

Department for Environment, Food and Rural Affairs

Consultation on the proposal to remove Newhaven from the list of designated bathing waters

Summary of responses

January 2016

Background

Bathing waters are popular beaches and inland waters that attract a large number of bathers and have been designated under the Bathing Water Directive (2006/7/EC). Water quality is tested during the bathing season, which in England runs from 15 May to 30 September, for compliance with the Directive's standards. The objective is to protect bathers' health against faecal pollution.

The Directive applies to “...any element of surface water where the competent authority expects a large number of people to bathe and has not imposed a permanent bathing prohibition...” (Article 1.2).

The designated bathing water at Newhaven, known as West Beach, is situated within the harbour wall and has been closed to the public since 2008 by the owner, Newhaven Port and Properties. A harbour bye law has been invoked to prohibit bathing. Defra proposes to remove the site from the list of designated bathing waters because bathing is not permitted.

On 10 August 2015 Defra launched an informal consultation by publishing the evidence for de-designation on its website and emailing it to key stakeholders. The consultation ran until 30 September 2015.

Analysis of responses

We received 93 individual responses to the consultation.

- Three, including Newhaven Port and Properties, are in favour of de-designation;
- 87 oppose de-designation;
- The response from Southern Water commented on its wastewater treatment assets in the vicinity but did not express a view on the de-designation proposal;
- One respondent suggested the sampling point could be moved from its present position inside the harbour to a position on the adjacent pebble beach. The beaches are separated by the harbour wall so this would effectively be a new bathing water designation;
- Newhaven Town Council has asked for the shingle beach to the west of the harbour to be designated as a bathing water and for West Beach to be reinstated on the list of bathing waters if it reopens in the future.

There were also 15 replies that used wording from a campaign to oppose de-designation.

The response from Newhaven Port and Properties states that bathing has been prohibited at the beach since the harbour bye laws were made in 1931. Bye law 68 prohibits bathing

within the part of the harbour covered by the beach and bye law 80 makes breaching the bye laws a criminal offence. Newhaven Port and Properties has no plans to remove the fencing that prevents access and considers that if the beach were to be reopened and remain a designated bathing water, its statutory duties and responsibilities as a harbour authority would be undermined.

Six respondents in addition to the Town Council commented that Newhaven has other beaches that are used for bathing. These are not designated as bathing waters and we will consider any applications that we receive for designation in line with the established process. Newhaven Town Council has been advised of the evidence that will be needed. Some respondents suggested that the designation should be retained because other beaches in Newhaven are used for bathing. Water quality is unlikely to be the same at these sites as in the harbour and these areas will be considered as new designations if an application is submitted.

Eighteen respondents commented on water quality, six of them using the wording from a campaign opposed to de-designation. The Environment Agency last sampled water quality at Newhaven in 2007 when it met the mandatory standard of Directive 76/160/EEC, which was then in force. The consultation document on the proposed de-designation stated that no information about water quality is available.

Final decision

Newhaven Port and Properties has enforced a bathing prohibition based on harbour bye laws that have been in place since 1931. Newhaven should no longer be a bathing water because a bathing prohibition has been introduced and measures have been taken to enforce it. The beach will be removed from the list of designated bathing waters before the 2016 bathing season.

The way forward

The European Commission will be notified of the decision when the annual bathing water inventory is submitted before the beginning of the 2016 bathing season.

We will consider any application that is submitted for another beach in Newhaven to be designated as a bathing water. The evidence needed for a new designation is explained on our web page: <https://www.gov.uk/government/publications/designation-and-de-designation-of-bathing-waters>

Annex A: list of respondents

Newhaven Port and Properties

Newhaven Town Council

Southern Water

Surfers Against Sewage

104 private individuals



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