

## WINDSOR DEVELOPMENT CONTROL PANEL

20 January 2010

Item: 8

<b>Application No.:</b>	09/02647/VAR
<b>Location:</b>	Legoland Winkfield Road Windsor SL4 4AY
<b>Proposal:</b>	Erection of a 150 bedroom hotel with landscaping, drainage, alterations to internal access road and parking as permitted by Outline application 09/01184 without complying with condition 4 of that permission relating to total floorspace not to exceed 9000sqm gross external floorspace, to allow the total floorspace not to exceed 9450 sqm gross external floorspace.
<b>Applicant:</b>	Merlin Entertainments Group Ltd
<b>Agent:</b>	Ms Sarah Perryman
<b>Parish/Ward:</b>	Park Ward

**If you have a question about this report, please contact:** Sarah Ellison on 01628 796070 or at sarah.ellison@rbwm.gov.uk

### 1. SUMMARY

- 1.1 The application seeks to vary the floor space of the hotel that was limited to 9000sqm gross external by Condition 4 of the Outline planning permission ref. 09/01184 that was recently granted by Panel in October 2009. The current application seeks to increase the floor space by 450sqm (to 9,450sqm), by about 5%. The earlier figure referred to by the applicant was unfortunately the internal floor space figure, whereas it is more common in planning practice to use a gross external figure, and so the current application is essentially to take account of the thickness of the walls. Given that the application was in Outline with all the matters reserved, it is considered that the hotel can still be sited and designed so that it would have an acceptable impact, and that the increase in floor space is small and is not critical to the planning merits of the hotel.

<b>It is recommended the Panel authorises the Head of Planning &amp; Development:</b>	
1.	<b>To grant planning permission on the satisfactory completion of an undertaking to secure the infrastructure in Section 7 of this report and with the conditions listed in Section 10 of this report.</b>
2.	<b>To refuse planning permission if an undertaking to secure the infrastructure in Section 7 of this report has not been satisfactorily completed by the 8<sup>th</sup> February 2010 for the reason that the proposed development would not be accompanied by associated infrastructure improvements.</b>

### 2. REASON FOR PANEL DETERMINATION

- The Council's Constitution does not give the Head of Planning & Development delegated powers to determine the application in the way recommended; such decisions can only be made by the Panel.

### 3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

#### *Overview of the general area*

- 3.1 Legoland Windsor occupies a sloping site of approximately 60 hectares located approximately two miles to the southwest of Windsor town centre. Access to the site is from the Winkfield Road. It is divided into the inner and outer 'parks'. The inner park contains the main theme park, incorporating water and land based entertainment and leisure facilities, and is developed with a number of buildings and hard landscaped features.

- 3.2 Within the inner park there is an extensive range of built structures including rides, marquees, storage facilities, WC facilities, retail outlets and cafes. There are also several large buildings in addition to the rides within the park. For example, St Leonard's Mansion, a three storey building located to the north of the park contains offices and conference facilities; an Operations Building, located in the south east of the park; and The Creation Centre, located at the entrance.
- 3.3 The boundary of the inner park is delineated by a service road. The outer park comprises the car parks/coach parks, the access road and a "landscape buffer" between the access road and the residential properties on St Leonard's Hill. The guest car parks are located to the west of the inner park.
- 3.4 The majority of the inner site comprising the buildings and rides are within the area designated as a "Major Development Site" (MDS) in the Green Belt under saved Policy GB9 of the Local Plan. The site is extensively covered with trees and there are three Area Tree Preservation Orders on the site.
- 3.5 Legoland is located on the edge of the built-up area of Windsor. It lies within, and is surrounded to the north (in part), the south, the east and the west, by Green Belt land. Windsor Forest and the Great Park lie to the south, and to the northeast the site abuts residential properties in St Leonard's Hill. The site is also designated in the Local Plan as an Area of Special Landscape Importance and there are SSSI's to the east and south of the site. Part of the southern boundary of the site abuts the boundary with Bracknell Forest Borough Council.
- 3.6 The site is served by public transport, including bus services to Reading, Bracknell, Slough and London. The site already provides a Park & Ride service in an informally arranged parking area around 300 cars, between Legoland and Windsor town centre, and with buses running every 30 minutes when the Legoland is open. During the 'peak season' the frequency of the bus service increases. A Legoland Shuttle also runs between the park and Windsor town centre. The shuttle bus stops close to both the Windsor and Eton Central train station and the Windsor and Eton Riverside train station. The site also has access to the strategic road network including the M3, M4, M25, M40, A404 (M) and A308 (M).

*Description of the application site itself*

- 3.7 The siting of the hotel, Sustainable Urban Drainage System (SUDS) and improved car park encompasses an irregular shape in the eastern corner of the site, covering an area of 4.99 ha (see Appendix B).
- 3.8 The site for the hotel is currently occupied by a rollercoaster (the Jungle Coaster) and is located to the east of the inner park between an existing lake and an inner access road. It is proposed to remove the Jungle Coaster to provide the hotel.
- 3.9 The site slopes from the lake which is at a lower level than the rising ground to the east, the land then falls away again to the location of the proposed SUDS to the east of the main access road and comprises part scrub, part grassed and part covered with trees. The drainage link between the hotel and the SUDS would run through a wooded area. The site of the hotel also contains a number of covered areas that are used in connection with the Jungle Coaster ride. These existing total 263sqm of floor space. The site also contains areas of hard standing and decking. The Jungle Coaster track is triangular in plan form with a central figure of eight formation and the majority of the covered areas are contained within this triangle. The Jungle Coaster track rises to a maximum height of 15.6m. A proportion of the area underneath the existing coaster is vegetated and the site contains a number of trees. The site is well screened from outside the site.

**4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY**

09/01184	Outline application for the erection of a 150 bedroom hotel with landscaping, sustainable drainage, alterations to internal access road and parking to provide 321 spaces and associated works. All matters reserved.	Granted
----------	---	---------

- 4.1 The application seeks to vary Condition 4 of the Outline planning permission ref. 09/01184 which limited the floor space of the hotel to 9000sqm gross external. The applicant advises that the 9,000sqm referred to by them in the earlier application was an internal measurement. In order to account for the thickness of walls it is sought to increase the floor space of the hotel to 9,450sqm measured externally. The applicant is proposing no other increase in the floor areas of the building, such as room sizes or numbers.

## 5 MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

### Royal Borough Local Plan

- 5.1 The main strategic planning considerations applying to the site and the associated policies are:

	Green Belt	Protected Trees	Transport	Noise	Tourism
	✓	✓	✓	✓	✓
Local Plan	GB1, GB2, GB9	N6	P4, T5	NAP3	TM7

- 5.2 Supplementary planning documents adopted by the Council relevant to the proposal are:

- Planning Obligations and Developer Contributions

### Other Local Strategies or Publications

- 5.3 Other Strategies or publications relevant to the proposal are:

- RBWM Parking Strategy – view using link at paragraph 5.3

## 6. EXPLANATION OF RECOMMENDATION

- 6.1 The key issues for consideration is:

- i the impact of the increase in floor space.

### Impact of increased floor space

- 6.2 Planning permission ref. 09/01184 granted Outline permission with all matters reserved (relating to the layout, scale, appearance, access and landscaping) for a 150 bedroom hotel. The floor space of the hotel was limited by Condition 4 which states:

*The application for the approval of the reserved matters shall be accompanied by a detailed survey of the existing site within the Major Developed Site in which the hotel shall be sited and demonstrating that the roofline of the hotel building would be no higher than 12.5m above the existing ground level when measured adjacent to the lake and that the total floor space of the hotel shall not exceed 9,000sqm gross external floor space.*

*Reason: In the interests of the impact of the development on the appearance of the area in accordance with relevant Policies GB2 and DG1.*

- 6.3 The only change sought is an increase in the floor space from 9000sqm to 9450sqm. The application does not seek to vary any other part of this condition, including the limitation of the height of the building to 12.5m. The small increase in the floor space is the only matter for consideration.

- 6.4 The increase in floor space is to take into account the thickness of external walls which the applicant did not take account of in the earlier application.
- 6.5 Planning permission ref. 09/01184 is an Outline permission and all matters relating to the layout, scale, appearance, access and landscaping are reserved. Meaning that a subsequent application identifying where the building is to be sited and what it would look like will need to be submitted for approval. The proposed increase in floor space of 450sqm represents about a 5% increase over the entire building and it is considered a hotel of this marginally increased size could be laid out within the application site, and of a scale and appearance, without causing any additional harm over the approved Outline scheme.

## 7. ASSOCIATED INFRASTRUCTURE IMPROVEMENTS

- 7.1 The legal agreement approved under Outline permission ref. 09/01184 needs to be varied so that it equally applies to the current application. The applicant has been requested to undertake this.

## 8. CONSULTATIONS CARRIED OUT

### Comments from interested parties

405 occupiers were notified directly of the application. At the time of writing the report no comments had been received.

## 9. APPENDICES TO THIS REPORT

- Appendix A - Site location plan

## 10. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED

- 1 Details of the layout, scale, appearance, access and landscaping (hereinafter called the 'reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is hereby commenced.  
Reason: To accord with the provisions of the Town and Country Planning (General Development Procedure) Order 1995.
- 2 An application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.  
Reason: In accordance with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).
- 3 The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
Reason: In accordance with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).
- 4 The application for the approval of the reserved matters shall be accompanied by a detailed survey of the existing site within the Major Developed Site in which the hotel shall be sited and demonstrating that the roofline of the hotel building would be no higher than 12.5m above the existing ground level when measured adjacent to the lake and that the total floor space of the hotel shall not exceed 9,450sqm gross external floor area.  
Reason: In the interests of the impact of the development on the appearance of the area in accordance with relevant Policies GB2 and DG1.
- 5 The application for the approval of reserved matters shall include the submission of an arboricultural method statement. The statement shall cover the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any tree protection area.  
Reason: To ensure the protection of trees identified for retention on the site in accordance with the objectives of Policies N6 and DG1 of the Local Plan.
- 6 The application for the approval of reserved matters shall include details of the proposed access, hard surfacing, drainage and services providing for the protection of the root zones of any trees

to be retained.

Reason: To ensure the protection of trees identified for retention at the site in accordance with the objectives of Policies N6 and DG1 of the Local Plan.

- 7 The application for the approval of reserved matters shall include a Construction and Environmental Management Plan, including details of the timing/phasing of construction, construction traffic routes, noise mitigation measures during construction and construction hours; a lighting design document including details of construction and operational lighting in such a way that the lighting is designed to ensure that it does not disturb feeding bats; and a detailed design document of a noise impact assessment of the hotel, including the conference/function rooms, mechanical services and delivery and service yard noise. The development shall thereafter be carried out in accordance with these approved details.

Reason: To ensure the development has a satisfactory impact on local residents, feeding bats and nesting birds. Relevant Policies - Local Plan NAP3.

- 8 The application for reserved matters shall include a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed and maintained thereafter in accordance with these details. The scheme shall include: 1 details to demonstrate that the rates and volumes of drainage will not be increasing up to and including the 1 in 100 year flood event including an allowance for climate change. 2 details of the full pipe network. 3 design details of the drainage layout and any attenuation (SUDS) features. 4 details to demonstrate that the discharge from the final outfall point will be clean and free from contamination and suspended solids and 5 the maintenance of any pollution prevention drainage infrastructure such as oil interceptors, silt traps.

Reason: To ensure the proposal does not increase flood risk from surface water run off both on and off the site and to maintain the water quality of any receiving watercourse in accordance with Planning Policy Statements 25 and 23.

- 9 No development shall take place until the applicant has secured and implemented a programme of archaeological investigation in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: The site is within an area of archaeological potential, specifically relating to Prehistoric remains. Archaeological investigation is required prior to a detailed submission to ensure that archaeological remains on the site can be preserved in situ or by record. Relevant Policy ARCH 2.

- 10 The reserved matters application shall demonstrate that the hotel shall produce at least 14% of its energy by using renewable or low and zero carbon technology. Relevant Policies: South East Plan Policy CC4 and to accord with the application details and the case for very special circumstances in the Green Belt.

- 11 The reserved matters application shall demonstrate that the development shall be constructed to a standard that would achieve a BREEAM rating of at least Very Good. Confirmation from a suitably qualified professional person or body that the scheme meets the BREEAM rating shall be submitted to, and approved in writing by, the Local Planning Authority within 6 months of the first occupation of the hotel or alternatively in accordance with a phased scheme that has previously been agreed in writing by the Local Planning Authority.

Reason: To create a more sustainable form of development. Relevant Policies: South East Plan Policy CC4 and to accord with the case for very special circumstances in the Green Belt.

- 12 The reserved matters application shall include details of on-site biodiversity measures. The details shall include landscaping for habitats such as green corridors, details of ground cover and trees, as well as features such as bird nesting boxes and bat boxes and the inclusion of native species in the landscaping scheme. The measures shall be carried out in accordance with the approved details within three months of occupation of the hotel, unless otherwise first agreed in writing by the Local Planning Authority, and shall be retained thereafter in accordance with the approved details, again unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To accord with Policy IMP1 of the Local Plan.

- 13 The reserved matters application shall include details of where the spoil generated as a result of the construction of the development is to be relocated. The spoil shall be disposed of in accordance with these details, unless otherwise first approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area.

- 14 The reserved matters application shall include details of the upgrading of the park and ride, including a permeable construction and details of phasing of the development, the layout, landscaping and pedestrian routes, together with details of the operation of the park and ride. Thereafter the park and ride shall be upgraded in accordance with the approved details prior to the first occupation of the hotel and retained in accordance with the approved details, and the park and ride shall be operated in accordance with the approved details unless otherwise first approved in writing by the Local Planning Authority.  
Reason: In the interests of sustainable construction and increasing the capacity and attractiveness of using the park and ride.
- 15 The reserved matters application shall include a plan detailing how access to the hotel leisure facilities for non-hotel guests during Legoland's 'open season' is to be managed and controlled. The details shall include when non-hotel residents are permitted to use the facilities, limits on the membership numbers and attendance by non-hotel guests. This plan shall be submitted to and approved by the Local Planning Authority and reviewed on an annual basis. The hotel leisure facilities shall be managed and controlled in accordance with the approved plan.  
Reason: In order to ensure that there is no adverse impact on highway safety in the area.
- 16 The reason planning permission has been granted is that although the development represents inappropriate development in the Green Belt, contrary to the provisions of the development plan, the applicant has demonstrated that very special circumstances exist in this case to justify the development proposed. These very special circumstances are considered to be the key need for a hotel at Legoland for its long term economic benefit which is one of the major tourist attractions both in the Borough and nationally, together with the combined significant benefits resulting from the development, those benefits including increasing the variety of hotel accommodation in Windsor; that there are no other appropriate sites for the hotel; that the hotel will have 14% of its energy consumption deriving from on-site renewable energy; the improvements to the adjacent park and ride, providing a wider benefit to the community and encouraging people to stay longer in Windsor and to visit the town centre as well as visiting Legoland; together with the contribution to the generation of jobs in the area. The relevant policies/proposals of the development plan are: South East Plan Policies CC4, TSR5 and TSR7, and Local Plan Policies GB1, GB2, GB9, DG1, ARCH2, N6, P4, T5, T6, NAP3, IMP1, R3 and TM7.

### **Informative(s)**

- 1 The applicant is advised that the site clearance work should avoid the bird breeding season, nominally March to August inclusive, and any site clearance within the nesting period should be carried out under the supervision of a suitably qualified ecologist
- 2 The applicant is also advised that the trees to be felled should first be checked for bats immediately prior to felling as a precaution by a suitably qualified ecologist.
- 3 This permission should be read in conjunction with the legal agreement entered into by the applicant with the Local Planning Authority and dated the [to be completed], concerning the provision of art work, a Travel Plan and a financial contribution, together with a Deed of Variation of the same date (to vary the section 106 agreement that was signed by The Royal Borough of Windsor and Maidenhead, The County Council of Berkshire and Lego Park Ltd and dated 4th May 1994, combined Section 38 and Section 278 Highways Act 1980 and Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 as amended).