

Secretary of State for Housing, Communities and Local Government
Planning Casework Unit
5 St Philips Place
Colemore Row
Birmingham B3 2PW

10 Throgmorton Avenue
London
EC2N 2DL

townlegal.com

npcu@communities.gsi.gov.uk

T: 020 3893 0370

D: 020 3893 0400

E: raj.gupta@townlegal.com

By post and email

Our ref: HUD001/0001

18 February 2020

Dear Sir or Madam

Objection to the North Norfolk District Council (No 1, 1 High Street, Sheringham, NR26 8JP) Compulsory Purchase Order 2020 (“the Order”)

We are instructed by Huddies Ltd (“**Huddies**”) to object to the Order which was made by the North Norfolk District Council (“**the Council**”) on 15 January 2020 for the reasons set out below.

Huddies of Lone Pine, Sheringwood, Beeston Regis, Sheringham, Norfolk, NR26 8TS is the registered proprietor of the freehold title to land at No 1, 1 High Street, Sheringham, NR26 8JP (“**the Land**”). Our client is therefore a qualifying person under section 12 of the Acquisition of Land Act 1981 and this letter should be considered a relevant objection as defined by section 13 of that Act. Our client requires that a public local inquiry be held to consider whether the Order should be confirmed.

Paragraph 2 of the Ministry of Housing, Communities and Local Government’s *Guidance on compulsory purchase process and the Cichel Down Rules* (July 2019) provides that “*a compulsory purchase order should only be made where there is a compelling case in the public interest.*” In the light of our client’s intention and ability to redevelop the Land consistent with the Council’s objectives, as set out below, it is clear that there is no compelling case in the public interest for granting the Council compulsory purchase powers in relation to the Land. Our client’s objection is based on two primary grounds.

The Council has not demonstrated that there is a compelling case in the public interest for the Order to be confirmed

The Order was made by the Council under section 226 of the Town and Country Planning Act 1990 (“**the 1990 Act**”) in order “...to secure the long term regeneration of the Order Land and to ensure its contribution

18 February 2020

to the economic, social and environmental well-being of the immediate area and the town of Sheringham generally". (paragraph 4.1 of the Council's Statement of Reasons ("SoR")).

The Council recognises (paragraph 4.3, SoR) that the Land has no intrinsic architectural or historic quality but contends that in its current state of disrepair it visually detracts from the quality of the area.

As the Council notes, under section 226(1A) of the 1990 Act a planning authority may, on being authorised to do so by the Secretary of State, compulsorily acquire land where it thinks that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to that land. Under section 226(1)(b) of the 1990 Act that power must not be exercised by the Council unless it thinks that the development, redevelopment or improvement would be likely to contribute to the environmental, social or economic well-being of its area.

The Council asserts at paragraph 4.6, SoR that compulsory purchase would "*...facilitate the re-development and regeneration of the Order Land and the environmental and visual improvement of the area.*" It should be noted that "visual improvement" is not a proper basis for the grant or exercise of compulsory purchase powers. Moreover, the Council proceeds merely by assertion. It provides no evidence that the compulsory purchase of the Land and its redevelopment would meet the statutory tests set out by sections 226(1)(b) and section 226(1A).

As the Council notes, a CPO should only be made and should only be confirmed if there is a compelling case in the public interest which justify the interference in the right of a land owner to hold and enjoy its property free of interference (Article 1 of the First Protocol of the European Convention on Human Rights). The Council has not demonstrated, or even attempted to demonstrate, that there is a case in the public interest or (in the alternative) that such a case is a compelling one.

It should be noted that it is clear from the SoR that the Council has considered and applied outdated Government guidance on compulsory purchase. Reference is made throughout the SoR (e.g. paragraphs 1.2, 4.1 and 4.5) to the Government's Guidance on Compulsory Purchase and the Crichel Down Rules dated February 2018. That Guidance was replaced in July 2019 prior to the Council making the Order and adopting the SoR.

Huddies' willingness and ability to develop the Land

The Land was purchased on 22 September 2010 by Huddies. In October 2015 the Council resolved to pursue a voluntary sale of the Land and that (if that could not be achieved) it would make a Compulsory Purchase Order. Huddies held discussions with the Council and it was agreed (in January 2016) that a planning application would be submitted for redevelopment of the site by our client.

Since then, Huddies have taken numerous steps demonstrating its intention to redevelop the Land, including:

18 February 2020

- Appointing a project manager, quantity surveyor and architect in April 2016 to bring forward its redevelopment plans and made informal and formal pre-application submissions in August and September 2016.
- On 31 January 2017 Huddies submitted its planning application for redevelopment comprising the demolition of the existing building and erection of a four-storey mixed use building to include restaurants/ shops and residential uses. Between this date and the Council's determination of the application (25 October 2017), the Council submitted its application for full planning permission for its own alternative scheme, including Chequers car park and the Land and made an offer to buy the Land (which was not acceptable to Huddies).
- The Council granted planning permission for Huddies' scheme on 25 October 2017 (ref: PF/17/0192).
- On 6 February 2018 permission was granted for the Council's alternative scheme including the Land and the neighbouring Chequers car park (ref PF/17/0468).
- In August 2018 Huddies applied to vary conditions 2 and 3 to allow a change of use of one of the units from restaurant/shop to restaurant/hot food and takeaway and to allow the demolition of the existing building prior to submission of details of the construction contract. Demolition was required in order to undertake ground investigations (required in order to secure the geotechnical information necessary for foundation design) after previous attempts to break through the foundations with the building extant failed.
- Tender packs were sent out to prospective main contractors (October 2018).
- Planning consent was granted by the Council on 18 October 2018 (ref: PF/18/1603) to vary the conditions and allow for survey work including deep bore holes.
- Huddies appointed party wall surveyors (November 2018).
- Heads of terms were in place for Huddies to use the Chequers car park during demolition and construction (December 2018).
- Huddies submitted an application for a s73 variation to the permission to change the use from the first floor restaurant to a one and two bed apartment (April 2019). Having initially advised Huddies' architects to make a s73 application, the Council declined to validate that application and required an application for a new permission be submitted instead. Given the Council's inconsistent approach Huddies intend to discharge pre-commencement conditions on the current permission and implement that permission before making a s73 application.
- Having appointed party wall surveyors in November 2018, party wall agreements were concluded (by 7 June 2019) with all adjoining owners and occupiers including the Council. A delay in securing a renewed consent to the works from the Council was caused by the Council ignoring a renewed party wall notice (17 December 2019) despite the Council having previously consented to the works. The Council's omission triggered an automatic dissent from the works, further delaying demolition. This delay is compounded by the Council's decision to appoint its own surveyor rather than jointly appointing a surveyor with Huddies.
- The Council requested and Huddies agreed that demolition would not take place during peak tourist season (May to September) further delaying demolition and subsequent redevelopment.
- The Council Cabinet decision to make a CPO was taken on 4 November 2019.

18 February 2020

- Huddies' demolition contractors served notice of intended demolition under s80 of the Building Act 1984 on 5 November and on 16 December 2019 the Council served the s81 notice.
- Huddies submitted an application on 7 January 2020 to discharge the pre-commencement planning conditions so that work can begin on site, the application was validated on 14 January 2020.

Despite the positive actions towards redevelopment which our client has taken, the Council has frustrated redevelopment by Huddies. For example, the Council has failed to progress the heads of terms for a licence to use the car park for construction. As noted above, the Council also insisted in appointing its own surveyor under the Party Wall Act rather than agreeing a joint appointment.

As also noted above, the Council has acted so as to frustrate and delay changes to the planning permission by encouraging an application under section 73 of the 1990 Act and then refusing to validate it. The Council have failed to respond to the validated application by Huddies discharge pre-commencement conditions despite numerous attempts by Huddies' architects to contact the Council.

Most worryingly, the Council gave Huddies only two working days' notice of the Council meeting to resolve to make the CPO. It is further understood that the resolution should have been considered a key decision and advertised 28 days in advance in accordance with the Council's constitution. While authorisation had been secured in 2015, the changes in the composition of the Council and the significant changes in the relevant material facts (given the efforts made by Huddies in the interim to redevelop the Land described above) should have required notification by the Council of a key decision. The inadequate notice given by the Council prevented meaningful representations which Huddies would otherwise have made to elected members.

Huddies have demonstrated a strong intention to redevelop the Land, consistent with the Council's aims, by taking active steps to obtain and towards implementing the permission (ref PF/17/0192), as outlined in this letter. Therefore, there is no compelling case in the public interest for granting the Council compulsory purchase powers in relation to the Land.

Despite the Council's actions to date, Huddies remains willing to negotiate an agreement in relation to this matter to provide the Council with comfort that the Land will be redeveloped provided that the Council acts in a reasonable manner in helping to facilitate that development. If the Council is unwilling to proceed to negotiate such an agreement or if agreement cannot be reached, Huddies intends to pursue this objection at a public inquiry and will set out its objection in more detail in a statement of case and in evidence. We reserve our client's right to adduce further grounds for objection.

Secretary of State for Housing, Communities and Local Government

- 5 -

18 February 2020

We look forward to hearing from you in due course.

Yours faithfully

Town Legal LLP

c.c. North Norfolk District Council (by email only)