

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

ENFORCEMENT NOTICE – BREACH OF CONDITION

ISSUED BY THE LONDON BOROUGH OF RICHMOND UPON THAMES

Enforcement reference: 18/0025/EN/BCN

1. **THIS IS A FORMAL NOTICE** issued by the Council because it appears that there has been a breach of planning control under Section 171A(1)(b) of the above Act, at the land described below. The Council considers it expedient to issue this notice, having regard to the provisions of the development plan and to other material considerations.

2. **THE LAND AFFECTED**

Land at Petersham Nurseries, Petersham Road, Petersham, Richmond TW10 7AB in the London Borough of Richmond Upon Thames shown edged red on the attached Location Plan ('the Land').

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Planning permission reference 08/4312/FUL was granted by the Council on 29 July 2009 for 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), subject to conditions. A copy of planning permission reference 08/4312/FUL is attached ("the Planning Permission").

It appears to the Council that the following conditions attached to the Planning Permission have not been complied with:

U27543 NS04 Hours of Use – Café/Restaurant

There shall be no sale of food for consumption on or off the premises during the following times: Tuesday to Sunday – before 1000hrs and after 1630hrs and on Sundays – before 1100hrs and after 1630hrs. The A3 premises shall not be open on Mondays. A notice to this effect shall be displayed at all times on the premises so as to be visible from outside. REASON: To safeguard the MOL, conservation area, amenities of nearby residential properties and the area generally.

U27544 NS05 Café/Restaurant areas

The café/restaurant areas shall be confined solely to the areas identified for these purposes on Approved Drawing Number DP7/2857 for Permission 07/1235/FUL. REASON: To safeguard the MOL, conservation area, amenities of nearby residential properties and the area generally.

These conditions are being breached because the café/restaurant is operating outside of the permitted hours (in breach of condition NS04 hours of use) and the extent of the café/restaurant area has increased in size beyond that permitted under

Approved Drawing Number DP7/2857 (in breach of condition NS05 café/restaurant areas).

4. REASONS FOR ISSUING THIS NOTICE

The café/restaurant operating outside of its permitted hours (in breach of condition NS04 hours of use) and the increase in size of the café/restaurant area beyond that permitted under Approved Drawing Number DP7/2857 (in breach of condition NS05 café/restaurant areas) has led to pedestrian, vehicular and commercial activity which is harming the amenity and living conditions of neighbouring residents and has an urbanising effect detrimental to the character and function of the Metropolitan Open Land (MOL).

This is contrary to the National Planning Policy Framework (2023), to policy G3 (MOL) of The London Plan (2021), to policies LP8 (Amenity and Living Conditions) and policy LP13 (Green Belt, MOL and Local Green Space) of the adopted Local Plan (2018), and to policies 46 (Amenity and Living Conditions) and 35 (Green Belt, MOL and Local Green Space) of the draft publication version, Reg 19, Local Plan (2023).

Notwithstanding this, a minor extension of the hours to those stipulated in paragraph 5(a) below and a confined area for café/restaurant use stipulated in paragraph 5(b) below, which despite being of a greater extent than the approved Planning Permission, would be of a lesser extent than currently in operation and would address the harm caused thus allowing for the continued use of the café/restaurant in an amended form that would achieve compliance with the policies cited above. For these reasons the requirements cited below effectively 'under-enforces' the hours and area specified in paragraphs 5(a) and 5(b).

5. WHAT YOU ARE REQUIRED TO DO


- a) Permanently restrict the sale of food for consumption on or off the premises to the following:
Tuesday to Sunday 10am to 5pm, and Bank Holidays 11am to 5pm
- b) Permanently restrict the café/restaurant uses areas to within the blue line, as shown on the attached Plan 2.

Time for Compliance: within two months from the date this notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 26 February 2024 unless an appeal is made against it beforehand.

Dated: 15 January 2024

Signed: 
Managing Director of South London Legal Partnership
On behalf of London Borough of Richmond Upon Thames

Address to which all communication should be sent:
Head of Legal Services, South London Legal Partnership, Merton Civic Centre, London
Road, Morden SM4 5DX(Ref: CS/LEG/RO/217/2343)

YOUR RIGHT OF APPEAL

You can appeal against this notice in writing to the Secretary of State, but any appeal must be received, or posted in time to be received, by the Planning Inspectorate before the notice takes effect. The enclosed Explanatory Note and Information Sheet set out the procedure to be followed if you wish to appeal.

FEE PAYABLE FOR THE DEEMED APPLICATION

If your ground of appeal is or includes ground (a) that planning permission should be granted, an appeal fee is payable, which is double that payable for a normal planning application. The total fee payable is £924.00.

Please send a cheque for this amount with your appeal, made out to the London Borough of Richmond Upon Thames.

Joint appellants need only pay one set of fees.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date indicated above and you must then ensure that the notice is complied with. Failure to comply with an enforcement notice that has taken effect, is a criminal offence and can result in legal proceedings and/or remedial action by the Council.

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE

The Company Secretary
Petersham Nurseries Limited
Church Lane
Petersham
TW10 7AG

Mr Francesco Boglione
Petersham Nurseries Limited
Petersham Nurseries
Church Lane
Petersham
TW10 7AG

Mrs Gael Boglione
Petersham Nurseries Limited
Petersham Nurseries
Church Lane
Petersham
TW10 7AG

The Occupier
Petersham Nurseries Limited
Church Lane
Petersham
TW10 7AG

Petersham Nurseries Limited
278 Tudor Drive
Kingston Upon Thames
Surrey

Mr Francesco Boglione
Petersham House
Petersham Road
Richmond
TW10 7AA

Mrs Gael Boglione
Petersham House
Petersham Road
Richmond
TW10 7AA

Coutts & Company
440 Strand
London
WC2R 0QS

Barclays Security Trustee Limited
P.O. Box 16276
One Snowhill
Snowhill
Queensway
Birmingham
B2 2XE



Civic Centre, 44 York Street, Twickenham TW1 3BZ
tel: 020 8891 7300 text phone 020 8891 7120
fax: 020 8891 7789
email: envprotection@richmond.gov.uk
website: www.richmond.gov.uk

TOWN AND COUNTRY PLANNING ACT 1990: DECISION NOTICE

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

APPLICATION GRANTED

Please contact: Planning Support

Please telephone: 0845 612 2660

Your ref:

Our ref:
DC/RON/08/4312/FUL/FUL

Letter Printed: 29 July 2009

FOR DECISION DATED
29.07.2009

Dear Sir/Madam

Applicant:

Agent: Direct Planning Limited

WHEREAS in accordance with the provisions of the Town and Country Planning Act 1990 and the orders made thereunder, you have made an application received on **27 November 2008** and illustrated by plans for the permission of the Local Planning Authority to develop land situated at:

Petersham Nursery, Petersham Road, Richmond, Surrey.

for

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).

NOW THEREFORE WE THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF RICHMOND UPON THAMES acting by the Council of the said Borough, the Local Planning Authority HEREBY GIVE YOU NOTICE pursuant to the said Act and the Orders made thereunder that permission to develop the said land in accordance with the said application is hereby **GRANTED** subject to the conditions and informatives summarised and listed on the attached schedule:-

Yours faithfully


Robert Angus
Development Control Manager

APPLICANT NAME	AGENT NAME Direct Planning Limited 95-97 Riverbank House High Street Orpington Kent BR5 3NH
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SITE:

Petersham Nursery, Petersham Road, Richmond, Surrey.

PROPOSAL:

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).

SUMMARY OF CONDITIONS AND INFORMATIVES**CONDITIONS:**

U27539NS01 Green Travel Plan & Review U27540NS02 Cycle Parking U27541NS03 Servicing and Deliveries U27543NS04 Hours of Use - Café/Restaurant U27544NS05 Café/Restaurant Areas	U27545NS06 Extraction Equipment U27546NS07 - Air Conditioning Equipment U27547NS08 Personal Permission
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INFORMATIVES:

U41497 Reason for Granting: U41496 Decision Drawings:	U41498 Principal Policies:
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DETAILED CONDITIONS

U27539NS01 Green Travel Plan & Review

Within 3 months of the date of this permission a full travel plan which accords with Transport for London's "Guidance for Workplace Travel Planning for Development (2008)" shall be developed and submitted to and approved by the local planning authority in writing ("first approval date") and shall be implemented on the first approval date and shall be reviewed and revised annually by each anniversary of the first approval date and in accordance with the requirements set out in i) to i v) below:

i) by a date no later than 10 months after the first approval date a survey methodology shall be submitted for the travel plan which shall be iTrace compliant to the local planning authority for its approval in writing

ii) by a date no later than 12 months after the first approval date a revised travel plan incorporating the results arising from the approved survey methodology shall be submitted to the local planning authority for its approval and the approved revised travel plan including any revisions or suggestions made by the local planning authority shall be implemented upon receipt of such approval

iii) by a date no later than 2 months prior to the submission of a revised travel plan each year in accordance with iv) below, a survey methodology for the travel plan which is iTrace compliant shall be submitted to and approved by the local planning authority

iv) a revised travel plan shall be submitted to the local planning authority for its approval annually by each anniversary of the first approval date for a period of 10 years from the first approval date and on each occasion the approved revised travel plan including any revisions or suggestions made by the local planning authority shall be implemented upon receipt of such approval

Reason: In order to comply with the objectives of national and local planning policies within the UDP which promote sustainable development with particular regard to transport.

U27540NS02 Cycle Parking

Additional cycle parking facilities shall be provided in accordance with detailed drawings to be submitted to and approved in writing by the Local Planning Authority, such drawings to show the position, design, materials and finishes thereof. REASON: To accord with this Council's policy to discourage the use of the car wherever possible.

U27541NS03 Servicing and Deliveries

Within 6 weeks of the permission hereby granted the applicant is required to submit a servicing and delivery schedule to be submitted to and approved in writing by the Local Planning Authority, and should include measures to prevent servicing and delivery taking place during the peak hours of 11.30 to 15.00 hours Monday- Saturday and at any time on Sunday and restrictions on the weights of vehicles allowed to visit the site.

REASON: To ensure that the proposed development does not prejudice the free flow of traffic and the conditions of safety along the neighbouring highway, with particular regard to the junction of Church Lane with Petersham Road.

U27543NS04 Hours of Use - Café/Restaurant

There shall be no sale of food for consumption on or off the premises during the following times: Tuesday to Sunday – before 1000hrs and after 1630hrs and on Sundays – before 1100hrs and after 1630hrs. The A3 premises shall not be open on Mondays. A notice to this effect shall be displayed at all times on the premises so as to be visible from outside. REASON: To safeguard the MOL, conservation area, amenities of nearby residential properties and the area generally.

U27544NS05 Café/Restaurant Areas

The café/restaurant areas shall be confined solely to the areas identified for these purposes on Approved Drawing Number DP7/2857 for Permission 07/1235/FUL.

REASON: To safeguard the MOL, conservation area, amenities of nearby residential properties and the area generally.

U27545NS06 Extraction Equipment

Any equipment required to effectively suppress the emission of fumes or smell and obviate any other nuisance from cooking processes carried out in the premises to be installed shall be submitted to and approved in writing by the Local Planning Authority. REASON: To ensure that the proposed business is carried out in such a way that no undue nuisance is caused through smell or from any other source to the detriment of the occupiers of adjoining properties and the area generally.

U27546NS07 - Air Conditioning Equipment

No air conditioning apparatus, equipment or ducting shall be erected, placed or fixed to any part of the roof or external faces of the building(s), otherwise than as submitted to and agreed in writing by the Local Planning Authority. REASON: To safeguard the amenities of neighbouring properties and the area in general.

U27547NS08 Personal Permission

The A1/A3 mixed use hereby permitted shall only be carried out by Mr Francesco Boglione for the period during which the premises are owned by Mr Francesco Boglione. REASON: To safeguard the amenities of the adjoining residents and the area generally.

DETAILED INFORMATIVES

U41497 Reason for Granting:

The proposal has been considered in the light of the Development Plan, comments from statutory consultees and third parties (where relevant) and compliance with Supplementary Planning Guidance as appropriate. It has been concluded that there is not a demonstrable harm to interests of acknowledged importance caused by the development that justifies withholding planning permission. The proposed development has previously been subject to a temporary permission and the monitoring and review of the submitted Green Travel Plan shows that the continued use would not result in undue harm to neighbouring residential amenities and highway and parking conditions in the area. Furthermore, subject to the imposed conditions, it would not detract from the open nature and character and appearance of the Metropolitan Open Land in which it lies or important views from Richmond Hill.

U41496 Decision Drawings:

For the avoidance of doubt the drawing numbers to which this decision refers are as follows:-
Site location plan received on 27/11/08; plan number DP7/2857 received 03/04/07 (under Permission 07/1235/FUL), Application Support Statement dated January 2009, Petersham Nurseries Travel Plan Review dated 06/12/08, Petersham Nurseries Draft Travel Plan dated 01/12/08 and Petersham Nurseries Draft Transport Statement dated November 2008.

U41498 Principal Policies:

The following have been taken into account in the consideration of this proposal:-

Unitary Development Plan - First Review 2005 Policies IMP2, ENV1, ENV5, BLT2, BLT16, TRN2, TRN4, CCE18 & TC9.

Local Development Framework Core Strategy (April 2009) – Policies CP1, CP5, CP7 and CP10

The London Plan (February 2008) Policies 2A.1 and 3C.1

END OF SCHEDULE OF CONDITIONS AND INFORMATIVES FOR APPLICATION 08/4312/FUL

