

SUPPLEMENTARY PLANNING AGENDA – 8TH JULY 2026

Item 1 – Pleasure Island

Proposed amendments to conditions 16 and 22 to remove the reference to a phasing plan. It is recommended a new condition is added to separate the phasing plan from the other conditions. The additional condition is proposed to read:

Condition

Prior to any commencement of development, a comprehensive phasing plan for the site detailing the delivery of roads and infrastructure throughout the development and which commits to the delivery of the landscape frontage as part of the initial phase, including an implementation plan, shall be submitted to and approved in writing by the Local Planning Authority. Other than the infrastructure and landscaping required as part of the initial phase, no further phase shall commence any site clearance until such a time that development is ready to formally commence and once the relevant conditions for that phase are discharged. Once approved, the development shall accord with the approved phasing plan and be implemented as approved.

Reason

To enable the development to come forward in a coherent and complementary manner and to establish key infrastructure to unlock the site as part of the commitment to the early delivery phases and for landscape and highway reasons in accordance with Policies 5, 41 and 42 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

The following additional condition is also included for clarity:

Condition

The uses for the proposed development shall be as set out in Schedule 1, Section 18 of the Application Form. Each use shall only operate within the specific use class type it falls within and shall not operate for any other use as set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), including any other use within the same use class.

Reason

The applicant has been assessed on the information provided and subsequent changes could change the impact of the proposals and their acceptability. It also

seeks to define the permission in accord with Policies 5, 12 and 23 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

It is proposed that conditions 14 and 16 are amended to remove the reference to 'unless' and 'unless otherwise agreed in writing by the Local Planning Authority', to assist in defining the permission.

It is proposed to amend condition 24 to add in the need for the acoustic fencing details as part of the Construction and Environmental Management Plan.

It is proposed to amend condition 34 to add in as a point 5, that no more than 20% of the comparison goods shall be for clothing and footwear. The reason for this condition remains as recommended.

Our Ref: 2995/MR/LT20260703

3rd July 2026

Rebecca Brown
North East Lincolnshire Council
Municipal Offices
Town Hall Square
Grimsby
North East Lincolnshire
DN31 1HU

MRPP
MARTIN ROBESON
PLANNING PRACTICE

Town Planning Consultants
Development Advocacy

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Via Email:

Dear Rebecca,

PLANNING COMMITTEE 8TH JULY 2026: DEMOLITION AND REDEVELOPMENT OF FORMER PLEASURE ISLAND SITE TO PROVIDE 272 HOLIDAY LODGES, TWO HOTELS, LEISURE UNITS AND TWO RETAIL UNITS INCLUDING DISCOUNT FOODSTORE (LIDL). KINGS ROAD, CLEETHORPES, NORTH EAST LINCOLNSHIRE, DN35 0PL. PLANNING REFERENCE: DM/1109/22/FUL

As you are aware we act on behalf of Tesco Stores Limited and submitted representations in respect of the above application in our comprehensive letter dated 25th September 2023. We note that some of the matters raised have been taken into account in the Officer's consideration of this application. As you will be aware Tesco trade from stores across the United Kingdom and are no stranger to operating stores in coastal and tourist resorts where continuing investment is necessary to secure their future prosperity. We are therefore aware of the care that needs to be taken in delivering change and that the development plan invariably plays an important role in guiding strategies towards effective implementation.

We now write with particular regard to the content of the Officer's Report to the above Planning Committee meeting.

We note that the Officer sets out relevant development plan, and NPPF policies within the Report and draws attention to the provisions of section 38 (6) of the Act and the content of paragraphs 11 and 12 of the NPPF with regard to decision making.

Amongst the relevant policies are Policies 5, Development Boundaries; 12, Tourism and Visitor Economy, and 23, Retail Hierarchy and Town Centre Development.

The Officer's Report confirms that the application has been advertised as a departure from the development plan and this in part arises from its conflict with Policy 5. For the avoidance of any doubt the whole of Policy 5 is relevant notwithstanding that the Report focuses on its Part 3. Although the Report appears to accept that the Policy's Part 1 requirements, for development to be considered "... *with regard to suitability and sustainability*..." are relevant, and advises that all those matters will be considered against specific considerations throughout the Report, not all are fully considered. However, it is a matter

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of some concern that the Report advises, under the heading, “... *Principle of Development and Retail Impact*” that, “... *whilst the proposal forms a departure in terms of this technically in relation to Policy 5 this does not weigh against the scheme...*”. But then the second paragraph of the Report’s “*Conclusion*” identifies that “...*there is an in principal issue with Policy 5*” but again advises that in “...*noting this does not weigh against the development in this case*”. Bearing in mind the content of Policy 5, this does not appear to be a credible conclusion.

Policy 12 is also a “*relevant policy*”. It sets out how the Council will support development that supports “*Tourism and the visitor economy*”. Whilst its content is cast positively. It can be read to indicate that uses and development that fall outwith the identified “*principles*” would not be supported.

The Officer’s Report explains that Policy 12, “...*is the more determinant Policy in principal terms as this is the site’s formal allocation...*” However, the Report suggests that the policy “...*does not set out which specific types of leisure and tourism uses will be permitted...*” and that it “...*does not specify the exact uses that will be permitted.*” However, that is to misinterpret the function of this policy which sets out “*principles*” against which specific types of “*visitor attractions*” can be supported (see for instance at paragraph 12.85 of the Local Plan). The Officer’s Report does not provide clarity as to how individual uses meet the 11 principles. Nevertheless, the retail component is “...*not considered to be strictly tourism or leisure related.*” That understates the conflict, notwithstanding the Officer’s confirmation that “...*not all of it, would support tourism and the visitor economy in line with the Policy aims...*” The Officer nevertheless concludes that the “...*the principle of this mixed-use development under Policy 12 is considered to be acceptable.*” That conclusion fails to have regard to the lack of compliance generated by the retail component. And in that regard the Officer’s “...*overall conclusion of acceptability of the principle of development...*” whilst “...*predicated on conditions being imposed*”, do not remove the identified breaches set out above. For example, whilst the condition restricting the occupation of the retail (food) store as a “*limited assortment discounter*” with a restriction on the number of product lines to be sold is necessary to reflect the specific nature of the application, it, and other conditions do not serve to remove the breach of key development plan policies.

The Officer’s Report addresses compliance with Policy 23 (Retail hierarchy and town centres). It has been identified that the policy’s terms would be met in terms of the retail component not causing significant adverse impacts on nearby town and local centres. In addition, it is asserted that the retail sequential test has been met. Compliance with Policy 23 demonstrates only that planning permission should not be refused. It therefore does not provide meaningful weight in the planning balance informing decision making.

It is of importance that there is no credible assertion made in the evidence supporting the application or in the Officer’s Report that the proposals serve to address a pre-existing need for a retail (food) store away from the town centre. Rather, the proposal appears to be in conflict with Policy 25: ‘Cleethorpes town centre opportunity sites’. Of interest is that the Report does not refer to this being a ‘Relevant Planning Policy’. This Policy identifies the need to accommodate new convenience town space within the town centre. This arises

from a Council led evidence-based study of “*town centre requirements*” which is set out at Table 14.5 of the Local Plan. Any need that there might be is therefore ‘location specific’ and cannot be stolen to serve a different purpose.

In the circumstances, this is not a situation where the local planning authority could rely upon the approach set out at paragraph 127b) of the NPPF since the proposed retail development would not “...*contribute to meeting an unmet need for development in the area*”.

It is of importance to note that neither the supporting application material nor the Officer’s Report assert that the retail (food) store provides an essential component to secure the viability of the whole application proposal. Reference is made only to “*the proposed retail uses support the overall viability of the development*”. Significantly no detailed financial appraisal has been made available for public review.

Bearing in mind the breach of the key development plan policies, i.e. Policy 5 (Development boundaries) and Policy 12 (Tourism and visitor economy), it is difficult to accept that it is reasonable for the Officer to find that “...*the proposal is seen to comply with the Local Plan overall*”. If the balancing exercise was to be undertaken reflecting these breaches, then the asserted benefits might lead to the justification that planning permission should be refused.

Yours sincerely,

Martin Robeson

CC: cheryl.jarvis

From: Jonathan Wallace

Sent: 07 July 2026 08:31

To: Cheryl Jarvis (NELC) <Cheryl.Jarvis@nelincs.gov.uk>

Subject: Cleethorpes - Response to Letter of Representations from MRPP dated 3 July 2026 [LICH-DMS.FID183095] DM/1109/22/FUL

Cheryl

Many thanks for forwarding on the further letter of representations by MRPP (on behalf of Tesco) dated 3 July.

The Tesco letter makes five main points, and we would respond to each point as follows:

1. The letter states that all of policy 5 is relevant (not just part 3) and that not all of the criteria in Part 1 have been considered throughout the report.

We believe the Officer's Report (OR) is correct to say that Part 2 of Policy 5 does not apply, as the site is not within the defined settlement boundary.

The Tesco representation also does not specify or say how all the criteria in Part 1 of Policy 5 have not been addressed. In our view, reading the OR fairly and as a whole (as required) the criteria in Part 1 of Policy 5 have been considered in the body of the report (noting that the Health & Safety Executive were consulted and stated that the proposal did not meet the criteria for consultation with them).

We would also highlight that the Local Plan itself identifies the application site for tourism and visitor economy development through Policy 12.

2. The Tesco letter states that the conclusion in the OR that the technical policy conflict with Policy 5 does not weigh against the development, is not credible.

The OR (page 18) and in the conclusion section (page 40) does, in our view, give rational reasons as to why no weight has been given to the technical policy conflict, in particular that the site is an allocated resort area, that the site is not 'countryside' in terms of use/appearance and Policy 12 is more determinative in this case.

3. The Tesco letter says is the conclusion that the development complies with Policy 12 misinterprets the policy and/or fails to have regard to the retail component.

Policy 12 states that the Council will support development that is consistent with a series of principles. The OR is correct to say that policy 12 does not specify particular types of leisure and tourism uses that will be supported (page 18). The OR makes it clear that the retail element of the development may be considered to be at odds with the tourist focus of Policy 12 but concludes, overall, that the development (including the retail element) accords with the principles set out in policy 12 by supporting the resort and visitor offer (page 19 and conclusion page 40).

The OR also refers to a Site Marketing Update (page 19) that has been used to define the scope of the proposed uses, so there is evidence which justifies the inclusion of the retail element of the development, together with the more general case made that the inclusion of retail ensures the vitality/viability of the development..

4. The fourth point is that compliance with Policy 23 does not attract positive weight in the planning balance.

The Tesco letter does not identify any part of the OR where compliance with Policy 23 is given positive weight in the planning balance, and we do not think the OR does do this at any point (particularly in the conclusion section when discussing the benefits of the scheme). Rather, the OR simply concludes that the principle of development is acceptable, as the criteria set out in policy 23 have been passed.

5. The fifth point is that there is conflict with Policy 25.

Policy 25 relates to allocations within Cleethorpes Town Centre. As the development site is outside Cleethorpes Town Centre, the relevant policy to apply is policy 23, which is what the OR has done. The three sites allocated in Policy 25 for retail were also considered as part of the retail sequential test assessment (see Updated Leisure and Retail Statement dated June 2025).

We hope that this is helpful.

Kind Regards

Jonathan

Jonathan Wallace

Senior Director, Chair

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**Planning for Sport:
Relocation, relocation, relocation?**

How relocation to the Green Belt can benefit sports clubs and facilities

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North East Lincolnshire
DN31 1HU

Our ref: TEA1/6 (LPF)
Your ref: DM/1109/22/FUL

06 July 2026

Attn. Cheryl Jarvis, Case Officer

BY EMAIL ONLY: Cheryl.jarvis@nelincs.gov.uk

**URGENT LETTER
LATE REPRESENTATIONS
IN ADVANCE OF COMMITTEE MEETING ON 8 JULY 2026**

Dear Sirs

**Former Pleasure Island Theme Park, Kings Road, Cleethorpes, North East Lincolnshire
("the Site")**

Re: Demolition and removal of all existing buildings and structures on site, alteration to existing access from Kings Road and formation of new points of access from Kings Road, installation of hardstanding bases to accommodate up to 272 holiday lodges with associated parking, access roads, servicing, hard and soft landscaping(including creation of outdoor activity space), replacement bridge over buck beck and erection of ancillary holiday resort buildings, erection of 2 x hotels, restaurants and cafes, a leisure unit (size increased), 2 x retail units and ancillary development ("the Application")

1. We are instructed by Katherine Collett in relation to the Application. The matter was deferred from the Council's June 2026 committee agenda and is due to be determined on 8 July 2026.
2. We are writing now as there are serious deficiencies in the Officer Report ("**OR**") in particular in the way the planning officer has approached (i) the HRA and (ii) the sequential test under the NPPF and case law. If determination proceeds on the basis of the OR a grant of planning permission could give rise to a judicial review. The errors we have identified provide strong reasons for refusal as set out below and members are invited to carefully consider these issues and to refuse the application for the reasons which follow at the end of this letter.

HRA Flaws

3. There are two related matters of concern around the Habitats Regulations process and conclusions that militate against the granting of planning permission and/or which would

make any decision to do so vulnerable to legal challenge. The first is procedural and the second is more substantive. Both relate to the responsibilities of the LPA as regards protection of the adjacent European/Habitats Site.

The Procedural Point

4. In its consultation response of 13 May 2026, Natural England advised the Council that *“Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority”*. (Emphasis added).
5. The OR, at pdf page 26, states *“The Council’s Ecologist has confirmed that as competent authority, it is content to accept the HRA”*.
6. This statement, and others in the OR, suggest that Council, as the competent authority in this case, has adopted the applicant’s ‘Report to Inform a HRA’¹ uncritically, as **the** HRA. It and other statements suggest very strongly that it has not exercised its own independent judgments and has instead abdicated its responsibilities under regulations 7 and 63 of the Conservation and Habitats and Species Regulations 2017 (as amended). There is no evidence on the planning file to the contrary and as such no basis for concluding that the Council has genuinely exercised its own independent judgment and reached its own conclusion on the matter, rather than simply accepting the applicant’s position at face value and rubber-stamping their submitted HRA.
7. That is an arguably unlawful approach that invites legal challenge. The Habitats Regulations require the competent authority *itself* to make the appropriate assessment and the conclusions of that assessment must be the LPA’s conclusions, reached on an independent and suitably qualified consideration of the evidence, informed by consultation with Natural England. The competent authority can legitimately draw upon and rely upon evidence provided by a development applicant (typically in the form of a shadow HRA) but it must independently satisfy itself that the conclusions of any such shadow HRA are sound and robust. There is no evidence provided in the OR that the Council has exercised such independent judgment. Instead the OR states variously that the Council *“is content to accept the HRA”* and *“The Council has accepted the HRA provided by the applicant and adopted it”* (p38). There is no mention of that HRA being ‘shadow’ in nature. Indeed, the language used throughout the OR refers to “the HRA” as gospel, without clarifying that what is being referred to is the applicant’s shadow HRA, and evidently without applying any independent consideration to the points from it that are cited.
8. The language in the OR, in short, does not inspire any confidence at all that adequate (or indeed any) independent review has been brought to bear. Any failure to do so is an abdication of the Council’s responsibilities under the Regulations and a procedural misstep that could invite legal challenge.

¹ OS Ecology (March 2026) *Report to Inform a Habitats Regulations Assessment: The Former Pleasure Island Site, Cleethorpes*. Report for Lidl GB Limited.

The Efficacy of Mitigation

9. The OR notes that Natural England have moved from a position of objection to the scheme to one of no objection, based on an agreed suite of mitigation measures that they consider to be adequate to avoid adverse effects on the integrity of the adjacent Humber Estuary Habitats Site. The RSPB has not withdrawn its objection and while its concerns around the HRA are noted in the OR to remain outstanding, they are not engaged with further.
10. The key focus of the mitigation measures relied upon in the shadow HRA and OR is the need to address recreational pressure generated by the proposed development onto the adjacent Habitats Site (and associated disturbance impacts – particularly to intertidal birds). These recreational mitigation measures are quoted in the OR from Section 5 of the applicant's shadow HRA, and include the following: -
 - (i) Enhanced connectivity to Cleethorpes Country Park to provide alternative areas for walking, cycling and recreational activities. This will mainly be in the form of wayfinding signage but information packs to the lodges will also contain this information.
 - (ii) Limiting occupation of the lodge development to 1 November (or the following Sunday, if half terms extend into November) in any one year and 14 March in the next year as this is when disturbance to over wintering birds using the estuary is more likely.
 - (iii) Funding (circa £22,264.10/per annum/in line with inflation) for a part time ranger role for the lifetime of the holiday lodge development, employed by a responsible body such as the Humber Nature Partnership.
 - (iv) Additional mitigation which includes:
 - Promotion of onsite leisure activities;
 - The use of an onsite mascot which could include a curlew to educate on the local bird population;
 - Promotion of activities and recreational activities away from the coast;
 - A detailed site and landscaping scheme to mitigate noise and light pollution;
 - A no dog policy for the lodge development and hotels;
 - Parking restrictions; and;
 - Signage and interpretation boards.
11. These measures are proposed to be secured through planning conditions and the signing of a S106 for the financial contribution to fund the part-time ranger role. Natural England have advised (via letter dated 13 May 2026) that *"Whilst we consider that some aspects of our previous further information request (dated September 2025) have not been fully addressed, we advise that overall, the suite of mitigation measures outlined in section 6.7 of the updated sHRA as above, are adequate to avoid adverse effects on the integrity (AEOL) of the Humber Estuary designated sites."*
12. It is relevant that NE go on to say that *"However, we highlight previous conversations in which there has been uncertainty around the delivery body for the measures. We note that it is the responsibility of the LPA to ensure that a suitable delivery body for the ranger role can be appropriately secured through the planning permission, and that they must have confidence in the delivery of the relevant mitigation measures via this mechanism"*.

13. European (e.g. *Waddenzee*) and domestic (e.g. *Steel Cross*) case law has established the principle that conclusions reached on the 'adverse effects on integrity' test of HRA are subject to a high bar of scientific certainty and that conclusions cannot be based on conjecture or substantive evidence gaps. Translated to this case, this means that the competent authority (and indeed Natural England as its advisors) **must** be satisfied that the mitigation that is proposed to be relied upon, as set out above, will be effective. That is not a conclusion that can be legitimately arrived at based on gut feel, best-intentions or exasperation.
14. No evidence is provided in any of the applicant's HRA, in the OR, or in the consultation response from Natural England that supports a conclusion that the proposed mitigation will be effective. The applicant's HRA merely describes it – it does not assess its efficacy by reference to monitoring of similar measures adopted locally or on other estuarine sites. Para 6.8 of the applicant's HRA concludes that "*Following the application of the agreed mitigation and in accordance with the Cleethorpes Habitat Plan, it is considered that the proposed development can proceed*". That is not a conclusion that engages with the 'adverse effect on integrity' test – it is simply a statement that mitigation measures have been agreed.
15. One would expect, at the very least, a review of the efficacy of local mitigation initiatives and their relevance to the case to have been carried out by either the applicant (in its shadow HRA) or the LPA, and/or at least alluded to by Natural England. Such local initiatives include the Humber Strategic Access Management and Mitigation Strategy (SAMMs) which was developed alongside the Emerging Local Plan Updates of the Humber-side councils (East Riding of Yorkshire, North Lincolnshire, North East Lincolnshire, Hull, etc.) around 2022. While this is a relatively new SAMM initiative (when compared to other longer-standing examples such as the North Kent SAMM), one would still expect some form of assessment of the efficacy of the access management measures it delivers to have been carried out – indeed part of the tariff contribution it secures for new residential schemes is intended to ensure that such monitoring is carried out.
16. The failure of the applicant's HRA to engage with this matter, and the failure of North East Lincs Council and Natural England to independently consider it, provides a significant source of lacunae in the conclusion of 'no adverse effect on integrity', rendering it legally unsafe. Worse, such evidence that is available², does not immediately suggest that mechanisms such as part-time wardening and education of visitors are effective.
17. Humber Nature Partnership's 2023 recreational disturbance reporting in fact shows disturbance incident numbers going up, not down, since the SAMM period began. For example, 2022 saw a significant increase in recreational disturbance reported around the Humber Estuary, with 190 incidents logged, up from 95 in 2021 and 45 in 2020.
18. Whilst the report itself is understandably cautious about drawing concrete inferences from these data (for example the higher number of reports at one key site was believed to be mostly due to improved reporting rather than an actual increase in disturbance), it also recognises that the data only covers reported incidents and doesn't necessarily give a complete picture of disturbance activity or, by extension, the efficacy of the SAMMs measures to date.

² E.g. <https://m.northlincs.gov.uk/public/localplan/examination/EXAM%2022B%20-%20Recreational%20Disturbance%20on%20the%20Humber%20in%202022.pdf>

19. There therefore appears to be no evidence available to support any conclusion that recreational management measures delivered by the Humber SAMM have measurably reduced disturbance on qualifying interests of the Humber Estuary. As those are essentially the same mitigation measures that are being relied upon in this case to draw a conclusion of no adverse effect on integrity (NAOI) in respect of the adjacent SPA/Ramsar, the question presents itself as to whether there is adequate scientific certainty in any such conclusion, further to the tests established in Waddenzee. Our conclusion is that there is not, and therefore granting permission would be unsafe.

Failure to Demonstrate Compliance with the Flood Risk Sequential Test

20. It is common ground that the application site lies predominantly within Flood Zone 3, an area at high risk of flooding. The proposed development includes two hotels; 272 holiday lodges and associated leisure uses. Hotels and holiday accommodation are classified as "More Vulnerable" development under the Flood Risk Vulnerability Classification in Annex 3 of the NPPF.
21. The applicant has submitted a Flood Risk Sequential Site Assessment for the retail elements of the scheme only. It expressly proceeds on the basis that the tourism and leisure elements do not require separate sequential testing because the site is allocated within the Resort Area under Policy 12 of the North East Lincs Local Plan.
22. The Officer's Report itself undermines that approach. First, it describes Policy 12, 'Tourism and visitor economy', as an economic policy rather than a specific allocation for the More Vulnerable hotel and lodge uses now proposed:

Policy 12 is primarily to support the tourist economy and increase the profile of NELC more widely, whilst seeking to protect important historic and ecological designations. It does not set out which specific types of leisure and tourism uses will be permitted.

...

As set out, Policy 12 does not specify the exact uses which will be permitted but is a more generic policy that seeks to support and enhance the resort and visitor offer and attraction...

(Emphasis added)

23. Paragraph 173 of the NPPF requires:

A sequential, risk-based approach should be taken to individual applications in areas known to be at risk now or in the future from any form of flooding.

24. Paragraph 174 further provides:

The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

25. These requirements are also reflected in Policy 33 of the North East Lincs Local Plan and in the Council's own Flood Risk Sequential and Exception Tests Guidance Note.

26. Despite those requirements, the Officer's Report expressly acknowledges that *the site allocation is for resort and leisure uses but has not been sequentially tested at the Local Plan stage* (emphasis added).
27. That acknowledgement is decisive. It is common ground that the Policy 12 allocation was not subjected to a flood risk Sequential Test during preparation of the Local Plan, and in particular that the More Vulnerable hotel and lodge uses now proposed were not sequentially tested. The allocation therefore cannot properly be relied upon as a substitute for, or as a basis for dispensing with, an application-stage Sequential Test.
28. The OR nevertheless relies on a two-page unevidenced 'Sequential Assessment Briefing Note' provided by the Applicant on 24 June 2026. That note is undermined by the incorrect assumption by the Applicant that a Sequential Test was done at the Local Plan stage when the site was identified for leisure uses. It therefore does not undertake the required Sequential Test.
29. Instead, it repeats the same erroneous premise: that the Policy 12 allocation effectively satisfies the requirement and provides a short narrative summary of alternative sites, unsupported by clear search parameters, an evidence base or an assessment methodology, falls far short of the Sequential Test required by national policy, local policy and the Council's own Guidance Note. The Briefing Note therefore cannot cure the lack of a proper Sequential Test.
30. The consequence is clear: there has been no lawful or adequate Sequential Test consideration of whether the More Vulnerable hotel and lodge accommodation should be located on this high-risk site, either at plan-making stage or application stage. There is still no substantive assessment of reasonably available alternative sites at lower flood risk that would be appropriate for the proposed development.
31. In summary:
- the site lies predominantly within Flood Zone 3;
 - the principal uses comprise 'More Vulnerable' hotel and holiday accommodation;
 - the Officer has confirmed that the Policy 12 allocation was not subjected to a Sequential Test at plan-making stage; and
 - no proper application-stage flood risk Sequential Test has been undertaken for the tourism and leisure elements of the proposal, including the More Vulnerable hotel and holiday accommodation.
32. Due to incorrect assumption by the applicant that the site was sequentially tested at the Plan Making stage, and reliance on this incorrect assumption that the allocation complied with paragraphs 173 and 174 of the NPPF, Policy 33 of the North East Lincs Local Plan and the Council's Flood Risk Sequential and Exception Tests Guidance Note, the OR fails to demonstrate compliance with national and local policy or any strong reason for departure.³
33. In the real world the absence of a lawful and adequate Sequential Test, the Council has no sound basis for concluding that the proposal is acceptable in flood risk terms for the thousands of holiday makers that will stay in the hotels or lodges Site Indeed the opposite

³ *Gladman Developments v SSHCLG and Lancaster CC* [2026] EWHC 51.

is manifestly true: new hotels and especially lodges should not be located in areas of high flood risk.

34. The proposal is contrary to national and local flood risk policy and should not be permitted on the material presently before the Council given the risk to lives.
35. We invite members to exercise their independent judgment to reject the officer recommendation and to refuse the application on grounds:
 - (1) The Council's approach to adopting the HRA is legally deficient and cannot be relied on by the Council in its capacity as Competent Authority;
 - (2) the HRA is materially flawed because it lacks scientific certainty that Humber SAMM have measurably reduced disturbance on qualifying interests of the Humber Estuary; and
 - (2) There is a manifest error of fact and failure to carry out the Sequential Test on the erroneous assumption the Sequential Test was carried out for the hotel and lodges when the site was identified for leisure uses which is materially incorrect, and the failure to carry out the Sequential Test is a legal error with no justification and which puts lives at risk.

Yours faithfully

RICHARD BUXTON SOLICITORS

Copies to:

North East Lincolnshire Planning (planning@nelincs.gov.uk)

Simon Jones, Assistant Director Law and Governance, North East Lincolnshire

Pete Short, RSPB Humber Reserves Sites Manager
Natural England

Supplementary Item – R/O 33-35 Humberston Avenue, Humberston

Item 2

Amend Condition 4 of application DM/0269/25/OUT to the following:

Condition

The dwellings hereby approved shall be dormer bungalows only with a maximum height of 7.8 metres.

Reason

To protect the amenities of neighbours to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).