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To:
London Resort Company Holdings
All Interested Parties

Our Ref: BC080001
Date: 9 July 2021

Dear Sir/ Madam

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

Procedural decisions made by the Examining Authority about how the application is to be examined

Following the Examining Authority's (ExA's) first Unaccompanied Site Inspection, I write to advise you of procedural decisions made by the ExA about how the following matters will be examined:

- the flexibility sought for the Proposed Development; and
- the assessment of landscape and visual effects.

Procedural decision about how the flexibility sought for the Proposed Development is to be examined.

Please refer to the guidance and advice provided in Annex A of this letter.

To help ensure that the Examination can progress efficiently when it starts, the ExA has decided to ask the Applicant to consider clarifying the 'reasonable worst-case scenario' that it has adopted for the Rochdale Envelope approach to the assessment. If, as suggested by the Design and Access Statement, it is not proposed to completely fill the parameter envelopes of the Work areas, the Applicant may wish to clarify the height, scale and massing of the different types of building and structure. The Applicant may wish to clarify how much less than the total volume defined in the Parameter Plans would be taken up by different types of buildings and structures, and the implications of the proposed limits of deviation.

It is suggested that the Applicant's response takes the form of signposting or updates to relevant Application documents (including but not limited to the Design and Access Statement, Design Code and Parameter Plans) to set out, for each Works area:

- For each type of building or structure, the maximum and minimum:
 - footprint area of each individual building or structure

- proportion of the works area that they could occupy
- proportion of ground level footprint with heights within each 10m band, for example 0-10m high, 10-20m high, etc.
- Justification of the scale and extent of the flexibility sought, including evidence that it is no greater than the minimum range required
- Clarification of how the flexibility is sufficiently defined and detailed to enable the assessment of the likely significant environmental effects and identification of necessary mitigation for each topic in the Environmental Statement
- Clarification of how control and mitigation consistent with the reasonable worst-case scenario is secured in the draft Development Consent Order, noting that much of the content of the Design and Access Statement and Design Code documents referred to by Requirement 3 is only illustrative

Procedural decision about how the assessment of landscape and visual effects is to be examined

To help ensure that the Examination can progress efficiently when it starts, the ExA has decided to ask the Applicant to consider clarifying the assessment of landscape and visual effects. The Applicant may wish to provide:

- Visualisations/ photomontages using the more precisely defined building and structure parameters referred to above. It is suggested that these show reasonable worst-case scenario scaling, massing and rendering of the Proposed Development for both daytime and night-time in accordance with the Visual Representation of Development Proposals Technical Guidance Note 06/19 and the third edition of the Guidelines for Landscape and Visual Impact Assessment. Suggestions regarding viewpoints and consultation are provided in Annex B.
- Recommendations of existing developments, if any, that it considers are comparable to the Proposed Development in visual and landscape effect terms, including in one or more of type and scale, lighting and/ or movement.

Whilst responding the Applicant may wish to audit the existing visualisations, including the representation of the relative height of individual works, the accuracy of the quoted locations and if it is clear whether they represent winter or summer conditions.

The ExA requests that, by 21 July 2021, the Applicant sets out how it intends to respond to these decisions, identifying any documents that will be submitted and when. The Applicant is asked to note that the ExA is planning to carry out its next Unaccompanied Site Inspections during September 2021. The ExA has previously advised that a Preliminary Meeting is unlikely to be held before 18 October 2021.

If you have queries, please contact the Case Team, details at the top of this letter.

Yours faithfully

Stuart Cowperthwaite

Stuart Cowperthwaite, Lead Member of the Examining Authority

Guidance and advice in relation to the flexibility sought

Chapter 3 of the Environmental Statement [APP-052]¹ and the Design and Access Statement [APP-436 and APP-437] explain that the Applicant wishes to maintain flexibility for the detailed design of certain elements of the Proposed Development. At the same time, the Applicant acknowledges the essential need to provide sufficient information about the Proposed Development to ensure that the assessment clearly assesses the worst-case scenario in order to identify any likely significant effects and report on these in the Environmental Statement. To these ends, the Applicant has employed the 'Rochdale Envelope' approach to its Environmental Impact Assessment.

DCLG Guidance on the pre-application process² explains that the principles of the Rochdale Envelope include that where there are clear reasons why it would not be possible to define a project fully in the short term *"then applicants should be afforded a degree of flexibility, within clearly defined and reasonable parameters. These parameters should be no greater than the minimum range required to deliver the project effectively and applicants will have to justify these parameters to the Secretary of State when they submit their application."* Similarly, the Planning Inspectorate's Advice Note Nine³ states that, where an Applicant chooses to follow a parameters-led assessment to establish the worst-case scenario for the Environmental Statement, it should be ensured that the applicable parameters are explained and clearly set out.

DCLG Guidance also states⁴ that *"the use of the Rochdale Envelope approach does not remove the onus on applicants to submit as detailed as possible project proposals in their application, and it should certainly not be an excuse for an unnecessary degree of flexibility. The Inspectorate and the Secretary of State will need to be satisfied that, given the nature of the project, they have full knowledge of the likely significant effects on the environment. In particular, care should be taken to ensure that the likely environmental effects, within the defined parameters, are assessed and, where possible, mitigated against. It is accepted that it may not always be possible to assess every impact and so it may be appropriate to consider a 'worst-case' scenario which can serve as an overarching reference point for mitigating actions. In addition, where it is considered that too much flexibility has been used, and therefore there is uncertainty as to the likely significant effects, then more detail can be required or consent can be refused."*

The Guidance further states⁵ that *"Applicants should satisfy themselves that they have provided enough information and in the clearest manner possible for the Secretary of State to make a full assessment of the impacts of the proposed project. To aid this, it may be practical to set out the project proposals in terms of minima and maxima, to better illustrate the scale of the parameters and the likely effects for different scenarios."*

¹ The Planning Inspectorate's document references [in square brackets] can be found at this link:

<http://infrastructure.planninginspectorate.gov.uk/document/BC080001-000825>

² Department for Communities and Local Government – Planning Act 2008: Guidance on the pre-application process – March 2015 – paragraph 111 -

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418009/150326_Pre-Application_Guidance.pdf

³ Advice Note Nine: Rochdale Envelope – paragraph 4.13 - <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2013/05/Advice-note-9.-Rochdale-envelope-web.pdf>

⁴ Paragraph 112

⁵ Paragraph 113

Suggested viewpoints and consultation in relation to the clarification of the landscape and visual impact assessment

Viewpoints

Following the ExA's first USI, it is suggested that the selected visualisations/ photomontages for viewpoints to the south of the River Thames include, but are not limited to:

- Viewpoint 2 Footpath DS1 Black Duck Marsh
- Viewpoint 6 St Peter and St Paul Church Swanscombe
- Viewpoint 9 Swanscombe Heritage Park
- Viewpoint 11 Ingress Abbey
- Viewpoint 12 Greenhithe Riverfront, Sara Crescent
- Viewpoint 21 Stonebridge Road B2175
- Viewpoint 41 Footpath NS177 Cobham Kent Downs AONB
- Viewpoint 49 Windmill Hill
- Viewpoint 53 Undesignated Path within south Botany Marsh.

It is suggested that other appropriate viewpoints are selected to the north of the River Thames.

Consultation

It is suggested that the viewpoints selected for the visualisations/ photomontages and the information shown are agreed with appropriate stakeholders, including but not limited to:

- Relevant Local Planning Authorities
- Natural England
- The Kent Downs Area of Outstanding Natural Beauty Partnership