

D N Thorpe
Secretary
The Kent Wildfowling & Conservation Association
20 Osbourne Gardens
HERNE BAY
CT6 6SH

secretary@kentwildfowlers.co.uk

18th February 2010

Your ref: Letter Dated 12th December
Our ref: R00182

Dear Mr Thorpe

Freedom of Information Request – SEEDA Funding

Thank you for your Freedom of Information Request, which you clarified on 22nd December 2009.

Your request to SEEDA is:

“We require you to send us copies of all correspondence between SEEDA and the Environment Agency relating to the recent disposal of land to the RSPB at Harty Marshes between the dates 1st January 2008 and 30th November 2009.

We require you to send us copies of all correspondence between SEEDA and the RSPB relating to the recent disposal of land to the RSPB at Harty Marshes between the dates 1st January 2008 and 30th November 2009.”

Information Held

SEEDA has conducted a thorough search to find the requested correspondence and can confirm that it holds the Emails listed overleaf, together with the attached documents.

Environment Agency Correspondence

List of Emails held:

1. Email dated 24th Sept 2008 13:49
2. Email dated 24th Sept 2008 15:05
3. Email dated 25th Sept 2008
4. Email dated 26th Sept 2008
5. Email dated 4th Nov 2008
6. Email dated 18th Nov 2008
7. Email dated 21st Nov 2008
8. Email dated 1st Dec 2008 Attachments; Form 2a, MPC Paper
9. Email dated 15th Jan 2009

RSPB Correspondence

List of Emails held:

10. Email dated 1st Dec 2008
11. Letter dated 1st Dec 2008 Attachment; Letter 1
12. Email dated 22nd Dec 2008
13. Email dated 15th Jan 2009
14. Letter dated 15th Jan 2009 Attachment; Letter 2
15. Email dated 29th Jan 2009
16. Email dated 4th Feb 2009
17. Email dated 16th Feb 2009 Attachments; Map 1 and Map 2
18. Email dated 20th Feb 2009
19. Email dated 17th Mar 2009 Attachments; Revised Spec, Map 3 and Map 4
20. Email dated 6th Nov 2009 Attachments; Land Drain, Incomplete Structures

Background

The following commentary has been provided to clarify the context of the Correspondence:

- The Environment Agency withdrew from discussions at the end of December 2008 as it had secured alternative replacement land.
- The proposed approach in Form 2a was changed following the withdrawal of the Environment Agency and discussions with SEEDA's lawyers that highlighted the need to remove any grant funding to the RSPB and to treat it as a disposal. Under the RDA Act 1998 SEEDA is allowed to dispose of assets at market value without a specific requirement to go to the open market. To demonstrate the validity of this approach the disposal values were certified by a 'red book' valuation from an independent Chartered Surveyor.

- The RSPB was selected as a result of discussions with the private sector partners who required confidence that the party responsible for managing the land in perpetuity would have the capability and resources to do so. The ownership of the replacement land and the future liability for its management was transferred to the RSPB on this basis.

In summary the final structure of the agreement was that SEEDA purchased in its name 60ha of land, with funding provided by:

- The Homes and Communities Agency for 20ha.
- The private sector for the remaining 40ha (Goodmans and The Crown Estate).

As a contractual requirement of the private sector funding, 28ha was subsequently transferred to the RSPB. The Crown Estate retained ownership of 12ha. SEEDA retains 20ha to be disposed of at a later date with the funding to be repaid to the Homes and Communities Agency.

Process Followed

We have consulted with the Environment Agency, RSPB and the Crown Estate to check their opinions on the release of the information contained in this correspondence.

We have reviewed all the material, and applied Public Interest Tests to all the information subject to the exemptions listed overleaf. To clarify our approach, and ensure it is applied consistently, we have formally defined an Information Disclosure Policy, for this particular request, which is based on SEEDA's Information Charter, also taking into account the particular issues concerning the Transfer of Land Harty Marshes.

Finally we have applied the Disclosure Policy to all the Emails and Documents held, producing the documents to be disclosed.

Exemptions Considered

The exemptions we have considered are:

- Section 40(2) Personal Data, the release of which is likely to breach the Data Protection Act 1998
- Section 41 Information provided in Confidence
- Section 43(2) Information whose release would be prejudicial to the Commercial Interests of any person

Information Disclosure Policy

| Exemption | Disclosure Policy and Rationale |
|--|--|
| Section 40(2) Names, email addresses and other Personal Data | SEEDA's Policy is that is not in the public interest to disclose the names of individuals unless they are Senior SEEDA Staff, who are asked for their consent, or individuals who are already well known in the public domain. No other Personal Data will be disclosed without consent. In this case all names of individuals concerned with the Land Transfer at Harty Marshes have been redacted. |
| Section 41 Confidential Information | One example has been considered of information provided in confidence. The information was only confidential for a short time when it was provided to SEEDA and the Environment Agency has now agreed to its disclosure. |
| Section 43(2) Commercial Information | Commercial information has been redacted, as although it is the public interest to see how public money is being spent, the disclosure of commercial strategy would have a detrimental effect on SEEDA's mission because of the negative impact on SEEDA's role as a trusted commercial partner and particularly its ability to obtain the best price for selling surplus land at Harty Marshes. Thus we have only provided the Project Statement and Options Identification extracted from the Form 2a and have not provided the MPC paper, which were both sent to the Environment Agency on 1 st Dec 2008. |
| Email Header and Footer information | Information is not disclosed as it is not relevant to the FOI request. |

Implementation of Information Disclosure Policy

The Disclosure Policy has been implemented for:

- Emails by editing the original Emails to redact (remove) the exempt material and creating a new copy. Redactions are **highlighted**.
- Other documents:
 - Adobe Acrobat Documents; by printing a hard copy, manually redacting exempt information and rescanning the document.
 - Word Documents; by editing the original to redact (remove) the exempt text and creating a new copy. Redactions are **highlighted**.

The resulting documents have been provided as separate Appendices and Attachments to this letter.

Important Notes

The correspondence reflects views that were recorded at the time and may not reflect the current position of the parties involved.

The information we have supplied to you may contain intellectual property rights. Your use of this information must be strictly in accordance with the Copyright Designs and Patents Act 1988 (as amended), or other applicable legislation. If you would like to re-use this information for any commercial purpose please contact the SEEDA Information Team at FOI@SEEDA.co.uk.

Disclosure Log

This information will also be made available on SEEDA's Freedom of Information Disclosure Log on the SEEDA website:

[www.seeda.co.uk/About SEEDA/Freedom of Information disclosure log/](http://www.seeda.co.uk/About_SEEDA/Freedom_of_Information_disclosure_log/).

Personal details and other information that could identify requesters are redacted (removed) from the Disclosure Log version.

Conclusion

If you are not satisfied with the way we have handled your request, or if you are unhappy with our response, you can appeal using our Complaints Procedure as follows:

A request for a review should be addressed to Oona Muirhead, Group Executive Director, Strategy & Resources, and sent by email to:

oonamuirhead@seeda.co.uk or by post to SEEDA, Cross Lanes, Guildford, GU1 1YA. You will be notified of the outcome within 20 working days.

If you are still dissatisfied after pursuing our Complaints Procedure, then under Section 50 of the Act, you are entitled to appeal to the Information Commissioner (Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF, telephone: 01625 545700, fax: 01625 524510).

Please contact me if you have any other queries.

Yours sincerely



Paul Lovejoy
Executive Director, Strategy

Direct Dial: +44(0)1483 484236
e-mail: paullovejoy@seeda.co.uk

Attachments:

Appendix 1: Environment Agency Correspondence

Appendix 2: RSPB Correspondence

Appendix 3: List of Email Attachments and Other Documents
(Individual documents provided separately)

Appendix 1: Environment Agency Correspondence

**1. Email dated 24th September 2008 13:49 From Environment Agency to SEEDA
Subject: Business Case for Harty Marshes**

After consulting Procurement it appears we will have to seek PAB approval twice! Once for approval to proceed (as it is a partnership project) then for approval for the project. This means I will be submitting the first paper this Friday. If you could send through your business case asap that would be much appreciated!

**2. Email 24th September 2008 15:05 From Environment Agency to SEEDA
Subject: Business case for Harty Marshes**

Would it be possible to have a copy of your valuation report also?

**3. Email dated 25th September 2008 From the Environment Agency to SEEDA
Subject: Harty Land Purchase**

I've been having various conversations today with different departments whilst consulting on my project mandate for the Harty land purchase which has raised a few queries. Please can you assist with these?

Do SEEDA have CPO powers? If so, has the Chichel Down principle been considered?

Have you undertaken an EIA, if so please can we have a copy?

We would like to be involved in developing the tender documents/proposal for future management of the site and possibly the bid appraisal. Would this be possible? This would give our procurement department greater confidence in this part of the process, also I understand NE would be happy to help us with appraising any bids.

I remember you mentioned you have some kind of contract with the **Land Owner**, please could you remind me what this entails as our procurement team are keen to understand how we can be confident he will deliver the works. Also, please could you confirm whether our contract remain with you for this work, or would we be directly contracting the **Land Owner** - presumably it is the former?

With regard to **Name Redacted** wanting to manage any freshwater compensation, I've spoken to Natural England and this has not yet been decided. We have a meeting with **Name Redacted** on the 6th October where we will be discussing his requirements. In the meantime, I would suggest we include his organisation on the circulation list for the tender, as discussed yesterday with you.

I am out of the office tomorrow, but if you are free to discuss these issues I would be grateful if you could give me a call

**4. Email dated 26th September From SEEDA to Environment Agency
Subject: Harty Land Purchase**

1) SEEDA do have CPO powers but this purchase is by agreement and therefore Chichel Down's principle does not apply

2) It is the view of our planning consultants that the work required does not require planning permission as they are classed as agricultural operations. Therefore an EIA would not be required.

3) I see no issue with you being involved in the production of the management plan. The lead on this will be our environmental consultants Campbell Reith Hill who have extensive experience in preparing these kind of documents with NE who will obviously be the key body to consult.

4) At the moment we only have an informal agreement with the **Land Owner**. No formal offer or heads of terms for the contract have been agreed yet but the requirement for the works to be carried out will be included within the contract as an obligation for **Land Owner** to carry them out. Obviously the incentive for him to actually do the works is that he won't get paid until that happens. If he fails to carry out the works there will be a termination clause in the contract whereby he forfeits the works element and this will leave us free to appoint a contractor directly. In terms of our relationship EA will have to be party to the acquisition contract with both SEEDA and the Crown Estate and therefore we will all have a contractual relationship with the **Land Owner**. In terms of procurement we do not see this as an issue as it is a condition of the sale imposed by the **Land Owner** and therefore there is no option for us to tender the works separately.

5) OK, obviously it would be better if there wasn't a requirement from **Name Redacted** as it limits our ability to get the best deal for the future management. It is assumed at the moment that his organisation would be on the list for the tender of the future management.

**5. Email dated 4th November 2008 From the Environment Agency to SEEDA
Subject: Harty Marshes**

Please could you advise whether SEEDA have been successful in negotiating a better land purchase/habitat creation cost price split for Harty Marshes? As discussed a few weeks ago, our PAB are unhappy at the cost of the land and I think that currently we may find it difficult to get this approved. Please could you advise of any progress asap?

**6. Email dated 18th November 2008 From the Environment Agency to SEEDA
Subject: RHCP info**

The Regional Habitat Creation programme provides a strategic and proactive approach to enable the Environment Agency to meet its legal and corporate habitat creation targets in a structured and efficient way.

The Environment Agency have legal and corporate targets to create habitat. These include;

- Compensatory habitat when Natura 2000 habitats are damaged or lost,
- Defra SSSI PSA target for favourable condition of SSSIs and
- Annual BAP habitat creation targets.

The Habitat Creation Programme assesses all these habitat requirements and puts in place a programme of works to provide the necessary habitat. This includes the needs of the Environment Agency and those of Local Authorities where these have been made available.

**7. Email dated 21st November 2008 From the Environment Agency to SEEDA
Subject: Harty**

Hope you got your business case in ok! Just wondering how you got on with the RSPB query, and if we could see a copy of the final business case?

<<RSPB re Neats Court Replacement Habitat Land 011208.doc>>

8. **Email dated 1st December 2008 From SEEDA to The Environment Agency**
Subject: Harty
Attachments: 2a Neats Court and North Kent compensatory land SE24133.doc; Neats Court compensatory land MPC paper final.doc

Please find attached a copy of my appraisal papers for the Harty acquisition.

There are 2 reports as they go to different levels for approval but the paper titled MPC is the more simplified version.

As discussed you will see we have proceeded on the basis that RSPB will be grant funded to step in as the acquiring body. You will see that the total acquisition costs is **Amount Redacted** which for information is broken down as follows:

Amount Redacted land cost

Amount Redacted works

Amount Redacted fees, stamp duty, engineers and environmental consultants. This is a maximum and the final figure will be the actual cost incurred in the following:

- Identifying the land
- Engineers fees for the preparation of the works specification, drawings and management plan
- Environmental consultants fees for liaison with NE
- Stamp duty
- Agents fees
- legal fees for the preparing of the contract

Therefore the maximum contribution sought from the EA would be **Amount Redacted** for 39 ha. Which is calculated as follows:

Amount Redacted for the land (**Amount Redacted** per acre) (spend 08/09)

Amount Redacted for the works (spend spread over 08/09/10)

Amount Redacted contribution to fees (spend 08/09)

Contrary to what we discussed previously the spend on the land would be incurred this financial year plus associated fees. The spend on the works will be spread over financial year 08/09/10 although we have yet to agree the final split.

Just to confirm we have the approval to go ahead with this project and provide the initial SEEDA contribution but this is obviously subject to EA confirming funding for your element and also agreeing terms with RSPB.

Please have a look at the papers and let me know if you require any further information.

9. **Email dated 15th January 2009 From the Environment Agency to SEEDA**
Subject: Great Bells

Sensitivity: Confidential

Just to confirm (in confidence) that the final figure for Great Bells Farm was £1.755m. Hope this helps with your negotiations!

I'm meeting with one of our managers tomorrow and I'll ask about the possibility of 15ha at Great Bells and get back to you.

Appendix 2: RSPB Correspondence

10. **Email dated 1st December 2008 From SEEDA to the RSPB copied to the Environment Agency**
Subject: Land at Harty Marshes
Attachments: RSPB re Neats Court Replacement Habitat Land 011208.doc

Following our recent meeting at the EA offices please find attached correspondence as discussed.

If you could please have a look at let me have a response as soon as possible it would be much appreciated. In the meantime please feel free to ring me if you wish to discuss any of the points.

11. **Email dated 22nd December 2008 From RSPB to SEEDA**
Subject: Harty Marshes Management costs

We have been doing some work on costings, it is quite difficult and there are quite a few questions that we need answers to before we can come up with accurate figure but you have asked for a rough indication and I hope that the following will be helpful. (Please do not quote these figures more widely until we have had a chance to double check them)

We think that the most incontrovertible management costs can be derived from the Governments own ELS and HLS schemes. This results in the following:

Annual revenue income based on current agri environment payments for 64 ha.

ELS basic rate @ £30 per ha = £1,920

HLS HK9 (Breeding waders) 90% @ £335 per ha = £19,296

HLS HK10 (Wintering water birds)@ £255 per ha = £1,632

Total £22,848 pa

Ten years payment (without interest or increase) = £228,480

Capital Expenditure

(Note not entirely clear what is already included)

Production of management plan x 2 years 1 & 5 = £2,000

Topping to control injurious weeds years 1-10 = £2,500 (This would assume natural seeding)

Weed wiping to control injurious weeds years 1-10 = £17,000

Cattle Coral year 1 = £30,000

Sub soiling years 1-5 = £4,000

Manure application year 1-5 = £1,000

Predator control fencing year 6 = £3,000

Rabbit control year 1-10 = £2,000

Access between NNR and 64 ha ?

Total £61,500

Combining the total Revenue and Capital ELS and HLS income over ten years would produce a total of £290,000 at today's prices

Grazing income

Sadly, grazing income is likely to be negligible.

Staffing costs

We would not expect ELS and HLS to cover all staffing costs for an RSPB reserve.

Fortunately we have a nearby reserve with existing staff and machinery, however we would anticipate that there would be significant staffing costs over the first five years in the order of £20,000 per year . This would probably drop in relative terms to £15,000 for the remaining five years, so staffing costs over 10 years (at today's prices) would be £175,000 I would guess that about half this cost would be covered by ELS and HLS. So staffing would cost an additional £87,500

Visitor management

We are assuming that there would be no visitor management costs in the first ten years and that the whole site will be effectively maintained as a refuge. We have not looked at this assumption in relation to the neighbouring NNR and it might be possible that some viewing provision may be desirable, accessed from the NNR. If this becomes apparent then additional funding would be required.

Some questions:

Is there a piped water supply for livestock? If not then this will need to be added to the capital costs. The price will depend upon the nearest mains supply.

Is there road access via a bridge from the NNR which would enable the two sites to be managed together.

According to the Medway Estuary and Swale Shoreline Management Plan, all the southern 25 ha area identified for the Crown Estates compensation will be lost to sea level rise is there a conflict with the Neatscourt objective of providing compensation wet grassland in perpetuity?

Are reptile mounds really necessary? As far as we know, only the common lizard occurs on Sheppey and we would therefore question the value of mounds.

The proposal indicates seeding with appropriate grass mix which in our experience is more expensive and less effective than repeated topping and natural colonisation with a little local sourced hay spreading.

It is our experience that the best arable reversion result, especially where there are adjacent areas of grazing marsh is repeated topping, with the possible addition of hay from a local source to aid seeding. This saves upon the expense of seeding and results in a better sward development.

I will need to check on dates for our postponed meeting so will come back to you with them shortly

- 12. Email dated 15th January 2009 From SEEDA to RSPB**
Subject: Harty marshes
Attachments: RSPB re Harty Marsh Replacement Habitat Land 150109.doc

Copy of letter as discussed. Plan to follow but for information the 28 ha will be the eastern 2 fields adjacent to the existing NNR.

- 13. Email dated 29th January 2009 From RSPB to SEEDA**
Subject: Land at Harty Marshes

I promised to let you know the outcome on the discussion at our senior management acquisition group. I am pleased to say the terms as set out in the letter were approved although we should like the first payment not to be due until April 2010 and the second in April 2011. This is due to budgetary commitments elsewhere and we would fully expect the recreation work not to be completed until Spring 2010. Otherwise we have no further amendments. We need to get our full Board approval to this scheme at their meeting on 24 February - I am confident they will approve - but it will dictate when the agreements can be signed and this might be a little later than the 27 Feb date you give in the letter. There is nothing to stop us getting the legals underway in the meantime if you agree the amendments, so no time is lost.

- 14. Email dated 4th February 2009 From SEEDA to RSPB**
Subject Re: Land at Harty Marshes

I respect of the dates this is fine. It is unlikely the agreement will be ready until I first week of March but as we have an absolute deadline of the end of March we want to make sure we want to focus all the other parties on agreeing legals as soon as possible. In order to progress documents can you let me have the details of your solicitors so I can arrange for draft papers to be circulated.

With regard to the payment structure the splitting of the payment over 2010 and 2011 is not going to be feasible. The budget we have available to forward fund the purchase is time limited and after some discussion previously we agreed that the most we could accept would be to split the contribution, but it would have to be financial year 09/10 and 10/11.

The main reversion works will be completed by December this year and as background to this the Crown are insistent that the contribution is paid in full at this point, and therefore concessions have already been made to split the payment.

I have left a message for you to ring me as I think it would be worth having a discussion about the payment timings.

- 15. Email dated 16th February 2009 From SEEDA to RSPB**
Subject: Harty marsh
Attachments: 9836-2-E125-D3 leysdown 60 ha.pdf; 1000-020-C-002 A1 (1).pdf

Draft scheme of works as discussed.

This will be replaced by a slightly amended plan and specification which is currently being produced. I will let you have a copy ASAP, but should be by the end of this week. The amended plan will not have any significant changes to this draft.

I also attach a land plan (1000-020/c-002) showing the whole area SEEDA is to purchase (60ha) with the first 28ha to be transferred to RSPB for the initial reversion coloured pink.

Any queries please let me know.

16. Email dated 20th February 2009 From RSPB to SEEDA
Subject re: land at Harty Marshes

Just to confirm that we are able to make payments in 09/10 & 10/11. Thanks for sending through the drafts of the scheme of works drawings. I will give you a ring after the Board Meeting next Tuesday.

17. Email dated 17th March 2009 From SEEDA to RSPB
Subject Re: Harty marsh
Attachments: revised spec.pdf; 1000-020-C-600r02.pdf; 1000-020-C-601r01.pdf

For information final works plan and specification agreed with Natural England.

Our lawyers will be issuing this shortly.

18. Email dated 6th November 2009 From RSPB to SEEDA
Subject: Harty Marshes
Attachments: Land Drain.doc; Incomplete structures 11_09.png

I've been down to Harty again in the last few days and I've a few points that I'd like to raise regarding the work that is going on over there. These are:

1. From what I've seen, it doesn't look to me like the land drainage system in fields 1055 & 8443 has been disabled at all. You can see where the drains have been cut through around the boundaries and rill excavations (see 'Land Drain'). These all need to be sealed (i.e. excavated back from the edge by at least two metres and the excavation in-filled with clay) otherwise the whole hydrological scheme will be scuppered before a drop of water ever goes into these features. Furthermore, it really needs to be done now while there is such minimal vegetation present or we'll never find all of them again.

For the next points please refer to 'Incomplete structures 11_09':

2. Blue dot - There is supposed to be a new connection to the NNR drain at this point (7 on drawing 1000-020-C-600r2) which I have been told is not being installed. I'm a little perturbed about this one as I've since found out that this is a vitally important hydrological link between the NNR and our land. Despite having two IDB drains either side of the NNR and the whole Harty area, it seems that this is the main drainage ditch for the NNR and the best source of surplus water for us.
3. It would be extremely useful to have a hydrological link between point A and point B. At present, there are two dams along this route (green dots). There is no problem having the dams along this route, but it would be well worth having pipes with control structures (i.e. elbows) within these dams to allow us access to water flows.

Unless I'm completely missing something, if the situation with 2 & 3 is left as it is at present, we are in danger of being completely cut off from any external water source other than rainfall!

4. Red dot - It would be useful to have a dam at this point, again with a pipe & elbow. The control structure can be left in the closed position to alleviate the issue with excess water flooding field 5541 while the **Land Owner** is still cropping this field, but it would be ready for use once the field is handed over to us.
5. Yellow dot - The dam/culvert at this point is supposed to be removed to allow this ditch to become the new IDB drain, however it is still in situ.
6. There still seems to be quite a lot of work to be done to get the rills to a suitable spec. Have the contractors given you any indication as to when they think they will be finished?

Please excuse me if these issues are being dealt with and I'm being a little over-eager. However, if these are not 'on the radar', then it would be extremely prudent to address these points.

Appendix 3: List of Email Attachments and Other Documents

List of documents provided separately:

1. Form 2a - SEEDA Project Assurance Board Harty Marshes Draft Paper
2. Letter 1 - RSPB Letter 011208
3. Letter 2 - RSPB Letter 150109
4. Map 3 - Harty Marsh Land Site Works
5. Map 4 - Harty Marsh Land Designation
6. Revised Spec - Specification for works at Harty Marshes
7. Map 1 - Harty Marsh Specification
8. Map 2 - Harty Marsh Specification (Duplicate of above)
9. Land Drain - Photograph of a land drain.
10. Incomplete Structures - Map highlighting incomplete structures at Harty Marshes