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Your Ref  
BC080001  
Our Ref  
JNG/TGH/151216.0073  
Date  
26 April 2022

By Email

[LondonResort@planninginspectorate.gov.uk](mailto:LondonResort@planninginspectorate.gov.uk)

Dear Sir or Madam

**The London Resort Development Consent Order Application ("the Application")**

**National Highways application for award of costs**

**1 Costs Application**

1.1 We are writing on behalf of our client, National Highways (Interested Party Reference Number 20027885). Following the withdrawal of the Application by London Resort Company Holdings ("the Applicant") on 28 March 2022 and the section 51 advice issued by the Examining Authority on 7 April 2022, National Highways wishes to submit a costs application in respect of the Application.

**2 Costs in respect of an application that deals with compulsory acquisition of land**

2.1 Part D of the DCLG's guidance on Awards of costs: examinations of applications for development consent orders ("the Costs Guidance") sets out considerations for cost applications in respect of applications which include provisions seeking the compulsory acquisition of land.

2.2 Paragraph 2 of the Costs Guidance states that where '*objectors have been successful in objecting to the compulsory acquisition request, an award of costs will normally be made against the applicant for development consent and in favour of the objectors.*'

2.3 Paragraph 5 of the Costs Guidance sets out the conditions which need to be met in order for an objector to be treated as a successful objector in circumstances where an applicant has withdrawn the application for development consent, these are that the objector has:

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One Bartholomew Close  
London  
EC1A 7BL  
DX 339401 London Wall

50/60 Station Road  
Cambridge  
CB1 2JH  
DX 339601 Cambridge 24

The Anchorage  
34 Bridge Street  
Reading, RG1 2LU  
DX 146420 Reading 21

Grosvenor House  
Grosvenor Square  
Southampton, SO15 2BE  
DX 38516 Southampton 3

- 2.3.1 objected to the compulsory acquisition request;
- 2.3.2 participated in (or have been represented during) the examination by the submission of a relevant and/or written representation; and
- 2.3.3 maintained their objection until the compulsory acquisition request in respect of their property or the application for development consent was withdrawn.

2.4 We set out below which each of these elements applies to National Highways' objection.

### **3 National Highways' objection**

3.1 The Application sought compulsory acquisition powers over land in which National Highways has an interest as set out in the below table. Plot numbers are as referenced in the Book of Reference submitted with the Application.

<b>Type of acquisition sought</b>	<b>Plot number in which National Highways has an interest</b>
Permanent acquisition of land	358, 364
Acquisition of permanent rights (including restrictive covenants) over and temporary possession and use of land	343, 344, 345, 348, 352, 353, 354, 361, 365, 368, 372, 373, 374, 375, 378, 379, 380, 381, 383, 384, 385, 368, 388, 389, 390, 391, 393, 394, 395, 396, 398, 400, 405, 406, 407, 408, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 423, 424, 447, 449, 450, 451, 452, 454, 458, 460, 461, 462, 463, 464, 465

3.2 This land and interests are held in connection with the operation of the strategic road network. National Highways (which at that time was Highways England) submitted a Relevant Representation (Document Reference Number: RR-702) outlining its objections to the Application including in relation to the compulsory acquisition powers being sought in respect of its land and interests in land.

3.3 Following submission of the Relevant Representation, National Highways continued to participate in the examination of the Application by responding to the Examining Authority's Procedural Decisions of 21 December 2021 (Document Refences AS-089 and AS-117) and making submissions at Procedural Deadline A (Document Reference PD-128) including registering to speak at the Preliminary Meeting scheduled for 29 March 2022 and also for both the Issue Specific Hearing scheduled for 4 April 2022 and the Compulsory Acquisition Hearing scheduled for 5 April 2022.

3.4 National Highways maintained its objection up until withdrawal of the Application by the Applicant on 28 March 2022 and therefore National Highways should be regarded as a 'successful objector' to the Application. In this context, we specifically refer the Examining Authority to Item 11 on page 5 (under the matters discussed at the meeting on 2 March 2021) and Item 10 on page 6 (under the matters discussed at the meeting on 9 March 2021) of National Highways' Procedural Deadline A submission.

**4 Costs applications where an application is withdrawn before the examination**

4.1 The Section 51 advice issued by the Examining Authority on 7 April 2022 included a copy of the decision to award costs in respect of the withdrawn Atlantic Array application which demonstrated the principle that costs may be applied for in circumstances where an application is withdrawn after acceptance of an application, but before the Preliminary Meeting has been held to valid.

4.2 In letters to the Applicant and DLA Piper of 14 April 2022 the Examining Authority references the costs award in the withdrawn Atlantic Array application and states that its preliminary decision is that the costs application made in respect of the Application on behalf of HS1 Limited is valid on the basis that HS1 is a 'successful objector' to the Applicant's compulsory acquisition proposals. We therefore suggest that National Highways' application for costs is also valid on this basis.

4.3 National Highways therefore submits this costs application requesting that the Examining Authority make a full award for costs in its favour.

Yours faithfully

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**BDB Pitmans LLP**

[Redacted contact information]