



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

Our ref  
BC080001

Date  
10/01/2022

Contact  
Tel 0330 303 0119

Dear Rynd Smith,

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

### **Application by London Resort Company Holdings (the Applicant) 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 21/12/2021.

The amendments to the Constitution of the Examining Authority and the additional table of procedural decisions are noted along with the comments on Compulsory Acquisition request and other costs considerations, thank you for providing clarity.

With regard to the Consultation on Examination Procedure and Timing, the process for response and publication of other responses for further comments is also noted. Southern Water's responses to the questions set out in your letter are below. We have reviewed them in view of your comments regarding publication and can confirm that there are no elements in our responses which should not be published.

**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?**

*Southern Water would value The London Resort Company Holdings' due consideration of the environmental impacts of their proposal in light of the new SSSI designations. We recognise that in the current submitted documents there are statements that surveys are ongoing and we would hope that these were scoped with the likelihood of the designations in mind but we do also recognise that ecological surveys are constrained by a high degree of seasonality which must be taken into account for effectiveness. We are conscious that the public is very aware of*

*environmental issues relating to wastewater treatment processes and the proposals we have seen to date will affect our services beyond the site itself making full consideration a matter of public interest.*

*We understand the constraints of the examination process mean that the delays are inappropriate in the strictest sense but this suggests that the application may not have been sufficiently complete at the end of 2020. If the question is purely regarding procedure that should be taken into consideration and either pause the application to address the completeness, that is, file the updates which are now overdue, or force the examination to proceed which would potentially lead to a decision based on incomplete evidence. We are concerned that the repeated requests to delay lead to reduced confidence in the maturity of the plans overall, which should be taken into consideration if the examination takes place at the proposed earlier date.*

*We do not object to the delayed timetable in principle as it would enable the environmental impacts to be fully assessed.*

**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 applicant should make clear what the updates are expected to include, no detail on this has been provided in the documents we have seen. This should clarify the meanings of each level of update, 0-4 as identified in Schedule 8.1 and make clear what new information we can expect to emerge as a result of the updates.*

**b. is a schedule of updated and new documents and a schedule of consultation sufficient to justify ongoing delay;**

*The schedules 8.1 and 8.2 do not justify the delay as such but they do help communicate what changes should be forthcoming and who is engaged. These should be updated with the four weekly reports to help readers understand what is changing and when the changes that will impact their interest will be available.*

**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;**

*The schedules referred to in response 2b should be further supported with narrative to explain any further delays or changes and a summary of delays should be provided which could be a Red, Amber, Green 'RAG' style dashboard to help readers quickly identify what has changed the affects their interests.*

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

*If these commitments are not met this could be viewed as an indication that the team are not yet ready to deliver the project as proposed. We defer the consideration of the legal process on this point to the Examiner's discretion on whether they have the right to force a move to a decision or must simply take it into consideration when the Examination commences.*

**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?**

*Linked to our response to question 1 we feel that forcing a decision in March will risk not having complete data on biodiversity and environmental impacts. This is a risk of insufficient consideration in the public interest subject to the view on LRHC what the proposed updates will include.*

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

*Southern Water has engaged with LRHC regarding their proposals for their wastewater drainage strategy but we note that several of the documents awaiting updates relate to this and the wider impacts such as environment. We have already provided input regarding the capacity limitations of the sewer network in the area and the need for significant works to address those limitations. The process for funding such projects has not provided sufficient budget within the proposed timescales for delivery, though we do also believe that the proposed timeline will need to be updated in line with the repeated delays seen. These delays do also raise a question regarding the ability to deliver at the pace proposed which will further impact our ability to plan for the network expansion that will be needed. Commencing the examination at the earlier date may mean the expected updates are not complete in time for us to consult in a meaningful way though it remains unclear what the nature of the updates will be. We do not, therefore, have sufficient understanding of what the updates might include to determine whether the changes will be significant.*

*We note that in Schedule 8.2 Schedule of Consultation we have been identified for 'ad-hoc' consultation on wastewater, whilst Thames Water, the water supplier, is identified for monthly consultation. This leads to a concern that we are unable to consult effectively to plan the growth of our networks effectively to secure funding and ensure that our network continues to meet the needs of the wider public in the surrounding area.*

*We will be participating in the process throughout to ensure that this concern is understood recognising that there is a difference between the DCO for LRHC as a private commercial enterprise and the expansion works which will be needed offsite to compensate for the impact of this proposal. This difference could give rise to a funding gap which would need to be met through other means.*

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

*This project is unusual in its nature and raises a concern around the funding mechanism with respect to the expansion of the public sewer. As a private commercial organisation which is self-funded the approach to drainage has solely focused on the site itself, however, the expansion of network is required to ensure there will be sufficient capacity for properties in the surrounding area. If the project were a publicly funded project it would be likely that this would be regarded as enabling works for the overall project. In this case we are concerned that this will lead to Southern Water requesting funding independently to enable a commercial project, an issue which we do not feel is being addressed in the current procedure. The documents we have seen to date focus on the technical mapping of key changes on the site itself, with the low level of consultation and the lack of updated documents we do not feel this issue will be considered fully. We would welcome clarification on where this element will be considered within the process proposed.*

We look forward to reading the outcomes of this consultation and remain committed to supporting this process according to the final decision on procedure.

Your sincerely,



Sandra Norval  
Future Growth Lead  
**Business Channels**





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Our ref  
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Date  
04/01/2022

Contact  
Tel 0330 303 0119

Dear Sir/Madam,

**Application by London Resort Company Holdings (the Applicant) for an Order granting Development Consent for the London Resort.**

Thank you for your letter dated 21/12/2021.

The comments in our previous response dated 21/09/2020 remain unchanged and valid.

For any queries, please contact us at [SouthernWaterPlanning@southernwater.co.uk](mailto:SouthernWaterPlanning@southernwater.co.uk)

Your faithfully,

Growth Planning Team  
**Business Channels**

[Redacted signature line]