



Application by London Resort Company Holdings Limited for an Order Granting Development Consent for the London Resort

Planning Act 2008 – Section 88

Initial Assessment of Principal Issues

12 May 2021

This is the Initial Assessment of the Principal Issues prepared under section 88(1) of the Planning Act 2008 (PA2008). This initial assessment has had regard to consideration by the Examining Authority (ExA) of the application documents and of Relevant Representations received in respect of the application.

This is an initial assessment of issues based on information available to the ExA at the time of writing and is not a comprehensive, exclusive, or detailed list. The ExA will have regard to all matters before it when it submits its Recommendation Report to the Secretary of State for Housing, Communities and Local Government after the Examination has concluded.

The order of the issues listed does not imply any order of prioritisation or importance.

Some Principal Issues have an interrelationship and overlap that will be reflected in the Examination.

1. Legislation, national and local policy – to include:

- a) The PA2008 and other applicable legislation.
- b) “Important and relevant” national and local policy and other matters for the purposes of the PA2008.
- c) The acceptability of the principle of development having regard to national and local policy.
- d) Application of the National Planning Policy Framework (NPPF) “agent of change principle”.
- e) Whether those parts of the Proposed Development which fall within the Green Belt would amount to inappropriate development, having regard to the NPPF and relevant development plan policies. If parts of the Proposed Development are inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the Proposed Development.

2. General matters for all topics - to include:

- a) The adequacy of the assessment and mitigation for each environmental topic, including consideration of scope, methodology, study area, receptors and their sensitivity, baseline conditions and how they were identified, magnitude and duration of construction and operational phase effects, mitigation, opportunities for enhancement, residual effects after mitigation and their significance, monitoring and maintenance.

- b) Whether the assessment methodology reflects best practice, whether it has been applied consistently, and whether the assessment of significant residual effects is fully evidenced and reasoned.
- c) The application of professional judgements and assumptions.
- d) Outline/ draft mitigation and management strategies and plans.
- e) Whether the mitigation measures are secured and are likely to result in the identified residual impacts, consistent with the Environmental Statement (ES).
- f) The assessment of cumulative effects and the other plans/ projects included in the cumulative impact assessment. Cumulative effects with the Lower Thames Crossing and Thurrock Flexible Generation Plant developments.
- g) Opportunities for enhancement and environmental benefits.
- h) Human rights and equalities duties.
- i) Common law nuisance and statutory nuisance.
- j) The achievement of sustainable development.
- k) The notification of the Swanscombe Peninsula Site of Special Scientific Interest (SSSI) and the balance of adverse effects against benefits.
- l) Implications of the notification of the Swanscombe Peninsula SSSI for the site selection process.
- m) The effects on the Port of Tilbury, including operations, navigation aids and economic.
- n) The effects of the proposed helipad.
- o) The effects of temporary accommodation for construction workers.

3. Rochdale Envelope - to include:

- a) The flexibility sought for the detailed design, construction, and operational phases.
- b) Whether the extent of flexibility adopted in the Rochdale Envelope for assessment and evidence is consistent.
- c) Whether the size and extent of the "envelopes" is adequately defined and provides an appropriate level of flexibility.
- d) The extent of the Rochdale Envelope. Understanding how the reasonable worst-case scenario has been assessed particularly in context of changes during the operational phase.
- e) Whether wireline montages are adequate to assess the effects on visual receptors.

4. Design - to include:

- a) "Good design", including functionality, durability, and aesthetics and with reference to the NPPF and the National Design Guide 2021.
- b) Whether the design responds to its setting, considering the effects on existing development including living conditions of occupants, SSSI and other receptors, including users of footpaths, cycleways, the river, and adjacent roads.
- c) Whether the level of detail in the Design Code is adequate to assess and control the effect of the Proposed Development including use of materials.

- d) Whether the Design and Access Statement articulates the design concept/ context for the Proposed Development.
- e) Whether the Design and Access Statement reflects the findings of the ES.
- f) Whether the information provided enables an assessment of how design is being used to minimise the ecological impact of the Proposed Development.
- g) Whether the built design elements incorporate opportunities to increase biodiversity.
- h) The design effects of the car parking strategy.

5. Land transport, non-motorised users, access, and severance - to include:

- a) Whether the traffic modelling is appropriate.
- b) Growth and committed development assumptions, relationship with A2 Bean to Ebbsfleet junction and Lower Thames Crossing schemes and M2 corridor Brexit arrangements.
- c) Robustness of visitor demand and staff travel forecasts, use of 85th percentile peak day, definition of peak times, the effects of events, robustness of modal share assumptions and level of ambition of non-car travel mode targets in the Travel Demand Strategy.
- d) Robustness of assumptions for use of river transport for delivery of construction materials, control over use of river transport and implications for land transport of any changes or disruption.
- e) The scope of Transport Assessment and the ES Land Transport chapter, including effects on the local road network and justification for limiting the assessment to links identified using Institute of Environmental Management and Assessment Guidelines.
- f) The potential for construction phase congestion, disruption and safety impacts on the strategic and local road networks and Non-motorised Users (NMUs), temporary closures and diversions, scope, level of maturity and effectiveness of mitigation in the Construction Traffic Management Plan, liaison with the local transport authorities and other stakeholders, mechanisms for updating mitigation and controls.
- g) The potential for operational phase congestion, disruption and safety impacts on the strategic and local road networks and NMUs, permanent road closures, definition, effectiveness and control of mitigation measures, monitoring and liaison with the local transport authorities and other stakeholders, mechanisms for updating mitigation and controls.
- h) Suitability and level of design detail of highways proposals.
- i) Temporary and permanent effects on public rights of way and non-statutory pedestrian and cycle routes.
- j) The effects on transport policing and other emergency services.
- k) Robustness of the assessment on-site parking demand, controls over off-site parking.
- l) Suitability, level of maturity, effectiveness, and controls in the Rail and Bus Strategy Plans, pedestrian and cycling strategies, impacts on existing transport infrastructure and the need for mitigation.

- m) Traffic Regulation measures in the draft Development Consent Order (dDCO).

6. River transport and navigation - to include:

- a) Relationship of the "Park and Glide" service with the existing ferry service and potential riverboat services to central London.
- b) Robustness of the assessment of the share of visitors arriving by river from the Essex side and central London locations. Implications for other transport modes of any variation in those shares.
- c) The effects of adverse weather and other potential disruptions on the river transport of construction materials, the Park and Glide service and the delivery and service river crossings, including the implications for other transport modes.
- d) The scope, level of maturity and robustness of the Navigation Risk Assessment and the adequacy of consultation. Whether adequate river safety control and mitigation measures are in place.
- e) The river transport and navigation effects on the Port of London operations, navigation aids, and whether any further protective provisions or other mitigation are required.
- f) The level of detail and flexibility of the proposed river transport infrastructure and the need for dredging.
- g) The landside effects of the river transport proposals.

7. Land use, social and economic - to include:

- a) The need for the Proposed Development having regard to its social and economic characteristics.
- b) The market opportunity and demand for an entertainment resort.
- c) The adequacy and security of project funding and guarantees for compensation.
- d) The nature of the UK's existing visitor attraction market and the effects on existing theme parks and resorts, including diversion.
- e) The effects on economic development and regeneration.
- f) The effects of visitor and worker expenditure.
- g) The effects on construction and operational employment (including direct, indirect and induced effects and job characteristics).
- h) The effects on the labour market, including the adequacy of the Employment and Skills Strategy, how it will be secured, funded and monitored.
- i) The effects on Ebbsfleet Central.
- j) The effects on businesses, business opportunities and the supply chain.
- k) The effects of displacing existing businesses, services, employment and apprentices, including those based at Northfleet Industrial Estate, Kent Kraft Industrial Estate, Galley Hill Industrial Estate and Manor Way Business Park.
- l) The adequacy of business displacement mitigation, including relocation support and property compensation.
- m) The location of alternative sites in relation to the customer base and employees of displaced businesses.

- n) The suitability of alternative sites to business needs and the ability to accommodate "bad neighbour uses".
- o) The effects on local retail and leisure, including town centres and other destinations.
- p) The effects on housing delivery arising from land-take and construction works.
- q) The effects of workers and visitors on local accommodation options and the housing market.
- r) The effects of displacing existing residential dwellings.
- s) The effects of workers and visitors on healthcare provision and other public services, as well as crime levels.
- t) The effects on community uses, including open spaces, public rights of way and other recreational or community facilities, and the associated effects on local communities.

8. The water environment and soil and ground conditions - to include:

- a) Sufficiency of Flood Risk Assessments in considering the effects of coastal, fluvial, surface water, groundwater, sewers, and other sources of flooding, taking into account climate change.
- b) The effects on groundwater and surface water, including Source Protection Zones, water dependent resources and receptors during the construction and operational phases.
- c) Surface water drainage, Sustainable Urban Drainage Systems, discharges to the River Thames, and compliance with national standards.
- d) Modifications to local drainage systems, including ordinary watercourses. Ability of marsh lands to accommodate volumes of surface water drainage.
- e) Connections to the public sewerage network.
- f) Compliance with the Water Framework Directive, including for the Tilbury site.
- g) Contaminated land and land quality pollution control, including the degree of uncertainty of existing contamination and the extent of remedial works.
- h) Geological conservation.
- i) Coastal processes and the flows or sedimentary processes acting on the marine margins of the Proposed Development.
- j) Southern Water capacity, funding timing and consistency with its investment plan.

9. Biodiversity and ecology - to include:

- a) Whether the ES and any updates adequately address the notified Swanscombe Peninsula SSSI.
- b) The need for additional mitigation and compensation measures for biodiversity and ecology in relation to the notified Swanscombe Peninsula SSSI.
- c) The Shadow Habitats Regulations Assessment. Screening of European sites. Potential impact pathways and the avoidance measures for impacts to Special Protection Areas, Ramsar Sites and Special Areas of Conservation.
- d) Other statutory designated sites.

- e) Non-statutory designated sites of interest.
- f) Non-designated sites of interest and the weight given to effects on them.
- g) Rationale for scoping in/out the sites.
- h) The effects on Swanscombe Marine Conservation Zone and marine habitats.
- i) The effects on Open Mosaic Habitat on Previously Developed Land and Coastal Floodplain Grazing Marsh.
- j) The effects on other habitats including marshland, grassland, trees, woodland, marine, standing and running water.
- k) Whether there are any irreplaceable habitats.
- l) The removal, cutting or lopping of trees and hedgerows, including any subject to tree preservation orders. Locations, justification, compensation and replacement.
- m) Species surveys and whether they are sufficiently comprehensive and up to date.
- n) Evidence of the presence of Distinguished Jumping Spiders.
- o) The effects on protected species and the mitigation strategies.
- p) The effects on invasive species and the mitigation strategies.
- q) Habitat mitigation, management of retained habitats and how this is secured.
- r) Noise, vibration, artificial light, air quality and hydrology-related effects on biodiversity. The effects of piling in the River Thames on fish. The effects of nitrogen deposition.
- s) Pre-commencement, construction, and operational phase monitoring and how it is secured.
- t) Application of the Ecological Mitigation Hierarchy.
- u) The Biodiversity Net Gain assessment, including the relevance of the Environment Bill 2020.
- v) The effects of additional recreational facilities at the water's edge.
- w) The effects on biodiversity of changes to public access to the site.
- x) The effects of the access road and people mover on the Baker's Hole SSSI/ notified Swanscombe Peninsula SSSI.

10. Noise, vibration, and nuisance - to include:

- a) Compliance with statutory requirements including the Noise Policy Statement for England, NPPF and Planning Practice Guidance.
- b) Identification of receptors for the assessment, including in the vicinity of the Ebbsfleet Central development.
- c) Proximity to noise sensitive receptors, residential premises, Noise Important Areas, noise sensitive areas, quiet places, areas valued for their tranquillity and designated sites.
- d) Construction noise, vibration and working hour limits, including for the closest receptors to construction works.
- e) Operational noise, including from rides and attractions, events, displays, public announcements, and pyrotechnics. Hours of operation.

- f) The number and location of properties and other receptors likely to experience significant adverse construction or operational phase noise or vibration effects and the timing and duration.
- g) The application of the Noise Insulation Regulations and properties that may require noise insulation or temporary re-housing.
- h) Noise and vibration control measures for the construction and operational phases that address the flexibility sought and that are consistent with identified significant effects. Associated measures for communication, monitoring, and complaints. How the control measures are secured.

11. Air quality - to include:

- a) The effects on air quality arising from dust deposition and elevated particulate matter concentrations during the construction phase, including through site preparation and clearance works, earthworks, main construction works, construction traffic and the transport of materials to and from the sites.
- b) The effects on air quality during the operational phase from vehicle fumes, including through road and river traffic, and emissions from the proposed on-site energy centre.
- c) The effects on Air Quality Management Areas at Northfleet Industrial Area and Dartford.
- d) The effects on odour from the proposed wastewater treatment works.

12. Climate change - to include:

- a) The embodied greenhouse gas emissions from the construction of the Proposed Development.
- b) The embodied greenhouse gas emissions from the life cycle of the Proposed Development, the end of life stage and beyond the life cycle.
- c) The greenhouse gas emissions associated with operational energy consumption, operational water consumption and operational transport, including those associated with servicing, staff, and visitor movements.
- d) The effectiveness of measures proposed to reduce greenhouse gas emissions and minimise the contribution to climate change.
- e) Compliance with national and international obligations and targets.
- f) The vulnerability and resilience of the Proposed Development to risks arising from climate change.
- g) Mitigation measures to reduce climate change risks.

13. Landscape and visual - to include:

- a) The adequacy of the landscape and visual impact assessment to assess effects.
- b) The effects on landscape character.
- c) Protected landscapes – the effects on Kent Downs Area of Outstanding Natural Beauty (AONB) intervisibility, traffic and tranquillity.
- d) Whether wireline photomontages are adequate to assess the visual effect on the landscape character.

- e) The effects of ground remodelling and changes to the hydrology of the site on landscape character and appearance.
- f) Assessment of the effects on the AONB and other visual receptors in the absence of detailed design, form of buildings and structures, materials colours, lighting, etc.
- g) Intervisibility between the site and visual receptors.
- h) Identification of important viewpoints.
- i) Whether the landscape strategy is appropriate and whether it changes the character of the sites including consideration of plant species.
- j) Whether the proposals to permanently block some public rights of way and footpaths and divert others including the England Coast Path affect the character of the site and change the visual understanding of the site.
- k) The effects on the Pilgrim's Way and how it would be experienced post development.
- l) Assessment of construction effects on the landscape character.
- m) The effects on the tranquillity of the site, including from increased recreational disturbance.
- n) The effects on visual amenity in adjacent residential areas.
- o) Assessment of night-time views.
- p) Change to the visual experience of the site for users of the River Thames.
- q) Assessment of effect on the Green Belt.
- r) Visual effect of the operational use on the chalk cliffs and effect on landscape character.
- s) Whether the proposed landscape strategy including tree planting affects landscape character.
- t) Long term effect on the landscape character.

14. The historic environment - to include:

- a) The effects of the access road and people mover on Baker's Hole SSSI and Scheduled Monument.
- b) Evolving Historic Environment Framework.
- c) Whether the effects of the construction and operational phases of development on the Cultural Heritage and archaeology of the site have been adequately assessed and if the post development interpretation details are appropriate.
- d) The effects on designated and non-designated heritage assets, including Tilbury Fort Grade II* listed building (particularly from the proposed multi-storey car park), The World's End public house and Riverside Station, both of which are Grade II* listed buildings, and from the new landing stage on the Tilbury terminal building.
- e) Study Area for archaeological assessment and evaluation and for built heritage and setting assessment.
- f) Identification of significant viewpoints.
- g) Lighting effect and management.
- h) Night-time effects.

- i) The extent and effects of below ground works.
- j) On site railway heritage assessment.
- k) The effects of potential ecological off-site mitigation/compensation on heritage assets.
- l) Cultural significance of English Channel/North Sea.
- m) Adequacy of desk based and on-site assessment.
- n) Whether there would be any sterilisation of archaeological sites.
- o) Zone of theoretical visibility.
- p) Opportunities for Public Benefit.
- q) The effects on the Pilgrim's Way and how it would be experienced post development.
- r) The effects of any changes in hydrology on heritage assets, in particular the archaeological importance of the site.
- s) The effects of ground remodelling on heritage assets, in particular the archaeology of the site.
- t) Whether the Deposit Modelling is complete or needs updating.
- u) Details of proposed mitigation measures.
- v) Whether the assessment of visual receptors adequately addresses heritage assets.
- w) Visual effect of the operational use of chalk cliffs on heritage assets.
- x) The effects on the historic landscape, including grazing marshes.
- y) The effects on the historical importance and related heritage assets in the inter-tidal area.

15. Other environmental topics - to include:

- a) The effects on human health and well-being, including the effects on the living conditions of surrounding residents from construction and operational activities and changes to the natural environment, and in relation to temporary accommodation for construction workers.
- b) Safety, security, accident and disasters assessments and mitigation.
- c) The effects on emergency services, including the development of response plans.
- d) Waste generation, on-site waste treatment, off-site waste management and the effects on available landfill capacity.
- e) The effects on aviation and defence.

16. Compulsory Acquisition and related matters - to include:

- a) Whether all relevant statute and guidance has been complied with, including compliance with the PA2008 and with relevant guidance, including "Planning Act 2008: guidance related to procedures for the compulsory acquisition of land Department for Communities and Local Government (DCLG) September 2013".
- b) Accuracy of the Book of Reference, including the identification of persons to be listed within Category 3. Accuracy of the Land Plans. Updates during the Examination.

- c) Whether the full extent of the land, rights and powers that are sought to be compulsorily acquired, including access for maintenance, temporary possession, powers to override easements and rights under streets, are necessary to facilitate or are incidental to the Proposed Development.
- d) The Statement of Reasons and whether the powers sought are required for the development to which the order relates, whether they are legitimate, necessary and proportionate and whether it is clear how the Applicant intends to use the land.
- e) Whether there is a compelling case in the public interest for the compulsory acquisition of the land, rights and powers that are sought by the dDCO that justifies interference with the human rights of those affected.
- f) Minimisation of the need for acquisition of land and rights, including full consideration of acquisition by agreement and the exercise of existing land option agreements.
- g) Whether all reasonable alternatives to compulsory acquisition have been explored.
- h) The acquisition of any statutory undertakers' land or rights over such land and the detriment that may be caused to the carrying on of the undertaking in question. The adequacy and agreement of protective provisions in the dDCO; any necessary side agreements; and compliance with s127 and s136 of the PA2008.
- i) The adequacy of the Protective Provisions set out in the dDCO and the need for any other Protective Provisions to safeguard relevant interests including those of Anglian Water Services Ltd, Port of London Authority, Network Rail, HS1 and the Environment Agency.
- j) Potential impediments to development, including safeguarded land (e.g. Crossrail).
- k) Whether the tests at S135 of the PA2008 for the acquisition of Crown land have been met.
- l) The demonstration of ongoing diligent enquiry to identify any unknown rights and updates during the Examination.
- m) Any objections, the Applicant's responses, and related evidence; and updates on negotiations, voluntary agreements, and blight during the Examination.
- n) Whether there are suitable dDCO provisions for compensation.
- o) Whether adequate funding would be available to enable the Applicant to carry out the compulsory acquisition within the statutory period. The robustness of costings set out in the Funding Statement.

17. The dDCO and other consents, obligations, and agreements - to include:

- a) Provisions required for the Proposed Development to be implemented satisfactorily.
- b) The reasoning provided in the Explanatory Memorandum (EM) and departures from the model provisions set out in The Infrastructure Planning (Model Provisions) (England and Wales) Order 2009.
- c) The clarity of definition and the consistency of use of terms and phrases referred to in the dDCO.
- d) Whether a full, precise, and complete description has been provided of the "principal development" and "associated development".
- e) Whether all "associated development" is necessary.

- f) Whether the dDCO and supporting documents adequately define and control the phasing of the Proposed Development.
- g) The status of the dDCO Requirements and associated provisions and documents; whether they are reasonable and relevant to planning and the development to be consented; whether they are enforceable and precise; and whether they secure the proposed mitigation and monitoring.
- h) Whether any additional Requirements are necessary.
- i) Whether the flexibility provided for the detailed design, construction or operational phases can be justified, and whether it represents a reasonable approach.
- j) The proposed procedures for consultation on and the discharge of Requirements, and for approvals, consents, and appeals, including arbitration; and the roles of the local authorities and of other statutory and regulatory authorities.
- k) The need for and means of securing funding for any necessary monitoring and enforcement of the dDCO Requirements.
- l) Harbour powers, the harbour authority, and the Deemed Marine Licence.
- m) The identification of other consents, obligations, or agreements (including relevant s106 agreements) required before the Proposed Development can become operational, progress in obtaining them, and comfort/ impediments and timescales for them being granted.