



National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Customer Services: 0303 444 5000  
e-mail: [LondonResort@planninginspectorate.gov.uk](mailto:LondonResort@planninginspectorate.gov.uk)

To:  
London Resort Company Holdings  
All Interested Parties

Our Ref: BC080001  
Date: 12 August 2021

Dear Sir/ Madam

## **The Planning Act 2008 Sections 89(3) and 89(4)**

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

#### **Procedural decisions made by the Examining Authority about how the application is to be examined**

I write to advise you of procedural decisions made by the Examining Authority (ExA) in relation to the Applicant's proposed submission of updated material and the delay to the date(s) of the Preliminary Meeting (PM) and to the start of the Examination.

This letter follows the ExA's procedural decisions of 29 July 2021:

<https://infrastructure.planninginspectorate.gov.uk/document/BC080001-000957>

The Applicant's response of 6 August 2021 can be viewed at:

<https://infrastructure.planninginspectorate.gov.uk/document/BC080001-000975>

<https://infrastructure.planninginspectorate.gov.uk/document/BC080001-000976>

<https://infrastructure.planninginspectorate.gov.uk/document/BC080001-000977>

Having reviewed the Applicant's response, and to help minimise the delay to the start of the Examination and ensure that it can progress efficiently when it starts:

- 1. The ExA has decided to ask the Applicant to further clarify its position in relation to DCLG Guidance<sup>1</sup> that the start of an Examination will not normally be postponed for longer than three months. The Applicant's response is requested by 1 September 2021.** I refer to the Applicant's response of 6 August 2021 to Procedural Decision 2 in the ExA's letter of 29 July 2021. The Applicant is asked to provide a detailed explanation of whether environmental information and consultation will be sufficiently current to form the basis of an Examination that would start no earlier than mid-January 2022. This could include the implications of the delay for whether all baseline information will be sufficiently current, and not just in relation to the Applicant's updates for the

<sup>1</sup> Department for Communities and Local Government – Planning Act 2008: Guidance for the examination of applications for development consent (March 2015)

Site of Special Scientific Interest (SSSI) notification and parameters-led approach. The Applicant may also wish to address any changes to cumulative effects with other developments including changes to their relative timings, and changes to any assessments required due to any changes to construction or operation dates.

2. **The ExA has decided to ask the Applicant to clearly set out its position on the materiality of any change requested in accordance with Advice Note 16<sup>2</sup> when it submits any of the updates referred to in this letter.** The Applicant should consider whether the combined impact of changes to Application documents and/ or any new documents would collectively result in a material change to the Application. The Applicant is requested to provide detailed reasoning for their position, with reference to Advice Note 16.
3. **The ExA has decided to ask the Applicant to amend its 4-weekly progress reports to identify and provide an explanation of any delays to document preparation or consultation. The Applicant is requested to provide the earliest possible indication of any documents not being prepared or any consultation not being completed before its scheduled submission date of week beginning 29 November 2021.** I refer to the Applicant's schedule of updated and new documents and schedule of consultation of 6 August 2021. The ExA observes that a significant proportion of changes to documents are less than 20% complete. The ExA also observes that several parties haven't been consulted to the planned frequency. These include Natural England, the Environment Agency, and others, who were to have been consulted more than once a month but have not been consulted since June 2021, or earlier. It is not clear to the ExA if these indicate a potential for the scheduled submission date to be delayed.
4. **The ExA has decided to ask the Applicant to review its plan not to consult on non-Environmental Impact Assessment (EIA) documents before it submits updates and to consider whether the draft Development Consent Order (dDCO) and Explanatory Memorandum should be updated and submitted along with the other updates. The Applicant's response is requested by 1 September 2021.** The ExA notes that updates to non-EIA documents also have the potential to constitute a material change. It appears likely that the dDCO will need to be changed following the other planned updates and the ExA notes the prominence given to dDCO changes in Advice Note 16.

All parties are reminded that the ExA will:

- decide whether any of the Applicant's updates constitute a material change once it has had an opportunity to review them;
- invite comments on the application, updates, and other submissions in due course;
- ensure that all parties will have several opportunities to make submissions during the Examination, which will follow the PM; and will
- decide on the date(s) of the PM, having regard to the information required to conduct the process fairly for all parties.

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<sup>2</sup> The Planning Inspectorate – Advice note sixteen: How to request a change which may be material (March 2018)

This letter is intended to seek clarification of matters related to how the application is to be examined following the notification of the SSSI and the ExA's initial review of the application. The ExA will further consider how the application should be examined in due course, including at the PM when there will be opportunities for parties to make representations on how the application should be examined. The merits of the application and all important and relevant matters before the ExA will be considered during the Examination.

If you have any further queries, please contact the Case Team at the telephone number or email address provided at the top of this letter.

Further updates will be posted to the project website.

Yours faithfully

*Stuart Cowperthwaite*

**Stuart Cowperthwaite, Lead Member of the Examining Authority**