

Application reference: 21/1971/FUL SOUTH RICHMOND WARD

Date application received	Date made valid	Target report date	8 Week date
01.06.2021	08.06.2021	03.08.2021	03.08.2021

Site:

Hotham House, 1 Heron Square, Richmond,

Proposal:

New hard surfacing to facilitate creation of external customer seating area and replacement waiter station.

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

APPLICANT NAME

Brindisa Kitchens
Hotham House
Ground Floor
1 Heron Square
Richmond
TW9 1EJ

AGENT NAME

Bidwells
Bidwells
Seacourt Tower
West Way
Oxford
OX2 2JJ

DC Site Notice: printed on 09.06.2021 and posted on 18.06.2021 and due to expire on 09.07.2021

Consultations:

Internal/External:

Consultee

14D Urban D
14D POL
LBRUT Parks And Open Spaces
LBRUT Transport

Expiry Date

23.06.2021
23.06.2021
30.06.2021
23.06.2021

Neighbours:

1 Bridge Street, Richmond, TW9 1TQ, - 09.06.2021
11 Bridge Street, Richmond, TW9 1TQ, - 09.06.2021
2 Tower House, 10 Bridge Street, Richmond, TW9 1TQ, - 09.06.2021
2 Bridge Street, Richmond, TW9 1TQ, - 09.06.2021
Palm Court, 4 Heron Square, Richmond, TW9 1EW, - 09.06.2021
3 Tower House, 10 Bridge Street, Richmond, TW9 1TQ, - 09.06.2021
4 Tower House, 10 Bridge Street, Richmond, TW9 1TQ, - 09.06.2021
4 Bridge Street, Richmond, TW9 1TQ - 09.06.2021
1 Tower House, 10 Bridge Street, Richmond, TW9 1TQ, - 09.06.2021
Bridge House, 3 Heron Square, Richmond, TW9 1EN, - 09.06.2021
23 Hill Street, Richmond, TW9 1SX, - 09.06.2021
21 Hill Street, Richmond, TW9 1SX, - 09.06.2021
First Floor, Hotham House, 1 Heron Square, Richmond, TW9 1EJ, - 09.06.2021
First Second And Third Floors, Hill House, 2 Heron Square, Richmond, TW9 1EJ, - 09.06.2021
Second Floor, The Old Town Hall, Whittaker Avenue, Richmond, TW9 1TP, - 09.06.2021
Ground Floor, Hotham House, 1 Heron Square, Richmond, TW9 1EJ, - 09.06.2021
Part Ground And First To Third Floors, Hotham House, 1 Heron Square, Richmond, TW9 1EJ, - 09.06.2021
Central Reference Library, Whittaker Avenue, Richmond, TW9 1TP, - 09.06.2021
19 Hill Street, Richmond, TW9 1SX, - 09.06.2021
17 Hill Street, Richmond, TW9 1SX, - 09.06.2021
15 Hill Street, Richmond, TW9 1SX, - 09.06.2021
Old Town Hall, Whittaker Avenue, Richmond, TW9 1TP, - 09.06.2021
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Heron House,5 Heron Square,Richmond,TW9 1EL, - 09.06.2021

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

Development Management

Status: GTD Application:02/2713
Date:12/11/2002 Alterations To Heron Square Elevation To Provide Access For Disabled Persons. COMMENTS: Ben

Development Management

Status: GTD Application:02/3022
Date:23/04/2003 Lower Ground Floor Extension To Riverside Elevation, Change Of Use Of Lower Ground And Ground Floors From Class B1 (offices To Class A3 (restaurant), Provision Of Disabled Access From Riverside Walkway, Alterations To Whittaker Square Eleva

Development Management

Status: GTD Application:03/0086/FUL
Date:11/03/2003 Alteration To Upper Ground Floor Entrance To Provide Access For Disabled Persons.

Development Management

Status: REF Application:03/1164/ADV
Date:21/05/2003 Retention Of Banner Sign On Riverside Frontage

Development Management

Status: GTD Application:03/1391/FUL
Date:09/06/2003 Alterations To Lower Ground Floor Riverside Entrance To Provide Access For Disabled Persons.

Development Management

Status: GTD Application:03/2469/ADV
Date:02/10/2003 Erection Of Two Letting Boards For Twelve Months Only.

Development Management

Status: GTD Application:03/3892/FUL
Date:23/02/2004 Works To External Pavement Area Adjacent To North Facing Lower Ground Floor Windows, Including The Installation Of Pavement Grilles, To Facilitate The Kitchen Air Intake System (scheme 'b').

Development Management

Status: GTD Application:03/3893/FUL
Date:04/03/2004 Alterations To North Eastern Facing Lower Ground Floor Windows, Including Installation Of Vertical Metal Grilles, To Facilitate Kitchen Air Intake System (scheme 'a').

Development Management

Status: GTD Application:02/3022/DD01
Date:04/03/2004 Details Pursuant To Condition Rs04 Of Planning Permission 02/3022/ful.

Development Management

Status: GTD Application:04/0755/FUL
Date:23/04/2004 Installation Of Facilities To Provide Disabled Access At Lower Ground Floor Main Entrance.

Development Management

Status: GTD Application:88/2354
Date:15/12/1988 Erection of camera mounting bracket and 2 static security cameras on the south west corner of Hotham House at a height of 6.4m.

Development Management

Status: WNA Application:02/3022/DD02
Date:05/07/2004 Details pursuant to condition BD14A (materials) of planning permission 02/3022/FUL.

Development Management

Status: GTD Application:02/3022/DD03
Date:26/07/2004 Details pursuant to condition BD04U (details to specified scale) of planning permission 02/3022/FUL.

Development Management

Status: GTD Application:04/0755/DD01
Date:31/08/2004 Details pursuant to condition BD05U and BD12U (materials) of planning permission 04/0755/FUL.

Development Management

Status: WDN Application:05/0234/ADV
Date:17/03/2005 Erection of illuminated sign above two doors, two illuminated projecting signs

and two illuminated menu boxes.

<u>Development Management</u> Status: GTD Date:06/07/2005	Application:05/1425/ADV Erection of halo illuminated fascia signage, internally spot lit illuminated menu boxes, and externally illuminated roundel sign.
<u>Development Management</u> Status: GTD Date:02/11/2006	Application:06/2947/ADV Erection of halo illuminated entrance sign, internally illuminated menu boxes and non illuminated strap line text.
<u>Development Management</u> Status: WDN Date:28/09/2006	Application:06/2967/FUL Replacement of plant in roof space with extract fans sited on the flat roof behind parapet.
<u>Development Management</u> Status: GTD Date:02/06/2010	Application:10/0914/ADV Replacement signage for licensed premises formerly known as Tootsies. Two brass plaques and internally illuminated 'house name' signs.
<u>Development Management</u> Status: GTD Date:30/09/2014	Application:14/3317/ADV Externally illuminated Projecting Sign, internally illuminated Menu Board
<u>Development Management</u> Status: GTD Date:26/05/2017	Application:17/1322/FUL Change of use of strip of land on one side of entrance steps to allow for removable outdoor tables and chairs to be used in connection with approved A3 use at Hotham House.
<u>Development Management</u> Status: PDE Date:	Application:21/1971/FUL New hard surfacing to facilitate creation of external customer seating area and replacement waiter station.

<u>Building Control</u> Deposit Date: 11.11.2002 Reference: 02/2169/FP	General refurbishment of existing second, first, ground floors and basement lobby.
<u>Building Control</u> Deposit Date: 25.11.2002 Reference: 02/2264/FP	New service duct riser to first floor plant room
<u>Building Control</u> Deposit Date: 14.01.2003 Reference: 02/2169/1/FP	General refurbishment of existing second, first, ground floors and basement lobby.
<u>Building Control</u> Deposit Date: 13.01.2003 Reference: 03/0055/AI	Internal alterations to form open plan & cellular rooms on first floor of existing office building
<u>Building Control</u> Deposit Date: 24.02.2003 Reference: 02/2169/2/FP	General refurbishment of existing second, first, ground floors and basement lobby.
<u>Building Control</u> Deposit Date: 09.04.2003 Reference: 02/2169/3/FP	General refurbishment of existing second, first, ground floors and basement lobby.
<u>Building Control</u> Deposit Date: 06.08.2003 Reference: 03/1549/AI	Internal alterations to form new open plan and cellular spaces on second floor of existing office building.
<u>Building Control</u> Deposit Date: 17.09.1996 Reference: 96/1297/FP	Shower installation

Deposit Date: 30.10.1996 Reference: 96/1297/1/FP	Shower installation
<u>Building Control</u> Deposit Date: 14.01.1997 Reference: 96/1297/2/FP	Shower installation
<u>Building Control</u> Deposit Date: 16.04.1997 Reference: 97/0537/FP	Refurbishment & alteration to partition layout
<u>Building Control</u> Deposit Date: 16.04.1997 Reference: 97/0538/FP	Refurbishment & alteration to partition layout
<u>Building Control</u> Deposit Date: 16.04.1997 Reference: 97/0539/FP	Refurbishment & alteration to partition layout
<u>Building Control</u> Deposit Date: 13.11.1997 Reference: 97/1661/FP	General partition alterations
<u>Building Control</u> Deposit Date: 16.01.1998 Reference: 97/1661/1/FP	General partition alterations
<u>Building Control</u> Deposit Date: 18.08.1999 Reference: 99/1403/FP	Office re-organisation including minor refurbishment to two floors in the 3 buildings
<u>Building Control</u> Deposit Date: 18.02.2004 Reference: 04/0315/IN	Internal alterations to form open plan and cellular rooms on ground and first floor of office building
<u>Building Control</u> Deposit Date: 10.03.2004 Reference: 04/0473/IN	Single storey extension at upper ground floor and internal refurbishment of lower and upper ground floors for 'shell' application
<u>Building Control</u> Deposit Date: 07.07.2005 Reference: 05/1367/IN	Internal fit-out to lower and upper ground to create Tootsies Restaurant
<u>Building Control</u> Deposit Date: 30.05.2006 Reference: 06/1099/IN	Internal alterations to form open plan and cellular spaces on ground, first, second and third floors of existing office building
<u>Building Control</u> Deposit Date: 01.09.2008 Reference: 08/1786/IN	Minor alterations to form cellular rooms on first and second floors of existing office building
<u>Building Control</u> Deposit Date: 07.04.2009 Reference: 09/0522/IN	Part first floor comms room alterations
<u>Building Control</u> Deposit Date: 19.01.2011 Reference: 11/0095/IN	New comms room to ground floor
<u>Building Control</u> Deposit Date: 29.05.2014 Reference: 14/1197/IN	Office fit out
<u>Building Control</u> Deposit Date: 29.05.2014 Reference: 14/1198/IN	Infill of existing structural floor opening at first floor level, first floor to be separated and reverted to shell
<u>Building Control</u> Deposit Date: 05.11.2014 Reference: 14/2517/IN	Refurbishment works to existing restaurant
<u>Building Control</u> Deposit Date: 11.06.2015 Reference: 15/1339/IN	Internal alterations to first floor office

Enforcement

Opened Date: 14.11.2006 Enforcement Enquiry
Reference: 06/0568/EN/ADV

Enforcement

Opened Date: 02.08.2011 Enforcement Enquiry
Reference: 11/0397/EN/EOP

Enforcement

Opened Date: 12.11.2014 Enforcement Enquiry
Reference: 14/0611/EN/UBW

Application Number	21/1971/FUL
Address	Hotham House, 1 Heron Square, Richmond
Proposal	New hard surfacing to facilitate creation of external customer seating area and replacement waiter station.
Contact Officer	Kerry McLaughlin
Legal Agreement	N/A

1. INTRODUCTION

This application is of a nature where the Council's Constitution delegates the authority to make the decision to Officers rather than it being determined by the Planning Committee.

Before preparing this summary report the planning officer has visited the application site, considered any relevant previous planning applications in relation to the development and considered any comments made by those interested in the application such as consultees with specialist knowledge and nearby residents.

By indicating that the development proposal complies with relevant Local Plan Policies, the planning officer is taking into account the information submitted with the application, any previous relevant applications, observations during the site visit, any comments received in connection with the application and any other case specific considerations which are material to the decision.

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

The application relates to land adjoining the riverside elevation of Hotham House, the outside space of the ground floor A3 use.

The land adjacent to Hotham House is a Metropolitan Open Land and Public Open Space.

The surrounding area is a mixed-use area, including public house, offices, retail units, restaurants, pubs and residential units.

The application site is subject to the following planning constraints:

Archaeological Priority (English Heritage)	Site: Richmond - Early Medieval settlement of the Manor of Sceanes (Shene). Renamed Richmond through the construction of
Article 4 Direction B1 to C3	Restricting B1 To C3 - Richmond 30/11/14 / Ref: ART4/CJ/007 / Effective from: 30/11/2014
Article 4 Direction Basements	Article 4 Direction - Basements / Ref: ART4/BASEMENTS / Effective from: 18/04/2018
Building of Townscape Merit	Site: Hotham House 1 Heron Square Richmond Surrey TW9 1EJ
Conservation Area	CA17 Central Richmond
Key Office Area	Richmond / Richmond exemption area, as applied for / Status: Key Office Area / Area: 158725.7
Main Centre Boundary	Richmond
Take Away Management Zone	Take Away Management Zone

Thames Policy Area	Thames Policy Area
Village	Richmond and Richmond Hill Village
Village Character Area	Central Richmond - Area 15 & Conservation Area 17 Richmond & Richmond Hill Village Planning Guidance Page 56 CHARAREA06/15/01
Ward	South Richmond Ward

3. RELEVANT PLANNING HISTORY

The comprehensive list of planning history can be found above however the most relevant planning history is as follows:

Ref	Proposal	Decision
17/1322/FUL	Change of use of strip of land on one side of entrance steps to allow for removable outdoor tables and chairs to be used in connection with approved A3 use at Hotham House.	Granted Permission

4. CONSULTATIONS CARRIED OUT

The list of neighbours notified of this application are listed above.

No letters of representation were received.

5. MAIN POLICIES RELEVANT TO THE DECISION

NPPF (2021)

The key chapters applying to the site are:

- 4. Decision-making
- 7. Ensuring the vitality of town centres
- 12. Achieving well-designed places
- 13. Protecting green belt land
- 16. Conserving and enhancing the historic environment

These policies can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf

London Plan (2021)

The main policies applying to the site are:

- Policy D4 - Delivering Good Design
- Policy D12 - Fire Safety
- Policy G3 - Metropolitan Open Land
- Policy HC1 - Heritage Conservation and Growth

These policies can be found at: <https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/london-plan-2021>

Richmond Local Plan (2018)

The main planning considerations applying to the site and the associated Local Plan policies are:

Issue	Local Plan Policy	Compliance	
Local Character and Design Quality	LP1	Yes	No
Impact on Designated Heritage Assets	LP3	Yes	No
Impact on Non-Designated Heritage Assets	LP4	Yes	No
Impact on Amenity and Living Conditions	LP8	Yes	No
Impact on Metropolitan Open Land	LP13	Yes	No
Impact on Parking Standards and Servicing	LP45	Yes	No

These policies can be found at

https://www.richmond.gov.uk/media/15935/adopted_local_plan_interim.pdf

Supplementary Planning Documents

Buildings of Townscape Merit
Richmond and Richmond Hill Village Plan

These policies can be found at:

https://www.richmond.gov.uk/services/planning/planning_policy/local_plan/supplementary_planning_documents_and_guidance

Other Local Strategies or Publications

Other strategies or publications material to the proposal are:

CA17 Central Richmond Conservation Area Statement
CA17 Central Richmond Conservation Area Study

Determining applications in a Conservation Area

In considering whether to grant planning permission with respect to any buildings or other land in a conservation area, Section 72 of the Planning (Listed buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this context, "preserving", means doing no harm.

To give effect to that duty, decisions of the court have confirmed that for development proposed to be carried out in a conservation area, a decision-maker should accord "considerable importance and weight" to the desirability of preserving or enhancing the character or appearance of the conservation area, when weighing this factor in the balance with other material considerations which have not been given this special statutory status. This creates a strong presumption against granting planning permission where harm to the character or appearance of a conservation area is identified. The presumption can be rebutted by material considerations powerful enough to do so.

In applications where the decision-maker is satisfied that there will be no harm to the character or appearance of a conservation area, the statutory presumption against granting planning permission described above falls away. In such cases the development should be permitted or refused in accordance with the policies of the development plan and other material considerations.

6. EXPLANATION OF OFFICER RECOMMENDATION

The key issues for consideration are:

- i Design/Visual Amenity
- ii Neighbour Amenity
- iii MOL
- iv Transport

The use of the subject area as an outdoor seating area ancillary to the restaurant use has previously been approved under 17/1322/FUL.

Issue i - Design/Visual Amenity/Heritage

Policy LP1 of the Local Plan 2018 seeks to maintain and, where possible, enhance the high architectural and urban design quality which contributes to the character and heritage of the area. Proposals should demonstrate an understanding of the site and its context when considering the design including layout, siting and access

and the compatibility of the works to the neighbouring uses.

Policy LP3 of the Local Plan 2018 covers Designated Heritage Asset and states that proposals should conserve and take opportunity to make positive contribution to the historic environment such as retaining and preserving the original structure, layout, architectural features and materials or reinstatement of heritage assets. Appropriate materials and techniques should be used. There is a requirement to seek to avoid harm or justify for loss and demolition will be resisted. The significance of the asset is taken into consideration when assessing works proposed to a designated heritage asset.

Policy LP4 states that development shall preserve the significance, character and setting of non-designated heritage assets.

The building along with others in the same block, which are designated as Building of Townscape Merits and Listed Building's located in Central Richmond Conservation Area, were very carefully designed in a classical pastiche manner by architect Quinlan Terry in the 1980's and are of substantial historical value. The riverfront façade is very prominent and almost iconic in published views of Richmond nowadays. It also addresses the public terraced landscape which leads down to the riverfront. Hotham House projects forward and is one of the largest single frontages facing the river. It is also situated adjacent to a Grade II listed building (Heron House, 5 Heron Square). It is extremely important that this original appearance, the quality of the architecture and unity of the landscape setting are all maintained and are not compromised by incremental change.

This application is for additional seating and outdoor furniture, as well as new surfacing. The current extant permission has been considered within the assessment. No jumbrellas/umbrellas were included within the earlier planning permission. These additions and the proposed service station of some 1.76m height which will project above the railings will harmfully intrude upon views to and the appreciation of the host building from the public realm. A further storage/dispense unit is indicated on plan 21009-P396 adding further clutter (although no elevations are provided). The outdoor seating plan on the extant permission indicates 58 covers in total and restrains these on the western boundary within the area bounded by railings whereas this application indicates a tiled seating area which extends further to the west and increases the amount of external furniture to allow for 72 covers. The proposed design fails to take into consideration the importance of the original architecture of this building, the surrounding landscape, the quality and type of original materials, and the visual clutter which would result from all the additional paving, waiting stations, seating and large umbrellas which would result in an unsympathetic form of development which fails to retain or enhance the visual amenity of the building itself, neighbouring buildings or wider conservation area.

When the ground floor internal space was converted to restaurant use the external terrace space permissible was minimal and that currently existing is the maximum which would be achievable without damage to both the integrity of the building and the surrounding public landscape. It is not appropriate to compromise this space in front of the building any further. As set out in the Richmond Riverside Conservation Area Study, a problem for the area is development pressure which may harm the balance of the landscape dominated setting, and the obstruction or spoiling of views, skylines and landmarks.

Paragraph 203 of the NPPF states 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'. The proposal would be harmful to the character and significance of the individual BTM and its group value with surrounding BTMs.

Paragraph 199 of the NPPF states 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 202 of the NPPF states 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'. In this instance, the proposal would lead to less than substantial harm to the significance, character and appearance of the conservation area and adjacent listed building being within its setting. The public benefits cited by the applicant are noted and given limited weight in the assessment. The site benefits from an existing consent for exterior dining. The benefits are not considered to outweigh the harm, which is afforded considerable importance and weight and the proposals would be contrary to Local Plan (2018) policies LP1, LP3 and LP4, as well as the NPPF.

Issue ii - Neighbour Amenity

Policy LP8 states that development must protect the amenity and living conditions of existing, adjoining and neighbouring occupants. Design must allow for good daylight standards, avoid overlooking or noise disturbance, avoid visual intrusion, overbearing impacts or harm to the reasonable enjoyment of the uses of

buildings and gardens. Harm may arise from various impacts such as noise, air pollution, odours or vibration.

The principle of the use of this area as an outdoor seating area ancillary to the restaurant has previously been granted under 17/1322/FUL. The proposal would not result in any further impacts, beyond the existing situation on neighbouring amenity and therefore is considered to have a neutral impact to neighbouring occupiers living within close proximity to the application site.

The use of the site would not be altered by the proposal and therefore an undue increase in noise or pollution would not occur.

The proposed scheme is considered acceptable in terms of neighbour amenity. The proposal is not considered to detrimentally impact the amenities of any neighbouring occupiers and therefore, is in line with policy LP8 of the Local Plan (2018) and relevant Supplementary Planning Documents/Guidance.

Issue iii - MOL

Policy LP 13 states:

A. the borough's Green Belt and Metropolitan Open Land will be protected and retained in predominately open use. Inappropriate development will be refused unless 'very special circumstances' can be demonstrated that clearly outweigh the harm to the Green Belt or Metropolitan Open Land.

Appropriate uses within Green Belt or Metropolitan Open Land 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. Development will be supported if it is appropriate and helps secure the objectives of improving the Green Belt of Metropolitan Open Land.

B. It will be recognised that there may be exceptional cases where inappropriate development, such as small scale structures for essential utility infrastructure, may be acceptable.

C. Improvement and enhancement of the openness and character of the Green Belt or Metropolitan Open Land and measures to reduce visual impacts will be encouraged where appropriate.

When considering developments on sites outside Green Belt or Metropolitan Open Land, any possible visual impacts on the character and openness of the Green Belt or Metropolitan Open Land will be taken into account.

Section 13 (Green Belt) of the NPPF (which is applicable for designated MOL in London). Paragraph 137 States the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Paragraph 147 States inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, paragraph 148. Requires local planning authorities to ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 149 of the NPPF states that local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) Buildings for agriculture and forestry;*
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- e) limited infilling in villages;*
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and*
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or*
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.**

Paragraph 150 states certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) mineral extraction;*
- b) engineering operations;*
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;*
- d) the re-use of buildings provided that the buildings are of permanent and substantial construction;*
- e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and*
- f) development brought forward under a Community Right to Build Order or Neighbourhood Development Order.*

Policy G3 of the London Plan highlights that the policy guidance of the NPPF on Green Belts applies equally to Metropolitan Open Land (MOL). The Plan states that MOL should be protected from inappropriate development.

Hotham House itself is sited just outside of the border of the Metropolitan Open Land (MOL), however the seating area does fall within the designated (MOL), where policies related to Green Belt apply. The fundamental aim of these policies is to permanently protect the openness of designated land. National planning policies on Green Belt land set out within the NPPF (2021) apply to MOL, as set out in London Plan Policy G3. In line with policy LP13 of the Local Plan (2018), the Borough's MOL will be safeguarded, retained in predominately open use and there is a strong presumption against inappropriate development in designated MOL.

Policy LP13 sets out that appropriate uses within MOL includes private open spaces. However, given the proposed additional outdoor furniture, permanence of these features and the intensification of use, the proposal is found to conflict with the five purposes of MOL set out in paragraph 138 of the NPPF (2021).

It is noted the provision of external customer seating has already been established in this location, however the existing features are removeable and have no degree of permanence. Any additional outdoor furniture and paraphernalia is considered to increase visual clutter and congestion in an otherwise open setting. Thus, this proposal will result in harm to the open character of the MOL. In addition, the degree of permanence of the waiter station, planters and tiling to the floor will further exacerbate the cluttered appearance of the proposal and the intensification of use.

The policy noted above states development should not have *greater impact on the openness of the Greenbelt than the existing development*. It cannot be considered that a development which is more substantial, and permanent would *not have a greater impact*. The site is visually prominent and experienced in various views, including the immediately adjacent riverside public open space and thus the scheme has both a visual and spatial impact on openness, further urbanising this space.

An exception to MOL policy is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Whether or not a development can be considered as disproportionate is not solely a matter of mathematics. Appearance and visual impact are also important considerations. The development in this case, being sited forward of the principal elevation and given its characteristics and degree of clutter, represents a visually prominent and discordant development which will dominate the open space to the front of the building in a materially more harmful way than existing, diminishing the openness of the area to the extent that it appears as a disproportionate addition. It does not therefore benefit from this exception.

The development is thus considered to comprise inappropriate development in MOL. Substantial weight is afforded to this harm to MOL.

A Court of Appeal judgment (Redhill Aerodrome) has confirmed that the interpretation given to any other harm in what is now paragraph 148 of the Framework is such that it is not restricted to harm to the Green Belt/MOL. The report above identifies harm to the designated and non-designated heritage assets which is afforded significant weight.

The Courts have not defined 'very special', beyond confirming that the words must be given their ordinary and natural meaning as contained in *R(Chelmsford BC) v First Secretary of State* [2004] EWHC 2978 (Admin):

'The words 'very special' must be given their ordinary and natural meaning. Since the expression 'very special' is so familiar, any attempt at definition is probably superfluous, but for what it is worth, the Shorter Oxford English Dictionary tells us that special means:

Of such a kind as to exceed or excel in some way that which is usual or common; exceptional in character, quality or degree. The circumstances must not be merely special in the sense of unusual or exceptional, but very special'.

The decision-taker must exercise a qualitative judgment and ask whether the circumstances, taken together, are very special and explain that reasoning.

The onus is on the applicant to demonstrate a case for very special circumstances (VSC), the applicant notes the following considerations amount to VSC, these are set out in below with commentary and the weight which Officers would assign to each provided:

- a) that various legislative and policy changes have sought to support the retail and leisure industry.

It remains the case however that this proposal requires planning permission. To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. MOL policies must also be applied and harm afforded substantial weight (para 148 of the NPPF). Whilst the general thrust of recent policies and temporary initiatives are acknowledged, this does not necessarily override MOL policy or justify permanent harm and so is afforded very limited weight in the assessment.

- b) The applicant has provided a copy of an appeal decision which they consider should be afforded weight in the assessment (APP/Y3615/C/20/3259273), specifically in respect of the weight to be afforded to the implications of the COVID-19 pandemic.

This has been carefully considered and as stated by the Inspector in that case, the situation "is an evolving picture". At the current time, restrictions on inside dining have been lifted and there appears to be no suggestion of them being reimposed. Furthermore, the premises do have an extant consent for exterior dining and no evidenced case (such as viability or regarding jobs created) has been made to justify the additional harm which arises from this specific proposal. In the absence of such evidence, the LPA do not consider that it is possible to afford this any weight in the assessment in this case.

- c) The applicant has stated "The application proposals will enhance the existing character and appearance of the site"

For the reasons outlined under the 'Design/Visual Amenity/Heritage' section the proposal is considered to cause harm to the character and appearance of the BTM, the group value of non-designated/designated buildings to which it belongs and the Conservation Area. Therefore this is not considered by the LPA to be a benefit to weigh in favour of the case, rather the opposite.

No other very special circumstances have been made that would meet the policy test in para 149 of the NPPF (2021).

The harm by reason of inappropriateness, and the other harm resulting from the proposal, is not *clearly* outweighed by the other considerations. Consequently, very special circumstances do not exist, and the Framework and other policies direct that planning permission should be refused.

Given such the scheme is considered to be contrary to the NPPF (2021), London Plan (2021) policy G3 and Local Plan (2018) Policy LP13.

Issue iv - Transport

The councils Transport team were consulted on this application. No objections are raised in terms of transport, subject to the appropriate licences being obtained.

Other Matters

Fire Safety

The applicant has submitted a Planning Fire Safety Strategy as required under Policy D12 Of the London Plan (2021).

The applicant is advised that alterations to existing buildings should comply with the Building Regulations. This permission is NOT a consent under the Building Regulations for which a separate application should be made.

7. LOCAL FINANCE CONSIDERATIONS AND OTHER MATTERS

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. The weight to be attached to a local finance consideration remains a matter for the decision maker. The Mayor of London's CIL and Richmond CIL are therefore material considerations.

On initial assessment this development is not considered liable for the Mayoral or Richmond CIL however this is subject to confirmation by the CIL Administration Team.

8. RECOMMENDATION

This recommendation is made following careful consideration of all the issues raised through the application process. In making this recommendation consideration has been had to the statutory duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 and the requirements set out in Chapter 16 of the NPPF.

For the reasons set out above, it is considered that the adverse impacts of allowing this planning application would significantly outweigh the benefits, when assessed against the policies in NPPF (2021) and Development Plan, when taken as a whole.

Refuse planning permission for the following reasons

Reason for Refusal – Design/Heritage

The scheme by reason of its siting, coverage, cluttered nature and inappropriate material results in an incongruous and unsympathetic form of overdevelopment that fails to preserve or enhance the significance, character and appearance of the Conservation Area, host Building of Townscape Merit and the adjacent Listed Buildings. The harm has been assessed as 'less than substantial' as per para 202 of the NPPF. The public benefits do not outweigh the harm caused. The scheme is thereby contrary to the NPPF (2021) and policies, in particular, LP1, LP3 and LP4 of the Local Plan (2018).

Reason for Refusal - MOL

The development would constitute inappropriate development within Metropolitan Open Land and by reason of its siting, scale, and the permanence of elements of the development and associated intensification of use and additional visual clutter, would be harmful to the open character of the Metropolitan Open Land and the riverside setting. No Very Special Circumstances have been demonstrated that clearly either individually or cumulatively outweigh the substantial harm to the MOL and the other harm identified and therefore the development conflicts with the aims and objectives of section 13 of the NPPF (2018), policy G3 of the London Plan (2021) and policy LP13 of the Local Plan (2018).

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): KM

Dated: 29.07.2021

I agree the recommendation:

South Area Team Manager: *N. Patel*

Dated:03.08.2021.....

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

U0053137	NPPF REFUSAL- Para. 38-42
U0053136	Decision Drawing Numbers