

REPORT OF DIRECTOR OF PARK DIRECTION AND PLANNING

**SUBJECT: PLANNING PERMISSIONS NP/03/225 AND NP/05/570 SECTION 106
PROGRESS: SOUTH HOOK LNG TERMINAL COMPANY LTD AND ESSO
PETROLEUM COMPANY**

Purpose of Report

To update members on the progress being made regarding the implementation on a section 106 regarding land and uses at South Hook LNG Terminal Company Ltd (SHLNG) and Esso Petroleum Company.

Introduction

This report comes following the request from members for a formal update on this process following their decision at DM committee in March 2014 not to agree that the financial contribution that was made by South Hook LNG to the Shared Use Path (SUP) route between Herbrandston and Hubberston had effectively discharged the obligation to provide a footpath link to the north of the site.

Background

In April 2006 South Hook LNG Terminal Company Ltd (SHLNG) and Esso Petroleum Company signed a S106 legal agreement. The issues covered in the legal agreement were primarily 3 significant matters, namely:

1. the management of a Nature Conservation Area and public access to the land in the ownership/control of SHLNG and Esso.

This was to provide an area managed specifically for conservation value, and the provision of grazing was considered to be the most acceptable route. Monitoring was also part of the agreement. Considerable work has been undertaken with advice being given regarding appropriate fencing, graziers etc.

2. Dedication of the route of the Pembrokeshire Coast Path as a public right of way.

While the Pembrokeshire Coast Path National Trail has been managed along the South Hook headland since 1970 this route is not a registered public right of way. The dedication of the route of the Pembrokeshire Coast Path as a public right of way will be delivered by way of a Public Path Creation Agreement. This is an irrevocable deed that will serve to protect the route of the public right of way, ensure its

permanency and clarify the maintenance obligations of the National Park Authority and present and future owner/occupiers.

3. The reinstatement a public right of way to the north of the LNG Terminal.

This obligation was agreed on the basis that a network of eight public rights of way crossing agricultural land between Hubberston and Herbrandston were closed by Act of Parliament in 1957 to facilitate the construction of the former Esso Refinery.

Progress to date

Since 2006 there has been a catalogue of various meetings, but with no substantive movement or outcomes on these matters. A meeting was undertaken with representatives of South Hook LNG and officers of PCNPA on 19 September 2014.

Officers expressed concern that the implementation and the agreement on the details on the above appeared to be taking an extraordinary length of time and that these matters needed to be resolved with all possible haste in the interests of providing the required and suitably agreed outcomes and to ensure that transparency and confidence in the planning process remained.

Officers outlined that they would reasonably expect to be able to update members on progress during December 2014. The meeting was extremely helpful in setting the parameters and officers gaining an understanding of the issues for the signatories.

On 12 November 2014 further information and draft obligations were provided to PCNPA from South Hook LNG Terminal Company Limited with the proviso that Esso Petroleum Company Limited is also taking instructions on this and its position on these matters is expected to be confirmed on Friday 14 November. At the time of writing this report week commencing 17 November 2014, no confirmation has been forthcoming. A verbal update at the meeting will be given.

The obligations

Taking each of the obligations in turn, progress (subject to Esso agreement) is as follows:

| Obligation | SH LNG proposal | PCNPA response |
|---|---|---|
| 1. the management of a Nature Conservation Area (approx. 140 acres) and public access to the land in the ownership/control of SHLNG and Esso. | An ecological management plan for this area has been commissioned by SH LNG. Disappointingly from an ecological point of view, SH LNG has strongly indicated that it will not entertain grazing animals on this land, as it poses a health and safety risk. | PCNPA officers will evaluate this new proposal. On initial review, this one year work programme contains insufficient information on which to assess the suitability of proposed future management of the site. |

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| | | Officers propose to work with SH LNG to agree a 5 year ecological management plan which will provide the best possible ecology outcome for this site, including its monitoring. Officers propose that this should be finalised by the end of March 2015 and the work then continuing on site thereafter in accord with the plan. |
| 2. Dedication of the route of the Pembrokeshire Coast Path as a public right of way. | The National Park Authority prepared a draft Creation Agreement with a detailed schedule and map. SHLNG has made a number of small amendments which can be agreed to reflect the relocation of various gates and barriers along the route | We are now in a position to conclude the matter and, at the time of writing, are preparing a Creation Agreement for the various signatories. We therefore anticipate completing this matter and fulfilling the commitment in the first quarter of 2015. |
| 3. The reinstatement of a public right of way to the north of the LNG Terminal. | As this network formerly provided a short cut for pedestrians between the two settlements it was considered to be an appropriate obligation for the applicant to restore at least one public footpath running to the north of the Terminal. Park Authority officers have met with SHLNG on two occasions in order to make progress with this matter. Following the refusal of the application to modify this obligation, SHLNG requested more time to pursue this matter and have been continuing to explore the establishment of a public footpath over the tenanted | Given the protracted nature of this matter, and Members' clear guidance, officers are of the view that a defined timeline for this implementation is essential and that around March 2015 a report should be brought back to members with an expectation of securing a useable right of way by the end of 2016. |

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| | <p>land owned by Esso and give consideration to whether to formally pursue the discharge of the obligation. SHLNG had agreed to provide an update on their progress in time for the deadline of writing this report, however, they advised that they were still awaiting a response from Esso which they expected to be imminent. Officers will accordingly advise members at the meeting if this response has been made known to the National Park Authority by then.</p> | |
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Conclusion

In the interests of all parties concerned, these matters need to be resolved as soon as possible.

Recommendation

1. Members are requested to endorse the proposed actions by officers as set out in column 3 in the table above.
2. A progress report is brought back to Members on or around March 2015 and that the community council is kept abreast of progress.

Author: Jane Gibson: Director of Park Direction and Planning

Consultees: Anthony Richards (public rights of way), Sarah Mellor (ecologist)

(For further information, please contact Jane Gibson)

Background Documents

DM committee papers: 19 March 2014: NP/14/0102 Modification of a Section 106 Agreement - South Hook LNG Terminal, Herbrandston, Milford Haven, Pembrokeshire, SA73 3S and minute refers: DECISION: That the application to modify the Section 106 obligation in respect of the South Hook LNG Terminal to remove the requirement to re-instate the public footpath to the north of the site be refused.