



Byelaw & Permitting Sub- Committee Meeting

Final Minutes from 18th
June 2020

Version Control and Drafting

Date	Comments
1 st July 2020	1 st Draft of minutes completed for circulation to officer's present at the meeting for potential internal amendment and or additions.
4 th July 2020	MM review
5 th July 2020	SC review
22 nd July	Comments received from the Chair applied to the draft minutes.
17 th August 2020	Minutes approved at the B&PSC meeting with no amendments.
18 th August 2020	Minutes published

Key Contents:

Discussions on changes to Potting Permits & Management the Live Wrasse Pot Fishery
Pages 4 to 6

Discussions on the development of a Hand Working Permit Byelaw
Pages 6 to 7

Minutes of the Byelaw and Permitting Sub Committee Meeting
Held on virtually on 18th June 2020 on Microsoft Teams Facility

Present:

Professor Mike Williams (Chair)		
Jim Portus	Rachel Irish	James Marsden
Cllr Hawkins	Simon Toms	Richard White
Sangeeta McNair	Stephen Gledhill	Felicity Sylvester
Jim Masters	Cllr Hellyer	

Present (officers): ACO Mander, DCO Clark, PPO Townsend, Finance & Administration Manager Olga Pepper

Apologies: Jon Dornom, David Morgan, Andy Wray, David Cuthbert, David Saunders

Introduction, announcements and apologies

The Chair welcomed members to the virtual meeting and thanked them for their attendance and for recognising the protocols set out in the Microsoft Teams guidance notes, circulated prior to the meeting. The Chair informed members that the Standing Orders apply and although the meeting would not be electronically recorded, minutes would be taken and published when approved for accuracy at the next B&PSC meeting.

Regarding the recording of votes, it was explained that Finance and Administration Manager (F&AM) Ms. Olga Pepper would be acting as the administrator for the meeting. The 'video on and off' on-screen button would be used by members wishing to signal their intention to speak in turn and for voting requirements. It was noted that Rachel Irish had joined the meeting via telephone and was advised to vocalise her choices within voting procedures, rather than switching on a video which was, for her, not an option.

Members were also informed that, unless requested otherwise, the total numbers of votes would be recorded rather than individual names. Acting Chief Officer (ACO) Mander reported that although an audio feed had been made available for the general public to listen to proceedings, none had requested the joining instructions from officers. With no questions or queries raised by members, the Chair introduced Agenda Item 1.

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Agenda Item 1 To consider and approve minutes of the Byelaw and Permitting Sub-Committee meeting held on 11th February 2020. (Circulated by email)

The Chair invited those who were present at the last meeting to raise any issues associated with the accuracy of the draft minutes from the February meeting and the minutes were examined page by page.

Cllr Hellyer highlighted an error regarding the proposing of a vote on page 6 and after discussion it was confirmed that "Rachel Irish" should be inserted instead of "Cllr Hellyer". Some spelling errors were highlighted on pages 11 and 14, which were noted by Principal Policy Officer (PPO) Townsend who was taking minutes.

It was noted that those not present at the previous meeting would abstain from the vote that followed.

That the minutes (as amended) provide a true and accurate record.

Proposed: **Sangeeta McNair** **Seconded: Stephen Gledhill**

In favour: **7**

Abstain: **5**

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Agenda Item 2 Business Arising

There was no business arising from the minutes

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Action Item

Agenda Item 3 Proposals to Amend the Potting Permit Conditions to Manage the Live Wrasse Pot Fishery

3.1 To consider the responses to the formal consultation summarised in the report (Potting Permit Byelaw Permit Conditions – Proposals to Amend the Potting Permit Conditions to Manage the Live Wrasse Pot Fishery – 22nd May 2020)

The Chair highlighted that the agenda item would involve examination of two separate reports that had been produced by officers. The first detailed the consultation response and the second contained the proposals that could be considered by members prior to formal voting. F&AM Pepper shared the decision-making document on the screen during the discussions that followed.

ACO Mander explained that the consultation document provided an overview of the proposals for changes to the Potting Permit Conditions and the summarised responses that had been received during the formal consultation, including a detailed response submitted by the Devon Wildlife Trust (DWT). As well as containing proposals, the second document contained officers' analysis of the response provided by DWT. The Chair thanked officers for producing both reports and asked members to comment or raise questions relating to both documents.

Cllr Hawkins raised concern regarding the continuing use of a voluntary code of conduct to limit the placement of pots in the Plymouth Sound and surrounding areas, rather than restrictions within the Potting Permit Conditions. ACO Mander commented that there is some value to retain voluntary measures with a pot storage area for fishers being one such reason why the measure had been introduced via a code of conduct. ACO Mander also informed members that although there is a continuing option to review management, the consultation and changes in management highlighted within the formal consultation had been as a result of the decisions taken by B&PSC members in February 2020. It was at this time the Live Wrasse Pot Fishery - Three-Year Comprehensive Review Report had been examined and discussed by members.

James Marsden highlighted the concerns raised by DWT in the consultation response and shared their concern regarding aspects of on-going management, in particular the absence of on-board monitoring and data collection relevant to the vessels engaged in the fishery, as documented in the Three-Year Comprehensive Review Report. As he was not present at the B&PSC meeting in February when on-going management was discussed, James Marsden commented that, in his view, there should be more consideration from the B&PSC regarding a more precautionary approach being taken, especially as it is now the view of officers that updated advice from Natural England should be sought relating to updated Habitat Regulation Assessments (HRAs).

Deputy Chief Officer (DCO) Clark explained to members that work had begun reviewing five HRAs, in preparation to send to Natural England, but the returning advice would take at least 28-day days after the submission to Natural England. Although updated advice was not yet available, the decision-making document did highlight how many of the issues raised by DWT had been addressed by officers with counter views set out. ACO Mander commented that when the advice is received from Natural England it can be discussed by the B&PSC, but it would only represent advice, and this advice would not necessarily have to be followed.

Members including Richard White and Jim Masters asked for some clarification on what form of precautionary action could be taken in theory in the shorter term, before formal advice is received. PPO Townsend

responded by explaining that the process to date had led to specific proposals to amend the Potting Permit Conditions in line with the previous decision making of the B&PSC and that the officers' proposals reflect that decision making. In the shorter term, the proposals by officers already provide a potential way forward as new protective measures for rock cook wrasse would be introduced before the fishery begins after a closed fishing period on 16th July.

Whilst members had the option to consider a more precautionary approach and further changes to the Potting Permit Conditions, this would not be achievable in practice in the shorter term. Although the permit condition mechanism offers flexibility, it is not an immediate process. A consultation process would have to be repeated with the findings presented back to the B&PSC at a future meeting for additional decision making. To delay decision making relating to the proposed immediate changes to the Potting Permit Conditions until updated formal advice was received from Natural England would be counterproductive.

Whilst appreciating the process that must be followed, Richard White asked Sangeeta McNair if she had any immediate feedback on what the advice from Natural England is likely to be.

Sangeeta McNair commented that the time needed by Natural England to respond is likely to exceed 28 days as the Covid-19 pandemic has created staff constraints for Natural England with many key staff reallocated into other Defra departments. Richard White enquired if Sangeeta McNair had any of her own thoughts on the Live Wrasse Pot Fishery prior to the formal advice being provided. Sangeeta McNair responded that although a Natural England representative had been present at many B&PSC meetings over the last three years, this had been Andrew Knights and not herself. Although she had followed more recent development, Sangeeta McNair did not feel able to comment from her own perspective until she had more time to consider all the information made available. The Chair commented that the pressures on Natural England due to Covid-19 are totally understandable and if the formal advice can be produced as quickly as possible it would be appreciated by all members of the B&PSC.

Simon Toms asked questions related to the developments of wrasse hatcheries in different parts of the UK. DCO Clark responded and explained that there was little information available that had not already been provided to the B&PSC. DCO Clark offered to source further information from the Salmon farms and report back to the B&PSC. Simon Toms thanked DCO Clark for this offer and commented that a regular update on hatchery developments would be beneficial for future discussions. This was noted as an action.

Action 1

DCO Clark	To seek additional information on the development and production levels of hatcheries and report back to the B&PSC
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Referring to the consultation response report, Simon Toms enquired if there were any more details available regarding the opinions of recreational anglers and the Angling Trust. PPO Townsend commented that the responses provided by these stakeholders were not as detailed as that provided by DWT, but a similar theme was present. It was the view of those that responded that the proposed new restrictions are welcomed, but ideally, they would go further than those being proposed.

ACO Mander commented that unless members wished to raise further comments, it would be beneficial to return to the process being followed and the immediate issues to be resolved. In summary, ACO Mander commented that four vessels are active in the fishery with the maximum level of gear directed towards the fishery being 480 pots/wrasse traps. The officers' proposals include adding a restriction for the removal of rock cook wrasse that would apply to all fishers with a valid potting permit and in addition the need to review five relevant HRA Assessments being fully recognised.

The Chair asked all members to examine the officers' proposals set out in the decision-making report and form motions for voting.

That the Habitat Regulation Assessments, relevant to the Live Wrasse Pot Fishery, are reviewed by officers and submitted to Natural England for formal advice.

Proposed: Jim Masters **Seconded:** Richard White
In favour: All (12)

That the proposals for amendments to the Potting Permit Conditions are applied and amended permits circulated before 15th July 2020.

Proposed: Cllr Hellyer **Seconded:** Cllr Hawkins
In favour: All (12)

At this point, Cllr Hawkins had to leave the meeting.

That the formal advice received from Natural England is considered by the B&PSC at the earliest opportunity.

Proposed: Richard White **Seconded:** Jim Portus
In favour: All (11)

The Chair requested that as soon as the advice from Natural England becomes available, it could be circulated to members via email, prior to the next B&PSC meeting being used to discuss the issue and prior to any officer papers being prepared for that meeting.

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Information Item

Agenda Item 4 The Development of the Hand Working Permit Byelaw

4.1 To receive the call for information response report (Development of the Hand Working Permit Byelaw – Developing Catch Thresholds – 20th May 2020)

The Chair commented that this was an information item for members and that the report would be used as a basis for decision making by Members at a future meeting.

ACO Mander introduced the report and highlighted that officers had originally planned to include some proposals relating to further development of the Hand Working Permit Byelaw at this B&PSC meeting. After considering the response, officers had concluded that more time was needed to assess what course of action could be taken to progress the Byelaw and associated permit conditions. Although delaying development may frustrate stakeholders, such as Teignmouth residents concerned about large scale shellfish removal, ACO Mander reported that the complexity surrounding further development is such that more time will be needed by officers and members than originally anticipated in order to consider the issues.

ACO Mander added that although the response report contains very mixed views on the subject matter, it does highlight a desire and expectation from the angling sector that further engagement work is conducted during 2020. Key messages documented in the report are that balancing the needs of different fishers is complex and not as simple as dividing fishers into recreational and commercial categories. In addition, the catch thresholds as proposed in the consultation are not acceptable for many and a balance will be challenging to achieve. Officers have taken the view at this time that a permitting route still provides the most suitable approach for those not satisfied with a fixed catch threshold; however, this would not be limited to commercial operators. As the subject matter is complex and the report is detailed, ACO Mander commented that members had the opportunity to offer their initial views either at this meeting or via email over the next few weeks which may help to shape future officer papers that will be presented to members at a future B&PSC meeting.

The Chair was joined by other members to thank officers for production of the report. Jim Masters enquired if there was scope for greater use of voluntary codes rather than regulation. PPO Townsend explained that the potential introduction of a Hand Working Permit Byelaw would not preclude the use of or the further development of voluntary codes; however, the use of voluntary codes was not the favoured option chosen by

the B&PSC to date. For the benefit of more recent B&PSC members, including Jim Masters, PPO Townsend provided a re-cap on the large-scale pre-consultation exercise that was conducted during 2019 where multiple issues, including the use of different codes of conduct, were highlighted and views taken as to their effectiveness.

DCO Clark added that voluntary codes are present in different estuaries including the Exe and the Severn but monitoring their effectiveness by D&S IFCA is challenging. It has been evident during past monitoring and within pre-consultation exercises that issues exist with voluntary codes being ignored and cited a lack of back filling by those digging for bait is one such example of failure.

PPO Townsend explained that the pre-consultation work provided the basis for members to discuss options for management in late 2019 and it had been the choice of members to proceed with a regulatory framework to manage hand working fishing activity.

James Marsden commented that he had found the report interesting to read and had not found the documented opposition to the potential introduction of new restrictions surprising. Stephen Gledhill also recalled the development of other D&S IFCA Byelaws and how opposition had been present during different consultations undertaken to develop those Permit Byelaws.

It was the view of both James Marsden and Stephen Gledhill that opposition of differing levels to the development of restrictions that will impact fishers will be inevitable. James Marsden commented that, in his view, it made sense at this time to pause and consider the findings of engagement, but not to the extent that initial or on-going opposition should prevent D&S IFCA progressing the development of the Byelaw for too long. Although further engagement may be appropriate, be of benefit to the development work and help to achieve balance regarding legal restrictions, where evidence is lacking the precautionary principle can be applied.

The Chair concluded the discussions on the development of the Hand Working Permit Byelaw and summarised that the information item (Catch threshold consultation response) will be of use for reference in future B&PSC meetings when the development of the Hand Working Permit Byelaw and further engagement work is revisited and considered.

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Agenda Item 5 Any Other Business

Members did not raise any other business, but ACO Mander wanted to seek the views of members regarding the use of virtual meetings. ACO Mander reported that officers were conscious of the large volume of work set out within the Annual Plan that is driven by the decision making of the Authority and, for byelaw related work, the B&PSC. ACO Mander informed members that, with their approval, it was the intention of officers to plan more frequent, but smaller agendas for B&PSC meetings to progress different elements of byelaw related work. The timing of meetings can be flexible, and the dates could be organised via the use of doodle polls.

The Chair asked members for their views.

The approach was favoured by all members as it suits current working arrangements in the shorter term and over the longer term helps to demonstrate environmental responsibility. Both Stephen Gledhill and Richard White suggested that a 1600hrs to 1800hrs period becomes the default time period if possible and this suggestion received support from others.

The Chair thanked all the members for their attendance at the virtual meeting and for following the protocols implemented.

The Chair also thanked F&AM Olga Pepper for preparing the Microsoft Teams guidance for members and for acting as the administrator at the meeting.

Agenda Item 6 Date of next meeting:

With members in agreement that virtual meetings should be arranged as and when required, no fixed date was scheduled for the next meeting.

(meeting date subsequently set for 17th August 2020)

End.