

**Pontoon at Richmond Riverside
Richmond upon Thames
PINS Ref: APP/L5810/C/23/3333609**

Comments on London Borough of
Richmond upon Thames
Statement of Case

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1. Introduction

- 1.1. This statement is submitted by PMV Planning (the agent) on behalf of Turks Launches Ltd (The Appellant). The Statement sets out the Appellant's response to the Local Planning Authority's (LPA) Statement of Case received on 26 January 2024.
- 1.2. We review the documents provided, but do not introduce new arguments over and above those set out within our Statement of Grounds and Statement of Case.

2. LPA Statement of Case

- 2.1. The following section sets out errors and inaccuracies identified within the LPA Statement of Case, on a section by section basis.

Section 2 Relevant Planning History

- 2.2. The LPA makes reference to an application made outside its jurisdiction i.e. within the Royal Borough of Kingston upon Thames (RBKuT). It is neither appropriate nor relevant that this is included within the relevant planning history section.
- 2.3. The LPA fail to make any reference to licenses which were granted by the Council which are relevant to the appeal site. These premises licenses are a key part of the history of the site and are a material planning consideration.
- 2.4. As a single local authority, the granting of premises licenses, clearly showing the role of the pontoon for access, services and tables and chairs across a number of restaurant operators over the years should have been known. It is noted that the LPA only in 2022 begins to query the planning unit and use at the site. In any case, the Local Authority should have been more aware of decisions made by its licensing department and recognise the relevance and importance of these licenses. The license is a material planning consideration in this case.

Section 3 Timeline of events

- 2.5. The LPA has provided a timeline of 'events'. This fails to give an accurate chronology of the site, and is not a factual timeline.

Section 4 Council's response to the grounds of appeal

- 2.6. Para 4.3 sets out that the Council considers that the matters alleged in the notice have occurred as a matter of fact. This is incorrect given the mixed use of the pontoon and it never having been used as a standalone restaurant as the LPA state. The LPA's position is confused given the statement later in its Statement of Case at Section 5, where it seeks to widen the allegation to a mixed use, and therefore contradicting its ground b position.
- 2.7. As such, the LPA should withdraw the notice and reconsider its position before the serving of any further notice. Further commentary is provided within a review of its Section 5.
- 2.8. Para 4.5 The LPA suggest that the pontoon was of timber construction. It has always been

steel construction. The LPA make a reference to the pontoon being a purpose built floating restaurant. This is not the case, and could not and is not intended to be operated as such. It does not have the facilities to operate as a standalone restaurant. It has always been used to also accommodate local clubs and their sailing activities and it is intended that this will continue.

- 2.9. Para 4.7 the LPA does not reflect on the contents of the planning permission in 1992 correctly, as it fails to recognise the inclusion of the pontoon as part of the wider (mixed use) planning unit for the restaurant and sailing activities.
- 2.10. The appellant's evidence focusses on the use of the pontoon for restaurant use, as this is what is alleged on the enforcement notice. It is noted that at Para 4.12 the LPA recognise that the pontoon was used for restaurant seating from 1993 - 2015.
- 2.11. Para 4.13 the LPA again suggest that the pontoon is being used as a fully equipped restaurant from 2022.
- 2.12. Para 4.17 the inclusion by the LPA of an appeal at the Gaucho Grill in another part of Richmond is not relevant to the proposals currently under consideration. The site is materially different in location, setting and character.
- 2.13. Para 4.22, the LPA again suggest the pontoon was historically a timber construction, it has always been of steel construction.
- 2.14. Para 4.25 suggests that the restaurant use results in a far more concentrated/intensive use of the pontoon. The licences granted showed tables and chairs and considered impact on public amenity including noise. The officers report for the original 1992 planning consent for the restaurant use notes the positive contribution the floating restaurant will have in this town centre location.
- 2.15. Para 4.30 of the LPA statement fails to reference the mixed use of the pontoon for storage, leisure craft, changing facilities and use as a restaurant.
- 2.16. Para 4.39 The LPA confirm the commercial character of this town centre location. They then suggest that the open public space within the town centre is an experience of sanctuary and calm. Whilst this may be the case on occasion, this is a busy, commercial, town centre location, as referenced in the 1992 committee report.
- 2.17. Para 4.40 the plastic enclosure has since been removed.
- 2.18. Para 4.42 collapsible parasols are quite a common feature along the riverbank and on other vessels within the river and town centre.

- 2.19. Para 4.45 suggests that there are no elements which can be considered within the balancing exercise of harm to the MOL or Richmond Bridge. It will be demonstrated that there are numerous benefits/VSC arising from the current site operation including use of the river by local clubs and charities, employment and contribution to the vitality and vibrancy of the town centre.

Section 5: The terms of the enforcement notice

- 2.20. The LPA in section 5 state for the first time since the enforcement notice was issued in October 2023, that amendments should be made to the enforcement notice to improve its clarity and to amend the allegation.
- 2.21. The allegation is requested to be broadened to “without planning permission and within the last ten years, a material change of use of the pontoon to a mixed use, comprising restaurant, mooring of boats and ancillary storage”.
- 2.22. This is a matter for the Inspector. The Councils proposed late and significant amendment to the notice causes prejudice to the appellant, as the allegation has materially changed. This means that grounds b, c, and d would now need to demonstrate a different factual state of affairs and also a 10 year user of a different use than the change to only a restaurant for the relevant period, instead to a mixed use, comprising restaurant, mooring of boats and ancillary storage” for the relevant period of 10 years.

3. Comments on other LPA documents

- 3.1. It is disappointing that the Local Authority has pursued an enforcement notice against the operation at the Richmond Bridge Pier and Pontoon, without meaningful engagement with the Appellant.
- 3.2. The LPA originally questioned the legality of the Jesus College Barge operating as a restaurant, moored to the pontoon, when approached by the applicant in 2021. The Barge was used with the associated Pontoon as a restaurant from the grant of permission until some time in 2015 when it sank. The Barge remained at the pontoon for 12 months, whilst the insurance claim was resolved. Following this the Barge was taken away for repair. The Barge sank again and a second set of repairs completed. The Barge was then returned to the pontoon.
- 3.3. There was a meeting with the LPA about the intention to moor the Barge and re-open as a restaurant at the pontoon. There was a discussion about a canopy, but this was not a formal pre-application submission.
- 3.4. From the notes of the meeting, the LPA officer stated that the use of the Barge had been abandoned given its removal from the mooring for repairs, and that its re-use as a restaurant would not be acceptable.
- 3.5. Following a legal opinion, from Leading Counsel, the LPA confirmed in an email from planning officer Ms Wong in July 2021 that this was in fact not correct and that the use of the barge was lawful.
- 3.6. There was no further correspondence with the Council, and the client, Turks Launches, proceeded with negotiations with a tenant for the boat which resulted in Daisy Green restaurant group taking a lease and opening Peggy Jean at the Riverside.
- 3.7. On 3 August 2022, a letter from LBRuT was received following an unannounced visit to the boat on 21 July 2022.
- 3.8. A response to this letter was made, and then a further response from the Local authority received on the 26 August 2022. No further correspondence was received until the enforcement notice was served, wholly out of the blue on 11 October 2023. It is very disappointing that the Local Authority failed to engage with the appellant or invite an application before serving its enforcement notice, the contents of which we contend are flawed.

Errors in submission- Questionnaire

- 3.9. For reference, there are some clear errors within the Local Authority Questionnaire, we assume these are errors, but require confirmation from the local authority:

Part 1

- 3.10. 1a Agrees to a written representation procedure. The procedure is agreed as a public inquiry.

Part 4

- 3.11. In response to q14j, the Local Authority have ticked the box that the development does not affect the setting of a listed building or ancient monument. This is incorrect and should have been ticked that it does affect the setting of a listed building.

