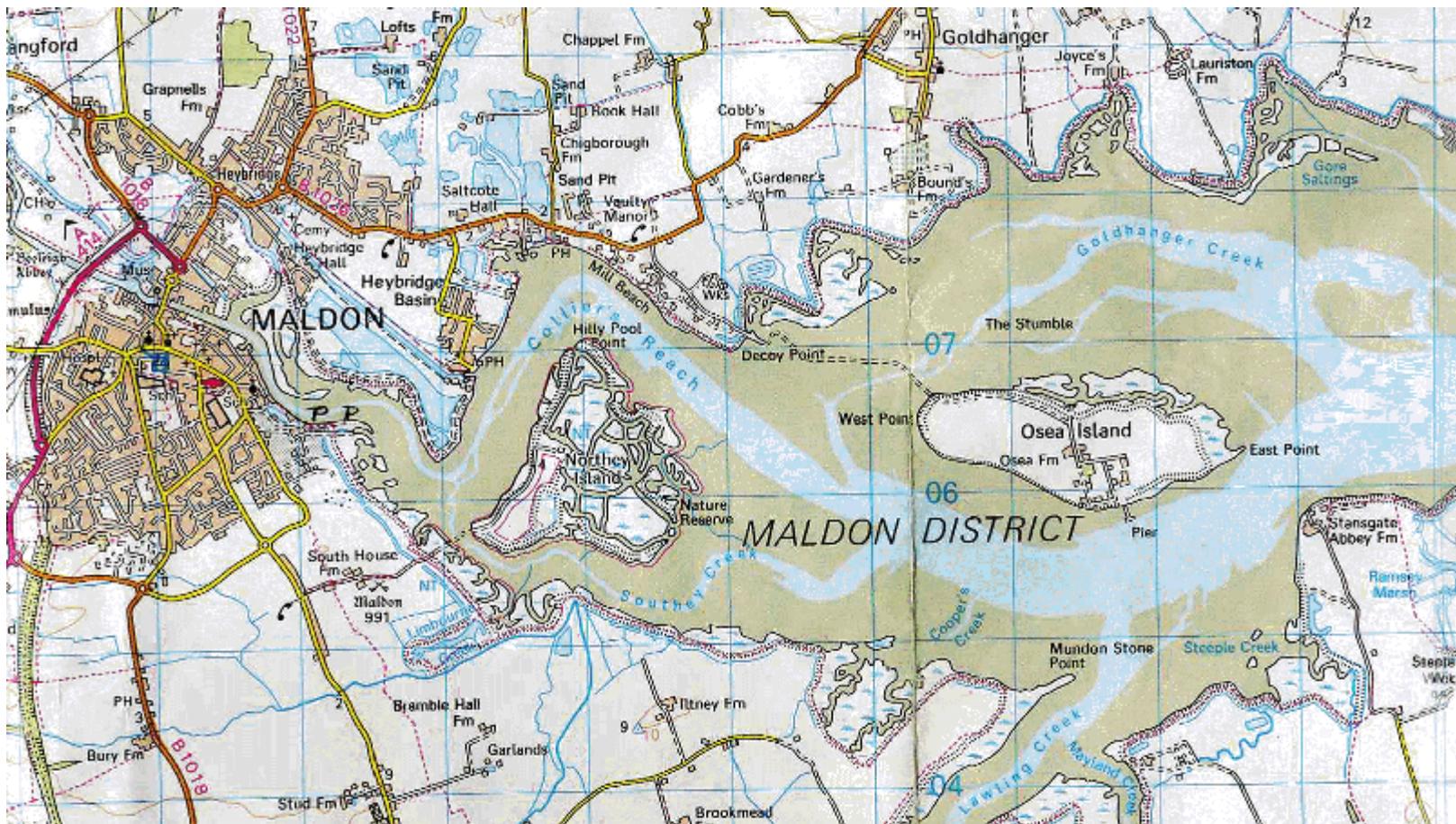


The First Tier Tribunal General Regulatory Chamber (Environment)

The very first substantive case:
Frieda v Marine Management Organisation
Osea Island – a causeway célèbre?





The facts

- February 2012 deposit of c.300 tonnes of mixed building rubble on causeway (justification delineation of edges from surrounding mudflats by creation of berms).
- Deposits required a marine licence (as causeway in UK marine area). No licence obtained. MMO served remediation notice. MMO's concerns: hazard to navigation and environmental impacts.
- Owner appealed.

The new material



A mixed bag



New material *added* to historic material. Common ground historic material as much a hazard (if not more) and also potentially polluting



Nature of the appeal

- Appeal against remediation notice a full merits review.
- No costs save if party has behaved unreasonably (essentially a “no costs” regime).
- Appellant argued new material necessary and made no difference to navigation or the environment given existing material.

Requirements of the case

- Need for swift resolution, particularly given:
 - hazard to navigation (MCA actively involved);
 - potential pollution;
 - potential interference with fauna – esp. overwintering birds
- Understanding of protective designations, facts on ground and expert ecological evidence.
- Flexibility – to allow best environmental result.
- Ability to conduct appropriate assessment.

Tribunal's handling (1): flexible

- Timetable: truncated to achieve expedition.
- Venue: local (Chelmsford magistrates) to allow site visit.
- Two hour accompanied site visit at start – following which Appellant offered to remediate entire causeway – new and historic material. Holistic solution attractive to MMO (and negotiations also assisted by “no costs” regime) – but AA required.



Tribunal's handling (2): specialist

- Judge: Simon Bird QC.
- Tribunal switched from judicial role to inquisitorial/Habitats competent authority (for AA).
- Tightly structured remediation with responsive monitoring agreed on basis of expert evidence from the ecologists.
- Enshrined in Schedule to Order after Tribunal's negative AA screen.



The result: a positive outcome for the environment (and the UK film industry?).

James Burton

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