes can have.

John May asked what could be done when breaches of angling zone voluntary codes are identified. DCO Mander explained that the officers have limited power in terms of enforcement but will continue to monitor and educate where and when necessary.

Mike Williams inquired if any harmonization had been achieved with CIFCA in regards to netting in general and netting in Plymouth Sound. It was explained by Neil Townsend that a regional byelaw working group was last attended in the later stages of April 2016. It was further explained that the purpose of the working group is in part to attempt to identify harmonization opportunities associated with byelaw structure and control measures. At this stage there has not been as much harmonization as was originally expected.

10. **Date of next meeting**

The members felt that the date of the next meeting should be within three months but also dependent on the timing of the formal consultation. Members briefly discussed if there was any value to having any independent academics reviewing the EA submitted evidence on the headline depth of nets. It was agreed to review this question after the meeting of officers from both the EA and the D&SIFCA that has been planned.