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## Planning Committee details

### Agenda item

## 12/0067/VRC - PETERSHAM NURSERIES, PETERSHAM ROAD, RICHMOND (Ms C Senn on behalf of Petersham Nurseries)

- Meeting of Planning Committee, Thursday, 29 March 2012 7:00 pm (Item 67c)

Variation of condition U27543 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 Saturday every week..

Officer recommendation: **REFUSAL**

### Minutes:

Having declared that he had predetermined the matter at hand Councillor Miller withdrew from the Committee for the duration of the item.

The Development Control Officer introduced the item and reported the following written representations received from interested parties and amendments made by officers following publication of the agenda.

A further letter was received from Petersham Nurseries, responding to specific objections relating to:

- Customer car use;
- Mitigation of any adverse impact on River Lane and surrounding roads;
- Car use by employees;
- Conduct of employees;
- Support for the local economy;
- Minimising disruption through noise;
- Impact on the conservation area/local ecology;
- Light pollution;
- Delivery plans;
- Control of restaurant fumes.

The following corrections and clarifications to the officer's report:

- With regard to the reference in the Summary to the Green Travel Plan, officers wished to clarify that the mitigation effects relate to the measures put in place between the original grant of planning permission for the restaurant element on a temporary basis and the subsequent grant of permission on a permanent basis. No systematic review of the Green Travel Plan had been undertaken since that time although it was anticipated that a review would be undertaken by the operators in September.

A review of the Green Travel Plan submitted in January 2011 was based on surveys undertaken in February 2010, whereas the original surveys were undertaken in September 2008. The review was therefore not comparing like with like and the applicants were asked to resubmit when September surveys had been undertaken.

- Paragraph 34 erroneously described Church Lane as a local distributor road. It was, in fact, an adopted highway only from Petersham Road to St Peter's Church. Thereafter it was an unadopted private lane. It was therefore not a local distributor road.
- In paragraph 38, these figures had been supplied by the applicant and assessed by the Transport Officer who recommended, in paragraph 40, that further systematic monitoring should take place.

The Committee heard representations against the application from Mrs Powell, Mrs Flannery and Mr Simon

The Committee heard representations in favour of the application from Charlotte Senn, Scottie Bhattarai, employees at the Nursery and café respectively.

The Committee heard a representation from Councillor Miller who spoke as an interested Councillor.

The Development Control Officer responded to some of the points raised by speakers.

The Committee considered the information received from officers and from those who had made representations in addition to that contained in the in the report and addendum. They discussed the application and in particular they considered the following themes:

- (i) The impact of traffic to and from the Nursery in the evening and the possibility that that would be increased should the application be granted.
- (ii) The potential impact on residents' enjoyment of the area.
- (iii) The designation of the area as being Metropolitan Open Land and the implications of that designation for A3 use at the venue.
- (iv) The measures suggested by the applicant to mitigate such impacts on neighbours, such as the Travel Plan.

It was RESOLVED:

That the application be refused for the reasons set out in the officer's report.

[Councillor Bouchier left the meeting. 22:50pm]

**Supporting documents:**

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[12.0067.VRC - Petersham Nurseries, item 67c PDF 347 KB](#)

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12/0067/VRC  
PETERSHAM NURSERIES  
PETERSHAM ROAD  
RICHMOND

HAM, PETERSHAM & RICHMOND RIVERSIDE WARD  
Contact Officer  
J Thompson



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**Proposal:** Variation of condition U27543 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 Saturday every week..

**Applicant:** Ms C Senn on behalf of Petersham Nurseries

**Application received:** 11 January 2012

**Main development plan policies:**

Local Development Framework Core Strategy (April 2009) policies: CP1, CP5, CP7 and CP10;  
Development Management DPD 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 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 a regular basis 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:**

1. 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.
2. 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.
3. 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).
4. 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 U27543 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).
5. An application submitted last year 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 was withdrawn by the applicants on 11 August 2012 (10/2914/VRC).
6. The current application seeks to vary the hours of operation condition by allowing the café/restaurant element to operate from 19.00 to 23.00 on Saturday every week.

**Public and other representations:**

7. A total of 35 representations have been received to the consultation exercise on this proposal. 24 letters, including one from the Ham and Petersham Association, object or raise 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;

- Residents have already had experience of the impact of evening opening as a result of the 'Supper Club' activities.
8. 12 letters have been received in support of the proposal, including one from Zac Goldsmith MP, 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 use will make a positive contribution to the range of facilities available in the area;
  - No objections have been received to the occasional 'supper club' activities which have taken place over the past two years.

**Professional Comments:**

9. 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.

Impact upon Metropolitan Open Land:

10. Adopted Core Strategy policy CP10 states Metropolitan Open Land will be safeguarded and improved for biodiversity, sport and recreation and heritage, and for visual reasons.
11. Policy DM OS 2 of the adopted 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:*

*does not harm the character and openness of the MOL; and  
 is linked to the functional use of the MOL or supports outdoor open space uses; or  
 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."*

12. The site is located within the MOL, which generally has a presumption against any inappropriate development and the existing mixed Class 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."*
13. 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 being created.
14. 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 considered that this particular café/restaurant use (A3 use) has become 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, even for one evening per week, 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 considered to be contrary to the Council's policies in respect of MOL.

Impact on Character and Appearance of Conservation Area:

15. 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.
16. 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.
17. 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 leads to the entrance of Petersham Nurseries.
18. 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, not only in terms of customers and staff, but also 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:

19. Policy DM TC 5 of the DMDPD states that uses which 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.
20. 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

21. Road, which are also located over 60m from the site.
22. 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 potential impact on the amenities of neighbouring residents.
23. In support of the proposal the applicants have put the following points:
  - 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 in harmony with and respects its surroundings.
24. 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.
25. 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:
26. Noise, Smells and Fumes (from within the site)

Whilst some of the objections to the previous submission 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 recent 'Supper Club' evening events have taken 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.
27. Noise and disturbance outside the site

Nuisance and disturbance commonly associated with Class A3 uses usually 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 'Supper Club' activities 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 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 a more regular 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, the increase in noise nuisance and general disturbance would be sufficient to justify the refusal of permission

28. 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.

29. 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:

30. Core Strategy policies CP1, CP5 and CP7 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).

31. 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.

32. 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. It has not included any information or analysis of the conditions generated by the recent round of evening 'Supper Club' events. 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.



33. Petersham Nurseries is situated in a sensitive location. It lies 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.
34. 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.
35. 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.
36. 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.
37. 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.
38. During the operation of their occasional 'Supper Club' evenings, the applicants have carried out surveys of travel arrangements of guests attending and submitted this information in support of the current application. 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

39. 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 have been undertaken, for example to show conditions on 'Supper Club' event evenings in comparison to evenings when these events do not take place.
40. In her assessment of this application, the Transport Officer has taken account of the survey information provided and considers that evening opening on one day per week is unlikely to be detrimental to the functioning of the local highway network. She recommends that a condition would be required on any permission to require that any evening opening should be restricted to Saturday only and that no other events should be held at the venue on the same night. She further recommends that any future Travel Plan monitoring should include information relating to all events taking place at the premises.
41. On the basis of the submitted information, officers are satisfied that the proposal to extend the hours of operation would not have an adverse impact on the functioning of the local highway network or add unacceptably to levels of on-street parking in the locality.

**Conclusion:**

42. 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 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 a regular basis 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 policy CP10 of the London Borough of Richmond upon Thames 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 Plan adopted November 2011.