

MC/13/3153

Date Received: 3 December, 2013

Location: National Grid, Isle of Grain Storage Installation, Isle of Grain,  
ME3 0AB

Proposal: Construction of a road tanker loading facility

Applicant: National Grid Grain LNG

Agent:  
Ward Peninsula

---

**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 29 January 2014.**

**Recommendation - Approval with Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 3468/P01 Rev B; 2468/P02 Rev B; 3468/P03 Rev B; GA/3486/SK1; GA/3468/SK02 Rev A and T0248/01 Rev P1 received on 4 December 2013

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 Notwithstanding the submitted plans and details no development shall take place until details and samples of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 4 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved

details.

Reason: To ensure the protection of any connected or underlying water resources

- 5 No piling works shall take place at any time on a Sunday or public holiday or outside the hours of 07.30 to 18.00 Mondays to Saturdays unless any variation is specifically approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding amenities in the area in accordance with Policies BNE2 and BNE3 of the Medway Local Plan 2003.

- 6 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 7 to 10 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition 10 has been complied with in relation to that contamination.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety.

- 7 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
- adjoining land, groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination,

CLR 11'.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety.

- 8 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety.

- 9 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority prior to bringing the development into use.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety.

- 10 In the event that contamination that was not previously identified is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 8 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 9.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety.

- 11 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking, loading and off-loading and turning space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on that area of land or in such a position as to preclude its use.

Reason: Development without provision of adequate accommodation for the parking, loading, off-loading and turning of vehicles is likely to lead to hazardous conditions in the public highway and to accord with Policies T1 and T13 of the Medway Local Plan 2003.

- 12 No external lighting for the development hereby approved or the works associated with its construction shall be installed without the details for such equipment and their hours of operation being submitted to and approved in writing by the Local Planning Authority. Any external lighting that is subsequently installed in association with the development hereby permitted shall be installed and used strictly in accordance with the details approved under the provisions of this Condition.

Reason: In order to prevent and restrict light pollution and in the interests of nature conservation in accordance with Policies BNE5, BNE35, BNE36, BNE37 and BNE39 of the Medway Local Plan 2003.

- 13 No HGV traffic, plant, machinery or earth moving equipment associated with the construction of the development shall enter or leave the site on any Sunday or public holiday nor on any other day other than between the hours of 0700 to 1900 Mondays to Fridays and 0700 to 1300 on Saturdays, unless any variation is otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of safeguarding amenities of the area in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 14 No more than 64 HGV Road Tanker movements per day shall attend the site in connection with the development herein approved for the purposes of loading / collection of Liquid Natural Gas for onway transportation.

Reason: To ensure that the development does not prejudice conditions of amenity and highway safety in accordance with Policies BNE2, T1 and T13 of the Medway Local Plan 2003.

- 15 The development hereby permitted shall not be brought into first use until the road improvements specified on drawing number T0248/01 Rev P1, received 4 December 2013, and the vehicular rejection lane as specified on drawing

number 3468/P03 Rev B, received 4 December 2013, have been completed in accordance with that approved plan.

Reason: In the interests of Highways safety in accordance with Policy T1 and T2 of the Medway Local Plan 2003.

- 16 Prior to the commencement of the development hereby approved full details of a Code of Construction Practice that covers the control of: noise and vibration; working hours; dust minimisation; access point locations; wheel cleaning/chassis cleaning facilities; protection of surface and groundwater resources, including arrangements for the storage of oils, fuels or chemicals; waste disposal arrangements; pollution incident control; site illumination; and the location of construction compounds/laydown areas and offices, during the construction period for the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The details submitted pursuant to the requirements of this condition shall include details of the arrangements to be made for the removal of all temporary buildings, structures and ancillary works connected with the construction of the development. The development shall only be undertaken in accordance with the approved Code of Construction Practice.

Reason. The site is located in an ecologically sensitive location, on potentially contaminated land and in the interests of the amenities of the surrounding countryside and neighbouring occupiers.

- 17 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, in consultation with the Environment Agency, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reasons: The National Planning Policy Framework paragraph 109 requires the planning system to contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to putting at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution and to protect water resources in the secondary aquifer and the requirements of the National Planning Policy Framework.

- 18 No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of "biodiversity protection zones";
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be

- provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
  - e) The times during construction when specialist ecologists need to be present on site to oversee works;
  - f) Responsible persons and lines of communication;
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
  - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP (Biodiversity) shall be implemented on commencement of the development and shall be adhered to throughout the construction period strictly in accordance with the approved details.

Reason. In the interests of biodiversity as the site is located in an ecologically sensitive location in accordance with policies BNE35, BNE36, BNE37 and BNE39 of the Medway Local Plan 2003.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

## **Proposal**

This application seeks full planning permission for the construction of a Road Tanker Loading Facility (RTLFL) at the existing National Grid Liquid Natural Gas (LNG) Facility, which is located on the Isle of Grain (IoG). The application consists of loading bays, LNG unloading line, a security and operation cabins and other ancillary development including the erection of fencing, tanker turning area / rejection lane and operational vehicle parking spaces.

Four loading bays are proposed as part of this submission and will provide the area for the loading operation. Each loading bay is separated from the other loading bays by a loading island formed by a raised kerb. When parked in a bay, a tanker will be filled with LNG via a loading hose. Each bay has a weighbridge that monitors the loading operation, loading hoses, LNG metering system, a deluge system, surrounding barriers with open and closing barriers at either end. In the case of emergency the vent lines remove LNG from the vicinity of the loading facility to the atmosphere. A platform provides access to the gantry above the loading bay. Bays are segregated by barriers and are installed with firewater deluge systems. The applicant advises that traffic barriers, wheel chocks and work procedures will be in place during loading operations to ensure vehicles are immobilised.

The unloading line consists of three separate elements; a dual recirculating LNG line and a vapour return line. The dual recirculating LNG line circulates LNG to ensure it is kept at the required temperature whilst the smaller vapour return line travels alongside the main line. The unloading line will provide LNG from the stock held on the main LNG site to the RTLFL. The LNG will be provided from the Phase 3 tank (Tank 4) directly to the loading bays and no additional LNG will be stored on site as a result of this development. The pipeline supplying the LNG from tank 4 will lie on low-level concrete plinths and then rise into a gantry above the loading bays to allow

tankers access to the bays. The top of the gantry will measure some 9.1 metres above the ground level whilst the bottom portion of the gantry will be some 6.1 metres in height from the ground level.

The operations cabin will oversee the operation of the RTLF whilst the security cabin controls access to the RTLF with road barriers, and provides an area for the checking of vehicles and exchange of documentation and records required by the Carriage of Dangerous Goods Regulations for each loading operation. Additionally it will provide an area for tanker drivers to use welfare facilities. It will measure 7.3 metres in length (excluding the external stairs) by 3.5 metres in depth with a height of 3.8 metres.

The security cabin provides a security room with a small kitchen and toilet facilities and will measure 5 metres in length (excluding the external stairs) by 3.5 metres in width with a height of 3.8 metres.

The application details show that the proposal will generate around 10 tankers per day up to 2017, 20 tankers per day up to 2020 and 37 tankers per day from 2020. However it should be noted that the applicants have indicated that the development will be a 24 hour operation Monday to Sunday and with each tanker taking up to 1½ hours to load this means that a maximum of 16 tankers per loading bay could load in any one day. As 4 tanker bays are proposed this means that there is a theoretical maximum capacity of 64 tankers per day loading at the site.

In terms of the ancillary elements of the development, this relates to the proposed 4 metre high weld mesh security fencing that will encompass the tanker loading facility to limit access.

The RTLF design allows for appropriate turning distances for tankers. Finally 4 off street car parking spaces are proposed to be provided to the south eastern side of the Security / Driver Facilities Building.

### **Relevant Planning History**

MC/13/2831	Town and Country Planning Act (Environmental Impact Assessment) (England and Wales) Regulations 2011 - request for a screening opinion as to whether EIA is necessary for a road tanker loading facility EIA not required 27 November 2013
MC/13/0857	Construction of a road tanker loading facility Withdrawn 05 November 2013
MC/13/0237	Hazardous Substance Consent Application seeking: A) an increase of 1,746.34 tonnes of Liquefied Natural Gas (LNG) bring the total amount of LNG stored on site to a maximum of 564,746.3 tonnes; B) the storage of 689 tonnes of Natural Gas; and C) the storage of 200 tonnes of Liquid Petroleum Gas (LPG)

Approved 15 August 2013

- MC/10/3258 Retrospective application to regularise alterations undertaken on existing consents for LNG facility  
Approved 21 December 2010
- MC/10/3136 Details pursuant to conditions 01 & 02 on planning permission MC/2003/1714 for Temporary use of land as construction area for new storage tanks at the adjoining liquid natural gas storage site  
Approved 14 February 2011
- MC/07/1683 A full planning application related to the Liquid Natural Gas (LNG) storage, vaporisation and distribution facility, being alterations to development approved within the Northern Zone of planning approval MC2006/1428 comprising the relocation of the approved positions and new related equipment being; two LNG storage tanks, each having a capacity of 190,000 cubic metres; six additional submerged combustion vaporisers; and related infrastructure including (I) pipe racks connecting the new tanks to the existing site racks; (II) unloading line from the closest point to the tanks; (III) external tank pumps; (IV) boil off gas compressors; (V) an impounding basin; (VI) flow meters to monitor volume of natural gas; (VII) power connections for generated power; (VIII) provision of internal site access roads; (IX) 2.5m palisade security fence topped with barbed wire surrounding the new facilities and contiguous with the existing boundary fence; (X) a vent stack; (XI) a compressor shelter; (XII) a holding pond; and (XIII) an SCV circulation water tank  
Approved 21 December 2007
- MC/06/1962 Hazardous substance consent application for the construction of a new jetty and pipeline leading to the existing cryogenic line, two additional Liquid Natural Gas (LNG) Storage Tanks each of 190,000m<sup>3</sup> capacity, regasification facilities and associated works (an increase of 183,000 tonnes of Liquid Natural Gas, bringing the total capacity to 563,000 tonnes)  
Approved 08 February 2010
- MC/06/1428 Liquid Natural Gas (LNG) importation storage, vaporisation and distribution facility, comprising; demolition of an existing jetty structure (Jetty 8) including stripping and removal of jetty approach walkway, cutting of jetty approach piles approximately 1m below current river bed level and removal of resulting piles; Construction of a new jetty (New Jetty 8) comprising equipment to unload LNG from ships, berthing and mooring dolphins, emergency



walkways, a jetty approach to accommodate vehicular access, an instrument control room and appropriate emergency equipment; Construction of jetty approach consisting of a LNG pipe rack and vehicular access elevated above the existing Port Victoria Pier and sea wall. Existing internal access road extended to connect vehicular deck access via a deck access ramp; Reinstatement by dredging of existing berth box to accommodate LNG carriers; Erection of equipment landwards of the existing sea wall comprising a nitrogen generator, jetty control room, security gatehouse, diesel generator and electricity sub-station; Construction of pipeline to connect jetty head passing above the sea wall to the existing LNG transfer pipeline. This will comprise of (I) a LNG transfer pipeline; (II) a recirculation line; (III) a vapour return pipeline; (IV) horizontal expansion loops; (V) support structures in the form of trestles to carry the pipeline above the existing sea wall; (VI) a concrete channel containing the pipeline and running from the sea wall to the existing LNG transfer pipe; and (VII) a pipeline running from the jetty to a vent stack; Construction of two LNG storage tanks, each having a capacity of 190,000m<sup>3</sup>; Installation of six additional submerged combustion vaporisers; Provision of related infrastructure; Temporary lay down area in the northern and central zones  
Approved 14 May 2007

MC/03/1714

Temporary use of land as construction area for new storage tanks at the adjoining liquid natural gas storage site  
Approved 30 November 2004

## **Representations**

The application has been advertised on site and in the press. EDF Energy, Environment Agency, Health and Safety Executive, Kent County Council (KCC) Archaeology, KCC Ecology, Kent County Constabulary, Kent Fire and Rescue Service, Natural England, Southern Gas Networks, Southern Water Services have also been consulted.

**St James Isle of Grain Parish Council** have written advising that they do not support this application for the following summarised reasons:

In terms of the A228/B2001:

- No road improvements are planned
- The proposed access/exit from site is too close to the village;
- The proposed access/exit point has poor visibility for vehicles approaching from Grain Village;
- The road is not suitable for additional lorry movements especially when

considering the imminent demolition of E.ON Grain Power Station and future developments for which planning permission has already been granted;

- Street lighting is either missing or inadequate;
- More hazardous loads will be using the road and the Parish Council have no knowledge of the contents of containers using Thamesport;
- Drainage is poor and the road floods frequently;
- The road at Lower Stoke is often restricted because of tankers parked at the pumping station when there is a risk of flooding to homes in Lower Stoke;
- The proposed exit is in the worst possible location as the road closure barrier is much further on.

General Comments made by the Parish Council:

- More site lights mean more light pollution especially as 24-hour working is proposed;
- LNG tankers are provided by others and there is concern in regard to how and who regulates them and their drivers, ensuring that they are 'fit for purpose' and maintain an appropriate standard;
- Access/exit from site closer to the village and it is unclear whether any changes to the Public Information Zone (PIZ) would be required as a result of the proposed development;
- What would be the effect on latest emergency plans considering tanker contents as this development is closer to the village?
- The plan is beneficial to National Grid Grain LNG only and not the local economy as there will be local employment and that also means additional car movements; and
- More support/resources will be needed for the local Kent Fire and Rescue Service to deal with an additional hazardous installation.
- Querying what a Section 278 Agreement is.

**The Dickens Country Protection Society** have stated that it *“wishes to ensure that all safety measures are taken into consideration, especially concerning vehicle movements”*

The **Environment Agency** advise that they consider that planning permission could be granted subject to the imposition of conditions related to contaminated land, no infiltration of surface water drainage into the ground and details of piling to be approved. Additionally, they recommend a number of informatives be attached related to pollution prevention, control of waste, the Environmental Protection (Duty of Care) Regulations, Etc.

**Kent Fire and Rescue Service** have written advising that the means of access to the site is considered to be satisfactory.

**Natural England** has written advising that this application falls within or is in close proximity to the Medway Estuary and Marshes Site of Special Scientific Interest (SSSI), the Special Protection Area (SPA), and the Wetlands of International Importance under the Ramsar Convention, along with the South Thames Estuary & Marshes SSSI and the Thames Estuary and Marshes SPA. They advise that in

considering the European site interest the competent authority, under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. Natural England advise that based on the information provided the proposal is not necessary for the management of the European site and that the proposal is unlikely to have a significant effect on any European site. This being the case Natural England have advised that the proposed development can therefore be screened out from any requirement for further assessment in terms of any potential impacts that a plan or project may have on the adjoining European site.

In terms of protected species Natural England have advised that the proposed development should be assessed against their published advice.

*Officer Comment: For the purpose of the Conservation of Habitat and Species Regulations 2010, Medway Council is the 'Competent Authority' where it is the determining body in regard to planning applications within its jurisdiction.*

**Southern Gas Networks (SGN)** have written advising of the presence of low/medium/intermediate pressure gas main in the proximity of the application site. They advised that no mechanical excavations are to take place above or within 0.5 metres of the low pressure and medium pressure systems and 3 metres of the intermediate pressure systems. SGN have advised that the applicant will need to ensure that they confirm the position of mains using hand dug trial holes and of the need to undertake safe digging practices. Additionally they have advised that other gas transporters/private owners may have separate gas infrastructure in the area and that it is for the applicant/developer to ensure that they are fully aware of all gas infrastructure within the area. Finally SGN have provided a copy of the Health and Safety Executive document entitled "HSG47 – Avoiding Dangers from Underground Services" and advised about the risks of direct or consequential damage to gas plant and the fact that SGN will charge for any damage resulting to their gas plant.

**Southern Water** have provided a plan of the water main records showing the approximate position of a public water distribution main crossing the site. They advise that the exact position of the public water main must be determined on site by the applicant before the layout of the proposed development is finalised. They also advise that their current sewerage records do not show any public sewers to be crossing the site or in the vicinity of the site, but due to changes in legislation that came in to force on 1<sup>st</sup> October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the site. Therefore, they advise that any sewer be found during construction works will need to be the subject of an investigation to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. Southern Water advises the applicant to examine alternative means of foul sewage disposal.

Additionally, they have advised that all existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works and that no excavation, mounding or tree planting should be carried out within 3 metres of the public water main without consent from Southern Water.

Furthermore, Southern Water advise that the Environment Agency should be

consulted directly regarding the use of a private septic tank drainage which disposes of effluent to sub-soil irrigation and that the owner of the premises will need to empty and maintain the works or septic tank to ensure its long term effectiveness.

Finally Southern Water note that the application details indicate that the proposed means of surface water drainage for the site is via a watercourse and advise that the Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

## **Development Plan**

The Development Plan consists of the Medway Local Plan 2003. The Council's policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform.

## **Planning Appraisal**

### *Background*

The application site extends to some 1.8 hectares (ha) which comprises part of the existing National Grid Grain LNG importation and storage facility at the Isle of Grain (IoG), Kent. The site generally lies within the former oil refinery land together with internal roads linking to the B2001. Currently the land predominantly comprises old concrete bases for the former fuel tanks with naturally regenerated scrub vegetation.

The Grain LNG Site, within which the application site lies, comprises around 400 hectares of former oil refinery land and represents one of the largest brownfield sites in the south east of England. The oil refinery was decommissioned in the mid-1980s and most of the buildings and structures associated with this use have been removed with only large areas of hardstanding, isolated buildings and some plant remaining.

The current application site lies on the northern portion of the wider Grain LNG site that is divided from the central and southern sections of the site by the B2001 Grain Road, which at this point is a single carriageway in either direction. There are no public footpaths within the site.

To the south east and east of the proposed development site is the Grain Power Station with Grain village beyond. To the southwest is the BP fuel depot and the container port including facilities for mineral aggregates.

The first area of the Grain site to be used in relation to LNG is located on the Grain Site's northwest boundary. This area was developed in the late 1970s and is mainly visible due to the four large storage tanks that are prominent features in the generally flat landscape. In April 2003 planning permission was granted for further LNG related development known as "Phase 1", this has now been developed. Phase 1 comprises an LNG importation facility including a new jetty (Jetty 10) and an over

ground pipeline connecting Jetty 10 with the existing, 1980s LNG storage site. Phase 1 has been fully functional since July 2005.

Planning permission was granted for what is known as Phase 2 in 2004 which comprises three additional LNG storage tanks located to the north east of the original four storage tanks on the northwest boundary of the Grain Site. Phase 3 was granted consent in 2006 and sought consent for the demolition of existing Jetty 8 and the construction of a new jetty with ancillary loading/unloading equipment, construction of a LNG pipe rack etc as well as the construction of two LNG storage tanks, each having a capacity of 190,000m<sup>3</sup> and other related ancillary infrastructure and temporary lay down areas in the northern and central zones. Only one of the tanks permitted in phase 3 has been constructed to date. It is this tank, in phase 3, that is intended to serve the RTLF.

Other parts of the wider Grain site are vacant. However, close to the development site (to the south west of the wider Grain site) is the Thamesport container terminal, the Foster Yeoman aggregate importation facility and the Medway Power Station.

Beyond the land identified in blue and red on the submitted site location plan to the north the land is for the most part in agricultural use interspersed with creeks, marshland and tidal mud flats.

The application site adjoins land that is the subject of a number of special designations. These include the North Kent Marshes Special Landscape Area (SLA), the Medway Estuary and Marshes Site of Special Scientific Interest (SSSI) and also as a Special Protection Area (SPA) and Ramsar site under the Conservation (Natural Habitats etc) Regulations 1994. This is known as the Medway Estuary and Marshes Special Protection Area. The application site and access roads lies within an existing employment area. To the west of the wider Grain site, the land is again mainly in agricultural use interspersed with marshland and low-lying wetland areas.

The loG peninsula is served by both road and rail. These include the A228/B2001 Grain Road, which provides access to Rochester and Medway Towns to the west and hence to the A2/M2/M25. There is also a single-track railway line, providing a link to the national railway network.

### *Environmental Impact Assessment*

The proposed development was screened under planning reference MC/13/2831 and was found not to require a formal EIA.

### *Main Issues*

This application seeks full planning permission for the construction of a RTLF as outlined in the proposals section above. This being the case the principle of the development needs to be considered, as do the following matters:

- The effect of the development on landscape character and visual appearance of the surrounding area in general, including on the streetscene and adjoining countryside setting;

- Whether the proposal would be detrimental to the amenities of surrounding properties;
- Whether the proposal would have an adverse impact on parking or highway safety;
- The impact of the proposal on nature conservation; and
- Whether the proposal would create any environmental issues.

### *Matters of Principle*

Policies S13 and ED1 of the Medway Local Plan 2003 (the Local Plan) promote the redevelopment of the site for employment generating purposes falling within Classes B1(c), B2 and B8 and for development related to port activities. The designation is a legacy from its former use as a BP oil refinery and the subsequent development of the area for general industrial developments and power stations. Policy S13 states that development which does not require access to the railway or to the river, but which would prejudice use of, or access to, the wharves will not be permitted. Furthermore this policy seeks contributions to the improvement of off-site highways or the rail link to the Isle of Grain subject to the provisions that:

- A) Such improvements are needed from a practical point of view to enable the development to go ahead; or
- B) Are necessary from a planning point of view; and
- C) Are so directly related to the proposed development and to the use of land after its completion, that the development ought not to be permitted without it.

In addition to the above policies, policies ED7 and ED8 of the Local Plan also indicate that the area subject to Policy S13 will be a suitable location respectively for “special industrial uses” and “sui-generis” uses.

The proposed RTLF is considered to be consistent with the provisions of these policies, especially Policies ED7 and ED8 of the Local Plan having regard to the fact that this proposal relates to a land intensive, sui-generis use, which will benefit in locational terms from proximity to the existing LNG Plant located on the Peninsula. The proposed siting of the RTLF is shown on land well related to the existing LNG Plant and the wider employment allocations detailed on the Local Plan.

Bearing in mind all of the above this development is considered to be in accordance with the policies S13, ED1, ED7 and ED8 of the Medway Local Plan 2003.

### *The landscape character and visual appearance of the surrounding area*

The development site is located close to an area where there are a number of landscape designations. The Medway Estuary and Marshes is a wetland of international importance being a Special Protection Area/Ramsar Site and a Site of Special Scientific Interest. It provides breeding and wintering habitats for important bird species. There are also rare and scarce plants as well as endangered, vulnerable and rare invertebrates.

These areas are generally characterised by predominantly low lying flat landscape

with extensive areas of open space dominated by the sky although the coastal fringes and marshes include existing major developments such as the existing development at LNG, power stations, other port operators, industrial related activity and the existing cryogenic line. To the west of the wider Grain LNG site the land is designated as the North Kent Marshes Special Landscape Area (SLA). To the south of the wider Grain LNG site where it adjoins the River Medway the coastline is designated in the Medway Local Plan as developed. However, the actual site is some distance from the coastline and it is not considered that this development will have any adverse effect or implication in regard to it. This being the case the development is considered to comply with policy BNE46 of the Local Plan that applies to development which may have an impact on this designation.

The applicants have previously considered the impact of the development on the landscape and visual character of the area as part of their previous planning submissions. Those details gave a level of detail where an assessment could be made and the details now submitted with this application are considered to be acceptable in terms of its layout, scale and appearance. The development proposed will be seen in relation to the existing industrial character of the wider LNG site and in that context the development is not considered to have any negative impacts on the landscape and visual character of the area.

The landscape impacts of the development, both during construction and after, will be negligible. The areas character is already dominated by the positioning of the existing LNG storage tanks and associated processing equipment and is in an area of degraded industrialised land. The development would lead to the introduction of a development which is not uncharacteristic in this landscape and its resultant effect is considered to be negligible. The industrial area within which the site is set is characterised by a number of cylindrical storage tanks (at both the BP and LNG), cranes at Thamesport (98m high when upright) and the chimney at Grain Power Station, the new chimneys which have emerged as a result of the Combined Cycle Gas Turbine (CCGT) Power Station and the further high chimney at Kingsnorth away to the southwest. The layout, scale and appearance of the proposed RTLTF clearly demonstrate that the proposal will have no impact on the North Kent marshes, the mudflats or salt marsh. Irrespective of this fact, it is recognized that some receptor groups such as recreational walkers, residential occupiers and road users view the development, but when seen against the existing backdrop of the wider LNG site and its related infrastructure together with the surrounding industrial development, its impact will clearly be minor.

It is acknowledged that the proposed development would add a new feature to the existing range of development in the landscape. However, the details submitted clearly demonstrate that its visual impact is contained by other major industrial development referred to above. In this context the proposed development is not considered to be detrimental in terms of the quality of the landscape or local views towards the site.

In summary the visual impact of the proposed developments, including its impact on the character of the landscape and the cumulative impact, is considered acceptable and no objections are raised in principle to this scheme under the provisions of Policies BNE1, BNE6, BNE33 and BNE46 of the Local Plan.

## *Amenity*

Due to the position of the proposed development in an established industrial area, the nearest residential properties and settlements are some distance away. Grain is approximately 2.5km to the east, across mainly employment land, with Middle and Lower Stoke and Allhallows 2.5km and 3km away to the west and northwest respectively, mainly across rural land and the coast. In these circumstances, the main impact from the details submitted relate to the visual impact of the development, the hours of operation and issues relate to noise and general disturbance.

In terms of the visual impact, this has already been assessed above. In terms of hours of operation, the applicant has indicated that this will be a 24 hour operation with up to a theoretical maximum of 64 tankers loading from the site in any one day. The hours of operation match those of the main plant and the provision of this facility, when bearing in mind the size, scale and nature of the operation related to the wider LNG plant and the closest residential properties is not considered to be unacceptable. Concerns in regard to light pollution have been raised by the Parish Council. Whilst these concerns are noted, the site lies within the wider Grain LNG facility which already operates 24 hours a day and has lighting. However, it is possible to ensure that any lighting proposed as a result of this development is limited to that required whilst ensuring that any light spillage is kept to a minimum. Bearing in mind the distance from any adjoining residential properties and the existing lighting on the LNG facility it is considered unreasonable to object to this proposal on the basis of lighting, when this could be adequately controlled by planning condition.

In terms of the disturbance from the tankers using the site, this is also considered to be minimal bearing in mind the proximity of the closest residential properties to the site and their relationship to the B2001 and the A228. The existing level of use of these public highways by commercial vehicles operating out of Thamesport and the wider industrial areas of Grain and Kingsnorth are such that even at the theoretical maximum of 64 tankers per day this would only have a 1.5% increase on the level of traffic utilising these roads over a 24 hour period. On this basis, the increase in traffic movement is not considered to be harmful to amenity and this development is considered to be acceptable in this regard and is therefore considered to accord with Policy BNE2 of the Local Plan.

The main environmental health issues with the application relate to air quality, dust, noise and contaminated land. In relation to this submission, the proposal is not considered to have any effect on air quality. There would be no detrimental impact on any residential amenities resulting from dust during the construction phase and no significant construction noise impact is likely to occur. However, it would be appropriate to impose a condition requiring a Code of Construction to be submitted and approved by the Council prior to the commencement of the development. This will ensure such matters are adequately addressed during the construction phase of the development. The Environmental Health section have raised no objections to this submission, but consider that standard conditions related to matters of land contamination and remediation should be imposed. Additionally, a condition related



to any piling proposed would be appropriate in this location.

Bearing the above in mind this development is considered to be acceptable in terms environmental health impacts and the development is considered to accord with Policies BNE2, BNE23, and BNE24 of the Local Plan

### *Highways*

Appended to the Applicant's Design and Access Statement is a Transport Report. This has been assessed and the visibility from the access accords with Medway Council's highway standards and minor amendments to the geometry to the access have been determined using swept path analysis. The applicants have advised that the proposal will generate around 10 tankers per day up to 2017, 20 tankers per day up to 2020 and 37 tankers per day from 2020, although the theoretical maximum capacity would be 64 tankers per day. It is considered that even at the upper level of tankers per day, the proposal will only increase traffic on the B2001 / A228 by around 1.5%, which will not have a material impact on conditions of highway safety and the free flow of traffic. In light of this, the proposed development is considered to be acceptable in highway safety terms and would accord with Policies T1, T2 and T13 of the Local Plan.

Whilst the comments of the Parish Council in relation to highway safety and improvements are noted, it needs to be remembered that the proposal is utilising an existing access / exit from the site which could be used by the site lawfully for their operations, including use by Heavy Goods Vehicles (HGV's). The access has adequate visibility and is acceptable in terms of highway safety. The additional lorry movements are considered to be minimal, even at the upper capacities proposed, with the tanker movements only accounting for a maximum increase of approximately 1.5% over the existing vehicle movement on the A228 / B2001. In terms of road improvements, the developer is proposing to formalise the road layout, as detailed on drawing number T0248/01 Rev P1, which includes a splayed kerb line and new road markings in accordance with Manual for Streets and General Direction 2002. These works will be secured through a planning condition and a Section 278 agreement under the Highways Act.

### *Nature Conservation*

There are a number of areas of international, national and local nature conservation interest close to the application site.

The Council consulted statutory and non-statutory nature conservation bodies in relation to this submission and they have not raised any objections to the proposal. As stated above Natural England have advised that given the nature and scale of this proposal they are satisfied that there is not likely to be an adverse effect on the Medway Estuary and Marshes Site of Special Scientific Interest (SSSI), the Special Protection Area (SPA), and the Wetlands of International Importance under the Ramsar Convention, along with the South Thames Estuary & Marshes SSSI and the Thames Estuary and Marshes SPA which lie close to the development site. It is considered that the proximity of the SSSIs and SPAs does not represent a constraint in determining this application.

The Council's Consultant Ecologists have confirmed that they are generally satisfied with the information that has been provided and consider that the footprint of the proposed development site has limited potential to be suitable for protected/notable species. As such the completed development will have limited potential to impact on protected/notable species. However the site is located close to an existing mitigation area where it is known to contain protected species including reptiles, water voles and GCN and there is concern that the construction work may have a negative impact on the any species present within this area. The submitted ecological reports recommended precautionary mitigation to minimise any impact the construction works will have on any species present and the applicants have further clarified these measures.

In the light of this Medway Council's Consultant Ecologists have confirmed that they would have no objection to this development, subject to the imposition of a condition requiring the submission of a construction environmental management plan related to biodiversity that provide a mechanism to highlight any time of year when construction should be avoided to avoid disturbance. The developer has confirmed that they are agreeable to the imposition of such a condition.

In terms of the Council's obligations under Section 61 and 62 of the Conservation of Habitat and Species Regulations 2010, as amended, an Appropriate Assessment has been undertaken in regard to the potential impacts that this proposed development may have on the European site. Based on the information provided, and having considered the maximum daily number of tanker movements along with the existing use of the site, the Appropriate Assessment concluded that the proposed development is unlikely to result in any significant effects resulting from air quality or noise/visual disturbance from this development to notified features within the aforementioned designated sites.

Bearing this in mind, whilst the proposal is not considered necessary for the management of the European site, it will not adversely effect the integrity of the European site, either alone or in combination with other plans or projects. Careful consideration has been given in regard to the manner in which the proposed development is to be carried out and appropriate conditions are recommended to ensure that the development will not result in any adverse affect on the European site that is located close to the development site. The economic benefits from the siting of the development within the existing Grain LNG plant area combined with the fact that it will be the only facility of this kind in kent and its immediately adjoining county's means that there are imperative reasons of overriding public interest to under take the development. This being the case, the development is considered to be acceptable in terms of Medway Council's obligations under Section 61 and 62 of the Conservation of Habitat and Species Regulations 2010, as amended.

This development is considered to be acceptable in terms of issues related to Nature Conservation and accords with Policies BNE35, BNE36, BNE37 and BNE39 of the Local Plan.

## *Other Matters*

### *Archaeology*

The County Archaeologist has previously advised that no archaeological measures are required in relation to the LNG site due to the extensive works that have previously been undertaken on the site. This being the case, it is not considered that the proposal is likely to have an adverse impact on archaeology in the vicinity of the site. Therefore the development is considered to accord with Policy BNE21 of the Local Plan.

### *Development and Flood Risk*

The Environment Agency has stated that it has no objections to the development subject to the imposition of conditions. Having assessed the development against the EA's floodplain maps the majority of the development lies within flood zones 2 and 3 that are areas considered to have a high probability of flooding. The NPPF Technical Guidance is clear in Paragraph 3 that the lines defining the EA flood zones, whilst showing the presence of existing defences ignore their presence when defining the extent of the predicted flooding. In this instance the site benefits from the presence of flood defences which protect it from extreme flood events and greatly reduces the risk. This being the case it is considered that there is limited risk from flooding related to this development.

The NPPF Technical Guidance indicates that where possible new development should be directed to locations within Flood Zone 1 and that elsewhere development at any particular location should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2, applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test, if required.

In terms of the Sequential Test related to Zones 2 and 3, the Technical Guidance to the NPPF contains a vulnerability classification for different land uses and summarises the vulnerability classification of appropriate land uses for each Flood Zone. One of the exceptions relates to the provision of 'Essential Infrastructure' and it is considered that due to the nature of the National Grid Grain LNG plant it falls within the 'Essential Infrastructure' classification as defined by the NPPF Technical Guidance.

In this instance it is considered that the wider National Grid Grain LNG facility provides wider sustainability benefits to the community that outweigh flood risk, especially when bearing in mind the fact that flood defences exist that protect the site from extreme flood events and greatly reduces the risk. Furthermore, the Flood Risk Assessment submitted with the preceding application MC/13/0857 stated that on the assumption that the flood defences are maintained, the results from the hydraulic modelling supports the former proposal for a RTLF and its safety with respect to flooding in the following ways:

- The existing flood defences surrounding the Isle of Grain means that the 'defended' flood risk is greatly reduced when compared with the 'undefended' outlines which form the current Environment Agency Flood Map;
- Developments within Grain LNG and the E-ON Power Station are considered safe with respect to tidal flood risk now and throughout their design life to the year 2060;
- Appropriately direct flooding due to surge tides is not predicted to ingress on to the Grain LNG facility, or the E-ON Power Station for events up to and including a 1 in 1,000 event, now and in the year 2040;
- The exposed nature of many of the defence frontages means that wave overtopping may result in significant amounts of flooding adjacent to coastal frontages during extreme events;
- Breach analysis at three potential locations around the Isle of Grain, informed by a detailed asset inspection, has shown that the Grain LNG Facility and the E-ON Power Station will not flood should a breach occur during a 1 in 250 event now, and in the year 2060;
- The pluvial modelling predicts that surface water may pond on the existing site, with depths of up to 200mm, during extreme rainfall events;
- A residual risk assessment of potential flooding to the site from overtopping and/or a breach in the flood defences during a 1 in 1,000 event has concluded that the Grain LNG facility and the E-ON Power Station will not be at risk of flooding now (2012). Flooding is predicted to ingress on to the Grain LNG facility from breach/and or overtopping for a flood event in 2060 with an annual chance of 1 in 1,000.

Bearing in mind the above and the fact that there have been no significant changes in relation to this submission from the previous submissions, this development is considered to conform to the sequential and exceptions test as set out in the NPPF Technical Guidance. No objections have been raised by the Environment Agency, subject to the imposition of appropriate conditions and in the light of all of these factors it is not considered that this development will have any adverse impact on the floodplain. Consequently the layout proposed is considered to be acceptable and in accordance with the NPPF and the Technical Guidance to the NPPF.

#### *Local Finance Considerations*

None relevant to this application.

#### *Concerns related to LNG Road Tankers on the Public Highway*

Members will have noted that the Parish Council have raised a concern about LNG tankers being provided by others and how / who regulates them and their drivers, ensuring that they are 'fit for purpose' and maintain an appropriate standard. The LNG road tankers are regulated and controlled under the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDG Regs).

Members will be aware that where there is other legislation which controls matters of potential concern the Government has advised Local Planning Authorities that it should not duplicate these controls and that such concerns fall outside of the LPA's

remit. As such the carriage of dangerous goods clearly falls under the control of other legislation and no further consideration is given to this matter for the reasons set out above.

The Parish Council has also raised a concern about the access / exit from site being closer to the village and claim it is unclear whether any changes to the Public Information Zone (PIZ) would be required as a result of the proposed development. Additionally they are seeking clarification as to the effect of this proposed development on the latest emergency plan. As pointed out above, the applicants are proposing to utilise an existing access, which they could lawfully use without any planning restriction for any purpose ancillary to the existing use, including access by HGV's.

In terms of any change to the PIZ, this would be determined by the HSE pursuant to a consultation on a Hazardous Substance Consent application. The applicant has indicated that they will only be seeking a Hazardous Substance Consent following the determination of this application and prior to first use of the proposed facility. Irrespective of this the PIZ designation falls under separate controls and can only be informed following advice from the HSE in relation to any Hazardous Substance Consent application which may be submitted.

Turning to the query related to the effect of the proposal on the latest emergency plan, the Council's Emerging Planning Manager has advised that the National Grid Grain LNG site is designated as a top tier site and controlled under the Control of Major Accident Hazard (CoMAH) Regulations. As such, once again, the need to review the emergency plan falls outside the considerations related to this submission.

Irrespective of the above points related to the Carriage of Dangerous Goods, the need for Hazardous Substance Consent and the potential need to review the emergency plan, an informative is recommended reminding the applicant of their obligations under the CDG Regs, the Hazardous Substance Regulations and the CoMAH Regulations

### **Conclusions and Reasons for Recommendation**

This application is considered to result in a development that would respect the character and appearance of the area in terms of design and layout and would not result in detrimental harm to the amenities of neighbours or the highway in terms of safety and parking. The development has been carefully considered in terms of its impact on biodiversity and the designated sites of nature conservation, which lie in close proximity to the site. Furthermore, it is not considered that the proposed development will result in any adverse impact on these designated areas or any protected species. This being the case the development is considered to accord with the provisions of Policies S13, BNE1, BNE2, BNE5, BNE6, BNE21, BNE23, BNE24, BNE33, BNE35, BNE36, BNE37, BNE39, BNE46, ED1, ED7, ED8, CF13, T1, T2 and T13 of the Medway Local Plan 2003. The application is accordingly recommended for approval.

This application would normally fall to be determined under officer's delegated powers, but is being reported for Members' consideration due to the representations

of the Parish Council expressing a view contrary to the officers' recommendation.

---

### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://planning.medway.gov.uk/donline/AcolNetCGI.gov>