

Arlington Works

DRAFT COSTS SUBMISSIONS FOR TWICKENHAM STUDIOS

1 INTRODUCTION

- 1.1 This is a full application for costs against the appellant on behalf of Twickenham Studios on the basis that the appeal enjoyed no reasonable prospects of success.[TS]

2 BASIS OF APPLICATION

- 2.1 The guidance in the PPG provides that an appellant is at risk of costs being made against them if the appeal had no reasonable prospects of succeeding. It provides as follows:

What type of behaviour may give rise to a substantive award against an appellant?

The right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding.

This may occur when:

- *the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.*¹

- 2.2 The closing submissions and evidence of Mr Batchelor are relied upon and incorporated in this application but not repeated. The application is

¹ Paragraph 53 of PPG

clearly contrary to the development plan in particular policy LP42 of the Richmond Local plan which is the dominant policy for this application and results in the scheme being contrary to the plan read as a whole. If the PLP is adopted before the decision policy E7 similarly is breached and the development is contrary to the PLP read as a whole. The appellant's evidence on the industrial policy was unsatisfactory and had no reasonable prospect of success. They failed to have any evidence of marketing or any evidence that there is no longer a demand for industrial accepting that there was plenty of demand. They failed to take account of clearly material matters such as an offer from TS who wanted to use the land for industrial purposes (B1c or now Eg(iii)) The other material considerations they advanced in the context of this case were clearly inadequate to enjoy any reasonable prospect of the appeal succeeding and justifying the loss of 40% of the industrial floorspace or around 2/3rds of the industrial site.

- 2.3 Accordingly, the appeal should not have been brought as it had no reasonable prospect of success and a costs award should be made in favour of the rule 6 party who were reasonable to appear to protect their position.

Richard Ground QC

27 January 2021

Cornerstone Barristers
2-3 Gray's Inn Square
London WC1R 5JH.