



SOUTH EAST DEVON
HABITAT REGULATIONS
PARTNERSHIP

South East Devon Habitat Regulations Partnership

Position Statement on the Joint Approach to Habitat Regulations Mitigation

Local authorities are responsible for setting out plans which determine where and how much housing is needed over a period of 15-20 years. They ensure development is at the right level and in the right places. Plan-making involves a large amount of evidence gathering and assessment – this makes sure that all relevant legislation and policies are followed.

There are assessments of housing needs, infrastructure capacity and flood risk (amongst others) which all help to establish the needs, limits and opportunities for the local area. Protection of internationally important wildlife is just as vital to plan making and is a legal requirement. Housing plans cannot continue if they are deemed to risk significant harm to protected wildlife.

In the Exe Estuary, visitor studies (conducted during the winter) highlighted recreational use that included dog walking, walking, fishing, bait collection, kite surfing, windsurfing, canoeing and personal watercraft. This access takes place on the intertidal, on the water and along the shore. Information such as users' home postcodes provide a clear link to local housing.

These activities are widespread around the estuary and are not focussed in the warmer months. The estuary's waterbirds are exposed to the effects of recreation events because the estuary is small (fewer options for birds to feed), has public access along most of its shore, is relatively narrow and supports a limited number of roost sites (where birds rest when not feeding).

Two winters of extensive surveys of recreation and birds' responses to activity on the Exe Estuary generated conclusions including:

- There is evidence that disturbance is currently influencing the distribution and behaviour of birds on the Exe. These impacts may be sufficiently widespread and frequent to result in the Estuary being less able to support the waterbirds for which it is protected.
- In general terms the numbers of birds appear low at the busiest locations of the Duck Pond and at Topsham in relation to adjacent count sectors.
- The parts of the Estuary with the lowest levels of access (such as Shutterton Creek) are also the parts of the Estuary with the highest bird counts.
- At various locations the number of birds varied in response to the levels of access over the previous 45 minutes; i.e. when more people had been present, fewer birds were recorded.
- A range of activities result in areas of intertidal habitat being 'unavailable' to the waterbirds for which the estuary is protected.

- A kitesurfer or windsurfer can result in around 8ha of intertidal habitat being 'unavailable' to the birds for the duration of the activity.
- In comparison with other sites studied, the Exe appears busier and has higher proportions of disturbance events per hour.
- By reducing the area available for the birds to feed, disturbance is likely to result in a reduction in the ability of the Estuary to support the bird populations for which it is protected.

A critique of the Exe Disturbance Study was raised with Natural England and the Local Authorities in August 2012. Senior ornithologists from Natural England met to discuss these concerns with those raising them in October 2013 and subsequently also discussed related critiques regarding similar work on the Solent.

The critique of the joint approach to Habitat Regulations mitigation fails to recognise the issues relating to the cumulative impacts of new housing over a wide area and implications of gradual but steady increases in access over a prolonged period.

It also misses a strategic plan-level assessment and the challenges (and opportunities) presented when assessing the impacts associated with tens of thousands of new dwellings and the recreational needs of their future residents. It did not make reference to site conservation objectives, which are fundamental to informing a Habitat Regulations Assessment (HRA). It fails to reflect or consider the breadth of information used for decision-making and was incomplete with respect to the legislation.

Any plan-level HRA must consider the effects on the site for the lifetime of the housing, i.e. a permanent potential impact, and one which may even become more intense over time if recreational activities change over time (e.g. with climate change). The assessment must also consider all interest features; both the waterbird assemblage as a whole and individual species, some of which can be present on the estuary from July through to March. Given these considerations, the evidence on visitors and disturbance, and the scale of housing change, there is clear evidence of risk.

On the Exe Estuary, of 10 species evaluated by the Wetland Bird Survey¹ Alerts² system, which tracks population changes, High and Medium Alerts have been triggered for five species over different timescales, including High Alert for Oystercatcher (since classification) and Lapwing (short term, long term and since classification).

1 WeBS, a partnership between the British Trust for Ornithology, RSPB and the Joint Nature Conservation Committee in association with the Wildfowl and Wetlands Trust, which monitors non-breeding waterbirds in the UK, to identify population sizes, determine trends in numbers and distribution, and identify important sites for waterbirds.

2 The WeBS Alerts system provides a method of identifying changes in numbers of waterbirds at a variety of spatial and temporal scales. The WeBS Alerts report provides a review of the status of species on sites in the UK which are designated due to their conservation value. Species that have undergone major changes in numbers are flagged, by the issuing of an Alert.

It is not acceptable to wait until disturbance levels are such that the Estuary's protected waterbird populations are in decline before taking action. Precaution is built into the legislation to account for uncertainty. It ensures protection where there is doubt but there should be a credible scientific argument to establish the possibility of an impact. That is clearly the case on the Exe Estuary and the Pebblebed Heaths.