

Annex C-3: Application of Chichester Harbour Conservancy

Your ref: MARI 016/003/0009

Our ref: G/Con/Pol/MNA/CHC

14 April 2014

Chichester Harbour Conservancy

www.conservancy.co.uk

Ports Governance Branch
Department for Transport
Zone 1/22
Great Minster House
76 Marsham Street
London
SW1P 4DR

Dear Sir

Application for Designation with Powers to make Harbour Directions

Chichester Harbour Conservancy (CHC) was formed by the Chichester Harbour Conservancy Act 1971 and is both the Statutory Harbour Authority for Chichester Harbour and the Joint Advisory Committee for Chichester Harbour AONB. This application seeks the designation of CHC with the powers to make harbour directions under new sections 40A-40D of the Harbours Act 1964 as inserted by section 5 of the Marine Navigation Act 2013.

Rational for Acquiring Powers of Harbour Directions

The Port Marine Safety Code (PMSC) recommends harbour authorities to review and be aware of their existing powers to ensure they are still relevant to the safe operation of the harbour. It recommends that additional powers should be sought by a harbour authority, if a risk assessment concludes that this would be advisable.

Risk assessments demonstrate that the current mix of activities in Chichester Harbour is well controlled by byelaws, and that the Conservancy also has relevant powers in exceptional circumstances through Special Directions. However, risk assessment also highlights the well documented delays in acquiring new byelaws, and the delays and high costs associated with obtaining powers of General Directions through a Harbour Revision Order. Consequently, new risks identified in current activities, or risks posed by new activities may not be controlled adequately in a timely way.

Powers of harbour directions would bridge this gap and may facilitate better use of the harbour by providing sufficient controls to allow activities or events that may not otherwise be supportable. They also offer the flexibility of temporary harbour directions.

Current Byelaws

The current byelaws are wider in scope than harbour directions. They apply to a broader range of craft and are not confined to waterborne activities. It is not envisaged, at this stage, that any current byelaws will be superseded by harbour directions. It is acknowledged and accepted that there must not be any conflict between byelaws and harbour directions. If, in the future, any proposed harbour direction overlaps with a byelaw, the byelaws will be amended accordingly.



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Code of Conduct

Chichester Harbour Conservancy supports and signs up to the "Code of Conduct on Harbour Directions". The Conservancy will set up a Port User Group (PUG) to consult on proposed harbour directions. The PUG would also play a key role in dispute resolution. The Conservancy undertakes to consult widely with Harbour users on any proposed harbour directions.

Port User Group

The proposed PUG is drawn as far as possible from the marine members of Chichester Harbour Conservancy's statutory Advisory Committee. It is considered that Sussex Inshore and Fisheries Conservation Authority (SxIFCA) as a regulating body are not a suitable member of the PUG, it is however important that commercial fishermen are represented. Membership has therefore been modified so that the Advisory Committee nominate a representative of local licensed fishermen. The PUG will be made up as follows:

- 4 Chichester Harbour Federation
- 1 British Marine Federation representing marinas, boatyards and marine businesses
- 1 Anglers
- 1 Royal Yachting Association
- 1 Professional Boatman's Association
- 1 Representative of local licensed fishermen to be nominated by the Advisory Committee.

(9 members in total)

Consultation

8,500 harbour users were consulted by email 17 February 2014 outlining the proposals for Chichester Harbour Conservancy to seek powers of harbour direction and seeking user's views as to whether Chichester Harbour Conservancy was a suitable body to receive powers of harbour direction and whether the PUG fairly represented harbour users. The consultation was also highlighted prominently on the Conservancy's website. Chichester Harbour Federation consulted widely with their membership.

12 private individuals responded to the consultation, and a further 2 raised queries but did not indicate their support or objection. Of the 12, 11 thought that the Conservancy was a suitable body, while 1 objected to any increase in intervention. Responses relating to the PUG were generally supportive, although 3 raised concerns; one suggested that BMF and RYA should not be represented as they did not represent sufficient harbour users, and 2 judged that Chichester Harbour Federation focused too much on racing. One of these asked that cruising dinghies should be represented by the RYA.

Wider considerations included a recommendation for a mandatory policy review of any new harbour directions after 2-years.

Responses were also received from the RYA and Chichester Harbour Federation; both were supportive of the proposals in general except that neither thought that SxIFCA should be represented on the PUG as they were a regulatory body.

Consultation was undertaken with the statutory Advisory Committee, who resolved to support the proposal to apply for powers of harbour direction, and to establish the PUG at their meeting 7 April 2014.

General

Please accept this letter as Chichester Harbour Conservancy's application to be designated with powers of Harbour Directions. Detailed below is the signed Annex A Assurance.

Yours faithfully

Pieter Montyn
Chairman
Chichester Harbour Conservancy

Annex A – Assurance

I confirm that the following resolutions of the Chichester Harbour Conservancy were duly passed at a meeting of the Chichester Harbour Conservancy on 14 April 2014.

The harbour authority has had regard to the content of and agrees to comply with the code of conduct on harbour directions, in particular:

a) to maintain a Port User Group and to apply a dispute resolution procedure such as is set out in the code of conduct when required; and,

b) to have regard to supplementary guidance issued from time to time by the National Directions Panel on the subject of harbour directions.

The Chairmen is authorised to apply to the Secretary of State for Transport for Chichester Harbour Conservancy to be designated as a designated harbour authority for the purposes of section 40A of the Harbour Act 1964.

Name

Mr Pieter Montyn

Signed

Date

14 April 2014