

Freedom of Information Request - Betteshanger Business Park and Fowlmead Country Park

In our initial response of 19th July we explained that we were unable to respond to your request for information in full and that we would provide you with a further response to cover off any outstanding issues. I note that on the 20th July and on the 22nd July you contacted us to request clarification of some of the information disclosed to you in our initial response of 19th July.

I understand that you are aware that on the 1st August 2011 responsibility for the Coalfields Programme, which includes Betteshanger Business Park and Fowlmead Country Park, transferred to the Homes and Communities Agency (HCA) under Section 51 of the Housing & Regeneration Act 2008. As part of the handover to HCA, SEEDA have ensured that the HCA are aware of your concerns regarding the site and we will supply them with redacted copies of your relevant Freedom of Information Act 2000 requests, as published on our website.

Please find our final response to your various requests for information which were made on the 20th June and 23rd June 2011. In our recent correspondence we have explained that SEEDA's project manager would be prepared to meet with you to discuss any remaining concerns you may have regarding the management of the site during the period it was in our ownership. We will also try to arrange for representatives from the HCA to attend this meeting, as any further questions or concerns you may have regarding the ownership and future management of the site should be directed to the HCA.

Q1) Please explain why Intercrop are using the name Fowlmead Limited?

As explained Fowlmead Ltd is a subsidiary of Intercrop Limited that was set up with the specific objective of managing Fowlmead Park and ensuring suitable facilities for all visitors. The agreement to manage the Country Park which was in place with Intercrop Limited was transferred to Fowlmead Limited once the dedicated company was established.

Q2) What access rights do Intercrop or others have to Betteshanger Business Park and Fowlmead Country Park?

In your recent correspondence you asked us to confirm why Intercrop Limited, the parent company of Fowlmead Limited, has access rights to Betteshanger Business Park and Fowlmead Country Park. I can confirm that Intercrop Limited have no specific rights of access to Betteshanger Business Park beyond that afforded to the public in general. Any access rights granted by SEEDA to Intercrop Limited were transferred to Fowlmead Limited once the dedicated management company was established. However SEEDA understands that in order to conduct its business effectively and properly Intercrop Limited, as parent company of Fowlmead Limited, may require occasional access to any land or buildings managed and used by the subsidiary company.

During the period the site in question was within SEEDA's ownership we ensured that any access granted to third parties was done so in order that the site could be managed

effectively and for the benefit of the region's economy. Throughout the period of our management there has been ongoing consultation with representatives of both the local community and the relevant Local Authorities regarding the usage of the overall site and particularly in relation to the Country Park; which we believe has been managed effectively and for the benefit of the local community by Intercrop Limited, and subsequently Fowlmead Limited, since 2007. Should you have any further queries regarding current access rights to the site, these should be directed to the HCA.

Q3) How is it that Intercrop was granted renewed management agreements?

In your recent correspondence you elaborated on this element of your request and provided clarification in regards to the period which it relates to.

In your email of 22nd July you state that your expression of interest in purchasing and/or running the entire site goes back 10 years. As explained above, SEEDA have been in ongoing consultation with local parties since the site was transferred to the Agency from English Partnerships in 1998. However we only became aware of your interest when you raised the matter directly with us in correspondence you sent to us during May 2010. Since that time we note that although you have made three other Freedom of Information requests and provided various comments regarding your views on the current usage of the site, we have no record of having received a formal proposal from you, or the Trust you have referred to, in regards to the ownership or management of either the Business Park or the Country Park.

The site has previously been up for sale on the open market since the beginning of 2008. Expressions of interest in the long term management and freehold transfer of the Country Park were sought in 2007, as advertised in a press release on our website – please see link below:

http://www.seeda.org.uk/news_and_events/press_releases/2007/20070806.asp

SEEDA's intention at that time was to put in to place arrangements for the Country Park to be managed and maintained for an initial period of three years, during which a detailed exit strategy would be formulated. However this approach was rejected by English Partnerships, the funders of the Coalfields Programme, as they requested that disposal of the park should occur as soon as possible on grounds of value for money. This constraint only allowed for a short term interim arrangement on an annually reviewed basis.

An invitation to tender was subsequently provided to six organisations which SEEDA believed had the necessary experience to run the Country Park. However due to the short term nature of the appointment, no party was prepared to offer on this basis and no formal tenders were received within deadline. However Intercrop Limited put forward an expression of interest and in 2007 SEEDA appointed them to manage the Park by way of a Single Tender Action.

In January 2008 SEEDA's Board agreed that the temporary management agreement in place be extended to cover the period until the long term exit strategy for the site was developed and permanent contractors could be secured via an open tendering process that was to be completed by March 2008.

However, during 2008 English Partnerships recommended that ownership of the Park should transfer to the Land Restoration Trust, subject to a dowry to cover long term costs of operation being secured by English Partnerships via a submission to Treasury in 2008. Ongoing discussions regarding the level of dowry required meant that the 2008

submission date was missed and the outcome of the funding application would not be known until mid-2010. Therefore in June 2009 the period of the temporary management agreement in place was extended to cover the period until the site would transfer to the Land Restoration Trust. Based on the known level of interest at that time, it was felt that undertaking a full competitive tendering process for a short term appointment could potentially lead to less value for public funds being achieved.

As you are aware on the 22nd June 2010 the Chancellor of the Exchequer announced that the eight RDAs outside London would be abolished by means of the Public Bodies Bill. He stated that the Government's intention was that RDAs would achieve final closure as soon as practicable after 31st March 2012. The Government explained that during the transition to closure the RDAs will not only have regard to the interests of its region, but will also take account of national strategic interests as advised by the Department for Business, Innovation and Skills (BIS). Following this announcement all RDA were informed by the Department that all disposal of RDA land and property assets should cease until Government policy had been formulated and that any future disposals would require Government approval.

In your email of 22nd July you state that during a meeting on 15th July 2010 you were informed by representatives of SEEDA that the agreement in place with Intercrop Limited was to expire in March 2011. Our notes of that meeting, which we sent to you on the 20th July 2010, confirm that we explained that the management agreement would be reviewed in early 2011 and other management options would be considered as part of SEEDA's transition and future asset management planning.

In early 2011 it became clear that the majority of RDA's land and property assets, including those developed under the Coalfields Programme, would transfer to the HCA under a stewardship model during 2011. Therefore in April 2011 SEEDA extended the temporary management agreement in place with Intercrop Limited to cover the period until the transfer to HCA had been completed, as the anticipated timescale of transfer would not allow for a full competitive tendering exercise to be undertaken. As part of the transfer of the site to the HCA, responsibility for all related contractual agreements in place have transferred from SEEDA to the HCA. Therefore it will now be for the HCA to determine the future management arrangements for the Country Park.

Q4) Why have Health & Safety factors not been reported?

In your recent correspondence you stated that this element of your request relates to SEEDA's responsibility for ensuring that adequate insurance is in place. We can confirm that Fowlmead Limited has adequate Public Liability Insurance in place and this is a condition of the agreement in place with them.

You also refer to a recent Health and Safety incident that was reported in the East Kent Mercury. We can confirm that Fowlmead Limited reported the incident to SEEDA and that Fowlmead Limited is currently dealing with the related claim by way of its insurance advisers

Q5) Please confirm if the pond is leased to Northbourne Fishing Club by SEEDA and any related restrictions to public access?

You recently asked us to clarify what is meant by 'the Fishing Club operates under its own terms of reference which may limit access rights to non-members'. As explained in our previous response SEEDA granted Betteshanger Park Fishing Club rights to use the part of the fishing pond which was within the freehold ownership of SEEDA. SEEDA is aware that the Fishing Club may have other rights in relation to adjoining land. The

agreement in place means that members of the public are unable to fish in the part of the pond which agreed can be used by Betteshanger Park Fishing Club unless they are a member of the Fishing Club. We understand that members of the local community are able to apply to join the club. We believe that this temporary arrangement ensured the sustainable usage of the part of the pond that was within SEEDA's ownership prior to transfer to the HCA. As explained in our previous response, SEEDA ensured that all footpaths and public rights of way across the site were respected during the period of our ownership.

Q6) Who should I contact in regards to land transfer details?

We are aware that you were due to meet with representatives of Dover District Council on 4th August 2011 to discuss your proposals for the site. We will endeavour to set up a meeting with representatives of the HCA so you can discuss your proposals for the site with them.

Q7) Who should I contact in regards to Hadlow's proposals for the site?

We understand that Hadlow College will make further announcements regarding their proposals for the site in a press release which is due to be made at the end of September.

You should be aware that there currently exists an Exclusivity Agreement between the HCA and Hadlow College, which will expire at the 30th September 2011. This agreement is commercially sensitive and strictly confidential between the parties. SEEDA, the HCA and Hadlow College have been progressing negotiations to achieve a legally binding Heads of Terms relating to a sale of the site to Hadlow College by that date.

We are unable to provide you with further information in relation to Hadlow College's proposals for the site as this information was provided in confidence and we believe it is therefore exempt from disclosure under Section 41 of the Freedom of Information Act at this time as negotiations between the HCA and Hadlow College are ongoing.

Q8) Please provide financial figures relating to the operation of Fowlmead?

In your email of 22nd July you stated that you required this information to formulate a funding appraisal and raised concerns that Hadlow College had received financial information which we had refused to disclose to you. As stated above, there currently exists an Exclusivity Agreement between Hadlow College and the HCA. In our previous response we explained that we were unable to provide financial figures relating to the operation of Fowlmead Country Park as we believe that this information is, at this time, commercially sensitive and therefore exempt from disclosure under Section 43 of the Freedom of Information Act. The Freedom of Information Act provides a public right of access to information and therefore all responses to requests are published on our website, once any personal data has been removed. Discussions regarding the future ownership of this site are ongoing and we believe that the public disclosure of this information, at this time, could potentially reduce the value for money being achieved for the public purse. Therefore we are unable to comply with this element of your request.

However we note that you are able to review publicly available financial information relating to the Country Park's management in the Annual Accounts of Intercrop Limited and Fowlmead Limited – these can be accessed via the Companies House website.

Q9) With regards to the fishing pond, please provide copies of registration of usage documents and a map showing who has rights?

Please see land ownership records which are available via the Land Registry – as this information is accessible to you by other means it is exempt from disclosure under Section 21 of the Freedom of Information Act 2000. SEEDA does not hold a map showing current usage rights granted to the Betteshanger Fishing Club.

Q10) Please confirm usage and access to Main Sewage (Water) run off area?

In our response we explained that SEEDA owns and maintains the sewage treatment works and balancing pond on the site and that access is limited to SEEDA and authorised agents only. In your recent correspondence you requested further details regarding authorised agents, I can confirm that SEEDA appointed service maintenance contractor Pims to undertake works on the Waste Water Treatment Works. We expect that this work will continue under HCA's ownership.

Q11) With regards to 'Betteshanger community park', please provide copies of registration documents and planning consents granted?

We provided you with copies of outline planning permissions in response to your previous Freedom of Information Act request dated 24th August 2010. Should you require further information in relation to planning consents having been granted you may wish to contact Dover District Council directly. Land registration documents are publicly available via the Land Registry – please contact them in regards to this element of your request – <http://www.landregistry.gov.uk/>.

As this information is reasonably accessible by other means it is therefore exempt from disclosure under Section 21 of the Freedom of Information Act.

I note that several times in the past we have invited you to visit our Chatham Maritime Offices to view these documents; however you have not taken us up on this offer. You should be aware that all documents relating to the ownership and development of the site will transfer to the HCA at a date no later than the 30th August. At that time we will no longer hold information relevant to this element of your request.

Q12) Please be aware that my trust formula solves all aspects of land management?

As explained above, on the 1st August 2011 responsibility for the Coalfields Programme, which includes Betteshanger Business Park and Fowlmead Country Park, transferred to the Homes and Communities Agency (HCA) under Section 51 of the Housing & Regeneration Act 2008. We will endeavour to set up a meeting with representatives of the HCA so you can discuss your proposals for the site with them.

Q13) Please provide details relating to disputes concerning parking and health and safety considerations?

Please see our response to question 4.

Q14) Why is the through route from Betteshanger Village closed off to residents?

In our response we explained that the route which we believe that you are referring to is the barrier for emergency use only and it is not intended to provide public access to the site. We can confirm that this gate is not within SEEDA's land ownership. You subsequently asked us to confirm who does own the gates – we have reviewed our records but unfortunately we do not hold this information. Again you may wish to refer to Land Registry records, as they may be pertinent to this element of your request.

Q15) Please provide the contractual terms of any management agreement?

As explained in our response dated 19th July we have reviewed the terms of the agreement in place for potential disclosure in response to your request, as we believe that this information may be exempt from disclosure under Section 41 (information provided in confidence) and/or Section 43 of the Act (prejudicial to commercial interests). Having completed this review we are able to disclose the terms of management agreement as follows:

- The agreement is now between HCA and Fowlmeand Limited;
- It is due to terminate 31st March 2012, but can be terminated early subject to three months notice being provided;
- The agreement is subject to long term exit strategy for the site;
- User groups to contribute to costs of running Park via charges for facilities;
- Park to be open 7 days per week;
- Provider to ensure involvement and engagement of full range of user groups;
- SEEDA (now HCA) insures the park. However Fowlmeand Limited must ensure that they have adequate Public Liability Insurance in place during the contract period;
- Provider to provide appropriate insurance of staff working on site;
- Agreement in place includes obligation to ensuring that public footpaths etc are maintained;
- Budget covers staffing, minor repairs and maintenance of the site;
- Additional casual staffing costs may be invoiced as and when incurred.

We believe that the value of this annual agreement is commercially sensitive at this time and therefore exempt from disclosure under the Section 43 of the Freedom of Information Act 2000.

Q16) Please clarify the status of the biomass facilities?

The biomass boiler is part of the overall green solution for the site however due to the current level of take up; the level of demand does not warrant the biomass facilities being fully deployed at this time. We expect to the boiler to become fully operational when required.

Q17) Please provide hard copies or 'jpeg' copies of the overall architectural documents?

As we have explained, we would not be able to meet this element of your request in full within the appropriate limit as described in Section of the 12 of the Freedom of Information Act without you providing us with further clarification, which has not been forthcoming to date. As we have explained above we have invited you to visit our Chatham Maritime Offices to view our records; however you have not taken us up on this offer. This information will transfer to the HCA at a date no later than the 30th August. At that time we will no longer hold information relevant to this element of your request.