



National Infrastructure Planning
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Ms Theresa Johnston
Wellers Law Group LLP

Your Ref: TJ/DH

By Email

Our Ref: BC080001/CAPP-019&20

Date: 4 May 2022

Dear Ms Johnston

Planning Act 2008 (as amended) – Section 95

Applications by Dan Bramwell (1), MES Contractors and JDP Property Services (2) for awards of costs: against London Resort Company Holdings Limited regarding an Application for an Order Granting Development Consent for the London Resort

1. By a first submission dated 27 April 2022, Wellers Law Group LLP for Dan Bramwell (1); and by a second submission dated 28 April 2022, Wellers Law Group LLP for MES Contractors and JDP Property Services (2), has made applications for awards of costs ("your costs applications") against London Resort Company Holdings Limited ("the respondent party") regarding its Application for an Order Granting Development Consent for the London Resort ("the Order"). Your costs applications have been published and can be seen in the Examination Library [CAPP-019] (1) and [CAPP-020] (2).
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 applications. This letter is to acknowledge receipt of your costs applications and to seek further information to clarify their validity and scope.

5. By a submission dated 26 April 2022, Mr Doug Hilton, Director of Peninsular Management Company ("PMC") on behalf of Dan Bramwell (1), MES Contractors Ltd and JDP Property Services (2) and Others has also made an application for an award of costs ("the first PMC costs application") against the respondent party regarding its Application for the Order. The first PMC costs application has also been published and can be seen in the Examination Library [CAPP-017].
6. Paragraph 31 Part B of the Costs Guidance advises that '*[a]n application for an award of costs must be received by the [Planning] Inspectorate at its main address¹ within 28 days of the date of the notification. Late applications for an award of costs will only be accepted if the party making the application for an award of costs shows good reason for not having complied with the time limit for submission*'. The last date for the receipt of timely applications for costs was therefore 26 April 2022. It follows that in-principle, your costs applications are out of time and whilst in respect of party (1) you advanced as a reason that the party has recently been unwell and requested that the ExA should exercise its discretion to accept a late application, you did not provide any evidence for that position. You acknowledged lateness and requested the exercise of discretion, but did not provide any reason why you were unable to comply with the time limit for the parties (2).
7. However, in exercising discretion and before deciding whether or not to rule out your costs applications as being out of time, the ExA has also had regard to the fact that the first PMC costs application was a timely application and that Mr Hilton also represents party (1) and parties (2). It follows that, whilst it is not yet clear who will act for them going forward, timely costs applications were made for both party (1) and parties (2) and so the ExA has asked me to advise you that both applications will be considered as timely.
8. On that basis, can you please engage with Mr Doug Hilton of PMC 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. Mr Hilton of PMC acts for the parties (1) and/ or (2) and therefore your costs application (or part/s of it to be confirmed) will not proceed;
 - B. You act for the parties (1) and/ or (2) and therefore the first PMC costs application (or part/s of it to be confirmed) will not proceed; or
 - C. The parties now represent themselves, another person acts and/ or additional information is required to describe the relationship between the first PMC costs application and your costs applications (in which case that information should also be provided).
9. If you do act, in respect for each party for whom you act, can you also please provide a table confirming which plots, land and/ or rights shown in the Book of Reference relates to them.
10. The ExA has asked that you respond to this letter within 14 days, by close of business on **18 May 2022**.

¹ On 19 April 2022, [the Planning Inspectorate issued advice](#) under Planning Act 2008 section 51 making clear that for the purposes of paragraph 31 Part B of the Costs Guidance, costs applications submitted by email are acceptable.

11. The ExA will not give any further consideration to your application or the first PMC costs application until responses to this correspondence and to a parallel letter to Mr Hilton 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 Doug Hilton, Peninsula Management Company.
The respondent party.