

Report to - Cabinet
Date - 3 September 2018
Report of the - Executive Director
Subject - Launching and Landing of Personal Watercraft at Herbrand Walk, Bexhill

Recommendation: It be **RESOLVED:** That:

- 1) The action taken by the Executive Director to designate the existing boat lane at Herbrand Walk as a launch and recovery area for personal watercraft be endorsed; and
 - 2) The Executive Director be authorised to agree the location of any new launch and recovery areas for personal watercraft in consultation with the Portfolio Holder and relevant Ward Members.
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Head of Service: Joe Powell

Lead Cabinet Member: Councillor James Carroll

Introduction

1. There is one designated personal watercraft (PWC) launch and recovery point within Rother, situated at Rye Harbour. For some years, PWC users have chosen to launch and recover unofficially from the beach at Herbrand Walk causing local residents in Herbrand Walk to complain, particularly during the summer season when 4 or 5 PWCs may be launching and recovering from the beach on any one occasion if the weather conditions permit. The most recent complaints were received in mid-July 2018, raising the fact that the byelaws prohibit the launching and recovery of such craft at Rother beaches (other than at Rye Harbour) and that the PWCs pose a danger to swimmers.
2. There is signage at Herbrand Walk which states that PWCs cannot launch and recover from the beach. Coastal officers patrol the beach on a regular basis throughout the season, and, in response to specific complaints, have attended the beach promptly to request that PWC users do not launch and recover from the beach and should stop doing so with immediate effect. It is difficult for the coastal officers to take further action as they lack the powers to obtain meaningful personal information from the offenders. They would require police officers to support obtaining information in order to prosecute offenders as it is a criminal offence not to provide personal details to the police upon request.
3. In order to ensure Rother District Council is working with the most recent and relevant information officers sought legal advice and there followed a clear recommendation that the Council should designate an official launch and recovery area for PWCs, under the powers afforded to them by the Bexhill Seashore Byelaws. It was further recommended this designated launch and

recovery area should be in an accessible location along the Bexhill coastline as soon as practically possible and ideally in time for the August Bank Holiday 2018

4. The legal advice is offered on the basis that more people than previously are using the beaches to swim and enjoy water sports. Should a PWC user injure a swimmer when launching and recovering unofficially from Herbrand Walk the Council may be held liable due to the lack of provision of a designated launching and recovery area within a reasonable distance of where it is known that PWCs are being used.
5. Designating a specific area will enable the council to encourage PWC users to launch and recover safely and minimise risk to other water users.

Discussion

6. Officers have looked at which beaches in the district could support a PWC launch and recovery area.
7. A PWC launch and recovery area needs to have vehicular access to the edge of the beach, as the PWCs are driven to the edge of the beach, and then walked or winched to the water's edge using a trailer.
8. The majority of beaches in Rother do not have the necessary vehicular access to make them suitable for PWC launch and recovery. However five sites have been identified and investigated as potential designated launch and recovery areas as follows:
 - Galley Hill
 - Herbrand Walk
 - Normans Bay
 - Pett Level / Winchelsea
 - Rye Harbour (current sole designated launch site)
9. In each case, Rother would need to install new signage to indicate the launch and recovery area and install directional signage at known launch and recovery sites to direct PWC users to the correct designated area. In addition, unless an existing boat lane was used, there would be a further cost of approximately £1,200 to buoy the area. The buoys and chains will need to be replaced every two seasons. Due to tidal movement, the minimum width of a PWC launch lane would be 60 metres (current boat lanes are 100 metres wide).

Recommendations

10. The five options above are discussed in more detail in Appendix A and it is recommended that the existing boat lane at Herbrand Walk be designated as the PWC launch and recovery area.
11. Given the need to have the designated area in place before the August Bank Holiday weekend the Executive Director, in consultation with the relevant Ward Member, took the decision to implement the required designation.

12. The signage at Herbrand Walk will be amended and during the implementation phase it is proposed to work with the local police and coastal team to support the correct use of the launch and recovery area and appropriate behaviour on the beach during working hours. It is likely a Beach Patrol resource will be dedicated to Herbrand Walk during the Bank Holiday.
13. A joint operation / crackdown with Sussex Police may also be considered to support compliance and appropriate behaviours by users of the beach.
14. Officers will continue to monitor and assess the launching and recovery of PWCs and the appropriateness of any launch and recovery sites. Cabinet is asked to agree that the Executive Director is given delegated authority to agree future launch and recovery sites, in consultation with the Portfolio Holder and relevant Ward Members.

Malcolm Johnston
Executive Director

Risk Assessment Statement

The specific issues and risks are considered under each of the options but the overriding risk to the Council is that failure to designate a launch and recovery area for PWCs could result in legal action in the event of a swimmer being injured.

Consideration of Options for PWC Launch Areas

Option 1: Galley Hill

1. Galley Hill is situated 4 miles from the current unofficial launching and recovery area at Herbrand Walk, which is approximately 10 minutes' drive in light traffic.
2. Rother District Council owns a car park next to the Sea Angling Club. The car park is currently free to customers but this area will form part of the proposed East Parade renovation project and the introduction of Civil Parking Enforcement in the future may remove free car parking.
3. Access to the beach is currently restricted by a chain and should this become the designated area this chain would need to be replaced with bollards that would allow a trailer holding a PWC to access the beach (but not a vehicle).
4. Local residents are less likely to be impacted from the noise from PWCs as residences are situated on the opposite side of the road and set well back from the road edge, with a grassed area in between the road and the properties. The cliff may also offer a barrier to noise.
5. PWC users may find it difficult to launch and recover from this beach which has a steep gradient. Vehicular access to the beach is prohibited.
6. Sea Angling Club members may have concerns regarding increased noise / usage of the boat lane however they may wish to offer use of their winches to PWC users in return for a charge which may go some way to mitigate their concerns.

Risks:

7. A possible risk of designating Galley Hill as the launch and recovery point is the proximity to the outfall pipe which, at high tide is just below the water line and therefore not always clearly visible. The pipe is marked with buoys and has not posed a problem for Sea Angling Club members using the boat lane but could pose a risk to visitors who do not know the area (N.B. later in this report Members will note that the Environment Agency would not recommend a PWC launch area at Norman's Bay, in part due to a similar pipe).

Option 2: Herbrand Walk

8. PWC users are currently choosing to launch and recover from Herbrand Walk in contravention of the local byelaw. The beach is easily accessible from the road. There is an existing boat lane, and there is a gentle gradient to the beach.
9. There is vehicular access to the edge of the beach and designating Herbrand Walk as the designated launch and recovery site avoids the need to monitor potentially two areas – Herbrand Walk and a new designated area.

10. The beach has a village green status along its length which means that vehicles cannot drive across the village green onto the beach. Legal advice states that there is no restriction on transporting PWCs across the beach by foot on trailers, or by using winches. Vehicles are able to legally park up to one metre onto the shingle from the edge of the road.
11. The PWCs are not launching and recovering from the village green itself as Rother District Council owns the land from the mean high tide mark to the water's edge.

Risks:

12. A potential risk of choosing Herbrand Walk as the designated launch and recovery site is concern from residents who have already expressed their views about PWC users launching and recovering from the beach due to noise and perceived poor behaviour by the groups of PWC users. The near edge of the boat lane is 0.3 miles from the closest residence. The Council has worked previously with the Herbrand Walk Preservation Society to establish the existing byelaws.
13. Designating an approved launch and recovery area may lead to an increase in the number of PWCs using the area (currently 2-5 at any given time at Herbrand Walk).

Option 3: Normans Bay

14. Normans Bay is situated 2 miles from the current unofficial launching and recovery area at Herbrand Walk, which is approximately 5 minutes drive in light traffic.
15. The land and beach at Normans Bay is owned by the Environment Agency and so officers sought their position on the potential introduction of a launch and recovery point from Norman's Bay beach.
16. The Environment Agency advised the following:

For the avoidance of doubt, the Agency would not consider the Agency land holding at Normans Bay to be a suitable launch site. Principally because of the potential for unwarranted detrimental wear in and around the area of a flood defence asset. In addition, there are concerns with regard to management and Health & Safety as follows:

- *There is an inherent H&S risk at certain times every day when the outfall just off the beach is only just covered by the sea, so it is not visible. There is a risk that it could badly injure anyone hitting it because they were unaware of its presence.*
- *The road through Normans Bay East is privately owned and is no more than a rough track, and thus not suitable for increased traffic and in particular towed trailers.*
- *In fine weather the informal car park quickly fills up to overflowing so encouraging vehicles with trailers would further restrict parking.*
- *At the request of Normans Bay Residents Association we have placed old (groyne) land ties across the back of the beach to prevent 4x4s driving*

onto and along the beach and across private property. This is not consistent with being able to launch/recover personal watercraft.

17. Due to the communication received from the Environment Agency, Normans Bay cannot be considered further and has been discounted as an option.

Option 4: Pett Level / Winchelsea

18. Pett Level is situated 8 miles by road from the existing launch and recovery area at Rye Harbour, and 14 miles from the current unofficial launch and recovery area at Herbrand Walk, which is approximately 47 minutes' drive in light traffic.
19. Rother District Council does not own the beach at Pett Level or Winchelsea. These beaches are leased from the Crown and managed by the Environment Agency, and as such, Rother would need to obtain permission to place a launch and recovery point on either of these beaches.
20. The beaches are subject to a different set of Seaside Byelaws than Bexhill beaches, but the designated power to introduce a launch and recovery point is specified in these byelaws.
21. The distance that PWC users at Herbrand Walk would have to travel to use a site in this locality may be deemed unreasonable.

Risks:

22. There is a Coastguard Station and lifeboat launch point at Pett Level which could be a source of conflict regarding the safety of users, as could the proximity to a caravan park.
23. Legal advice indicates that, the further away the proposed launch and recovery area is from the existing un-official launch and recovery area (Herbrand Walk), the harder it may be to enforce as it may be deemed an "unreasonable alternative" being 14 miles by road from Herbrand Walk.
24. Due to the Coastguard Station and the access required for the lifeboat at all times, Pett Level should not be considered further as a designated PWC launch area.

Option 5: Rye Harbour

25. Rye Harbour is situated 26 miles by road from the current unofficial launch and recovery area at Herbrand Walk, approximately 50 minutes' drive in light traffic.
26. Rye Harbour has a slipway which is open year round and PWC users entering the water here travel along the River Rother for approximately 0.7 miles before reaching the sea.
27. There is parking available free of charge at the nearby Rye Harbour car park.
28. PWC users would be able to drive the PWC trailers to the slipway to launch and recover.

29. Rye Harbour is the only designated launch and recovery area for PWCs within Rother. It is not currently used by the PWC users who are frequenting Herbrand Walk.

Risks:

30. Legal opinion is that the site is too far from the unofficial launch and recovery area at Herbrand Walk for Rother to enforce as the only designated launch and recovery area as it may be considered unreasonable to request PWC users at Herbrand Walk to travel to a site 26 miles away.