

IN THE MATTER OF:

1 RAILSHEAD ROAD, OLD ISLEWORTH

OPINION

1. I am instructed by Railshead Commercial Ltd ('RCL') through the Bar Council's public access scheme. RCL has been the leasehold owner of land at 1 Railshead Road, Isleworth, TW7 7EP ('the Land') since 30 October 2015. RCL has built out an office building development on the Land ('the Development'). RCL now wants to apply for planning permission to convert the office buildings into residential units. I am now asked to advise, having considered Richmond-upon-Thames LBC's Local Plan, whether such an application can be made.

The Relevant History

2. Planning permission for the Development was granted by Richmond-upon-Thames LBC ('the LPA') on 1 August 2014. Permission was granted for 21 residential units with B1 office use for 1355m² ('the Office Space').
3. Once RCL had bought the Land it began to organise the build out of the Development.
4. The planning permission had two conditions. First, U73221, that a Play Space plan would be submitted to the LPA for approval prior to the occupation of the residential flats. Secondly, U73395, that the approved Office Space shall not be used for any other purpose regardless of the Town and Country Planning (General Permitted Development) Order 1995.
5. The Play Space condition was removed, on 24 July 2019, by way of a s.106 TCPA 1990 agreement with RCL providing play space elsewhere in the district.

6. RCL has been unable to let the B1 office space despite extensive marketing. RCL was forced, for commercial reasons to relocate to the Development and take a portion of the Office Space.
7. The LPA's relevant Local Plan policy that is engaged with a change of use application is LP41 ('the Policy'). A sequential approach to change of use is applied with the first preference being a redevelopment for alternative employment uses including social or community infrastructure uses; second preference being mixed use including other employment generating or community uses and residential which maximises the amount of affordable housing in accordance with policy LP36; third preference for residential with maximum provision of affordable housing. The Policy requires evidence of marketing of the permitted use; that evidence needs to satisfy Appendix 5 of the Local Plan. The Policy only allows loss of office space where there is:

Evidence of completion of a full and proper marketing exercise of the site at realistic prices both for the existing office use or an alternative office-based use completed over a minimum period of two continuous years in accordance with the approach set out in Appendix 5

8. Appendix 5 marketing requirements include at 18.0.4 details of the price the site had been marketed at and whether the price was reduced, stating the date that it was reduced if this was the case. Marketing should always be at a price that genuinely reflects the market value of the property in its current use and current quality.

The Marketing Report

9. Messrs Houston Lawrence have been the commercial agents at all material times. I have seen marketing report and the Appendices to the marketing report; these include quarterly reports, inquiry summaries, marketing material (including websites) and comparables. It is clear that there has been a serious attempt for more than two years to find commercial tenants.

Viability Report

10. I have seen Mr James Brown's report. The viability report concludes that with an Existing Use Value of £700,000 there will be a maximum surplus of approximately £131,000 which can be used as an Affordable Housing Commuted Payment.

11. The Existing Use Value calculation is conservative. There is substantial discounting.

Conclusion

12. RCL has obtained a marketing report which complies with the LPA's Policy for a change of use planning application. The viability report indicates an affordable housing commuted payment up to £131,000. In my opinion there are no reasons why a planning application for a change of use of the Office Space, augmented by the reports, should not be granted conditional on an agreement with the LPA on the specific amount of AH payment

MICHAEL PAGET
Cornerstone Barristers
30 June 2020

