

**LONDON BOROUGH  
OF  
RICHMOND UPON THAMES**

**UNITARY DEVELOPMENT PLAN  
PROPOSAL T1**

---

**INSTRUCTIONS TO COUNSEL TO  
ADVISE IN CONFERENCE ON  
MONDAY 13 OCTOBER 2003**

---

To: James Maurici  
Landmark Chambers  
London  
EC4A 1AQ

Mayer, Brown, Rowe & Maw LLP  
11 Pilgrim Street  
London  
EC4V 6RW

Ref: 20663/20711/03026614  
Tel: 020 7782 8836  
Fax: 020 7782 8658

**Solicitors for the Council**

**LONDON BOROUGH OF RICHMOND UPON THAMES**

**UNITARY DEVELOPMENT PLAN PROPOSAL T1**

---

**INSTRUCTIONS TO COUNSEL TO ADVISE IN  
CONFERENCE ON MONDAY, 13 OCTOBER 2003**

---

**Documents**

Counsel will find copies of the following documents in the ring binder with these instructions:

- (1) Planning Report dated 31 July concerning the planning application for the short term scheme together with an extract from agenda and minutes of Planning Committee Meeting held on 31 July 2003;
- (2) Call-in letter from GoL dated 29 September 2003;
- (3) Council's response to GoL's call-in letter dated 9 October 2003;
- (4) Timetable for the First Review of the UDP;
- (5) Report to Cabinet dated 25 March 2003 concerning the results of the consultation from January and February 2003 relating to the proposed modifications to the UDP together with Appendix C and an extract from the agenda and minutes of the meeting held on 25 March 2003;
- (6) Map of the Twickenham Riverside site relating to consultation on further modifications consulted upon between 8 April 2003 and 3 June 2003;
- (7) Report to Cabinet dated 24 June 2003 concerning the results of the consultation between 8 April 2003 and 3 June 2003 concerning the proposed further modifications to the UDP together with an extract from the agenda and minutes of the meeting held on 24 June 2003;
- (8) Copy of the Planning Department's proof for the October session of the Second inquiry in the First Review of the UDP;
- (9) Report dated 22 July 2003 containing an update on activity and developments concerning the Twickenham Riverside and Twickenham Challenge since the matter had previously been reported to Cabinet in April 2003, together with an extract of the agenda and minutes of the meeting held on 22 July 2003; and
- (10) Earlier decisions of the Secretary of State on call-ins relating to the Twickenham Riverside site.

**Introduction**

1. Instructing Solicitors act for the London Borough of Richmond upon Thames ("the Council"). Counsel's advice is sought in connection with Council's application for planning permission for a short term scheme on part of the Council's land at Twickenham Riverside in light of the Secretary of State's decision to call-in that application for his own determination. Counsel is familiar with the recent history of the site and in this regard Counsel's attention is drawn to previous instructions on this matter dated 6 February 2003 and 21 March 2003 and the documents enclosed with those instructions.

### **Twickenham Pool Site**

2. An application for planning permission and for Conservation Area Consent was made to the Council's planning department in respect of the Twickenham Pool Site, at The Embankment, Twickenham. The application contained a proposal to demolish the Twickenham Riverside pool building and replace the building with a landscaped area. The application was designed to provide a short term scheme (of about 5 years) pending future long term development of the site.
3. The officer's report to the Planning Committee recommended that the Secretary of State be advised that the Planning Committee has no objections to the demolition of the pool building (in respect of which CAC is needed). The planning officer's report can be found at Tab 1. At a meeting of the Planning Committee on 31 July 2003, it was recommended that consent be granted subject to no adverse direction from the Secretary of State. These recommendations were approved by the Committee.
4. By a letter from the Government Office of London ("GoL") dated 29 September 2003, the Secretary of State has called in the application for permission and proposes to hold a local inquiry (and is to determine the demolition consent). The call-in letter can be found at Tab 2.
5. The Council has responded to the letter from GoL in its capacity as landowner and a copy of this [draft] letter can be found at Tab 3.
6. Examples of earlier decisions of the Secretary of State in relation to call-in are included at Tab 10 by way of background.

### **The current Unitary Development Plan and its First Review**

7. Counsel will recall that the Council is currently conducting the first review of its UDP. A timetable for the First Review of the UDP is enclosed at Tab 4. The original UDP was adopted by the Council in 1996. Between January and April 1998 there was public consultation on key issues. This process resulted in the publication of the UDP First Review Deposit Draft in May 1999. A public inquiry took place between May and November 2000, following which an Inspector's report was published in August 2001. Counsel will recall that the outcome of the First Review was approved by Council culminating in the approval by the full Council of the proposed modifications in December 2002.

8. Counsel will recall that in January 2003, the full set of modifications was put on deposit for public consultation. That consultation ended on 14 February 2003 and the results were reported to Cabinet on 25 March 2003. For Counsel's ease of reference a copy of the report as presented to Cabinet on 25 March is contained at Tab 5. The results of the consultation were also presented to the Environment Overview & Scrutiny Committee on 1 April 2003.
9. At their meeting on 25 March 2003, the Cabinet considered representations received in respect of the proposed modifications to the Unitary Development Plan agreed by Council on 17 December 2002. The Cabinet noted the representations received and agreed that the responses to the objections, including further changes to the proposed modifications to seek to overcome objections, be recommended to Council. Council was also recommended to agree the proposed modifications to the Twickenham Riverside proposal. The Cabinet also delegated authority to the Cabinet Member for Environment and Planning, in consultation with other Cabinet Members as appropriate, to consider any changes recommended by Environment Overview and Scrutiny Committee and to amend (if appropriate) the Executive's recommendations to Council.
10. When the matter was reported to full Council on 8 April 2003, proposed modifications to the Twickenham Riverside proposal as set out in Appendix C to Report 20 to the Cabinet on 25 March 2003 be approved (see Tab 5). Those further changes approved by the full were also subject to public consultation which ended on 3 June 2003. That consultation also included an amended map in respect of the Twickenham Riverside site (see Tab 6), which revised the boundary and excluded the properties on King Street.
11. The results of the consultation that ended on 3 June 2003 were reported to the Cabinet and to the Environment Overview & Scrutiny Committee on 24 and 26 June 2003, respectively. A copy of that report, dated 24 June 2003 is at Tab 7.
12. A further public inquiry into the First Review commenced on 1 July 2003 and was set to run for 3 weeks. (Counsel is advised that Alice Robinson of his chambers represented the Council at the inquiry.)
13. Further sessions of the second inquiry are to commence in October 2003 and Instructing Solicitors understand that these sessions will commence on Tuesday, 14 October 2003, with the objections to T1 due to be heard on 16 October 2003. A copy of the proof submitted to the inquiry by the Planning Department is at Tab 8.
14. It is currently estimated that the outcome of the UDP First Review will be adopted by the Council early in 2004.

#### **Twickenham Riverside – General Progress**

15. On 29 April 2003 Cabinet considered a report dated 29 April 2003 outlining anticipated internal and external costs for the Council's long-term scheme to redevelop the Twickenham Riverside site. That report also provided Cabinet with an overview of the latest responses to the Twickenham Challenge (intended to provide a community facility

within the long term scheme) and addressed a number of matters arising in relation to the Twickenham Society Group of Organisations and the Cabinet's policies for the Twickenham Riverside.

16. On 22 July 2003, Cabinet considered a report that provided an update on activity and developments since the matter had been reported to Cabinet in April 2003. It provided an overview timetable of the Twickenham Challenge linked to the procurement of long term scheme at the site, identified the anticipated costs of specialist advice to participants in the Twickenham Challenge to support the development of their proposals and identified potential enhancements to the short-term scheme for consideration by the Cabinet.
17. A copy of the report dated 22 July 2003 is enclosed with these instructions at Tab 9 and Counsel's attention is drawn in particular to the timetable for the Twickenham Challenge/procurement of the long term scheme. (A copy of the report dated 22 April 2003 has not been enclosed although can be provided if necessary).

### Instructions

18. Counsel is asked to advise in conference in relation to the call-in and proposed inquiry relating to the planning application to demolish the Twickenham Pool Building and the Council's strategic approach to this, bearing in mind the UDP review currently being conducted. In particular:
  - (a) general advice arising from the Secretary of State's decision to call in the planning applications for the short-term scheme for his own determination and in the light of the Council's response to the Government Office for London ✓
  - (b) Counsel's preliminary views on the prospects of success in obtaining planning permission from the Secretary of State following a call-in inquiry and any conditions the Secretary of State might impose. This is related to the question of whether the Council should continue work to discharge conditions proposed to be set by the LPA in relation to a permission for the short-term scheme (as the Council is concerned to avoid incurring abortive expenditure). ✓
  - (c) Initial advice on the Council's conduct of the call-in inquiry – as to topics/structure of proofs etc. ✓
  - (d) The Council had identified that (subject to receiving planning permission for this scheme) that it may submit a further planning application for a café/toilets etc (which would be temporary in nature). This new proposal would not fundamentally alter the underlying nature of the called-in scheme. It is likely that the Council would now wish to proceed with a planning application for this proposal. What would be the most time and cost efficient approach given the fact of the call-in? e.g should the Council endeavour to have this subsequent application considered at the same inquiry? ✓  
*Submit  
ASGP  
Csjon  
PI*
  - (e) Are there any issues/risks of which the Council should be particularly aware given the fact of the UDP review, timing of that inspectors report & timing of the call-in inquiry? ✓

- (f) Given the call-in, recent correspondence, T1 proof etc are there any particular legal risks of which the Council should be aware (e.g a private or public law challenge from Dawnay Day)?
19. A conference has been arranged for 4:30pm on Monday, 13 October 2003 in chambers. The conference will be attended by the following officers from the Council: George Chesman, Assistant Head of Legal Services, Philip Wealthy, Policy and Design Manager, Tom McKeivitt, Joint Development Manager PFI and PPP, Roy Summers, Senior Team Leader (Planning and Building Control) and David Barnes. Charles Leach, Anna Forge and Andrew Robertson will attend on behalf of instructing solicitors. Should Counsel require any further information or documents prior to the conference would he kindly contact Andrew Robertson on 020 7782 8836.

**Mayer, Brown, Rowe & Maw**  
9 October 2003