



DLA Piper UK LLP
Princes Exchange
Princes Square
Leeds
LS1 4BY
United Kingdom
DX: 12017 Leeds 1
T: +44 (0) 20 7349 0296
F: +44 (0) 113 369 2369
[REDACTED]

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

Your reference

BC080001

Our reference

RCO/RCO/398961/256398961-256
UKM/117190493.3

By Email Only –

15 March 2022

LondonResort@planninginspectorate.gov.uk

Dear Sir/Madam

Application BC080001 by London Resort Company Holdings (“LRCH”) for an Order granting Development Consent for The London Resort (“Application”)

Merlin Entertainments Group – Interested Party 20027911

We act for Merlin Entertainments Group (“**Merlin**”). We would ask that you note our instruction and direct all future correspondence to the address above, quoting our reference 398961-256.

This letter is in response to the 1 February 2022 procedural decision (“**Procedural Decision**”) and the 14 February 2022 Rule 6 letter, the latter of which outlined Procedural Deadline A of 15 March 2022. It specifically responds to the issues relating to the timing and procedure of the Examination. Merlin and its representatives request to be heard orally at the Preliminary Meeting on 29 and 30 March 2022, and subsequently at the currently scheduled Compulsory Acquisition Hearing 1 on 5 April 2022 (specifically on the identified strategic matter of the Funding Statement and security for funds). In parallel to the submission of this letter, Merlin and its representatives are completing the Preliminary Meeting Involvement Form.

Procedural Decision

LRCH has sought no engagement with Merlin despite Merlin, through its Relevant Representation, commenting on the references which LRCH made to the operator’s domestic attractions and the market more generally in the UK. In this regard, we note the acceptance of the schedule of updated and new documents by the Examining Authority (“**ExA**”) on 15 February 2022, which includes a reference to a proposed Supporting Resort and Leisure Market Assessment, indicating that this would respond to relevant representations on this particular topic (which clearly would include that submitted by Merlin).

The ExA may be minded to allow a further extension of time to LRCH to allow stakeholders to comment on the updated and new documents due to be submitted in w/c 14 March 2022, however (as set out in Merlin’s 7 January 2022 and 15 January 2022 responses to the recent consultation on the timing and procedure) we share the growing concern about the merits of such a further delay to the commencement of the Examination and would respectfully request that the Application be examined in its current form

DLA Piper UK LLP is authorised and regulated by the Solicitors Regulation Authority.

DLA Piper UK LLP is a limited liability partnership registered in England and Wales (registered number OC307847) which is part of DLA Piper, a global law firm, operating through various separate and distinct legal entities.

A list of members is open for inspection at its registered office and principal place of business, 160 Aldersgate Street, London, EC1A 4HT and at the address at the top of this letter. Partner denotes member of a limited liability partnership.

A list of offices and regulatory information can be found at dlapiper.com.

UK switchboard
+44 (0) 20 7349 0296

from 30 March 2022 onwards. Whilst clearly, it would have been preferable to all parties had LRCH submitted the Application at the appropriate time and when it was “Examination-ready”, this did not happen and the consequence has been continuous, disruptive and expensive delay, without any meaningful progress being made, which continues to cause significant market uncertainty. If LRCH will not withdraw the Application despite its current condition, then we respectfully reiterate our previously stated view that it should proceed without further delay to Examination.

If the ExA is minded to agree to proceed with the Examination on 30 March 2022, Merlin would seek to agree a Statement of Common Ground (“**SoCG**”) with LRCH on the market economics for the project including assessments of the market opportunity and demand, the nature of the UK’s existing visitor attraction market and the effects on existing theme parks and resorts (including diversion) and the effects of visitor and worker expenditure (all topics referenced in the ExA’s Initial Assessment of Principal Issues). As a global leader in entertainment resorts, Merlin would like to understand exactly how robust LRCH has been in its economic case for the project and how this is likely to interface with other theme parks, resorts and visitor attractions in the UK. We would request that the ExA directs accordingly, that a SoCG between Merlin and LRCH be agreed before the relevant issue specific hearing. We would also ask the ExA to give consideration to the merits of involving the British Association of Leisure Parks, Piers and Attractions (BALPPA) in such a SoCG if this organisation is so inclined, having regard for the points set out in the additional submission it made on 28 May 2021.

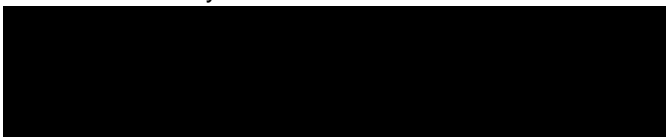
Costs

In light of the unreasonable conduct of LRCH in proceeding with the Application despite the overwhelming opposition to it and its deficiencies in form and substance, Merlin (and others) have been put to considerable expense in engaging with the ExA in relation to premature proposals and a wholly unsubstantiated evidence and policy base. This is in circumstances where the vast majority of the project’s footprint has been designated as a SSSI (as LRCH knew was likely at the point of submission), LRCH has consistently failed to engage with statutory and non-statutory consultees and the economic viability of the project itself has been called into question through the withdrawal of key partners (BBC Studios, ITV Studios etc) and a failure to confirm others (despite advising the ExA on 27 October 2021 that such announcements were forthcoming). Further, as we previously highlighted, there is a real and serious concern over LRCH’s ability to fund the project, even if the considerable hurdles outlined above are overcome and the significant opposition to the project is resolved. The ExA will of course be aware that LRCH is currently the subject of a claim by its former legal advisor in relation to unpaid legal fees.

If the Application is not withdrawn, we would respectfully request that the ExA consider imposing a more robust and stringent assessment of the Funding Statement for the project and consider whether to impose a procedural direction that LRCH hold on trust a sum (to be assessed) as security for the construction of the project, to give confidence to market stakeholders that the Application is not mere fantasy and is actually capable of being delivered financially.

Furthermore, we reserve the right to seek an award of costs in the event that LRCH withdraws the Application or the ExA notifies the parties that it has completed the Examination and either the Secretary of State refuses to make the DCO or the DCO is made with substantial amendments due to a failure by LRCH to substantiate parts of its case.

Yours faithfully



DLA PIPER UK LLP

