

# Natural England Board



Title: **Confirmed minutes of the 86<sup>th</sup> Natural England Board meeting 20<sup>th</sup> February 2019**

<b>Members attending</b>	<b>Senior Leadership Team</b>
Lord Blencathra, Chairman	Tim Hill, Chief Scientist
Professor Sue Hartley	Alan Law, Chief Strategy and Reform Officer
Andy Clements	Julie Lunt, Chief Officer Legal and Governance
Teresa Dent	James Diamond, Director Operations
Henry Robinson	Gleny Lovell, Interim Chief Officer of Planning and Performance
Simon Lyster	<b>Guests</b>
Marian Spain, Chief Executive	Abdul Razaq (items 2 and 6)
<b>Apologies</b>	Dave Slater (item 2)
Julia Aglionby	Neil Constable (Item 2)
Catherine Dugmore	Rob Cooke (items 3 and 4)
Professor Michael Winter	James Bussell (item 4)
	Paul Caldwell, RPA (item 5)
	Ken Roy (item 5)
	Ian Fugler (item 6)
	Richard Broadbent
	<b>Secretariat</b>
	Olivia Heston, Legal and Governance Team

## **Welcome from the Chairman and Declarations of Interest**

The Chairman welcomed everyone to the meeting.

Apologies were received from Catherine Dugmore, Michael Winter and Julia Aglionby,

The Chairman introduced Gleny Lovell, interim Chief Officer of Planning and Performance, to the Board who expressed a warm welcome.

Simon Lyster declared an interest with regards to the confirmation of SSSI designation for Langdon Ridge (for further detail see section 9).

## **Confirmation of January Minutes and Matters Arising (NEB M85 01)**

1.1 The January minutes were confirmed subject to the tabled amendments.

**Action: Legal and Governance Team to make necessary amendments to the January minutes.**

## **2. Chief Executive's Report (NEB 86 01)**

### Uplands Programme Position Statement

2.1 The Board noted that:

2.1.1 the Position Statement (PS) had been received by stakeholders as expected;

2.1.2 the SoS had been briefed;

2.1.3 the meeting with the Moorland Association had gone as well as could be expected but they were concerned about the implications for their members;

2.1.4 the change in approach would be seen as profound by some stakeholders and that we were anticipating a legal challenge;

2.1.5 Brad Tooze had been appointed Director for Uplands and was now responsible for day to day running of the uplands programme;

2.1.6 plans were being put in place to engage with landowners about the new PS and if necessary make site visits on short notice.

2.2 The Board thanked the team for the hard work that has been put into crafting the PS. The Board particularly recognised the work of Amanda Craig.

### White Tailed Eagle

2.3 The Board were updated on the licence application for the release of of White-tailed Eagle. A decision on the application is expected by the end of March.

2.4 The Board noted:

2.4.1 there will be about 10 birds per year taken as part of a 5 year project.

2.4.2 the birds will be sourced from Scotland.

2.4.3 the birds will have satellite tags.

**Action: Operations Director to organise a separate briefing session on the application for Board members.**

### District Level Licensing

2.5 The Board were advised that funding had been received to put in place 150 licences. In light of the slow up take by local authorities an interim approach has been developed which involves Natural England holding the money to implement the regime. HM Treasury have supported a pilot of this approach in two areas. The longer term aim is to have a wider roll out of this model. The legal team are advising on the risks

## Finance

- 2.6 The Board were advised that we are five weeks away from the end of the financial year and the budget is on track to be balanced by the end of the financial year.

## Roadmap

- 2.7 Work is progressing on the roadmap and this will be the subject of a future Board paper.

## 25 Year Plan

- 2.9 The Board asked for a copy of the group position paper on the Nature Recovery Network and welcomed the suggestion of a briefing session on the proposed shape of the Nature Recovery Network.

**Action: Legal and Governance to circulate a copy of the paper on Nature Recovery Network. Strategy & Reform team to arrange a briefing on Nature recovery Networks.**

- 2.10 The Board congratulated the team on the net gain consultation response. In discussion:
- 2.10.1 raised a concern regarding pressure that may be brought to bear to remove small developments from net gain proposals; and
- 2.10.2 considered how to ensure National Infrastructure Projects were included as part of net gain proposals including raising this with the Secretary of State.

**Action: CEO to raise with the SoS.**

## Chief Scientist Report

- 2.11 The Board discussed:
- 2.11.1 On-going modelling work;
- 2.11.2 the upland peat monitoring app which will support work on uplands monitoring and evaluation and will allow landowners to collect data quickly;
- 2.11.3 noted that the internal development of this app is a good illustration of how the technical skills of staff have developed in recent years;
- 2.11.4 other apps available to the public and what might be developed in the future;
- 2.11.5 noted the good work being done on agri-environment evidence post Brexit which has received funding from the Economic Social Research Council and the productive conversations taking place with staff in Catchment Sensitive Funding about this work; and
- 2.11.6 noted the work being done in the citizen science space and considered how this data can be utilised and validated.

**Action: Chief Scientist to provide an update on publicly available apps and potential developments in this area to a future Board**

## Governance

- 2.12 Noted that the revised contract for HS2 work will be presented to the March Board.

## Legal Casework

2.13 The Board were advised that NE have recently received pre-action correspondence regarding three general licences.

**Action: Legal team to produce a briefing.**

2.14 Discussed bTB licensing and in particular recent discussions with Defra colleagues on possible changes to the responsibilities around the determination and setting of maximum and minimum numbers for badger culling.

2.15 The Board noted that:

2.15.1 in fulfilling the licensing function, NE must be confident in the numbers which are set; and  
2.15.2 we currently rely on the close relationship and expertise of APHA and Defra in advising on these numbers.

2.16 The Board advised that:

2.16.1 any changes to the working arrangements between Defra and NE should be carefully considered before any decisions are taken; and  
2.16.2 if necessary, NESAC could be commissioned to look into the methods used in setting maximum and minimum numbers.

**Action: Operations Director to continue to liaise with Defra colleagues.**

## Communications

2.17 The Board noted that the deputy CEO was now leading on engagement with Defra comms.

### English Coastal Path (ECP) Deep Dive

2.18 Received a presentation from operational leads and noted:

2.18.1 the *People Over Wind* judgment (POW) has changed the way ECP work is carried out;  
2.18.2 a small, dedicated, national team has been set up who will be focusing solely on HRA work for the next year;  
2.18.3 a new process has been set up in light of POW which will allow teams to get back on track;  
2.18.4 despite POW the team had still been making progress;  
2.18.5 the ECP process, including how landowners may object to stretches being created on their land and the excellent work of the ECP team in liaising with owner/occupiers to re-assure them;  
2.18.6 93% of the route has been identified; and  
2.18.7 there is a programme board which meets monthly with Defra to inform them of progress and budget.

2.19 Reflected on the recent submission which had been made to the Secretary of State and agreed that the following a personal conversation the Deputy Chairman should write to Lord Gardiner to explain the work that has been carried out with regards to the ECP showing the various reasons which have stalled progress of the path and where the path is open.

**Action: Operations team to work with Chairman's office to produce a letter that can be sent to Lord Gardiner.**

### **3. EU Transition update (NEB 86 02)**

- 3.1 The Board received an update on EU Exit related developments. The Board noted that:
  - 3.1.1 the draft Environmental Principles Bill has been set for a second session but no date has been given yet
  - 3.1.2 NE has been speaking to Defra to understand the general purpose of the new environmental regulator
  - 3.1.3 The consultation on net gain closed on the 10<sup>th</sup> of February and NE made a strong case for mandatory net gain
  - 3.1.4 No date has been set for the Future Farming Bill sessions
  - 3.1.5 All negative environmental regulations have been laid.
  - 3.1.6 Day 1 readiness plans are on track
  - 3.1.7 Tranche 4 funding has not been confirmed. Funding will be primarily for future farming and guidance for NELMS.

### **4. Natural England response to Farm Inspection and Regulation Review (NEB 86 03)**

- 4.1 The Board were briefed on the substance of the review.
- 4.2 The Board noted that there was a recommendation to bring all regulatory farming into one single regulatory body which would set standards, issue guidance and delivery advice. The Board discussed the potential ramifications of this.
- 4.3 The Board agreed that NE should be clear on its role as an advisor.

### **5. CS/ES Delivery and RPA Partnership (NEB 86 05)**

- 5.1 The Board were joined by Paul Caldwell, CEO of the RPA.
- 5.2 The Board received an update on the MoU with the Forestry Commission and Rural Payments Agency. It was noted that governance around the schemes was currently being reviewed by Defra and that it was not possible to include detail on this in the MOU at this time.
- 5.3 Agreed once the Chief Executive is content she may sign off the MoU.
- 5.4 Discussed the current relationship with the RPA and future ways of working. It was acknowledged that farmers are losing confidence in the system and work needs to be done to turn this around. It was confirmed that NE shares the same ambitions as the RPA in making the schemes work.
- 5.5 The Board discussed:
  - 5.5.1 the problems with technology which have been faced over the years;
  - 5.5.2 the evidential requirements and conditions which made it difficult for claims to flow through the system;
  - 5.5.3 the mapping requirements which the RPA must follow and acknowledged that there had been some anomalies thrown up by the automated mapping system;
  - 5.5.4 HLS extensions;
  - 5.5.5 Simplification of the process; and
  - 5.5.6 The benefits for the environment of the schemes.

**Action: Paul Caldwell to send a narrative of how a claim progresses and the reasons that this may be held up.**

## **6. 2019/20 Business Planning update (NEB 86 05)**

- 6.1 The Board were advised of the current proposals for NE's 2019/20 budget which includes a worst case scenario of an 8% cut. Work done by the Directors Delivery Group would suggest that even a 'Do Minimum' option in 2019/20 based on our current work would be unaffordable if there is such a large cut to NE's budget. Defra have been informed that an 8% cut is not achievable.
- 6.2 The Board:
  - 6.2.1 were extremely concerned by this news;
  - 6.2.2 recognised the need to be robust with Defra; and
  - 6.2.3 did not like the 'do minimum' terminology or concept.

**Action: Legal and Governance to circulate the slides used in the presentation to the Board.**

## **7. Approval of Corporate Sponsorship Policy (NEB 86 06)**

- 7.1 The Board were presented with a proposed new sponsorship policy. This had previously been discussed with the BIG.
- 7.2 The Board endorsed the new policy noting only that any sponsorship deal must be sensitive to NE's purposes and aims.

## **8. Board Diary and Forward Look (NEB 86 07)**

- 8.1 The next Board meeting will be in London.

## **9. PUBLIC SESSION**

### **Langdon Ridge SSSI Designation (NEBPU 86 01)**

- 9.1 Board Member, Simon Lyster, declared that he is a non-executive director of Northumbrian Water, which owns Essex and Suffolk Water. Essex and Suffolk Water leases a small area of land, approximately one hectare, which is part of the notified area.
- 9.2 The Chairman introduced the item to consider whether or not to confirm the notification of Langdon Ridge SSSI. He reminded the Board that for the consideration of whether or not to confirm the SSSI notification it was meeting as the Board of Natural England. That, the Chief Executive, Marian Spain, although a Board member, in relation to SSSI cases was here as an officer to advise the Board and would not be part of the decision making process. The Chairman advised the Board that a full record of the proceedings for this agenda item would be taken by a stenographer. A summary of the discussion is given below. The minutes would become a formal record and would be posted in due course.
- 9.3 It was noted that there were three objections to the notification but none of the objectors was attending in person. One of the objections had been resolved subject to the Board agreeing the officers' recommended boundary modification and the other two objections were unresolved.
- 9.4 The Chief Officer Legal & Governance drew the Board's attention to the information in the papers on the Board's role and responsibilities in relation to the legislation, the process of

notification and the matters they needed to bear in mind during their deliberations. In particular, she reminded the Board that its decision should be made only on the basis of the scientific information presented, that it needed to ensure that due process had been followed and the role of the consenting and appeal process in providing objectors with a means of addressing any concerns about the use and enjoyment of their land. She also clarified the extent of discretion available to the Board under s28C of the Wildlife and Countryside Act 1981 (as amended) where a SSSI is being enlarged.

- 9.5 Officers outlined the case for designation by setting out how the site meets the SSSI selection guidelines and the context and rationale for designation.
- 9.6 In response to the Chairman's invitation, Board members asked questions of the officers to satisfy themselves on the scientific interest of the site and to have a clear understanding of the rationale for notification.
- 9.7 Simon Lyster gave a verbal report on his visit to Langdon Ridge.
- 9.8 In the absence of objectors, officers highlighted the nature of the objections to the Board. The Chairman invited the Board to consider the evidence from the objectors that had been submitted in writing.
- 9.9 The Board noted Tim Hill's confirmation, in his role as Chief Scientist that he was assured that the case had been made for the scientific interest of the SSSI.
- 9.10 The Chairman invited the Board to take a formal decision. The Board having had due regard to the legal context, having considered the objections in detail and the officer recommendations and having noted that these did not extend the boundary of the SSSI nor add any activities to the list of operations requiring consent confirmed the notification of Langdon Ridge SSSI as follows:
- with modifications to the boundary to exclude one area of land totalling 0.66 ha and, consequently, to the area figure stated on the citation. The confirmed area of the SSSI is 345.09 ha; and
  - without modification to the other matters specified in the 29 June 2018 notification; namely the 'reasons for notification' listed in the citation, the list of operations requiring Natural England's consent and the statement of Natural England's views about the management of the SSSI.

**Action: Area Team to serve formal SSSI confirmation papers on owners, occupiers, the Secretary of State, Local Planning Authorities and other relevant statutory consultees.**