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13th March 2015

Ms Dawn Baxendale
Chief Executive
Southampton City Council
Civic Centre
Southampton
SO14 7LY

By post and e-mail: dawn.baxendale@southampton.gov.uk

Dear Ms Baxendale

Southampton Large Casino Competition

I am writing to respectfully request that Stage 1 of the Competition be re-commenced, for the reasons set out below. Failing this, I respectfully request that the deadline for making bids for Stage 2 be delayed to allow appropriate legal advice to be taken and challenges made to the current process and proposed decisions of Southampton City Council ('Southampton').

Background

Southampton, together with Associated British Ports and the Crown Estates Commissioners, have appointed RPW (Southampton) Limited ('Developer') as their chosen developer for the Royal Pier development site. It should be noted at this stage that part of the Royal Pier development site is existing land and part is to be reclaimed from the River Test.

At Stage 1 of the Competition, the Developer had identified a plot of land at the southern end of the site, within the area to be reclaimed from the River Test, as its preferred location for the casino. Each of Grosvenor, Aspers Universal Limited ('Aspers'), Genting Casino UK Limited ('Genting') and Kymeira Casino Limited ('Kymeira') identified this location by way of a blue line on their Stage 1 applications. Global Gaming Ventures (RP) Limited ('GGV') indicated a broader area in their Stage 1 application, covering both the plot and a wider area of the Royal Pier site. It should be noted at this stage that both Grosvenor and GGV also submitted Stage 1 applications for competing sites.

After each of the Stage 1 applications were granted the Developer, after discussions with the operators, indicated that it no longer wished to locate the casino on the southern plot and instead wished to locate the casino at the northern edge of Royal Pier, on existing land but outside of the specific area identified on each of the applicants Stage 1 applications.



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The Developer obtained advice from Clifton Davies Consultancy Limited on 23rd January 2015 advising that the Stage 2 applications could be made in relation to the northern plot as it was still within the Royal Pier development site identified by each applicant.

On or about the 10th March 2015, and based on advice received from Philip Kolvin QC, Southampton wrote to the Developer stating that, with one possible exception, the applications for Stage 2 could not be made in relation to the northern plot.

Current position

In the current circumstances Grosvenor finds itself in the position that it cannot bid for the site now identified by Southampton's appointed Developer as the chosen location for a casino at Royal Pier.

Aspers, GGV and Kymeira find themselves in the same position. Southampton has acknowledged that it is 'ambiguous' whether or not Genting are also in this position.

Given the intention of Southampton to award the licence to the operator offering the best regenerative and other benefits to the City, it seems contrary to this intention to effectively rule out four or five of the seven bids at this stage.

Further, Grosvenor has been told that Southampton are unwilling to consider any delay to the current competition timetable, which requires Stage 2 bids to be submitted by the 16th April 2015.

Specific concerns and possible challenges

1. During the competition process, Grosvenor (and indeed the other applicants) has sought to work with Southampton's appointed Developer to agree where the most appropriate location of the casino would be within the Royal Pier development site. Given that Southampton is in control of the Competition timetable, it appears that it may be failing to exercise its discretion reasonably to extend the timetable to allow this process to conclude.
2. The process which Southampton followed to obtain and disseminate legal advice lacks transparency. In particular, the applicants have not seen and were not given a chance to input into the Instructions to Counsel. The applicants are therefore in the dark as to what information Counsel was given and what questions were raised. Further, Counsel's advice has not been received by the applicants; instead the applicants have received a copy of a letter from Southampton to the Developer based on the advice received from Counsel. The applicants were not afforded any opportunity to submit any evidence or arguments to Counsel before he issued his advice and Southampton appear to be treating Counsel's advice as an authoritative ruling rather than an opinion, notwithstanding the conflicting advice from Clifton Davies Consultancy Limited.
3. The decisions Southampton wish to make based on Counsel's advice appear open to challenge. In particular, Southampton state on page 2 of their letter

that notwithstanding that Genting's position is 'ambiguous' based on the plans and information they submitted, that Southampton are minded to allow Genting's Stage 2 application to be amended to cover the northern plot. However, on page 1 of the letter it is acknowledged that Genting's application was for a casino '*to be constructed on plot of land to be reclaimed from the River Test*' whereas it is clear that the northern plot is on existing land. The proposed decision to not allow Aspers, GGV, Grosvenor and Kymeira to bid on the northern plot but to allow Genting to do so, when Southampton's Developer now clearly wants to locate the casino on the northern plot, limits the competition considerably and would inevitably lead to a legal challenge.

4. Given (i) the proximity of Southampton's legal advice to the Stage 2 bid submission deadline, (ii) the need for the applicants to obtain their own Counsel's opinions and, if necessary, make legal challenges and (iii) the fact that arguably all of the applicants are in the same position as not being able to bid on the Developer's preferred location; a refusal to delay the bid submission deadline appears rigid.

Request

Grosvenor requests that Southampton re-starts Stage 1 of the Competition. This would allow proper consultation with the public in relation to the exact location for the casino within Royal Pier, would allow all of the applicants a level playing field within which to submit a bid and would not unduly prejudice any of the applicants (as they have each bid on Royal Pier). It would best fit within the rationale of awarding the casino licence to the operator with the best bid rather than artificially reducing the number of bids at this stage to two or three of the original seven. It would also avoid the inevitable legal challenges should some or indeed all of the Royal Pier applicants be ruled out of the bidding process for the northern plot. Please note that Grosvenor makes this request notwithstanding the fact that it could well benefit from a decision to effectively rule the Royal Pier bids out, as it is also one of only two bidders for alternative sites. Grosvenor considers it far preferable however to have an open and fair competition for all of the applicants so as to produce the best result for the people of Southampton.

If Southampton is not minded to grant this request, then Grosvenor would request that the Stage 2 deadline be extended by a reasonable time to allow the applicants to obtain appropriate legal advice and to make the appropriate legal challenges.

Please be assured that this letter is not in any way intended to be confrontational, but it reflects the genuine concerns of Grosvenor who find themselves in an unfortunate situation and up against a tight deadline. Grosvenor would welcome the opportunity to meet with yourself and the other applicants together to discuss the same.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Jones', with a long horizontal flourish extending to the right.

Mark Jones
Managing Director
Grosvenor Casinos Limited

c.c. Martin Grout – Locum Licensing Officer - martin.grout@southampton.gov.uk