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Lone Pine  
Sheringwood  
Beeston Regis  
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Norfolk  
NR26 8TS

1<sup>st</sup> December 2015

Nick Baker, Corporate Director  
Council Offices  
Holt Road  
Cromer  
NR27 9EN

**Former Shannocks Hotel, 1 High Street, Sheringham**

Dear Mr. Baker,

This letter is intended to give the authority an outline of Huddies Limited's claim for judicial review as part of the pre-action protocol. This cannot be comprehensive since I have received no response to my request for specific disclosure.

To clarify, on 24<sup>th</sup> November 2015, I requested the specific disclosure of documents pertaining to the decision that was taken by Cabinet on 5<sup>th</sup> October 2015 to compulsorily acquire the property known as the Former Shannocks Hotel. It sets out the very clear case for this disclosure, based upon the well-established duty of candour pursuant to which public bodies are required to give a full account of the reasoning and the basis for decisions to those whose interests are affected by those decisions. This is both in the interests of good administration and serves a crucial function in access to justice. I here reiterate my request in anticipation that the authority will, in response to this letter, act in exercise of their duty of candour and promptly disclose these documents.

With regards to the arguments set out herein, if the authority is persuaded that there is sufficient grounds upon which Huddies Limited may be entitled to relief sought by judicial review, or at least that there is a sufficient uncertainty regarding the legality of the resolution that the authority would be willing to make representations that it will not seek to implement it without the need to be prohibited from doing so by the courts, then Huddies Limited would be willing to move forward from this dispute, working in cooperation with the authority to discharge its duty under the TCPA 1990, relating to the external amenity of the building, and afterwards to bring the property back into use, in the expectation that these efforts will be looked on favourably by the authority.

Huddies Limited hopes that resolution without recourse to the formidable undertaking of judicial review might allow it to salvage some of the goodwill that it had believed had been established since 20<sup>th</sup> October 2015, and will shortly write to the authority with minute proposals for resolution.

Yours sincerely

Andrew Roper

## **OUTLINE OF HUDDIES LIMITED'S CLAIM FOR JUDICIAL REVIEW OF RESOLUTION "COMPULSORY PURCHASE OF THE FORMER SHANNOCKS HOTEL, SHERINGHAM"**

This is intended as an outline of Huddies Limited's claim for judicial review of the resolution taken by the Council Cabinet on 5<sup>th</sup> October 2015 to use compulsory purchase powers in relation to the property belonging to Huddies Limited at 1 High Street, Sheringham.

### **BACKGROUND**

1. 1) On 9<sup>th</sup> July, following a conviction of the company Huddies Limited by NNDC, Mr Andrew Roper wrote to Mr Andrew Mitchell asking for some indication in writing that the test panel, which was placed for inspection by the authority, was acceptable to the authority.
1. 2) On 16<sup>th</sup> July, Mr Mitchell sent a letter to Mr Roper in response to this request. This letter put Huddies Limited on notice of various administrative issues in terms of Huddies Limited complying with the section 215 notice, such as the need to apply for scaffolding to be erected in the Council car park (at the time withheld), and setting out Huddies Limited's liability for conviction if it failed to take proper steps to comply with the s215 notice. It further estops any attempt to convict the company pursuant to section 216 of the Town and Country Planning Act 1990 either before 1<sup>st</sup> November 2015 or whilst the Council was continuing to resolve on any further action taken pursuant to securing compliance with the s215 notice. This is the first time that Compulsory Purchase powers were alluded to by the authority in respect of the property.
1. 3) I draw attention to the following excerpts of the letter from Mr Mitchell to Mr Roper on 16<sup>th</sup> July 2015:

*"The Council, in its notice, is clear about what needs to be done to comply with the notice. Unless otherwise specified within that notice, the choice of product used to carry out the works is yours. This is especially important in terms of the Council appearing to give approval to a product which subsequently fails in terms of its intended performance. Additionally, if you wish to undertake works beyond what is required of you within the notice, this is entirely a matter for you. Having said that, it would certainly appear that the sample patch would give surface finish which would comply with the notice."*

*"Again having taken advice, I also wish to put you on notice that in September 2015, the Council's Cabinet shall be considering all the options available to it in respect of the Former Shannoeks Hotel, having regard to the adverse impact it is considered the building has had on the area for a significant number of years. One of the options for consideration by Cabinet will be to purchase the building from you on an agreed sale basis, or in the alternative, to pursue a Compulsory Purchase Order ("CPO")."*

1. 4) On 28<sup>th</sup> July 2015, Mr Roper responded to Mr Mitchell's letter of 16<sup>th</sup> July. This letter thanked the authority for its statements respecting Huddies Limited's plans for the building, stating categorically that the company intended to bring the building back into use; it clarified the professional advice that had been received regarding how to address the amenity issues at the Former Shannoeks and why it required a period of aeration, and offered to arrange corroboration of this on request. It further went on to discuss the proper use of compulsory purchase powers, particularly with regard to the need to have proper regard for legal and procedural requirements.

1. 5) I draw attention to the following excerpts of the letter from Mr Roper to Mr Mitchell on 28<sup>th</sup> July 2015:

*“it has always been the intention of Huddies Limited to cause minimum disruption to the local community when addressing the Former Shannoeks’ amenity issues in a way that will provide an enduring solution and as part of the company’s wider intention to bring the building back into use. We also note appreciatively that the authority has respected the plans of Huddies Limited to render the building and have allowed this to continue rather than seeking to enforce the section 215 notice with an interim solution, which may have been to the detriment of the building’s long term amenity.”*

*“A further point of law that is relevant is that, whilst the trite law of proportionality that the least onerous method of achieving the legitimate aim does not apply to compulsory purchase of land, the case for not using the least onerous method must also be compelling if the order is to succeed.”*

*“In view of the substantial public element of compulsory purchase orders, Huddies Limited wishes to caution the council against any attempted use of compulsory purchase powers without observing the appropriate legal and procedural requirements.”*

*“I expect that the position of Huddies Limited will be given proper consideration on 8<sup>th</sup> September 2015 when the matter is put before the Cabinet. If I can be of further assistance, please contact me in writing.”*

1. 6) By email on 8<sup>th</sup> August 2015, the planning department sent a letter from Mr Mitchell acknowledging receipt of Mr Roper’s letter of 28<sup>th</sup> July 2015. This acknowledgement addressed no specifics of the contents of Mr Roper’s letter, stating only that current workload precluded a comprehensive response that should be received within 28 days. This response to Mr Roper’s letter was never received.
1. 7) In early September 2015, I accessed the public version of the Cabinet agenda for the meeting on 7<sup>th</sup> September, prior to the meeting taking place, on the authority’s website. I saw that the authority was to decide whether to seek a CPO in the case of 33 Oak Street, Fakenham. However, the Shannoeks was not mentioned
1. 8) On October 5<sup>th</sup> 2015, Cabinet resolved agenda item 13, compulsory purchase of the Former Shannoeks Hotel, Sheringham. There was no indication from the authority that the decision would be taken, nor was there any attempt by the authority to obtain written representations from Huddies Limited, nor was the resolution communicated to Huddies Limited after it had been made.
1. 9) On 20<sup>th</sup> October 2015, Mr Roper emailed Mr Mitchell requesting information regarding to whom he should apply for the purposes of erecting scaffolding upon the council owned car park adjacent to the building and proposed setting up a channel of communication so that the authority could be kept abreast of works and could discuss proposals and timescales. Mr Roper received an automated reply stating that Mr Mitchell is due back on 26<sup>th</sup> October. Mr Roper followed up on his email on 1<sup>st</sup> November 2015.

1. 10) On 21<sup>st</sup> October, [redacted] stated by email that he had “been asked by North Norfolk to provide them some advice in relation to the Former Shannoeks Hotel” and asked if Mr Roper would be available to meet at 10:30. Since Mr Roper had prior commitments, therefore being unable to meet, and had heard nothing in this regard from the authority, [redacted] did not receive a response. A further email from [redacted] stated that he would be inspecting the property from the highway.
1. 11) On 2<sup>nd</sup> November, Mr Mitchell responded to Mr Roper’s emails of 20<sup>th</sup> October and 1<sup>st</sup> November, stating that he was happy to open the channel of communication in relation to works at the property and gave the contact details of Duncan Ellis for the purpose of applications to erect scaffolding upon the adjacent car park. The email also stated that “whilst replying, I would also advise that you may shortly be contacted by the Councils property agents in respect of the premises.”
1. 12) On 4<sup>th</sup> November, Mr Ricky Wright from North Norfolk District Council wrote to Mr Roper regarding the details of an application to erect scaffolding upon the Chequers car park.
1. 13) Since these representations, I have been in touch with contractors to coordinate the works to bring the property into compliance with the section 215 notice. My scaffolding contractor, [redacted] has been instructed to enter an application with the highways authority to erect scaffolding upon the west-facing face of the property, since this side will be rendered first. Pursuant to my company’s duty under the TCPA 1990, [redacted] was instructed to enter this application without delay, which he has done.
1. 14) On 16<sup>th</sup> November, Mr William Abe from North Norfolk District Council wrote to Mr Roper by email, giving the details of a third party contact. Mr Abe stated that this third party, a [redacted] had extensive experience in the hospitality industry and wished to discuss the future of the property. The email stated that [redacted] hoped to purchase the property from Huddies Limited. As Huddies Limited presently has no plans to sell the property, [redacted] was not contacted by Mr Roper.
1. 15) On 21<sup>st</sup> November 2015, Mr Roper received by post a letter from [redacted] also emailed on 19<sup>th</sup> November 2015. This letter notified Mr Roper that [redacted] had received instructions from NNDC to seek a voluntary acquisition of the property and failing this, to compulsorily acquire the property through statutory compulsory purchase powers.
1. 16) Mr Roper emailed Mr Mitchell on 21<sup>st</sup> November requesting confirmation that [redacted] was in receipt of the most recent instructions from NNDC, on account of the Council’s representations in relation to the improvement of the property according to Huddies Limited’s plans. A follow up email was sent on 23<sup>rd</sup> November. So far, there has been no response.
1. 17) Mr Roper has since replied to [redacted] (26<sup>th</sup> November 2015) and requested specific disclosure of the documents upon which the resolution to use compulsory purchase powers is based from Mr Nick Baker, who appears to be the officer responsible for implementing the resolution (24<sup>th</sup> November 2015). So far, neither party has responded.

## LEGAL FRAMEWORK

2. 1) It is trite administrative law that illegality in administrative decision making makes it susceptible to judicial review.
2. 2) Illegality, for the purposes of the court, refers to errors of law as they apply to the process by which the decision is reached. These grounds of illegality include failing to take account of relevant considerations and failing to adhere to the requirements of natural justice.
2. 3) The court may also grant judicial review on the grounds of Wednesbury unreasonableness. A decision is Wednesbury unreasonable when the judge is of the opinion that an impartial assessment of the substantive grounds upon which the decision would lawfully be made places the decision outside of those that are reasonably available to the decision maker. The scrutiny of decisions on substantive grounds is greater in cases concerning human rights.
2. 4) The Human Rights Act 1998 allows for judicial review to determine whether an action is incompatible with the requirements of the European Convention. Both the ECJ and the European Court of Human Rights operate under the doctrine of proportionality, under which decision makers must show that any interference with a Convention right satisfies the provisions of the Convention. Therefore where an administrative action would, *prima facie*, interfere with a Convention right, the burden of the argument shifts from the claimant, as in normal judicial review proceedings, to the authority, since it is for the authority to justify interference with a Convention right. The authority would, therefore, be required to persuade the court that the resolution meets the conditions of the domestic law, including such legal concepts as legality and procedural fairness that are subsumed within English public law.
2. 5) Huddies Limited contends that the resolution of the Council Cabinet is open to judicial challenge upon the following grounds: that the decision failed to take account of relevant considerations, or that the decision that has been reached is Wednesbury unreasonable, and that the decision is contrary to the rules of natural justice, specifically *audi alteram partem* and the prohibition of bias
2. 6) Further, Huddies Limited contends that any compulsory acquisition of its property violates its rights under Article 1 of the 1<sup>st</sup> Protocol of the European Convention on Human Rights. As such, any resolution that purports to compulsorily acquire said property must abide by the provisions set out in the convention under which the right to enjoyment of property may be limited.
2. 7) Article 1 of the First Protocol reads:
- (1) Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and **subject to the conditions provided for by law** and by the general principles of international law.*
- (2) The preceding provisions shall not, however, in any way impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.*
- [emphasis added]
2. 8) Huddies Limited contends that any attempt to use paragraph 2 of the article to frustrate the requirements of administrative law and natural justice would be misconceived, since nothing in the enabling Act can be read as Parliament ousting such fundamental principles of the rule of law.

## **GROUND I: FAILURE TO TAKE ACCOUNT OF RELEVANT CONSIDERATIONS**

3. 1) It is well established that decision makers must, in the exercise of their discretion, take account of all relevant considerations and disregard irrelevant considerations. If a decision maker fails to take account of relevant considerations, and this failure on the part of the decision maker materially affects the decision, then the decision maker may be regarded as having acted improperly in law.
3. 2) It is apparent upon any reading of the material that is publicly available from the Council Cabinet that the resolution to use compulsory purchase powers in relation to the Former Shannoeks Hotel is pursuant to two objectives of the authority:
- a) to address the amenity issues affecting the Former Shannoeks Hotel and;
  - b) to bring the building back into use and collect business rates;
- which the authority believes will meet the requirements set out in the enabling Act.
3. 3) In pursuit of these aims, and in view of the use of compulsory acquisition of land as a last resort, the authority must have regard for all other means by which the aims of the authority may be achieved before resort to the compulsory acquisition of land. Huddies Limited contends that its own plans to address the issues relating to the amenity of the land, as part of the company's own plans to bring the property into use, are a relevant consideration which the authority is bound to consider. Huddies Limited further contends that the authority was put on notice of Huddies Limited's intentions in the letter of 28<sup>th</sup> July 2015, and the authority neither disputed these intentions, nor sought further information, though they were invited to write to Mr Roper.
3. 4) Following receipt of the letter of July 28<sup>th</sup> 2015, receipt of which was acknowledged on 8<sup>th</sup> August 2015, the Council Cabinet agenda of 5<sup>th</sup> October 2015 states in relation to the property:
- "The owners continue to show no willingness to bring the property back into use, and only very limited willingness to improve the property in any way."*
3. 5) Following both receipt of the aforementioned letter, and an email from Mr Roper to Mr Mitchell proposing the opening of a channel of communication regarding progress of works and a request for contact information regarding the erection of scaffolding upon the adjacent car park, the Council Cabinet agenda of 2<sup>nd</sup> November 2015 stated:
- "Mrs Oliver went onto say that various methods of improving the property had been explored to no avail. The owners continued to show no willingness to bring the property back into use and only a very limited willingness to improve it."*
- "Mrs P Grove-Jones asked why the owners had refused to engage with the Council at all. The Corporate Director (NB) replied that the Council had tried to engage with the owner several times and had even given them an extended timeline to complete works to the property but they had still not complied."*
3. 6) It is apparent from these excerpts that the intentions of Huddies Limited with regards to complying with the section 215 notice and bringing the property back into use have been entirely disregarded by Council officers making the case for compulsory purchase and, on the face of it, it appears that this information was not given to Councillors.

3. 7) It is the position of Huddies Limited that the authority was bound to consider its own plans and intentions for the property as part of its decision making procedure, and that the authority failed in this regard.
3. 8) It is the position of Huddies Limited that this failure on the part of the authority has materially affected the decision, and that the resolution is therefore susceptible to judicial review on grounds that, through their failure to take account of relevant considerations, the resolution was made unlawfully.

#### **GROUND II: WEDNESBURY UNREASONABLENESS**

4. 1) Without prejudice to the arguments set out in grounds I, Huddies Limited contends that if the authority persuades the court that the plans of Huddies Limited were properly considered as part of the decision making procedure, it remains the case that the eventual decision is unreasonable on Wednesbury grounds, being outside of the decisions that are reasonably open to the authority.

4. 2) Here Huddies Limited relies upon the very famous words of Lord Greene in *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223:

*“The court is entitled to investigate the action of the local authority with a view to seeing whether they have taken into account matters which they ought not to take into account, or, conversely, have refused to take into account or neglected to take into account matters which they ought to take into account. Once that question is answered in favour of the local authority, it may be still possible to say that, although the local authority have kept within the four corners of the matters which they ought to consider, they have nevertheless come to a conclusion so unreasonable that no reasonable authority could ever have come to it. In such a case, again, I think the court can interfere.”*

4. 3) In order to make an effective CPO, the authority must reach the conclusion that there is a compelling case in the public interest, that the compulsory acquisition is necessary in terms of delivering these public benefits and that the compulsory purchase is used as a last resort in pursuit of the legitimate aim.
4. 4) It seems that an impartial reading of the authority’s case would be; the improvement of the building known as the Former Shannocks Hotel would create a public benefit by improving the external appearance of a prominent building in a conservation area, and that bringing the building into some sort of use will lead to the payment of business rates, which would help the authority’s financial position (this is presented in the documents as addressing “the poor condition of the interior” but clearly the public interest case for improving the interior appearance of a building that is not open to the public, and who are therefore unaffected or negligibly affected by its interior appearance, is illogical – see section 55 of the Town and Country Planning Act 1990).
4. 5) Having concluded that the compulsory purchase would fulfil the statutory requirements of the enabling Act, and that the compulsory acquisition results in sufficient public benefit that there is a compelling case in the public interest for overriding the owners proprietary rights, the decision to pursue the compulsory acquisition of the land requires the authority to further conclude that this acquisition is necessary and that the use of compulsory purchase is a last resort.

4. 6) Huddies Limited again contends that it is entirely reasonable to suppose that the authority came to these conclusions on the basis of the statements such as “[t]he owners continue to show no willingness to bring the property back into use, and only very limited willingness to improve the property in any way”, so it was necessary to use compulsory purchase powers to secure these objectives, and “the Council had tried to engage with the owner several times” and so it was a last resort (see point 3.5 of this document).
4. 7) It is the position of Huddies Limited that the conclusions that authority came to regarding necessity and purported use of a CPO as a last resort are, therefore, Wednesday unreasonable. This is because the reasoning and testimony upon which these conclusions are based is so clearly at odds with the substantive grounds upon which these conclusions would properly be drawn.
4. 8) Pursuant to point 4.7, Huddies Limited refers to the written representations of the company and the progression of this case, and especially to its position that the authority has conducted themselves such that Huddies Limited could reasonably and legitimately expect that they would be allowed to implement their long standing plans to render the building, and having discharged its duty under section 216 of the TCPA 1990, to bring the building into use with the cooperation of the authority.
4. 9) Further, since the letter of 28<sup>th</sup> July 2015, and also since Huddies Limited re-established communication with the authority regarding the progress of works at the property on 20<sup>th</sup> October 2015, the authority has expressed no concern or misgivings regarding the steps taken by Huddies Limited to comply with the section 215 notice currently in effect on the property, nor did they challenge the company’s intentions for the property. This was in spite of invitations to do so in writing and ample opportunity on the part of the authority to raise challenges or concerns.
4. 10) Therefore, Huddies Limited contends that if the authority did give proper consideration to Huddies Limited’s representation of 28<sup>th</sup> July 2015 when considering whether the use of compulsory purchase powers were either necessary or a last resort, the conclusions that they came to are irrational, and so unreasonable that it constitutes an error in law.

### **GROUND III: NATURAL JUSTICE I: *Audi alteram partem***

5. 1) It is well established that powers granted by Parliament that could destroy, defeat or prejudice the rights, interests or legitimate expectations of persons must be exercised according to the principles of natural justice, referred to in administrative law as the duty to act fairly. As stated by Lord Woolf at [40] in *Roberts v Secretary of State for the Home Department* [2005] UKHL 45:

*“The principles have been set out in many cases of high authority, with greater elegance, but I would summarise them as follows:*

- (i) *An administrative body is required to act fairly when reaching a decision which could adversely affect those who are the subject of the decision.”*

5. 2) Specific to one of the core principles of natural justice, expressed as *audi alteram partem*, it is a fundamental requirement that where a judicial or administrative decision may adversely affect a person’s interests, he has the right to know and understand the case against him, and the right to make representations in defence of his interests to an impartial judge or decision maker who has not seen or had access to any material that he has not.

5. 3) Huddies Limited contends that the resolution to pursue a compulsory purchase order if the company did not voluntarily dispose of the property to the authority is evidently one that adversely affects the rights and interests of the company, its director and its shareholders, and that the resolution also purports to destroy a legitimate expectation held on the part of the director that the company would be allowed to undertake the works to bring the property into compliance with the section 215 notice and, in so doing, advance their intention to bring the property back into use. As such, Huddies Limited contends that the resolution meets the appropriate test and therefore must be decided in accordance with the principles of natural justice.
5. 4) Further, The official guidance for CPO procedure from the Office of the Deputy Prime Minister (ref: 04PD02635/1); Compulsory purchase and compensation booklet 1: procedure at 3.47 states:
- “The inquiry procedure is also subject to the rules of natural justice. These rules, developed by the Courts, provide that there must be fairness in the conduct of an administrative process and, in particular, each side must have a fair opportunity to be heard and to hear and question the case against them. A CPO may be challenged if there has been a breach of either the rules of natural justice or the statutory rules of procedure.”*
5. 5) Huddies Limited contends that this part of the guidance strengthens the case that Parliament, in their respect for justice and the rule of law, grants powers of compulsory purchase with the intention that these powers will be constrained in their exercise by fundamental principles of natural justice. If Parliament did not intend this then, in view of the substantial case law that preserves the common law duty to act fairly, Parliament would have made their contrary intention plain with clear exclusions within the statute.
5. 6) Huddies Limited contends that the authority, pursuant to their duty to act fairly, were required to give adequate notice that a decision was to be taken affecting its rights, interests and legitimate expectations, and those of other affected persons. That the authority was further required to disclose all of the documents and testimonies upon which the case against the company would rely, and not so late that it would prejudice the opportunity of Huddies Limited and other affected parties to make representations and, once a decision is made, the decision itself and the reasons for the decision would be communicated to the affected parties promptly so that affected parties may have access to justice through the courts.
5. 7) Huddies Limited asserts that the authority has failed in all of these requirements in exercise of its duty to act fairly and further, that the authority’s resolution has the effect of frustrating the will of Parliament, from whom the authority receives its powers for the compulsory purchase of land, for their fair exercise in accordance with the established principles of natural justice. The resolution is, therefore, ultra vires.

#### **GROUND IV: NATURAL JUSTICE II: Apparent bias**

6. 1) Huddies Limited has yet to decide whether it will rely upon the prohibition of bias in administrative decision making as a standalone grounds for seeking judicial review or whether the facts contained within this ground will be relied upon insofar as it demonstrates conduct of the authority that supports the other grounds. It is included as a standalone grounds in this letter in the event that judicial review proceeding must be undertaken and counsel for Huddies Limited wishes

to rely upon it, so that it may not be said that Huddies Limited estopped the grounds of bias by not including them within the pre-action protocol.

6. 2) The requirement of a duty to act fairly in administrative decision making, expounded upon in greater length above, includes a prohibition on bias in the course of decision making.
6. 3) The test for bias in administrative law is expounded by Lord Hope at [102-103] in *Porter v Magill* [2001] UKHL 67:

*“The court must first ascertain all the circumstances which have a bearing on the suggestion that the judge was biased. It must then ask whether those circumstances would lead a fair-minded and informed observer to conclude that there was a real possibility, or a real danger, the two being the same, that the tribunal was biased”*
6. 4) It should be noted that the test adopted by the House of Lords does not require a claimant to prove actual bias. The claimant must prove that the circumstances “would lead a fair-minded and informed observer to conclude that there was a real possibility” of bias, and nothing more.
6. 5) The Enforcement Board at NNDC appears to have been responsible for briefing councillors that they should resolve to pursue a compulsory purchase of the property at 1 High Street, Sheringham.
6. 6) The Enforcement Board were recently responsible for the enforcement of a section 11 improvement notice (Housing Act 2004) against a property that is owned by [REDACTED]
6. 7) A demand for costs from the authority was received and appealed to the Residential Property Tribunal. [REDACTED] was represented at the tribunal by Mr Roper, the director and principle shareholder of Huddies Limited.
6. 8) At this appeal, the appellant’s representative argued that the authority had conducted themselves so as to intentionally preclude the appellant or [REDACTED] agent Mr Roper from consulting with the authority regarding the work being undertaken at [REDACTED] property. It was argued that this had been done unreasonably in order to punish the appellant for not bringing the property into use more quickly.
6. 9) The tribunal agreed at [48] that the authority had so undertaken to preclude the appellant from making representations, that this was unfair, and that it had been compounded in its unfairness by vexatious threats of prosecution when Mr Roper had sought to comment on what work was to be done at [REDACTED] property. A demand for £36’077.63 was reduced to £7’200, without interest, on the grounds that only this sum was incurred reasonably. The decision was not appealed by the authority and is available online, ref: CAM/33UF/HIN/2014/0010.
6. 10) Huddies Limited contends that this is a similar case, where administrative actions and decisions have been used by the authority with the collateral purpose of seeking to penalise individuals with whom members of the authority believe that they have a personal conflict, and particularly to injure Mr Roper and [REDACTED] financially.

6. 11) It is plausible that some members of the authority may regard the use of compulsory purchase powers at the Former Shannoeks Hotel as a means of divesting Mr Roper and \_\_\_\_\_ of their interests in a property with substantial development potential, and thereby cause financial injury to Messrs Roper and \_\_\_\_\_ and corresponding gains to the authority that are far in excess of what the authority demanded following the prior enforcement action, but that was deemed unrecoverable.
6. 12) For such a person, the use of compulsory purchase powers may have the appearance of recovery for the authority, having been entitled to recover only a fraction of the public money it had expended in prior enforcement action according to the judgement of the competent tribunal. For those at the authority whom are also somehow irked or aggrieved by the temerity, as they may see it, of Messrs Roper and \_\_\_\_\_ in successfully appealing against a demand for costs in relation to enforcement action taken by the authority, the use of compulsory purchase powers to substantially prejudice their interests may serve some discreditable form of retaliation.
6. 13) Whilst such abuse of statutory powers by those exercising a public function for the settling of private antipathies may appear unconscionable or astounding, the “very surprising” and “unfair” use of statutory powers to punish individuals who were seen as not ‘playing ball’ with the authority was accepted by the residential property tribunal.
6. 14) Huddies Limited contends that, in view of these circumstances, a fair-minded and informed observer would be led to think that there was a real possibility of bias in decisions made by the authority in relation to the interests of Messrs Roper and \_\_\_\_\_ which includes decisions relating to the Former Shannoeks Hotel, and particularly when these decisions are made upon the advice of the Enforcement Board.

#### **RELIEF SOUGHT BY JUDICIAL REVIEW**

On the basis of the arguments outlined above, Huddies Limited would ask the court to grant a prohibiting order that would prohibit the authority from attempting to implement the unlawful resolution made on 5<sup>th</sup> October 2015.