

22 September 2020

**THE NORTH NORFOLK DISTRICT COUNCIL
(NO 1, 1 HIGH STREET,
SHERINGHAM NR26 8JP)
COMPULSORY PURCHASE ORDER 2020**

STATEMENT OF CASE

ON BEHALF OF

NORTH NORFOLK DISTRICT COUNCIL

PINs Ref: APP/PCU/CPOP/Y2620/3245535

September 2020

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1 INTRODUCTION

1.1 On 15 January 2020 North Norfolk District Council (“the Acquiring Authority”) made a Compulsory Purchase Order entitled North Norfolk District Council (No 1, 1 High Street, Sheringham, NR26 8JP) Compulsory Purchase Order 2020 (‘the Order’).

1.2 The Order was served on Huddies Ltd (“the Owner”) who submitted an objection to it by letter dated 18 February 2020 and requested that it be heard at inquiry. The Owner is the only qualifying objector to the Order. Two other individuals have objected, and the issues they raise will be addressed within the Acquiring Authority’s evidence.

1.3 Notice of the decision to hold an inquiry was given by letter dated 11 August 2020, which is the relevant date for the purpose of the Compulsory Purchase (Inquiries Procedure) Rules 2007.

1.4 The Rules require the Acquiring Authority to send a Statement of Case to the Planning Inspectorate and to each remaining objector. The Statement of Case is a written statement comprising

- i) full particulars of the case it is intended to put forward to the inquiry (including the reasons for making the Order); and
- ii) Copies of, or relevant extracts from the documents referred to, together with a list of documents it is intended to refer to or put in evidence.

1.5 This written statement should be read in conjunction with the documents submitted with the Compulsory Purchase Order, including the Statement of Reasons and all those listed within the accompanying list of documents. Rather than copying the documents to the Owner, the Acquiring Authority will ensure they are available for inspection free of charge, in line with the approach suggested in the Planning Inspectorate’s letter of 11 August 2020:-

“Rather than copying the documents referred to in the written statement to each remaining objector, the acquiring authority may alternatively send each remaining objector a notice naming each place where a copy of these documents may be inspected free of charge. Wherever possible please communicate with parties electronically.”

2 THE ORDER LAND AND RELEVANT CHRONOLOGY

- 2.1 The Order Land is shown outlined in red on the Order map. It comprises the building known formerly as the Shannoeks Hotel situated on the corner of High Street and East Cliff in Sheringham, and includes a small length of footpath that provides pedestrian access between that building and Gun Street/High Street.
- 2.2 It is believed the property has been empty since about April 2009.
- 2.3 Huddies Ltd became registered proprietor of the Order Land (title number NK170499) on 22 September 2010, having paid £240,000 for the land on 21 June 2010. There is a single registered charge in favour of Michael Hargreaves, and a restriction preventing disposition of the registered estate without his consent.
- 2.4 The Order Land is in a prominent position on the Sheringham sea front, within the Sheringham Conservation Area. It faces north on to the Promenade and beach with a car park (outside the Order Land) owned by the Acquiring Authority immediately to the east. The three storey building is located at the back edge of the footpath and consists of a former bar and dance floor on the ground floor with domestic flats on the first floor and a further flat on the second floor. All the residential accommodation and former hotel accommodation is unoccupied and has been since before the Owner acquired it in 2010.
- 2.5 The building is now in a seriously dilapidated condition despite sustained efforts by the Acquiring Authority to encourage the Owner to take appropriate steps to address this, both in correspondence since 2011 and by taking statutory enforcement action.
- 2.6 The Order Land has been a building on the Acquiring Authority's Enforcement Board work plan since December 2012. Throughout that time the Owner has claimed to be in the process of developing the land.
- 2.7 In March 2014 the Acquiring Authority served a notice on the Owner under section 215 of the Town and Country Planning Act 1990 requiring significant works to improve the external appearance of the building.
- 2.8 In October 2014 a building survey was carried out on behalf of the Authority. The survey identified significant damp problems but no structural defects that would
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justify action under the Building Act. The Authority considered that, whilst the building was seriously dilapidated, it was not structurally unsound or dangerous.

- 2.9 On 2 July 2015 Huddies Ltd, was successfully prosecuted by the Council for failure to fully comply with the section 215 notice. Some works were subsequently undertaken but the section 215 notice has not been fully complied with.
- 2.10 On 5 October 2015 the Acquiring Authority resolved that, should attempts to purchase the land by agreement fail, the Corporate Director should make a Compulsory Purchase Order and take all necessary or desirable steps to achieve that.
- 2.11 The Owner threatened judicial review of the above decision, but did not pursue it beyond pre-action correspondence. [Doc: Letter before action and response] It stated then that it intended to develop the property itself and was put on notice to submit development proposals.
- 2.12 In March 2016 the Acquiring Authority began to put its own plans together for development of the Order Land following compulsory purchase, since no plans had been submitted by the Owner.
- 2.13 In May 2016 the Acquiring Authority and the Owner discussed a voluntary sale. The Owner's price reflected the valuation reached by the Daniel Connell Partnership which was well in excess of the price the Order Land would have reached in an open market sale.
- 2.14 The owner's 2016 Project Plan (also prepared by the Daniel Connell Partnership) envisaged completion of development by November 2018. The delivery programme was revised during 2018 to a start date of January 2019 and has been revised several times since.
- 2.15 An application by the Owner to demolish the building was registered on 8 July 2016 and refused on 25 August 2016 on heritage grounds, and on account of the potential impact on protected species. Harry Roper wrote in support of the application.
- 2.16 In October 2016, the Acquiring Authority considered a report outlining progress, for which the Owner prepared a short statement of its position. The
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- recommendations in that report were adopted by Cabinet and approved by Full Council on 16 November 2016.
- 2.17 On 25 October 2017 planning permission was granted on application by the Owner for the demolition of the building and erection of a four storey mixed use building (PF/17/0192 described in more detail below).
- 2.18 On 6 February 2018 planning permission was granted on application by the Acquiring Authority for the demolition of the building and erection of a mixed use building on the Order Land and neighbouring car park.
- 2.19 On 18 October 2018 planning permission was granted on application by the Owner for the variation of 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 construction contract.
- 2.20 On 30 April 2019 the Owner submitted an application for the change of use of the first floor (as permitted in 2017 and again in 2018) from a restaurant to residential use. Despite the Authority's request for further information, dated 14 May 2019, to which the Owner has not replied, it was not possible to validate the application.
- 2.21 On 28 May 2019 the Owner informed the Authority that it intended to demolish the building and undertake effective ground investigations after the tourist season in October.
- 2.22 On 3 November 2019 Harry Roper informed the Authority that notice of intended demolition would be served the following day. His letter also made a number of legal arguments responded to by Eastlaw's letter of 15 November 2019.
- 2.23 On 4 November 2019 the Acquiring Authority's Cabinet considered the extent of any progress towards development of the land, and its options in the light of the advice from officers; and resolved, in accordance with its 2015 decision, to make a Compulsory Purchase Order.
- 2.24 The Order was made on 15 January 2020.
- 2.25 Huddies Ltd is a company limited by shares. It was incorporated on 17 June 2010
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and has a single Director/employee, namely Andrew Roper, whose occupation is given as Fisheries Advisor by Companies House. Harry Ethan James Roper is the Company Secretary. The most recently available Financial Statement for the company shows that, as at 30 June 2019, the company's liabilities exceeded its assets. This must raise some questions as to the ability of the owner to obtain funding for the proposed development.

2.26 These questions are also raised by the fact that three other properties in which Mr Roper and/or Michael Hargreaves and/or Harry Roper have an interest are also on the Enforcement Board's work plan:-

- i) 36 Beck Close, Weybourne,
- ii) 2 Seastone Cottages, Weybourne,
- iii) Maryland Industrial Units, Wells next the Sea.

2.27 Given the oft-repeated intention of the Objector (including in its letter of objection dated 18 February 2020) to redevelop the Order Land itself, the Acquiring Authority will point to the continued delay and absence of evidence that the necessary funds are available to it. It may be thought that the only conclusion consistent with the Owner's conduct and reassurances, is that it lacks the expertise and/or the finance to carry through its intentions.

3 PLANNING HISTORY

3.1 The Order Land benefits from three planning consents, all currently extant.

3.2 The following relevant applications for planning permission have been made for the land by the current owner.

PF/16/0596 - Demolition of building. Refused 26/08/2016

PF/17/0192 – Registered on 10 February 2017 and granted on 25 October 2017: planning permission for “Demolition of existing building and erection of four a storey mixed use building. Unit 0.1: A3/A1 (Restaurant/Shop). Unit 0.2: A3/A1 (Restaurant/Shop). Unit 0.3: A3 (Restaurant). Unit 1.1: C3 (Residential). Unit 1.2:

A3 (Restaurant). Units 2.1, 2.2, 2.3, 3.1, 3.2 : C3 (Residential)” In summary, a four storey mixed use development for shops and restaurant use, and six flats.

PF/18/1603 - Variation of Condition 2 and 3 of the above planning permission PF/17/0192 to allow a change of use of Unit 0.2 from A3/A1 (Restaurant/Shop) to A3/A5 (Restaurant/Hot food and Takeaway) and the demolition of the existing building prior to submission of details of the construction contract. Registered on 29 August 2018 and granted on 18 October 2018.

3.3 The following relevant application has been made by the Acquiring Authority :

PF/17/0468 – Registered on 19 April 2017 and granted on 6 February 2018 : planning permission for “Demolition of existing hotel and erection of mixed use building comprising 10 dwellings (Use Class C3) and 4 commercial units (Use Class A1/A2/A3/ A4/A5) with associated parking and highways works.”

4 MATERIAL PLANNING CONSIDERATIONS

4.1 This section provides a brief overview of the main planning documents and considerations which provide some context for the judgment required by s226(1) of the Town and Country Planning Act.

4.2 The statutory Development Plan consists of the North Norfolk Core Strategy incorporating Development Control Policies adopted September 2008 and the Site Allocations Development Plan Document (DPD) adopted in February 2011. The Order Land is located within the centre of Sheringham and within the Sheringham Conservation Area (designated on 16 June 1975). Policy SS12 provides a strategic vision for the town.

4.3 The condition of the property has deteriorated over the ten years that Huddies Ltd has owned it, and it has increasingly detracted from the character and appearance of the Conservation Area. The Council’s statutory duty under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is engaged; and it imposes on the Acquiring Authority (together with planning policy at all levels) a strong imperative to secure the beneficial redevelopment of the Order Land without delay.

Policy EN8 – Protecting and Enhancing the Historic Environment requires the character and appearance of Conservation Areas will be preserved, and where possible enhanced and to encourage the highest quality building design, townscape creation and landscaping in keeping with the defined areas.

- 4.4 Where proposals involve the demolition of non-listed buildings, the policy requires that they should be assessed against the contribution to the architectural or historic interest of the area made by that building. Buildings which make a positive contribution to the character or appearance of an area should be retained. Where a building makes little contribution to the area, consent for demolition will be given provided that, in appropriate cases, there are acceptable and detailed plans for any redevelopment or after-use.
- 4.5 The site is situated in the Sheringham Conservation Area, the historic core being designated in 1975, with areas to the east and west of the town centre being included in 1995. This was followed by the Conservation Area Appraisal in 2013 which suggested “*The Shannoeks is a plain and indifferently modernized building, marking the beginning of a visual “low point” along the seafront. Between the Shannoeks and the Mo is an open area, created by the 19th century demolition of part of the historic core.*”. The approved schemes for demolition and rebuild proposals will deliver positive enhancement of the Conservation Area.
- 4.6 The guidance set out at Section 11 of the NPPF – Making effective use of land confirms that local planning authorities should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, using the full range of powers available to them. The guidance states that this should include identifying opportunities to facilitate land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for securing better development outcomes (paragraph 119).
- 4.7 Other relevant policy in the NPPF includes that at Section 7 – Ensuring the vitality of town centres, Section 12 – Achieving well-designed places and 16 – Conserving and enhancing the historic environment
- 4.8 The Order Land is identified on the Proposals Map for Sheringham as being located within the Town Centre and subject to Policy SS5 of the Core Strategy which seeks, amongst other matters, to support the provision and retention of a
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broad range of shopping, commercial, cultural and other uses and also to support the tourist industry by encouraging new accommodation and attractions which will help diversify the offer and extend the season.

- 4.9 The proposals map also shows that the site is immediately adjacent to the area designated as Public Realm and subject to Policy EN5 of the Core Strategy. The designation incorporates the length of the sea front Promenade in Sheringham and includes the adjacent Chequers public car park. Policy EN5 - Areas of Public Realm requires areas within the Public Realm to enhance the overall appearance and usability of the area, and that a co-ordinated approach to management will be encouraged.

5 THE CASE FOR THE ACQUIRING AUTHORITY

- 5.1 The Acquiring Authority has used its powers under section 226(1)(a) of the Town and Country Planning Act 1990 because it has been unable to acquire the Order Land by agreement. However, efforts to do so continue. The purpose of the Order is to secure the long term regeneration of the Order Land and to ensure its positive contribution to the economic, social and environmental well-being of the immediate area, and the town of Sheringham more generally.
- 5.2 Sheringham has a population of over 7,367 and is the fourth largest settlement within the District of North Norfolk, acting both as a local service centre for residents and a seaside resort for visitors. It lies 5 miles west of Cromer and about 20 miles north west of Norwich.
- 5.3 The use of compulsory powers in section 226(1)(a) of the Town and Country Planning Act enables the compulsory acquisition of land where an acquiring authority thinks the acquisition will facilitate the carrying out of development, redevelopment, or improvement on or in relation to the Order Land and where the acquiring authority thinks the development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the authority area. The Acquiring Authority believes both that the acquisition of the Order Land will facilitate the redevelopment of the Order Land and secondly that the resulting redevelopment
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will result in an improvement to the environmental, social and economic well-being of the area.

- 5.4 As stated in national Guidance on Compulsory purchase process and the Crichel Down Rules (July 2019), a compulsory purchase order should only be made where there is a compelling case in the public interest.
- 5.5 The reasons for making the Order are set out in the Statement of Reasons published with it, which should be read in conjunction with this Statement of Case.
- 5.6 The Acquiring Authority has used a range of statutory powers over the years in an attempt to secure the improvement of the Order Land since the owner acquired it in 2010, without success. Only the most minimal steps have been taken to improve its contribution to the area, despite the threat of compulsory purchase. Meanwhile the Owner has been willing to sell the land but only at a price significantly in excess of its market value. There is an unacceptable risk that, unless the Order is confirmed, the Order Land will continue to detract from the surrounding area for the foreseeable future.
- 5.7 In contrast to the delay, and risk of total inaction, offered by the Owner, the Acquiring Authority will take appropriate steps to deliver the redevelopment needed on the site at the earliest date possible. While it is understood that the covid-19 pandemic introduces some uncertainty, this is more likely to affect the Owner's ability to fund and deliver its scheme, than the Acquiring Authority.
- 5.8 In the circumstances, the Acquiring Authority contends that the onus is now on the Owner to demonstrate that it would deliver a well-conceived redevelopment project promptly, and that it has the necessary funding in place.
- 5.9 In contrast to the Owner, the Acquiring Authority has the capital resources available to deliver the redevelopment of the site at the earliest opportunity. Furthermore, the Authority can deliver a scheme which includes the adjacent the car park and which responds to the site and its context better than the permission obtained by the Owner.
- 5.10 On 22 April 2020 the Acquiring Authority responded in detail to the objections made by the Owner in its letter of 18 February 2020, and (as for other documents

referred to herein) adopts the contents of that letter as part of its Statement of Case.

- 5.11 The Owner does not disagree that the site is an important one for the town of Sheringham in terms of the wellbeing objectives and generally. There are several reasons for this, of which two are particularly notable.
- 5.12 First, it is important in heritage terms. The Owner's Heritage Statement dated July 2016 which supported its 2017 application states "In the context of Sheringham and North Norfolk the Application Site is an important and notable one. It clearly offers a great opportunity for a new building which will fully exploit the potential." [Doc: Heritage Statement]
- 5.13 Second, it is important in economic terms, particularly given the reliance of Sheringham on tourism. It has a long tradition as a seaside attraction with the promenade and sea front a particular focus of this trade. The Order Land is located facing onto the Sheringham Promenade and is within an area that is important to the tourist industry of the town. The site represents a prime location on the seaside front, which attracts a high footfall in the summer months and is therefore prominent to tourists and in attracting them to the town. The property actively detracts from this attractive seafront and the town's tourism offer.
- 5.14 It is recognised that the Order Land has no intrinsic quality in architectural or historic terms in its own right but it is located on the sea front and within the Sheringham Conservation Area and, in its current state, the property detracts from the quality of the area and harms the Conservation Area. The Council considers that its demolition and redevelopment with an acceptable design would provide a visual improvement to the Conservation Area and would improve the Sheringham sea front and Promenade, thereby enhancing the tourist attraction of the town.
- 5.15 The purpose of seeking to acquire land compulsorily would therefore facilitate the re-development and regeneration of the Order Land and the economic, environmental and visual improvement of the area. These proposals would, in the opinion of the Council, meet its planning policy objectives and allow redevelopment to take place within a realistic timescale.
- 5.16 The Acquiring Authority has tried, and continues to try, to acquire the Order Land
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by agreement, as recommended by the Government's Guidance. The Authority's efforts began in October 2015 when it resolved to seek an agreement to purchase and that, in default of agreement, it would make a Compulsory Purchase Order on the property.

5.17 The Acquiring Authority intends that the site should be redeveloped for a mixed use development of residential and commercial uses in accordance with the details submitted and approved under application reference PF/17/0468 granted in February 2018 which allows for the comprehensive redevelopment and regeneration of the Order Land together with the adjacent car park which is owned by the Council and is able to be implemented in the event that the owner's plans were not progressed.

5.18 However, the Council also considers that it could implement the scheme which has been granted planning permission under reference PF/17/0192 on 25 October 2017. That scheme was granted for the Shannoeks, the Order Land only and excludes the adjacent Chequers car park. The Council considers that whilst this would not provide the maximum redevelopment and improvement opportunity for the area, the most pressing issue of improving Shannoeks would be secured.

5.19 It is acknowledged that the Owner's rights under Article 1 of the First Protocol to the European Convention on Human Rights are engaged. The right to peaceful enjoyment of property is a qualified right and compulsory acquisition is consistent with it where there is a compelling case in the public interest for acquisition, as there is in this case.

6 DOCUMENTS, MAPS AND PLANS

6.1 A list of documents is enclosed below and arrangements will be made for them to be available for public inspection at the Council Offices during normal office hours, and on the Council's website.

LIST OF DOCUMENTS

| | |
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| A | GOVERNMENT GUIDANCE |
| 1 | National Planning Policy Framework (2019) |
| 2 | Guidance on compulsory purchase process and the Crichel Down Rules (July 2019) |

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| B | NORTH NORFOLK DISTRICT COUNCIL PLANNING POLICY AND OTHER DOCUMENTS |
| 1 | North Norfolk Core Strategy incorporating Development Control Policies 2008 (extracts also provided) |
| 2 | North Norfolk Core Strategy Proposals Map – Inset map 66 Sheringham Town Centre & Map key |
| 3 | Sheringham Conservation Area map |
| 4 | Economic Impact of Tourism North Norfolk Report 2018 |
| 5 | Sheringham Conservation Appraisal 2013 (Draft) |

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| C | PLANNING DECISIONS AND OTHER RELATED DOCUMENTS |
| 1 | Heritage Statement from Owner July 2016 in planning application PF/16/0596 |
| 2 | Public Comment in planning application PF/16/0596 |
| 3 | Planning Decision Notice 25 October 2017 PF/17/0192 |
| 4 | Planning Decision Notice dated 6 February 2018 PF/17/0468 |
| 5 | Planning Decision Notice date 18 October 2018 PF/18/1603 |
| 6 | LPA decision on conditions discharge dated 3 April 2020 planning ref PF/17/0192 |
| 7 | LPA decision on conditions discharge dated 3 April 2020 planning ref PF/17/0192 |

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| D | PLANNING APPLICATIONS AND RELATED DOCUMENTS ON PLANNING PORTAL |
| 1 | Planning application reference PF/16/0596 |
| 2 | Planning application reference PF/17/0192 |
| 3 | Planning application reference PF/18/1603 |
| 4 | Planning application reference PF/17/0468 |

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| E | FULL COUNCIL AND CABINET REPORTS AND DECISIONS |
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| 1 | Report for Cabinet 5 October 2015 |
| 2 | Cabinet Decision List 5 October 2015 |
| 3 | Report for Cabinet 31 October 2016 |
| 4 | Minutes of Cabinet 31 October 2016 |
| 5 | Minutes of Full Council 16 November 2016 |
| 6 | Report for Cabinet 4 November 2019 |
| 7 | Decision List for Cabinet 4 November 2019 |

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| F | COMPULSORY PURCHASE ORDER AND RELATED DOCUMENTS |
| 1 | Order and Map |
| 2 | Statement of Reasons |
| 3 | Objection from Owner |
| 4 | First Non-statutory Objection |
| 5 | Second Non-Statutory Objection |
| 6 | Response dated 22 April 2020 to Owner's Objection |

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| G | ORDER LAND |
| 1 | HMLR Register of Title |
| 2 | HMLR Title Plan |
| 3 | Photos of Order Land |

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| H | OWNER |
| 1 | Huddies Ltd Financial Statement for Year end 30 June 2019 |

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| I | INTER PARTES CORRESPONDENCE |
| 1 | Letter from Andrew Roper to Council dated 1 December 2015 |
| 2 | Letter from Eastlaw to Huddies dated 18 December 2015 |
| 3 | Huddies Ltd's Statement provided for Cabinet Meeting 31 October 2016 |
| 4 | Letter from Huddies to Eastlaw dated 3 November 2019 |
| 5 | Letter from Eastlaw to Huddies dated 15 November 2019 |

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| J | SECTION 215 NOTICE AND RELATED PROSECUTION DOCUMENTS |
| 1 | Section 215 Notice dated 4 March 2014 |
| 2 | Information dated 1 April 2015 |
| 3 | North Norfolk District Council's Witness Evidence |
| 4 | Change of Plea and Mitigation Submissions |

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| K | BUILDING ACT 1984 DEMOLITION NOTICES |
| 1 | Section 80 Notice dated 5 November 2019 |
| 2 | Section 81 Notice dated 16 December 2019 |