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**Your reference**

BC080001

**Our reference**

RCO/RCO/398961/256  
UKM/118845558.1

**By Email Only –**

6 June 2022

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

Dear Sir/Madam

**Application BC080001 by London Resort Company Holdings (“LRCH”) for an Order granting Development Consent for The London Resort (“Application”)**

We write further to LRCH’s letter dated 23 May 2022.

In respect of Matter 1 (the in-principle validity of the costs application and the jurisdiction to award costs in these circumstances), LRCH state that it is a statement of fact that the Application was withdrawn prior to the beginning of the Preliminary Meeting and the Costs Guidance only grants jurisdiction to the Examining Authority where the Preliminary Meeting has begun. Merlin’s position remains that the Examining Authority has jurisdiction to grant costs awards at any stage in the Application and has precedent in doing so (Atlantic Array). In the alternative, Merlin’s position remains that the Preliminary Meeting was opened on 29 March 2022.

In respect of Matter 2 (the unreasonable behaviour alleged in the costs application and whether it meets the test for an award set out in the Costs Guidance), LRCH offer no comment. Merlin’s position remains as set out in its costs application and in the absence of an explanation by LRCH, the presumption should be in favour of Merlin’s account.

By way of final comment, we note that in the Examining Authority’s letter of 9 May 2022, substantial weight is given to the validity of relying on unreasonable behaviour in the context of costs applications. We would suggest that – as a matter of principle – costs should be available to interested parties who engage with an application for development consent in good faith, on the understanding that their representations will be taken seriously and with credibility. What has been demonstrated by LRCH is a total failure to present the Application in a form that was capable of examination or withdraw it timeously when the clear and insurmountable legal, environmental and procedural obstacles became apparent, leading to significant cost exposure by interested parties. By not awarding costs in such circumstances, the Examining Authority risks undermining confidence in the process which could deter future engagement by those who would be impacted by nationally significant infrastructure projects.

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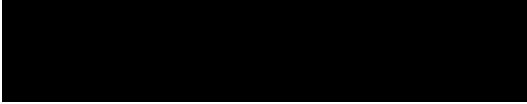
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We look forward to the Examining Authority making its determination.

Yours faithfully



**DLA Piper UK LLP**

