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Planning & Regeneration Department
Ask for: Kevin Burbidge
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My ref: London Resort/AOC
Your ref: BC080001
Date: 18 January 2021

Dear Katherine,

BC080001: Application by London Resort Company Holdings (LRCH) for an Order Granting Development Consent for the London Resort - Adequacy of Consultation request

Thank you for your letter dated 4 January 2021 requesting views of the Council on the adequacy of the pre-application consultation in respect to the Application by LRCH for an Order Granting Development Consent for the London Resort

PINS invited the Council to advise whether the Council considers that the developer has complied, in relation to the application, with the following duties under the Planning Act 2008 (as amended) (PA2008):

- **Duty to consult - PA2008 – section 42**
 - Section 42 requires consultation with certain persons specified in the Act and prescribed in regulations.
- **Duty to consult the local community - PA2008 – section 47**
 - Section 47 requires applicants to prepare a “Statement of Community Consultation” (SoCC) in consultation with relevant Local Authorities which sets out how the developer intends to consult the local community on its proposals. The developer must then publish the SoCC and undertake statutory consultation in accordance with it.
- **Duty to publicise - PA2008 – section 48**
 - Section 48 requires that details of the statutory consultation be publicised via a series of notices in the local and national press.

Other sections of the Planning Act are relevant along with the MHCLG’s ‘Planning Act 2008: Guidance on the pre-application process’ (2015), the EIA Regulations (2017), and PINS advice notes 2 and 14.

The first section below gives an overall executive summary of the conclusions from looking that the various topics in the rest of the letter, which cover the various stages of the consultation process and the tests that need to be applied.

Executive Summary

The Borough Council has carefully considered the overall consultation process, taking into account where relevant the Environmental Scoping Opinions and the five different consultations since 2014. For avoidance of any doubt:

Section 42: Duty to Consult

The Borough Council is content that the relevant bodies have been consulted and had the opportunity to make representations at the various stages over the years.

Section 47: Duty to Consult the local community

The revised Statement of Community Consultation (SoCC) has been followed as to process and the Borough Councils comments were taken into account in preparing that document, and in what followed. The extended 57 day consultation period or the second statutory consultation stretching over the holidays and into the school term gave ample scope for responses from residents, with the inevitable issue of a lack of face to face meetings or exhibitions as they were not physically possible.

The Borough Council in its consultation response noted that a number of issues set out in the Preliminary Environmental Impact Report (PEIR) were subject to further work and therefore not covered in detail. Given the unique nature of the development proposal and not having seen the application it is not clear to the Council whether this allowed consultees sufficient information to allow them to take an informed view as required by Regulation 12.

In particular:

- (i) Transport modelling (and matters dependent on it)
- (ii) Nature Conservation
- (iii) Socio economic
- (iv) Built form

Taking all the above into account, the Borough Council is of the opinion that the applicant has conducted a series of consultations with positive engagement on a very complex project. However, it is considered that the issues raised can largely be resolved as part of the DCO Examination process and through ongoing consultation with the applicant. The Council does not think that this undermines the adequacy of the consultation so far.

There do however remain some significant topic areas where additional information is needed to form a rounded view of the implications and therefore inform the arrangements that need to be put in place to handle the scheme in construction, operation and modification stages in the future.

Section 48: Duty to publicise

The Borough Council is content that the consultations have been publicised in an appropriate manner. The second Statutory consultation was carried out online only because the restrictions imposed by Government. With such large scale projects engagement with local residents and businesses from experience is often best done through face to face contact because of the problem of understanding large numbers of plans and documents. The length of time allowed for the Statutory Consultation addressed this issue as best it could in the circumstances.

Background

In preparing its response the Borough Council has also taken in to account section 49 of the PA2008 which requires the applicant in preparing the actual DCO application to 'have regard to any relevant responses'.

PINS, and applicant, supplied a copy of the consultation report at the same time as its Adequacy of Consultation request, which is very substantial although significant elements in the appendices are pre-existing material from the consultations.

We understand that PINS, at this stage, are not seeking GBC's views on the merits of the application. However an analysis of the adequacy of the consultation must include consideration of whether the consultation process provided sufficient information as to the effects of the scheme – it cannot just be a consideration of process and does need to consider content.

The Planning Act 2008 does not lay down a detailed procedure for the carrying out of the consultation exercise and this gives the Secretary of State / PINS broad discretion. However, even such discretion is subject to the principles set out by Stephen Sedley QC as approved by Hodgson J in *R v Brent LBC ex parte Gunning* (1985) 84 LGR 168 and endorsed by the Supreme Court in *R (Moseley) v Haringey LBC* [2014] UKHL 56 per Lord Wilson JSC ("the Gunning principles"), namely:

1. the consultation must be at a time when proposals are still at a formative stage;
2. the proposer must be given sufficient reasons for any proposal to permit of intelligent consideration and response;
3. adequate time must be given for consideration and response, and;
4. the product of the consultation must be conscientiously taken into account in finalising any statutory proposals."

The Borough Council is therefore applying those tests to the consultation process on the basis of the spirit intended for the process, not only whether the letter of the regulations has been met.

On the fourth principle the Council has not had sight of the actual application as submitted, though there have been ongoing meaningful discussions with the applicant. It cannot therefore comment on whether some of its representations have actually been addressed in the application material. It can, however, comment on the adequacy of material in the public domain.

The Borough Council has taken into account the guidance for MHCLG on consultation¹ in relation to applications under the Planning Act 2008.

This project has had a long history dating back to initial request to the Secretary of State to be designated under s.35 Planning Act 2008 (as amended), which occurred on 9 May 2014. Non statutory consultations followed on 10 -28 July 2014, 3 November – 6 December 2014, and 4 February – 20 March 2015. An Environmental Scoping report by PINS was produced in November 2014 and the Scoping Opinion was published on 22 December 2014. The first statutory consultation under Sections 42, 47 and 48 of the Act occurred from 27 April to 5 June 2015.

A period of project development followed with the scheme advancing again from early 2020. A second Environmental Scoping report was published on 17 June 2020 and responded to by the

¹ [Planning Act 2008: Guidance on the Pre application process](#)

Borough Council on 20 July 2020. The Scoping Opinion was issued on 29 July 2020. A second round of Statutory Consultation took place from 27 July 2020 to 21 September 2020.

Most of the scheme is located in Dartford Borough Council area however elements, on Botany Marshes, in the Ebbsfleet, and along the A2 at Pepper Hill lie within Gravesham. Both these areas have the Ebbsfleet Development Corporation (EDC) as their Development Management Authority, whilst Gravesham covers any of the development boundary outwith the EDC area. Gravesham remains the Local Plan Authority for the site in Gravesham, as does Dartford Borough Council to the west. When the EDC complete its jobs the Development Management role will revert to the relevant Borough Council. Kent is the Transport Authority. North of the River Thames the proposed development is in Thurrock Unitary Authority.

The Council, in its representations to LRCH, has consistently advised that whilst the area of land covered by the proposal is modest compared to that within Dartford Borough, the impacts on Gravesham residents and businesses, because of road layouts, access arrangements, population density etc. require due consideration. LRCH has recognised this and been even-handed in its interactions with the host authorities.

The current development description (from the applicant) is that the London Resort will include in the Principal Development:

- “land remediation works;
- the Leisure Core, comprising a range of events spaces, themed rides and attractions, entertainment venues. The main theme parks would be developed in landscaped settings in two phases known as Gate One and Gate Two.
- terrain remodelling, hard and soft landscape works, amenity water features and planting; and
- pedestrian and cycle access routes and infrastructure.

The Associated Development includes:

- public areas outside the two Gates offering a range of retail, commercial, dining and entertainment facilities in a sequence of connected public spaces including an area identified as the Market;
- the A2(T) Highways Works comprising modified roundabouts with traffic signals at the A2(T) / A2260 Ebbsfleet junction.
- car parks with an overall volume of 10,750 spaces, split between the Kent and Essex Project Sites;
- four hotels providing family, upmarket, luxury and themed accommodation totalling up to 3,550 suites or ‘keys’. One hotel will incorporate access to an enclosed water park;
- a ‘Conferention’ Centre (i.e. a combined conference and convention centre) capable of hosting a wide range of entertainment, sporting, exhibition and business events;
- a e-Sports Coliseum designed to host, video and computer gaming events and exhibitions;
- a ‘Back of House’ area accommodating many of the necessary supporting technical and logistical operations to enable the Entertainment Resort to function, including administrative offices, a security command and crisis centre, maintenance facilities, costuming facilities,

employee administration and welfare, medical facilities, offices and storage facilities, internal roads, landscaping and employee car parking;

- a visitor centre and staff training facility;
- an operations resource centre;
- a people mover and transport interchanges;
- a Resort access road of up to four lanes (i.e. up to two lanes in each direction);
- local transport links,
- river transport infrastructure on both sides of the Thames, including the extension of the existing floating jetty at the Tilbury ferry terminal and a new floating jetty and a reconditioning of Bell Wharf at the Swanscombe Peninsula;
- utility compounds, plant and service infrastructure including an energy centre;
- a wastewater treatment works with associated sewerage and an outfall into the River Thames;
- flood defence and drainage works;
- habitat creation and enhancement and public access;
- security and safety provisions;
- data centres to support the Resort's requirements.

Related Housing comprising up to 500 dwellings for Resort workers. Each dwelling would typically include 4-6 bedrooms.”

The unique commercial nature of the proposal and the diversity of the components that make it up mean that understanding the nature of the development and how it could operate, and change into the future, is less clear than, for example, for a piece of road infrastructure. Accordingly all consultees have had a need to grasp the diverse nature of the resort both in terms of land uses, built form and supporting infrastructure, as well as how this might change over time. It is also notable that some features in the consultation such as the energy centre and car parking near Ebbsfleet International Station have multiple potential locations which introduces uncertainty as to the potential impacts.

Historically the Borough Council has dealt with major transport infrastructure projects such as the Channel Tunnel Rail Link (now known as HS1), A2 widening (which actually moved it southwards over a substantial length), and the putative Cliffe Airport. More recently the Council has engaged on DCO applications for the Tilbury 2 port facility, Thurrock Energy and the Lower Thames Crossing. The Council is therefore well aware of the sorts of issues and processes (in an overall sense) that major infrastructure projects have to go through.

Scheme Evolution

The scheme has evolved over a significant period of time. As noted above the original Environmental Scoping was in 2013 and the Statutory Consultation in 2014. However for the purpose of this response, the focus is on the 2020 process as the most up to date.

The proposal is also the first to use the s.35 procedure and is for a commercial use. This poses a challenge for the DCO process as the nature of this proposal is that it is inherently more complex

and dynamic over time. New rides and changes in operating practices could alter the impacts in the future, as could the actual phasing of the development (Gate1, Gate 2 etc.) so it is important that the future consent mechanisms included in the DCO as sufficient controls through the requirements and other undertakings to ensure that development remains within its Rochdale envelope. The issue at the consultation stage being whether given the background there was sufficient information to allow consultees understand the proposal, its potential impacts and therefore form a view.

This nature of the proposal and its dynamic nature also mean that the Requirements, s.106 agreement and other undertakings in various forms will be particularly complex and will take time to resolve. As the promoters comment in responding to GBC1.7 in Consultation Report Appendix 5.30 page 169 agrees that 'as a unique form of development there will need to be discussions regarding necessary controls'. This overall process needs to be got correct to minimise the potential future impacts on the local residents and businesses and will therefore take some time.

Statement of Community Consultation

A revised draft Statement of Community Consultation was consulted upon from 3 June to 1 July 2020. This was materially different from the original version due to the COVID-19 pandemic and the consequential need to conduct the consultation online, and hence not being able to hold public meetings or exhibitions. This created by definition a new class "hard to reach group" in those who had no access to the internet or only by mobile phone. The latter is not suitable for examining and understanding large documents or plans. Some of these issues were addressed through the length of the consultation period and the extensive leafleting over a wider area. The full table of the applicant's responses to consultees comments can be found in Consultation Report Appendix 5.7. The Borough Council is content with the changes made in the difficult circumstances.

Consultation Process

The term consultation process is used here to refer to the overall process of holding consultation events, providing the documentation and related matters. Formal and informal feedback received by the Borough Council has shown that most felt the events etc. were reasonable, but that there were deficiencies in the supply of information.

Consultants, who are looking at the information from the point of view of their specialisation found parts of the PEIR unsatisfactory in that information was missing. For example on air quality the methodology is set out but no results were provided due to the lack of transport modelling, which is a key input but that in some cases subsequent engagement has been a lot more positive. This has however for the most part not been in the public domain. The Council is aware, and has sympathy, with difficulties LRCH has had in getting meaningful information from Highways England from the Lower Thames Area Model.

Impact of COVID

As noted above from the Local Authority point of view the scheme started progressing in the Spring of 2020. This coincided with the emergence of the COVID-19 pandemic and the restrictions on the holding of meetings. The impact on the statutory consultation process has already been noted above. A number of meetings have been held with London Resort and its consultants, including workshops on various topic areas. These of necessity have been held on line which inevitably has meant that the same level of exploration and debate has not been possible, especially in relation to understanding complex plans.

Feedback on the consultation responses

Appendix 5.30 of the Consultation report sets out the applicant's response to the Borough Councils comments made to the 2020 Statutory Consultation (pages 168 - 187). Some of these points have been discussed at meetings held since September 2020. As noted above for the most part this refers us to the relevant part of the Environmental Statement or other relevant documentation that forms part of the DCO submission. Since we do not have access in general to that material it is not possible to comment in any detail as to whether sufficient information has been supplied to further understand the issues. There are some entries where the applicant has responded with 'no response required' on matters, as opposed to observations, where reference to a more detailed response might be expected. For example at GBC 1.61 about the nature conservation interest on the Peninsula, where Natural England's subsequent decision at the end of November 2020 to consider declaring an SSSI highlights the nature conservation issues, which will be a matter likely to be discussed at the Examination given the timing.

Preliminary Environmental Impact Report

The 2020 SoCC at paragraph 5.5.8 bullet 5 sets out the commitment to produce a Preliminary Environmental Information Report (PEIR):

"Preliminary Environmental Information Report (PEIR) - sets out the environmental assessments to date, and proposals to manage and mitigate against impacts"

Regulation 12 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 embeds a requirement into section 47 of the 2008 Act that where a proposal is subject to EIA, the SoCC must set out how the applicant intends to publicise and consult on preliminary environmental information. The latter is defined under regulation 12 (2)(b) as information 'reasonably required for the consultation bodies to develop an informed view of the likely significant environmental effects of the development (and of any associated development)'. This approach clearly accords with the *Gunning* principles set out above.

The PEIR provided a comprehensive overview of the project but did in some areas leave gaps for further analysis or information. This has been picked up by a number of consultees in their responses. It was also produced for the start of the Statutory Consultation in July and before the issuing of the Scoping Opinion. Significant matters in relation to the PEIR are:

- (i) Transport modelling outputs have not been shared (though useful discussions have been held) and the impact on the transport network is a major concern of consultees. Given that traffic modelling is based on the data from the Lower Thames Area Model (LTAM) and the reservations that this Council expressed in relation to that in its Adequacy of Consultation response on the now withdrawn Lower Thames Crossing DCO application, this is an area of concern until the relevant chapter of the ES can be analysed in detail. This feeds through into any other topic areas, such as noise and air quality, which requires it as an input. Consultant for the Borough Council on Air Quality and Noise was content with methodology but lacking results to understand the impacts.
- (ii) Nature Conservation is a matter of concern to a number of consultees. The commencement by Natural England of the process of considering whether Swanscombe Peninsula should be designated as a Site of Special Significance Interest (SSSI) indicates that there are significant issues to be addressed and it is not yet clear how the avoid/mitigate/compensate balance will be struck

- (iii) Socio economic implications are a complex area where there are potentially great benefits to local residents and businesses, but equally a number of areas of concern, whether justified or not on detailed analysis. The proposal is unsurprisingly not covered by the Gravesham Local Plan (Local Plan Core Strategy adopted 2014). This is an area where further work and understanding are needed as although there economic benefits from the new jobs created
- (iv) Built form is clearly an area where detailed design has not been carried out yet but the size and scale of some of the structures is potentially significant. The parameter plans define a worst case in an environment where due to the changes in levels there is a local 'tradition' of having large building (e.g. Northfleet Cement works – now demolished). There is within them no clarity over what is going where.

Climate Change

This is an emerging area of concern and no doubt a matter to be discussed at the Examination. The following comments are about process. On 25 June 2019² the Council passed a motion declaring a climate emergency. This included:

Declare a climate emergency;

Pledge to do what is within its powers and resources to make Gravesham Borough Council carbon neutral by 2030, taking into account both production and consumption emissions;

The Council notes that Appendix 5.30 contains a summary response that the matter is being dealt with in Greenhouse Gas and Climate Change chapter.

Planning Performance Agreement

It will be appreciated that this project is placing considerable resource burdens on the Borough Council. As set out in PINS guidance Gravesham sought a Planning Performance Agreement (PPA). No such agreement has been formally entered into however an informal arrangement whereby the Council has submitted claims and received payment has been operating successfully for a number of years.

Conclusion

Taking all the above into account the Borough Council is of the opinion that the applicant has conducted a series of consultations with positive engagement on a very complex project. It is unique in that the comparisons are international rather than domestic, and therefore understanding the nature of the proposal requires more time and explanation than for example a more traditional road building proposal. The Examination period will provide the opportunity to resolve the outstanding matters, aided from the Borough Council's point of view in resourcing due of the delay with the Lower Thames Crossing. There do however remain some significant topic areas where additional information is needed to form a rounded view of the implications and therefore the controls, processes and other matters that need to be put in place not just for the construction period. Much of the resort has yet to be designed in detail and will be subject to change over time, as for example when a new ride is introduced. This will therefore inform the arrangements that need to be put in place to handle the scheme in construction, operation and modification stages in the future which will need time and attention to achieve. Having agreed outcomes, trigger points and a tight monitoring regime will be fundamental to ensure that the resort can change over time – as

² Resolution can be found at item 33 [here](#)

the applicant requires – whilst guaranteeing that the impacts on residents, businesses and the environment are constrained within agreed parameters.

If you require any further information, please feel free to contact me.

Yours sincerely



Director (Planning & Development)
Gravesham Borough Council