



## Petersham Nurseries, Petersham

Appeal against the enforcement submitted under section 174 of the Town and Country Planning Act 1990 for land at Petersham Nurseries, Petersham Road, Petersham, Richmond.

### **Technical Note on MOL, Landscape and Visual Matters**

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of fabrik Limited

PINS Ref: APP/L5810/C/24/3339372

LPA Ref: 18/0025/EN/BCN

fabrik Ref: D3330

May 2024

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## 1.0 Introduction

### Personal Qualifications

1.1 My name is Andrew Smith. My qualifications include a BSc (Hons) degree and an MSc in Landscape Ecology Design and Management. I am a member of the Landscape Institute and a Chartered Landscape Architect (CMLA).

1.2 I have close to 30 years post qualification experience in landscape planning and design. I have prepared landscape and visual impact assessments either as standalone documents or coordinated as part of environmental statements, and both the outline and detailed design of a range of residential, commercial, mineral and waste development projects throughout the UK. I sit on both the South Downs National Park and the Design Southeast Design Review Panels. I have stood as an expert witness on Green Belt, MOL, landscape and visual matters on numerous occasions.

### Instruction

1.3 Prior to instruction I reviewed both the Council's Enforcement Notice Report and the Appellant's draft Statement of Grounds. Since instruction I have reviewed all of the submittal information and notably the progression of the Landscape and Visual Appraisal with Impact Statement (LVAIS). I have visited the Appeal Site and its surroundings and have subsequently examined the relevant plans and documents for this Appeal.

1.4 Pursuant to the above I bring my experience to the Inquiry and this evidence is based on my informed judgement and opinion.

### Declaration

1.5 The evidence which I have prepared and provide for this Appeal in this technical note is true and has been prepared and is given in accordance with the guidance of my professional institute and I confirm that the opinions expressed are my true and professional opinions.

## 2.0 Scope of Evidence and Matters in Dispute

### Scope of my evidence

2.1 My technical note is to be read alongside the other submissions produced on behalf of the Appellant, enabling all issues to be understood and to be considered in the planning balance.

2.2 Other evidence is provided as follows:

Mr Nick Belsten – Planning (Planning History, Policy Context, Planning Balance)

Mr James Bevis -Transport

Ms Boglione - Matters relating to the Company.

Mr Ward – Socio Economic

Mr Vivian – Noise

### Enforcement Notice

2.3 Whilst there are 3 grounds this evidence responds solely to matters associated with Ground A.

2.4 In respect of the above, the matters that I will address are:

**Matter 1:** Alleged harm to the character of the area

**Matter 2:** Alleged harm to MOL, its openness and purposes.

### Officers Enforcement Notice Report (OENR)

2.5 In relation to MOL matters it is noted at its para 9.17 that the council allege that “*the breach on conditions does not cause spatial harm to the MOL.*” It also becomes evident from para 9.18 that the Council’s opinion is that “*the increased comings and goings and associated disturbance affect the tranquillity of the area and thus*

*impacts on the character of the MOL, representing an intrusion of urban characteristics into the MOL. This does not 'preserve openness'.*"

- 2.6 Within the report it is also stated that the 'development' conflicts with purposes (a), (c) and (d) as "*the nature of the breach has the effect of urbanising the character of the site.*"
- 2.7 It is of note that the above is predicated on the having a setting that is '*semi-rural and tranquil*' (para 9.8), a '*Dark Area*' (para 9.9).
- 2.8 In relation to the character of the MOL and associated landscape and visual matters the OENR has no specific commentary beyond the above.

## **Council's Statement of Case**

- 2.9 The Council's Statement of Case does not supplement principal comments in respect of MOL and character matters. At its para 2.12 it explains, through referring to the Ham and Petersham Neighbourhood Plan, that "*this area has a semi-rural character with substantial areas of open and undeveloped land. This is a distinctive and valued feature of the area, providing relative isolation from more urban areas of London, it makes clear [...] that any new development will be expected to have regard to the character of the area in which it is located.*"
- 2.10 At its para 2.13 the agricultural origins of the area are described, the area is defined as '*quiet and isolated in terms of transport.*' The paragraph goes on to describe '*a semi-rural feel and tranquil environment.*' The paragraph also explains that "*the appeal site is adjacent to an open area consisting of large meadow to the north and together with it is part of the MOL.*" The use of the adjacent area and the site is also explained, inclusive of vehicular movements in the immediate area.
- 2.11 At its para 2.15 the SoC states that the breach results "*in significant harm to the character of the area and openness of the MOL and amenity of neighbouring residential properties.*" The further qualification is that "*the Council will show that the additional level of activity generated through extended hours into evening and through the increased footprint of the cafe restaurant has an urbanising effect on this otherwise tranquil semi-rural setting to the detriment of the character and openness of the MOL.*"

## CMC Note

- 2.12 The Inspector's note (23 April 2024) following the CMC records the main issues, relevant to my note, as being:
- a) *Whether the breach of planning control results in inappropriate development in Metropolitan Open Land (MOL) including its effect on the openness and purposes of the MOL,*
  - b) *the effect of the development on the living conditions of the occupiers of neighbouring properties in respect of noise, disturbance, and light,*
  - c) *the effect of the development on the character and appearance of the area, and if the development is inappropriate in MOL, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development.*
- 2.13 The above a) is addressed in my commentary on Matter 1.
- 2.14 The above b) is addressed by Mr Belsten directly.
- 2.15 The above c) is addressed in my commentary on Matter 2, with balance and VSC dealt with by Mr Belsten.

## Statement of Common Ground

- 2.16 Through negotiations there is an overarching Statement of Common Ground which results in the following relevant agreement:

### Metropolitan Open Land

- 7. The Council is not alleging spatial harm to the Metropolitan Open Land.*

## 3.0 Character and Appearance

### Introduction

- 3.1 In this section the landscape and visual character of the Appeal Site and its context are reported. This enables assertions relating to Matter 1 and Matter 2 to be addressed in section 5.0 of this note.
- 3.2 In relation to Matter 2 and MOL issues, assessment of landscape and visual character (all within the appended LVAIS) enables inherent characteristics, contextual MOL to be understood and how they influence openness, matters relating to purposes of parcels, both individually and in combination.
- 3.3 In relation to Matter 1 and landscape and visual effects, the LVAIS enables the value of the receiving landscape and visual receptors to be understood and thus the ensuing impacts of the proposed change.
- 3.4 Rightly this evidence has been informed by a robust landscape and visual baseline assessment of both the Appeal Site and its context. It is important to note the contextual assessment relates to the entirety of the adjacent land, be it townscape or landscape. Usefully the European landscape convention (ELC) in article 2 defines landscape in an inclusive manner and states that:
- “subject to the provisions contained in article 15, this convention applies to the entire territory of the parties and covers all natural, rural, urban and Peri-urban land, in land water and marine area.”*
- 3.5 The above is of relevance to the Appeal Site. Rightly ascertaining the appropriate baseline knowledge, of both the contextual landscape and that of the Appeal Site itself, is the correct approach to enable the informed assessment of effects of development.
- 3.6 This is reported in detail within the Landscape and Visual Appraisal with Impact Statement (LVAIS), appended to this evidence.
- 3.7 It is an assessment carried out in accordance with Guidelines for Landscape and Visual Impact Assessment, third edition (GLVIA 3). The methodology is clearly defined in Appendix 1 of the LVAIS. The approach is best practice and the industry standard.

## Baseline Situation

### Contextual Landscape Character

- 3.8 The baseline is clearly described in section 4.0 of the LVAIS. Landscape character is assessed through the typical cascade, National to Borough Scale. At the Borough scale the recent LBRuT Urban Design Study (April 2023) details the contextual character, as area titled Character Area E2: Ham Common and Riverside. This is shown on figure 4.2 within the LVAIS. A character area with positive, landscape, townscape and visual attributes. However, it is also apparent that urban influences and associated movement are already part of this character. The Councils' study reports that the '*heavy traffic on Petersham Road is at odds with its setting.*'
- 3.9 A finer grain assessment of the contextual area is in section 4.2 of the LVAIS. This reveals that topography, vegetation and built form, settlement collectively frame and compartmentalize the area. Alongside open riverside meadows there is an adjacent suburban townscape. Pervading the entirety of the area the sense of tranquility is influenced by air traffic and the audible nature of vehicles using surrounding movement corridors, including the A307 Petersham Road and the B353 which connect Richmond Hill and Petersham. The latter is more apparent to the edge of the open green spaces. The contextual environment is a busy suburban environment.
- 3.10 Beyond the LVAIS the noise report of Mr Vivian also reaffirms the above.
- 3.11 Whilst the open meadows may be relatively darker, the contextual environment is also lit. The lighting ranges from suburban domestic lighting to lighting associated with key vehicular routes and also prominent commercial buildings such as the Royal Star and Garter.
- 3.12 Again, beyond the LVAIS further detail in relation to lighting associated with the Appeal Site is given in the Buro Happold Lighting Impact Assessment report.

### Visual Appraisal

- 3.13 The Appeal Site's visual context is described in detail in section 5.0 of the LVAIS. This assessment has selected representative local receptors, including the designated view corridors and illustrates the visual relationship of the Appeal Site within this visual context. At section 6.3 of the LVAIS the limited relationship of the Appeal Site with its context is described:



*“Views of the Site from the wider MOL area are limited due to a combination of the surrounding private gardens and the combination of tall boundary walls and hedgerows. Views of the internal arrangements of the Site are therefore only possible from the landscape to the north of the Site through the open gate of the Site entrance during operational hours. Views of the access track, which accommodates car parking for visitors and residents are more open and can be seen from areas of the MOL designation further north where gaps in the intervening vegetation allow.*

*The Site is therefore considered to make a minor visual contribution to the wider MOL area and is viewed as an integral part of the Petersham settlement edge.”*

### Appeal Site Landscape Character

- 3.14 The details are reported in section 4.3 of the LVAIS. In essence the Appeal Site is a commercial plant nursery with associated retail uses, alongside the café and restaurant. The built form, sheds and glasshouses, are set within, well enclosed by tall brick walls and Yew hedging.
- 3.15 It is a lit facility with lighting associated with the glasshouse and other built form contributing to the domestic scale lighting of the surrounding residential area. This is fully detailed in the Buro Happold lighting impact assessment report.
- 3.16 Again the facility is not tranquil, with levels of noise associated with operation of the Nursery being part of the character. These noise levels are fully reported in the noise report of Mr Vivian.
- 3.17 The Appeal Site *“forms part of Petersham with the perceived settlement edged formed by the definitive nature of the public right of way running adjacent to the northern boundary of the site. North of this route are a combination of private gardens, a tennis court, private parking and small-scale paddocks with scattered tree planting, the majority of which are in equestrian use.”*

### Appeal Site Visual Appraisal

- 3.18 The photographic summary of the Appeal Site is reported in section 4.4 of the LVAIS. Both the enclosed nature (brick walls and evergreen hedging) of the Appeal Site and its lack of inherent openness (quantum of built form, its associated scale, mass and materiality) are very evident.

## Evaluation of Value of Landscape resources and visual receptors

- 3.19 Within the LVAIS, in accordance with its methodology, values have been attributed to contextual and site landscape character resources and visual receptors.
- 3.20 This baseline has then been taken through the methodology to enable an assessment of landscape and visual effects associated with the Appeal development to be arrived at. This is reported in section 8.0 of the LVAIS.

## Landscape Effects

- 3.21 The landscape character effects of the development are described in detail in section 8.0 of the LVAIS. Effects are negligible with the outcome being that there are no material effects on either the contextual character or that of the Appeal Site.
- 3.22 Further to the above and as detailed in the lighting report, if the festoon lighting to the north of the nursery were to be replaced there would be beneficial effects from the current baseline.

## Visual Effects

- 3.23 In relation to visual effects, as reported in the LVAIS. In summary:

*“Overall, the operation of the Site will not alter the visual envelope associated with the existing Site arrangements. The operation of the Site is considered to be in keeping with the wider character of Petersham and does not alter the relationship between the settlement and the surrounding open landscape to the north. The associated comings and goings of vehicles in the evenings and at night time where headlights would be required is considered to have a limited visual impact on the surrounding landscape due to the prevalence of vehicles along the A307 Petersham Road and the enclosed nature of the access road and parking area. The surrounding built form and field boundary vegetation limit views to a small geographical extent and therefore night time visual effects of the operation of the Site and the associated comings and goings of the vehicular traffic are considered to be Negligible.”*

*The effects of the operation of the site are therefore not considered to change the character and amenity of the view from any of the identified publicly accessible receptors above. Visual effects as a result of the*

*operation of the site on those receptors using the transport corridors, PRow network, visitor attractions and open spaces are therefore considered to be negligible.”*

3.24 As with character effects, any visual effects are again negligible and thus there are no material effects.

## 4.0 MOL and the approach of the Council

### Introduction

- 4.1 This section explores the existing situation alongside the Council's evidence base in respect of MOL.
- 4.2 We are aware, generally and specifically from the Council's Policy G3 that MOL is afforded the same status and level of protection as the Green Belt.
- 4.3 As with Green Belt, MOL is not a landscape designation, no landscape analysis informed its designation and is not an indicator of landscape or visual, condition quality or value.

### The Council's MOL Evidence Base

- 4.4 In recent years the MOL has been assessed by the Council on a land parcel basis to determine how land parcels perform against MOL purposes at the local level. The most pertinent report relating to the Appeal site is the Council's '*Green Belt (GB), Metropolitan Open Land (MOL), Local Green Space and Other Open Land of Townscape Importance (OOLTI)* (Arup, August 2012). This is reported in section 3.3.1 of the LVAIS.
- 4.5 The MOL General Areas identified within the review were assessed against the four MOL criteria set out in the The London Plan 2021. These are:
- *“Criterion 1. It contributes to the physical structure of London by being clearly distinguishable from the built-up area.*
  - *Criterion 2. It includes open area facilities, especially for leisure, recreation, sport, the arts and cultural activities, which serve the whole, or significant parts, of London.*
  - *Criterion 3. It contains features or landscapes (historic, recreational, biodiversity) of either national or metropolitan value.*
  - *Criterion 4. It forms part of a strategic corridor, node or a link in the network of green infrastructure and meets one of the above criteria.”*

- 4.6 The Appeal Site sits within MOL General Area 8. As a whole this General Area is considered to have a Moderate-Strong performance against Criterion 1 and 2 and a Strong performance against criterion 3 and 4 in the Review. It is recommended for retention as MOL.
- 4.7 The contribution of the Appeal Site to the MOL and its purposes is described in section 6.0 of the LVAIS. In summary it is a very small part of General Area 8, one that is anomalous to the MOL, reading very much as a part of the settlement of Petersham and one enclosed and separated from the wider MOL.
- 4.8 As shown on Figure 6.1 in the LVAIS, beyond the walled enclosure, the Appeal Site is surrounded by private residential uses and gardens. To the Appeal Site's north further disassociation from the open MOL, and the meadows, occurs due to intervening paddocks with associated scattered trees. This is denoted as the 'transitional zone' on Fig 6.1.
- 4.9 It is also of note that the adjacent MOL is inclusive of homes, gardens, roads (including Petersham Road), their associated levels of lighting and noise.
- 4.10 Accepting that Appeal Site does lie in MOL, in relation to the 4 criterion (derived from the 2021 London Plan) required for land to be designated as MOL the following is the case (LVAIS – 6.6 final para) (my emphasis):
- “The Site and associated access track from which vehicles reach the car park from the A307 Petersham Road are clearly perceived as part of the settlement of Petersham and therefore does not meet Criteria 1.*
- The Site does not include any leisure, recreation, or sporting facilities, nor does it serve an arts or cultural purpose in planning terms. It therefore does not meet Criteria 2.*
- Historically, the Site has continuously formed part of the settlement of Petersham and therefore is not considered to be a landscape of national or metropolitan value. It does not contain any listed buildings or structures. As such it does not meet Criteria 3.*
- The built nature of the Site and its immediate surroundings, including the surfaced access track/PRoW create a clear association with the existing settlement on the edge of a landscape that forms part of the strategic green infrastructure network. The Site and its associated access therefore are not considered to meet Criteria 4.”*
- 4.11 In light of the above my view is that the Appeal Site performs very weakly (if at all) to the MOL designation.

## Openness

- 4.12 Whilst the meadows and parts of the wider MOL are open, the Appeal Site is enclosed by walls and hedges and occupied by glasshouse and other built form. In itself it is not an open environment. Adjacent to the Appeal Site others houses, built form, scattered trees and hedge lines all diminish both spatial aspects of openness and perception of the same.
- 4.13 Similarly, that perception of openness is already affected by noise (arising from both vehicular and air traffic) and lighting, both domestic, commercial and relating to highway infrastructure.

## Purposes

- 4.14 In relation to MOL purposes, the LVAIS reports this in its section 6.6 where it is shown that the Appeal Site is not at odds with purposes A, B, C and D and as with response to 4 criteria the Appeal Site performs very weakly in relation to the purposes. To further clarify:
- a) To check unrestricted sprawl of large built-up areas
- 4.15 The Appeal Site is an established and self-contained previously developed site in the urban area of Petersham.
- b) to prevent neighbouring towns merging into one another
- 4.16 The Appeal Site does not form part of a gap between neighbouring towns, as it sits within the existing settlement boundary of Petersham.
- c) to assist in safeguarding the countryside from encroachment
- 4.17 The Appeal Site is located within an established and self-contained property boundary.
- d) to preserve the setting and special character of historic towns: and
- 4.18 The Appeal Site is located within the Petersham Conservation Area and there are several listed buildings within the vicinity. A Heritage Summary has been prepared by Portico Heritage Impact Assessment, which confirms that the operation of Petersham Nurseries forms part of the character of the area. In addition, the Appeal Site has no impact on the setting of surrounding heritage assets as it operates entirely hidden behind high brick boundary walls.

## 5.0 Analysis of Assertions

### Introduction

- 5.1 In this section the technical note deals with the two matters that have arisen as detailed in para 2.4 of this note.
- 5.2 I deal with Landscape Character and Visual issues (Matter 1) first, followed by MOL matters (Matter 2).

### Matter 1: Landscape Character and Visual Effects

- 5.3 The Council allege that the proposed development will be detrimental to the character of the MOL. The Statement of Case refers to the '*semi-rural character*' of the area and makes repeated reference to the '*tranquil environment*' (paragraphs 2.13, 2.15, 2.23, 2.24 and 6.11). The Council also refer in their ONER to the context being a '*Dark Area*' (para 9.9).
- 5.4 In response it is evident that the Appellant has a detailed understanding of the Appeal Site and its context.
- 5.5 It has been through a robust baseline assessment, an LVAIS (Appendix 1.0) prepared in accordance with GLVIA 3<sup>rd</sup> edition. This has confirmed that the Appeal Site:
- a) It is on land that is abutting a settlement edge with domestic properties and their curtilages on all sides.
  - b) It is out with any statutory designated landscape or an associated setting.
  - c) Is not within or part of the setting of any other designated landscape such as Ancient Woodland or Historic Park and Garden.
- 5.6 Whilst it is understood that the Ham and Petersham Neighbourhood Plan refers to the "*pastoral tranquillity*" of the Petersham Meadows themselves (in fact the full quote is "*the pastoral tranquility of Petersham meadows with its dairy herd*") and the Local Plan refers to the "*relative tranquillity*" of the Borough's open spaces; there is no suggestion that the wider built-up areas of Petersham are also tranquil. I am not aware of any formal studies of tranquillity undertaken by the Council, and I have not seen any evidence to demonstrate the tranquillity of the area.
- 5.7 I note that the National Planning Practice Guidance relating to Noise confirms:

*“For an area to justify being protected for its tranquillity, it is likely to be relatively undisturbed by noise from human sources that undermine the intrinsic character of the area. It may, for example, provide a sense of peace and quiet or a positive soundscape where natural sounds such as birdsong or flowing water are more prominent than background noise, e.g. from transport.”*

- 5.8 The LVAIS shows that acoustic environment at Petersham Nurseries is subject to ambient noise from several human sources, including (but not limited to) aircraft associated with Heathrow Airport, traffic on the surrounding road network and commercial and residential uses in the surrounding area (including the lawful operation of the site itself). I refer to the evidence provided by Mr Vivian in his proof.
- 5.9 Additionally the noise report also confirms the above ambient contextual noise and the current base levels of noise associated with the Appeal Site.
- 5.10 It is clear that the area does not meet the definition of tranquillity as set out in the NPPG and, therefore, I consider the Council's assertion that the proposed extension of opening hours affects the tranquillity of the area is unfounded.
- 5.11 It is a similar narrative in relation to lighting. The Council refers to a 'Dark Area'. It is not a Dark Sky Reserve; it is not an area with any 'Dark Sky' status in policy terms. This is right as it is evident that the contextual environment is lit, with lightning associated with domestic, infrastructure and commercial uses. The Appeal Site is one of the latter uses and again it's lit environment is part of the local character. Its lighting is explained in detail in the Buro Happold report.
- 5.12 As concluded in the Buro Happold report the development will not have a material effect. Indeed, the report states that if the festoon lighting (that lies to the north of the northern boundary) can be replaced, there could be an enhancement to the lighting environment.
- 5.13 The Council also talks of urbanisation of the semi-rural environment due to the development. Again, their baseline does not acknowledge the adjacent settlement edges of Richmond and Petersham, does not acknowledge levels of noise and lighting. The Appeal Site and its context are part of this urban fringe. Whilst the Meadows and the river corridor are relatively darker and there may be a slightly higher sense of tranquillity they are still associated with this fringe, its ambient noise and apparent lighting. From the correctly assessed baseline the effects upon character are again not material in planning terms.



5.14 In order to enable effects upon the receiving landscape and visual receptors to be assessed the baseline assessment and analysis has understood the relative values of the Appeal Site and its context, and in accordance with its methodology has taken this forward into its statement of effects.

5.15 The Landscape and Visual Effects are described in the LVAIS assessment at the end of the design process. In relation to landscape character the LVAIS has taken a precautionary approach. The result is that at worst the effects are all negligible. All effects thus fall below the significant threshold and are not material for planning purposes.

5.16 The same outcome related to visual receptors. As listed at para 8.4 of the LVAIS:

*“Overall, the operation of the Site will not alter the visual envelope associated with the existing Site arrangements. The operation of the Site is considered to be in keeping with the wider character of Petersham and does not alter the relationship between the settlement and the surrounding open landscape to the north. The associated comings and goings of vehicles in the evenings and at night time where headlights would be required is considered to have a limited visual impact on the surrounding landscape due to the prevalence of vehicles along the A307 Petersham Road and the enclosed nature of the access road and parking area. The surrounding built form and field boundary vegetation limit views to a small geographic extent and therefore nighttime visual effects of operation of the site and the associated comings and goings of vehicular Africa are considered to be negligible.*

*The effects of the operation of the site are therefore not considered to change the character and amenity of the view from any of the identified publicly accessible receptors above. Visual effects as a result of the operation of the site on those receptors using transport corridors, PROW network, visitor attractions and open spaces are therefore considered to be negligible.”*

5.17 At worst effects are negligible thus fall below the significance threshold and are not material for planning purposes.

## **Matter 2: MOL**

### MOL Evidence Base

5.18 Whilst MOL is a not a landscape designation, whilst its designation was not informed by landscape assessment and it is not an indicator of landscape quality or visual condition quality or value, MOL objectives

and purposes are influenced by landscape and visual characteristics, as is the ability to ameliorate effects associated with MOL development. We will come back to this below.

## Assessment of Effect Upon the MOL and its purposes

- 5.19 The role of my note is not to apply weight, which is for Mr Belsten, but I do however assess alleged harm in relation to both Openness and Purposes.

### **Openness**

- 5.20 The Appeal Site has a high level of visual containment from the wider context, the wider MOL, as a result of the combination of boundary features, peripheral vegetation and adjacency, in part, to the built-up area. In combination the above factors reduce the harm to the Openness both physically and perceptually.
- 5.21 In relation to the effect upon openness it is common ground in both the Council's Enforcement Notice Report and the Statement of Common Ground that no spatial harm occurs in relation to the Openness of the MOL. The Council's assertion only relates to visual harm to openness.
- 5.22 Regarding visual harm, the Council maintain that the intensification of the use through the extension of opening hours will result in additional activity with increased 'comings and goings and associated disturbance' resulting in '*an intrusion of urban characteristics into the MOL, which does not preserve openness*'. In the Council's Statement of Case, Mr Appah expands upon this and suggests that the '*additional level of activity generated through extended hours into the evening and through the increased footprint of the café/restaurant has an urbanising effect on this otherwise tranquil semi-rural setting to the detriment of the character and openness of the MOL.*'
- 5.23 I fundamentally disagree with this assertion. Although not explicitly stated, it is assumed that the Council's reference to 'additional activity' relates to potential impacts in respect of (i) noise, (ii) traffic disturbance and (iii) lighting. This was confirmed in the CMC on 23rd April.

### Noise

- 5.24 The current acoustic environment of the MOL is subject to ambient noise from a number of sources, including (but not limited to) aircraft taking off and landing at Heathrow Airport, traffic on the surrounding road network and commercial and residential uses in the surrounding area. The commercial uses include the operation of Petersham Nurseries.

5.25 I defer to the conclusions set out in Mr Vivian's Proof of Evidence and I concur with his conclusion that:

*"8.6 The evening operation of the restaurant has no impact on average noise levels and therefore this use does not cause an adverse impact, by reason of noise."*

## Traffic

5.26 As with ambient noise, there are existing traffic movements in the local vicinity (most not associated with Petersham Nurseries), which form part of the character of this area of the MOL.

5.27 The main road which travels alongside the MOL is the A307 Petersham Road. Traffic surveys (including a count on the A307) are presented in Mr Bevis' proof. The surveys confirm that there are circa 17,000 two-way traffic movements on the A307. These traffic movements are in general unrelated to Petersham Nurseries, which generate only 0.4% of the traffic flows on the A307. The significant majority of traffic in the local area, and therefore through the MOL, is not generated by the Nurseries. These vehicle movements on the A307, and the associated traffic noise, form part of the character of the MOL.

5.28 When considering vehicle movements directly relating to traffic and parking demands generated by the evening operation of the Nurseries, Mr Bevis notes in his proof that the peak movements observed on Church Lane and River Lane took place between 22:00 – 23:00 and were equivalent to one vehicle movement every three minutes. Mr Bevis concludes that this level of movement is so low that it is unlikely to be noticeable by most people, and I defer to his view on this.

5.29 In light of the conclusions set out in Mr Bevis' Proof, I conclude that the proposed evening operation of the Nurseries would not adversely impact upon the MOL. Rather, the number of vehicle movements is so low that even at peak times Mr Bevis confirms it is unlikely to be noticeable, and the Council's assertion that the traffic associated with the Nurseries will result in the introduction of 'urban characteristic into the MOL' is clearly incorrect. This is even more the case when the vehicle movements associated with the Nurseries is considered in the context of the 17,000 daily vehicle movements which travel along the A307, alongside the MOL.

5.30 I am therefore satisfied that the traffic associated with the Nurseries would not adversely impact upon the openness or character of the MOL.

## Lighting

- 5.31 In respect of lighting, it is noted that the Council have alleged that there will be an adverse impact on the MOL from lighting. At the CMC, it was suggested that the Council consider the main harm to come from external lighting and car headlamps, rather than lighting internal to the site.
- 5.32 I have discussed the effect upon character in section 5.11-12 of this technical note. Taking this forward there are no material effects upon associated perceptual matters of openness in relation to lightning.

## **Purposes**

- 5.33 The Council refer to only purposes a), c) and d) in their OENR (Para 9.19) and do not further advance this in their Statement of Case. For fullness I run through response to all purposes below.

### a) To check unrestricted sprawl of large built-up areas

- 5.34 The Appeal Site is an established and self-contained previously developed site in the urban area of Petersham. The proposed development does not propose any additional built form and will not give rise to unrestricted sprawl of a large built-up area.

### b) to prevent neighbouring towns merging into one another

- 5.35 The Appeal Site does not form part of a gap between neighbouring towns, as it sits within the existing settlement boundary of Petersham. The proposed development will therefore not result in neighbouring towns merging into one another.

### c) to assist in safeguarding the countryside from encroachment

- 5.36 The Appeal Site is located within an established and self-contained property boundary. The proposed development will not introduce any additional built form and will not therefore materially encroach further into the countryside.

### d) to preserve the setting and special character of historic towns: and

- 5.37 The Appeal Site is located within the Petersham Conservation Area and there are several listed buildings within the vicinity. A Heritage Summary has been prepared by Portico Heritage Impact Assessment, which confirms that the operation of Petersham Nurseries forms part of the character of the area, and the extension of the opening hours will not harm the significance, character, or appearance of this area.

5.38 In addition, the Appeal Site has no impact on the setting of surrounding heritage assets as it operates entirely hidden behind high brick boundary walls. The proposed development will therefore not harm the setting and special character of a historic town.

e) to assist in urban regeneration, by encouraging the recycling of derelict and other land.

5.39 The proposed development will enhance the existing operation on a previously developed site, assisting in the regeneration of urban land.

5.40 I therefore conclude that the proposed development accords with the five purposes of the MOL, contrary to the Council's assertion in relation to a) c and d).

### **Summary of MOL Impact**

5.41 In summary, I am satisfied that the proposed development will not result in any adverse impacts on the character or openness of the MOL in terms of noise, traffic, or lighting impacts or in terms of visual impact.

5.42 It has already been agreed that there is no spatial harm caused to the MOL. The openness of the MOL (both spatially and visually (subject to monitoring results)) will therefore be preserved.

## 6.0 Summary and Conclusions

- 6.1 The Appeal Site is one that is well related to the settlement edge and one enclosed and separated from the wider MOL.
- 6.2 Its contextual character is urban fringe being influenced by adjacent built form and highway infrastructure, associated lighting and the comings and goings of airplanes, vehicles on the road network and those on foot and cycle paths. It is not a dark area. It is not tranquil.
- 6.3 Whilst the Appeal Site is in an area of MOL, that in itself performs Moderate to Strong re Criterion 1 and 2 and Strong against Criterion 3 and 4, the same is not the case for the Appeal Site. This does not meet any of the criteria and only performs weakly, if at all, in relation to the purpose of the MOL.
- 6.4 In this context the 'development' associated with the Appeal is the extension of evening hours/operations to allow up to three evenings per week (Wednesday to Saturday) and the extending seating area to facilitate a supper club.
- 6.5 Effects have been assessed through detailed assessment of the Landscape and Visual Baseline in accordance with industry standards.
- 6.6 The outcome is that there are no material effects on character or visual receptors, no material effects on the MOL, the Openness nor the purposes of the MOL.
- 6.7 The above outcome is to be taken forward into the planning balance, an exercise undertaken by My Belsten.



**APPENDIX 1.0**

**Landscape and Visual Appraisal with Impact Statement**