

Appendix 8

Ms Charlotte Senn
Petersham Nurseries
Petersham Nurseries
Petersham Road
Petersham
Richmond
TW10 7AB

Letter Printed 18 January 2018

FOR DECISION DATED
18 January 2018

The Town and Country Planning Act 1990, (as amended)
Decision Notice

Application: 14/0345/VRC
Your ref: Petersham S73
Our ref: DC/JIT/14/0345/VRC
Applicant: Ms Charlotte Senn
Agent:

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 **3 February 2014** for the permission of the Local Planning Authority to vary condition(s) of the Planning Permission for land situated at:

Petersham Nurseries Petersham Road Petersham Richmond

for

Application for variation of condition NS04 of planning permission 08/4312/FUL for permanent mixed use as garden centre (Class A1) and café/restaurant (Class A3), to allow for the sale of food for consumption on the premises, between the hours of 09.00 and 18.00 on Mondays, Tuesdays and Wednesdays, 09.00 and 23.00 on Thursdays, Fridays and Saturdays and 11.00 and 18.00 on Sundays.

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 **REFUSED** subject to the reasons and informatives summarised and listed on the attached schedule.

Yours faithfully

A handwritten signature in black ink, appearing to read 'R. Angus', with a long horizontal flourish extending to the right.

Robert Angus
Head of Development Management

SCHEDULE OF REASONS AND INFORMATIVES FOR APPLICATION 14/0345/VRC

APPLICANT NAME

Ms Charlotte Senn
Petersham Nurseries
Petersham Road
Petersham
Richmond
TW10 7AB

AGENT NAME

SITE

Petersham Nurseries Petersham Road Petersham Richmond

PROPOSAL

Application for variation of condition NS04 of planning permission 08/4312/FUL for permanent mixed use as garden centre (Class A1) and café/restaurant (Class A3), to allow for the sale of food for consumption on the premises, between the hours of 09.00 and 18.00 on Mondays, Tuesdays and Wednesdays, 09.00 and 23.00 on Thursdays, Fridays and Saturdays and 11.00 and 18.00 on Sundays.

SUMMARY OF REASONS AND INFORMATIVES

REASONS

U37004	Impact on MOL and neighbour amenities
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INFORMATIVES

U21806	Breach of condition
U21860	NPPF REFUSAL- Para. 186 and 187

DETAILED REASONS AND INFORMATIVES

DETAILED REASONS

U37004 Impact on MOL and neighbour amenities

The proposal would result in the expansion of an inappropriate use to the detriment of the character and function of Metropolitan Open Land and would, by reason of an increased level of pedestrian and vehicular activity around the site, result in an adverse effect on the amenities of neighbouring residential occupiers and the area generally. As such the proposal would be contrary to the National Planning Policy Framework and the Local Plan, including policy CP10 of the Local Development Framework Core Strategy adopted April 2009, policies DM OS 1, DM TC 5 and DM DC 5 of the Development Management Plan adopted November 2011 and policies LP 8, LP 10 and LP 13 of the Publication Local Plan.

DETAILED INFORMATIVES

U21806 Breach of condition

The applicant is advised that officers understand that the use of the premises is currently operating in breach of both condition NS05 'Café/Restaurant Areas' and NS04 'Hours of Use - Café/Restaurant' of planning permission 08/4312/FUL. This application has been determined on the basis of the information submitted to it, which has included no request to vary condition NS05 'Café/Restaurant Areas' or the associated drawing. The Council is ready to enter into formal pre-application discussions to advise the applicants of relevant policy and guidance in respect of this matter.

U21860 NPPF REFUSAL- Para. 186 and 187

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, Richmond upon Thames Borough Council takes a positive and proactive approach to the delivery of sustainable development, by:

- o Providing a formal pre-application service
- o Providing written policies and guidance, all of which is available to view on the Council's website
- o Where appropriate, negotiating amendments to secure a positive decision
- o Determining applications in a timely manner.

In this instance:

- o The application was referred to the Planning Committee, where the agents / applicants had an opportunity to present the case. The Planning Committee found the scheme was contrary to policy and guidance, and subsequently refused. The Council is ready to enter into formal pre-application discussions to advise the applicants of relevant policy and guidance; and where possible assist in the preparation of a new planning permission.

END OF SCHEDULE OF REASONS AND INFORMATIVES FOR APPLICATION
14/0345/VRC

Application reference: 14/0345/VRC
HAM, PETERSHAM, RICHMOND RIVERSIDE WARD

Date application received	Date made valid	Target report date	8 Week date
03.02.2014	03.02.2014	31.03.2014	31.03.2014

Site:

Land At Petersham Nurseries And Petersham Meadows, River Lane, Petersham,

Proposal:

Application for variation of condition NS04 of planning permission 08/4312/FUL to allow for the sale of food for consumption on or off the premises and outside the currently restricted hours.

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

APPLICANT NAME

Mr
c/o: Agent

AGENT NAME

Mrs Rachel Botcherby
56 Queen Anne Street
London
W1G 8LA

DC Site Notice: printed on and posted on and due to expire on

Consultations:

Internal/External:

Consultee

LBRUT Transport
LBRUT Environmental Health

Expiry Date

24.02.2014
24.02.2014

Neighbours:

-

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

Development Management

Status: GTD
Date:24/01/2014

Application:13/4488/FUL

Construction of a gravity pipeline to connect Petersham Nurseries to the public sewer at River Lane via Petersham Meadows.

Development Management

Status: PCO
Date:

Application:14/0345/VRC

Application for variation of condition NS04 of planning permission 08/4312/FUL to allow for the sale of food for consumption on or off the premises and outside the currently restricted hours.

Development Management

Status: REC
Date:

Application:13/4488/DD01

Details pursuant to condition U68135 (Archaeology) of planning permission 13/4488/FUL.

Constraints:

Professional Comments:



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):

Dated:

I agree the recommendation:

Team Leader/Development Control Manager

Dated:

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

CONDITIONS:	
INFORMATIVES:	

ADDITIONAL NOTES CONTINUED FROM ABOVE:

Notes of Telephone calls/discussions/meetings



DATE

ACTION

Application reference: 14/0345/VRC
HAM, PETERSHAM, RICHMOND RIVERSIDE WARD

Date application received	Date made valid	Target report date	8 Week date
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Amended as follows on 08.06.2015:

Additional information received; Environmental Noise Assessment dated 2 June 2017, Transport Statement dated February 2017 and Supper Club Management Plan dated 26 June 2016.

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

APPLICANT NAME

Mr
c/o: Agent

AGENT NAME

Mrs Rachel Botcherby
56 Queen Anne Street
London
W1G 8LA

DC Site Notice: printed on and posted on and due to expire on

Consultations:

Internal/External:

Consultee

LBRUT Transport
LBRUT Environmental Health
LBRUT Transport
LBRUT Environmental Health

Expiry Date

22.06.2015
22.06.2015
24.02.2014
24.02.2014

Neighbours:

139 Petersham Road, Richmond, TW10 - 04.03.2014
267 Petersham Road, Petersham, Richmond, TW10 7DA, - 04.03.2014
2 Rushmead, Ham, TW10 7NW, - 04.03.2014
5 Sandy Lane, Petersham, TW10 7EW, - 04.03.2014
207 Petersham Road, Petersham, Richmond, TW10 7AW, - 04.03.2014
35 Bishops Close, Ham, TW10 7DF, - 04.03.2014
2 Rutland Lodge, Anlaby Road, Teddington, TW11 0PR, - 04.03.2014
230 Petersham Road, Richmond, TW10 - 04.03.2014
1 Rutland Lodge, Anlaby Road, Teddington, TW11 0PR, - 04.03.2014
1 The Terrace, 134 Richmond Hill, Richmond, TW10 6RN, - 04.03.2014
4 Rutland Lodge, Anlaby Road, Teddington, TW11 0PR, - 04.03.2014
Cecil Cottage, Sandpits Road, Petersham, TW10 7DT, - 04.03.2014
Flatt 1, 145 Petersham Road, Richmond, TW10 7AA - 04.03.2014
Ms C Senn, Petersham Nurseries, Church Lane, Off Petersham Road, Richmond TW10 7AG - 04.03.2014
2 Meadow Close, Petersham, TW10 7AJ, - 04.03.2014
1 Meadow Close, Petersham, TW10 7AJ, - 04.03.2014
18 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
16 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014

4 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
 12 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
 10 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
 8 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
 7 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
 5 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
 3 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
 7 Ashfield Close, Petersham, TW10 7AF, - 04.03.2014
 5 Ashfield Close, Petersham, TW10 7AF, - 04.03.2014
 3 Ashfield Close, Petersham, TW10 7AF, - 04.03.2014
 1 Ashfield Close, Petersham, TW10 7AF, - 04.03.2014
 15 Kings Road, East Sheen, London, SW14 8PF, - 04.03.2014
 Mike Stubb, Land Use Planning Advisor, The National Trust, London And South East Regional Office, Hughenden Manor, High Wycombe, Buckinghamshire, HP14 4LA - 04.03.2014
 Elm Lodge, 230 Petersham Road, Petersham, Richmond, TW10 7AL, - 04.03.2014
 143A Petersham Road, Petersham, Richmond, TW10 7AA - 04.03.2014
 186 Petersham Road, Richmond, TW10 7AD - 04.03.2014
 132 Sheen Road, Richmond, TW9 1UR, - 04.03.2014
 Bute Cottage Meadow, Petersham Road, Petersham, Richmond, TW10 7AD, - 04.03.2014
 Units 6 To 7, Forge Lane, Richmond, TW10 7BF, - 04.03.2014
 147 Petersham Road, Petersham, Richmond, TW10 7AH, - 04.03.2014
 Corner Cottage, 147 Petersham Road, Petersham, Richmond, TW10 7AH, - 04.03.2014
 Unit 5, Petersham Farm, Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 Unit 4, Petersham Farm, Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 Unit 3, Petersham Farm, Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 Unit 2, Petersham Farm, Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 Unit 1, Petersham Farm, Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 3 Forge Lane, Richmond, TW10 7BF, - 04.03.2014
 4 Forge Lane, Richmond, TW10 7BF, - 04.03.2014
 5 Forge Lane, Richmond, TW10 7BF, - 04.03.2014
 2 Forge Lane, Richmond, TW10 7BF, - 04.03.2014
 1 Forge Lane, Richmond, TW10 7BF, - 04.03.2014
 The Glass House, River Lane, Petersham, TW10 7AG, - 04.03.2014
 15 Tree Close, Petersham, TW10 7BA, - 04.03.2014
 Mallory House, River Lane, Petersham, TW10 7AG, - 04.03.2014
 The Dysart Arms, Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 The Old Cottage, 198 Petersham Road, Petersham, Richmond, TW10 7AD, - 04.03.2014
 Ham House, Petersham Road, Petersham, Richmond, TW10 7AH, - 04.03.2014
 1 River Lane, Petersham, Richmond, TW10 7AG - 04.03.2014
 Fox & Duck, Petersham Road, Petersham, Richmond, TW10 7AD, - 04.03.2014
 Heads Flat, The German School, Petersham Road, Petersham, Richmond, TW10 7AH, - 04.03.2014
 Magnolia House, 143A Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 The House, River Lane, Petersham, TW10 7AG, - 04.03.2014
 Rutland Cottage, 1 River Lane, Petersham, Richmond, TW10 7AG, - 04.03.2014
 Bute Cottage, 7 Meadow Close, Petersham, TW10 7AJ, - 04.03.2014
 121 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 135 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 Flat 1, Petersham Lodge, River Lane, Petersham, TW10 7AG, - 04.03.2014
 St Peters Church, Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 135A Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 Flat 5, 145 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 Flat 4, 145 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 Flat 3, 145 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 Flat 2, 145 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 Flat 1, 145 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
 North Lodge, 155A Petersham Road, Petersham, Richmond, TW10 7AH, - 04.03.2014
 3 Tree Close, Petersham, TW10 7BA, - 04.03.2014
 1 Tree Close, Petersham, TW10 7BA, - 04.03.2014
 2 Rutland Drive, Petersham, TW10 7AQ, - 04.03.2014
 The Old Stables, River Lane, Petersham, TW10 7AG, - 04.03.2014
 The Manor House, River Lane, Petersham, TW10 7AG, - 04.03.2014
 Glen Cottage, River Lane, Petersham, TW10 7AG, - 04.03.2014
 Courtyards, River Lane, Petersham, TW10 7AG, - 04.03.2014
 Manor Farm Yard, 151 Petersham Road, Petersham, Richmond, TW10 7AH, - 04.03.2014
 202 Petersham Road, Petersham, Richmond, TW10 7AD, - 04.03.2014
 Rosedale, 200 Petersham Road, Petersham, Richmond, TW10 7AD, - 04.03.2014

190 Petersham Road, Petersham, Richmond, TW10 7AD, - 04.03.2014
188 Petersham Road, Petersham, Richmond, TW10 7AD, - 04.03.2014
Montrose House, 186 Petersham Road, Petersham, Richmond, TW10 7AD, - 04.03.2014
R And G Richardson, 184 Petersham Road, Petersham, Richmond, TW10 7AD, - 04.03.2014
South Lodge, 155 Petersham Road, Petersham, Richmond, TW10 7AH, - 04.03.2014
141 - 143 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
131 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
6 Meadow Close, Petersham, TW10 7AJ, - 04.03.2014
17 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
15 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
The Willows, 13 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
11 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
9 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
6 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
4 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
2 Cedar Heights, Petersham, TW10 7AE, - 04.03.2014
8 Ashfield Close, Petersham, TW10 7AF, - 04.03.2014
6 Ashfield Close, Petersham, TW10 7AF, - 04.03.2014
4 Ashfield Close, Petersham, TW10 7AF, - 04.03.2014
2 Ashfield Close, Petersham, TW10 7AF, - 04.03.2014
2 Star Farm Cottages, Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
1 Star Farm Cottages, Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
Fox And Duck PH, 194 Petersham Road, Petersham, Richmond, TW10 7AD, - 04.03.2014
Myrtle Cottage, Petersham Road, Petersham, Richmond, TW10 7AD, - 04.03.2014
S Peile, 147 Petersham Road, Petersham, Richmond, TW10 7AH, - 04.03.2014
12 Tree Close, Petersham, TW10 7BA, - 04.03.2014
11 Tree Close, Petersham, TW10 7BA, - 04.03.2014
10 Tree Close, Petersham, TW10 7BA, - 04.03.2014
9 Tree Close, Petersham, TW10 7BA, - 04.03.2014
8 Tree Close, Petersham, TW10 7BA, - 04.03.2014
7 Tree Close, Petersham, TW10 7BA, - 04.03.2014
6 Tree Close, Petersham, TW10 7BA, - 04.03.2014
5 Tree Close, Petersham, TW10 7BA, - 04.03.2014
4 Tree Close, Petersham, TW10 7BA, - 04.03.2014
2 Tree Close, Petersham, TW10 7BA, - 04.03.2014
1 Rutland Drive, Petersham, Richmond, TW10 7AQ, - 04.03.2014
The Navigators House, River Lane, Petersham, TW10 7AG, - 04.03.2014
Rosebank, River Lane, Petersham, TW10 7AG, - 04.03.2014
Petersham Lodge, River Lane, Petersham, TW10 7AG, - 04.03.2014
Drum House, River Lane, Petersham, TW10 7AG, - 04.03.2014
Bute Lodge, 182 Petersham Road, Petersham, Richmond, TW10 7AD, - 04.03.2014
Manor Farm House, 149 Petersham Road, Petersham, Richmond, TW10 7AH, - 04.03.2014
139 Petersham Road, Petersham, Richmond, TW10 7AB, - 04.03.2014
137 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
133 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
129 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
127 Petersham Road, Petersham, Richmond, TW10 7AA, - 04.03.2014
5 Meadow Close, Petersham, TW10 7AJ, - 04.03.2014
4 Meadow Close, Petersham, TW10 7AJ, - 04.03.2014
3 Meadow Close, Petersham, TW10 7AJ, - 04.03.2014
Ham And Petersham Association, 230 Petersham Road, Richmond, TW10 7AL - 04.03.2014
Ormeley Lodge, Ham Gate Avenue, Ham, TW10 5HB, - 04.03.2014
191 Petersham Road, Petersham, TW10 7AW, - 04.03.2014
5 Mount Ararat Road, Richmond, TW10 6PQ, - 04.03.2014
Direct Planning Limited, 95-97 Riverbank House, High Street, Orpington, Kent, BR5 3NH - 04.03.2014
Mike Stubbs, Land Use Planning Advisor, The National Trust, Hughenden Manor, High Wycombe, Bucks HP14
4LA - 04.03.2014
1 BROOM GROVE, BARKHAM, RG41 4TX -
The Vicarage, Bute Avenue, Petersham, Richmond, TW10 7AX -
Harrington Lodge, Sudbrook Lane, Petersham, Richmond, TW10 7AT, -
230 Petersham Road, Richmond, TW10 7AW -
207 Peterham Road, Richmond, TW10 7AW -
215 Hospital Bridge Road, Twickenham, TW2 6LH, -
96 LIDDELL GARDENS, LONDON, NW10 3QE - 02.11.2017
146 ADDISON GARDENS, LONDON, W14 0DS - 02.11.2017
35 35 milton gardens, stirling, FK70JH - 02.11.2017

4 THE CROSSWAY, BRIGHTON, BN1 7EL -
247C, KINGSTON ROAD, WIMBLEDON, LONDON, SW19 3NW - 02.11.2017
1A Cambridge Road, Teddington, TW11 8DT - 02.11.2017
11, EFFRA MANSIONS, CROWNSTONE ROAD, LONDON, SW2 1LU - 02.11.2017
6 BYNE ROAD, SYDENHAM, LONDON, SE26 5JE - 02.11.2017
THE SIDINGS, STATION ROAD, CHOBHAM, WOKING, GU24 8AL - 02.11.2017
84 Consfield Avenue, New Malden, KT3 6he - 02.11.2017
201B, 201B, Kings Rd, Kingston upon Thames, KT25JH - 02.11.2017
1 Clare Lawn Avenue, East Sheen, London, SW14 8BH - 02.11.2017
12 KNIGHTS PARK, KINGSTON UPON THAMES, KT1 2QN - 02.11.2017
21 NEVILLE AVENUE, NEW MALDEN, KT3 4SN - 02.11.2017
5 HIGH COOMBE PLACE, KINGSTON UPON THAMES, KT2 7HH - 02.11.2017
FLAT 12, RIVER COURT, CATHERINE ROAD, KINGSTON UPON THAMES, KT6 4EY - 02.11.2017
HOLLY LODGE, LAMMAS LANE, ESHER, KT10 8PA - 02.11.2017
7 RUSBRIDGE CLOSE, HACKNEY, LONDON, E8 2RR - 02.11.2017
27 THE WOODLANDS, ESHER, KT10 8DD - 02.11.2017
Flat 2, Matthiae House 76, Kew Road, Richmond, TW9 2PQ - 02.11.2017
88 Third Cross Road, Twickenham, TW2 5EA - 02.11.2017
2 WHITE LODGE CLOSE, ISLEWORTH, TW7 6TH - 02.11.2017
28 Wayside, East Sheen, London, SW14 7LN - 02.11.2017
18-20, EARDLEY CRESCENT, LONDON, SW5 9JZ - 02.11.2017
3 RANELAGH AVENUE, LONDON, SW6 3PJ - 02.11.2017
2 Liverpool Rd, Kingston, Kingston, KT2 7SZ - 02.11.2017
3, EGLISTON LAWNS 13, EGLISTON ROAD, LONDON, SW15 1AL - 02.11.2017
51, Kingfisher Court, Bridge Road, Surrey, East Molesey, KT8 9HN - 02.11.2017
27 SULIVAN ROAD, LONDON, SW6 3DT - 02.11.2017
29 HARTINGTON ROAD, CHISWICK, LONDON, W4 3TL - 02.11.2017
P.O. Box 215, Jacksonville road, Jacksonville, 14854 - 02.11.2017
CALDER, COOMBE LANE WEST, KINGSTON UPON THAMES, KT2 7DE - 02.11.2017
61 ALEXANDRA GARDENS, KNAPHILL, WOKING, GU21 2DQ - 02.11.2017
4 PEMBROKE MEWS, LONDON, W8 6ER - 02.11.2017
6 Westside common, Wimbledon, London, SW194UD - 02.11.2017
FLAT 32, ELIZABETH COURT, LOWER KINGS ROAD, KINGSTON UPON THAMES, KT2 5HP - 02.11.2017
8A, SPRINGFIELD ROAD, HANWELL, W7 3JP - 02.11.2017
20 WOLSEY DRIVE, KINGSTON UPON THAMES, KT2 5DN - 02.11.2017
74 DEACON ROAD, KINGSTON UPON THAMES, KT2 6LU - 02.11.2017
12 Water Lane, Richmond, TW9 1TJ - 02.11.2017
42 ELTHIRON ROAD, LONDON, SW6 4BW - 02.11.2017
18, JELICOE HOUSE, WHITNELL WAY, LONDON, SW15 6DD - 02.11.2017
7 EARL'S COURT GARDENS, LONDON, SW5 0TD - 02.11.2017
32 Sheen Common Drive, Richmond, TW10 5BN - 02.11.2017
Flat 30, Swan Court, Retreat Road, Richmond, TW9 1NN - 02.11.2017
Staff Cottage Petersham Meadows Farm, Petersham Road, Richmond, TW10 7AA - 02.11.2017
49 VICTORIA ROAD, LONDON, W8 5RH - 02.11.2017
13 Lorne Road, Richmond, TW10 6DS - 02.11.2017
6 Devoncroft Gardens, Twickenham, TW1 3PB - 02.11.2017
50 Castelnau, Barnes, London, SW13 9EX -
24 CAVAYE PLACE, LONDON, SW10 9PT - 02.11.2017
16 Arlington Road, Petersham, Richmond, TW10 7BY - 02.11.2017
60 Windsor Road, Richmond, TW9 2EL - 02.11.2017
37 Alton Road, Richmond, TW9 1UJ - 02.11.2017
29 DUDLEY ROAD, KINGSTON UPON THAMES, KT1 2UN - 02.11.2017
19 Claremont Road, Twickenham, TW1 2QX - 02.11.2017
38 BELGRAVE SQUARE, LONDON, SW1X 8NT - 02.11.2017
34 CLIFFORD GARDENS, LONDON, NW10 5JD - 02.11.2017
58 BARMOUTH ROAD, LONDON, SW18 2DR - 02.11.2017
3 ROWLLS ROAD, KINGSTON UPON THAMES, KT1 3ET - 02.11.2017
87 LONGMEAD ROAD, THAMES DITTON, KT7 0JE - 02.11.2017
Flat A, 26 Northcote Road, Twickenham, TW1 1PA - 02.11.2017
20 Lowther Road, Barnes, London, SW13 9ND - 02.11.2017
58 Cophthall Gardens, Twickenham, TW1 4HJ - 02.11.2017
49 Gordon Road, Ealing, London, W52AP - 02.11.2017
12 Avenue Gardens, Teddington, TW11 0BH - 02.11.2017
59 DURLSTON ROAD, KINGSTON UPON THAMES, KT2 5RS - 02.11.2017
Glenmore House, Moores Way, Glenmore, Camden, 2570 - 02.11.2017
55A, WIXS LANE, LONDON, SW4 0AH - 02.11.2017

1,CUMBERLAND HOUSE 16,HIGHBURY CRESCENT,ISLINGTON,LONDON,N5 1RT - 02.11.2017
38 BOURDON STREET,LONDON,W1K 3PT - 02.11.2017
60 Verdun Road,Barnes,London,SW13 9AX - 02.11.2017
111 Amyand Park Road,Twickenham,TW1 3HN - 02.11.2017
35 CHISWICK QUAY,CHISWICK,LONDON,W4 3UR - 02.11.2017
35 Lauderdale Drive,Petersham,Richmond,TW10 7BS - 02.11.2017
79 BALHAM PARK ROAD,LONDON,SW12 8EB - 02.11.2017
11 Ham Street,Ham,Richmond,TW10 7HR - 02.11.2017
64 Fulwell Road,Teddington,TW11 0RA - 02.11.2017
21 MAYFORD ROAD,LONDON,SW12 8SE - 02.11.2017
65 Kings Road,Richmond,TW10 6EG - 02.11.2017
21A,Kings Road,Richmond,TW10 6NN - 02.11.2017
12 DANCER ROAD,LONDON,SW6 4DX - 02.11.2017
198 BLYTHE ROAD,LONDON,W14 0HH - 02.11.2017
43 Ailsa Avenue,Twickenham,TW1 1NF - 02.11.2017
APARTMENT 14,SKYLINE PLAZA BUILDING 80,COMMERCIAL ROAD,LONDON,E1 1NY - 02.11.2017
2,JUNIPER TERRACE,JUNIPER PLACE,SHALFORD COMMON,SHALFORD,GU4 8BX - 02.11.2017
13 Albany Passage,Richmond,TW10 6DL - 02.11.2017
21 Onslow Road,Richmond,TW10 6QH - 02.11.2017
Quainton Cottage,Bute Avenue,Petersham,Richmond,TW10 7AX - 02.11.2017
Ham House,Ham Street,Ham,Richmond,TW10 7RS - 02.11.2017
2 Observatory Road,East Sheen,London,SW14 7QD - 02.11.2017
64 Albert Road,Richmond,TW10 6DP - 02.11.2017
79 Landcroft Road,East Dulwich,SE229JS - 02.11.2017
36 Haggard Road,Twickenham,TW1 3AF - 02.11.2017
98 Warren Drive South,Surbiton,Surbiton,KT59QE - 02.11.2017
105 SALISBURY ROAD,WEST EALING,W13 9TT - 02.11.2017
32 GROVE LANE,KINGSTON UPON THAMES,KT1 2ST - 02.11.2017
Sandpits Cottage,Sandpits Road,Petersham,Richmond,TW10 7DT - 02.11.2017
8 park hill,park hill,clapham,london,sw49pb - 02.11.2017
14 Grosvenor Road,Richmond,TW10 6PB - 02.11.2017
18 Beaumont Avenue,Richmond,TW9 2HE - 02.11.2017
30 Windsor Road,Kingston,KT25EY - 02.11.2017
22 UPPER MALL,LONDON,W6 9TA - 02.11.2017
98 Kew Road,Richmond,TW9 2PQ - 02.11.2017
40 Burton Road,Kingston,KT25TF - 02.11.2017
Flat 3,10 Marlborough Road,Richmond,TW10 6JR - 02.11.2017
3 High Park Road,Kew,Richmond,TW9 4BL - 02.11.2017
4 Laurel Avenue,Twickenham,TW1 4JA - 02.11.2017
44 COTTENHAM DRIVE,WEST WIMBLEDON,LONDON,SW20 0ND - 02.11.2017
56 Broad Lane,Hampton,TW12 3BG - 02.11.2017
4 OAKLANDS AVENUE,ESHER,KT10 8HX - 02.11.2017
Flat 34,Swan Court,Retreat Road,Richmond,TW9 1NN - 02.11.2017
Ground floor flat,39 Earlsfield road,Wandsworth,London,SW183DB - 02.11.2017
234 Ashburnham Road,Ham,Richmond,TW10 7SA - 02.11.2017
The Gatehouse,Sudbrook Lane,Petersham,Richmond,TW10 7AT - 02.11.2017
+61417419909,Cupitt's Kitchen and Winery,58 Washburton Rd,NSW. Australia,Ulladulla.,2539 - 02.11.2017
5 RUSSELL ROAD,LONDON,W14 8JA - 02.11.2017
82 ANTROBUS ROAD,CHISWICK,W4 5NQ - 02.11.2017
106 Cheyne Walk,London,SW10 0DG - 02.11.2017
VINCENT HOUSE,WARREN ROAD,KINGSTON UPON THAMES,KT2 7HY - 02.11.2017
15A,Onslow Road,Surrey,Richmond,TW10 6QH - 02.11.2017
18 Riverdale Road,Twickenham,TW1 2BS - 02.11.2017
22,22 kelvedon close,surrey,kingston,KT25LG - 02.11.2017
HOO HOLE HOUSE,HOO HOLE LANE,CRAGG VALE,HEBDEN BRIDGE,HX7 5HA - 02.11.2017
29A,Winchester Road,Twickenham,TW1 1LE - 02.11.2017
2 Muirdown Avenue,East Sheen,London,SW14 8JX - 02.11.2017
8 Grena Road,Richmond,TW9 1XS - 02.11.2017
168 RICHMOND ROAD,HACKNEY,LONDON,E8 3HN - 02.11.2017
78 GRANARY LANE,BUDLEIGH SALTERTON,EX9 6ER - 02.11.2017
MOLES HILL HOUSE,PORTSMOUTH ROAD,COBHAM,KT11 1BG - 02.11.2017
THE COTTAGE 2,ELLERTON ROAD,WEST WIMBLEDON,LONDON,SW20 0EP - 02.11.2017
43 The Grove,Teddington,TW11 8AT - 02.11.2017
151 Sheen Lane,East Sheen,London,SW14 8LR - 02.11.2017
BOOKHAMS,JUMPS ROAD,CHURT,FARNHAM,GU10 2LD - 02.11.2017
CHINTHURST,WARBOYS ROAD,KINGSTON UPON THAMES,KT2 7LS - 02.11.2017

9 DEBDEN CLOSE, KINGSTON UPON THAMES, KT2 5GD - 02.11.2017
180 Kneller Road, Twickenham, TW2 7DX - 02.11.2017
197 CARNWATH ROAD, LONDON, SW6 3EJ - 02.11.2017

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

Development Management

Status: GTD Application: 13/4488/FUL
Date: 24/01/2014 Construction of a gravity pipeline to connect Petersham Nurseries to the public sewer at River Lane via Petersham Meadows.

Development Management

Status: PCO Application: 14/0345/VRC
Date: Application for variation of condition NS04 of planning permission 08/4312/FUL for permanent mixed use as garden centre (Class A1) and café/restaurant (Class A3), to allow for the sale of food for consumption on the premises, between the hours of 09.00 and 18.00 on Mondays, Tuesdays and Wednesdays, 09.00 and 23.00 on Thursdays, Fridays and Saturdays and 11.00 and 18.00 on Sundays.

Development Management

Status: GTD Application: 13/4488/DD01
Date: 01/04/2014 Details pursuant to condition U68135 (Archaeology) of planning permission 13/4488/FUL for construction of a gravity pipeline to connect Petersham Nurseries to the public sewer at River Lane via Petersham Meadows.

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

This application is CIL liable YES* NO
(*If yes, complete CIL tab in Uniform)

This application requires a Legal Agreement YES* NO
(*If yes, complete Development Condition Monitoring in Uniform)

This application has representations online (which are not on the file) YES NO

This application has representations on file YES NO

Case Officer (Initials): J.T.

Dated: 02.01.2018

I agree the recommendation:

Team Leader/Head of Development Management/Principal Planner

Dated:

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

Head of Development Management:

Dated:

*REFUSED AT COMMITTEE
11/1/18*

REASONS:
CONDITIONS:
INFORMATIVES:
UDP POLICIES:
OTHER POLICIES:

14/0345/VRC

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

PETERSHAM NURSERIES
PETERSHAM ROAD
RICHMOND

Proposal: Variation of condition NS04 of planning permission 08/4312/FUL for permanent mixed use as garden centre (Class A1) and café/restaurant (Class A3), to allow for the sale of food for consumption on the premises, between the hours of 09.00 and 18.00 on Mondays, Tuesdays and Wednesdays, 09.00 and 23.00 on Thursdays, Fridays and Saturdays and 11.00 and 18.00 on Sundays.

Applicant: Ms C Senn on behalf of Petersham Nurseries

Application received: 3 February 2014, revised 20 March 2015, 11 June 2015 and 13 July 2017.

Main development plan policies:
National Planning Policy Framework

Local Development Framework Core Strategy (April 2009) policies:

CP4 (Biodiversity);
CP5 (Sustainable Travel);
CP7 (Maintaining and Improving the Local Environment); and
CP10 (Open Land and Parks).

Development Management Plan policies:

DM OS 2 (Metropolitan Open Land);
DM OS 5 (Biodiversity and new development);
DM HD 1 (Conservation Areas - designation, protection and enhancement);
DM TP 2 (Transport and New Development);
DM TC 5 (The Evening Economy); and
DM DC 5 (Neighbourliness, Sunlighting and Daylighting).

Publication Local Plan policies:

LP 3 (Designated Heritage Assets);
LP 8 (Amenity and Living Conditions);
LP 10 (Local Environmental Impacts, Pollution and Land Contamination);
LP 13 (Green Belt, Metropolitan Open Land and Local Green Space);
LP 15 (Biodiversity); and
LP 44 (Sustainable Travel Choices).

SUMMARY

Although the lawful garden centre use can operate on an unrestricted basis, the permitted restaurant (Class A3) element is limited to the hours of 10.00 and 16.30 on Tuesdays to Saturdays, 11.00 and 16.30 on Sundays and not at all on Mondays. The current proposal primarily seeks to allow the sale of food for consumption on the premises on a much more extensive basis than at present and as previously considered to be unacceptable in the refused scheme. At present the restaurant use is permitted to operate only within daytime hours, although it currently opens in the evening on an occasional basis, with the benefit of temporary event notices. The Committee has previously accepted that 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 that no nuisance arises from the current use from within the site itself. It is accepted that allowing the restaurant element to operate on a Monday, during hours currently permitted for the remainder of the week, would address the currently anomalous restriction, which appears to reflect the opening times of the garden centre when the original application was submitted. However, the Committee has also previously taken the view that, by extending the hours of use of the restaurant element into the evening on a regular basis, the proposal would expand an inappropriate use within Metropolitan Open Land to the detriment of its character and would 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.

The hours of use currently proposed are much more extensive than those previously considered to be unacceptable. The applicants have submitted assessments of transport surveys undertaken in October 2015 and December 2016, an Environmental Noise Assessment of noise surveys undertaken at the same time and a copy of the Supper Club Management Plan, which sets out measures which have been put in place to mitigate the impact of the additional activity in and around the premises during the Supper Club events, and which would be in place to regulate activities during the proposed extended hours of operation of the restaurant. Whilst these measures represent a demonstration of the applicants' good intentions, it is considered that there is a practical limit to how far noise nuisance and disturbance from increased vehicular and pedestrian traffic generation and customers leaving the premises late at night on a much more regular basis can reasonably be controlled.

For these reasons, the proposals are considered to be unacceptable.

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. Petersham Meadows, which is designated as an Other Site of Nature Importance, 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.

It appears that a nursery has existed on the site since at least 1962. In 1998 a Certificate of Lawful Use was granted in respect of use of the premises 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 (98/0525).

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 limited period of one year. 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 (07/1235/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 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).

An application submitted in 2011 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).

An application 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 was refused permission on 29 March 2012 for the following reason:

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 (12/0067/VRC).

Public and other representations:

As originally submitted, the current application sought to extend the hours for the sale of food on and off the premises to between 09.00 and 23.00 on Monday to Saturday and 09.00 and 18.00 on Sundays.

48 letters of objection were received, including one from the Ham and Petersham Association, 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;
- Residents have already had experience of the impact of evening opening as a result of the 'Supper Club' activities;
- No significant change in circumstances from previous application;
- Concern about the condition of Church Lane.

A total of 95 letters were received in support of the proposal, raising the following points:

- 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.

7 letters of general observations were also received.

First Amendment and Additional Supporting Information

In March and June 2015, the application was amended to reduce the hours applied for on Sundays, so the application sought to allow food to be sold for consumption on and off the premises between the hours of 09.00 and 23.00 on Mondays to Saturdays and 09.00 and 17.00 on Sundays. The proposal was further amended to be for a limited period of 12 months from the date of the decision.

Additionally, the applicants submitted a copy of the Petersham Nurseries Business Plan, which illustrated the proposed pattern of usage for the premises for 2015, and a proposed Service and Operations Management Plan, which was intended to regulate the management of the site and mitigate impacts on neighbours.

Public and other representations to First Amendment:

In the light of the revisions to the application and the additional supporting information received, a further consultation exercise was undertaken.

41 objections were received, largely re-iterating the concerns and objections set out above.

133 letters of support were received, together with 8 letters making general observations on the proposals.

Second Amendment (Current proposal) and Additional Supporting Material

In July 2017 the applicants made further revisions to the proposal, so that it currently seeks to allow for the sale of food for consumption on the premises, between the hours of 09.00 and 18.00 on Mondays, Tuesdays and Wednesdays, 09.00 and 23.00 on Thursdays, Fridays and Saturdays and 11.00 and 18.00 on Sundays. Additional supporting material, in the form of a Planning Statement letter, an Environmental Noise Assessment, a Transport Statement and a Supper Club Management Plan, were submitted in substitution for all previously submitted supporting material. Given the change in the proposed hours of operation and the submission of additional supporting material, it was decided that a further consultation exercise should be undertaken.

Public and other representations to Second Amendment

The Ham and Petersham Association make an observation regarding the adequacy of the consultation process. As this is a revision to an existing application, consultation letters were sent to all third parties who had previously made representations on the application.

41 letters of objection have been received to the latest version of the application, in many cases a reiteration of previous objections on grounds including:

- Extension of hours into late evening would be detrimental to the tranquil nature of the semi-rural locality;
- Adverse impact on 'dark place' and animal habitats;
- Noise nuisance caused by existing occasional evening operation;
- Noise from additional traffic and waiting vehicles;

- Adverse impact of Increased traffic generation;
- Danger to pedestrians using Church Lane caused by increased traffic, particularly late at night.

One general observation on the need to ensure there is not too high a traffic generation or excessive late night noise.

7 letters of support have been received, on grounds of:

- A local business providing local employment;
- Management make every effort to mitigate any noise and traffic impact;
- Enhances the quality of the local environment

Professional Comments:

The National Planning Policy Framework confirms the presumption in favour of sustainable development but reiterates that applications must be determined in accordance with the development plan unless material considerations dictate otherwise.

As with the previous application, the main issues raised in this proposal 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:

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.

Policy DM OS 2 of the adopted DMP 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.”*

Policy LP 13 of the Publication Local Plan states, inter alia, that MOL will be protected and that inappropriate development will be refused unless ‘very special circumstances’ can be demonstrated that clearly outweigh the harm to the MOL. It reiterates the circumstances identified in the adopted policy where inappropriate development such as small scale development may be acceptable.

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, although it is accepted that the retail nursery element of the use has existed on the site for more than fifty years. 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 interest 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 being created.

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 the café/restaurant use (A3 use), which can accommodate approximately 120 covers, has become a destination in its own right, with a national and international reputation. In determining the previously approved applications, where the proposed hours of use were set within the existing hours of operation of the nursery use, 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.

Inappropriate development is by definition, harmful to MOL and should not be approved except in very special circumstances. The NPPF advises that very special circumstances will not exist unless the potential harm by reason of its inappropriateness is clearly outweighed by other considerations. It is recognised that the café/restaurant at Petersham Nurseries has become a very popular and successful local business, in part assisted by its special setting in this semi-rural and tranquil location. Whilst the role that the business as a whole plays in the local community and the desire to support an employment and visitor generating use is given weight in the assessment, these benefits are not considered to be significantly related specifically to the extension of the restaurant use, do not meet the tests for exceptional cases set out in policies DM OS 2 and LP13, and are not considered to clearly outweigh the harm arising to the character of MOL.

In the case of the 2012 refused application, it was considered that the proposed extension of hours into the late evening, on one day per week, was a step too far, in terms of the harmful effect on the character of the MOL. The operation of an inappropriate use within a ‘dark area’, into the late evening would have a harmful impact on the character of the MOL, with the introduction of movement, and associated light pollution from headlights and noise from engines, from cars and taxis in and around the site.

In their planning statement (letter from WYG dated 13 July 2017), the applicants suggest that the proposal conforms to national planning guidance with regard to Green Belt/MOL. The applicants do not accept that the proposal will have any impact on the character of the MOL, as there is no physical development proposed and the proposal involves the use of an existing building. However, as stated above, the adopted policy clearly sets out that uses do have an impact on the character and

function of the MOL and this view has been supported in a number of appeal decisions.

The Committee has previously considered that an extension to the hours of operation for the Class A3 restaurant element of the permitted mixed use, 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. The current proposal includes a much more extensive level of evening hours' operation than that previously considered to be harmful to the MOL, for three evenings per week, with a consequentially more harmful impact and the proposal is therefore considered to be contrary to the Council's adopted and emerging policies in respect of MOL.

Impact on Character and Appearance of Conservation Area:

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 DMP states that new development or other proposals should conserve and enhance the character and appearance of the area, whilst emerging policy LP 3 seeks to preserve and, where possible, enhance the character or the appearance of the conservation Area.

The Petersham Conservation Area Statement describes the area as 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, described as a quiet retreat from Petersham Road, and the surviving historic alleyways, which further contribute to the distinctive village character of this area, one of which 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 an established 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, and the later one to extend the evening hours of the restaurant element, 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 even further 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 Conservation Area. As previously reported, in officers' opinion, this is less likely to be a sustainable objection, the visual impact on the character and appearance of the conservation area being difficult to identify.

Impact on Residential Amenity:

Paragraph 123 of the NPPF states that planning policies and decisions should:

“avoid noise from giving rise to significant adverse impacts on health and quality of life” and

“protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason”.

Policy DM DC 5 of the DMP states that the Council will seek to protect adjoining properties from unreasonable loss of privacy, pollution, visual intrusion, noise and disturbance. These aims are largely reiterated in emerging policy LP 8.

Emerging policy LP 10 seeks to ensure that the local environmental impacts of developments do not lead to detrimental effects on the amenity of existing occupiers of surrounding land.

Adopted policy DM TC 5 of the DMP 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.

Whilst the introduction of a Class A3 use in this out-of-centre, semi-rural location would not normally be acceptable, the Committee has previously accepted that the circumstances of the case, and the conditions imposed on the original permission 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)

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. No complaints have been received regarding the use of the kitchen and a new ventilation and extraction system has been installed, having been approved in March 2013 (08/4312/DD01).

The applicants have submitted an Environmental Noise Assessment, prepared utilising national noise and planning policy guidance and surveys undertaken when the Supper Club is operational, which concludes that during the day and evening, noise disturbance from the restaurant results in no adverse effects in terms of annoyance or sleep disturbance.

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 applicants,

responding to a number of objectors' complaints about music, have previously categorically stated that no music will be played at the premises. This can be secured by condition.

The applicants have also implemented a change to the pedestrian access arrangements to the restaurant, during Supper Club operation, which has involved creating a sole access at the north-eastern boundary to the site, some 60 metres from the nearest residential neighbour. This also assists in mitigating any potential noise nuisance/disturbance from within the site.

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 late evening and at night-time). In addition, general noise and disturbance can occur at those times when groups of customers leave the premises and staff clear up and leave. This should not currently have been the case here as the 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.

Noise from customers arriving at and departing from the premises is difficult to evaluate. Following government advice and guidance, the applicants' Environmental Noise Assessment (ENA) rightly draws a distinction between noise impacts which are intrusive, and which can be managed and mitigated, and those which are disruptive and should be avoided. The ENA suggests that there is no objectionable noise nuisance arising from the use of the premises as a result of the current occasional Supper Club evening operations. However, this is based on surveys which provide only a snapshot of evening activities on a particular evening. There continues to be anecdotal evidence from neighbouring occupiers that noise and disturbance from people leaving the premises by car and on foot does currently occur when the 'Supper Club' evening events have taken place. The applicants claim that the effects of this impact are exaggerated and stress that the mitigation measures that have been put in place are sufficient to address any concerns. These measures include:

- management of car parking and staff and customer methods of travel;
- management of taxi movements;
- management of pedestrian and vehicular departures;
- delivery management;
- management of refuse collection and recycling.

Whilst the results of the applicants' noise surveys are not disputed, it is suggested that the results of a one-off, closely managed and monitored event may not bear comparison with the effects of 150 (annually) regular, less closely managed and monitored events, particularly if the cumulative impact of this proposal is considered.

A number of objectors continue to refer to problems of traffic generation, parking issues and customer noise in association with current and past evening 'Supper Club' activities at the restaurant, which have been 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 continuing anecdotal evidence of nuisance arising from the occasional 'Supper Club' evening events at the premises is indicative that there is potential for further loss of amenity to neighbouring residential occupiers if evening opening was permitted on a significantly

more regular basis as currently proposed. As suggested in the consideration of the previously refused scheme, 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). Some of these impacts, such as bottle collection and disposal, could be prevented by condition and some mitigated to an extent by the applicants' suggested Service and Operations Management Plan. However, in officers' view, although car doors, engines running and voices may not be considered to result in a significant adverse impact in many other locations, given the tranquillity of this area such sounds are considered to be noticeable and intrusive, and given the lateness of the hours at times when residents may be trying to sleep, are also considered likely to cross over into noticeable and disruptive. The extent of the intensification would extend the likely occurrence of noise and consequent disruption throughout the year to a degree that is considered unacceptable.

Hours of operation

In its consideration of the original planning applications for mixed Class A1/A3 use of the premises, the Committee previously took the view 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. In its consideration of the 2012 proposal, the Committee has previously decided the extension of hours on one day per week to be unacceptable. Whilst preventing the opening on a Monday is considered to be anomalous (this restriction seems to have reflected the use of the premises at the time the original application was made), officers take the view that the current proposal to extend the hours of use of the restaurant element by an even greater period of time, namely late into the evening three evenings per week, would be unacceptable for the reasons stated above.

Traffic and Car Parking:

Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

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).

Adopted Development Management Plan policy DM TP 2 states that the impact of new development on the transport network will be assessed against other plan policies and parking standards, and that applications for small development should be accompanied by a Transport Statement.

Emerging Publication Local Plan policy LP 44 seeks to promote safe, sustainable and accessible transport solutions which minimise the impacts of development.

Petersham Nurseries is situated in a sensitive location. It lies to the rear of 143 Petersham Road. The site can only be accessed by vehicles via Church Lane, which is a narrow road leading to the entrance of Petersham Nurseries and the turning circle. 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 (the Travel Plan suggested that there are 24 parking spaces, including three disabled, outside the nursery entrance and a further 14 spaces along Church Lane). The Nursery employs a dedicated parking assistant who directs vehicles along Church Lane and informs visitors of the parking facilities. For the Supper Club events, two parking attendants are utilized, to direct customers from and to Petersham Road and to regulate the activities of taxis and other drivers.

The previous report relating to the 2012 refused scheme, accepted by the Committee, stated that Petersham Nurseries had achieved impressive results over the years since the mixed Class A1/A3 use commenced. 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. Customers for the Supper Clubs are encouraged to provide details of travel and not to drive. Car sharing and use of taxis is also encouraged.

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. Two detailed surveys have been undertaken, one for a Supper Club on 23 October 2015, the other for a Supper Club on 9 December 2016, and Transport Statements analysing the results have been submitted in support of the application. The split for the modes of transport for persons attending the Supper Clubs is set out below:

Supper Club 23 October 2015

MODE	No. of vehicles	No. of people	% total people
Taxi	16	39	49
Car	7	21	27
Walk	-	14	18
Bus	-	4	5
Cycle	1	1	1

Supper Club 9 December 2016

Mode	No. of vehicles	No. of people	% total people
Taxi	18	50	49
Car	20	46	45
Walk	1	2	2
Bus	2	4	4
Cycle	1	1	1

It will be noted from these surveys that the progress on migration of customers away from the private car does not appear to have been maintained, with an increase in the number of private cars from 7 in 2015 to 20 in 2016.

There are approximately 40 potential parking spaces within Church Lane, although 6 of these spaces are not available for use on Supper Club evenings. The latest parking survey, from 9 December 2016, indicates that, of the 20 private cars attending the evening event, 17 parked in Church Lane, 2 in River Lane and 1 in Cedar Heights.

Although the surveys represent only a snapshot of the operation, the supplementary Transport Statements submitted with this application support the contention that there is capacity within Church Lane to accommodate the number of cars wishing to park at the site during Supper Club operation. It is considered that overspill onto surrounding streets does not constitute a severe impact on transport grounds.

Similarly, the overall number of vehicular movements generated by the use, resulting from 18 taxis (36 return journeys) and 20 cars (40 return journeys) is also not considered to give rise to a severe cumulative impact, as required in the NPPF, to justify refusal on transport grounds.

In her assessment of the previously refused application, the Transport Officer had taken account of the survey information provided with that submission and concluded that evening opening on one day per week was unlikely to be detrimental to the functioning of the local highway network. She recommended 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.

Refuse provision and servicing

Currently, 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 previously 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.

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.

Other Matters

As originally submitted, the proposal sought to permit the increased hours of operation for a twelve month limited period only. This is no longer part of the proposal, the application having been amended to allow the proposed extended hours in perpetuity. The applicants point out that it is within the Council's remit to permit the proposal on a limited period basis, in order for the impact of the proposal to be fully assessed, but officers are of the view that whilst this may go some way to overcoming concerns about the amenity impacts of the proposed extended hours, it does not address the fundamental point that an extension of hours of operation of the Class A3 restaurant element is contrary to MOL policy.

The applicants also suggest that regard must be had to the fall-back position, namely that the Class A1 nursery and ancillary facilities can, theoretically, operate on a 24-hour basis. Whilst this, in theory, is correct, in practice it is considered to be unlikely, since the application is for the Class A3 use to operate in isolation.

A number of objectors have referred to the potentially adverse impact of the proposed extended hours of operation on the biodiversity of the area. The Council's adopted policies, set out in CP4 of the Core Strategy, DM OS 5 of the DMP and emerging policy, LP 15, seeks to preserve and where possible enhance existing habitats. The proposed extension of hours proposed and the associated vehicular and pedestrian traffic, is not considered to be sufficiently harmful to biodiversity of

the area to sustain an objection on these grounds, as activity and vehicle and pedestrian movement generated by this business is already an established part of the character of the area.

Conclusion:

Although the lawful garden centre use can operate on an unrestricted basis, the permitted restaurant (Class A3) element is limited to the hours of 10.00 and 16.30 on Tuesdays to Saturdays, 11.00 and 16.30 on Sundays and not at all on Mondays. The current proposal seeks to allow the sale of food for consumption on the premises on a much more extensive basis than at present and as previously considered to be unacceptable in the refused scheme. At present the restaurant use is permitted to operate only within daytime hours, although it currently opens in the evening on an occasional basis, with the benefit of temporary event notices. The Committee has previously accepted that 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 that no nuisance arises from the current use from within the site itself. It is accepted that allowing the restaurant element to operate on a Monday, during hours currently permitted for the remainder of the week, would address the currently anomalous restriction, which appears to reflect the opening times of the garden centre when the original application was submitted. However, the Committee has also previously taken the view that, by extending the hours of use of the restaurant element into the evening on a regular basis, albeit for one evening per week, the proposal would expand an inappropriate use within Metropolitan Open Land to the detriment of its character and would 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.

The hours of use currently proposed are much more extensive than those previously considered to be unacceptable. The applicants have submitted assessments of transport surveys undertaken in October 2015 and December 2016, an Environmental Noise Assessment of surveys undertaken at the same time and a copy of the Supper Club Management Plan, which sets out measures which have been put in place to mitigate the impact of the additional activity in and around the premises during the Supper Club events, and which would be in place to regulate activities during the proposed extended hours of operation of the restaurant. Whilst these measures represent a demonstration of the applicants' good intentions, it is considered that there is a practical limit to how far noise nuisance and disturbance from increased vehicular and pedestrian traffic generation and customers leaving the premises late at night on a much more regular basis can reasonably be controlled.

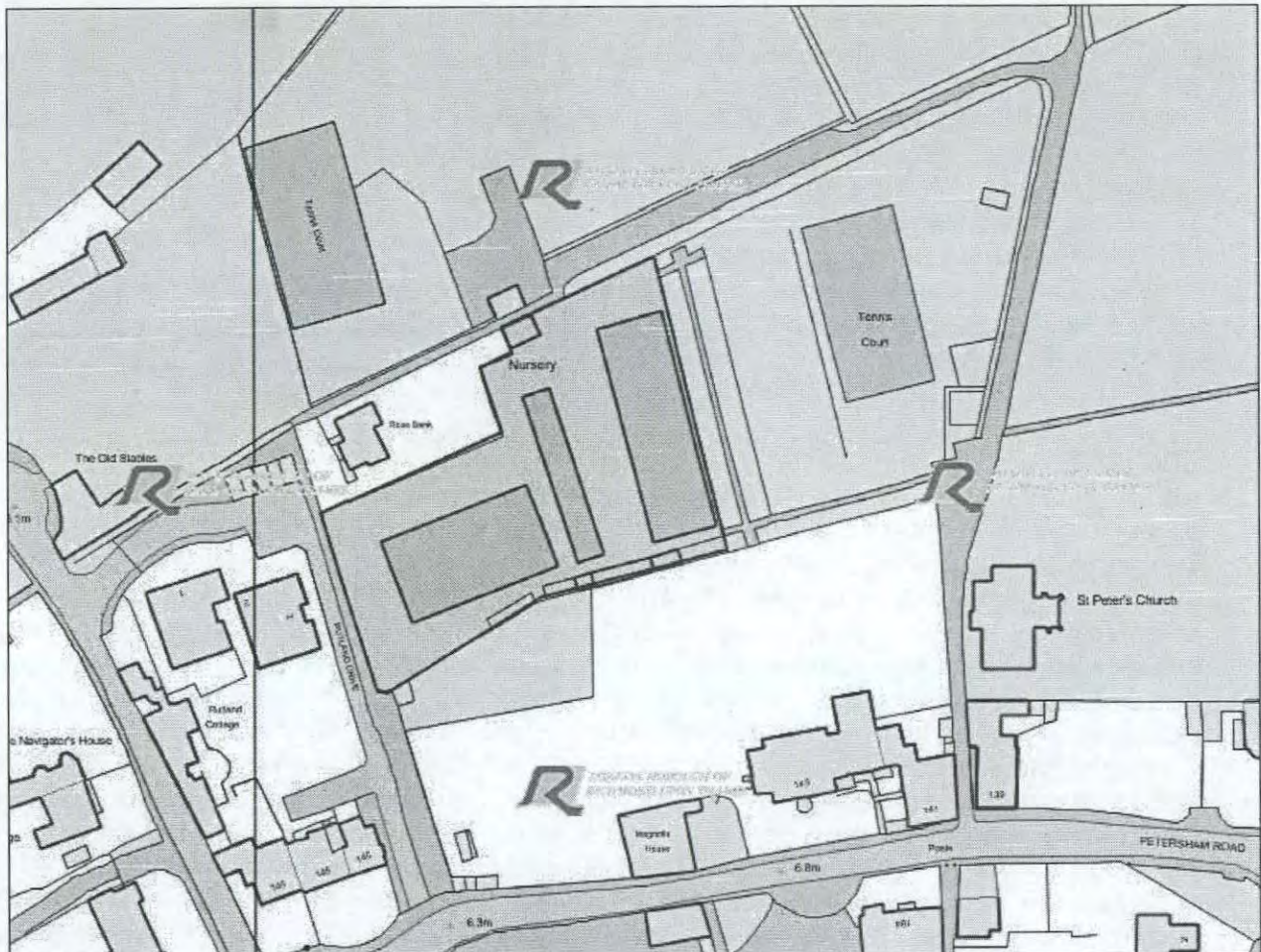
I therefore recommend **REFUSAL** for the following reason:

The proposal would result in the expansion of an inappropriate use to the detriment of the character and function of Metropolitan Open Land and would, by reason of an increased level of pedestrian and vehicular activity around the site, result in an adverse effect on the amenities of neighbouring residential occupiers and the area generally. As such the proposal would be contrary to the National Planning Policy Framework and the Local Plan, including policy CP10 of the Local Development Framework Core Strategy adopted April 2009, policies DM OS 1, DM TC 5 and DM DC 5 of the Development Management Plan adopted November 2011 and policies LP 8, LP 10 and LP 13 of the Publication Local Plan.

14/0345/VRC
PETERSHAM NURSERIES
PETERSHAM ROAD
RICHMOND

HAM, PETERSHAM & RICHMOND RIVERSIDE
WARD
Contact Officer:
J Thompson

http://www2.richmond.gov.uk/PlanData2/Planning_CaseNo.aspx?strCASENO=14/0345/VRC



© Crown copyright. All rights reserved. London Borough of Richmond Upon Thames LA 100019441[2018].'- Do not scale '

Proposal: Variation of condition NS04 of planning permission 08/4312/FUL for permanent mixed use as garden centre (Class A1) and café/restaurant (Class A3), to allow for the sale of food for consumption on the premises, between the hours of 09.00 and 18.00 on Mondays, Tuesdays and Wednesdays, 09.00 and 23.00 on Thursdays, Fridays and Saturdays and 11.00 and 18.00 on Sundays.

Applicant: Ms C Senn on behalf of Petersham Nurseries

Application received: 3 February 2014, revised 20 March 2015, 11 June 2015 and 13 July 2017.

Main development plan policies:
National Planning Policy Framework

Local Development Framework Core Strategy (April 2009) policies:
CP4 (Biodiversity);

CP5 (Sustainable Travel);
CP7 (Maintaining and Improving the Local Environment); and
CP10 (Open Land and Parks).

Development Management Plan policies:

DM OS 2 (Metropolitan Open Land);
DM OS 5 (Biodiversity and new development);
DM HD 1 (Conservation Areas - designation, protection and enhancement);
DM TP 2 (Transport and New Development);
DM TC 5 (The Evening Economy); and
DM DC 5 (Neighbourliness, Sunlighting and Daylighting).

Publication Local Plan policies:

LP 3 (Designated Heritage Assets);
LP 8 (Amenity and Living Conditions);
LP 10 (Local Environmental Impacts, Pollution and Land Contamination);
LP 13 (Green Belt, Metropolitan Open Land and Local Green Space);
LP 15 (Biodiversity); and
LP 44 (Sustainable Travel Choices).

SUMMARY

Although the lawful garden centre use can operate on an unrestricted basis, the permitted restaurant (Class A3) element is limited to the hours of 10.00 and 16.30 on Tuesdays to Saturdays, 11.00 and 16.30 on Sundays and not at all on Mondays. The current proposal primarily seeks to allow the sale of food for consumption on the premises on a much more extensive basis than at present and as previously considered to be unacceptable in the refused scheme. At present the restaurant use is permitted to operate only within daytime hours, although it currently opens in the evening on an occasional basis, with the benefit of temporary event notices. The Committee has previously accepted that 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 that no nuisance arises from the current use from within the site itself. It is accepted that allowing the restaurant element to operate on a Monday, during hours currently permitted for the remainder of the week, would address the currently anomalous restriction, which appears to reflect the opening times of the garden centre when the original application was submitted. However, the Committee has also previously taken the view that, by extending the hours of use of the restaurant element into the evening on a regular basis, the proposal would expand an inappropriate use within Metropolitan Open Land to the detriment of its character and would 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.

The hours of use currently proposed are much more extensive than those previously considered to be unacceptable. The applicants have submitted assessments of transport surveys undertaken in October 2015 and December 2016, an Environmental Noise Assessment of noise surveys undertaken at the same time and a copy of the Supper Club Management Plan, which sets out measures which have been put in place to mitigate the impact of the additional activity in and around the premises during the Supper Club events, and which would be in place to regulate activities during the proposed extended hours of operation of the restaurant. Whilst these measures represent a demonstration of the applicants' good intentions, it is considered that there is a practical limit to how far noise nuisance and disturbance

from increased vehicular and pedestrian traffic generation and customers leaving the premises late at night on a much more regular basis can reasonably be controlled.

For these reasons, the proposals are considered to be unacceptable.

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. Petersham Meadows, which is designated as an Other Site of Nature Importance, 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. It appears that a nursery has existed on the site since at least 1962. In 1998 a Certificate of Lawful Use was granted in respect of use of the premises 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 (98/0525).
4. 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 limited period of one year. 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 (07/1235/FUL).
5. 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).
6. An application submitted in 2011 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).
7. An application 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 was refused permission on 29 March 2012 for the following reason:

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 (12/0067/VRC).

Public and other representations:

8. As originally submitted, the current application sought to extend the hours for the sale of food on and off the premises to between 09.00 and 23.00 on Monday to Saturday and 09.00 and 18.00 on Sundays.
9. 48 letters of objection were received, including one from the Ham and Petersham Association, 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;
 - Residents have already had experience of the impact of evening opening as a result of the 'Supper Club' activities;
 - No significant change in circumstances from previous application;
 - Concern about the condition of Church Lane.
10. A total of 95 letters were received in support of the proposal, raising the following points:
 - 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.
11. 7 letters of general observations were also received.

First Amendment and Additional Supporting Information

12. In March and June 2015, the application was amended to reduce the hours applied for on Sundays, so the application sought to allow food to be sold for consumption on and off the premises between the hours of 09.00 and 23.00 on Mondays to Saturdays and 09.00 and 17.00 on Sundays. The proposal was further amended to be for a limited period of 12 months from the date of the decision.
13. Additionally, the applicants submitted a copy of the Petersham Nurseries Business Plan, which illustrated the proposed pattern of usage for the premises for 2015, and a proposed Service and Operations Management Plan, which was intended to regulate the management of the site and mitigate impacts on neighbours.

Public and other representations to First Amendment:

14. In the light of the revisions to the application and the additional supporting information received, a further consultation exercise was undertaken.
15. 41 objections were received, largely re-iterating the concerns and objections set out above.
16. 133 letters of support were received, together with 8 letters making general observations on the proposals.

Second Amendment (Current proposal) and Additional Supporting Material

17. In July 2017 the applicants made further revisions to the proposal, so that it currently seeks to allow for the sale of food for consumption on the premises, between the hours of 09.00 and 18.00 on Mondays, Tuesdays and Wednesdays, 09.00 and 23.00 on Thursdays, Fridays and Saturdays and 11.00 and 18.00 on Sundays. Additional supporting material, in the form of a Planning Statement letter, an Environmental Noise Assessment, a Transport Statement and a Supper Club Management Plan, were submitted in substitution for all previously submitted supporting material. Given the change in the proposed hours of operation and the submission of additional supporting material, it was decided that a further consultation exercise should be undertaken.

Public and other representations to Second Amendment

18. The Ham and Petersham Association make an observation regarding the adequacy of the consultation process. As this is a revision to an existing application, consultation letters were sent to all third parties who had previously made representations on the application.
19. 41 letters of objection have been received to the latest version of the application, in many cases a reiteration of previous objections on grounds including:
- Extension of hours into late evening would be detrimental to the tranquil nature of the semi-rural locality;
 - Adverse impact on 'dark place' and animal habitats;
 - Noise nuisance caused by existing occasional evening operation;
 - Noise from additional traffic and waiting vehicles;
 - Adverse impact of Increased traffic generation;
 - Danger to pedestrians using Church Lane caused by increased traffic, particularly late at night.
20. One general observation on the need to ensure there is not too high a traffic generation or excessive late night noise.
21. 7 letters of support have been received, on grounds of:
- A local business providing local employment;
 - Management make every effort to mitigate any noise and traffic impact;
 - Enhances the quality of the local environment

Professional Comments:

22. The National Planning Policy Framework confirms the presumption in favour of sustainable development but reiterates that applications must be determined in accordance with the development plan unless material considerations dictate otherwise.
23. As with the previous application, the main issues raised in this proposal 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:

24. 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.
25. Policy DM OS 2 of the adopted DMP 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.

26. *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."*

27. Policy LP 13 of the Publication Local Plan states, inter alia, that MOL will be protected and that inappropriate development will be refused unless 'very special circumstances' can be demonstrated that clearly outweigh the harm to the MOL. It reiterates the circumstances identified in the adopted policy where inappropriate development such as small scale development may be acceptable.

28. 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, although it is accepted that the retail nursery element of the use has existed on the site for more than fifty years. 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 interest of MOL."

29. 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.

30. 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 the café/restaurant use (A3 use), which can accommodate approximately 120 covers, has become a destination in its own right, with a national and international reputation. In determining the previously approved applications, where the proposed hours of use were set within the existing hours of operation of the nursery use, 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.

31. Inappropriate development is by definition, harmful to MOL and should not be approved except in very special circumstances. The NPPF advises that very special circumstances will not exist unless the potential harm by reason of its inappropriateness is clearly outweighed by other considerations. It is recognised that the café/restaurant at Petersham Nurseries has become a very popular and successful local business, in part assisted by its special setting in this semi-rural and tranquil location. Whilst the role that the business as a whole plays in the local community and the desire to support an employment and visitor generating use is given weight in the assessment, these benefits are not considered to be significantly related specifically to the extension of the

restaurant use, do not meet the tests for exceptional cases set out in policies DM OS 2 and LP13, and are not considered to clearly outweigh the harm arising to the character of MOL.

32. In the case of the 2012 refused application, it was considered that the proposed extension of hours into the late evening, on one day per week, was a step too far, in terms of the harmful effect on the character of the MOL. The operation of an inappropriate use within a 'dark area', into the late evening would have a harmful impact on the character of the MOL, with the introduction of movement, and associated light pollution from headlights and noise from engines, from cars and taxis in and around the site.
33. In their planning statement (letter from WYG dated 13 July 2017), the applicants suggest that the proposal conforms to national planning guidance with regard to Green Belt/MOL. The applicants do not accept that the proposal will have any impact on the character of the MOL, as there is no physical development proposed and the proposal involves the use of an existing building. However, as stated above, the adopted policy clearly sets out that uses do have an impact on the character and function of the MOL and this view has been supported in a number of appeal decisions.
34. The Committee has previously considered that an extension to the hours of operation for the Class A3 restaurant element of the permitted mixed use, 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. The current proposal includes a much more extensive level of evening hours' operation than that previously considered to be harmful to the MOL, for three evenings per week, with a consequentially more harmful impact and the proposal is therefore considered to be contrary to the Council's adopted and emerging policies in respect of MOL.
35. Impact on Character and Appearance of Conservation Area:
36. 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.
37. Policy DM HD 1 of the DMP states that new development or other proposals should conserve and enhance the character and appearance of the area, whilst emerging policy LP 3 seeks to preserve and, where possible, enhance the character or the appearance of the conservation Area.
38. The Petersham Conservation Area Statement describes the area as 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, described as a quiet retreat from Petersham Road, and the surviving historic alleyways, which further contribute to the distinctive village character of this area, one of which leads to the entrance of Petersham Nurseries.
39. 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 an established 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, and the later one to extend the evening hours of the restaurant element, 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 even further 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 Conservation Area. As previously reported, in officers' opinion, this is less likely to be a sustainable objection, the visual impact on the character and appearance of the conservation area being difficult to identify.

Impact on Residential Amenity:

40. Paragraph 123 of the NPPF states that planning policies and decisions should:

"avoid noise from giving rise to significant adverse impacts on health and quality of life"
and

"protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason".

41. Policy DM DC 5 of the DMP states that the Council will seek to protect adjoining properties from unreasonable loss of privacy, pollution, visual intrusion, noise and disturbance. These aims are largely reiterated in emerging policy LP 8.

42. Emerging policy LP 10 seeks to ensure that the local environmental impacts of developments do not lead to detrimental effects on the amenity of existing occupiers of surrounding land.

43. Adopted policy DM TC 5 of the DMP 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.

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

45. 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)

46. 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. No complaints have been received regarding the use of the kitchen and a new ventilation and extraction system has been installed, having been approved in March 2013 (08/4312/DD01).
47. The applicants have submitted an Environmental Noise Assessment, prepared utilising national noise and planning policy guidance and surveys undertaken when the Supper Club is operational, which concludes that during the day and evening, noise disturbance from the restaurant results in no adverse effects in terms of annoyance or sleep disturbance.
48. 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 applicants, responding to a number of objectors' complaints about music, have previously categorically stated that no music will be played at the premises. This can be secured by condition.
49. The applicants have also implemented a change to the pedestrian access arrangements to the restaurant, during Supper Club operation, which has involved creating a sole access at the north-eastern boundary to the site, some 60 metres from the nearest residential neighbour. This also assists in mitigating any potential noise nuisance/disturbance from within the site.

Noise and disturbance outside the site

50. 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 late evening and at night-time). In addition, general noise and disturbance can occur at those times when groups of customers leave the premises and staff clear up and leave. This should not currently have been the case here as the 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.
51. Noise from customers arriving at and departing from the premises is difficult to evaluate. Following government advice and guidance, the applicants' Environmental Noise Assessment (ENA) rightly draws a distinction between noise impacts which are intrusive, and which can be managed and mitigated, and those which are disruptive and should be avoided. The ENA suggests that there is no objectionable noise nuisance arising from the use of the premises as a result of the current occasional Supper Club evening operations. However, this is based on surveys which provide only a snapshot of evening activities on a particular evening. There continues to be anecdotal evidence from neighbouring occupiers that noise and disturbance from people leaving the premises by car and on foot does currently occur when the 'Supper Club' evening events have taken place. The applicants claim that the effects of this impact are exaggerated and stress that the mitigation measures that have been put in place are sufficient to address any concerns. These measures include:
- management of car parking and staff and customer methods of travel;
 - management of taxi movements;
 - management of pedestrian and vehicular departures;
 - delivery management;

- management of refuse collection and recycling.

52. Whilst the results of the applicants' noise surveys are not disputed, it is suggested that the results of a one-off, closely managed and monitored event may not bear comparison with the effects of 150 (annually) regular, less closely managed and monitored events, particularly if the cumulative impact of this proposal is considered.
53. A number of objectors continue to refer to problems of traffic generation, parking issues and customer noise in association with current and past evening 'Supper Club' activities at the restaurant, which have been 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 continuing anecdotal evidence of nuisance arising from the occasional 'Supper Club' evening events at the premises is indicative that there is potential for further loss of amenity to neighbouring residential occupiers if evening opening was permitted on a significantly more regular basis as currently proposed. As suggested in the consideration of the previously refused scheme, 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). Some of these impacts, such as bottle collection and disposal, could be prevented by condition and some mitigated to an extent by the applicants' suggested Service and Operations Management Plan. However, in officers' view, although car doors, engines running and voices may not be considered to result in a significant adverse impact in many other locations, given the tranquillity of this area such sounds are considered to be noticeable and intrusive, and given the lateness of the hours at times when residents may be trying to sleep, are also considered likely to cross over into noticeable and disruptive. The extent of the intensification would extend the likely occurrence of noise and consequent disruption throughout the year to a degree that is considered unacceptable.

Hours of operation

54. In its consideration of the original planning applications for mixed Class A1/A3 use of the premises, the Committee previously took the view 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. In its consideration of the 2012 proposal, the Committee has previously decided the extension of hours on one day per week to be unacceptable. Whilst preventing the opening on a Monday is considered to be anomalous (this restriction seems to have reflected the use of the premises at the time the original application was made), officers take the view that the current proposal to extend the hours of use of the restaurant element by an even greater period of time, namely late into the evening three evenings per week, would be unacceptable for the reasons stated above.

Traffic and Car Parking:

55. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
56. 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).

57. Adopted Development Management Plan policy DM TP 2 states that the impact of new development on the transport network will be assessed against other plan policies and parking standards, and that applications for small development should be accompanied by a Transport Statement.
58. Emerging Publication Local Plan policy LP 44 seeks to promote safe, sustainable and accessible transport solutions which minimise the impacts of development.
59. Petersham Nurseries is situated in a sensitive location. It lies to the rear of 143 Petersham Road. The site can only be accessed by vehicles via Church Lane, which is a narrow road leading to the entrance of Petersham Nurseries and the turning circle. Pedestrian access is also achieved via an alleyway that connects Church Lane with River Lane at the entrance of the site.
60. 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 (the Travel Plan suggested that there are 24 parking spaces, including three disabled, outside the nursery entrance and a further 14 spaces along Church Lane). The Nursery employs a dedicated parking assistant who directs vehicles along Church Lane and informs visitors of the parking facilities. For the Supper Club events, two parking attendants are utilized, to direct customers from and to Petersham Road and to regulate the activities of taxis and other drivers.
61. The previous report relating to the 2012 refused scheme, accepted by the Committee, stated that Petersham Nurseries had achieved impressive results over the years since the mixed Class A1/A3 use commenced. 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. Customers for the Supper Clubs are encouraged to provide details of travel and not to drive. Car sharing and use of taxis is also encouraged.
62. 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. Two detailed surveys have been undertaken, one for a Supper Club on 23 October 2015, the other for a Supper Club on 9 December 2016, and Transport Statements analysing the results have been submitted in support of the application. The split for the modes of transport for persons attending the Supper Clubs is set out below:

Supper Club 23 October 2015

MODE	No. of vehicles	No. of people	% total people
Taxi	16	39	49
Car	7	21	27
Walk	-	14	18
Bus	-	4	5
Cycle	1	1	1

Supper Club 9 December 2016

Mode	No. of vehicles	No. of people	% total people
Taxi	18	50	49
Car	20	46	45
Walk	1	2	2

Bus	2	4	4
Cycle	1	1	1

63. It will be noted from these surveys that the progress on migration of customers away from the private car does not appear to have been maintained, with an increase in the number of private cars from 7 in 2015 to 20 in 2016.
64. There are approximately 40 potential parking spaces within Church Lane, although 6 of these spaces are not available for use on Supper Club evenings. The latest parking survey, from 9 December 2016, indicates that, of the 20 private cars attending the evening event, 17 parked in Church Lane, 2 in River Lane and 1 in Cedar Heights.
65. Although the surveys represent only a snapshot of the operation, the supplementary Transport Statements submitted with this application support the contention that there is capacity within Church Lane to accommodate the number of cars wishing to park at the site during Supper Club operation. It is considered that overspill onto surrounding streets does not constitute a severe impact on transport grounds.
66. Similarly, the overall number of vehicular movements generated by the use, resulting from 18 taxis (36 return journeys) and 20 cars (40 return journeys) is also not considered to give rise to a severe cumulative impact, as required in the NPPF, to justify refusal on transport grounds.
67. In her assessment of the previously refused application, the Transport Officer had taken account of the survey information provided with that submission and concluded that evening opening on one day per week was unlikely to be detrimental to the functioning of the local highway network. She recommended 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.

Refuse provision and servicing

68. Currently, 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 previously 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.
69. 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.

Other Matters

70. As originally submitted, the proposal sought to permit the increased hours of operation for a twelve month limited period only. This is no longer part of the proposal, the application having been amended to allow the proposed extended hours in perpetuity. The applicants point out that it is within the Council's remit to permit the proposal on a limited period basis, in order for the impact of the proposal to be fully assessed, but officers are of the view that whilst this may go some way to overcoming concerns about the amenity impacts of the proposed extended hours, it does not address the fundamental point that an extension of hours of operation of the Class A3 restaurant element is contrary to MOL policy.

71. The applicants also suggest that regard must be had to the fall-back position, namely that the Class A1 nursery and ancillary facilities can, theoretically, operate on a 24-hour basis. Whilst this, in theory, is correct, in practice it is considered to be unlikely, since the application is for the Class A3 use to operate in isolation.
72. A number of objectors have referred to the potentially adverse impact of the proposed extended hours of operation on the biodiversity of the area. The Council's adopted policies, set out in CP4 of the Core Strategy, DM OS 5 of the DMP and emerging policy, LP 15, seeks to preserve and where possible enhance existing habitats. The proposed extension of hours proposed and the associated vehicular and pedestrian traffic, is not considered to be sufficiently harmful to biodiversity of the area to sustain an objection on these grounds, as activity and vehicle and pedestrian movement generated by this business is already an established part of the character of the area.

Conclusion:

73. Although the lawful garden centre use can operate on an unrestricted basis, the permitted restaurant (Class A3) element is limited to the hours of 10.00 and 16.30 on Tuesdays to Saturdays, 11.00 and 16.30 on Sundays and not at all on Mondays. The current proposal seeks to allow the sale of food for consumption on the premises on a much more extensive basis than at present and as previously considered to be unacceptable in the refused scheme. At present the restaurant use is permitted to operate only within daytime hours, although it currently opens in the evening on an occasional basis, with the benefit of temporary event notices. The Committee has previously accepted that 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 that no nuisance arises from the current use from within the site itself. It is accepted that allowing the restaurant element to operate on a Monday, during hours currently permitted for the remainder of the week, would address the currently anomalous restriction, which appears to reflect the opening times of the garden centre when the original application was submitted. However, the Committee has also previously taken the view that, by extending the hours of use of the restaurant element into the evening on a regular basis, albeit for one evening per week, the proposal would expand an inappropriate use within Metropolitan Open Land to the detriment of its character and would 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.
74. The hours of use currently proposed are much more extensive than those previously considered to be unacceptable. The applicants have submitted assessments of transport surveys undertaken in October 2015 and December 2016, an Environmental Noise Assessment of surveys undertaken at the same time and a copy of the Supper Club Management Plan, which sets out measures which have been put in place to mitigate the impact of the additional activity in and around the premises during the Supper Club events, and which would be in place to regulate activities during the proposed extended hours of operation of the restaurant. Whilst these measures represent a demonstration of the applicants' good intentions, it is considered that there is a practical limit to how far noise nuisance and disturbance from increased vehicular and pedestrian traffic generation and customers leaving the premises late at night on a much more regular basis can reasonably be controlled.

I therefore recommend **REFUSAL** for the following reason:

The proposal would result in the expansion of an inappropriate use to the detriment of the character and function of Metropolitan Open Land and would, by reason of an increased

level of pedestrian and vehicular activity around the site, result in an adverse effect on the amenities of neighbouring residential occupiers and the area generally. As such the proposal would be contrary to the National Planning Policy Framework and the Local Plan, including policy CP10 of the Local Development Framework Core Strategy adopted April 2009, policies DM OS 1, DM TC 5 and DM DC 5 of the Development Management Plan adopted November 2011 and policies LP 8, LP 10 and LP 13 of the Publication Local Plan.