



3/18 Eagle Wing  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Direct line: 0303 444 5035  
Help line: 0303 444 5000  
e-mail: [ablemarineenergypark@infrastructure.gsi.gov.uk](mailto:ablemarineenergypark@infrastructure.gsi.gov.uk)

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Agent to Able UK Ltd  
**By email**

Our Ref: TR030001

Date: 17 January 2013

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Dear Mr Walker,

### **Able Marine Energy Park – Application for Costs**

An application for a partial award of costs (the costs application) has been received from Mr David Hickling on behalf of Mr Stephen Kirkwood (the costs applicant) against Able Humber Ports Ltd in connection with the application for the Able Marine Energy Park. A copy of Mr Hickling's letter is attached.

The policy applying to award of costs to parties involved in examination of applications under the Planning Act 2008 (as amended) is the [IPC Policy](#) on the award of costs in relation to examinations of nationally significant infrastructure projects. I referred to this policy in the Rule 8 letter sent to all Interested Parties on 31 May 2012.

In accordance with paragraph A34 of the IPC Policy, the costs application should have been received by the Planning Inspectorate by 10 December 2012 which would have been "within 14 days of the date of the notification pursuant to Section 99". The costs application though dated 12 December was actually received on 11 December 2012.

A letter dated 9 January 2013 was sent to Mr Hickling seeking an explanation for the delay in the costs application. In his reply of 14 January 2013, Mr Hickling sets out his understanding of the IPC Policy and asks that the Panel in any event exercises its discretion under paragraph A35 to entertain a late application for costs.

The Panel has considered whether the 14 day period expires on or after 10 December. In the absence of any further definition or clarification relating to paragraph A34 (which is not a statutory provision) and because the letter was received on 11 December in accordance with the costs applicant's understanding of the policy, the Panel has determined that the partial costs application should reasonably be accepted.

The Panel now seeks a response from your client to the costs application and specifically to Mr Hickling's claim that the costs applicant was caused to incur additional, unnecessary and unforeseen expense because of a failure of the proponents of the scheme to behave in a reasonable or acceptable manner during the formal examination process. This response should be made to the Planning Inspectorate by 31 January.

The costs application, this letter, any subsequent submissions received from all parties and the Examining authority's decisions will be made available on the [Planning Inspectorate's website](#).

Yours sincerely,

*Robert Upton*

**Robert Upton**  
**Lead member of the Examining authority**

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Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.