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FAO Mr Christopher Potts
Savills UK Ltd for
The Applicants

Your Ref:

Our Ref: BC080001/ CAPP-001C

Date: 14 April 2022

By Email

Dear Mr Potts

Planning Act 2008 (as amended) – Section 95

Application by HS1 Limited for an award of costs against London Resort Company Holdings Limited for an Order Granting Development Consent for the London Resort

1. By a submission dated 8 April 2022, DLA Piper UK LLP acting for HS1 Limited has made an application for an award of costs ("the costs application") against London Resort Company Holdings Limited ("the respondent party") regarding its Application for an Order Granting Development Consent for the London Resort ("the Order"). The costs application has been published and can be seen in the Examination Library for the Examination of the Order [CAPP-001A].
2. The Examining Authority (ExA) appointed to examine the Order is empowered to make awards of costs against relevant parties. The power to award costs under section (s) 250(5) of the Local Government Act 1972 is applied to an application for a DCO by s95(4) of the Planning Act 2008 (PA2008).
3. The Secretary of State has published guidance on costs applications in relation to development consent order examinations ("the Costs Guidance"). The Costs Guidance can be accessed by following this link:
[Award of costs: examinations of applications for development consent orders - Guidance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/guidance/award-of-costs-examinations-of-applications-for-development-consent-orders)
4. On 7 April 2022, the Planning Inspectorate provided advice under section 51 of the Planning Act 2008 in relation to previous costs decisions taken on the Atlantic Array application, which is available via the [National Infrastructure Planning Website landing page](#) for the London Resort.
5. Further to the statutory powers outlined above, to the Costs Guidance and having had regard to the approach taken to previous costs decisions in analogous circumstances, I am writing to inform you that the ExA has given preliminary consideration to the costs application. This letter is to acknowledge receipt of the

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costs application, to set out the ExA's preliminary decision that the costs application is valid and to set out the process under which a decision will be taken on it.

6. In relation to validity, the ExA has considered the Costs Guidance, referring specifically to all paragraphs in Part D. The ExA notes the basis of HS1 Limited's costs application as being that it considers itself to be a 'successful objector', that it is not necessary for unreasonable behaviour by the respondent to be demonstrated and that HS1 Limited has not sought to demonstrate such behaviour. On the basis that HS1 Limited appears to the ExA to be an Affected Person, that the application for the Order has been withdrawn and so HS1 Ltd also appears to be a 'successful objector' and that the costs application was made within 28 days of the withdrawal of the application for the Order and so is timely, the ExA has agreed to consider the costs application. In reaching this view, the ExA notes specifically that whilst the examination of the London Resort application had not commenced at the point where the application was withdrawn, previous costs decisions in relation to Planning Act 2008 casework by the ExA for the Atlantic Array demonstrate acceptance of the principle that costs may be applied for in circumstances where an application is withdrawn in the period between acceptance for Examination and the Preliminary Meeting. The ExA here sees the approach taken by the ExA for the Atlantic Array as being relevant and applicable to the circumstances of the HS1 Ltd application for costs.
7. In accordance with paragraph 34 (Part B) of the Costs Guidance, the ExA has asked me to write enclosing the costs application, providing the respondent party with an opportunity to make any observations on the costs application within 14 calendar days (by **28 April 2022**). Noting that there is no allegation of unreasonable behaviour in the costs application, if the respondent party is content with the decision-making process and that all relevant facts and responses to the Costs Guidance are already available to the ExA, no such observations need be made. If you do not submit a response, the ExA would proceed to decide the costs application, the outcome of which will be communicated to you and to HS1 Limited in writing.
8. If you elect to respond to the costs application, a copy of the response will be provided to HS1 Limited shortly after it has been received by the ExA. I will provide HS1 Limited with an opportunity to make its final observations to the ExA in writing within a further 14 calendar days.
9. Following receipt of final observations from HS1 Limited (or the expiry of the deadline, if no such submission is received), the ExA would proceed to decide the costs application, the outcome of which will be communicated to you and to HS1 Limited in writing.
10. If you have any questions about this letter, please do not hesitate to contact me.

Yours sincerely

Edwin Mawdsley
Case Manager

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Enc. A costs application against London Resort Company Holdings Limited made by DLA Piper UK LLP acting for HS1 Limited on 8 April 2022 [CAPP-001A].