

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

7 January 2022

Dear Sir,

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
Amendment to Constitution of the Examining Authority and Consultation on Examination Procedure and Timing

Thank you for your letter dated 21 December 2021 seeking the Port of London Authority's (PLA's) response to questions relating to the application by London Resort Company Holdings (LRCH). The PLA's response is set out below. A limited period of time was provided for commenting, which did not appear to take into account the Christmas period and in reality, the PLA has only had a few days following the Christmas break to compile this response. The PLA's response may not therefore be as detailed as it would have been had there been a standard planning consultation period. Should the ExA find it useful for the PLA to expand on any of its responses then the PLA would be happy to do so.

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 PLA considers that a continued delay in the commencement of the examination of the application is not in the public interest. The pre-examination period should not normally extend for more than 3 months as this undermines one of the core benefits of a Development Consent Order: speed of decision making.

The Applicant provided a schedule for consulting Interested Parties (IP's), most recently the Schedule of Consultation (Rev 05) dated September 2021 and for progressing their application but has failed to meet the commitments that they set themselves. It cannot be in the public interest to have continued delay but equally it cannot be in the public interest for parties to be required to allocate resources to participating in an examination where it is clear that the Applicant and the application are not ready for examination.

As an illustration of this, in LRCH's letter to PINS dated 24 November 2021 the Applicant said that the SSSI designation gave rise to only "subtle changes" in the ES and outlined the nature of these changes. But nothing has been forthcoming, and IPs can have no idea what is in prospect, its justification nor the work required for a proper review by IPs. In these circumstances the PLA considers there to be a significant risk that this aspect of the application will not be ready for proper examination by June 2022.

In its letter to PINS of 24 November 2021 LRCH committed to reinstating the four weekly progress reports. The PLA has not seen any report since. While that might be due to the Christmas and New Year holidays it does bring home the fact that these reports were dropped without explanation. The ExA might consider this to indicate that LRCH continues to have difficulty in meeting its commitments.

In light of the above it seems unlikely that the timetable for completing documents for the Examination to start in June (see the 24 November 2021 letter) can in fact be met. In the circumstances, the PLA would recommend that the Applicant is invited to withdraw the application.

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;

The following assumes that the ExA agrees to allow further delay.

b. is a schedule of updated and new documents and a schedule of consultation sufficient to justify ongoing delay; and, if not

No – it would demonstrate level of activities but not of actual progress.

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

At least 2-weekly progress reports that record whether there has been real progress and if so, what that progress is, including the names of the third parties concerned.

d. what further steps should the ExA take if commitments to progress continue not to be met?

Invite the Applicant to withdraw the application.

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?

Examination now on the basis of inadequate documentation/readiness by all concerned could well be better than delay until June/July, when readiness must also be in doubt. But proceeding on this basis could not

allow for a satisfactory examination and would result in unnecessary – and almost certainly additional – expense for objectors. The PLA recommends that the Applicant is invited to withdraw the application.

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

Since the application was accepted by PINS on 28 January 2021 there has been extremely limited engagement between the PLA and the Applicant. The last draft of the Protective Provisions was provided to the PLA in September 2020. The PLA and the Port of Tilbury London Limited produced a joint note in March 2021 regarding the way the dDCO as applied for proposes to treat the Tilbury Landing Stage, associated powers and the river and riverbed in the neighbourhood of the landing stage. This note has not been responded to by the Applicant. There has been no contact with the PLA by the Applicant since June 2021.

Since the application was accepted by PINS there have been changing circumstances (in addition to the SSSI designation) in particular, the Thames Freeport designation and the funding and proposals for a purpose built ferry terminal at Tilbury. The lack of engagement by LRCH means that IP's have no idea whether all relevant factors have been properly assessed and documents updated accordingly.

It should be noted that as set out in the PLA's Relevant Representation there were already general inconsistencies across the chapters of the Environmental Statement, including missing documented assessments, which create uncertainty as to whether the identified mitigation is appropriate for the likely impact of the Order scheme. In the absence of proper engagement with IP's it is difficult to see how these inconsistencies have been resolved. In addition, the longer the delay, the greater the potential for the scheme to evolve further and/or for there to be other external factors for the Applicant to take into account with consequential further changes to the application documents, which could include material changes. Should examination take place in June 2022 or earlier, IP's would have very limited time to properly review the updated documents.

It should also be considered how the LRCH and Lower Thames Crossing timetables might overlap. Both projects involve similar IP's due to their location and those IP's have limited resources. IP's must have the opportunity to participate fully at both examinations which may not be possible should their examination timetables overlap.

In all the circumstances the PLA agrees with the representations (referred to in PINS's 21 December 2021 letter) that the Applicant should be invited to withdraw the application and reapply as and when it has properly prepared for Examination.

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

The PLA recommends that the Applicant is encouraged to withdraw the application and reapply as and when it is ready for examination following full consultation with parties.

Yours Faithfully,



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