

BY EMAIL ONLY

FAO: Rynd Smith, Lead Member of the Examining Authority
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

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10 January 2022

Dear Mr Smith

Response submitted by: Network Rail Infrastructure Limited

Registration identification number: 20027909

In relation to: Application by London Resort Company Holdings for an Order Granting Development Consent for the London Resort

We act for Network Rail Infrastructure Limited (**Network Rail**). This letter is Network Rail's response to the consultation questions in the Examining Authority's letter dated 21 December 2021.

1 Taking the current circumstances into account, can a continued delay in the commencement of the Examination of the Application until June or July 2022 still be justified in the public interest?

1.1 Network Rail recognises the significance of the development proposal and its potential economic benefits for the wider community. Network Rail stated in its section 56 response dated 31 March 2021 that it recognises the role that the rail network can play in supporting and facilitating sustainable visitor and staff movements to, and from, the London Resort (**the Resort**). That remains the case. However, this relies on a coordinated and comprehensive rail strategy. Further assessment work and engagement with rail industry stakeholders is required to put that strategy in place, and Network Rail consider that it would be counter-productive for the examination to commence before this work has been undertaken.

1.2 For context, and as detailed in its section 56 response, Network Rail's core concern is the need for enhancements to be delivered at Swanscombe station. The applicant's strategy overlooks Swanscombe station, which is located about 5-10 minutes walk from the proposed Gate 1. The applicant intends that visitors will use Greenhithe station and a local bus to reach the Resort. However, whether the applicant intends it or not, visitors will inevitably use Swanscombe station to access the Resort as it is much closer and visitors will be able to walk to the Resort. Its location

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makes it the obvious 'destination' station for visitors and staff arriving on the North Kent line (whereas visitors to any other station on the North Kent line would need to take a local bus to the Resort). The existing Swanscombe station is a small commuter station that does not have the capacity or appropriate configuration to accommodate the additional passenger numbers anticipated to be generated by the Resort.

- 1.3 Any interventions at Swanscombe need to be assessed and considered in the context of the wider rail network. Network Rail has identified the need for the following pieces of work to be undertaken prior to the examination commencing:
- (a) review and preparation of an initial design for the improvements required to Swanscombe station, and preparation of costings; and
 - (b) a review of the capacity-related interventions needed on the wider rail network (Railplan modelling).
- 1.4 These items have been discussed with the applicant and other relevant rail industry stakeholders. Network Rail is of the view that it cannot fully assist the Examining Authority in its assessment of the application until this work has been undertaken. Network Rail consider that this work can feasibly be carried out by June or July 2022 (though the Examining Authority is asked to note that this relies on an early commitment by the applicant to cover the costs of that work being undertaken), and therefore considers that a further delay can be justified in the public interest provided that this work is undertaken in the intervening period.
- 1.5 Network Rail is of the view that this work should have been carried out prior to the application being submitted and so it expects the applicant to cover the costs of this work. However, to date, the applicant has not agreed to cover these costs. We note that the main reason given for the delays so far has been the designation of part of the site as a SSSI. However, that does not have a bearing on the transport assessment work and does not explain the delay in that work being progressed.
- 1.6 Network Rail regard the items at paragraph 1.3 as essential to understanding the impacts of the proposals, and the scope and timing of any required mitigation – it is for this reason that this work should be undertaken before the examination can commence. There are other issues which also need to be resolved during the course of the examination including (amongst other matters):
- (a) agreement of the protective provisions for inclusion in the Order; and
 - (b) arrangements for the underbridge to accommodate the Resort's proposed roads under the railway.
- 1.7 We have repeatedly sought to progress the necessary legal agreements but have yet to have any meaningful engagement with the applicant on these and the requested legal undertaking for costs has not been provided.

2 If a delay is still justified:

- a) **what steps will or should the applicant take to assure the ExA that the time period of the delay is justified;**
- b) **is a schedule of updated and new documents and a schedule of consultation sufficient to justify ongoing delay; and, if not**

- c) **what regular reports and other information should be provided to the ExA by the applicant and by what dates, to demonstrate that progress is being made and that the extension of time is being put to good use, which in turn might be suggested as being sufficient to offset the harm caused by ongoing delay and is therefore in the public interest; and**
- d) **what further steps should the ExA take if commitments to progress continue not to be met?**

2.1 Network Rail is supportive in principle of:

- (a) a timetable for the preparation of the further work required to support the rail assessment but the Examining Authority is asked to note that this relies on an early commitment by the applicant to cover the costs of that work being undertaken;
- (b) a timetable for engagement regarding the protective provisions; and
- (c) a programme of meetings between Network Rail, the applicant and other rail industry stakeholders.

3 If, taking account of the changed circumstances, further delay is not justified, would it be appropriate for the ExA to curtail delay and to proceed directly to Examine the application as currently before it, commencing in March 2022?

- 3.1 As detailed above, further rail modelling and assessment work needs to be undertaken to support the application. Without that work the rail impacts cannot properly be known and so neither Network Rail nor the Examining Authority will be in a position to meaningfully assess the mitigation measures needed to address those impacts.
- 3.2 It is not feasible for the required work to be completed by March 2022 – as a result, if the application did proceed to examination in March 2022 Network Rail would not be in position to meaningfully assist the Examining Authority and the Examining Authority's ability to assess the application would be stymied.
- 3.3 Network Rail consider that the public interest is best served in allowing more time for the issues raised to be fully addressed – whether that be through an extension of time to the existing timetable, or through the withdrawal and re-submission of the application once that information has been assembled.

4 What other considerations might be relevant to this procedural decision?

- 4.1 The applicant has submitted a Funding Statement which annexes company accounts as at 31 December 2018. These accounts contain a balance sheet showing negative net assets. As a preliminary point the Examining Authority should seek to understand and clarify with the applicant that it has the necessary funding in place to take the application forward.

5 What other possible measures might the ExA lawfully and fairly decide to take in the circumstances and recognising the concerns of parties?

5.1 No comment.

Network Rail is committed to supporting the Examining Authority in its assessment of the application and is happy to provide any further clarity needed in light of the above comments.

Yours faithfully



Dentons UK and Middle East LLP