



FAO Kathryn Dunne
Planning Inspectorate
Temple Quay House
2 The Square
Bristol BS1 6PM

By Email Only: LondonResort@planninginspectorate.gov.uk

28 May 2021

Dear Sir / Madam

APPLICATION BY LONDON RESORT COMPANY HOLDINGS (“APPLICANT”) FOR A DEVELOPMENT CONSENT ORDER (BC080001) UNDER THE PLANNING ACT 2008

We – Merlin Entertainments Group – write in respect of the above application submitted to the Planning Inspectorate on 4 January 2021 and accepted for examination on 28 January 2021. Merlin Entertainments Group submitted its relevant representation to the examination on 31 March 2021 (a copy accompanies this letter and can also be accessed [online](#)). [Our identification number, as a registered Interested Party, is 20027911.]

1. We also refer to recent correspondence from LRCH, the Applicant, in a letter dated 15 April 2021 requesting an extension of four months to the pre-examination stage to “further engage in order to deliver an effective and robust on-site and off-site mitigation strategy in acknowledgement of the SSSI Notification” and to make “revisions to the submissions prepared in support of the application” and your subsequent acceptance of that request. You specifically asked LRCH to consider PINS Advice note 16.
2. It is apparent from the Applicant’s letter of 12 May 2021 and its accompanying schedules that information to be provided relates to far more than the SSSI notification. Indeed, they include a document described as “Supporting Resort and Leisure Market Assessment”, which plainly has no direct relevance to the SSSI status. There are multiple changes to application plans and other application documents. The submissions by LRCH make no reference to consultation with the public and no reference to consultation with interested parties such as ourselves. There is no response to your request that LRCH consider PINS Advice Note 16.
3. We have taken legal advice and it is clear from representations received from a number of interested parties in the intervening period that full details of matters envisaged by the Applicant’s 12 May letter were not consulted upon at the statutory consultation stage so that proper consultation was not carried out prior to submission of the application.
4. Furthermore, since the information now proposed to be submitted was not published alongside the application, by extension the pre-examination stage notification and invitation for relevant representations



likewise has not been properly carried out. It should not be assumed that a person who had not already made a relevant representation would still not wish to do so. The information now proposed may well have resulted in different responses from the public or other stakeholders.

5. It must follow that the application when made was not in fact ready for examination at the point of submission. At least two principal issues flow from this, which must be considered by the Planning Inspectorate before allowing the continued pre-examination process proposed by LRCH. In the interests of transparent and consistent decision making, we consider that:
 - a. Sufficient opportunity must be given to the public at large, including those with a particular interest such as the British Association of Leisure Parks, Piers and Attractions (BALPPA), Merlin and others to comment on the proposed new information which flows from the extended pre-examination stage. This process must be formally acknowledged and reflect the fact it should have been undertaken at the formative stage in line with the *Gunning* principles and section 49 of Part 5 of the Planning Act 2008. Failure to do this and for the Planning Inspectorate to give consideration to responses jeopardises the examination process and hence any decision upon the application. This suggests that the most appropriate course of action may be either to withdraw the application to allow these matters to be rectified, or to require LRCH to carry out formal consultation on the same basis as would be required / notification as would be required under Part 5 or Part 6 of the Planning Act 2008. We would suggest that the Examining Authority consider advising LRCH to withdraw the application, to reconsult and to resubmit it, as a solution to the clear procedural irregularities which have arisen;
 - b. Having received notice that the Applicant proposes to introduce new information in the form of a "Supporting Resort and Leisure Market Assessment" which may potentially alter the application for development consent, there is a question as to whether this constitutes a material change pursuant to Advice Note 16. You have drawn this to the attention of LRCH and requested that they consider it. Assuming that the Planning Inspectorate feels that the application should not be withdrawn, it is not, of course, a matter for LRCH but for the Examining Authority to consider whether the advice note applies and consider whether a material change has occurred. It is essential that the Planning Inspectorate considers the implications of this so that it can be seen to act consistently in relation to all applications and applicants for nationally significant infrastructure projects. We suggest that for the reasons outlined above, the most prudent approach is for the Examining Authority to conclude that the information being supplied at least represents a material change to the application and requires consultation to take place as set out above.
6. We consider it very important that the Planning Inspectorate considers these points, advises the writer and the public at large of its determination and proceeds accordingly in the interests of a fair, transparent and even-handed examination of the application. If it did not do so, there is a risk that any determination which did not take into account the issues raised may be subject to successful legal challenge.

Yours faithfully

A black rectangular redaction box covering the signature of Matt Jowett.

Matt Jowett
Chief Corporate Officer, Merlin Entertainments Group