



National Infrastructure Planning
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Ms Jessica Graham
BDB Pitmans

Your Ref: JNG/TGH/151216.0073

By Email

Our Ref: BC080001/CAPP-002

Date: 3 May 2022

Dear Ms Graham

Planning Act 2008 (as amended) – Section 95

**Application by National Highways for an award of costs:
against London Resort Company Holdings Limited regarding an Application
for an Order Granting Development Consent for the London Resort**

1. By a submission dated 26 April 2022, BDB Pitmans for National Highways ("NH") has made an application for an award of costs ("your 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 [CAPP-002].
2. The Examining Authority (ExA) appointed to examine the Order is empowered to make awards of costs against relevant parties in respect of the examination of a Nationally Significant Infrastructure Project (NSIP). The power to award costs under section (s) 250(5) of the Local Government Act 1972 is applied to an examination of 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"). It 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. Further to the statutory powers outlined above and to the Costs Guidance, I am writing to inform you that the ExA has given preliminary consideration to your costs application. This letter is to acknowledge receipt of your costs application and to seek further information to clarify the validity and scope of it.
5. At section 2, your costs application makes clear that you seek costs related to NH's standing as an Affected Person and hence as a 'successful objector' as described in Part D of the Costs Guidance.

6. At paragraph 3.1, your costs application makes clear the plot numbers, land and / or rights in respect of which it has been made.
7. By a submission dated 25 April 2022, Mr Nick Lambert, Deputy Director, Head of Property Portfolio and Advisory, Corporate Finance & Property Directorate in the Department for Transport on behalf of the Secretary of State for Transport ("SoST") has also made an application for an award of costs ("the SoST costs application") against the respondent party regarding its Application for the Order. The SoST costs application has also been published and can be seen in the Examination Library [CAPP-013]. The SoST costs application makes clear that the SoST seeks costs related to the SoST's standing as an Affected Person and hence as a 'successful objector', but also in respect of allegations of unreasonable behaviour by the respondent party.
8. In relation to the successful objector aspect of the SoST costs application, the SoST has not specified the plots, land and/ or rights in respect of which that application has been made. Because NH is a government company operating under licence from the SoST and because the scope of the SoST costs application has not yet been defined, it is possible that the SoST costs application could include an application for costs on behalf of NH, relating (amongst other matters) to plots, land and/or rights identified in paragraph 3.1 of your application. Whilst the SoST is able to apply for its own separate costs, even if these arise in part in relation to the plots, land and/ or rights identified in your application, it is necessary to be clear that two parallel applications cannot be made for the same costs.
9. On that basis, can you please engage with SoST to reach a shared position to confirm the status of your costs applications as broadly described below, and providing further information should this be required.
 - A. The SoST costs application relates to and includes plots, land and/ or rights held by NH, is made on behalf of NH and for the same costs and therefore your costs application (or relevant parts of it to be confirmed) will not proceed;
 - B. The SoST costs application only relates to the costs of the central Department for Transport and so has no bearing on your costs application which relates only to the wholly separate costs of NH; or
 - C. Additional information is required to describe the relationship between the SoST costs application and your costs application (in which case that information should also be provided).
10. The ExA has asked that you respond to this letter within 14 days, by close of business on **17 May 2022**.
11. The ExA will not give any further consideration to your application or the SoST costs application until responses to this correspondence and to a parallel letter to the SoST have been received. It follows that whilst this letter has been copied to the respondent party for information, the ExA is not seeking a response to it from the respondent party at this time. A response will be sought from the respondent party, once your reply to this letter has been provided.

12. All correspondence relating to your costs application and the costs decision by the ExA will be published on the National Infrastructure Planning Website.

13. If you have any questions about this letter, please do not hesitate to contact me.

Yours sincerely

Edwin Mawdsley
Case Manager

cc Mr Nick Lambert, Deputy Director, Head of Property Portfolio and Advisory, Corporate Finance & Property Directorate in the Department for Transport.
The respondent party.