



A SUSTAINABLE VISION FOR HOYLAKE BEACH

UPDATE: SEPTEMBER 2019

ACTS, ASSENTS AND ASSESSMENTS

Various legal and government guidance frameworks exist, including the **Wildlife & Countryside Act 1981 (WCA)** (as amended), **The Conservation of Habitats and Species Regulations 2017** and the **National Planning Policy Framework (NPPF)**. These set out the responsibilities of Local Authorities and agencies, and determine how the beach at Hoylake, officially called **Mersey Narrows and North Wirral Foreshore**, is managed.

The role of Natural England

The beach at Hoylake is protected by a number of internationally important designations including Site of Special Scientific Interest (SSSI), Wetland of International Importance (RAMSAR), and Special Protection Area (SPA). Red Rocks also enjoys Special Area of Conservation (SAC) status. These are “notified” by the UK government adviser on the environment **Natural England** in order to protect these sites and to encourage good management and net gains in biodiversity. Most are awarded because of the wintering flocks of wildfowl and wading birds.

For Hoylake beach, Natural England are required to maintain:

- A site “Notification” [last revised 1983]
- A description and list of reasons for designating the site (the “citation”) [last updated 1986]
- A list of “operations likely to damage the special interest” of an SSSI (the ORNEC list) [no date available]
- A summary of Views about Management (the VAM) [last updated 2004]
- Up to date reports on the “condition” of the site [last updated 2012]

Here are key extracts from these documents:

- **The citation:** “An area of intertidal sand and mudflats and embryonic saltmarsh which is of considerable importance as a feeding and roosting site for passage and wintering flocks of waders, wildfowl, terns and gulls. The embryonic mixed saltmarsh is formed principally from common saltmarsh-grass *Puccinellia maritima* and glasswort *Salicornia europaea*, together with some common cord-grass *Spartina anglica*.” (File ref: SJ 29/4).
- **The ORNEC list:** includes: “Application of pesticides, including herbicides (weedkillers)” (Ref No. 6). (OLD 1003676).
- **VAM:** “Management... should allow the system to be dynamic and retain the flexibility to respond to associated changes such as the movement of physical features within the system, e.g. migrating subtidal sandbanks.”
- **Site condition:** “Unfavourable: Declining”: Bar-tailed Godwit numbers have declined due to disturbance and they have been displaced from the roost at North Wirral Foreshore and move to other sites during high tide.”

The role of WMBC

In their capacity as “statutory undertaker” of the foreshore, Section 28G of the Wildlife & Countryside Act requires WMBC to: “take reasonable steps, consistent with the proper exercise of the authority’s functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.”

Section 28H of the Act requires WMBC to obtain “assent” from Natural England for any activity that would be “likely to damage the special interest” of the SSSI. Since Natural England’s ORNEC list “Operations Requiring Natural England Consent” includes “Application of pesticides, including herbicides (weedkillers)”, WMBC are required to get consent to spray.

Under Section 281 of the Wildlife and Countryside Act, a “Test of Significance” is required in order to identify whether proposed operations are likely to have a “significant effect” on a site. If it is concluded that a “significant effect” is likely, then under the Habitat Regulations, an “Appropriate Assessment” (Habitat Regulations Screening Assessment) is required in order to justify the activities being proposed.

Also, under the Food and Environment Protection Act 1995 (Control of Pesticides Regulations 1986, as amended) a license from the Environment Agency is required for “the use of herbicides to control the growth of weeds near to a water body” (ref. HERBC000694 & HERBC000746)

The 2010-2015 Beach Management Agreement

In 2010 WMBC produced a "Beach Management Agreement" which set out the intended management operations including spraying and raking. In line with requirements, a "Test of Significance" was conducted, concluding *"The Test of Significance ... shows that an Appropriate Assessment is not required for the activities as they have no 'significant effect' on the site for which it is designated. However, as the operations are not directly connected with the management of the site for nature conservation an Appropriate Assessment is required under Regulation (48)1. The Appropriate Assessments have been undertaken for: control of all Spartina anglica within the designated amenity beach area; control of all other vegetation within the designated amenity beach area; and removal of accumulated sand."*

The Appropriate Assessment concluded: *"The amenity beach area has been defined by the safe and practical limits for mechanical beach spraying, raking and sand removal. These limits are set by natural physical processes on the foreshore including mean high and low tide levels, siltation and landscape features of Red Rocks and the built environment of the RNLI Station and sea defence wall. There are no proposals to extend this designated area and areas outside the amenity beach area will continue to be subject to the natural processes of sand accretion and succession without intervention until such time as a new Site Management Agreement is drawn up and accepted."*

Natural England's assent to the 2010-2015 Site Management Agreement stated: *"Spraying with Roundup, a glyphosate based weed killer, has been deemed the best option for managing common cord grass at Hoylake beach, as physical removal (excavation of material) may lead to further spread of the species and, as test digging has shown, leaves the rhizome behind. Rotoburing is not possible at this location due to the soft sediment; smothering techniques and grazing are unsuitable at this location due to its use as an amenity beach and burning is not effective."*

However, the assent also concluded: *"Natural England also brings to your attention that, as a Section 28G body of the Wildlife & Countryside Act 1981 (as amended), you are required to take reasonable steps, consistent with the proper exercise of your functions to further the conservation and enhancement of the SSSI."* (defined more clearly by the WCA as *"flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest"*).

This concluding statement appears to put WMBC between a rock and a hard place, since it is simply not possible to simultaneously achieve the objectives of the Beach Management Agreement which directly result in the ongoing suppression of saltmarsh and dune succession, while satisfying their S28G duties under the Wildlife and Countryside Act to "conserve and enhance" the SSSI; and to secure net gains in biodiversity – a key objective of the National Planning Policy Framework (NPPF).

Beach management from 2016-2021

IN 2015 a Habitat Regulations Screening Assessment (HRA) was commissioned by WMBC and produced by **AECOM**. This was submitted to Natural England on 31st March 2016, and weighed up the "likely damage" to the "special interest" of the SSSI (destruction of an embryonic mixed saltmarsh) against the benefit gained from ongoing suppression of Spartina, stating: *"If left uncontrolled the spread of [Spartina] may result in a loss of open habitat for overwintering waders"*.

However it is noteworthy that in 2015, a year before the AECOM report, Natural England commissioned **Thomson Ecology Limited** (TEL) to investigate the reasons for a sharp decline in numbers of key species of birds at the North Wirral Foreshore SSSI. That report recommended further research into the impact of recreational disturbance, citing dog walking in particular, and that a European Marine Site (EMS) management scheme should be established. It did not mention any impact of Spartina on bird numbers; indeed it did not mention Spartina at all, and no EMS has since been established.

Despite this, and despite the later AECOM HRA entirely ignoring the impact of increased levels of accretion; the absence of a clear evidence base, and the rather ambiguous and speculative phrasing of that Assessment, Natural England were satisfied, and gave "assent" so that the herbicide spraying and raking activities conducted in the 2010-2015 Beach Management Agreement could continue until 2021.

Concerns about beach management after 2021

The most significant and critical flaws in WMBCs Appropriate Assessment of 2010 and AECOM's later HRA of 2016 are that they both failed to take sufficient account of the extent of geomorphological change on the foreshore since the original site "notification" in 1983 and "citation" in 1986.

As identified in our earlier updates, beach profile and volume data (obtained from WMBC) shows an accretion rate across the foreshore of 300mm per decade since 1980, with Mean High Spring Tide receding at 75 metres per decade. This represents a dramatic 1.2 metre increase in level of the foreshore which has in turn had a significant effect on wave energy, currents and tidal reach. In the last ten years alone, coastal accretion has accelerated to a tipping point, evidenced most notably in 2019 by succession of saltmarsh as identified in the original citation to embryo dune; the extensive proliferation of *Puccinellia maritima*; and the decline to near absence between Red Rocks and the new Lifeboat Station of *Spartina anglica* due to the higher, drier conditions.

What is also of concern is that all of these factors were highlighted as far back as 2000, in a WMBC commissioned report *"The Beaches of West Kirby and Hoylake: Options for Managing Wind Blown Sand and Habitat Change"*. In its Executive Summary the report concluded: *"...the existing approach to managing rising beach levels and the wind blown sand problem is not sustainable in the long-term. Continuing with the existing reactive management measures on its own is not a realistic option because the wind blown sand problem is going to get worse. Costs will continue to spiral upwards and the number of complaints received by the Metropolitan Borough of Wirral (MBW) from residents and visitors will also increase. The wind blown sand issue is not the result of coast defence works by MBW but crucially is connected with the geomorphological evolution of Liverpool Bay and the Dee Estuary since the last glaciation."*

Other relevant guidance and recommendations:

The UK Government defines coastal change as "physical change to the shoreline, i.e. erosion, coastal landslip, permanent inundation and *coastal accretion*." (PPS25 Supplement). This last feature defines the primary coastal process at Hoylake.

It is clear in paragraphs 20; 148-149; 166-171; 174-180 of the **National Planning Policy Framework (NPPF)** that policies and coastal management activities should **take full account of coastal change, with particular reference to protection and enhancement of the natural environment whilst actively pursuing opportunities for securing measurable net gains in biodiversity.**

Paragraph 167 in particular states that local planning authorities should identify as a **Coastal Change Management Area (CCMA)** any area likely to be affected by physical changes to the coast. Given the significant geomorphological changes that are evident here, there is a clear case for Hoylake to be classed as a CCMA. Government guidance states that a CCMA should be defined where coastal change is projected to be significant over the next 100 years as defined by the relevant **Shoreline Management Plan (SMP)**.

This is a non-statutory, high level policy document for coastal change and flood risk management. The North West England and North Wales Coastal Group SMP (SMP2; 2010) recommends a "Hold The Line" policy for zone 11a 6.1 (including the North Wirral Foreshore at Hoylake) for 20, 50 and 100 years. However, it also notes that in this zone, "changes in physical conditions, including the change in position of low water channels and the natural accretion of some areas... justify a change in approach" to management planning.

Further, it should be noted that government guidance on coastal change gives Local Authorities discretion to determine how SMP recommendations and the geographical extent of the areas defined are interpreted to define a coastal change management area. On this basis, Hoylake should qualify and be identified as a CCMA.

Finally, the relevant non-land use priority in the Hoylake **Neighbourhood Development Plan** states: "Hoylake Vision has agreed a number of non-land use priorities that it would like to see addressed during the NDP period (2015-2020), but which cannot be delivered directly by planning policies... the Council's Beach Management Agreement should be supported and followed, with a regular review of practices for monitoring development." The NDP therefore supported the principles of the council's activity up to 2015 but reasonably anticipates a review of practices for monitoring development before the 2020-2025 NDP, and regularly thereafter.

CONCLUSION

- WMBC should gather an independent team of experts to inform the detail of the future approach to the North Wirral Foreshore at Hoylake [at the time of writing we are encouraged to hear that this is in hand].
- There needs to be a change of approach from “Beach Management” to “Coastal Change Management” to more properly reflect the wider considerations that need to be taken into account.
- Under existing government recommendations, the North Wirral Foreshore should be identified as a Coastal Change Management Area (CCMA) since evidence of coastal change is clear.
- An urgent vegetation survey should be conducted in July 2020 and the results of that should be fed into the independent expert team for analysis and review prior any further spraying.
- Whilst we recognise that Natural England are seriously under-resourced, experiencing a 40% cut in staff and a 50% cut in funding over the last 10 years, it is notable that their last site-based assessment at Hoylake was ten years ago; one year before a 2010-2015 Beach Management Agreement, and seven years before the 2016 Habitat Regulations Assessment.
- A site visit and up-to-date assessment and citation by Natural England is therefore long overdue; these dramatic changes must surely be taken into account by Natural England as well as by WMBC under their S28G responsibilities as part of any future agreement or assent.
- Any new Habitat Regulations Screening Assessment that is used to inform future management activities should give much greater weight to physical evidence than supposition, in order to ensure WMBC’s S28G responsibilities can realistically be met.
- A new post 2021 beach management agreement or plan must be clear, unambiguous, and take into account the full extent of coastal change since the site was originally notified in 1983 and this should form the basis of 20, 50 and 100 year projections in line with SMP2 and to inform new CCMA objectives.
- It should be a key objective to reverse the “unfavourable: declining” status of the SSSI within a target period.
- It should be a key objective to achieve measurable net gains in biodiversity over a target period.
- Fix the land drain and runoff issue as this is creating an amenity issue at key honey pot access points, especially around the former public toilets and at the Kings Gap slipway access. This needs to be thoroughly investigated from an amenity and possibly public health angle.
- A habitat creation and restoration project at Hoylake could attract significant funding and investment in infrastructure, unlike the beach in its current state. HVL have confirmed that such a project would be eligible for funding from the Burbo Bank Community Benefit Fund and the BIFFA landfill tax fund. Others could be approached. Government funding may also be more easily achieved if the site has CCMA status.
- A dune system would help mitigate recreational disturbance by creating natural barriers between walkers and bird feeding grounds. Areas of profiled windblown sand against the dune ridges would create new “amenity” areas of soft, clean sand.
- A dune system would mitigate against future sea level rise and associated flood risk and storm damage.
- Dune grasses would protect the sea by gathering waste from the land and flotsam washed in from the sea. Litter picking groups could be formed to keep this new and more diverse beach clean.
- Hoylake could be such a positive asset to the nation’s biodiversity portfolio; a raft of unique and beneficial habitat changes should be actively encouraged and celebrated instead of being further suppressed – these should be seen as opportunities, not threats.