

Application reference: 10/2914/VRC
HAM, PETERSHAM, RICHMOND RIVERSIDE WARD

| Date application received | Date made valid | Target report date | 8 Week date |
|---------------------------|-----------------|--------------------|-------------|
| 07.10.2010 | 07.10.2010 | 02.12.2010 | 02.12.2010 |

Site:

Petersham Nursery, Petersham Road, Petersham, Richmond

Proposal:

Variation of condition NS04 of consent 08/4312/FUL to include opening between 1900-2300 hours Thursday, Friday and Saturday each week.

Status: Pending Consideration (If status = HOLD please check that all is OK before you proceed any further with this application)

APPLICANT NAME

Petersham Nursery Limited

AGENT NAME

Direct Planning Limited
95-97 Riverbank House
High Street
Orpington
Kent
BR5 3NH

DC Site Notice: printed on 15.10.2010 and posted on 22.10.2010 and due to expire on 12.11.2010

Consultations:

Internal/External:

Consultee

LBRUT Transport

Expiry Date

01.11.2010

Neighbours:

Bute Cottage Meadow, Petersham Road, Petersham, Richmond, TW10 7AD, - 14.10.2010
Units 6 To 7, Forge Lane, Richmond, TW10 7BF, - 14.10.2010
147 Petersham Road, Petersham, Richmond, TW10 7AH, - 14.10.2010
Corner Cottage, 147 Petersham Road, Petersham, Richmond, TW10 7AH, - 14.10.2010
Unit 5, Petersham Farm, Petersham Road, Petersham, Richmond, TW10 7AA, - 14.10.2010
Unit 4, Petersham Farm, Petersham Road, Petersham, Richmond, TW10 7AA, - 14.10.2010
Unit 3, Petersham Farm, Petersham Road, Petersham, Richmond, TW10 7AA, - 14.10.2010
Unit 2, Petersham Farm, Petersham Road, Petersham, Richmond, TW10 7AA, - 14.10.2010
Unit 1, Petersham Farm, Petersham Road, Petersham, Richmond, TW10 7AA, - 14.10.2010
3 Forge Lane, Richmond, TW10 7BF, - 14.10.2010
4 Forge Lane, Richmond, TW10 7BF, - 14.10.2010
5 Forge Lane, Richmond, TW10 7BF, - 14.10.2010
2 Forge Lane, Richmond, TW10 7BF, - 14.10.2010
1 Forge Lane, Richmond, TW10 7BF, - 14.10.2010
The Glass House, River Lane, Petersham, TW10 7AG, - 14.10.2010
15 Tree Close, Petersham, TW10 7BA, - 14.10.2010
Mallory House, River Lane, Petersham, TW10 7AG, - 14.10.2010
The Dysart Arms, Petersham Road, Petersham, Richmond, TW10 7AA, - 14.10.2010
The Old Cottage, 198 Petersham Road, Petersham, Richmond, TW10 7AD, - 14.10.2010
Ham House, Petersham Road, Petersham, Richmond, TW10 7AH, - 14.10.2010
1 River Lane, Petersham, Richmond, TW10 7AG - 14.10.2010
Fox & Duck, Petersham Road, Petersham, Richmond, TW10 7AD, - 14.10.2010
Heads Flat, The German School, Petersham Road, Petersham, Richmond, TW10 7AH, - 14.10.2010
Magnolia House, 143A Petersham Road, Petersham, Richmond, TW10 7AA, - 14.10.2010
The House, River Lane, Petersham, TW10 7AG, - 14.10.2010
Rutland Cottage, 1 River Lane, Petersham, Richmond, TW10 7AG, - 14.10.2010
Bute Cottage, 7 Meadow Close, Petersham, TW10 7AJ, - 14.10.2010

121 Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
135 Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
Flat 1,Petersham Lodge,River Lane,Petersham,TW10 7AG, - 14.10.2010
St Peters Church,Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
135A Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
Flat 5,145 Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
Flat 4,145 Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
Flat 3,145 Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
Flat 2,145 Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
Flat 1,145 Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
North Lodge,155A Petersham Road,Petersham,Richmond,TW10 7AH, - 14.10.2010
3 Tree Close,Petersham,TW10 7BA, - 14.10.2010
1 Tree Close,Petersham,TW10 7BA, - 14.10.2010
2 Rutland Drive,Petersham,TW10 7AQ, - 14.10.2010
The Old Stables,River Lane,Petersham,TW10 7AG, - 14.10.2010
The Manor House,River Lane,Petersham,TW10 7AG, - 14.10.2010
Glen Cottage,River Lane,Petersham,TW10 7AG, - 14.10.2010
Courtyards,River Lane,Petersham,TW10 7AG, - 14.10.2010
Manor Farm Yard,151 Petersham Road,Petersham,Richmond,TW10 7AH, - 14.10.2010
202 Petersham Road,Petersham,Richmond,TW10 7AD, - 14.10.2010
Rosedale,200 Petersham Road,Petersham,Richmond,TW10 7AD, - 14.10.2010
190 Petersham Road,Petersham,Richmond,TW10 7AD, - 14.10.2010
188 Petersham Road,Petersham,Richmond,TW10 7AD, - 14.10.2010
Montrose House,186 Petersham Road,Petersham,Richmond,TW10 7AD, - 14.10.2010
184 Petersham Road,Petersham,Richmond,TW10 7AD, - 14.10.2010
South Lodge,155 Petersham Road,Petersham,Richmond,TW10 7AH, - 14.10.2010
141 - 143 Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
131 Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
6 Meadow Close,Petersham,TW10 7AJ, - 14.10.2010
17 Cedar Heights,Petersham,TW10 7AE, - 14.10.2010
15 Cedar Heights,Petersham,TW10 7AE, - 14.10.2010
The Willows,13 Cedar Heights,Petersham,TW10 7AE, - 14.10.2010
11 Cedar Heights,Petersham,TW10 7AE, - 14.10.2010
9 Cedar Heights,Petersham,TW10 7AE, - 14.10.2010
6 Cedar Heights,Petersham,TW10 7AE, - 14.10.2010
4 Cedar Heights,Petersham,TW10 7AE, - 14.10.2010
2 Cedar Heights,Petersham,TW10 7AE, - 14.10.2010
8 Ashfield Close,Petersham,TW10 7AF, - 14.10.2010
6 Ashfield Close,Petersham,TW10 7AF, - 14.10.2010
4 Ashfield Close,Petersham,TW10 7AF, - 14.10.2010
2 Ashfield Close,Petersham,TW10 7AF, - 14.10.2010
2 Star Farm Cottages,Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
1 Star Farm Cottages,Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
Fox And Duck PH,194 Petersham Road,Petersham,Richmond,TW10 7AD, - 14.10.2010
Myrtle Cottage,Petersham Road,Petersham,Richmond,TW10 7AD, - 14.10.2010
Garden Cottage,147 Petersham Road,Petersham,Richmond,TW10 7AH, - 14.10.2010
12 Tree Close,Petersham,TW10 7BA, - 14.10.2010
11 Tree Close,Petersham,TW10 7BA, - 14.10.2010
10 Tree Close,Petersham,TW10 7BA, - 14.10.2010
9 Tree Close,Petersham,TW10 7BA, - 14.10.2010
8 Tree Close,Petersham,TW10 7BA, - 14.10.2010
7 Tree Close,Petersham,TW10 7BA, - 14.10.2010
6 Tree Close,Petersham,TW10 7BA, - 14.10.2010
5 Tree Close,Petersham,TW10 7BA, - 14.10.2010
4 Tree Close,Petersham,TW10 7BA, - 14.10.2010
2 Tree Close,Petersham,TW10 7BA, - 14.10.2010
1 Rutland Drive,Petersham,Richmond,TW10 7AQ, - 14.10.2010
The Navigators House,River Lane,Petersham,TW10 7AG, - 14.10.2010
Rosebank,River Lane,Petersham,TW10 7AG, - 14.10.2010
Petersham Lodge,River Lane,Petersham,TW10 7AG, - 14.10.2010
Drum House,River Lane,Petersham,TW10 7AG, - 14.10.2010
182 Petersham Road,Petersham,Richmond,TW10 7AD, - 14.10.2010
Manor Farm House,149 Petersham Road,Petersham,Richmond,TW10 7AH, - 14.10.2010
139 Petersham Road,Petersham,Richmond,TW10 7AB, - 14.10.2010
137 Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
133 Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010
129 Petersham Road,Petersham,Richmond,TW10 7AA, - 14.10.2010

7 Petersham Road, Petersham, Richmond, TW10 7AA, - 14.10.2010
 5 Meadow Close, Petersham, TW10 7AJ, - 14.10.2010
 4 Meadow Close, Petersham, TW10 7AJ, - 14.10.2010
 3 Meadow Close, Petersham, TW10 7AJ, - 14.10.2010
 2 Meadow Close, Petersham, TW10 7AJ, - 14.10.2010
 1 Meadow Close, Petersham, TW10 7AJ, - 14.10.2010
 18 Cedar Heights, Petersham, TW10 7AE, - 14.10.2010
 16 Cedar Heights, Petersham, TW10 7AE, - 14.10.2010
 14 Cedar Heights, Petersham, TW10 7AE, - 14.10.2010
 12 Cedar Heights, Petersham, TW10 7AE, - 14.10.2010
 10 Cedar Heights, Petersham, TW10 7AE, - 14.10.2010
 8 Cedar Heights, Petersham, TW10 7AE, - 14.10.2010
 7 Cedar Heights, Petersham, TW10 7AE, - 14.10.2010
 5 Cedar Heights, Petersham, TW10 7AE, - 14.10.2010
 3 Cedar Heights, Petersham, TW10 7AE, - 14.10.2010
 7 Ashfield Close, Petersham, TW10 7AF, - 14.10.2010
 5 Ashfield Close, Petersham, TW10 7AF, - 14.10.2010
 3 Ashfield Close, Petersham, TW10 7AF, - 14.10.2010
 1 Ashfield Close, Petersham, TW10 7AF, - 14.10.2010

History: Development Management, Appeals, Building Control, Enforcements:

Development Management Application:00/T0726
 Status: GTD
 Date:10/05/2000 Fir - Fell

Development Management Application:00/T0727
 Status: GTD
 Date:10/05/2000 Fir - Fell

Development Management Application:00/T0728
 Status: GTD
 Date:10/05/2000 Conifer - Reduce Height

Development Management Application:00/T0729
 Status: GTD
 Date:10/05/2000 Conifer - Reduce Height

Development Management Application:03/2480/CAC
 Status: WNA
 Date:16/09/2003 Existing Timber Shed To Be Demolished.

Development Management Application:03/2452
 Status: GTD
 Date:27/10/2003 Demolition Of Existing Changing And Storage Facility, construction Of New Facilities Building To Provide Accessible Disabled Wc For Public Use, Staff Changing Area, Toilet And Kitchen. Erection Of Adjacent Lean-to Roof To Provide Covered Sto

Development Management Application:97/0569
 Status: REF
 Date:12/08/1997 Erection Of A Single Residential Dwelling On Two Levels And A Two Storey Gatehouse

Development Management Application:97/0577
 Status: GTD
 Date:12/08/1997 Demolition Of Glasshouses.

| | |
|---|---|
| <u>Development Management</u> Status: GTD Date:22/06/1998 | Application:98/0525 Use As A Garden Centre Comprising Open Sales And Display Of Plants And Garden Centre Products, Covered Sales And Display Of Garden Centre Products; Ancillary Storage And Equipment Plus Sales Office, Plant Growing Areas And Public Entrance C |
| <u>Development Management</u> Status: WTD Date:27/04/1998 | Application:98/0551 Erection Of One Dwelling, Detached Garaging And Landscaping. |
| <u>Development Management</u> Status: GTD Date:08/09/2004 | Application:04/2167/FUL Retention of single storey building of green oak structure clad in cedar replacing similar building in disrepair. |
| <u>Development Management</u> Status: WDN Date:13/10/2006 | Application:06/1916/ES191 Part use of land for restaurant use and part car park use on existing garden centre site. |
| <u>Development Management</u> Status: WDN Date:19/02/2007 | Application:06/3891/ES191 Retainment of Nursery / Garden Centre and Cafe / Restaurant ancillary. |
| <u>Development Management</u> Status: GTD Date:23/02/2007 | Application:06/4053/FUL Revised design for facilities building. (Approved Ref 03/2452) |
| <u>Development Management</u> Status: GTD Date:24/04/2007 | Application:07/0307/LBC Erection of single storey building within nursery for staff use |
| <u>Development Management</u> Status: GTD Date:11/12/2007 | Application:07/1235/FUL Proposed application for continued mixed use as garden centre (class A1) and Cafe/restaurant (classA3). |
| <u>Development Management</u> Status: GTD Date:29/07/2009 | Application:08/4312/FUL Continuation of Planning Permission granted 11 December 2007 (07/1235/FUL), to allow permanent mixed use as garden centre (Class A1) and café/restaurant (Class A3). |
| <u>Development Management</u> Status: REC Date: | Application:09/2294/VRC Continuation of planning permission granted 11 December 2007 (07/1235/FUL), to allow permanent mixed use as garden centre (class 1) and cage/restaurant (class A3). |
| <u>Development Management</u> Status: PCO Date: | Application:08/4312/DD01 Details pursuant to conditions U27545 (Extract System), U27541 NS03 (Servicing Deliveries) and U27540 NS02 (Cycle Parking) of planning permission 08/4312/FUL. |

Development Management
Status: PCO
Date:

Application: 10/2914/VRC

Variation of condition NS04 of consent 08/4312/FUL to include opening between 1900-2300 hours Thursday, Friday and Saturday each week.

Appeal
Validation Date:
03.07.1998
Reference:
98/0551

Development Appeal

Appeal
Validation Date:
11.06.2008
Reference:
08/0063/AP/CON

Proposed application for continued mixed use as garden centre (class A1) and Cafe/restaurant (class A3).

Building Control
Deposit Date:
08.12.2003
Reference:
03/2409/BN

Installation of septic tank and associated pipework and drainage for new staff building.

Building Control
Deposit Date:
09.12.2009
Reference:
09/2068/FP

Single storey detached facilities building

Enforcement
Opened Date:
09.11.2005
Reference:
05/0556/EN/UCU

Enforcement Enquiry

Enforcement
Opened Date:
04.03.2009
Reference:
09/0098/EN/ADV

Enforcement Enquiry

Enforcement
Opened Date:
21.05.2010
Reference:
10/0248/EN/UBW

Enforcement Enquiry

Enforcement
Opened Date:
23.06.2010
Reference:
10/0313/EN/NAP

Enforcement Enquiry

Constraints:

10/2914/VRC

PETERSHAM NURSERIES
PETERSHAM ROAD
RICHMOND

HAM, PETERSHAM & RICHMOND
RIVERSIDE WARD
CONTACT NAME: Jim Thomson

Proposal: Variation of condition U27544 NS04 of planning permission granted on 29 July 2009 (08/4312/FUL) for the continuation of planning permission granted 11 December 2007 (07/1235/FUL), to allow permanent mixed use as garden centre (Class A1) and café/restaurant (Class A3); namely, to include opening between 19.00 to 23.00 hours on Thursday, Friday and Saturday every week..

Applicant: Direct Planning Ltd on behalf of Petersham Nurseries

Application received: 7 October 2010

Main development plan policies:

Unitary Development Plan - First Review (March 2005) policies: STG 2, IMP2, ENV1, BLT2, BLT16, TRN2, TRN4, CCE18 and TC9;

Local Development Framework Core Strategy (April 2009) policies: CP1, CP5, CP7 and CP10;

Development Management DPD (post EiP Hearing) policies: DM OS 2, DM HD 1, DM TP 2, DM TC 5 and DM DC 5;

SUMMARY OF APPLICATION:

This proposal seeks to extend the hours of use of the restaurant element of Petersham Nurseries, to allow opening between 19.00 and 23.00 hours on Thursdays, Fridays and Saturdays. At present the restaurant use is permitted to operate only within the hours that the garden centre is in use, although it currently opens in the evening on an occasional basis. By extending the hours of use into the evening on three days per week, the proposal will expand an inappropriate use within Metropolitan Open Land to the detriment of its character. Although the Green Travel Plan that is in operation at Petersham Nurseries appears to be mitigating the impact of the existing mixed garden centre and café/restaurant use during the currently permitted hours and officers are satisfied that no nuisance arises from the current use from within the site itself, it is considered that the proposed extension of hours, will result in an unacceptably harmful impact on the amenities of neighbouring occupiers by reason of noise nuisance and disturbance from increased traffic generation and customers leaving the premises late at night.

RECOMMENDATION: REFUSE

Site, Location and History:

Petersham Nurseries is located on the northern side of Petersham Road, to the rear of no.143. Vehicular access is from Church Lane, which runs between no.141 Petersham Road and St Peters Church. A pedestrian access is via a pathway which runs from River Lane.

The site is located within the Petersham Conservation Area and is located within Metropolitan Open Land (MOL). The surrounding area is open in nature, with a semi-rural character. An open area of meadow and a hardstanding adjoin the site to the

north. The Nursery has a licence agreement with the Council, which owns the adjacent land, to use it as a turning area for service vehicles.

A retrospective planning application for a mixed use as a garden centre (Class A1) and café/restaurant (Class A3) was granted temporary permission on 29 November 2007 for a period of one year by the Planning Committee. The reason for the temporary consent was to enable the Council to monitor and review the use after it had been in operation, to see if its impact had been successfully mitigated, particularly by the implementation of a Green Travel Plan (07/4312/FUL).

Planning permission was subsequently granted on 23 July 2009 for the continuation of the mixed garden centre and café/restaurant use on a permanent basis. Condition U27544 NS04 restricted the hours of use of the café/restaurant element to between 10.00 and 16.30 on Tuesday to Saturday, 11.00 and 16:30 on Sundays and not at all on Mondays (08/4312/FUL).

The current application seeks to vary this condition by allowing the café/restaurant element to operate from 19.00 to 23.00 on Thursday, Friday and Saturday every week.

Public and other representations:

A total of 36 representations were received to the initial consultation exercise on this proposal. 26 letters, including one from the Ham and Petersham Association, were received objecting or raising concerns on the following issues:

- Impact on the character of the conservation area;
- Impact on Metropolitan Open Land;
- Increased traffic generation;
- Inadequacy of vehicular access;
- Highway safety;
- Increased pressure for parking;
- Noise nuisance and disturbance from customers, music, bottle disposal and general increase in activity;
- Impact on nature conservation and ecology from noise and light pollution;
- Increased commercialization of primarily quiet residential area;
- Increase in smells.

8 letters have been received in support of the proposal, raising the following points:

- The extension in hours is modest;
- The number of customers and Petersham Nurseries promotion of sustainable travel will not give rise to large numbers of cars;
- The operator is a successful local business and employer;
- The clientele are more mature, the restaurant only takes pre-bookings and noise is not likely to arise;
- The use will make a positive contribution to the range of facilities available in the area.

There are two representations that are neither for nor against the proposal. One requests more information about anticipated traffic generation and the other suggests that the proposal ought to be carried out for a trial period in order for the effects to be fully assessed.

The applicants have responded to the objections raised in two letters, one from Mr Bogleione dated 19 November 2010 and one from Mrs Bogleione dated 29 June 2011,

the main points of which are expanded in more detail in the main body of the report and summarised below:

- Customer surveys have been undertaken of evening events which reveal an average demand for parking spaces of 6.5, with 9% of customers travelling by car;
- Parking in River Lane is unregulated and Petersham Nurseries is not to blame for the traffic and parking in the area. Staff and customers are discouraged from parking in River Lane;
- No music has been played at evening events and would not be in future;
- Customers are firmly told to leave promptly and quietly by 11pm;
- The clientele and the nature of the restaurant do not give rise to noise nuisance
- Delivery times are regulated by condition attached to the planning permission;
- Part of the attraction of the venue is that it is in harmony with and respects its surroundings.

Following on from these responses, a reconsultation exercise was undertaken and 10 letters of further letters of objection were received, on the following grounds:

- In practice, late night disturbance from customers leaving the restaurant, slamming car doors and traffic noise and headlights will occur long after 23.00 when the restaurant closes, and even later when staff leave;
- Noise and disturbance arises from taxis as well as private cars;
- Residents do experience noise and disturbance from the 'supper club' events and have complained to staff;
- Car traffic is likely to be higher when weather is bad and public transport is less frequent late at night;
- Later hours of operation will lead to greater need for additional servicing.

Professional Comments:

The main issues raised in this application are the impact on the character of the Metropolitan Open Land (MOL); impact on the character of the Petersham Conservation Area; impact on residential amenity; traffic and car parking associated with the proposal; and other matters raised by third party representations.

Subsequent to the original permissions for the existing mixed use of the site having been granted, the Councils Development Management Plan has emerged, and is due to supersede the Unitary Development Plan policies. The Development Management DPD underwent an Examination in Public in May 2011. A number of changes were proposed just before and during the Examination. Minor changes were introduced to policies relevant to the current application, though none that would materially effect its consideration. The Examiner indicated at the Examination that he is not intending to propose any further changes in his report. The Council is therefore using the submitted version of the DMDPD together with the proposed changes for development control purposes until the final version is adopted in November 2011 and maintains that this now has considerable weight in any decision making.

Impact upon Metropolitan Open Land:

Policy ENV1 of the UDP First Review states that the Council will protect and conserve Metropolitan Open Land (MOL) by keeping it in predominantly open use. There will be a presumption against inappropriate development. Changes of use of existing buildings for purposes not normally acceptable in MOL will be resisted. In

considering development on sites adjoining MOL the Council will take into account any possible visual impact on the character of the open land.

Policy STG2 is also relevant and states that the Council will seek to protect and enhance the open and the built environments, safeguard metropolitan open land and ensure that developments enhance their surroundings and do not impair important views or skylines.

Core Strategy policy CP10 states metropolitan open land will be safeguarded and improved for biodiversity, sport and recreation and heritage, and for visual reasons.

Policy DM OS 2 of the DMDPD states that:

"Metropolitan Open Land will be protected and retained in predominantly open use. Appropriate uses include public and private open spaces and playing fields, open recreation and sport, biodiversity including rivers and bodies of water and open community uses including allotments and cemeteries.

It will be recognised that there may be exceptional cases where appropriate development such as small scale structures is acceptable, but only if it:

- 1. does not harm the character and openness of the MOL; and*
- 2. is linked to the functional use of the MOL or supports outdoor open space uses; or*
- 3. is for essential utility infrastructure and facilities, for which it needs to be demonstrated that no alternative locations are available and that they do not have any adverse impacts on the character and openness of the MOL."*

The site is located within the MOL, which generally has a presumption against any inappropriate development and the existing mixed A1/A3 use is not identified as an appropriate use. The policies do, however, recognise that there may be exceptional cases where it will be appropriate to allow modest development. Paragraph 4.1.3 of the DMDPD states that:

"new uses will only be considered if they are by their nature open or depend upon open uses for their enjoyment and if they conserve and enhance the open nature, character and biodiversity of MOL."

The lawful use of the site as a garden centre was a material planning consideration when assessing the original change of use applications, which involved part of the Class A1 floorspace going to a Class A3 use rather than totally new Class A3 floorspace.

A small scale or low-key café use ancillary to a garden centre use is relatively common, even for such uses within MOL, but it is recognised that this particular café/restaurant use (A3 use) is a destination in its own right, with a national and international reputation. In determining the previous applications, the Committee considered that the stringent conditions that had been recommended were sufficient to mitigate the impact of the proposal, the restrictions on the hours of operation being a key component of that consideration. It is considered that an extension to the hours of operation for the Class A3 restaurant element of the permitted mixed use would cause demonstrable harm to the character of the Metropolitan Open Land, by reason of it being an intensification of an inappropriate use, and the proposal is therefore contrary to the Council's policies in respect of MOL.

Impact on Character and Appearance of Conservation Area:

Policy BLT2 of the UDP First Review states that the Council will pay special attention to the preservation or enhancement of the character or appearance of the conservation areas by retaining buildings, or parts of buildings, and trees and other features which make a positive contribution to the character or appearance of the area; and allowing development which would contribute positively to the character or appearance of the conservation area or leave it unharmed.

Core Strategy policy CP7 states that existing buildings and areas of high quality and historic interest will be protected from inappropriate development and enhanced sensitively.

Policy DM HD 1 of the DMDPD states that new development or other proposals should conserve and enhance the character and appearance of the area.

The Petersham Conservation Area (CA6) is a distinctive, well defined historic settlement. There are important views between the village and the surrounding green space of riverside meadows, parkland and Richmond Hill, a setting which contributes to its exceptional rural character. There is no specific reference to Petersham Nurseries in the Petersham Conservation Area Statement; however there is reference to River Lane that leads to the riverbank, and the surviving historic alleyways further contribute to the distinctive village character of this area, one of which that leads to the entrance of Petersham Nurseries.

The amount of building on the Petersham Nurseries site has not altered significantly since the approval of the Certificate of Lawful Use in 1998. As the lawful use of the site is one of retail facilities and a café/restaurant, traffic generation and parking is a feature at the site, from customers, together with deliveries of plants, supplies and equipment. Furthermore, given the nature of the retail function of a garden centre often the products purchased at the site can be of bulky and/or awkward proportions, and therefore necessitate the use of a vehicle to transport them. It is considered that, up to now, the mixed use of the site has at least preserved the character and appearance of the conservation area, in so far as there has been no overall increase of area or built form on the garden centre site. The other impacts upon the conservation area are linked to the additional vehicular movements and car parking on site. In considering the previous application to retain the mixed use on a permanent basis, the Committee considered that the mitigation measures set out in the Green Travel Plan had been successful. The issue with the current proposal to extend the hours of use is whether any demonstrable harm would be created by additional vehicular movements and car parking in the area and if there would be any undue visual impact on the character and appearance of this part of the Petersham Road Conservation Area. In officers' opinion, this is less likely to be a sustainable objection, the visual impact being difficult to identify.

Impact on Residential Amenity:

The nearest residential properties to the kitchen serving the restaurant are no.143 Petersham Road, Magnolia House and Rose Bank Cottage. These properties are approximately 40m, 45m and 50m from the kitchen respectively. Nos.139 and 141 Petersham Road are two houses which flank the Church Lane junction to Petersham Road, which are also located over 60m from the site.

Given that the proposal seeks to extend the operating hours of the restaurant element of the current operation, regard needs to be given to the amenities of neighbouring residents.

UDP policy IMP 2 states that the Council will seek to concentrate uses which serve the local community or attract visitors in areas of mixed use. Outside these areas, mixed use schemes will be encouraged subject to non-residential uses being limited in scale to that compatible with local character, and not giving rise to unacceptable levels of traffic or disturbance to local residents.

UDP policy CCE18 states that new or extended entertainment facilities to serve local communities should normally be located in mixed use areas and out-of-centre proposals will not normally be acceptable. All proposals will be considered in relation to the following factors: the effect on residential amenity and character of the area; accessibility to public transport; provision of car parking and effect on traffic movement, highway safety and amenity. Where appropriate, conditions will normally be imposed on any planning permission granted.

UDP policy TC9 states that when considering planning applications for services such as restaurants the Council will need to be satisfied that the use will not have an adverse impact on the environment and amenity of residents. UDP policy BLT16 also specifies that when considering proposals for development the Council will seek to protect adjoining properties from unreasonable loss of privacy, pollution, visual intrusion, noise and disturbance.

Policy DM TC 5 of the DMDPD states that uses that support the evening economy, such as restaurants, will be supported if there is not an adverse effect on the amenity of nearby uses, and surrounding residential areas, including a cumulative adverse effect. The policy suggests that impacts from the building, its curtilage (including gardens) and the surrounding environs should not negatively affect the amenity of nearby areas, particularly residential areas. It identifies negative impacts as including on street parking, noise and disturbance from equipment, music or customers smoking or drinking outside or leaving the premises.

Whilst the introduction of a Class A3 use in this out-of-centre location would not normally be acceptable, the Committee has previously accepted that the circumstances of the case, and the conditions suggested to mitigate the impact of the proposal, were sufficient to overcome the objections to the scheme.

In the case of the current application, a significant test would be if the proposed use would have a negative effect on the environment and amenity of residents. This assessment would need to be made with specific regard to following considerations:

Noise, Smells and Fumes (from within the site)

Whilst some of the objections to the current submission have referred to problems with fumes and smells, there appear to have been no formal complaints to the Council. In granting the previous permission for the use, the Committee accepted the need for a condition requiring details of a ventilation and extraction system. Details of a system have been submitted to discharge this condition, but whilst not yet formally approved, the Environmental Health Team has raised no objection to the proposal. The distance of the restaurant building from neighbouring houses means that it is unlikely that noise from within the premises would present a problem. The applicant, responding to a number of objectors' complaints about music, has categorically stated that no music will be played at the premises. This can be secured by condition. Noise from customers arriving at and departing from the premises is more difficult to assess, although there is anecdotal evidence from neighbouring occupiers that noise and disturbance does currently occur when the current evening events take place. The applicants claim that the effects of this impact are exaggerated and stress that every effort is made by staff, who advise customers of the need to depart

the premises promptly and quietly by 23.00. Reminders to customers are also included on the menu.

Noise and disturbance outside the site

It is acknowledged that nuisance and disturbance commonly associated with Class A3 uses relates to traffic and parking, vehicular and pedestrian movements and noise at anti-social times (generally in the evening and at night-time). In addition, general noise and disturbance can occur at these times when groups of customers leave the premises and staff clear up and leave. This should not have been the case here as the current permitted hours of operation do not extend into the evening.

Nevertheless, the nuisance and disturbance created by additional traffic, car parking and customer noise associated with the restaurant use is understandably a major concern for local residents, and is a significant issue upon which this application should be assessed. A number of objectors have referred to problems of traffic generation, parking issues and customer noise in association with current evening activity at the restaurant, which are strongly refuted by the applicants. Matters relating to traffic and car parking are considered further in the Traffic and Car Parking section of this report, below. Notwithstanding the assertions of the applicants that objectors' claims are exaggerated, it is considered that the level of anecdotal evidence of nuisance arising from the existing occasional ' Supper Club' evening events at the premises is indicative that there is significant potential for further loss of amenity to neighbouring residential occupiers if evening opening was permitted on an even wider basis. This could result from increased numbers of vehicle movements, including taxis, passing down the currently very quiet lanes, car doors slamming, engine noise and noise from customers and staff leaving the premises late at night, together with noise and disturbance from clearing up (including collection and disposal of bottles. In officers' view, noise nuisance and general disturbance would be sufficient to justify the refusal of permission

Hours of operation

The Committee previously considered that any disturbance to residential amenity could be mitigated through the use of a condition controlling hours of operation, agreeing to the suggested hours of 1000 – 1630 Tuesday to Saturday and from 11.00 – 16.30 on Sundays and no opening on Mondays. Officers take the view that the current proposal to extend the hours of use of the restaurant would be unacceptable for the reasons stated above.

Refuse provision and servicing

Currently the refuse is collected from the turning circle at the north of the premises. This provision is considered adequate and is proposed to continue. The applicants have provided letters from two of their main suppliers, advising that they do not anticipate a need for additional deliveries, nor any change in the size of vehicle or delivery times from those existing at present.

Traffic and Car Parking:

UDP policy TRN2 states the Council will only permit changes of use where it can be demonstrated that the transport infrastructure can accommodate it, or be adapted to do so, without creating congestion and hazards on the road network. Transport Assessments will be required to support development proposals where there are significant transport issues to be addressed. New development should meet specific criterion as stated in the UDP. Policy TRN 4 sets out car and bicycle parking standards.

Core Strategy policies CP1, CP5 and CP7 are also relevant, which relate to promoting sustainable development and travel and aim at locating mixed use

developments in town centres, near to public transport to reduce the need to travel by car and also encourage the development of Green Travel Plans (GTPs).

Appendix 1 sets out the background traffic and car parking issues relating to the previous application for the permanent mixed use. The original decision to grant a temporary consent for a year was to provide the opportunity to establish whether car trip rates could be reduced sufficiently by the GTP to merit its approval permanently and in considering the last application the Committee was satisfied that the objectives of the GTP were being met.

Petersham Nurseries subsequently instructed MVA Consultancy to produce a 'Final Travel Plan' (October 2010), in order to discharge the Travel Plan condition attached to the previous permission. Whilst of interest as a demonstration of the applicants' intentions to encourage sustainable modes of transport in connection with the operation of their business, this document mainly deals with the use as currently permitted rather than as proposed, although the same principles will apply. The Transport Officer, in her assessment of the Travel Plan, points out that its surveys were not carried out at the same time of year as the original ones and that a further survey should be carried out in September, to more accurately compare like with like. Further, the Travel Plan does not document the use of the parking spaces at Russell School.

Petersham Nurseries is located in a sensitive location. It is situated to the rear of 143 Petersham Road. Petersham Road is a London Distributor in the Council's Road Hierarchy. The purpose of this road is to provide links to strategic routes and to attract and serve traffic crossing the Borough. It should also provide access to strategic centres for short and medium distance traffic, provide attractive routes for bus services and act as a local route for heavy goods vehicles to attract through commercial traffic away from borough distributor and access roads.

The site can only be accessed by vehicles via Church Lane, which is a small and narrow road leading to the entrance of Petersham Nurseries and the turning circle. Church Lane (between Petersham Road and where it turns left toward the nursery) is a Local Access Road in the Council's Road Hierarchy. The purpose of this road is to provide for local traffic and to provide access to land and buildings in the immediate vicinity. Pedestrian access is also achieved via an alleyway that connects Church Lane with River Lane at the entrance of the site.

The main parking area at the site is along Church Lane on the northern boundary of the Nurseries, where there is space for approximately 30 vehicles to be parked in a reasonable fashion (in the Travel Plan it is suggested that there are 24 parking spaces, including three disabled, outside the nursery entrance and a further 14 spaces along Church Lane). Vehicles enter the site via Church Lane at the junction with Petersham Road and can proceed along this access road to the turning circle where they turn around and park in a 'herring bone' fashion along the northern boundary. The first few spaces are reserved for disabled visitors and from the corner the parking changes along the northern boundary into a 'nose to tail' fashion. There is also limited provision for vehicles to park along the eastern side of Church Lane on the church side. The Nursery employs a dedicated parking assistant who directs vehicles along Church Lane and informs visitors of the parking facilities.

During peak periods (mainly weekends) there are two additional parking assistants in contact via walkie-talkies, one at the end of Church Lane at the junction with Petersham Road and one located at Russell School. At weekends the Nurseries in conjunction with Russell School utilise 12 spaces in the school car park, in an

attempt to alleviate traffic and parking pressures experienced at the nursery site. This scheme is believed to allocate one space at the school for each table booking and once the parking allocation is full, customers are informed and encouraged to travel by alternative means of transport. When booking, customers are advised of the limited parking available and are made aware of alternative means of transport. Those that do come by car are allocated a space in Church Lane or at Russell School, if it is a weekend.

As was stated in the previous report, and accepted by the Committee, Petersham Nurseries has achieved impressive results over the past year. They have also shown a commitment to sustainable travel (and other practices) as demonstrated through the extent to which they have implemented numerous initiatives all designed to change the travel behaviour of its staff and visitors towards more sustainable modes.

During the operation of their occasional 'Supper Club' evenings, the applicants have carried out surveys of travel arrangements of guests attending. From the information provided, the number of attendees ranged from 51 to 98 and the number of parking spaces required ranged from 3 to 18. The table below identifies nine 'supper club' events:

| Date | Day | No. of guests | Parking spaces req'd |
|----------|----------|---------------|----------------------|
| 28.05.11 | Saturday | 82 | 10 |
| 02.06.11 | Thursday | 75 | 13 |
| 04.06.11 | Saturday | 97 | 13 |
| 09.09.11 | Thursday | 77 | 11 |
| 11.06.11 | Saturday | 94 | 18 |
| 16.06.11 | Thursday | 96 | 16 |
| 18.06.11 | Saturday | 98 | 15 |
| 23.06.11 | Thursday | 95 | 12 |
| 25.06.11 | Saturday | 95 | 17 |

Whilst this information is of assistance in anticipating the potential impact of the proposal on traffic generation and parking in the area, no comprehensive surveys of traffic and parking conditions in Church Lane, River Lane and surrounding roads has been undertaken, showing conditions on 'Supper Club' event evenings in comparison to evenings when these events do not take place.

The Transport Officer shares this view and suggests that this application is premature and is concerned that the applicants have not backed up their assertion that no problems have arisen with full and comprehensive surveys of traffic generation for the current 'Supper Club' evening events. She considers that permission should only be granted for a limited number of late evenings per month and subject to a condition requiring traffic generation/parking surveys of Church Lane, River Lane and surrounding roads to be provided for Thursday to Saturday and also for days when there is no evening opening, the scope of the surveys to be agreed with Transport Officers. Any permission should initially be for one year only to allow for the surveys to be undertaken and assessed by the Council.

Conclusion:

This proposal seeks to extend the hours of use of the restaurant element of Petersham Nurseries, to allow opening between 19.00 and 23.00 hours on Thursdays, Fridays and Saturdays. At present the restaurant use is permitted to operate only within the hours that the garden centre is in use, although it currently

opens in the evening on an occasional basis. By extending the hours of use into the evening on three days per week, the proposal will expand an inappropriate use within Metropolitan Open Land to the detriment of its character. Although the Green Travel Plan that is in operation at Petersham Nurseries appears to be mitigating the impact of the existing mixed garden centre and café/restaurant use during the currently permitted hours, and officers are satisfied that no nuisance arises from the current use from within the site itself, it is considered that the proposed extension of hours, will result in an unacceptably harmful impact on the amenities of neighbouring occupiers by reason of noise nuisance and disturbance from increased traffic generation and customers leaving the premises late at night.

I therefore recommend **REFUSAL** on the following grounds:

The proposal would result in the expansion of an inappropriate use to the detriment of the character of Metropolitan Open Land and would result in an adverse effect on the amenities of neighbouring residential occupiers and the area generally. As such the proposal would be contrary to policies STG 2, IMP 1, ENV 1, BLT 16, CCE 18 and TC 9 of the London Borough of Richmond upon Thames Unitary Development Plan – First Review adopted March 2005, policy CP10 of the Council's Local Development Framework Core Strategy adopted April 2009 and policies DM OS 1, DM TC 5 and DM DC 5 of the Council's Development Management Development Plan Document (post Examination in Public).

Recommendation:

The determination of this application falls within the scope of Officer delegated powers - ~~YES~~ NO

I therefore recommend the following:

- 1. REFUSAL
- 2. PERMISSION
- 3. FORWARD TO COMMITTEE

Case Officer (Initials): JT.

Dated: 8.8.2011

I agree the recommendation:

Jim Thomson

Team Leader/Development Control Manager

Dated: 8.8.2011

This application has been subject to representations that are contrary to the officer recommendation. The Development Control Manager has considered those representations and concluded that the application can be determined without reference to the Planning Committee in conjunction with existing delegated authority.

Development Control Manager:

Dated:

| |
|------------------------|
| REASONS: |
| CONDITIONS: |
| INFORMATIVES: |
| UDP POLICIES: |
| OTHER POLICIES: |

The following table will populate as a quick check by running the template once items have been entered into Uniform

SUMMARY OF CONDITIONS AND INFORMATIVES

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|----------------------|--|
| CONDITIONS: | |
| INFORMATIVES: | |

ADDITIONAL NOTES CONTINUED FROM ABOVE:

Professional Comments:

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