



Rynd Smith  
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Planning Inspectorate

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**Environment Directorate**

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**My ref:** LRCH/DCO

**Your ref:** BC080001

**Date:** 10 January 2022

Dear Mr Smith

**Draft response to London Resort Examining Authority (ExA) letter entitled “Amendment to Constitution of the Examining Authority and Consultation on Examination Procedure and Timing”**

The primary purpose of this letter is to respond to the questions posed in the London Resort Examining Authority procedural decision of 21 December 2021 however the Council would first like to make 2 points.

Firstly the Gravesham Borough Council appreciates that this is uncharted territory for the Planning Inspectorate in procedural terms due to the delays that have accrued since the DCO application was received by PINS on 04 January 2021. The Council is not in a position to comment on the detail of the legal process, though the legislation does appear to give the Examining Authority (ExA) wide discretion. It is unfortunate that the Examination has been delayed and we have a lot of sympathy with the challenging situation that the project promoter is in i.e. the thoroughness of its biodiversity studies and technical evaluations is a contributing factor to the site’s designation as a Site of Special Scientific Interest.

Secondly, the Council has consistently supported the principle of the application for the significant economic benefits it could bring to local residents and businesses. It did identify some information gaps in its Relevant Representation i.e. areas where the Council felt greater detail was needed or there were matters, including process considerations, that needed development to assist the Examination Authority. In our Relevant Representation we were also clear that this should not be taken as implying the Borough Council sees major issues that cannot be resolved and rather further clarity was being sought so that impacts can be avoided, mitigated or compensated.

The Council’s response to the ExA’s questions are set out below:

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?*

The designation of the SSSI by Natural England is an exceptional circumstance, which justified a delay. The applicant set out a timetable for dealing with that specific issue and a number of other matters raised in the Relevant Representations by Interested Parties. The ExA has agreed the latest outline timetable with applicant

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(applicant's letter of 27 October 2021 and the procedural decision of 5 November 2021) to start public consultation in February/March 2022. Whilst the Council has not had discussions with the applicant about the proposed consultation, at this time it feels premature to say at this point that the timetable cannot be met.

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?*

The Borough Council understands the concerns of Interested Parties over the delays to the Examination and the uncertainty this is causing.

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?*

The Borough Council is concerned about what proceeding 'directly to Examine' could mean in practical terms. If it means full Written Representations and production of a Local Impact Report that would potentially place a large burden on the Authority as forward resource planning has been assuming, on the basis of the published timetable, that these steps would occur in mid-summer. From the Council's point of view there is also a further potential consultation by National Highways on the Lower Thames Crossing in the same period. If it means the holding of a Preliminary meeting at which the primary issue is the adequacy of the submitted information that is another matter. Could the ExA please clarify what it would expect to happen under this option?

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

No comment.

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

No comment.

Yours Sincerely



Nick Brown  
Director (Environment) and Deputy Chief Executive