

Lone Pine
Sheringwood
Beeston Regis
Sheringham
Norfolk
NR26 8TS

3rd November 2019

FAO: Alexa Baker
East Law
North Norfolk District Council
Holt Road
Cromer
NR27 9EN

Dear Ms Baker,

Re: The Former Shannoeks Hotel

I acknowledge receipt of the hardcopy of the Agenda item re: the Former Shannoeks Hotel and some of the exempt appendices.

Service of the Demolition Notice and forthcoming planning application

At the outset, I spoke with Huddies Ltd's appointed demolition contractor yesterday (2nd November 2019) and I am pleased to inform you that your client can expect to receive our notice of intended demolition in respect of the Former Shannoeks Hotel tomorrow (4th November 2019).

As your client has also been informed by the project's architects, Huddies intends to make a further full planning application to replace its first floor restaurant with two apartments to enhance the profitability of its redevelopment.

Huddies had previously sought to make this application by way of an amendment to its existing planning permission; however your client's planning department refused to validate the application and insisted that Huddies must, once again, go through the full planning process.

Inadequate notice

Huddies has consistently requested to receive advance notice of any return of this matter to Cabinet. The reason for this request was so that Huddies could make substantive representations to decision makers and correct any material inaccuracies in briefing materials.

In respect of the decision to be taken by Cabinet on whether to make a CPO, the inadequate notice given by your client has denied Huddies the opportunity to make any substantive representations that Cabinet members could have taken into account when making their decision. This can only serve to diminish the quality of the decisions by ensuring that these are made using incomplete information.

I was also surprised to see that the Cabinet Work Programme (attached) did not identify the decision on whether to make a CPO as a key decision. "A key decision" includes a decision which is likely to incur expenditure or savings of £100,000 or more. I note that the October 2015 decision to authorise officers to seek a voluntary sale and afterwards to pursue a CPO was identified as a key decision.

I would be grateful if your client could explain the reasoning behind its decision not to designate this decision as a key decision given the sums involved.

Procedural impropriety

The Agenda for the 4th November 2019 Cabinet meeting states:

If, however, the Council wishes to now make a CPO with a view to increasing the pressure on the owner and to avoid any further delay, then there two ways forward:

- 1. Resurrect voluntary negotiations for the purchase of the Shannoeks and conclude these before making a CPO; or*
- 2. Resurrect voluntary negotiations for the purchase of the Shannoeks but concurrently make the CPO.*

The Officer's recommendation is that in view of the very differing views on market value between the owner and the Council, no further time should be expended in delaying the progress of the CPO by carrying out sale negotiations beforehand when they can be done concurrently.

Huddies disagrees with your client's officers that voluntary negotiations and the CPO application can be done concurrently.

Huddies has a legitimate expectation that a CPO will not be made until after voluntary negotiations have failed. Huddies further considers that, in all the circumstances, to frustrate that legitimate expectation would be an abuse of power and unlawful.

Your client's October 2015 decision in respect of the CPO procedure set out that your client would seek to negotiate a voluntary sale and that a CPO would only be made if those negotiations were unsuccessful.

In June 2018, in response to Huddies' planning application to demolish the existing structure to allow for effective ground investigation, your client sought quotes from Savills for an initial draft of a Statement of Reasons to support a CPO in order to save time should it later prove necessary for your client to make a CPO.

I, on behalf of Huddies, sought a copy of this initial draft Statement of Reasons, as well as copies of the reports described at items 17 and 10(e) of Cabinet agendas dated 31st October 2016 and 16th November 2016 respectively and which to this day remain held back from inspection.

In your response to Huddies' requests, dated 11th October 2018, you confirmed that your client had appointed an independent planning consultant to provide a Draft Statement of Reasons and that the first draft was expected in November 2018.

Describing why your client could not provide this, you stated that "*the Statement of Reasons will also need to explain what voluntary negotiations were undertaken and why they failed. These negotiations would, we assume, take place if it becomes clear that your development is not going to continue.*"

You went on to reiterate that "*the draft Statement of Reasons would need to be finalised before a Compulsory Purchase order could be made, setting out the failure of development by the private owner and the failure of voluntary negotiations.*"

Your client was aware of the differing views on market value between Huddies and your client when your client made these assurances.

Huddies put faith in your client's assurances and relied on these to its detriment when it agreed, in my 18th October 2018 letter, to put off these requests for documents:

We agree with your comments regarding the need for voluntary negotiations in advance of any decision to apply for a CPO. We also welcome your reassurances that any report to Cabinet, along with the Statement of Reasons and appendices, will be shared with the company if this matter does ever return to Cabinet....

That being said, it is clear that this is not a live issue whilst our development proposals continue to progress, and, in any event, there will be time to raise these concerns again alongside any voluntary negotiations. Therefore, we're happy to leave this matter and only revisit it if a CPO application is ever in prospect.

Accordingly, Huddies has a legitimate expectation that your client will follow a procedure in line with the assurances given in your 11th October letter and which Huddies relied upon to its detriment when it ceased pursuing inspection of relevant documents. It would be an abuse of power, and unlawful, for your client to now dishonour the assurances that it gave Huddies and to ambush Huddies with a sudden CPO application.

Further, the existence and extent of a legitimate expectation is a material consideration in the Wednesbury sense. Your client is bound to have proper regard for any legitimate expectation when it is making its decision. There is nothing in the briefing material that you have provided that indicates a proper regard for Huddies' legitimate expectation. Accordingly, if your client decides that it will pursue a CPO concurrently then that decision will be Wednesbury unreasonable and unlawful.

Huddies reserves its rights; nonetheless if your client does proceed with making a CPO concurrently to voluntary negotiations then your client may expect that Huddies will object strongly to the CPO on the basis that your client's decision to follow this procedure and the procedure itself were unlawful.

Chequers car park

The Agenda for the 4th November 2019 Cabinet meeting states that loss of the Chequers car park to private development "was considered to represent the best regeneration outcome for Sheringham". Obviously this touches upon the public interest case for the

CPO scheme currently being proposed by your client and therefore I would be grateful if you could set out how your client came to this determination.

It should be noted that Sheringham Town Council objected to the CPO scheme, stating regarding the loss of the Chequers Car Park:

It is essential to retain the Chequers car park as it is extremely well used for the Town, Museum and Oddfellows Hall, as it is the only car parking facility in that area. In addition the car park is essential for disabled visitors.

Huddies agrees with the Town Council. Huddies has been clear that, in its view, it would be wrong to lose the public amenity of the Chequers Car Park to private development.

Notwithstanding the above, your client's position appears to be that, in the event that a CPO is made by your client and subsequently confirmed by the Secretary of State then, closer to the date of legal acquisition, your client may decide not to implement the CPO scheme at all, but instead redevelop the land in a way other than that which was set out in the justificatory framework for the CPO, including formulating entirely new plans for a Shannoeks-only development. This is an entirely improper approach to the use of compulsory purchase powers. For the avoidance of doubt, Huddies considers that if your client decides not to implement the CPO scheme then, in accordance with the Crichel Down Rules, it must offer to sell the property back to Huddies Ltd.

Huddies also disagrees with your client's statement that a Shannoeks-only scheme would not attract a sum of compensation in respect of marriage value. Existing planning permissions on the CPO land or other land are to be taken into account when assessing CPO compensation (section 14(2) LCA 1961).

Taking possession if a CPO is confirmed

The Agenda for the 4th November 2019 Cabinet meeting states:

Making the CPO would amplify the pressure on the owner to develop itself. It certainly does not prevent the owner from carrying on with its development in the interim whilst the CPO remains unconfirmed by the Secretary of State, and if the Council became satisfied that a CPO was no longer necessary, it could withdraw the same. Indeed, even when a CPO is confirmed by the Secretary of State, the Council

still has three years to actually implement the CPO, and therefore could still afford the owner further time to complete its development without taking possession.

Huddies is pleased to note that, in the event that a CPO is confirmed, this does not inexorably result in your client taking possession of Huddies' property. Nevertheless, Huddies would be grateful if your client would clarify the following:

- 1) Which of your client's committees would make the decision on whether or not to take possession following confirmation of a CPO?
- 2) What considerations is your client's committee likely to take into account when deciding whether or not to take possession following confirmation of a CPO?
- 3) Will Huddies be granted the opportunity to make substantive representations to the relevant committee ahead of it making its decision?
- 4) If allowed to make representations, will Huddies receive advance notice that this decision is to take place in sufficient time to allow it to formulate substantive representations and will Huddies be provided with all of the materials on which this decision is to be made?

Huddies' legal costs

Compulsory purchase is a complex field and Huddies will require professional advice to engage in the process. The Agenda for the 4th November 2019 Cabinet meeting also states that your client will seek to strictly apply the legal rules regarding compensation. Huddies will therefore require the advice of a solicitor.

Huddies is entitled to its reasonable legal costs incurred claiming compensation from your client (section 3(5) LCA 1973). Accordingly, please confirm that your client is willing to meet the costs of Huddies instructing a solicitor to give advice on compulsory purchase and compensation and to advise on any offers received from your client.

Request for further documents

I refer to your letter dated 11th October 2018 in which you stated that, in the event that this matter returns to Cabinet, "[a] copy of this Cabinet Report and its appendices will be shared with you." Some of the appendices have not been shared with Huddies Ltd and I ask that you provide those, as yet unshared, appendices without delay.

I have also referred above to your confirmation in your 11th October 2018 letter that your client instructed an independent planning consultant to provide a draft Statement of Reasons. I ask that you provide the most recent draft, again without delay. Please also confirm whether this draft Statement of Reasons was appended to the Agenda for the 4th November Cabinet meeting.

Yours sincerely

Harry Roper

For and on behalf of Huddies Ltd