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Environment Agency

FAO Mr Neil Townsend
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Date: 19/01/2024

Dear Mr Townsend,

Environment Agency response to the Devon and Severn IFCA review of the Netting Permit Conditions – Formal Public Consultation Proposals

Thank you for the opportunity to comment on the Devon and Severn IFCA netting proposals. In forming this response, we have consulted widely across our Fisheries, Biodiversity and Enforcement Teams and have engaged closely with our national colleagues. This response is therefore a collective view having carefully considered the proposals.

The primary focus of our consultation response relates to '*Section 1: Changes Relevant to Commercial Netting Activity (Category One Netting Permits); Topic 1: The opening of a fixed net fishery in the Salcombe Estuary*'.

On behalf of the Environment Agency, I would like to register a **formal objection to the opening of a fixed net fishery in the Salcombe Estuary**. The appended document provides detailed reasons for our objections which are summarised below:

- It is unclear how D&S IFCA have considered their statutory duties under key policies including the Marine and Coastal Access Act 2009.
- Potential bycatch, species and habitat impacts within the existing SSSI and LNR do not appear to have been adequately considered or assessed and potential impacts on receptors in the adjacent MCZ and SAC should also be considered by D&S IFCA.
- Current protections for migratory fish would be lost.
- There is strong evidence that migratory species use the Salcombe Estuary for feeding and spawning meaning a precautionary approach is required.

- We disagree with the inference that sea trout do not spawn in Salcombe Estuary freshwater tributaries.
- Sensitive fish species are unlikely to survive accidental netting regardless of soak-times.
- Concern around the ability to regulate this bylaw effectively.
- Loss of bass in a nursery area is not sustainable fishery management and will impact long term stocks of bass and other protected species.
- The need to be compliant with the local River Basin Management Plan.

For Topics 2, 3, 4 and 5, we hold no objection.

Yours faithfully

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19/01/2024

Environment Agency response to the Devon and Severn IFCA review of the Netting Permit Conditions – Formal Public Consultation Proposals

This report provides a detailed response to the above consultation.

The Environment Agency has a statutory duty to protect a range of species and habitats including migratory fish species such as Atlantic salmon *Salmo salar*, sea trout *Salmo trutta*, European eel *Anguilla anguilla*, smelt *Osmerus eperlanus*, river lamprey *Lampetra fluviatilis* and sea lamprey *Petromyzon marinus*. The proposed fixed net fishery has the potential to impact species included in the EA's statutory remit and other protected fish species such as Allis shad *(Alosa alosa*) and twaite shad (*Alosa fallax*)

We were made aware of the proposal by the Environment Agency D&S IFCA representative.

The primary focus of our consultation response relates to '*Section 1: Changes Relevant to Commercial Netting Activity (Category One Netting Permits); Topic 1: The opening of a fixed net fishery in the Salcombe Estuary*'. The other topics included in the consultation are briefly discussed under separate headings.

Topic 1: The opening of a fixed net fishery in the Salcombe Estuary

The Environment Agency wishes to register a formal objection to the proposal for 'the opening of a fixed net fishery within Salcombe Estuary'.

There are a range of reasons for this objection which encompass both fisheries-specific issues as well as wider environmental considerations. These are described in detail below under Biodiversity and Fisheries headings for clarity:

Biodiversity:

We object to this proposal from a biodiversity perspective for the potential significant impacts it would have on protected species and habitats found as interest features within the Salcombe to Kingsbridge Estuary Site of Special Scientific Interest (SSSI) and Salcombe to Kingsbridge Local Nature Reserve (LNR).

Policy background:

The UK has an obligation under the United Nations Convention on Biological Diversity to integrate consideration of the conservation of and sustainable use of biological resources into national decision-making, in addition to managing natural processes and activities that could threaten it.

The government has made a long-term commitment to leave the environment in a measurably better state, as set out in the 25 Year Environment Plan. This aim is reinforced in the marine area by the government's commitment to achieving Good Environmental Status in UK seas through provisions in The Marine Strategy Regulations 2010. The objective of the Marine Strategy Part One: UK updated assessment and Good Environmental Status reflects the UK's vision for clean, healthy, safe, productive and biologically diverse oceans and seas.

Habitats and species are protected by UK legislation, including, but not limited to, the Wildlife and Countryside Act 1981, the Countryside and Rights of Way Act 2000 and the Natural Environment and Rural Communities Act 2006.

The proposals do not demonstrate how the IFCA proposes to avoid, minimise, mitigate and compensate significant adverse impacts on the distribution of priority habitats and priority species. From the South West Marine Plan, the assessment of adverse impacts must take account of the conservation objectives set out by the statutory nature conservation bodies, and comply with the statutory assessments for Sites of Special Scientific Interest (Salcombe to Kingsbridge Estuary SSSI) under the Wildlife and Countryside Act 1981. Licences may need to be applied for from Natural England in the SSSI and the Marine Management Organisation (MMO) in tidal waters.

Bycatch of non-target species:

The proposed fixed net fishery is likely to catch non-target species and cause entanglement and death by drowning of protected species including wading and diving birds, otters, cetaceans, and seals. Many of these species are specifically cited as interest features of the SSSI - SSSI detail (naturalengland.org.uk).
Salcombe to Kingsbridge Local Nature Reserve (LNR) is a statutory site for wintering birds, marine and coastal invertebrates, fish, and coastal vegetation and is also important to local people e.g. birders, walkers. Twenty-four statutory designated Local Wildlife Sites (LWS) in the estuary have special features of coastal grassland and scrub, marshy grassland, rush pasture, or mixed farmland with bird interest. Protected habitats include Coastal and floodplain grazing marsh, Coastal saltmarsh, Maritime cliff and slope, Mudflats and Reedbeds. These habitats provide networks of feeding habitats and high tide roosts for birds that may be impacted by the proposed fishery.
The estuary supports internationally significant populations of breeding and over-wintering seabirds, wading birds and waterfowl. Protected species include diving birds including red breasted merganser, great crested grebe, cormorant, little grebe and various diving ducks which overwinter in the October to March period in the estuary which would be at risk of death through drowning in fixed nets. Red breasted merganser are an International Union for Conservation of Nature (IUCN) Near-

threatened species and are Birds of Conservation Concern (BoCC) Amber listed. During storm events some diver species (great Northern diver etc) are known to utilise sheltered waters for better feeding conditions in the Salcombe Estuary. The estuary is also used as an overwintering ground by large numbers of wildfowl such as wigeon, teal and shelduck and the intertidal mudflats are important feeding grounds for passage waders which risk becoming by-catch. The Bass Survivability Report research had instances of seabirds (of unspecified species) caught in trial nets that were set to soak for 1 hour in 2022 and 2023 hauls.

There are formal records of otter both within the freshwater streams and in the estuarine waters and records of grey seals and cetaceans in the Salcombe Estuary.

Risk of damage to habitats and species by ghost and dragged nets:

Bolt Head to Bolt Tail, Prawle Point and Start Point and Salcombe to Kingsbridge Estuary are Sites of Special Scientific Interest (SSSI) designated for their very rich and diverse intertidal and subtidal flora and invertebrate fauna, with certain communities being outstanding examples of their type in the North-east Atlantic.

The bed of the main channel from the entrance to Salcombe Harbour to the Salt Stone is of mixed sediments with stones and shells. The communities present are very rich in algae and animals, including several rare or unusual species. The SSSI intertidal sediments support exceptionally rich invertebrate faunas and at and below low water mark the sand is colonized extensively in places by eel-grass *Zostera marina* and by the sea potato *Echinocardium cordatum*. There is the potential for damage to the extensive growths of sponges, tube worms and eel grass beds and other subtidal designated habitats from “ghost” or lost nets which aren’t retrieved and drag across the seabed. The habitats are sensitive to physical disturbance, including abrasion. Seagrass is also susceptible to physical damage from boat propellers, mooring chains and anchoring. The Eastern side of the mouth of the estuary is Skerries Bank and Surround Marine Conservation Zone (MCZ) and protected species include fan mussel and sea fan *Eunicella verrucosa*, and Start Point to Plymouth Sound & Eddyston and South Devon Shore Dock are Special Areas of Conservation (SAC) which have important reef features vulnerable to fishing gear damage from nets washed out of the estuary, including to fragile attached species such as pink sea fan.

In summary, we consider that the potential bycatch, species and habitat impacts within the existing SSSI and LNR have not been adequately considered and that potential impacts on receptors in the adjacent MCZ and SAC should also be considered by D&S IFCA.

Fisheries:

Current protections afforded to migratory fish species by D&S IFCA's 2018 Netting Permit Byelaw and legacy Byelaw 17 (Fixed Engines) would be lost under the proposed byelaw change. This has the potential to impact upon protected migratory salmonids (salmon and sea trout) and European eel as well as species such as Shad which are likely to use estuarine and near-coastal habitats around known spawning areas within the River Tamar and its estuary. We consider that the proposal poses an unacceptable risk to protected species as well as the wider ecology of the Salcombe Estuary.

The rationale for our objection to the proposal is outlined below:

- The proposal to allow the resumption of netting in the Salcombe Estuary goes entirely against the policy principles that were used by Devon and Severn IFCA when designing and implementing the Netting Permit Byelaw in 2018. At that time, the principle agreed through the Committee was to ensure the protection of estuaries to protect migratory fish species, juvenile fish of commercial importance and to provide for the development of recreational angling which is a key policy driver for all IFCAs following the implementation of the Marine and Coastal Access Act in 2009.

- We are concerned that protections currently afforded by the D&S IFCA's 2018 Netting Permit Byelaw and legacy Byelaw 17 (Fixed Engines) which may have unintended consequences in terms of, for example, long-lining.

- The Salcombe Estuary constitutes foraging habitat for a range of protected fish species. The Environment Agency undertakes no freshwater or estuarine fisheries monitoring within the Salcombe Estuary or its freshwater tributaries, however, sea trout are known to be present from monitoring including D&S IFCA's own monitoring (D&S IFCA, 2023. *Understanding Mortality of European Sea Bass (Dicentrarchus labrax) in Small-Scale Inshore Netting*) and it is likely that other migratory species likely to be caught in 100mm fixed nets such as Atlantic salmon and shad use Salcombe Estuary on either a permanent or seasonal basis. We believe that the Salcombe Estuary is likely to support sea trout from larger neighbouring river catchments such as the Dart, Teign, Yealm, Erme, Avon and Tamar complex. Evidence from the recent SAMARCH sea trout tracking project identified that sea trout are actively moving along the coastline and will often enter neighbouring estuary catchments either to feed or spawn. In the absence of any other evidence to the contrary, we believe that D&S IFCA should take a precautionary approach and maintain the existing netting prohibition within the Salcombe estuary.

- The Consultation Proposal states that '*the B&PSC recognises that sea trout are present at an unknown scale, for feeding purposes, in the Salcombe Estuary but it is not a known migratory route'.* We disagree with this statement and the

- inference that sea trout do not spawn in Salcombe Estuary tributaries. While we have no formal survey data for the area, anecdotal evidence suggests that sea trout are present year-round within the estuary and run into the freshwater tributaries to spawn. This is corroborated by angler catch reports of sea trout to 7lb from the Bowcombe Stream and reports that we have received from anglers that have directly observed sea trout.

- Eight of the eleven streams flowing into the estuary have a clear migratory route and the principal tributaries such as the Bowcombe Stream contain significant areas of suitable spawning and nursery habitat (see Appendix 1 for example photos). As part of its conservation remit, D&S IFCA should therefore consider the estuary as both an important feeding habitat AND migratory route for sea trout. This is critical given the status of migratory salmonid populations in the region with the majority of rivers where stock assessment take place, including the neighbouring Rivers Dart and Avon, exhibiting long-term declines with the majority now classified as At Risk for Atlantic salmon and declines also apparent for sea trout. Sea trout are likely to migrate into freshwater tributaries and leave as kelts from October to January therefore interacting directly with the proposed fishery.

- The netting study (D&S IFCA, 2023) showed that, even with a short soak time (maximum 102 minutes, mean ± SD 59.6 ± 19.3 minutes), mortality rate for bass, a relatively robust species, was high. There is therefore little confidence that sensitive species such as sea trout or shad could be safely returned alive, regardless of byelaw conditions on soak time. The mortality of the sea trout caught within the bass study highlights that salmonid fish would be directly impacted as a result of the netting. It is important to note that significant fish mortality was apparent despite the netting being conducted in daylight and staff being present with the net and using a recovery tank to aid fish revival i.e. more favourable conditions than would be experienced in a commercial fishery.

- We have significant concerns about the practicality of permitting/licensing and the potential use of up to 17 nets. There is no detail provided in terms of how these nets will be allocated to individuals or whether all of the net licences could be used conjunctively at the same time effectively cutting off the estuary. The unregulated use of multiple nets is likely to result in a high capture probability of any fish using the Salcombe Estuary creeks as fish typically move back into the deeper channels of the estuary on the ebb tide where they could be exploited. We also have reservations regarding how quickly a single 200m net can be cleared after a soak time of an hour. An image displayed on the D&S IFCA website shows an illegally set net recovered in September 2023. This clearly indicates the numbers of fish that can be taken of a wide range of sizes and the amount of debris that could be contained within a net (see figure below)

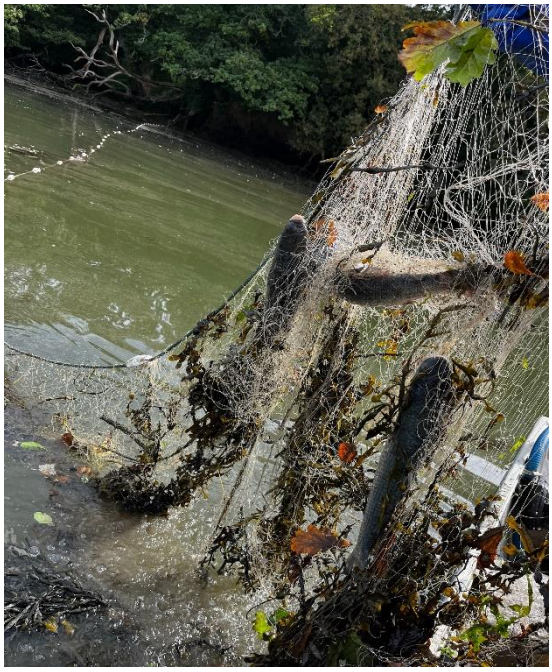

Figure 1 - Fixed net recovered from Salcombe estuary containing tightly meshed fish and debris (image Devon and Severn IFCA – Source Devon and Severn IFCA website)

- The Environment Agency has recently contributed to the Defra public consultation on the draft Bass Fishery Management Plan. This consultation made it clear that designated bass nursey areas, such as the Salcombe Estuary, were vital to the long-term sustainability of bass stocks and that the extension or increased protection afforded to bass nursery areas would provide longer term benefits for both the commercial and recreational bass fishery. The exploitation and potentially high loss of juvenile bass through the resumption of netting within the bass nursery area therefore makes no logical sense in terms of the sustainable fisheries management either for the recovery of bass stocks or other protected and sensitive fish species.

- We note that the consultation on the resumption of netting in Salcombe Estuary does not mention the IFCAs duty to consider the impact of the proposal upon the River Basin Management Plan objectives that extend out to 1 nm. There is a requirement under S33 of the Water Environment Regulations (2017) that each public body must, in exercising their functions so far as affecting a river basin district, have regard to the River Basin Management Plan for that district. We would be grateful to know how the IFCA committee have considered the SW RBMP in agreeing to consult on this proposal.

Topic 2: A Prohibition of Commercial Netting – Emsstrom Angling Zone

The Environment Agency supports this proposal in principle.

Topic 3: Net length (at sea), Bag Limits and Combining Nets

The Environment Agency agrees that the minimum length of a recreational net can be extended to 50m if combined with the bag limits set out in the consultation. The rationale for combining nets is not established and we would object the use of two 50m nets used conjunctively as this is far more likely to result in the bag limits being exceeded and excess fish being discarded. It also increases the risk of catching migratory fish species if the net is not attended quickly. It is not clear how the IFCA will ensure that nets will avoid damaging marine protected areas if combined.

Topic 4: A Prohibition of Recreational Netting – Emsstrom Angling Zone

The Environment Agency supports in principle the proposed prohibition of recreational netting in the Emstrom angling zone.

Topic 5: Introducing Additional Minimum Conservation Reference Sizes

The Environment Agency agrees with the need to introduce MCRS for grey mullet and gilthead bream irrespective of whether the netting in the Salcombe Estuary proceeds or not and that this should be extended to all areas within the D&S IFCA district. We would also welcome 100% catch and release of all mullet, giltheads and bass by recreational anglers within estuaries reflecting the need to conserve these species for the future benefit of both commercial and recreational fisheries.

Appendix 1:
We have included a brief summary and example photos of the main freshwater tributaries of the Salcombe Estuary below:

1. Bowcombe Stream:

This watercourse is the longest entering the estuary and is a sufficient size and length that Atlantic salmon may be present as well as sea trout.

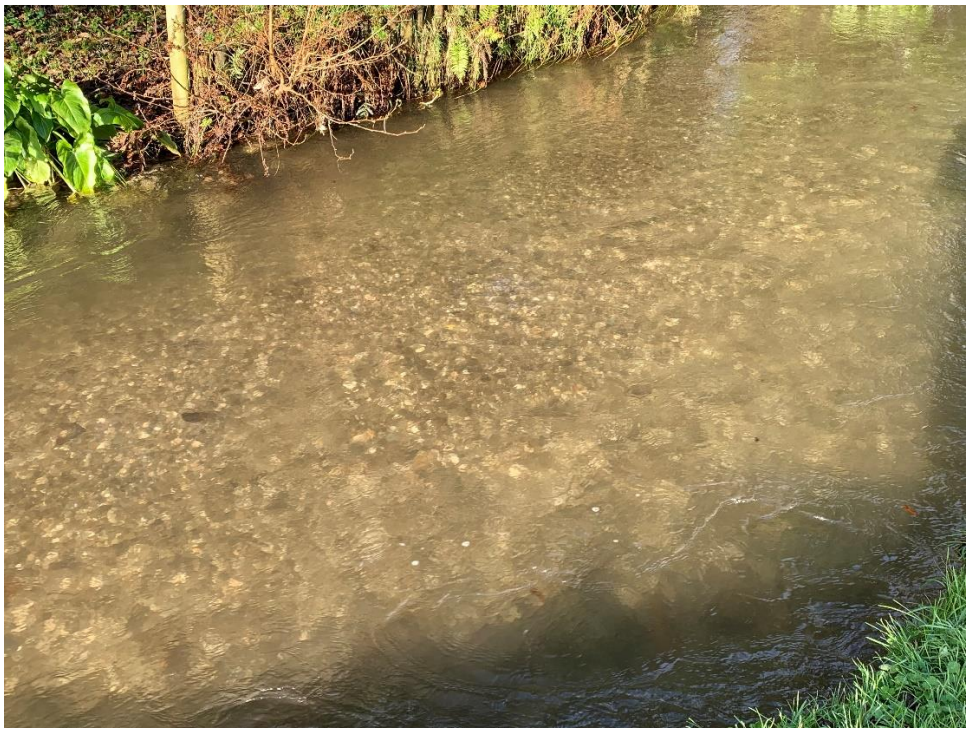

Figure 1: Suitable spawning habitat at Malston Mill Farm, Bowcombe stream.

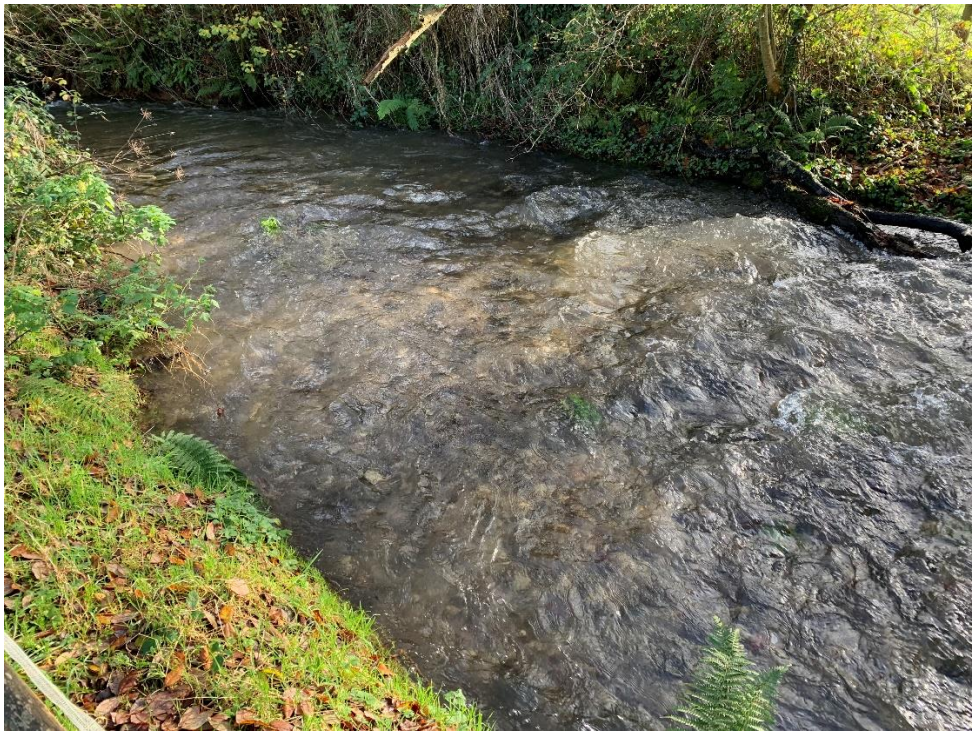

Figure 2: Spawning gravel riffle at Malston Mill farm, Bowcombe stream.

Figure 3: Spawning gravel area upstream of Flear Mill. Much of this area of the Bowcombe stream consists of optimal salmonid spawning and nursery habitat.

2. Sherford/Chillington (Frogmore) stream**:**

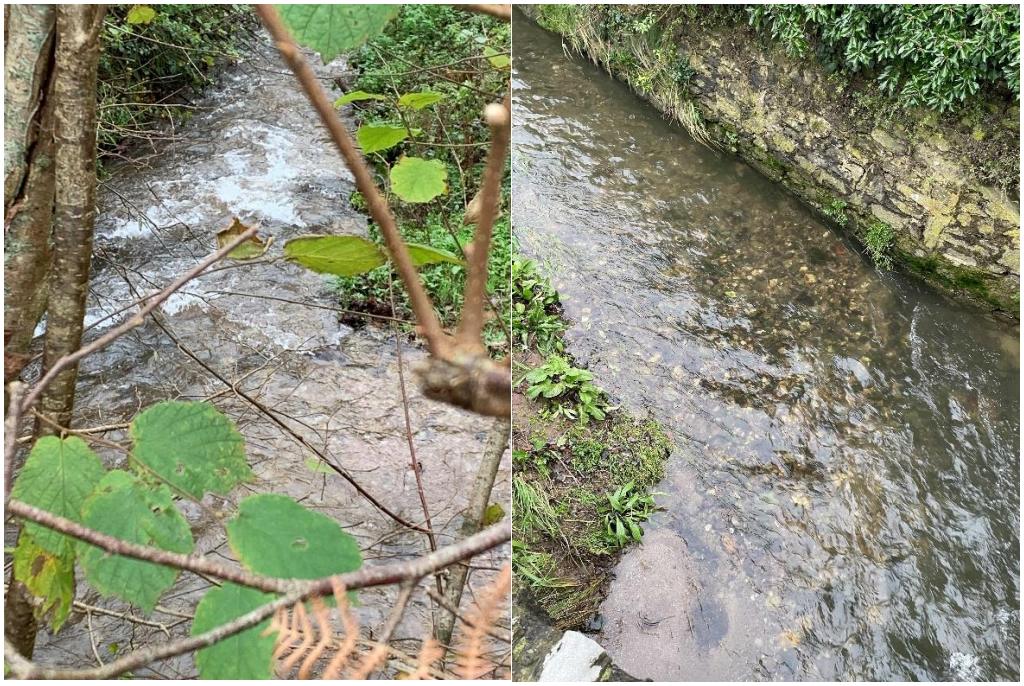

Figure 4: Sea trout and brown trout have been reported by the public in and around the Frogmore area. Both the Chillington and Sherford streams enter at Frogmore. There are also anecdotal landowner records of trout & eels further upstream.

3. South Pool Stream:

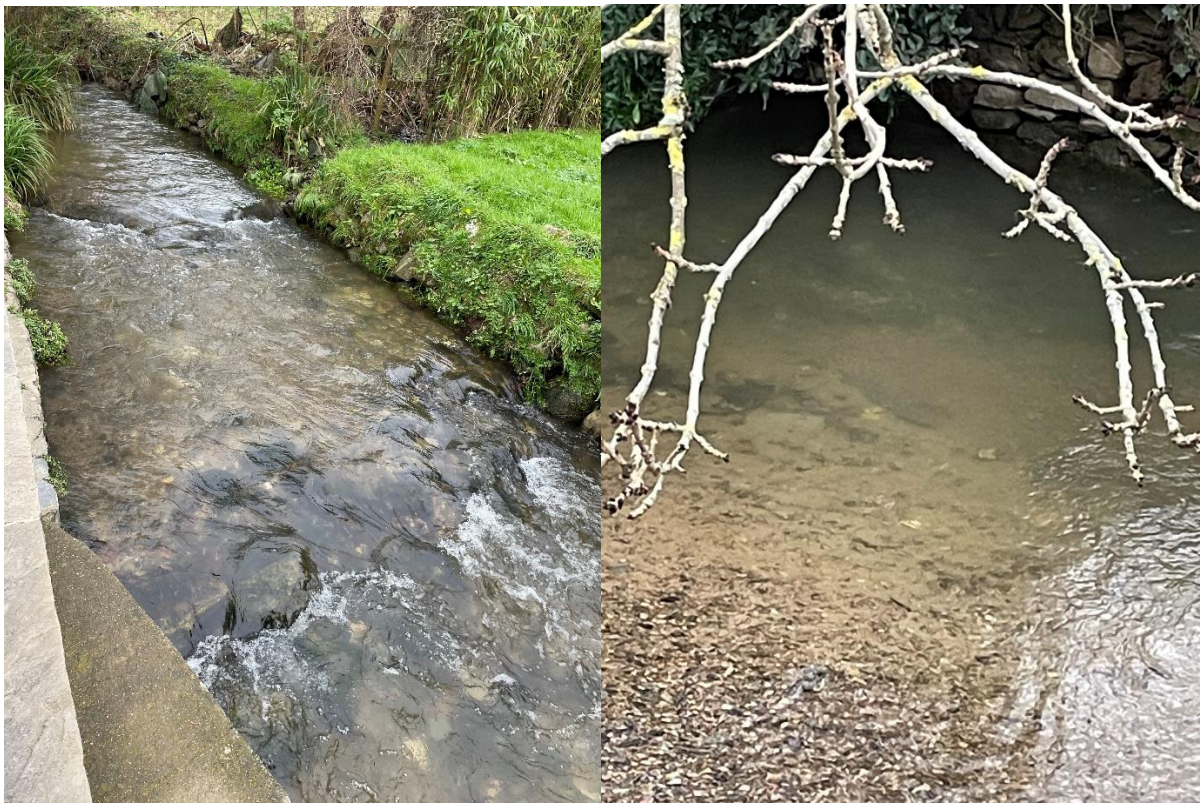

Figure 5: Very good unimpeded access to quality spawning gravels and nursery habitat. Salmonid fish have been identified by the local community as being present within the stream.

Portlemore stream, Bartson stream, Kingsbridge stream and Waterhead stream all show potential for salmonid fishes but require further investigation.