

Southend-on-Sea Borough Council
Report of Director of Enterprise, Tourism and the Environment
to
Economic & Environment Scrutiny
on
20th September 2012

Agenda
Item No.

Report prepared Dipti Patel Head of Public Protection

Rock Oyster Collection from Southend Coastline
Economic and Environmental Scrutiny Committee –
Executive Councillor: Councillor Tony Cox, Cllr John Lamb and Cllr Jarvis

A Part I Public Agenda Item

1. Purpose of Report

- 1.1 Councillors Terry, Norman and Wexham have asked for the following matter to be placed on the Committee's agenda pursuant to Standing Order 35.1(d):

“The alleged commercial harvesting of oysters adjacent to the foreshore, the amount of harvesting currently taking place, the potential harm and damage being done to the SSSI and the policing and harvesting with regards to potential threat to the traditional commercial shell fish industry regarding environmental health issues,

The reasons for the very recent dramatic changes and erosion of mud and silt form the foreshore and the potential harm this is causing to the SSSI (Wildlife), the Council's foreshore infrastructure (sea walls, the pier, breakwaters, Canvey Island sea cliff), recently uncovered archaeological remains and the threat to the commercial sustainability of the fishery”.

- 1.2 The Chief Executive has agreed that in this instance a report should be prepared to provide the Committee with background information relating to rock oyster collection, whether any rules or regulations are being breached and whether there are any public health or environmental issues.
- 1.3 Although the Members request also refers to more general environmental problems in the Estuary, this report focuses on the main issue of coastal damage/erosion is referred to in section 6 and 13.

2. Recommendation

- 2.1 Members are asked to note the contents of the report.**

3. Background

- 3.1 Pacific Rock Oysters (*Crassostrea Gigas*) are an invasive non-native species which have been prevalent along the Essex coastline including Southend foreshore for decades. Over recent years there has been a rise in the number of people, harvesting large quantities of these oysters from Southend. Concerns have been expressed by a number of Members and residents that these maybe entering the commercial food chain.
- 3.2 During the summer these concerns have intensified with daily sightings of groups both adults and families, harvesting oysters throughout the day which has in turn attracted some local media coverage. The Council has witness accounts from staff and Members that harvesters are travelling into and out of the town. The Council has witness statements from members of staff and Council Members that harvesters are using vehicles to transport the shellfish as well as travelling by train to and from London.
- 3.3 Local concerns have been raised about whether such harvesting is causing environmental damage or whether any rules or byelaws are being broken. This report addresses these concerns. The report also addresses potential health concerns with a recent seizure of unfit oysters from a local business awaiting condemnation.
- 3.4 All the relevant Statutory Agencies have been made aware of the current situation affecting Southend. A list of the Agencies details and their remit are attached at **Appendix 1**.

The Council has proactively referred issues to these Agencies and sought advice to support its own monitoring and investigation- as our formal powers are limited.

4 Statutory Agencies

- 4.1 Over many years the Council has been in liaison with the statutory agencies listed. More recently we have been in discussions with a number of these Agencies in particular the Kent & Essex Inshore Fisheries and Conservation Authority (KEIFCA) and the London Port Health Authority (PHA).
- 4.2 The **KEIFCA's** remit is to manage the ecology of the marine life along the Kent & Essex coast; licensing of fishermen for cockle harvesting and establishing quotas for native species. KEIFCA have advised the Council that the harvesting of pacific oysters in their view does not contravene any byelaws or other legalisation which they enforce. In their opinion the Pacific oysters are a non-native species and therefore there are no quantity restrictions in place.
- 4.3 The designation of Southend Foreshore is undertaken by **Natural England** in terms of SSSI, Special Protection Areas (SPA) and RAMSAR (wetlands of international importance, designated under the RAMSAR Convention) sites. The Councils' and other Agencies' understanding the removal of non native species of oysters is not discouraged provided that it does not result in significant damage to the conservation features of the site.
- 4.4 The **Gang Masters Licensing Authority (GLA)** has been notified by the Council and others of the groups of harvesters on Southend coastline. In addition to this the Council has also raised the issue with the Borders Agency so

that they can satisfy themselves that there are no immigration matters requiring their intervention. Both have agreed to monitor the situation and concerns in respect of the mistreatment of workers and/or unlicensed operations and any illegal activity.

- 4.5 The **London Port Health Authority (PHA)** is the enforcing authority below the high water mark. They undertake sampling of sea water and shellfish flesh around the Southend foreshore in order to classify the waters in relation to commercial activities. They also issue registration (movement) documents in the Thames Estuary for oysters and cockles for a number of the local fishermen. Products such as oysters can then be removed and transported under this document until they reach an establishment where they are either depurated or further processed to enable them be placed on the market. At the first establishment the product reaches, the premises are required to be approved by the **Local Authority (SBC)** in that area who inspect and monitor the premises to ensure compliance with food safety legislation.
- 4.6 A review as to jurisdiction in relation to the orders between PHA and the Council in respect of the Estuary is under consideration, (as the Council does not have any enforcement powers on the mud flats), in order to verify exactly where each others powers start and finish and to explore opportunities for consolidating the powers to enhance enforcement. This is also being considered with other Essex authorities, as Rochford DC and Maldon DC are affected by similar concerns.
- 4.7 The Council is responsible for ensuring that any food entering the local commercial food chain does not give rise to any public health issues. Environmental Health Officers pay regular visits to local cockle fishing establishments to ensure that they comply with food safety requirements. The fishermen who cockle in the estuary are required to obtain a licence through the KEIFCA, although the license itself is issued by the Local Authority it can only be issued on the KEIFCA's instruction. There are currently 14 cockle licences, five of which are held by the cockle producers in the factories approved by the Council.
- 4.8 The **Food Standards Agency** has an overarching responsibility in respect of food safety, and can focus investigations of fraudulent activity associated with supply and movement into the commercial food chain of oysters across a region. It utilises an intelligence based approach and has the potential to mobilise enforcement /surveillance and co-ordinate enforcement activities with other statutory agencies. The Council and HPA have raised the problems with the FSA seeking both their advice and enforcement support.
- 4.9 The classification of shellfish beds is undertaken by **CEFAS (Centre for Environment, Fisheries and Aquaculture Science)**. The initial classification is lengthy and includes not only sampling of the shellfish but also a comprehensive sanitary survey of the area and hinterland. The classifications are regularly updated throughout the year to reflect the most up to date sample analysis and are held on the FSA (Food Standards Agency) website.
- 4.10 In order to address the concerns being raised by Members and provide comprehensive consideration of all the issues involved the Council met with a

number of the Agencies on the 17th September. It was invaluable opportunity to collectively appreciate the concerns associated with oysters harvesting but also to fully understand the impact on Southend.

The following actions were agreed at the meeting:

- I. SBC & PHA submit a joint application bid to the FSA to seek additional investigative resource and support to assist us to confirm if these pacific oysters picked from Southend are entering the commercial food chain.
- II. Natural England and KEIFCA to formally engage with the Environment Agency to consider a programme of monitoring any changes in the ecological nature of the local coastline. This may also highlight whether the presence of pacific rock oysters and the levels of harvesting are having any adverse impact.
- III. All Agencies to continue to share intelligence and review the situation in respect of the harvesting of pacific oysters along Southend coastline.

5 Public Health Perspective

Shellfish Classification

- 5.1 A detailed map is attached at **Appendix 2**, which shows the positioning of shellfish beds and the specific shellfish classified (see key). The plan does not indicate which other species may also be present within the bed/area but purely relate to those species which been classified as suitable for commercial collection. The classification also includes Pacific Rock Oysters east and west of the Pier, however these are not highlighted on the map.
- 5.2 In the Thames Estuary (including the shellfish beds off Southend) all sampling is undertaken by the London Port Health Authority (PHA). Flesh/Shellfish Samples are taken a minimum of 10 times a year for each product type (usually 12) for the purposes of Bacteriological Analysis. Shellfish Beds are classified for specific shellfish species and these classifications are not transferable to other species.

Pacific Rock Oysters

- 5.3 There is no requirement for a licence in relation to the collection of Pacific Rock Oysters; however Fishermen are required to obtain registration (movement) documents. A significant number of local fishermen have movement document which allow them to collect live shellfish for transfer to suitable establishments under the registration (movement) documents system.
- 5.4 At present there is no evidence to suggest that the harvesting of these Pacific Rock Oysters is damaging the local shell fishing industry. An alternative view that harvesting can assist in reducing quantities of the non-native oysters and in turn encourage the growth of native shell fish (cockles & mussels) providing a positive benefit for the local shell fishing industry.

- 5.5 From an ecological view point the KEIFCA does not wish to place any restrictions on their removal, as they would rather that this species was eliminated from the Thames in order to enable native species such as native oysters (*O. edulis*) to repopulate in significant numbers.
- 5.6 Oysters can be gathered though out the year casually but are usually of a better quality outside of their spawning season. In the UK this is generally considered to be between October to March.
- 5.7 Where oysters are gathered from A classified areas then they can be placed directly on the market as a ready to eat food via an approved establishment. Along Southend Foreshore the Pacific Rock Oysters are B & C classified only. Commercial gathers such as Maldon Oysters will follow an in house depuration process even where they have been gathered from A classified waters as part of their GMP (good manufacturing practise).
- 5.8 B and C classified oysters must be depurated or cooked to achieve 90°C for 90 seconds at the core of the product. In layman's terms for the casual gatherers as long as they thoroughly cook the product then the product will be safe for human consumption in respect of any bacterial/viral contamination.
- 5.9 Once the oyster or shellfish is gathered the legal requirement is to maintain the organism in suitable conditions and at a temperature which ensures "viability" (they remain alive). Where a product is removed from the water (either from a category A classified bed or following depuration) provided the product is properly stored and maintained at a suitable chill temperature the organism will be viable for a maximum of 6 days.
- 5.10 However those who produce oysters commercially will adhere to GMP (good manufacturing practice) where the product is lifted and delivered chilled to the customer within 24hrs. The oysters will be held under chilled conditions and generally be served as a raw product by the restaurateur within 48 hours.
- 5.11 In circumstances where the product is shucked (removed from its shell), which is currently been seen on our foreshore the quality of the oyster will rapidly deteriorate. A product in this condition particularly where it is not been kept chilled will need to be reprocessed rapidly in order to retain its fitness. It would generally be expected that the product should be reprocessed within approximately one and a half hours of shucking. The nature of the reprocessing is likely to involve washing followed by drying /cooking/chilling/freezing/canning or combinations of these processes will in turn dictate the shelf life of the product.

Environmental Health Involvement

- 5.12 Whilst the Council's Environmental Health Officers (EHOs) are confident that no pacific oysters from Southend are going into local fishmongers or restaurants. They do have anecdotal evidence that casual gatherers on the beach are prepared to sell the un-shucked/shelled oysters to people passing by at the time of harvest.

- 5.13 One business in the town has been approached on a couple of occasions by individuals of White British origin who have offered to collect oysters for him from the beach for payment. As a reputable food business operator he has declined and gave advice to the individuals in relation to the dangers associated with this practice both for the individual and the business proprietor.

All known local businesses who supply oysters confirmed they purchase these from reputable suppliers, mostly Maldon Oysters or through Billingsgate; they are usually sold whole and alive.

- 5.14 In the past 12 months only one of our local fishermen has been involved in the collection of Pacific oysters primarily from the Chalkwell area (west of the pier) and EHO's have been advised that they are being taken to France for re-laying. Unlike cockles there is no restriction as to the quantities that can be removed from the beds, as Pacific Rock Oysters are deemed an invasive species.
- 5.15 Recently, EHO's visited a local food business which resulted in the seizure and of 400 unfit pacific oysters harvested by the proprietor, which are now waiting condemnation and subject to further investigations.
- 5.16 Over this recent summer when EHO's have approached and spoken to harvesters on the foreshore followed through their investigations, they were unable to obtain evidence that these rock oysters are being collected on a commercial basis. Therefore there is no requirement for these oysters to be taken to an approved purification establishment or relaying centre.

EHO's are of the opinion that the oyster flesh being shucked on the beach is most likely being used in Chinese cooking for soups and sauces primarily for "family" consumption. The boiling process kills the bacteria and officers are confident its consumption would not present a risk to health.

- 5.16 Over the past 10 years there have been a few sporadic cases and outbreaks of suspect food poisoning in Southend which have been associated with oysters generally. The investigations into these cases led to the cause being attributed to the consumption of raw oysters and/or the poor handling of the raw product leading to the cross contamination of other ready to eat foods in the premises. In any outbreak case the Health Protection Agency (HPA) are involved. The likely causative organism was Norovirus, known to be associated with the consumption of raw filter feeders. In all cases the food businesses in question had used reputable suppliers for their oysters.
- 5.17 Concerns about the discarded shells are understandable but it is important to recognise that the foreshore is considered to be a natural environment full of similar hazards. The extent to which the oyster shucking activity adds to the natural hazards is small. People using the beaches for recreation, especially the guardians of children, must at all times be vigilant and protect themselves from hazards despite the efforts made by our Council staff to minimise risk. Advice is given by the Council's Resort Assistant's during the summer season to anyone seen collecting and they are encouraged to take the whole shell ashore, not just the flesh.

National Picture

- 5.18 If Pacific Rock Oysters harvested in Southend are entering the commercial food chain the Council's environmental health team would be made aware either directly or via the FSA food fraud and national overview of food safety matters. This has not been the case to date. The Council and other Agencies have recognised the concerns rose over the daily quantities being harvested recently and therefore have formally raised this with the FSA for a national perspective and to seek formal assistance.
- 5.19 There is evidence to suggest this situation is not unique to Southend, and other coastal areas are experiencing similar problems. We have approached other Authorities including Portsmouth to gauge the extent of the problem.
- 5.20 The erosion to Southend's coastline has been raised with Natural England and the Environment Agency separately by the Council, as highlighted by the press statement at **Appendix 3** from the Environment Agency. At the meeting on the 17th September, the focus of the discussion was primarily on the pacific oyster harvesting, but the issues of changes to the ecological balance along the coastline was raised which Natural England have agreed to consider with the Environment Agency and KEIFCA.

6. Legal Issues

- 6.1 The Council has always claimed legal title to the sea bed along the foreshore including exclusive fishery rights in respect of shellfish in the seabed. The foreshore means primarily the land between the high and low tide water marks.
- 6.2 The Council has made bye-laws in respect of the foreshore but these do not govern the taking of shellfish. Fishing for shellfish along the Southend foreshore is regulated by byelaws made by KEIFCA.
- 6.3 The harvesting of Pacific rock oysters as indicated as above does not contravene these bye-laws. There are no plans by KEIFCA to make bye-laws to include this species.
- 6.4 There is no evidence of any erosion or damage as a result of the oyster harvesting. In these circumstances Legal has advised that there is no basis for legal action against people collecting oysters.

7. CONCLUSION

- 7.1 The Council has proactively referred issues to these Agencies and sought advice to support its own monitoring and investigation- as our formal powers are limited.
- 7.2 Work is being undertaken with relevant Agencies to provide reassurance that locally harvested oysters are not entering the commercial food chain. The following actions was agreed as a result of the meeting on the 17th September:
- 7.2.1 SBC & PHA submit a joint application bid to the FSA to seek additional investigative resource and support to assist us to confirm if these pacific oysters picked from Southend are entering the commercial food chain.

7.2.2 Natural England and KEIFCA to formally engage with the Environment Agency to consider a programme of monitoring any changes in the ecological nature of the local coastline. This may also highlight whether the presence of pacific rock oysters and the levels of harvesting are having any adverse impact.

7.2.3 All Agencies to continue to share intelligence and review the situation in respect of the harvesting of pacific oysters along Southend coastline.

8. Other Options

8.1 A full range of options is included in the body of the report.

9. Reason for Recommendation

9.1 To endorse and recognise the limitation of the Council's remit in relation to the harvesting of Pacific Rock Oysters from Southend coastline.

10. Corporate Implications

10.1 Contribution to Council's Vision & Corporate Priorities

Contribution to Council's Vision & Critical Priorities – Becoming and safe and clean organisation

10.2 Financial Implications

None specifically but this work is resourced from existing budgets which has been prioritised in light of the growing problem despite the Council having a limited enforcement remit.

10.3 Legal Implications

These are detailed in Section 7 of the report.

10.4 People Implications

No people implications

10.5 Property Implications

No property implications

10.6 Consultation

We have engaged with a number of statutory agencies on this issues to seek a collectively resolution as detailed within the report.

10.7 Equalities and Diversity Implications

Specific E&D issues have been considered in the generic Regulatory Service action plan and will continue to be monitored to ensure relevance.

10.8 Risk Assessment

Not applicable

10.9 Value for Money

Not applicable

10.10 Community Safety Implications

A number of Agencies have been involved with a view to ensure no illegal activity is being undertaken. The Police are aware of the harvesting from Southend coastline and will assist should it be required.

10.11 Environmental Impact

The report highlights any environmental impact according to the relevant statutory agencies particularly from an ecological position. The level of these non-native oysters if left un-harvested may adversely impact on the future existence of native species. There is limited evidence to date from Natural England to substantiate whether the alleged commercial harvesting has adversely impacted on SSSI and erosion of the Southend Coastline.

11. Coastal Damage Erosion

11.1 Members will be aware that this year has seen a significant loss of mudflats along the north bank of the Estuary which can be seen in Leigh, Chalkwell and Thorpe Bay. This matter is subject to a separate investigation involving the Environment Agency, Kent & Essex IFCA, World London Gateway and the Council.

12. Background Papers

12.1 none

13. Appendices

13.1 Appendix 1: List of Statutory Agencies

13.2 Appendix 2: Map of Thames Estuary for Shellfish Classification

13.3 Appendix 3: Environment Agency Press Release