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Ms Charlotte Coulson  
Manging Associate  
Womble Bond Dickinson (UK) LLP

Your Ref: KD10/JCB1/DEP/0009.17

Our Ref: BC080001/CAPP-0013  
(Comb)

**By Email**

Date: 24 June 2022

Dear Ms Coulson

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

### **Application by Womble Bond Dickinson for the Secretary of State for Transport (Mr Nick Lambert) 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 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") made an application for an award of costs ("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-013]. On 16 May 2022, Mr Jonathan Bower of your office wrote to confirm that you act for the SoST and responding to my preliminary clarifying questions.
2. On 26 May 2022, I wrote to the respondent (with a copy to Mr Jonathan Bower of your office), seeking the respondent's written submissions in response to your application [CAPP-013B]. Noting the intervention of the Queen's Platinum Jubilee public holiday, an extended deadline of 16 June 2022 was set for the receipt of these submissions from the respondent. Had any such submissions been received, you would have been provided with an opportunity and a deadline to respond to them.
3. As of today, the respondent has not elected to respond to your application with written submissions. Nor has the respondent written to the Examining Authority ('ExA') to indicate that it does not wish to respond, to provide any reason for not responding or to seek an extension to the deadline for written submissions to be made. It follows that the deadline of 16 June 2022 has now been breached.
4. I have referred these circumstances to the ExA and sought its procedural decision. The ExA has decided that in circumstances where the respondent has breached

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the deadline for its response without either providing a reason or seeking an extension, it will proceed to decide your application on the basis of the material already before it. In reaching this decision, the ExA observed that the respondent has already been provided with a reasonable opportunity to make its response. For it to create further delay by additionally extending the time-period for the respondent to respond without having been provided with either a request or a reason to do so would be unfair to your client and in-principle unreasonable as a course of action.

5. In circumstances where a respondent does elect to respond to an application for costs, established practice and the provision of procedural fairness indicate that the applicant for costs should then be provided with an opportunity to make a final written submission, addressing any relevant points raised by the respondent, before the costs decision is taken. However, in this instance, where no response has been provided, the ExA takes the view that your application for costs can be decided directly. There is no need for you to make a final submission on behalf of your client because the ExA has all the information that it needs to decide your client's application and no case has been made against the application by the respondent to which in fairness you need to respond.
6. It follows that the ExA will proceed to decide your client's costs application, the outcome of which will be communicated to you in writing.
7. All correspondence relating to the costs applications will be published on the National Infrastructure Planning Website following the costs decision by the ExA.
8. If you have any questions about this letter, please do not hesitate to contact me.

Yours sincerely

Edwin Mawdsley  
**Case Manager**

cc The Respondent Party