



Walkover Assessment
Black Beck
(River Ehen Catchment)
20/11/2018



Undertaken by Gareth Pedley

Key findings

- Black Beck has been significantly realigned and straightened in the past, inhibiting gravel retention and leading to an unnaturally low occurrence of salmonid spawning substrate. However, some limited areas suitable for spawning are present.
- For the Beck to achieve its full, natural potential as fish and invertebrate habitat, major channel restoration is likely to be required. This is something that should be investigated further with the landowners.
- A series of culverts and other obstructions inhibit fish passage on the main stem of Black Beck and completely prevent upstream migration on a major tributary.
- Unrestricted livestock access and associated erosion and fine sediment input create problems throughout the system, with particular issues occurring at three fields in the middle of the catchment. These should be addressed as a priority.
- The installation of buffer fencing would greatly reduce fine sediment input in many areas, facilitate greatly improved bankside vegetation diversity, and could facilitate small-scale woodland planting.

1.0 Introduction

This report is the output of a walkover on one of several Black Becks in Cumbria, this one being a tributary of the River Ehen which it joins in Egremont, between the Bypass and South Street road bridges. The visit was undertaken on the 20th November 2018, on behalf of the Environment Agency, to provide a habitat assessment and identify issues affecting the waterbody. The flow conditions on the day appeared to be normal to slightly elevated winter flow and water clarity was good.

Normal convention is applied throughout this report with respect to bank identification, i.e. banks are designated left bank (LB) or right bank (RB) while looking downstream. The Ordnance Survey National Grid Reference system is used to identify specific locations and references to upstream and downstream are often abbreviated to u/s and d/s for convenience.

The majority (c. 75%) of the main stem of this watercourse (WB GB112074069980) was walked from an u/s limit of NY 02814 12001, d/s to its confluence with the River Ehen (NY 01412 10386). The photographs generated during the walkover are geotagged to provide accurate locations, and the names are auto-generated via the camera software. As such, photo numbers follow a general trend, but some may be used out of sequence or omitted from the final report.

2.0 Catchment/Site Overview

Under the Water Framework Directive, Black Beck is not identified individually and is included (along with many other small tributaries) within the River Ehen (lower) waterbody, which is not classed as being a 'Heavily Modified Waterbody' and has been designated 'Good' ecological status, being good or better (high - in the case of 'Specific pollutants') for all parameters assessed. However, this does not necessarily reflect the situation on the beck.

Classifications ⁱ

Cycle 2 classifications ⁱ

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Classification Item	2013	2014	2015	2016
▼ Overall Water Body	Moderate	Moderate	Good	Good
▶ Ecological	Moderate	Moderate	Good	Good
▶ Chemical	Good	Good	Good	Good

<https://environment.data.gov.uk/catchment-planning/WaterBody/GB112074069980>

3.0 Habitat Assessment



Photo DSCN5119. The watercourse was walked from the point where adjacent land use changes from forestry and rough heathland to pastoral agriculture. This area is initially well buffer fenced, protecting a section of scrub and heathland along the river (NY 02814 12001 - NY 02394 11814).



Photo DSCN5125. The dense matrix of trees, shrubs and herbaceous vegetation provide good quality riparian habitat and will contribute towards stable banks and naturally controlled fine sediment input.



Photo DSCN5128. Despite the coniferous forestry upstream (which can often elevate fine sediment input), inspection of the bed revealed unusually high quality, naturally coarse substrate, undoubtedly aided by the generous buffer strips upstream.



Photo DSCN5130. Turning some of the larger cobbles identified mainly stoneflies, which supports the scenario of a naturally low sediment/low productivity watercourse, as would be expected for this area and geology.



Photo DSCN5133. The crossing fording point inspected does create the first potential location for fine sediment input observed (NY 02549 11905). Ideally, the gates at either side would be kept closed when fording is not occurring, to maintain healthy vegetation cover on the banks. However, it is likely that the area is being used for livestock watering, so an alternative water source is likely to be required.

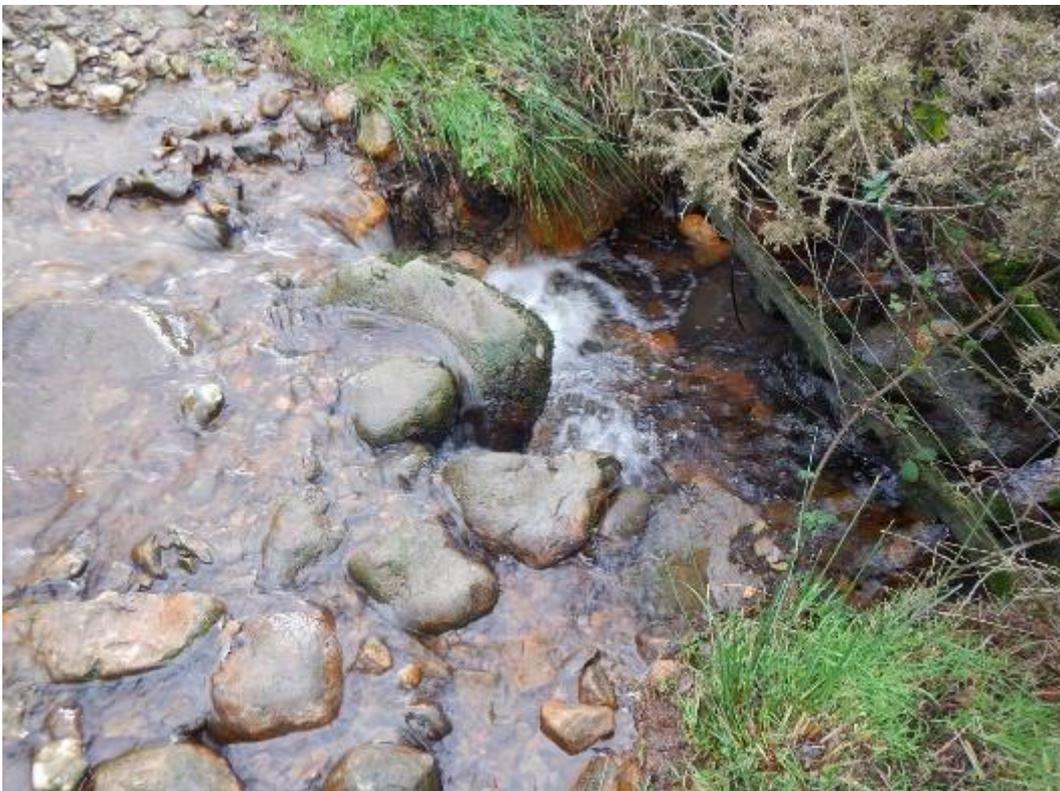


Photo DSCN5126. The ford itself creates a step in the bed that will be a small obstacle to fish passage. The step could be as a result of the widening at the ford increasing sediment deposition in that area or the result of a small bed-check weir to stabilise the crossing point.



Photo DSCN5137. The d/s end of the next track crossing culvert is perched (NY 02394 11814). This, combined with the narrow gauge of the pipe, create high flow velocities making the structure an issue for fish passage, thereby unnecessarily restricting movement to certain flows (and times).



Photo DSCN5139. The watercourse is buffer fenced in next field d/s (NY 02394 11814 - NY 02251 11583). The initial section of watercourse appears to be enclosed with gorse and other rank vegetation but where access to the watercourse could be achieved, the riparian habitat observed was good quality.



Photo DSCN5141. The channel does appear to have been straightened which greatly limits the flow diversity and bed morphology but active sediment supply, coupled with good riparian cover, help to enhance the area.

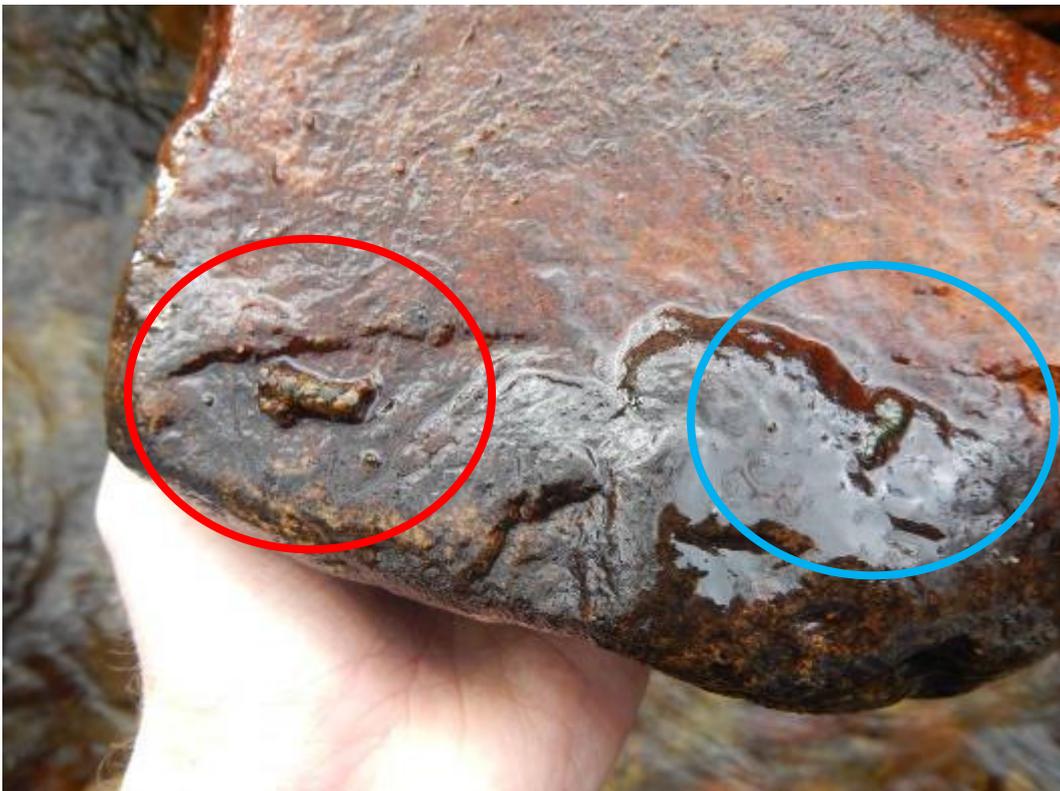


Photo DSCN5142. Cased (red) and caseless (*Rhyacophila* sp.) caddis (blue) were observed through stone turning, along with stoneflies.



Photo DSCN5144. At NY 02266 11588 a series of field drains discharge to the beak. These are to be expected on land of this type but the open/incomplete nature of the setup and potential for erosion and fine sediment following heavy rain are a concern here.



Photo DSCN5145. Problems from surface runoff were observed at the track crossing d/s. The problem and potential solution are complicated by the fact that the ditches running alongside the track also discharge directly to the beak, which is very poor practice (NY 02251 11583).



Photo DSCN5147. The culvert beneath the track is of limited size but was relatively free from debris at the time of the visit (NY 02251 11583). The structure is suitably installed to allow the movement of fish and sediment (if maintained free from debris). It may be an obstruction at higher flows, due to fluming, but is less of an issue than many of the other culverts observed.



Photo DSCN5149. The watercourse is initially buffer fenced d/s of the track, with an open drinking point (NY 02209 11536) that would ideally be replaced by an offline watering system.



Photo DSCN5154. The next field d/s has unrestricted livestock access and suffers from poaching (NY 02202 11521 - NY 02198 11372). The substrate in this section is still of a reasonably high quality but the impact of fine sediment inputs upstream is already becoming apparent.



Photo DSCN5157. Some areas of the field are particularly poached and the boggy nature of the adjacent land means that transport of fine sediment across the field to the watercourse is highly likely following rain. The watercourse also appears to have been realigned in this field, although it is recovering. Reinstating a more natural sinuosity to the course would be beneficial.



Photo DSCN5161. Livestock appear to be excluded from the next section d/s, which has developed into an area of rough scrub and rank vegetation and, providing habitat for a range of wildlife (NY 02157 11311 - NY 02198 11372).



Photo DSCN5168. At a drinking point d/s of the scrub, gravel deposition provides potential salmonid spawning habitat (NY 02157 11311). However, the quality is reduced by the fine sediment component. These occasional depositional areas of gravel are symptomatic of the issues occurring on straightened watercourses; the gravel portion is not retained in the straight sections but deposits at the few remaining bends or wider areas. This often contributes to a general lack of gravel and salmonid spawning habitat on straightened watercourses.



Photo DSCN5169. The next section is buffered with reasonably good riparian cover (NY 02198 11372 - NY 02123 11268).



Photo DSCN5170. By far the worst fine sediment input on the watercourse occurs around NY 02123 11268. The track crossing and severely poached and rutted land is clearly liberating large volumes of fine sediment to the watercourse (blue line). This is a major contravention of the Farming Rules for Water and a significant pollution issue that should be addressed quickly.



Photo DSCN5172. The sediment issues are further exacerbated by a broken drain in the opposite RB field (NY 02119 11280). This should also be addressed as matter of urgency.



Photo DSCN5176. The culvert beneath the track crossing is also very small and is an obstruction to fish passage although, being set at around the bed level, fish should be able to pass in some flows (NY 02123 11268). Also note the trail of mud and fine sediment from the track above (red circle).



Photo DSCN5181. Some of the fields d/s are fenced, but the beck traverses the field boundary and livestock gain access in other areas. Replacement buffer fencing is required on one or both banks for an extended reach (NY 02123 11268 - NY 02059 11130).



Photo DSCN5184. The cumulative impact of the fine sediment inputs along the beck, exacerbated by the poor land management u/s, has severely degraded the substrate quality by this point.



Photo DSCN5185. Towards the d/s end of the field, a particularly boggy area provides little grazing and would ideally be excluded from the adjacent field within a watercourse buffer strip. The ochreous iron precipitation looks striking but in the relatively low volumes observed is unlikely to be an issue.

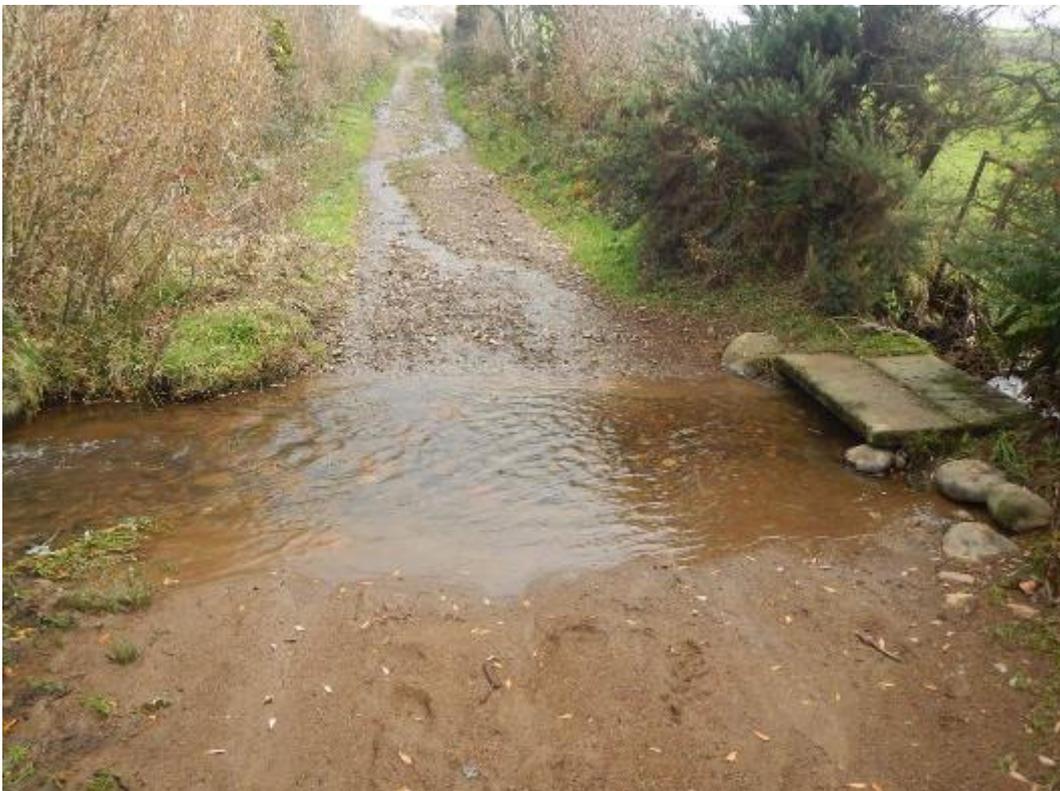


Photo DSCN5188. The access track at NY 02059 11130 creates no fish passage issues but is again a notable conduit for surface runoff and associated fine sediment. Installing cross drains that discharge to rough ground soakaways rather than directly to the watercourse would be greatly beneficial.



Photo DSCN5193. In the next field d/s the watercourse traverses the field boundary, with areas of higher intensity sheep in the fields grazing on both bank sides (NY 02059 11130 - NY 01998 10942).



Photo DSCN5194. Further evidence of the impact upon substrate quality. Straightening of the watercourse throughout much of the length limits the retention of gravels in peak flows but large inputs of fine sediment during peak flows and during subsequent lower flows is clearly infiltrating the bed with large volumes of silt. Also note the lack of vegetation diversity owing to grazing pressure.



Photo DSCN5198. Progressing d/s, the watercourse continues to traverse the field boundary (so livestock access to the beck is allowed from one or other bank sides), with very high intensity grazing on the LB (NY 01998 10942 - NY 01969 10875) and a particularly badly poached area on the (RB NY 01974 10909).



Photo DSCN5206. High intensity sheep grazing continues on both sides of the river d/s, where there is either a lack of buffer fencing or the fence is not stock proof on one bank or the other (NY 01969 10875 - NY 01880 10742). The paleo-channel of the now straightened and incised watercourse remains as a wet area in the field where *Juncus* sp. is able to outcompete the grass.



Photo DSCN5207. The intensity of the sheep grazing continues d/s, leaving nothing but a very thin covering of grass and banks susceptible to erosion. The extent of channel incision here is particularly evident.



Photo DSCN5217. On the RB at NY 01887 10774, sheep trampling and overgrazing around a feeder (located too close to the watercourse) creates further issues from surface runoff and bank erosion. Attempt appears to have been made to clear the area, with muck and waste having been scraped up into a small midden, but this too is a potential pollution source to the watercourse.



Photo DSCN5222. The watercourse is buffer fenced from NY 01880 10742 - NY 01844 10663. Note the greatly improved diversity of bankside vegetation. Also note that more scrapings appear to have just been dumped over the fence into the buffer. These are likely to leach nutrients to the watercourse and potentially wash into the watercourse at higher flows.



Photo DSCN5224. Drinking points/livestock access to the watercourse at NY 01844 10663 currently denude habitat but are not currently causing major pollution. However, it would still be better to completely exclude livestock and provide alternative watering.



Photo DSCN5227. The remainder of the watercourse is either buffer fenced (NY 01844 10663 - NY 01747 10494) or un-grazed downstream to the last field along the river Ehen. The general lack of trees suggests a long history of grazing, before more recent buffer fencing. Judicious tree planting along the reach would be beneficial but restoration of these straightened sections to a more natural, sinuous course will be required to reinstate truly high-quality habitat.



Photo DSCN5228. In areas where the channel widens and retains gravel and small cobbles, the fine sediment component severely degrades potential salmonid spawning habitat. A lack of in-channel structure/woody material also limits the potential for natural bed scouring and sorting.



Photo DSCN5229. A weir at NY 01746 10511, associated with the old fish hatchery has been eased but still creates an obstruction to fish passage. It is important to consider that even small fish need easy access around the catchment to accommodate their changing habitat requirements as they grow. Preventing them from dispersing to utilise new habitat can increase competition and limit the potential production of a watercourse, particularly one with a scarcity of gravel and spawning opportunities.



Photo DSCN5233. Around the location of the old hatchery, an area of valuable wet woodland has developed, greatly diversifying the generally degraded and uniform beck channel. This creates high quality juvenile habitat through the diversity of in-channel structure and protection.



Photo DSCN5235. Structure within the channel also retains valuable potential spawning substrate. For this reason, these overgrown areas should be retained, with efforts directed at improving poorer quality areas and the major fine sediment issues occurring upstream.



Photo DSCN5235. There is a common misconception that all rivers require extensive tree management to let light in. This is not the case. On many upland rivers, particularly where weed growth is unlikely (due to low nutrients and coarse, mobile substrate), removing branches and trees just denudes what habitat there is. Providing there is enough light for primary production (algae/biofilms on the bed), which there invariably is, the natural food web should be supported. Equally importantly, tree management is an intensive, ongoing task; pruning once then walking away usually just leads to worse shading in the long term.



Photo DSCN5248. Note the major impact of fine sediment deposition over the bed, even in the relatively fast-flowing sections. The bed in this shot should naturally appear black, rather than brown. This smothering of the bed with fine silt will inhibit the natural productivity of the watercourse for invertebrates, and the algae upon which many of them feed, far more than any amount of tree shading.



Photo DSCN5248. At NY 01615 10382, the first of two more significant culverts create a small obstruction to fish, owing to the shallow water depth and relatively smooth bed. Although fish will pass the structure, it is just one more unnecessary challenge and a behavioural barrier which should ideally be improved with baffles to increase the water depth and slow the flow.



Photo DSCN5255. Access into the culvert from the d/s end is reasonably good, with a resting pool and no major step. Note the fine sediment smothering the bed in this wider area. A little fine sediment might be expected but this is excessive and symptomatic of the chronic and acute fine sediment issues u/s.



Photo DSCN5256. The A595 road culvert d/s (NY 01582 10371) appears to provide similar flow and water depth but is smaller diameter, so creating greater issues from fluming of high flows. The dimensions of the culvert may also make it harder/infeasible to install baffles throughout much of its length, although there may at least be an option to improve the area around the d/s end. Note the tributary joining the beck to the left of shot.



Photo DSCN5259. The d/s end of the A595 culvert. It may be possible to increase water depth and flow dissipation within the culvert by baffling towards the d/s end or even with a notched impoundment in the channel d/s.



Photo DSCN5262. Towards the d/s limit of the beck (NY 01457 10338), garden waste is being composted right on the bank. This should be stopped as the composting process will be leaching nutrients into the watercourse. Composting should always be undertaken well away from any watercourses to avoid pollution.



Photo DSCN5265. Pruning of the overhanging and trailing branches has been greatly reduced habitat quality in the straightened, walled section of the beck around the confluence with the River Ehen. Although several of the shrubs are non-native, in the absence of replacing them with native species, they should be allowed to grow over the channel to reinstate the valuable shade and cover that has been removed. It is always advisable to seek professional guidance before undertaking tree pruning and maintenance. The field at the confluence with the Ehen would benefit from buffer fencing (NY 01449 10386).

4.0 Tributary

A brief inspection was also undertaken on a small tributary of Black Beck. As the tributary runs parallel to Black Beck, and in relatively close proximity, inspection was as a series of spot-checks at points where the two watercourses were close to each other.



Photo DSCN5100. At farthest upstream point inspected on the tributary there is good availability of cover and structure, with good quality physical habitat for juvenile salmonids.



Photo DSCN5100. Chemically, the water in this area appears to have a high iron content, as evident by the ochreous staining of the bed, resulting from oxidation of the iron which forms a rust-like precipitate on the bed.



Photo DSCN5115. Despite the iron precipitate and likely locally reduced pH, invertebrates were present in low densities, with small stoneflies, caseless caddis (*Rhyacophila* sp: red ellipse)) and freshwater shrimps (*Gammarus pulex*: blue ellipse) observed.



Photo DSCN5211. Progressing d/s, the elevated levels of iron abate and the watercourse taken on a more normal appearance. The channel shape is unnatural, and particularly straight and uniform, but appears to have reasonable potential for juvenile salmonids. Diversification of the channel to a more sinuous course would be greatly beneficial but if this is not feasible, at least buffer fencing the watercourse would allow species diversification and provide habitat improvements (NY 02039 10710 - NY 01946 10666).



Photo DSCN5213. At the remains of an old weir, a kink in the channel is sufficient to retain higher quality, potential salmonid spawning habitat, again demonstrating the importance of reinstating more natural sinuosity of these watercourses.



Photo DSCN5215. Stone turning in the middle reaches of the watercourse identified a much greater abundance of cased and caseless caddis and stoneflies. Somewhat surprisingly, no mayfly nymphs were observed; however, that is no confirmation that they are absent from the site.



Photo DSCN5216. The straight and heavily grazed channel could be improved through the installation of fencing, but more extensive channel improvements would be beneficial.



Photo DSCN5258. Away from the grazed areas, past straightening/modification of the channel still limits its potential to maintain deeper holding pools and sort and retain gravel, but the bankside vegetation does enhance what habitat features there are. Pruning of the bankside trees and shrubs should be avoided to optimise the habitat potential.



Photo DSCN5257. An concrete step and overly restrictive grid, on top of a trash screen, at the entrance to a long, culverted section of the watercourse has created a complete barrier to fish movement and constitutes a clear offence under the Salmon and freshwater fisheries Act 1975 (NY 01650 10306). Removing the step and additional mesh is likely to reinstate substrate transport at the site and greatly reduce the fish passage issue.



Photo DSCN5253. The culverted section is steep and is already an obstruction to fish passage, but anecdotal evidence suggests that fish did manage to ascend it in certain flows (prior to the mesh obstruction). The ability of fish to pass the culvert should be reinstated as a priority and legal obligation. Note the brown pipe discharging high nutrient water (possibly domestic drains or septic tank), which should be investigated further as pollution.



Photo DSCN5252. The watercourse then enters another culverted section down to Black Beck (NY 01620 10344); this is also screened, and modification of that screening could certainly improve fish passage there. The actual requirement for such a fine screen is questionable. Bearing in mind the rough nature of much of the ground under which they pass, the ideal solution for this and the culvert u/s could simply be to break them out, to reinstate more aesthetically pleasing surface watercourses - the main limiting factor probably being the cost.

5.0 Recommendations/summary

5.1 Black Beck

5.1.1 Fencing and land management

Issue	Photo (If required)	Priority (1-3)	Location	Proposed action
Buffer fencing.		3	NY 02814 12001 - NY 02394 11814	Ensure existing fencing is maintained to preserve the now significant benefit it provides.
Lack of buffer fencing and poaching of the field (LB & RB).		2	NY 02202 11521 - NY 02198 11372 (C. 160m)	Install buffer fencing. N.B. This area could have potential for channel restoration.
Buffer fencing.		3	NY 02198 11372 - NY 02123 11268	Ensure existing fencing is maintained to preserve the benefit it provides.

Lack of buffer fencing (LB).		2	NY 02123 11268 - NY 02059 11130 (c. 150m)	Install buffer fencing. N.B This should encompass the boggy area at the d/s end of the field.
Lack of buffer fencing on either the LB or RB between grid refs.		2	NY 02059 11130 - NY 01998 10942 (c. 200m)	Install buffer fencing.
Lack of buffer fencing on either the LB or RB between grid refs.		2	NY 01998 10942 - NY 01969 10875 (c. 75m)	Install buffer fencing. Additional tree planting would also be beneficial.
Lack of buffer fencing (LB).		2	NY 01969 10875 - NY 01880 10742 (c. 165m)	Install buffer fencing. There is a particularly poached area on the RB at NY 01887 10774, where a feeder has been located too close to the watercourse.

Buffer fencing.		3	NY 01880 10742 - NY 01844 10663	Ensure existing fencing is maintained to preserve the benefit it provides.
Buffer fencing.		3	NY 01844 10663 - NY 01747 10494	Ensure existing fencing is maintained to preserve the benefit it provides. Additional tree planting would also be beneficial.
Buffer fencing.		3	NY 01449 10386 (c. 90m)	Install buffer fencing. Also ensure that valuable trailing and aerial cover is not removed.

5.1.2 Other observations

Issue	Photo (If required)	Priority (1-3)	Location	Proposed action
Fording/drinking point.		2	NY 02549 11905	<p>The crossing point should be closed when not in use and alternative stock watering provided.</p> <p>The step at the ford should also be alleviated by either an appropriately sized sunken culvert or lower level ford.</p>
Perched (at the d/s end), undersized culvert that will restrict fish passage.		2	NY 02394 11814	<p>Culverts should be set be of sufficient capacity with c.1/3 set below the bed level and accommodate high flows and sediment transport. This will also reduce the issues of erosion at the d/s end and the potential for them becoming perched.</p>
Incomplete field drainage system.		2	NY 02266 11588	<p>Contact the landowner to make them aware of the potential pollution issues, with reference to the new Farming Rules for Water.</p>

Track runoff directly into to the beck.		2	NY 02251 11583	Install cross drains and prevent direct discharge from any surface water conduits to the beck.
Small culvert.		3	NY 02251 11583	Ensure the culvert is kept free from blockages.
Major poaching and fine sediment input to the watercourse.		1	NY 02123 11268	The farmer should be approached and made aware of the Framing Riles for Water and encouraged to rectify the problem. If no action is taken, the issue should be raised on the Environment Agency National Incident Reporting System (NIRS).
Culvert and obstruction to fish passage.		1	NY 02123 11268	Culverts should be set be of sufficient capacity with c.1/3 set below the bed level and accommodate high flows and sediment transport. This will also reduce the issues of erosion at the d/s end and the potential for them becoming perched.

Track runoff directly into the beck.		2	NY 02059 11130	Install cross drains and prevent direct discharge from any surface water conduits to the beck.
Fording/drinking points.		3	NY 01844 10663	Ideally exclude livestock and provide offline watering.
Weir – an obstacle to fish passage.		1	NY 01746 10511	As the weir is now obsolete it should be completely removed to reinstate natural sediment transport and fish passage.
Culvert - an obstacle to fish passage.		2	NY 01615 10382	Install alternating baffles to retain greater water depth at all flows and aid fish passage. It may also be possible to partially drown out the culvert with a structure installed at the d/s end.

Culvert - an obstacle to fish passage.		2	NY 01582 10371	Install baffles where possible. It may also be possible to partially drown out the culvert with a structure installed at the d/s end.
Composting on the bank.		3	NY 01457 10338	The owner should be encouraged to compost well away from any watercourses.

5.2 Tributary

5.2.1 Fencing and land management

Issue	Photo (If required)	Priority (1-3)	Location	Proposed action
Lack of buffer fencing mainly both banks.		2	NY 02039 10710 - NY 01946 10666 (c. 200m)	Install buffer fencing.

Buffer fencing.		3	NY 01880 10742 - NY 01844 10663	Ensure existing fencing is maintained to preserve the benefit it provides.
Buffer fencing.		3	NY 01844 10663 - NY 01747 10494	Ensure existing fencing is maintained to preserve the benefit it provides. Additional tree planting would also be beneficial.

5.2.2 Other observations

Issue	Photo (If required)	Priority (1-3)	Location	Proposed action
Completely impassable barrier created by inappropriate screening trapping substrate.		1		Investigate options to remove the culvert and reinstate the tributary as a surface watercourse. As a bare minimum, notch/remove step and additional screen at the u/s end of the culvert and ideally modify the original screen.

Poorly passable culvert.



1

NY 01620 10344

Investigate at options to remove the culvert and reinstate the tributary as a surface watercourse.

In addition to the basic recommendations highlighted, the extensive straightening of the watercourse leaves a real opportunity for improvement through more major river restoration in the future. Without reinstatement of a more varied and sinuous channel that is capable of retaining gravel and smaller cobble substrate, the potential of invertebrate and salmonid spawning habitat will remain limited. For this reason, it is strongly recommended that major channel restoration is considered as a long-term goal for Black Beck.

6.0 Making it Happen

This type of walkover assessment is designed to identify the range and location of issues impacting upon selected underperforming watercourses. The accompanying reports highlight potential solutions to the issues encountered and provide the supporting evidence for future projects and funding bids.

Where required, the WTT can develop specific Project Proposals for the more complex issues highlighted, detailing exactly what is required and how the work can be undertaken. Project Proposals then often form the supporting documentation for any EPR applications and consents that may be required.

The Wild trout Trust may also be able to develop and deliver projects, ranging from small, volunteer-based tasks, through to larger habitat improvement/restoration.

The WTT website library has a wide range of free materials in video and PDF format on habitat management and improvement:

www.wildtrout.org/content/wtt-publications

We have also produced a 70 minute DVD called 'Rivers: Working for Wild Trout' which graphically illustrates the challenges of managing river habitat for wild trout, with examples of good and poor habitat and practical demonstrations of habitat improvement. Additional sections of film cover key topics in greater depth, such as woody debris, enhancing fish stocks and managing invasive species.

The DVD is available to buy for £10.00 from our website shop www.wildtrout.org/product/rivers-working-wild-trout-dvd-0 or by calling the WTT office on 02392 570985.

7.0 Disclaimer

This report is produced for guidance; no liability or responsibility for any loss or damage can be accepted by the Wild Trout Trust as a result of any other person, company or organisation acting, or refraining from acting upon guidance made in this report.