



SOUTH EAST DEVON  
HABITAT REGULATIONS  
PARTNERSHIP

# South East Devon Habitat Regulations Executive Committee

*Staffing requirements of the South East Devon  
European Site Mitigation Strategy.*

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*July 2019*

Legal comment/advice:

Although there are no direct legal implications arising, it is important to note that appropriate resourcing to ensure successful delivery of the overall SEDESMS mitigation strategy is important and therefore the recommendations seem appropriate.

Finance comment/advice:

There are significant employment costs outlined in this report which members are being asked to approve in order to continue to implement the Mitigation Strategy. Costs detailed in the report amount to £430,000. Options are given on how this can be funded and an option for recovery needs to be approved to ensure these costs can be met, if approved.

<b>Public Document:</b>	Yes
<b>Exemption:</b>	None
<b>Review date for release</b>	None

## Recommendations

It is proposed that the Executive Committee:

1. Acknowledges the importance of having sufficient staff capacity in place to implement the Mitigation Strategy
2. Re-approves changes to employment contracts to;
  1. make the two Habitat Mitigation Officer posts permanent
  2. extend the funding for the Devon Loves Dogs (DLD) Coordinator for a further 5 years to November 2024.
3. Approves extending the funding for the Habitat Regulations Delivery Manager role for a further 5 years to March 2025
4. Approves changes to the DLD Coordinator and Delivery Manager employment contracts to permanent.
5. Approves expenditure to secure dedicated monitoring officer and accountancy support
6. Re-approves expenditure to cover the costs of purchasing, maintaining and running a vehicle for the use of the Devon Loves Dogs Coordinator
7. Considers the options for meeting the financial costs associated with these provisions and confirms support for Option 2.
8. Receives a follow up paper at the next meeting detailing the position regarding funding from the Housing Infrastructure Fund

Equalities impact: Low

Risk: High.

If dedicated staff are not in place to continue progressing the delivery of the South East Devon European Site Mitigation Strategy, there is a high risk that the approach would be significantly compromised and become not fit for purpose. In turn, this would put the delivery of the partner Authorities' Local Plans at very high risk due to their continued legal duties under the Habitat Regulations.

## 1. Background and Context

1.1 The Habitat Regulations protect European sites of the highest level of international importance. Councils are required to ensure no adverse impact on sites, including their habitats and wildlife. This includes managing pressures arising from a growing population which in turn is a function of housing development in the vicinity of the sites.

1.2 In 2014 a joint South East Devon European Site Mitigation Strategy (SEDESMS) was finalised for Teignbridge, Exeter and East Devon. This drew together the scientific evidence that had already been prepared. At the same time it harnessed international expertise and real-world examples in order to arrive at a suite of mitigation measures whose implementation would protect the integrity of the European sites as new development came forward.

1.3 By 2015 the three Councils had commissioned a joint evidence base and adopted a shared Mitigation Strategy. Each was collecting funds from development in order to meet the entire costs of projects identified in the Mitigation Strategy. A structure for implementing the joint approach was required. Building on the experiences of other local authorities managing similar cross-boundary issues, the three authorities established the South East Devon Habitat Regulations Executive Committee (HREC) as a statutory joint committee with shared decision making powers.

1.4 The inaugural meeting of HREC was in June 2016. This meeting formally endorsed the mitigation strategy, agreed the Terms of Reference and approved the first annual Business Plan and 5 year Delivery Plan.

1.5 Across the three European Sites the Mitigation Strategy identified 60 measures<sup>1</sup>. HREC decisions on how to deploy the funds that are being collected from new development are guided by the Mitigation Strategy and confirmed through five year Delivery Plans and annual Business Plans. A key part of the Strategy is to ensure that sufficient staff capacity is in place to ensure that these measures can meaningfully be implemented.

1.6 This paper sets out the key areas of consideration, including the need to vary employment contracts and funding options, which have been recommended as a priority by the Principal Projects Manager, in conjunction with the Officer Working Group. In particular there are decisions for the Executive Committee to make regarding the retention of staff, as the initial fixed term contracts for the Delivery Manager, Habitat Mitigation Officers (HMO) and Devon Loves Dogs (DLD) Project Coordinator expire during the 2019/20 financial year.

## 2. Call In

2.1 A paper on the contractual status and funding for the two HMOs roles and DLD Project Coordinator was considered by the last HREC meeting in April 2019. *Inter alia* the Committee resolved to;

- Approve adjustment of the Habitat Mitigation Officers contracts to permanent status to align with the funding allocated in the mitigation Strategy.
- Approve the retention of the Devon Loves Dogs Project Coordinator for 5 years from November 2019 and funding for a used vehicle from May 2019.

The timing was important as the contractual period for these roles currently only runs to October and November 2019, respectively.

2.2 Subsequent to the meeting this decision was called in for further scrutiny by TDC's Overview and Scrutiny Committee for the following reasons;

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<sup>1</sup> (<https://www.teignbridge.gov.uk/planning/biodiversity/exe-estuarydawlshwarren-habitat-mitigation/evidence-base/> , See Table 26 from p218)

*“I request that decisions made at the meeting of the South East Devon Habitat Regulatory Partnership Executive Committee meeting of the 29th April 2019 be reviewed.*

*Specifically item 7 (relating to the annual business plan and the 5 year delivery plan) items:*

*“3. that the adjustment of the Habitat Mitigation Officers contracts to permanent status to align with the funding allocated in the mitigation strategy be approved.”*

*“4. that the retention of the Devon Loves Dogs project Coordinator for 5 years from November 2019 and funding for a used vehicle from May 2019 as outlined in Section 2 be approved.*

*5. that redirecting the funds outlined in section 3 to cover the associated costs of 4. Above be approved.”*

*Item 3 on the grounds that no performance reviews or job evaluation changes have been evidenced, and that ongoing funding has not been secured or agreed.*

*Item 4 (and 5) on the basis that the need of a car (at £18K) has not been evidenced, nor the evaluation of other potential solutions. In addition the role is intended to encourage people to walk dogs locally, rather than travel by car to areas in need of habitat preservation, and as such could be seen to be counter-productive to the task in hand.”*

A subsequent report was prepared for the meeting on the 28<sup>th</sup> May (see Appendix A). The draft minutes of the Committee meeting record the following resolution;

*That Councillor Wrigley, as the Council’s appointed representative on the Partnership Executive Committee; asks the questions of the Partnership Executive Committee, and gathers information on procedures that are in place to evidence the work of the strategy and the officer posts that were the subject of the call in; and reports back to this Committee on the outcome of discussions with the Partnership Executive Committee.*

### **3. Assessment**

3.1 It is clearly important that members of the committee are confident that meaningful progress is being made in terms of the implementation and successful delivery of the Mitigation Strategy. The Strategy itself sets out a detailed monitoring programme in this respect.

3.2 The monitoring programme in place is set out in Table 3 below. This programme ensures that the mitigation measures are working as anticipated and provides an opportunity to review/refine the approach as necessary. This includes allocation of resources, including where wardening is most needed throughout the year and where additional measures may be needed.

3.3 With the implementation of the wildlife refuge areas we have included additional monitoring above and beyond that laid out in the Strategy. The results of this monitoring will provide supplementary evidence to guide future management and delivery of mitigation measures. The initial results of the monitoring are the subject of a specific item on the agenda for this meeting.

3.4 The Strategy is designed to enact mitigation measures which will have cumulative impacts across the region. Monitoring of species, habitats and visitor behaviour is designed to provide regular information which assists management effort.

**Table 3 – Monitoring elements as required by the mitigation strategy**

Monitoring	Justification	Approach
Visitor numbers at set locations on all three sites	Repeat monitoring will inform how use is changing over time	Car-park counts, spot counts of people, mapping of people on the site (from vantage points); automated counters. Undertaken at a sample of locations and repeated annually
Visitor activities, motivation, profile and behaviour at all three sites	Provides information on what people do, why they visit and how they behave	Questionnaires at a sample of access points repeated every 5 years. Questionnaires including home postcode, route on site, etc
Fires, vandalism and other incidents at all three sites	Provides a check as to whether such incidents are increasing over time and if so where	Standardised incident reporting. All fires carefully mapped using GPS
Enforcement at all three sites	Provides a record of how many times byelaws/codes of conduct are contravened	Record of time spent on site (patrol boat and wardens) and number of incidents dealt with
Monitoring of vegetation change at Dawlish Warren	As the tipping point at which trampling will negatively impact cannot be predicted, ongoing monitoring will provide an early warning	Fixed point photography and more detailed quadrat sampling
Monitoring of accretion and erosion at Dawlish Warren	The dynamic nature of the site and likely future changes mean accurate information is essential to inform management	Use of aerial imagery, eg by drone, at regular intervals. May be required to inform sea defence works
Regular monitoring of petalwort	Necessary to check on changes of distribution over time and any implications for visitor management	Reliable monitoring protocol established and repeated over time
Regular monitoring of breeding Annex I birds on the Pebblebeds	Necessary to check for changes in distribution allowing management to be modified if required	Standard bird surveys, undertaken every 3 years
Southern damselfly monitoring	Key locations may change over time	Regular transects and counts, repeated annually
Continued monitoring of wintering waterfowl on the Exe	Ensures any changes in bird use of the site are picked up	WeBS
Disturbance monitoring on the Exe	Checks to monitor response of birds and levels of disturbance	Repeat of approach in Exe Disturbance Study, potentially at 5 year intervals.
Continued monitoring of crab tiles	Ensures crab tillers are following byelaws	Counts of tiles, already undertaken/overseen by IFCA

3.5 Further monitoring has been implemented with the use of SNAP to monitor all interaction between the HMOs and members of the public. The extract from another item on the April 2019 HREC agenda at Appendix B provides data on the extent to which the HMOs interact with members of the public

3.6 In conclusion, the strategy sets out a robust monitoring programme, which is being implemented according to approved business plans. The results of the monitoring are reported to the HREC when results are available. The monitoring programme ensures that the mitigation work is being reviewed and recommendations to improve the approach can be made as necessary.

3.7 It is clearly beyond the scope of the Committee to manage individual staff performance. Nonetheless measures are in place, such as annual performance reviews, to ensure that key objectives are set which relate back to the implementation of the Strategy. This is in line with the employment practices of EDDC as the host Authority.

3.8 It should be acknowledged that the delay in confirming the extension of contracts is creating considerable uncertainty for the post holders concerned. If this position is not resolved before October then the posts will be made redundant and the associated redundancy costs will need to be met. This would also prevent the re-employment of Habitat Mitigation Officers and the Devon Loves Dogs Project Coordinator in their current remit and new roles associated with the Mitigation Strategy would need to be substantially different.

3.9 Appendix C sets out the staff capacity and associated requirements that are considered necessary to support the successful delivery of the Mitigation Strategy moving forward. In addition to the roles covered in the April Committee paper this also includes the Habitat Regulations Delivery Manager role and the need for dedicated accountancy and monitoring support.

#### **4. Financial options**

4.1 The estimated cost of retaining the Delivery Manager and Devon Loves Dogs Project Coordinator, whilst funding the DLD vehicle, Accountancy support and Monitoring Officer support over the next 5 years is £430,000. Three potential options are identified for how these costs can be met as set out below.

##### **Option 1**

4.2 Over the same 5 year time period, significant savings to Mitigation Strategy funds are expected due to the successful Housing Infrastructure Fund (HIF) award for South West Exeter SANGS. Whilst detailed arrangements are currently being finalised, it is anticipated that there may be sufficient capacity to reinvest a share of these funds into covering the staffing requirements.

## Option 2

4.3 In reviewing the Strategy there is potential to identify funding for reinvestment from measures which can be tailored to provide savings or are no longer appropriate to consider as realistic mitigation options. These funds could therefore be brought forward in the event that they are required, if any unforeseen issue arises with utilising savings from the HIF award:

- Achieving £120K by removing most of the visitor survey monitoring allocated in the Pebblebed Heaths Visitor Management Plan (PBH VMP), which was a duplication of the same monitoring allocated in the Strategy.<sup>2</sup>
- Realising £160K by discontinuing the measure relating to access restrictions at Dawlish Warren. The layout and morphology of the site has changed radically since the Strategy was completed, making reference to restriction of access along the Bight no longer relevant.
- Redirecting £45K allocated to changes to the layout of Dawlish Warren Golf Club.<sup>3</sup>

4.4 By redirecting the funds as outlined above, it is possible to realise £325,000 towards the additional funding recommended over the next 5 years. This would leave £105,000 outstanding, which would require increasing developer contributions on future planning permissions to cover the balance.

## Option 3

4.5 Another potential option would be to maintain current Strategy measures as planned and increase developer contributions to cover the necessary investment in staff over the next 5 years.

4.6 Tables 1 and 2 below set out the options:

Table 1: Future dwellings to end of current Local Plans/Core Strategy

LPA	Future dwellings after 2024, to end current LP	Number of "charges" (based on one zone or both) <sup>4</sup>
TDC	1,718	3,318
EDDC	5,082	9,191
ECC	937	1,268
Total	7,737	13,777
<b>Overall</b>	<b>17,163</b>	<b>29,079</b>

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<sup>2</sup> Note that £180K is allocated in the PBH VMP. This would see the retention of £60K of that funding to contribute to region-wide visitor survey monitoring. This is to balance the rebasing exercise in July 2017, which discounted the monitoring allocated in the original Strategy by £60K to partially address this issue of double funding between the Strategy and PBH VMP.

<sup>3</sup> It is now considered improbable that it would be possible to reach agreement to make any changes to the layout of the course. This is, in large part due to the constraints of space on the 18 hole course but also the dynamic state of the Warren following the Beach Management Scheme.

<sup>4</sup> As the staffing requirements relate to all sites, it is appropriate to source funding from all partner authorities. Strategy funding is arranged so that dwellings in "overlap" zones pay twice for these cross site measures. This is because officer time is required to address measures at two sites rather than one. See Table 27, pg. 224 of the South East Devon European Site Mitigation Strategy.



Table 2: Options 2 & 3 – Potential increases in developer contributions

Option	Required funds	Future dwellings	Per dwelling
2	£105,000	29,079	£3.61
3	£430,000	29,079	£14.79

4.7 It is worth noting that none of the proposed options are considered to be mutually exclusive and that it would be feasible to take elements of each in order to reach a different arrangement.

4.8 It is recommended that the committee supports Option 2, as it provides financial certainty. This option provides the required funding proposed savings from the strategy, as set out, and a small increase in developer contributions.

4.9 However, the Habitat Regulations Delivery Manager will continue to review Option 1. If it is possible to utilising savings with HIF funding the SW Exeter SANGS then this option would become the preferred approach as it would not entail increasing developer contributions. However, due to current lack of clarity it cannot be the preferred option.

## 5. Conclusion

5.1 This paper seeks approval for the staffing set out in the Annual Business Plan and 5 year Delivery Plan.

5.2 Existing staffing levels can be maintained through developer contributions, without any additional budgetary burden on core local authority budgets.

5.3 It is essential that dedicated staff are in place to ensure that delivery of the South East Devon European Mitigation Strategy can continue. The mitigation work ensures protection of the European Sites, including a range of flora and fauna. Without appropriate mitigation, the delivery of the partner Authorities Local Plans will be at risk as they will not be able to meet their legal duties under the Habitat Regulations.

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**July 2019**

Natural England comment:

Natural England is broadly supportive of the recommendations made in this paper.

However we feel that it should have set out in more detail the specific need for this accountancy and monitoring support in a way which clearly differentiates the work they will undertake on behalf of the SEDHRP from the “business as usual” work of the accountancy and monitoring officers currently in post.

Whilst we also support the extension of the Devon Loves dogs post for a further 5 years we would also like to secure a commitment from the partnership and the post holder to seek opportunities, during that 5 year period, to bring additional partners in to the project and grow the coverage of the project to new areas of Devon. In our view this is essential in securing the long term viability and effectiveness of the project and the brand in delivering the necessary mitigation in a strategic way.