



Appeal Decisions

Site visit made on 13 June 2026

by **A U Ghafoor BSc (Hons) MA MRTPI FCI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 21 July 2026

Appeals refs A to E

- The appeals made under section 195 of the Town and Country Planning Act 1990 (as amended ("the Act")) against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
- The appeals made by Barry Edwards on behalf of Running Red Ltd against the Council of the London Borough of Richmond-upon-Thames.
- The applications were made under section 191(1)(a)(b) of the Act.
- Applications for costs are made by the appellant against the Council and vice-versa. These are subject to separate Decisions.

Appeal A ref: APP/L5810/X/24/3348966 - River Thames Visitor Centre Riverside Richmond Upon Thames TW10 6JU

- The application ref 24/0350/ES191 is dated 11 February 2024.
- The use for which a certificate of lawful use or development is sought is confirmation of a lawful existing mooring pile DWG No 2, which is described on an existing planning permission as granted 05/3452/FUL/FUL DWG No 1, as the retention of mooring for the purpose of securing vessels, boats and river-related business, commercial and service use E(C)iii.

Appeal B ref: 3353215 - River Thames Visitor Centre, Riverside, Richmond Upon Thames TW10 6JU

- The application refs 24/0695/ES191 is dated 15 March 2024.
- The use for which a certificate of lawful use or development is described as follows: Reconfigure the currently undersize pontoon which will be increased to the existing planning permission allowance and then to redistribute that area across two pontoons. But still within the permission allowance and for the original purpose as a mooring.

Appeal C ref: 3353220 - River Thames Visitor Centre, Riverside, Richmond Upon Thames TW10 6JU

- The application refs 24/0701/ES91 is dated 15 March 2024.
- The use for which a certificate of lawful use or development is described as follows: The existing use of the mooring is for the accommodation of boats and ships. The part of the mooring which has had continuous recreational and leisure use includes the walkway for access and the pontoon for alighting and boarding river-related craft, the piles for securing the mooring and boats (apart from the River Thames Visitor Centre), being used for informal leisure, including boating, recreational rowing, Kayaking, paddleboard and general outdoor recreation.

Appeal D ref: 3351922 - Mears Moorings, Riverside, Surrey TW10 6JU

- The application refs 24/0697/ES191 is dated 15 March 2024.
The use for which a certificate of lawful use or development is described as follows: The current use involves all types of recreation and leisure, including rowing, kayaking, canoeing, paddleboarding, motorcraft storage, sitting, reading, and gathering by the water, supported by renovating the piles pontoon and walkway for access.

Appeal E ref: 3353503 – Mears Moorings, Mears Walk, Richmond Riverside, Richmond TW10 6JU

- The application refs 24/1217/ES191 is dated 10 May 2024.
- The use for which a certificate of lawful use or development is described as follows: Retention of existing consumption of food and drink within Metropolitan Open Land (MOL). This relates to the 19 years that Mears Moorings, which is external and adjacent to the River Thames Visitor Centre (RTVC) has accommodated the consumption of food and drink. Mears Mooring is not ancillary to the RTVC, it is merely a space within MOL, where the consumption of food and drink can legally take place.

Decisions - Appeals A to E

1. Appeal A is allowed in part and attached to this decision is a certificate of lawful development describing the existing which is found to be lawful.
2. Appeals B, C, D and E are dismissed.

Preliminary matters - Appeals A to E

3. There are several procedural matters that need consideration. I am also determining two related appeals made by the appellant and I have adopted the same approach in those appeals¹.
4. Firstly, section 191 of the Act explains that if any person wishes to ascertain, amongst other things, whether any existing use of land or operation is lawful, they may make an application for the purpose to the local planning authority (LPA) specifying the land and describing the use, operations or other matter. The Planning Practice Guidance (PPG) explains an LDC needs to describe precisely what is being applied for and the land to which the application relates. Without sufficient or precise information, the LPA may be justified in refusing a certificate. The LPA, or Secretary of State on appeal, may choose to issue a LDC for a different description from that applied for on the facts of a case, as an alternative to refusing a certificate altogether. The decision-maker needs to consider whether, on the facts of the case and relevant planning law, the specific matter is lawful.
5. There is confusion as to the precise description of the existing use, which I will return to later where necessary. Each appeal can be decided purely based on technical and legal interpretation of the facts. All the information needed is included with the application and appeal documents and so a decision can be reached on the papers. I will proceed on this basis, and should an LDC be issued with a slightly varied description, it is unnecessary to seek prior agreement as the parties have covered everything that needs to be addressed.
6. Secondly, the word “lawful” has a specific meaning in law as explained in s191(2) of the Act. In summary, if development is declared to be lawful, then no enforcement action may be taken against that development provided no enforcement notice is in force. It may be lawful because planning permission is not required for an existing use or operation as it does not amount to development falling within the scope of s55(1) of the Act. In that context, each case will turn on its individual facts, and the relevant test of the evidence is on the balance of probabilities. The onus of proof firmly rests with the appellant.
7. Thirdly, an application for a LDC is not like an application for planning permission. The appeal parties, including interested parties, have made extensive arguments about the planning merits in each existing use LDC and referred to local and national planning policies: I’m afraid all this voluminous documentation and argument is irrelevant to the consideration of the main issue in each appeal.
8. Fourth, the details for the banner header are normally taken from the application form. In these appeals, the site address has been inconsistently described, but I have adopted the site address from each LDC application form. For clarity’s sake, I’ve made immaterial modifications to the address to save unnecessary repetition. In Appeal D, the application form

¹ Appeal refs: 3358690 and 3353018.

was missing from the appellant's documents. A form was submitted by the Council on my request via The Planning Inspectorate's case officer, but the appellant's agent raised some concerns about the submitted form. In Appeal D I have taken the site address as stated by the agent (e-mail 15 June 2026). The agent also raises concerns about the Council's ability to "redact" information, but that is something they should pursue with them, and it is not for my determination.

9. Fifth, I sought clarification through The Planning Inspectorate of a few matters arising from my site visit. I am grateful for the comments made. I am satisfied the matters clarified have no bearing on the determination of these appeals. I proceed.

The appeal site, background information and main issue

10. The appeal submissions refer to Mears Moorings and the River Thames Visitor Centre ("the RTVC"). There is a convoluted planning history. It includes extant enforcement notices, which were the subject of appeals². In addition, there are other appeal decisions³. I have carefully reviewed and considered all these appeal decisions and will refer to the most pertinent. These are a decision by Inspector Evans issued 5 May 2011 ("the 2011 appeal decision") and the second by Inspector McFarlane issued 7 March 2012 ("the 2012 appeal decision")⁴.
11. In each appeal, there is only one **main issue** and that is whether the Council's deemed refusal would have been well-founded.

Appeals A to C - Reasons

12. Appeal A: The appellant seeks an LDC for an existing mooring pile as illustrated on drawings submitted with the LDC application (drawing no. 2). The use of the land for the mooring of boats, incidental to navigational use of the river, may not normally involve development. However, such an activity might require mooring piles, which act as facilitating structures for the purposes of mooring boats or vessels. The installation of a mooring pile, arguably, may involve a building or engineering operation and specialist knowledge, plant or machinery given the nature of this kind of work.
13. The first planning permission was granted on 5 March 2001⁵. It permits the provision of mooring and installation of two mooring posts, walkways and services, and pontoon. That permission was subject to time limiting conditions. The latter was renewed on 22 May 2003 for a further temporary period through planning permission ref 03/0439/FUL ("the 2003 Permission"). Subsequently, on 17 January 2006 planning permission was granted to renew the 2003 Permission⁶. For convenient shorthand, the "2006 Permission".
14. When interpreting the effect and scope of a planning permission, it is necessary to start with the document and only refer to extrinsic material, including the application and plans, if there is some ambiguity. On its face, the 2006 Permission is clear, and it grants full planning permission for the retention of mooring for the RTVC subject to several conditions. There is

² Appeal ref 2164456, dismissed 7 March 2012, and 2135924, 2136220, and 2136222 dated 5 May 2011, and the Council also refers to 2164446.

³ Appeal refs APP/L5810/X/21/3281757 but this relates ventilation and extraction system (allowed 5 May 2022), 3177484 (allowed 28 November 2017) but this relates to a s73A appeal for the development of land carried out without complying with conditions subject to which a previous planning permission was granted. The condition related to collections and deliveries, and 2183281 retrospective full planning consent for with D1 and A3 use dismissed 14 February 2013.

⁴ The 2011 appeal decision appeal refs APP/L5810/C/10/2135924, APP/L5810/C/10/2136220, APP/L5810/C/10/2136222. The 2012 appeal decision appeal ref: APP/L5810/C/11/2164456.

⁵ Council ref 00/1548.

⁶ Council ref 05/3452/FUL.

no time limit condition, but a condition stipulates that the land or premises shall only be used for information or exhibition centre purposes for the River Thames and for no other purpose. A condition limits the permission to the appellant. At face value the 2006 Permission grants full planning permission for the retention of the mooring, but the latter is inextricably connected and linked to the use of the moored vessel as an information or exhibition centre. My findings are broadly consistent with the findings of two previous Inspectors.

15. That said, there is fundamental disagreement between the appeal parties as to the full extent of the land or premises covered by the terms of the 2006 Permission. To resolve ambiguity, it is reasonable to examine the application form and drawing no. 1 because the operative part of the document refers to both.
16. There is no approved plan condition but it states the following as an informative: *for the avoidance of doubt the drawing numbers to which this decision refers are as follows:- Copy of minutes, Planning Committee report dated 3rd November, Location Map received on 22 November 2005, and Dwg No. 1 (originally submitted in application 03/0439/FUL)*. An informative does not have the same force as a planning condition, but it is reasonable to begin with plan no. 1. The accuracy or otherwise of the plan has been the subject of much debate. That said, an application for full planning permission requires detailed and illustrative plans and, in this context, cannot be simply written off on accuracy grounds.
17. Drawing no. 1 defines the full extent of the application site and existing development to be retained. As far as it is relevant to understanding the scope of the 2006 Permission and in the context of this LDC appeal, drawing no. 1 sufficiently illustrates existing and proposed mooring piles. It is reasonable to conclude that the drawing defines the extent of the development permitted. I note that in previous appeals the planning unit was not in dispute nonetheless and as a matter of fact and degree, I consider that the planning unit is derived from the 2006 Permission as it relates to a physically and functionally separate area. Development had already occurred and drawing no. 1 clearly shows the full extent of that development including the mooring and the existing and proposed piles. Facilitating development such as the pontoon or walkway are also illustrated, but these are subordinate and sustain the mooring of the boat that is used as a visitor centre.
18. In conclusion on Appeal A, contrary to the Council's arguments I find that the siting of the existing pile falls within the area covered by the 2006 Permission. The existing pile is identifiable on drawing no. 1 as demonstrated in the appellant's updated drawing no. 2. On the balance of probabilities, an LDC can be granted in part for the following description only: existing mooring pile shown on drawing no 2, which is described on an existing planning permission was granted 05/3452/FUL drawing no 1, as the retention of mooring for the purpose of securing vessels and boats pursuant to planning permission ref 05/3452/FUL. As the written submission have covered all the above points, there is no good reason to refuse the grant of the LDC in respect of the existing pile.
19. Appeal B: In the header above, I have taken the description of the existing use from the application form. However, at final comment stage the appellant clarifies that his intention is to reconfigure the existing pontoon and redistribute the existing use across two areas as illustrated in the submitted plans. To me, the written representations indicate the appellant seeks an LDC for the reconfiguration of the pontoon and the siting of a second pontoon in accordance with drawing no. 2. There is some disagreement about the purpose behind the

reconfigured pontoon's use, but as I have already said elsewhere the primary use of the RTVC in entirety is controlled by the terms of the 2006 Permission.

20. There is one long pontoon to which the vessel is moored. Next to it, but not aligned with it, and connected to it by ropes, a separate pontoon is moored. It seemed to me that the smaller pontoon is a separate structure from the longer pontoon. As a matter of fact and degree, it is a second pontoon which has been moored next to the long pontoon.
21. Putting aside for one moment that the reconfiguration of the pontoon may involve significant building operations that require an assessment as to whether express planning permission is required, the argument is that the RTVC has permission for a pontoon the length of the vessel. It is contended that the original pontoon was not built to the approved size due to damaged piles in place from the previous mooring and so the previous planning permissions always showed a shorter pontoon – some 14 m – since 2001. The claim is that the current arrangement accords with previous planning permissions including the 2006 Permission.
22. I too concur with the previous Inspectors and find that there is planning permission for a pontoon some 18 m x 2.7 m and the layout and siting of the RTVC is illustrated in drawing no. 1. The plan shows a 36-metre distance between the existing mooring piles, but the retained pontoon is clearly illustrated on the plan. The latter does not show a second pontoon and there is no reference to it in any planning permission I have been provided.
23. In the context of the reconfigured pontoon, there is incompatibility between drawing no. 1 and the LDC application drawing no. 2, because the former does not show a second pontoon. The appellant emphasises overall measurements of the mooring, the piles, the as-built pontoon, the location and dimensions of the vessel. They vehemently argue that what was in place at the time the 2006 Permission was granted was not what is shown on the plan: I give little credence to these arguments.
24. As I have indicated elsewhere, although the Council point to inaccuracies regarding the location of both existing mooring piles and the length of the pontoon, the latter is irrelevant for the purposes of interpreting the 2006 Permission. However, accountability for the incompatibility lays with the appellant as the applicant for permission because they have responsibility to ensure that accurate plans are presented for what they want planning permission for. To my mind, it matters not whether the length of the two pontoons combined is like the length of the pontoon permitted in 2006. Nor that the location of the second pontoon adjacent to one of the existing mooring piles is a replacement for the length of the absent pontoon missing in the gap between the main pontoon and the other original mooring pile. Nor can any weight of substance be given to the location of the walkway in assisting with the location of the main pontoon given the inconsistency and quality of submitted plans. In the context of this LDC appeal, the 2006 Permission quite clearly only permits one pontoon with a vessel moored to it. My findings are broadly consistent with the 2011 and 2012 appeal decisions.
25. In conclusion, Appeal B cannot succeed because the existing operation or use, described by the appellant as the reconfiguration of the existing pontoon and redistribution of the existing use across two areas as illustrated in the submitted plans, does not fall within the ambit of any previous planning permission. Even if a different view prevails and the second pontoon falls within the scope of the 2006 Permission, there is a further insurmountable hurdle for the

appellant to jump over: the in-force enforcement notice relating to the second pontoon. In effect, that prevents the issue of the LDC as it cannot comply with s191(2) of the Act.

26. Appeal C: The appellant argues that there are two separate uses permitted by the 2006 Permission: firstly, a mooring and the RTVC present on that mooring, and secondly, just the RTVC. The appellant claims that the existing use of the mooring is for the accommodation of boats and ships. Additionally, the part of the mooring which has had continuous recreational and leisure use includes the walkway for access and the pontoon for alighting and boarding river-related craft, the piles for securing the mooring and boats, being used for informal leisure, including boating, recreational rowing, Kayaking, paddleboard and general outdoor recreation. However, none of these activities are covered by the terms of the 2006 Permission.
27. For reasons I have already given above, the 2006 Permission relates to the retention of the mooring for the RTVC and is subject to a condition limiting its effect or scope. In addition, physical features like the pontoon and walkways act as facilitating development and there is no evidence before me to suggest any primary nor ancillary recreational or leisure activity had been ongoing for any period before the date of the LDC application. Clearly, the vessel could not function as an exhibition centre without supporting structures like the mooring, pontoon and walkway. I disagree with the appellant's claim that there are two distinct planning uses permitted by the 2006 Permission. In my judgment, the 2006 Permission relates to the entirety of the mooring and RTVC and it does not permit or imply a separate recreation or leisure use.
28. The use of the premises defined in the 2006 Permission is controlled by condition U07984 HM01 Specific use - General use class imposed in the 2006 Permission. This states that the premises shall be used only for/as an information and/or exhibition centre for the River Thames, and for no other purpose whether or not within Use Class D1; as specified in the schedule to the Town and Country Planning (Use Classes) Order 1987 ("the UCO"), or in any provision revoking or re-enacting that order, and any sale of food and drink shall be purely ancillary to the stated purpose. Given the use of phraseology like "premises", it is reasonable to conclude that the use of the area covered by the 2006 Permission is circumscribed by the condition.
29. In 2020, the UCO was re-enacted following modifications. The appellant regards the retention of mooring for the purpose of securing vessels, boats and river-related business, commercial and service use E(C)iii. However, I am not persuaded by the arguments that the riverbed or embankment can, reasonably, be described as a commercial, business or service locality. In any event, the 2006 Permission stipulates the use of RTVC and, by extension, the mooring pile, in connection with information and/or exhibition centre. Although there might be a commercial or business purpose behind the RTVC, its use is circumscribed by the terms of the 2006 Permission. The latter falling within the ambit of uses characterised as former class D1 of the schedule to the UCO but now class F.1(a) and (e), which cover the provision of education or exhibition.
30. In conclusion on Appeal C, there is no evidence to indicate nor substantiate the claim that the recreational and leisure use of the land or premises existed on or before 15 March 2014 and continued thereafter for a period of 10 years without significant interruption. In addition, use for recreation and leisure is significantly different to permitted information or exhibition use of the RTVC.

31. Appeal D: The existing use has been inconsistently described as all types of recreation and leisure, including rowing, kayaking, canoeing, paddleboarding, motor craft storage, sitting, reading, and gathering by the water, supported by renovating the piles pontoon and walkway for access. At final comment stage, the appellant states that Appeal D solely relates to retaining the existing boat, which is called Locus, and realign the boat as illustrated in drawing no. 2, enabling recreational and leisure use. However, in an email received on 15 June 2026, the agent explains that the existing use is described in the following terms: *“Confirmation of a lawful realignment of the boat Locus within the footprint of the existing mooring planning permission. To allow the continued use of the mooring for river-related recreation and leisure - not part of, or connected to, the River Thames Visitor Centre - not considered a development”*⁷.
32. The appellant maintains that the use of Locus or Mears Mooring is separate from the RTVC but does not provide firm evidence to show how it functions independently given common walkway and circulation areas. The evidence presented does not show that the planning unit, which is derived from the 2006 Permission, had been subdivided into self-contained functionally separate areas. In my assessment, the location and use of the boat indicate it is not physically or functionally separate from the RTVC.
33. Clearly, the boat is not illustrated on drawing no. 1 permitted by the 2006 Permission. In addition, Locus or Mears Mooring is not mentioned or referred to in the permission document. I have examined other extrinsic material, including relevant planning history and the appeal decisions, but none appear to identify Locus or Mears Mooring as a standalone recreational or leisure activity. Its realignment or existence does not fall within the scope of the 2006 Permission.
34. The appellant maintains that Locus is a standalone recreation or leisure use that began in around 2013, which is before the relevant date - 15 March 2014, but the evidence does not clearly show when the material change occurred, nor does it show the latter continued without significant interruption. Apart generalised and vague statements, the documentary evidence fails to show, on the balance of probabilities, that the claimed recreation or leisure uses are immune from enforcement action due to the passage of time.
35. In conclusion on Appeal D, I have carefully reviewed all the written submissions and statements but the onus has not been discharged, because the evidence presented is lacking in detail and extent. The evidence presented does not clearly and unambiguously show that the existing use claimed meets the definition of lawful.
36. Appeal E: The existing use has been inconsistently described as retention of existing consumption of food and drink within Metropolitan Open Land (MOL), but a land-use policy designation is irrelevant to an LDC. The appellant claims the use relates to the 19 years that Mears Moorings, which is external and adjacent to the RTVC, has accommodated the consumption of food and drink. Mears Mooring is not ancillary to the RTVC, it is merely a space within MOL, where the consumption of food and drink can legally take place. However, at final comment stage, the agent says the LDC is solely for the retention of food and drink consumption records in MOL and for no other purpose.

⁷ The appellant's agent also confirmed the address of the Appeal D site.

37. The appellant has not shown that the pontoon adjacent the RTVC does not fall within the scope of the 2006 Permission. Similarly, Mears Mooring falls within the scope of the same planning permission and there is no firm evidence to show a separate planning unit had been created on or before the relevant date - 10 May 2014. Apart from vague and imprecise claims, there is no firm evidence to show how or when Mears Mooring was first used for the consumption of food or drink. There is no evidence to show the nature of the activity for example, how often food or drink was consumed on the premises or if food and drink was purchased offsite for consumption on the site. The quantum of the evidence presented does not clearly show that the existing use claimed is immune from enforcement action either as a separate material change in use of the land or as part of a breach of condition imposed on the 2006 Permission. In conclusion, due to lack of clear and precise evidence, an LDC cannot be issued as the site's existing use is not lawful.

Appeals A to E - overall conclusions

38. Insofar as the existing mooring pile, Appeal A succeeds in part. However, the LDC must be clearly specified because it relates solely to the existing mooring pile as illustrated on drawing no. 2, but nothing else on that drawing is lawful. The existing pile falls within the scope of the 2006 Permission. The terms of the LDC will be tightly phrased to avoid doubt or misunderstanding or misinterpretation. I conclude that the Council's deemed refusal was not well-founded. I will exercise the powers transferred to me under section 195(2) of the Act as amended.

39. I have carefully reviewed all the documentary evidence and statements. Contrary to the appellant's arguments in Appeal B to E, I find that the onus of proof has not been adequately or satisfactorily discharged. The appeals should not succeed because insufficient and imprecise evidence has been submitted. The Council's deemed refusal to grant an LDC in respect of the existing use claimed in Appeal B to E was well-founded albeit for different reasons.

40. My decision is likely to be disappointing, but I must determine the appeals based on the written submissions and my analysis and evaluation of the evidence before me having regard to the facts and case law. Despite the confused and muddled approach adopted by the appeal parties in these combined appeals, there is insufficient evidence to substantiate the appellant's claims in each appeal. As the PPG says at paragraph: 009 Reference ID: 17c-009-20140306, a refusal is not necessarily conclusive that something is not lawful, it may mean that to date insufficient evidence has been presented: that is certainly applicable in this case.

41. Having regard to all other matters raised, including representations made by interested parties, I further conclude that the appeal should fail. I exercise accordingly the powers transferred to me in section 195(3) of the Act.

A U Ghafoor

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 11 February 2024 the matter described in the First Schedule hereto, constituting the existing mooring pile as illustrated on drawing no. 2, but excluding everything else, and drawing no. 1 approved by planning permission reference 05/3452/FUL granted 17 January 2006, as shown on the attached plans, described in the First Schedule and relate to land specified in the Second Schedule hereto and edged on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason: the existing mooring pile falls within the terms of the planning permission specified in the First Schedule and is immune from enforcement action and there is no enforcement notice in force.

Signed

A U Ghafoor

INSPECTOR

Date: 21 July 2026

Reference: APP/L5810/X/24/3348966

First Schedule

Existing mooring pile as illustrated on drawing no. 2, but excluding everything else, and drawing no. 1 approved by planning permission reference 05/3452/FUL granted 17 January 2006, as shown on the attached plans.

Second Schedule

Land edged as shown on the plan attached to this certificate and identified as the River Thames Visitor Centre Riverside Richmond Upon Thames TW10 6JU.

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Act. It certifies that the existing mooring pile described in the First Schedule on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the Act, on that date. This certificate applies only to the extent of the existing use or operation described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation or use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the LPA.

Plan

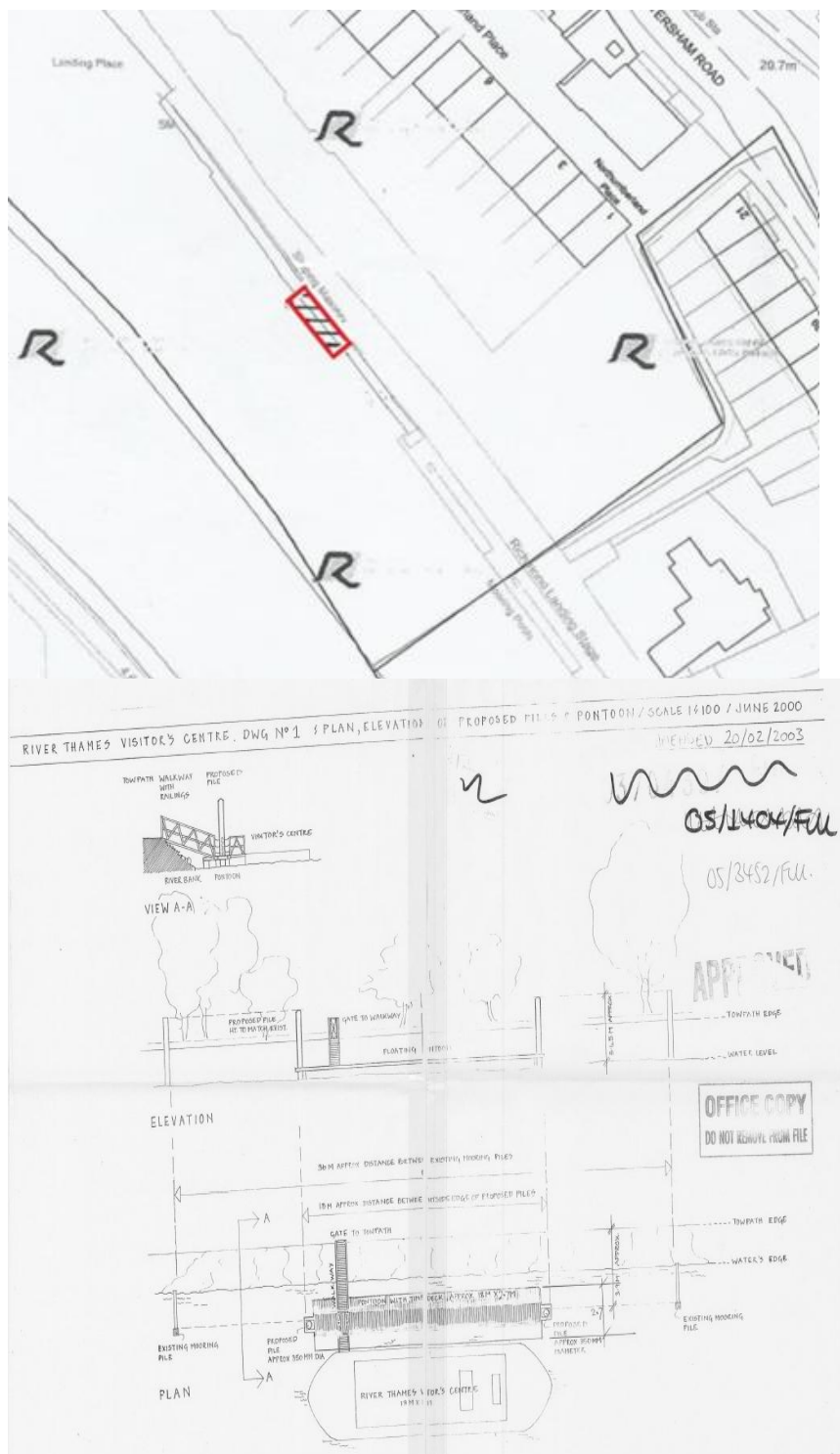
This is the plan referred to in the Lawful Development Certificate dated: 21 July 2026

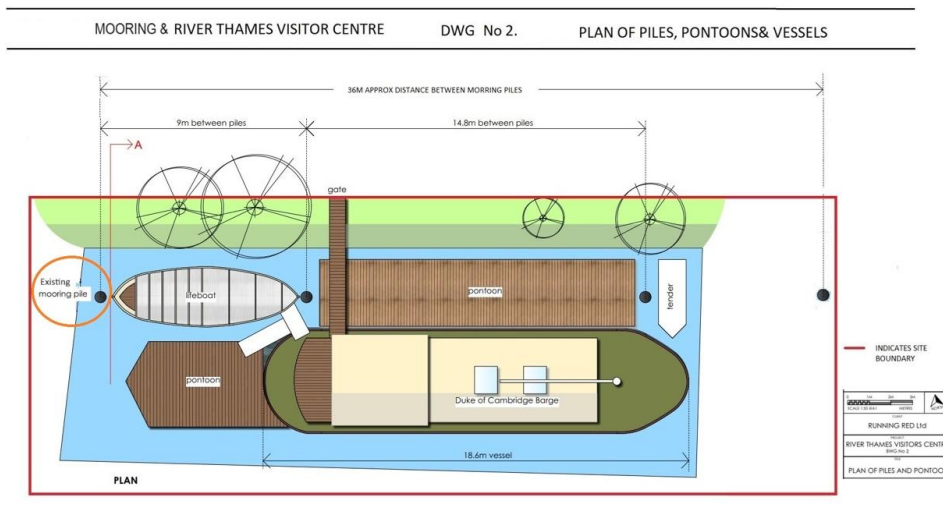
by A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr

Land at: River Thames Visitor Centre Riverside Richmond Upon Thames TW10 6JU.

Reference: APP/L5810/X/24/3348966

Scale: Do not scale.





Note: this lawful development certificate relates solely to the existing mooring pile, and anything else shown in drawing no. 2 is expressly excluded.