

12 October 2020

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Ms. Tara Dickenson
Ministry of Housing, Communities and Local Government
Fry House, 2 Marsham Street, Westminster, LONDON,
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Dear Ms. Dickenson

Re: Local Development Orders
Re: Fantasy Island Local Development Order
Re: Coastal Zone Local Development Order 2020

1. Introduction

- 1.1 In this matter, we act on behalf of East Lindsey District Council (“ELDC”). We have been responsible for providing advice to ELDC throughout as well as the drafting of the Coastal Zone Local Development Order 2020 (“the Coastal Zone LDO”) and supporting Statement of Reasons. Whilst we were not responsible for drafting the Fantasy Island Local Development Order, we are fully aware of its content and purpose.
- 1.2 We have been provided with a copy of the letter from Joanna Averley dated 5th October 2020 and have been instructed to respond.

2. Flood risk

- 2.1 The only issue of concern raised is that of flood risk. It is worth making the point that from the outset, ELDC has taken the linked issues of (1) flood risk (2) emergency planning and (3) risks to public health and safety extremely seriously.
- 2.2 ELDC embarked on an extensive consultation exercise and specifically invited the Environment Agency to attend two interactive Reference Group meetings with other key stakeholders. The Environment Agency was encouraged to express its views and concerns freely, which it did. The Environment Agency also provided a detailed objection to the Coastal Zone LDO by letter dated 29th September 2020.
- 2.3 As a direct consequence of the consultation exercise and flood risk related objections submitted by both the Environment Agency and Lincolnshire County Council, a number of important amendments were made to the Order before it was considered by the Executive Board on 7th October 2020. In short, ELDC accepted a number of the points

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made by the Environment Agency which it found helpful. A copy of the Order as adopted on 9th October 2020 is attached at **Appendix 1**.

- 2.4 Beyond those points of agreement, ELDC is entitled to exercise planning judgment. The High Court in *Visao Ltd v The Secretary of State for Housing, Communities And Local Government [2019] EWHC 276 (Admin)* reminded ELDC that a

“decision-maker should give the views of statutory consultees, [in this context the ‘appropriate nature conservation bodies’], ‘great’ or ‘considerable’ weight. A departure from those views requires “cogent and compelling reasons”.

At all stages of the decision making process, ELDC has of course had this duty in mind.

- 2.5 As you will be aware, on 14 July 2020, the government published a Written Ministerial Statement to support the culture and tourism sectors by both preventing the loss of theatres, concert halls and live music performance venues and encouraging local planning authorities to exercise their discretion in relation to planning conditions for caravan, campsites and Holiday Parks. The Statement encourages local planning authorities not to undertake enforcement action which would unnecessarily restrict the ability of caravan, campsites and Holiday Parks to extend their open season. The statement came into effect on 14 July 2020 and will remain in place until 31 December 2022 unless superseded by a further statement.

- 2.6 In line with the clear commercial objectives set out by central government, by making the Orders, the Council has sought to achieve the following:

- (a) Mitigate the impact of the Covid-19 pandemic in the Coastal Zone by allowing Holiday Parks to allow the occupation of static Caravans outside of the summer season. This will create a longer holiday season and will provide greater economic opportunities for Holiday Park operators;
- (b) Encourage investment by the owners/operators of Holiday Parks by making it easier for them to develop additional features such as restaurants, cafes, playgrounds and other entertainment facilities;
- (c) Assist with general regeneration objectives for the towns within the Coastal Zone;
- (d) Create an evidential basis for the viability of a winter season across the district in advance of the review of the East Lindsey Local Development Plan due to take place in April 2022.

- 2.7 Having given great weight to the views of the Environment Agency and Lincolnshire County Council in relation to flood risk, the way in which the Coastal Zone LDO is drafted means that the Council retains full control over approval of individually prepared Flood Risk and Evacuation Plans. No development within Part 1 and Part 2 of Schedule 2 can take place until such Flood Risk and Evacuation Plans have been approved in writing by the Council. The consultation period on such plans can be no less than 21 days, which is in line with the request made by the Environment Agency.

- 2.8 This is a significantly more precautionary approach than that which was contained in the consultation draft of the documents. Given that the Coastal Zone LDO can only be

used by applicants which already have planning permission for the stationing of Caravans, such a site-specific approach to flood risk assessment and evacuation procedures is proportionate, appropriate and safe.

3. Concluding remarks

- 3.1 Whilst ELDC is grateful to the Chief Planner for her observations, it remains of the view that the concerns expressed by the Environment Agency are misplaced. Flood risk and public safety have been central to the formulation of the Coastal Zone LDO at all stages. Far from the Environment Agency being ignored, ELDC has been grateful for its consultation responses and has acted upon them. It has balanced a number of competing considerations in arriving at the wording of the Coastal Zone LDO and having given great weight to flood risk related concerns, it is perfectly entitled to exercise planning judgment in coming to the result that it has.
- 3.2 In the circumstances, ELDC does not believe that there is any need for intervention by the Secretary of State, whether by way of revision or revocation, in either of the Orders. Indeed, given the nature of the Environment Agency's concerns, it occurs to us that any attempt at extensive revision is likely to amount to a *de facto* revocation, frustrating the clearly set out regeneration objectives of central government. If so, ELDC would expect to be afforded an opportunity to have the issue heard before an Inspector regardless and would consider taking legal proceedings to make sure that this happened. It is to be hoped that intervention and legal proceedings of any nature can be avoided.
- 3.3 We look forward to your response in due course. Further correspondence should be directed to David Hardy (Partner) in this office.

Yours faithfully

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