

**WIRRAL COUNCIL  
CABINET  
22 SEPTEMBER 2011**

<b>SUBJECT:</b>	<b>COCKLING OFF THE LEASOWE TO NEW BRIGHTON COAST</b>
<b>WARD/S AFFECTED:</b>	<b>NEW BRIGHTON; WALLASEY; LEASOWE AND MORETON EAST; MORETON WEST AND SAUGHALL MASSIE; HOYLAKE AND MEOLS</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF LAW, HR AND ASSET MANAGEMENT</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>BRIAN KENNY CABINET MEMBER FOR ENVIRONMENT</b>
<b>KEY DECISION?</b>	<b>NO</b>

**1. EXECUTIVE SUMMARY**

- 1.1 This report provides an update to Cabinet in respect of the actions that have been taken to mitigate potentially adverse impact to Wirral residents arising from the harvesting of cockles from the Leasowe/New Brighton Beds (shown on the map at Appendix 1, below).
- 1.2 The report also seeks an amendment to the Council's Constitution in relation to responsibility for Sea Fisheries matters. This responsibility is currently listed within the responsibilities of the Cabinet Member holding the Environment Portfolio, which suggests it is an Executive function. However, this is an erroneous allocation, as Sea Fisheries is a Council function by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). As such, Members may wish to consider recommending to Council that responsibility for matters relating to Sea Fisheries should be included within the terms of reference of the Licensing, Health & Safety and General Purposes Committee.

**2. RECOMMENDATION**

- 2.1 That Cabinet recommends to Council that the Director of Law, HR and Asset Management be requested to write to the North West Inland Fisheries Conservation Authority (NWIFCA), urging that: consideration be given to the adequacy of the control regime pertinent to the Leasowe/New Brighton Shellfish Bed; with a view to NWIFCA taking the necessary

steps (including the use of Orders under the Sea Fisheries (Shellfish) Act 1967.), to provide effective controls to help protect those Wirral residents affected by the harvesting activity and the sustainability of the fishery.

- 2.2 That Cabinet recommends to Council that the responsibilities in relation to Sea Fisheries matters be delegated the Licensing, Health & Safety and General Purposes Committee.
- 2.3 That once Council allocates responsibility for Sea Fisheries matters, the Leader amends the extent of the Environment Portfolio by deleting reference to Sea Fisheries.

### **3. REASON FOR RECOMMENDATIONS**

- 3.1 The current Byelaw provisions do not provide effective control of the cockle fishery. The NWIFCA are the body responsible for the management of the fisheries in the North West.
- 3.2 Sea Fisheries is a Council function by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
- 3.3 Until Council allocates responsibility for Sea Fisheries matters, the authority needs to have a representative at Member level to lead on Sea Fisheries issues and it is appropriate for the Cabinet Member holding the Environment Portfolio to continue this representative role.

### **4. BACKGROUND AND KEY ISSUES**

- 4.1 The North Wirral cockle fishery lies some 200 – 500 metres off western coastline and ranges from adjacent to the Gun Site at the end of Green Lane to somewhere around the groyne at Fort Perch Rock, New Brighton. The area is marked out in the map at Appendix 1.
- 4.2 This fishery had not been classified for a number of years, as records showed that a commercially viable stock was last reported in the mid 1990's. However, in May 2010 scientists working for the then North West Sea Fisheries Committee's (now incorporated into the North West Inland Fisheries Conservation Authority ('NWIFCA')) identified the fishery and, subsequently, the cockles were classified as being fit for human consumption, after purification or heat treatment.
- 4.3 NWIFCA is responsible for the fishery and controls the opening of the fishery beds for harvesting. Under a byelaw NWIFCA issues permits to fishers. There are currently 370 permitted fishermen, with up to 40 permits each year that can be given to new entrants to the industry. To harvest commercially a cockle harvester must carry a permit. Any person can harvest up to 5kg of cockles for personal use without a permit.

- 4.4 The opening of the fishery led to substantial numbers of gatherers attending the site. This caused significant nuisance to local people; damage to the local environment; and potential dangers arising from the activities of the harvesters. After the initial problems manifested themselves, a management plan was implemented to minimise further adverse impact.
- 4.5 During the course of 2011, the bed was found to have spread thinly beyond the classified area and the Shellfish Hygiene classification has been extended to cover the full area of the bed.
- 4.6 Surveys in August by NWIFCA scientists to assess the current status of the stocks showed that cockles are present across the foreshore. However, the majority of the bed is of low density 2009 cockles which are now greater than 30mm in size and therefore of great commercial interest. (Cockles of 20mm or more can be harvested.). A small, denser area of mainly 2010 cockle is found close to the breakwater which is currently a mixture of size and undersize cockles.
- 4.7 At the time of writing, to allow the valuable stock of large cockles to be fished, the NWIFCA is recommending that the fishery be opened from 1 September 2011 as expected. The stocks were to be re-surveyed (probably during the week commencing 12 September) and, if they are significantly reduced to 20/m<sup>2</sup>, a closure of the bed should be considered by the Authority for the rest of the season. The grounds of the closure would be to protect the sustainability of the stocks and conservation interests.

## **5.0 ACTION TO CONTROL THE FISHERY AND MITIGATE POTENTIAL ADVERSE IMPACTS**

- 5.1 In order to prevent the problems that the harvesting of cockles caused in November 2010, officers and ward councillors of affected wards have met on several occasions to consider preventative measures.
- 5.2 As part of the response to the problems of November 2010, a Multi-Agency Response Plan was created and implemented by the Resilience Team of Technical Services Department. The plan brings together the all relevant statutory and non statutory agencies and defines and co-ordinates the response to the cockling activity.
- 5.3 The Multi –Agency Response Plan has been revised and re-issued and forms the basis of the multi agency response to the harvesting of cockles for this season. In addition to the Multi-Agency Response, the Head of Leisure and Culture has met with two of the three local cockle processors to discuss the impact of the cockling activity.
- 5.4 The representatives of the processing companies expressed a wish to work with the Council and it was agreed that vehicular access would be restricted to Harrison Drive/Wallasey Beach only. They also agreed in

principle, to pay a bond of around £1,000 towards payment for skips and toilets, which would be provided by the Council. The representatives stated that it was unlikely that fishing would start on the bed in September (except for specialist small-scale harvesting) and it was agreed that they would inform the council as soon as they know when fishing would start.

- 5.5 Technical Services Department have subsequently arranged for directional signage from the M53 to guide harvesters to the agreed access point at Wallasey Beach. Steps have been taken to prevent the use of other non-authorised access points. During the harvesting season the fishing of the bed will be subject to joint enforcement action by NWIFCA, Mersey Port Health and Wirral Environmental Health Department.

## **6.0 FURTHER LEGISLATIVE CONTROLS**

- 6.1 The NWIFCA permitting system does not provide either an effective control of the fishery, or the numbers of fishers harvesting cockles commercially. Additional powers to allow enhanced control are provided through regulating orders made under Section 1, of the Sea Fisheries (Shellfish) Act 1967.
- 6.2 'Regulating Orders' are designed to improve the management of natural shellfisheries. Grantees of a Regulating Order have powers of management to carry into effect and enforce regulations and restrictions relative to the fishing for, dredging or taking of specified shellfish species within a designated area. These Orders provide licensing provisions under which Grantees may issue licences authorising the fishing, dredging for or taking of shellfish at a time, in a manner and to a (geographical) extent determined by the Grantees. Unlicensed persons are excluded from the Regulated fishery. Charges can be made for licenses and the income used to help enforcement of the provisions.
- 6.3 Since Inland Fisheries Conservation Authorities have been formed, DEFRA will only grant orders to Inshore Fisheries and Conservation Authorities.
- 6.4 Another form of order, the 'Several Order', is designed to encourage the establishment, or improvement, of a shellfishery, and investment in shellfish cultivation. Mere harvesting of wild shellfish is not normally sufficient to justify the grant of a Several Order. The grantee of an order has exclusive rights to harvest from the bed and the order bestows ownership of the fishing bed.
- 6.5 A further type of order, the 'Hybrid Order', combines 'Several Order and 'Regulating Order' provisions. Where such an order is made, it sets up a regulated fishery that has within its boundaries one or more areas designated as 'Several Fisheries'.

- 6.6 Regulation Orders are most commonly used to provide enhanced control of shellfish beds. Such an order would provide the NWIFCA with additional powers to sustain the fishery and to regulate the fishing activity. The current byelaw controls do not provide an adequate control of the numbers of fishers permitted to fish or the manner in which that fishing is carried out. The use of orders under the Sea Fisheries (Shellfish) Act 1967, offer a more effective framework for the control of the harvesting activity and have proved effective in other areas such as the Dee Estuary Beds.
- 6.7 The process to obtain an order is lengthy. It involves the preparation of a management plan for the fishery and extensive consultation with stakeholders. Objections to the proposal can cause the Secretary of State to convene a public enquiry, the costs of which must be borne by the applicant for an order (NWIFCA in this case).

## **7.0 COUNCIL RESPONSIBILITY FOR SEA FISHERIES MATTERS**

- 7.1 Under the Council's Constitution, responsibility for Sea Fisheries matters is currently listed within the responsibilities of the Cabinet Member holding the Environment Portfolio. This suggests that Sea Fisheries is an Executive (Leader and Cabinet) function. However, this is an erroneous allocation. Sea Fisheries is a Council function by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). As such, Members may wish to consider recommending to Council that responsibility for matters relating to Sea Fisheries should be included within the terms of reference of the Licensing, Health & Safety and General Purposes Committee.

## **8.0 RELEVANT RISKS**

- 8.1 Disruption caused to local communities in November 2010 demonstrated the need for a strengthened regulatory framework to assist in preventing the potential adverse impacts of harvesting activity.
- 8.2. If the responsibility for Sea Fisheries activity is not assigned according to the legal division between Council and Executive functions, then any decisions purportedly made in respect of these responsibilities could be subject to challenge in the Courts.

## **9.0 OTHER OPTIONS CONSIDERED**

- 9.1 None.

## **10.0 CONSULTATION**

- 10.1 The issue in relation to the harvesting of the cockle beds off the Leasowe/New Brighton coast have been discussed at meetings with local Ward Councillors.

## **11.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

11.1 None

## **12.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

12.1 The lack of control of the fishery has required additional input from a number of Council employees, including the Coastal Ranger Team and Environmental Health Officers.

## **13.0 LEGAL IMPLICATIONS**

13.1 If the responsibility for Sea Fisheries activity is not assigned according to the legal division between Council and Executive functions, then any decisions purportedly made in respect of these responsibilities could be subject to challenge in the Courts.

## **14.0 EQUALITIES IMPLICATIONS**

14.1 The control of sea fisheries activity seeks to balance the needs of the industry with those of locally affected people.

14.2 Equality Impact Assessment (EIA)

(a) Is an EIA required? No

## **15.0 CARBON REDUCTION IMPLICATIONS**

15.1 None

## **16.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

16.1 Uncontrolled harvesting could lead to hazardous operating practices and disruption to local residents.

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## **APPENDICES**

1 –Map of the Leasowe/New Brighton Fishery Area

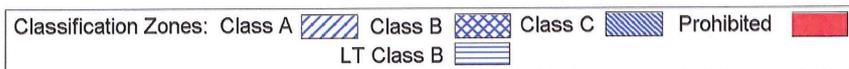
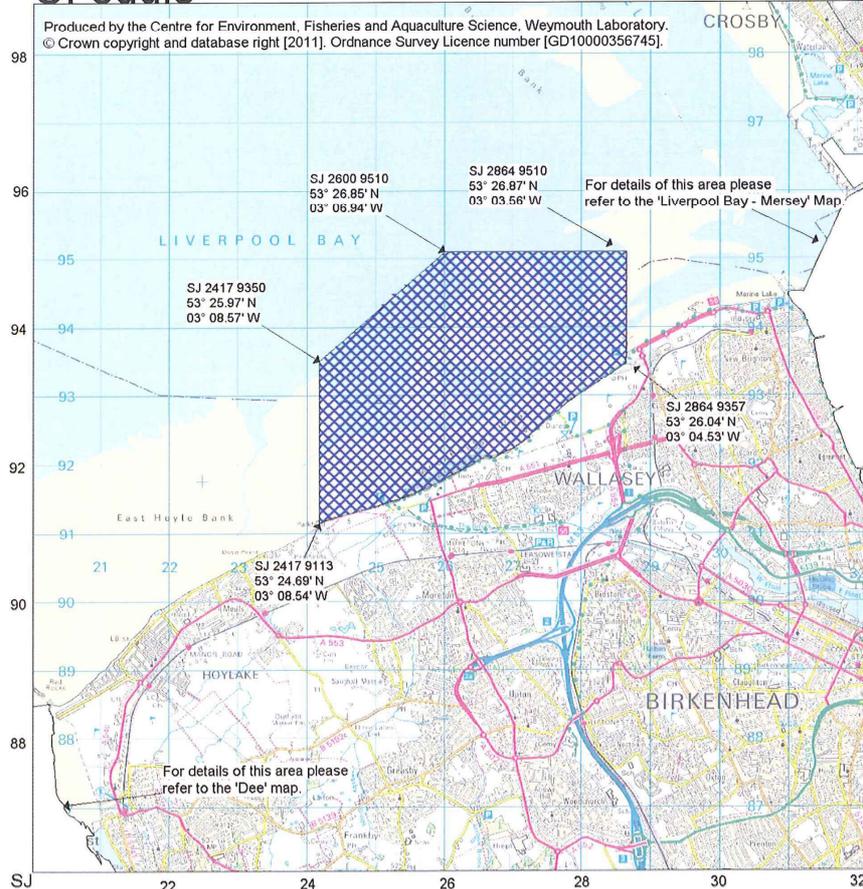
## **REFERENCE MATERIAL**

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
None	

# Liverpool Bay - N. Wirral - C. edule

Scale - 1:75000



Classification of Bivalve Mollusc Production Areas: Effective from 14 April 2011

The areas delineated above are those classified as bivalve mollusc production areas under EU Regulation 854/2004.

Further details on the classified species and the areas may be obtained from the responsible Food Authority. Enquiries regarding the maps should be directed to: Shellfish Microbiology, CEFAS Weymouth Laboratory, Barrack Road, The Nothe, Weymouth, Dorset DT4 8UB. (Tel: 01305 206600 Fax: 01305 206601)

N.B. Lat/Longs quoted are WGS84  
Separate map available for Mytilus spp. at Liverpool Bay - N. Wirral

Food Authority: Mersey Port Health Authority