



DETERMINATION OF MERGER NOTIFICATION M/18/078 – TETRARCH/SEED PORTFOLIO HOTELS

Section 21 of the Competition Act 2002

Proposed acquisition by Tetrarch Group Limited of the following trading assets: Citywest Hotel; Powerscourt Hotel Resort and Spa; Killashee Hotel & Spa; and Mount Juliet Estate and Golf Club

Dated 22 October 2018

Introduction

1. On 14 September 2018, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (the “Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed transaction whereby Tetrarch Group Limited¹ (the “Acquirer”), would acquire, either directly or indirectly through various subsidiaries, the following trading assets²: Citywest Hotel (“Citywest”); Powerscourt Hotel Resort and Spa (“Powerscourt”); Killashee Hotel & Spa (“Killashee”); and Mount Juliet Estate and Golf Club (“Mount Juliet”) (collectively the “Seed Portfolio Hotels”) from various vendors (the “Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to the following agreements that relate to the Seed Portfolio Hotels:

Citywest:

The agreements relating to Citywest comprise (i) the offer letters dated 13 September 2018 from the Acquirer to each of the shareholders of Alva Glen Investments Limited (the “Citywest Sellers”) to acquire the entire issued share capital of Alva Glen

¹ On 2 October 2018, Tetrarch Group Limited was re-registered as a public limited company, i.e., Tetrarch Group Public Limited Company.

² The assets will be acquired through a combination of asset acquisition and company acquisition i.e. purchase of the issued share capital of those companies that control the trading assets



Investments Limited from the Citywest Sellers and (ii) the reciprocal acceptance forms and terms and conditions signed by the Citywest Sellers.

Powerscourt:

The agreements relating to Powerscourt comprise (i) a share purchase agreement dated 13 September 2018 for the purchase of the entire issued share capital of Sugarloaf Ventures Limited from Sugarloaf Investments Limited by the Acquirer, through its wholly owned subsidiary, Tetrarch Group Holdings Limited and (ii) a contract for sale of the long leasehold interest in Powerscourt and adjoining lands in Enniskerry, County Wicklow dated 13 September 2018 between Sugarloaf Investment Property Holdings Limited and SOVAV 1 Limited, which is indirectly controlled by the Acquirer.

Killashee:

The agreements relating to Killashee comprise (i) a share purchase agreement dated 13 September 2018 for the purchase of the entire issued share capital of Craigfort Taverns Limited from Chalus Holdings Limited by the Acquirer, through its wholly owned subsidiary, Tetrarch Group Holdings Limited and (ii) a contract for sale of the freehold interest in Killashee dated 13 September 2018 between Craigfort Taverns Limited and Killashee Hotel Ventures Limited, which is indirectly controlled by the Acquirer.

Mount Juliet:

The agreements relating to Mount Juliet comprise (i) a share purchase agreement dated 13 September 2018 for the purchase of the entire issued share capital of Mount Juliet Unlimited Company from MJBE Investments 2 Limited by Mount Juliet Holdings Limited, which is indirectly controlled by the Acquirer; (ii) a share purchase agreement dated 13 September 2018 for the purchase of the entire issued share capital of Mount Juliet Equestrian Centre Limited from MJBE Investments 3 Limited by Mount Juliet Holdings Limited; (iii) a contract for sale of various properties at Mount Juliet Estate dated 13 September 2018 between Mount Juliet Unlimited Company and Mount Juliet Holdings Limited and (iv) a contract for sale of various properties at Mount Juliet Estate dated 13 September 2018 between Ikerrin Properties Limited and Mount Juliet Holdings Limited.

The Undertakings Involved

The Acquirer



3. The Acquirer was incorporated in the State as a private limited company on 21 May 2018³. The parties have indicated to the Commission that, prior to the Proposed Transaction, [...]
4. The Acquirer has a number of subsidiaries in the State that are also involved in the Proposed Transaction, including Tetrarch Group Holdings Limited, SOVAV 1 Limited, Killashee Hotel Ventures Limited and Mount Juliet Holdings Limited.
5. [...] at the date of completion of the Proposed Transaction, the Acquirer and its subsidiaries will not have engaged in any commercial operations and will not have generated any turnover in the State.

Tetrarch Capital Limited and Tetrarch Hospitality Limited

6. Tetrarch Capital Limited (“TCL”) and Tetrarch Hospitality Limited (“THL”) are not part of the Seed Portfolio Hotels and are not being acquired in the Proposed Transaction. However they are relevant by way of providing a background and context to the Proposed Transaction.
7. TCL is an Irish-owned private company headquartered in Dublin. TCL is a real estate investment and development company, active in the hospitality, leisure, office, retail and residential sectors. The parties have informed the Commission that TCL is owned by Tamzin Ltd,⁴ Brayden Ltd,⁵ Kilgore Investments Limited,⁶ Queen’s Gate Terrace Limited⁷, Mentage Investments Limited⁸ and Calverton Investments Limited⁹ (collectively the “TCL Shareholders”). The Senior Management Team, who are employees of TCL, carry out, along with other senior management personnel, substantially all of the management functions on behalf of TCL. THL is a wholly-owned subsidiary of TCL.
8. TCL has a controlling interest in Citywest¹⁰. The TCL Shareholders hold direct interests (i.e. outside of TCL) in each of Powerscourt, Killashee and Mount Juliet. TCL and THL

³ [...]On 2 October 2018, Tetrarch Group Limited was re-registered as public limited company, Tetrarch Group Public Limited Company.

⁴ Tamzin Ltd is incorporated in Isle of Man. [...]

⁵ Brayden Ltd is incorporated in Isle of Man. [...]

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⁸ [...]

⁹ [...]

¹⁰See M/17/064 – *Tetrarch/Citywest*. TCL also (jointly) controls The Dawson Hotel and Spa, which is outside the scope of the Proposed Transaction.



currently operate and asset manage the Seed Portfolio Hotels, with the exception of Powerscourt,¹¹ on behalf of the owners of Citywest, Killashee and Mount Juliet, pursuant to hotel management services agreements and/or asset management services agreements.¹²

9. TCL and THL operate and/or asset manage only hotels in which TCL itself and/or the TCL Shareholders have a shareholding. According to the parties' submission, it is envisaged that[...] the Acquirer will operate and asset manage all of the Seed Portfolio Hotels. The parties have informed the Commission that it is anticipated that employees of TCL and THL will take up employment with the Acquirer[...]. The parties have informed the Commission that it is anticipated that, [...], TCL and THL will cease to carry on commercial activities in respect of hotel operating services and hotel asset management, but will continue to act as asset manager in respect of a commercial office portfolio owned by the Tetrarch ICAV.
10. The parties have informed the Commission that in addition to the Seed Portfolio Hotels, the Senior Management Team, and/or TCL are also investors in the Marker Hotel, the Dawson Hotel and the Clonmel Park Hotel, which are not part of the Seed Portfolio Hotels and will not be acquired by the Acquirer under the Proposed Transaction.

The Seed Portfolio Hotels

11. The ownership of the Seed Portfolio Hotels is, in some instances as detailed below, split between a hotel holding company and a hotel operating company. In these instances the hotel holding company owns the property, including the hotel buildings and the hotel operating company owns the business carried on at the hotel.

Citywest

12. Citywest Hotel is a four star hotel located in Saggart, Co. Dublin with 764 bedrooms. Its facilities include conference/convention facilities with a capacity of up to 4,100 attendees, the Citywest Leisure Club which includes a swimming pool, gym, and sports nutrition shop, a golf course, and four options for various styles of dining and drinks.

¹¹ Powerscourt is operated by Interstate Hotel Management Ireland Limited, an independent third party.

¹² As noted in the notification in *M/17/064 – Tetrarch/Citywest*, THL also operates and asset manages the Clonmel Park Hotel and the Dawson Hotel & Spa. These will not be acquired by the Acquirer and are outside of scope of the Proposed Transaction.



13. Cape Wrath Hotel Limited (“Cape Wrath”) is both Citywest’s holding company and operating company. THL performs hotel operator functions on behalf of Cape Wrath and TCL provides asset management services to Cape Wrath.
14. For the financial year ending 31 December 2017, Citywest generated worldwide turnover of approximately €[...], all of which was generated in the State.

Powerscourt

15. Powerscourt is a five star luxury hotel, resort and spa located in Enniskerry, County Wicklow with 201 bedrooms. Its facilities include a 2,780 square metre spa, a 20 metre swimming pool and a fine dining restaurant, along with two other food and beverage areas. There are two golf courses adjacent to the hotel which are not being acquired by the Acquirer and are outside the scope of the Proposed Transaction.
16. Sugarloaf Investment Property Holdings Limited is the holding company of Powerscourt and Sugarloaf Ventures Limited is the operating company¹³. Interstate Hotel Management Ireland (an independent third party) performs hotel operator functions on behalf of Sugarloaf Investments Limited under a hotel management agreement. GCS Asset Management Limited (“GCSAM”) (an independent third party) is contracted to provide asset management functions under a management services agreement. TCL performs the asset management functions on behalf of GCSAM.
17. For the financial year ending 31 December 2017, Powerscourt generated worldwide turnover of approximately €[...], all of which was generated in the State.

Killashee

18. Killashee is a four star hotel located in Killashee, Co. Kildare with 141 bedrooms. Its facilities include 18 meeting rooms, 3 ballrooms, a fully-equipped gym and a leisure club and spa.
19. Craigfort Taverns Limited is Killashee’s holding company and operating company. GCSAM is contracted to provide hotel management functions under a hotel

¹³ Sugarloaf Investment Property Holdings Limited and Sugarloaf Ventures Limited are whole owned subsidiaries of Sugarloaf Investments Limited.



management agreement. TCL performs the asset management functions and THL performs the hotel operator functions on behalf of GCSAM.

20. For the financial year ending 31 December 2017, Killashee generated worldwide turnover of approximately €[...], all of which was generated in the State.

Mount Juliet

21. Mount Juliet is a four star luxury country estate located in Thomastown, Co. Kilkenny, offering four star accommodation with 125 bedrooms. Its facilities include the Michelin-starred Lady Helen Restaurant, a brasserie and a casual bar. Mount Juliet also includes an 18-hole golf course and golf academy, a banqueting suite, an equestrian centre, an indoor pool, leisure centre and spa, and fishing facilities.
22. Mount Juliet Unlimited Company is Mount Juliet's holding company and operating company. THL performs both hotel operator and asset management functions on behalf of MJBE Investments 1 Limited, which is the parent company of MJBE Investments 2 Limited, which in turn is the parent company of Mount Juliet Unlimited Company.
23. For the financial year ending 31 December 2017, Mount Juliet generated worldwide turnover of approximately €[...], all of which was generated in the State.

Rationale for the Proposed Acquisition

24. The Acquirer states the following in the notification:

“The Acquirer is a recently formed Irish real estate investment company that intends to acquire hospitality trading and development assets in Ireland.

[...]”

Third Party Submissions

25. No submission was received.

Competitive Analysis

Horizontal Overlap



26. There is a horizontal overlap between the activities of the Seed Portfolio Hotels with respect to the supply of hotel accommodation in the State.
27. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. With respect to the relevant product market, it is not necessary for the Commission to define precise relevant markets in this instance because the product market definition adopted will not materially alter the Commission's assessment of the competitive impact of the Proposed Transaction.
28. In previous merger determinations in the hotel sector,¹⁴ the Commission has left open the precise product market while recognising the possibility of separate product markets for the supply of different star-rating hotel accommodation (such as *3 star*, *4 star* or *5 star*) or, alternatively, a combined product market for the supply of hotel accommodation for a grouping of these star-ratings. The Commission considers that there are no reasons to depart from that view in this instance.
29. With respect to the geographic scope of the market, the European Commission has, in previous decisions, noted that the relevant geographic market for the supply of hotel accommodation may be both national and local.¹⁵ In previous cases, the Commission has left open the precise geographic market while recognising the possibility of separate local regional geographic markets for instance County Dublin¹⁶, and Galway City and surrounding areas¹⁷, respectively. The Commission does not need to come to a definitive view on the precise relevant geographic market in this instance since its conclusion on the competitive impact of the Proposed Transaction (as shown below) will be unaffected whether the precise relevant geographic market is national or local (e.g., hotels within the county).

¹⁴ See, for example, the Commission's merger determination in *M/17/027 – Dalata/Clarion Liffey Valley/Clayton Cardiff Lane* which can be assessed at <https://www.cpc.ie/business/wp-content/uploads/sites/3/2017/05/M-17-027-Dalata-Clarion-Clayton-Public-1.pdf>

¹⁵ See, for example, the European Commission's decision in Case No COMP/M.4624 – EQT/Scandic which can be accessed at http://ec.europa.eu/competition/mergers/cases/decisions/m4624_20070425_20310_en.pdf

¹⁶ See, for example, the Commission's merger determination in *M/17/027 – Dalata/Clarion Liffey Valley/Clayton Cardiff Lane* which can be assessed at <https://www.cpc.ie/business/wp-content/uploads/sites/3/2017/05/M-17-027-Dalata-Clarion-Clayton-Public-1.pdf>

¹⁷ See the Commission's merger determination in *M/17/072 - Irish Holdings/Galway Leisure Investments* which can be assessed at <https://www.cpc.ie/business/wp-content/uploads/sites/3/2017/12/M-17-072-Determination-Irish-Holdings-Galway-Leisure-Investments.pdf>



30. In light of the above, the Commission will assess the likely competitive effects of the Proposed Transaction with respect to potential markets for (i) the provision of 4 star hotel accommodation in the State and at the local level; (ii) the supply of 5 star hotel accommodation in the State and at the local level; and (iii) the supply of 4 and 5 star hotel accommodation in the State and at the local level.¹⁸

(i) The provision of 4 star hotel accommodation in the State and at local level

31. On a national basis the most recent Fáilte Ireland quarterly register estimates that there are 31,580 4 star hotel rooms in the State.¹⁹ As indicated above, of the four Seed Portfolio Hotels, the 4 star hotels are Citywest, Killashee and Mount Juliet which have 764, 141, and 125 rooms respectively. This represents a market share of approximately 2.42%, 0.44% and 0.4% of 4 star hotel rooms in the State respectively. Therefore, following implementation of the Proposed Transaction the Acquirer's combined market share of 4 star hotel accommodation, with 1,030 rooms, will be estimated at 3.26%²⁰.

32. At the local level (i.e., county level), Citywest, Killashee and Mount Juliet are located in different counties (Counties Dublin, Kildare and Kilkenny respectively) and do not therefore compete closely with each other. In addition, the Acquirer will continue to face competition from 4 star hotels from the local area, such as the Clayton Burlington Hotel, the Ballsbridge Hotel and the Clayton Hotel, Dublin Airport in Co. Dublin; Carton House, the Osprey Hotel and the Westgrove Hotel in Co. Kildare; and Hotel Kilkenny, the Newpark Hotel and the Kilkenny Ormonde Hotel in Co. Kilkenny.

33. Therefore the Commission considers that the Proposed Transaction is not likely to lead to any negative horizontal competitive effects in respect of the supply of 4 star hotel accommodation in the State or at the local level.

(ii) The provision of 5 star hotel accommodation in the State

34. On a national basis the most recent Fáilte Ireland quarterly register estimates that there are 4,210 5 star hotel rooms in the State.²¹ As indicated above, of the four Seed Portfolio

¹⁸ Hotel accommodation as measured by the number of hotel rooms.

¹⁹ Supplied by the parties based on Fáilte Ireland most recent quarterly register estimates

²⁰ The Acquirer has only been set up for the purposes of the Proposed Transaction, it did not have any prior market share.

²¹ Supplied by the parties based on Fáilte Ireland most recent quarterly register estimates



Hotels, Powerscourt is a 5 star hotel with 194 rooms. This represents a market share of approximately 4.6% of 5 star hotel rooms in the State. Post transaction this market share figure of 5 star hotel accommodation will not change, as the Acquirer did not own any 5 star hotels before the Proposed Transaction and consequently, by acquiring Powerscourt, the Acquirer will gain a 4.6% market share that the vendors will lose.

35. Similarly at the local geographic area, i.e., Co. Wicklow, the Proposed Transaction does not change the pre-transaction position in relation to the market share of 5 star hotel rooms as the Acquirer will gain the market share that the vendors will lose. Also in the local geographic area the acquirer will continue to face competition from Druid's Glen Hotel and Golf Resort, a 5 star Hotel in County Wicklow.
36. Therefore the Commission considers that the Proposed Transaction is not likely to lead to any negative horizontal competitive effects in respect of the supply of 5 star hotel accommodation in the State or at the local level.

(iii) The supply of 4 and 5 star hotel accommodation in the State

37. The most recent Fáilte Ireland quarterly register estimates that there are 35,790 4 and 5 star hotel rooms in the State.²² As indicated above of the four Seed Portfolio Hotels, Citywest, Killashee, Mount Juliet and Powerscourt have 764, 141, 125 and 194 rooms respectively. This represents approximately 2.14%, 0.39%, 0.35% and 0.54% market share of 4 and 5 star hotel rooms in the State respectively. Therefore, following implementation of the Proposed Transaction the Acquirer's combined market share of 4 and 5 star hotel accommodation, with 1,224 rooms, is estimated at 3.42%.
38. At the local level (i.e., county level), Citywest, Killashee, Mount Juliet and Powerscourt are located in different counties (Counties Dublin, Kildare, Kilkenny and Wicklow respectively) and do not therefore compete closely with each other. In addition, the Acquirer will continue to face competition from 4 and 5 star hotels from the local area, such as the Clayton Burlington Hotel, the Ballsbridge Hotel and the Clayton Hotel, Dublin Airport in Co. Dublin; Carton House, the Osprey Hotel and the Westgrove Hotel in Co. Kildare; Lyrath Estate, Hotel Kilkenny, the Newpark Hotel and the Kilkenny Ormonde

²² Supplied by the parties based on Fáilte Ireland most recent quarterly register estimates



Hotel in Co. Kilkenny; and the Druids Glen Hotel & Golf Resort, Brooklodge & Macreddin Village and the Tulfarris Hotel & Golf Resort in Co. Wicklow.

39. Therefore the Commission considers that the Proposed Transaction is not likely to lead to any negative horizontal competitive effects in respect of the supply of *4 and 5 star* hotel accommodation in the State or at the local level.

Vertical Relationship

40. The parties have stated in the notification that there is no vertical relationship between the parties involved in the Proposed Transaction. The Commission has not identified any vertical relationship between the parties. On this basis, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

Conclusion

41. In light of the above, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

No ancillary restraints were notified.



Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, as amended, has determined that, in its opinion, the result of the proposed acquisition, whereby Tetrarch Group Limited²³ would acquire, either directly or through various subsidiaries, the following trading assets: Citywest Hotel; Powerscourt Hotel Resort and Spa; Killashee Hotel & Spa; and Mount Juliet Estate and Golf Club from various vendors will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

Brian McHugh

Member

Competition and Consumer Protection Commission

²³ On 2 October 2018, Tetrarch Group Limited was re-registered as a public limited company, Tetrarch Group Public Limited Company.