The Planning Inspectorate

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Ms Katie Scuoler
Senior Associate
Dentons UK and Middle East LLP

**By Email**

Your Ref: KJES/EB.SHARED

Our Ref: BC080001/ CAPP-006E (Comb)

Date: 07 June 2022

Dear Ms Scuoler

**Planning Act 2008 (as amended) – Section 95**

**Application by Network Rail Infrastructure 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. I refer to my letter of 9 May 2022 setting out a process by which the Examining Authority (ExA) would respond to your application for an award of costs submitted on 22 April 2022 ("the costs application") against the 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-006A].

2. In my letter of 9 May 2022, I outlined that the ExA would (amongst all other relevant matters) give consideration to the following documents:

   - the respondent party's response to the costs application submitted on 23 May 2022 ("the response") [CAPP-006D] (a copy of which is also attached to the covering email);
   - the costs application [CAPP-006A];
   - noting that the costs application made allegations of unreasonable behaviour in addition to reliance on your claim to be an Affected Person and a successful objector, costs application submissions from fourteen Interested Parties, five of whom rely on unreasonable behaviour alone to substantiate their costs claims [CAPP-003, 004, 007, 009 & 010] and nine of whom include unreasonable behaviour justifications alongside their claims to be Affected Persons and successful objectors [CAPP-006, 011, 013, 014, 015, 017, 018, 019 and 020];
   - guidance from the Secretary of State on costs applications in relation to development consent order examinations ("the Costs Guidance"); and
   - other relevant costs decisions, identified as decisions made by the ExA for the Atlantic Array and annexed to advice under section 51 of the Planning Act 2008.



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I refer you to these documents as published in the Examination Library on the National Infrastructure Planning website for your consideration. The Costs Guidance can be accessed separately by following this link.

3. My letter of 9 May 2022 provided the respondent party with an opportunity to make any observations on the following matters:

   - **Matter 1**: the 'successful objector' claim for costs, and specifically whether there are any arguments that, if successful, a part award should be made that would be different to or lesser in extent than any award that could possibly be made under Matter 3;
   - **Matter 2**: the jurisdiction to award costs for unreasonable behaviour in these circumstances; and without prejudice to this matter
   - **Matter 3**: the unreasonable behaviour alleged in the costs application and whether it meets the test for an award set out in the Costs Guidance.

   The respondent party elected to respond to Matter 1 to say (in summary terms) that it accepts the basis for your claim as a successful objector in principle, but it has advanced arguments that your claim should be for a part award and not a full award of costs. You are asked to make your concluding submission on that matter.

   The respondent party elected to respond to Matter 2 to say (in summary terms) that it did not consider that there were sufficient grounds for an award of costs in your case. On that basis, it did not elect to mount any arguments to address Matter 3. However, the ExA will not decide either of these matters until the conclusion of written submissions from the parties to the costs procedure and therefore it remains relevant that your concluding submission addresses both Matter 2 and Matter 3.

4. I now invite you to make your concluding written submission. This response must be received by **21 June 2022**. Please note that your concluding written submission is requested to respond to all matters relevant to your claim arising from the response. You are encouraged not to introduce any new matters of which the respondent party and / or the ExA are not yet aware as if you do, the ExA will need to determine what (if any) further procedural action to take and its consideration of the costs application may be delayed.

5. Following receipt of your concluding written submission (or the expiry of the deadline set in paragraph 4 above if you elect not to write), the ExA will proceed to decide the costs application, the outcome of which will be communicated in writing. If a costs order is made in your favour, the decision letter will provide guidance on the agreement or formal setting of costs.

6. The ExA's decision will be published on the National Infrastructure Planning website alongside all correspondence relating to the costs application.

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



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Yours sincerely

Edwin Mawdsley
**Case Manager**

cc The Respondent Party