

# Southend-on-Sea Borough Council

Agenda  
Item No.

Report of Corporate Director for Place

To

Place Scrutiny Committee

on

7<sup>th</sup> October 2013

Report prepared by: Dipti Patel,  
Head of Public Protection

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## Southend Foreshore Fisheries

Executive Councillors: Councillor Lamb, Cox & Jarvis

### *A Part 1 Public Agenda Item*

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#### 1. Purpose of Report

To update Members on the Council's continuing role in connection with the harvesting of Oysters from the foreshore and the implications of a recent proposal to create a Mussel Fishery in Southend to support the local fishing industry, but also the opportunity to explore and establish a Fishery Local Action Group (FLAG). These items are being considered as part of Pre-Cabinet Scrutiny.

#### 2. Recommendations

- 2.1 To note the extensive monitoring and enforcement operations in respect of Oyster collection from the Foreshore and to consider additional funding of £30k per annum to support with further monitoring and enforcement.
- 2.2 That Members views are sought in the proposal to support the fishing industry in establishing a Fishery Local Action Group (FLAG) in Southend.
- 2.3 That Members of Place Scrutiny consider the report and provide any comments or observations for Cabinet consideration on the 5<sup>th</sup> November 2013.

#### 3. Background

- 3.1 On the 20<sup>th</sup> September 2012 the Economic & Environmental Scrutiny Committee considered a report on Rock Oyster Collection on the Southend Foreshore and the more general issue of coastal erosion. The report had been prepared in connection with a question from Councillors Terry, Norman and Wexham. The report detailed the extensive monitoring and enforcement work undertaken, the obstacles in introducing a new bye-law and that there was no basis for legal action based on the Council's land ownership and fishery rights.

- 3.2 A further report was presented to Cabinet on the 6<sup>th</sup> November 2012, updating Members on the action taken to date in respect of rock oyster collection. The report also explained why the Kent & Essex Inshore Fisheries Conservation Area (IFCA) could not make an order to deal with the matter and that it was not possible for the Council to introduce a new bye-law.
- 3.3 The Kent & Essex IFCA have already advised the constraints in establishing a several order for oyster fishing, including the significant cost and resources needed for enforcement and monitoring, should it be granted. Any such order would need DEFRA agreement before submission to the Secretary of State for final approval. The proposed area of Southend foreshore is intertidal and is designated as Special Protection Area (SPA) and Sites of Special Scientific Interest (SSSI). Natural England is unlikely to agree to the granting of a Several Order for the purpose of allocating private plots for fishermen to cultivate non-native *C.gigas* oysters and establish a sustainable commercial fishery for this species within the area.
- 3.4 Recently a proposal to the Council has been received from the Leigh Fishermen and Cllr Wexham to consider establishing a native (Blue) Mussel fishery along Southend Foreshore to support the local fishing industry and may assist with preventing coastal erosion. This matter is considered further in section 5.

#### **4. Environmental Health Enforcement**

- 4.1 The Council has committed significant resources for monitoring and the enforcement operations in respect of pacific oysters.
- 4.2 Investigations are on-going in respect of the alleged illegal harvesting of oysters where it is believed to be entering the commercial food chain. The gathering of small quantities by individuals or family groups perceived to be for personal consumption is continually monitored and advice provided.
- 4.3 Where there is evidence that a significant quantity of oysters has been harvested and there is a reason to suspect that the operation is commercial, the Council has investigated and pursued enforcement where feasible, as the public health risk is significant.
- 4.4 Any intelligence received is registered on the National Food Fraud Database for dissemination to other local authorities which enables the Food Standards Agency (FSA) Food Fraud Team to take an overarching view of any potential national risk to food safety and food fraud. Southend has shared information with other local authorities as a result of the database.
- 4.5 The FSA Food Fraud Team have approved additional resources of up to £75k for one year to assist the Council with investigations and enforcement particularly in establishing the scale and extent of oyster gathering for commercial purposes. The FSA require evidence of activity prior to any release of funding.
- 4.6 The Council has pursued legal action against one harvester. A further formal seizure has been undertaken of oysters from another harvester. However the individual absconded before the formal notice could be served on him to enable

court action. There has been further activity from these gatherers on two separate occasions but the Council was unable to pursue legal action. Officers are continuing to capture intelligence on these particular harvesters who have been found to operate alone and with others.

- 4.7 The public have not directly reported activities of alleged harvesting to the Council but a few have been received via Members and council staff. However, the majority of the intelligence received recently has been provided by local businesses. Unfortunately, with the limited resources available it has not always been possible to attend as the harvesting tends to take place at weekends or outside general office hours on weekdays. This has made it difficult for effective action to be taken. Officer safety is also another consideration particularly when working alone out on the foreshore during these unsocial hours.
- 4.8 Our investigation has focused primarily on the gathering of Crassostrea gigas (pacific oysters) but there is evidence of significant harvesting of other species in particular clams. While Southend seafront has classifications as a production area in respect of Pacific oysters, this area is not classified for the commercial harvesting of clams of any species. Therefore the commercial harvesting of these shellfish is illegal even if the harvesters possess registration documents. Enforcement lies with the London Port Health Authority (LPHA) for the actual harvesting and the local authority to ensure it does not enter the commercial food chain. The evidence of irregularities within the documentation has already been referred to LPHA for investigation.
- 4.9 The Council's Environmental Health Team has dedicated 1.4 FTE resources to enforcement of oyster harvesting particularly over the past 12 months but this has detracted resource away for other regulatory work and placed increased pressure on the service. Securing the Food Fraud funding would assist with supporting enforcement activity over the medium term but a significant resource commitment will be required if this area is retained as a priority for the Council. The financial commitment required is £30k per annum, and would assist the Council in continuing to meet the Food Standards Agency (FSA) food safety and inspections obligations. This would need to be considered in the context of the Council's 2014/15 budget.

## 5. **Blue Mussel Fishery**

- 5.1 A proposal has been received from the Leigh Fishermen and Cllr Wexham to consider establishing a native Blue Mussel (Mytilus edulis) Fishery along the foreshore beyond the moorings. It is important to note that
- a. such a fishery could only be established in a limited area and
  - b. The establishment of such a fishery would not curtail the continued 'casual' gathering of shellfish, as handpicking is undertaken within the 400m mark where oysters and clams can be found in abundance.
- 5.2 In addition, the proposed location for the Mussel Fishery along Southend foreshore may be incompatible with current leisure usage of the foreshore particularly along the 'hards' (foot paths). Consultation with all users and those

having an interest in the foreshore should take place as part of the feasibility study if this be deemed appropriate.

- 5.3 A formal Mussel Fishery would require the creation of Several Orders from the Secretary of State. All costs incurred are payable by the applicant which could be the local fishing industry, the local authority or the Kent & Essex IFCA on behalf of the Council. Once Several Orders have been granted, licences can be issued under ministerial consent with an ability to recover some costs but not make a profit. As a comparator a cockle licence is less than £5000 pa, and 14 licences were issued by the Kent & Essex IFCA.
- 5.4 Fishery plots will need to be identified with markers set out. Those seeking to harvest in the new Mussel Fishery must obtain a licence as restriction will apply. This may hamper other fishery activities as species not specified within the Order e.g. fin fishing, bait digging and angling, but will not impact upon oyster harvesting. As part of this process mechanical dredging may be required and can adversely impact upon of the diversity of marine/estuarine species unlike hand picking.
- 5.5 The funding investment required to establish a Mussel Fishery is considerable. The opportunity to access funding has already been explored including a range of European Fisheries Funding (EFF) and new funding under the European Maritime and Fisheries Fund, (EMFF) due to be launched in 2014, may be available for a Mussel Fishery. The EU grants are available to support the diversification of the industry. These EU Grants are not directly available for the Council to bid, but are for the Fishing industry with the expectation that if successful this is match funded by the industry itself. It would not be appropriate to utilise public funds but the Council where appropriate would continue to facilitate and support the industry locally.
- 5.6 The Marine Management Organisation (MMO) representative attended Southend on the 6<sup>th</sup> June, to present to four of the local Leigh fishermen, local Councillors and Council officers what funding opportunities are available. Further guidance was also offered for Southend to consider establishing a Fisheries Local Action Group (FLAG) which would attract funding through the MMO to support and assist local fishing industry. The membership of the FLAG usually includes local representatives from the fishing industry, community and public sector organisations (Council, IFCA). A commitment to setting up a FLAG would be positive step towards understanding and supporting the local fishing industry. There are a number of FLAGs in existence including one in Norfolk and another in Cornwall who could be approached to better understand the role of the FLAG and the opportunities for industry.
- 5.7 Establishing a local FLAG would appropriately support the fishing industry and enable them to decide on their priorities including whether to seek to establish a mussel fishery. The Business Improvement District (BID) in Southend is a suitable analogy to that of a FLAG, represented by the local business communities, partners and other public sector organisations with an independent chair. It would be anticipated that the FLAG like the BID has a budget, either awarded by the EFF, including potential contribution from the other sectors and the Industry with a strategic programme of what is to be achieved and how the funding is spent.

- 5.8 A local FLAG would in turn strengthen links with the work of the National Maritime Development Group, which already has an advisory function to the SE LEP, Coastal Communities Group and a business advisory role for the National Maritime Training Centre, in Gravesend (part of North West Kent College). They are currently looking to increase activity in the sector (covering shipping, port operations, marine engineering, renewables, fisheries, heritage, leisure, watersports and off-shore oil) and will predominantly do this through raising awareness in schools of the range of jobs available in the sector, the skills required and pathways into employment alongside discussions with employers on where to access training for the sector. There is the potential of NW Kent College being able to offer some support to South Essex College in expanding the relevant training offer in south Essex.
- 5.9 European Union grants are available to support the diversification for the industry to include retail, canning and preparation but as highlighted earlier require a percentage match funding from the fishermen to qualify.
- 5.10 In summary the introduction of a Mussel Fishery is a complex and lengthy process and requires specialist expertise, considerable financial resource and requires legal several orders to be introduced, including consultations with a number of statutory Agencies. Indications are this could take some three years to establish.
- 5.11 Before embarking on this costly journey it is vital to understand the local fishing industry commitment to a Mussel Fishery. Creating a local FLAG would certainly be the first step in supporting the industry locally. The Council would offer a facilitating and supporting role to the industry but would not lead on establishing a Mussel Fishery.
- 5.12 To better understand the complexities involved with such a project a desk top feasibility study could be commissioned, something the Kent & Essex IFCA already undertake. The cost of undertaking such a study would be in the order of £10k+ for which there is no current budget provision.

## **6. Other Options**

The report proposes other options.

## **7. Reasons for Recommendations**

To inform Members of the significant monitoring and enforcement activities undertaken by the Council.

To consider whether the Council wants to look into the principle of establishing a Mussel Fishery and forming a FLAG locally to support the fishing industry.

## **8. Corporate Implications**

### **8.1 Contribution to Council's Vision & Corporate Priorities**

Contributes to Council's Vision & Critical Priorities of Becoming safe and clean.

## 8.2 **Financial Implications**

The monitoring and enforcement work has been currently resourced from existing budgets to the detriment of other service priorities. However should this continue to be a priority for the Council then additional funding of £30k per annum will need to be made available.

For 2013/14, the pro rata sum for the year would be £20k and this could be met from the Council's contingency. The on-going arrangement of £30k per annum could then be considered as part of the annual budget process for 2014/15.

To establish a Mussel Fishery and the detailed involvement to progress this cannot be resourced from existing budgets and would require additional funding or require existing resources to be reprioritised. No revenue or capital budgetary provision currently exists to support the joint funding for the development of a Mussel Fishery.

## 8.3 **Legal Implications**

These are detailed in the report.

## 8.4 **People Implications**

These are already considered within the report.

## 8.5 **Property Implications**

No property implications

## 8.6 **Consultation**

Officers have engaged with a number of statutory agencies on these issues to seek a collective resolution as detailed within the report. These agencies include the Kent & Essex IFCA, The London Port Health Authority, The Food Standards Agency, Natural England and the Environment Agency.

## 8.7 **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.

## 8.8 **Risk Assessment**

Not applicable

## 8.9 **Value for Money**

This has been considered within the report,

## 8.10 **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.

## 8.11 **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.

## **9. Background Papers**

Report of Environmental & Economic Scrutiny Committee (20/9/12) and minute 335

Report of Cabinet (6/11/12) and minutes 456 & 537

## **10. Appendices**

There are no Appendices attached to the report.