

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 11 April 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward involved</b> Vincent Square	
<b>Subject of Report</b>	<b>Pitch 1640, Horseferry Road, London, SW1P 2AU,</b>		
<b>Proposal</b>	Erection of a permanent retail (Class A1) street trading kiosk on Pitch 1640.		
<b>Agent</b>	Mr Nicholas Williams		
<b>On behalf of</b>	Mr Adam El Mokdad		
<b>Registered Number</b>	16/09235/FULL	<b>Date amended/ completed</b>	6 December 2016
<b>Date Application Received</b>	26 September 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Opposite the Smith Square Conservation Area		

## 1. RECOMMENDATION

Refuse permission – unacceptable impact on townscape, setting of adjacent conservation area and introduction of street clutter.

## 2. SUMMARY

The application relates to an approved street trading pitch (Pitch 1640) on Horseferry Road, outside St John's Gardens and adjacent to Horseferry House. Planning permission is sought at the site for the erection of a street trading kiosk measuring 3.65m x 1.06m for use as a takeaway coffee shop selling hot drinks and snacks (Class A1). The kiosk would occupy the full extent of the approved pitch.

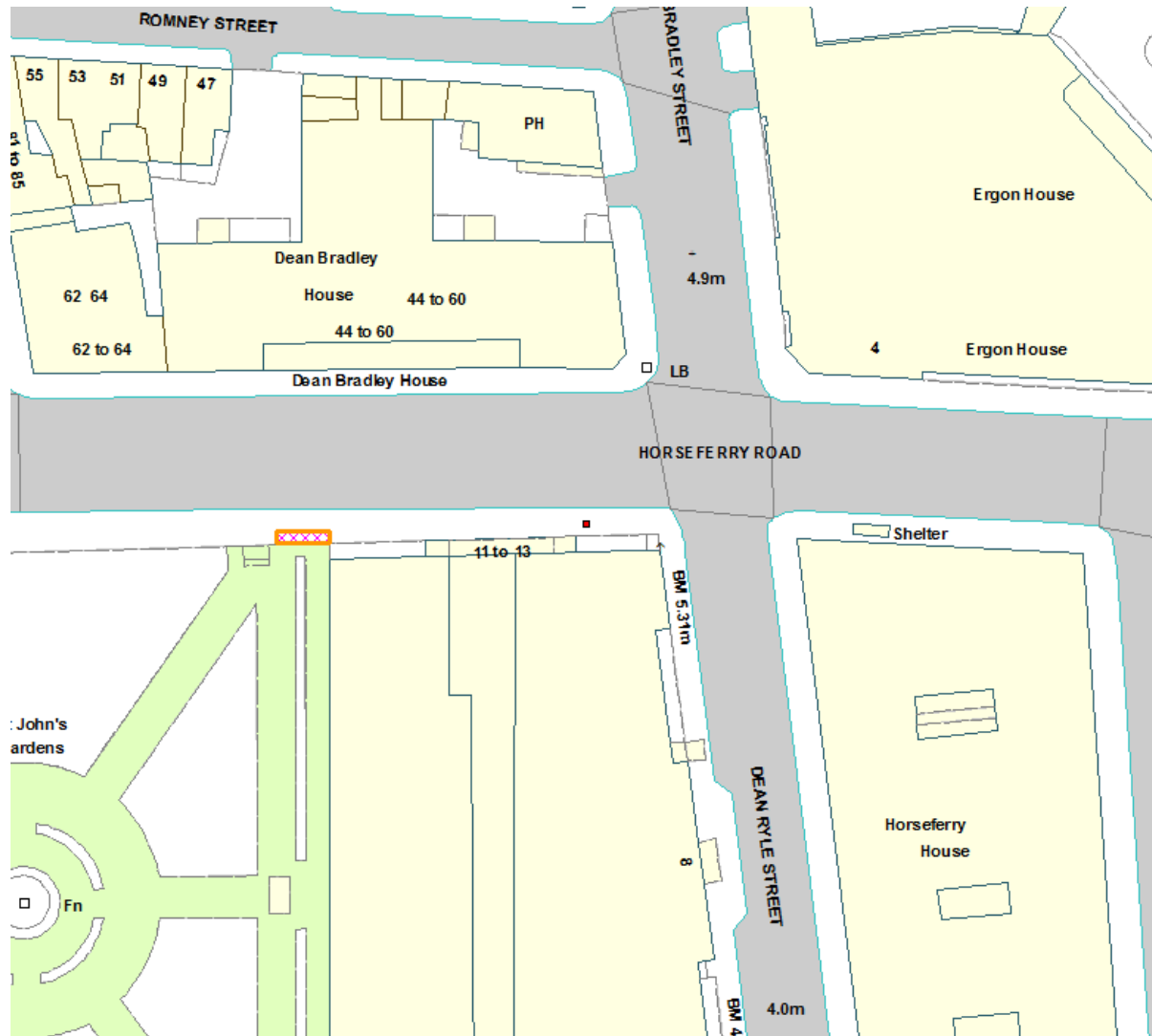
The site of the proposed kiosk is not located within a conservation area but is on the boundary and therefore within the setting of the Smith Square Conservation Area.

The pitch was approved under the highways licensing process on 27 July 1990. However, the pitch has now been vacant for a period of at least 30 months and was considered at Licensing Sub-Committee on 5<sup>th</sup> March 2015 to rescind the designation due to long term vacancy. The Sub-Committee made the decision not to de-designate the pitch. Impacts on the transportation network and pedestrian movement were already considered under the highways licensing process and are therefore not considered as part of this application for planning permission.

The permanent kiosk is considered to be inconsistent with the appearance of the wider townscape, it would result in an unacceptable level of street clutter, cause harm to the setting of the adjacent Smith Square Conservation Area and the appearance of the neighbouring St John's Gardens.

It is recommended that planning permission is refused on design and conservation grounds. The permanent kiosk is considered contrary to S25 and S28 of Westminster's City Plan (City Plan) and DES 1, DES 9 (F) and DES 12 of our Unitary Development Plan (UDP). The proposal is also considered contrary to SS 6 of our UDP, which states that "*Permission will not be given for pavement shops that would...have a detrimental effect on the townscape, residential amenity, character or appearance of the street*".

### 3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and /or database rights 2013. All rights reserved License Number LA 100019597

4. PHOTOGRAPHS



Application site shaded (not to scale), looking east along Horseferry Road

## 5. CONSULTATIONS

### ENVIRONMENTAL HEALTH

No comment.

### THORNEY ISLAND SOCIETY

Objection - Lack of information regarding proposed use.

### LICENSING

Summary of pitch history provided.

### CLEANSING OFFICER

No objection, subject to conditions requiring the maintenance of the area and provision of rubbish receptacles.

### HIGHWAYS PLANNING

No objection.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 10

No. of objections: 8

Objections received on the following grounds:

#### Design

- Appearance of the kiosk will negatively impact the street and the gardens;

#### Transportation and Cleansing

- Kiosk will block the pavement and result in impeded pedestrian movement;
- Kiosk will create queues that will further block pavement;
- Servicing will exacerbate traffic issues;
- Kiosk and users will result in litter around the area;

#### Amenity

- Noise created by the kiosk harming residential amenity and amenity of park users;

#### Other

- Kiosk is unnecessary and will impact on nearby businesses.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is an approved street trading pitch which is located on an area of the public highway on the south side of Horseferry Road outside St John's Gardens. The site is not located within a conservation area but is on the boundary of the Smith Square Conservation Area and is located in the Core Central Activities Zone (CAZ).

## 6.2 Recent Relevant History

This pitch was designated under the highway licensing process on the 27 July 1990, and occupied intermittently by a temporary removable coffee cart. The pitch has, however, now been vacant for a period exceeding 30 months.

## 7. THE PROPOSAL

Planning permission is sought for the erection of a permanent street trading kiosk on the existing pitch (Pitch 1640). The proposed kiosk measures 3650mm x 1060mm. The kiosk includes a retractable projecting canopy which would extend an additional 600mm over the public highway at a height of 2375mm. It has been suggested by the applicant that the retail unit (Class A1) is intended to be used as a takeaway coffee vendor and would require two part time employees to operate.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

Of relevance in considering this application is UDP Policy SS16, which states that *"Permission will not be given for pavement shops that would reduce the free passage and safety of pedestrians or other highway users, or have a detrimental effect on the townscape, residential amenity, character or appearance of the street"*.

While the application is not considered to reduce the free passage and safety of pedestrians, nor the amenity of neighbouring residential dwellings, it is considered that the proposal would have an adverse effect on the character and appearance of the street and the setting of the adjacent conservation area contrary to Policy SS16 and is therefore unacceptable.

Notwithstanding this, it is noted that a number of objections have raised the issue of land use. Concerns were raised regarding the appropriateness of the kiosk in an area where there are existing retail and cafe uses that have been successful, and also whether the kiosk may have an impact on these businesses. However, it is considered to be highly unlikely that the introduction of the kiosk of this size would have a material impact on the viability of existing retail or cafe uses in the immediate vicinity. Objections on this basis are not considered sustainable.

### 8.2 Townscape and Design

The application site is not within a conservation area, nor is it directly adjacent to listed buildings. It does sit immediately in front of St John's Gardens, a politely landscaped public park divided, from the street by a handsome set of railings and park gates. The park and its railings can be considered to be non-designated heritage assets, as defined by the National Planning Policy Framework. The preservation of their character and setting should therefore be given weight in the determination of this application.

The site is also directly opposite the Smith Square Conservation Area, and as such the impact of the proposal on the setting of the conservation area should be considered.

The proposed kiosk would harm the setting of the park, sitting as a visually solid element obstructing the visual permeability of the park railings. Due to its scale and visual permanence, it would also compete architecturally with the park gates, which otherwise aid the legibility of the entrance to what is a somewhat 'hidden gem' of a park.

The design proposed for the kiosk would fail to mitigate the impacts discussed above relating to the principle of a permanent kiosk in this location. The design is generic and is likely to weather poorly due to the proposed timber-cladding.

It is not considered that an improved design could overcome the issues of visual permanence, and therefore the principle of a permanent kiosk in this location is unlikely to prove acceptable in planning terms. This does not affect the applicant's rights to place a mobile kiosk in this location in accordance with their existing license.

The proposed permanent kiosk is considered contrary to policies S25 and S28 of the City Plan and DES 1, DES 9, DES 12 and SS6 of the UDP.

### **8.3 Residential Amenity**

The proposed kiosk is unlikely to have any significant impact on the amenity of neighbouring residential dwellings, the nearest of which are at the residential apartments within the Westminster Green building at the corner of Horseferry Road and Dean Ryle Street. While objections have been received with regard to the kiosks potential impact on the amenity of nearby residential and St John's Gardens, it is considered that given the small size of the kiosk, the activity it could create is unlikely to be material given the considerable amount of vehicular and pedestrian activity along this part of Horseferry Road.

### **8.4 Transportation/Parking**

A highways license was approved for a pitch at this location on 27 July 1990, for an area 3.66m x 1.06m. This pitch has been occupied on various occasions by a temporary coffee cart trading under 'Can Do Coffee'.

It should be noted that on 5 March 2015, the pitch was considered at Licensing Sub-Committee for de-designation on the following grounds under Street Trading Policy:

- 5(2)(a): It has not been used trading for a period of greater than 6 months
- 5(2)(B): There are altered circumstances due to increased pedestrian footfall resulting from altered highway layouts, public realms improvement, or constructions project.

The sub-committee opted to maintain the pitch designation due to interest in occupation of the pitch by the applicant of this planning application and on the ground that the pitch could make a positive commercial impact to the city by increasing local employment opportunities and contributing to the vivacity of the local area.

Given that the pitch is historic and was granted by Council's Highways Licensing Department in 1990, impacts on the transport network, including on pedestrian

movement, have already been assessed and deemed as acceptable during the granting of a license for the pitch itself. Therefore, while there may be impacts resulting from the erection of the kiosk on the pitch, these are not considered as part of this application given the pitch is historic, benefits from a highways license, and is contained within the approved pitch area.

It should be noted that the application initially proposed to have doors opening outwards over the highway; however, all doors on the kiosk were revised to open inwards within the pitch.

While the kiosk does extend beyond the approved pitch as a result of the projecting canopy, this has a height of 2375mm, which is compliant with the minimum 2140mm required by Council's Highways Planning Guide, allowing pedestrians to safely walk underneath the canopy unobstructed.

It is noted that objections have been received with regard to the kiosks potential impact on pedestrian movement both directly as a result of the placement of the kiosk and as a result of associated queuing. However, as previously indicated, the pitch already benefits from a license approved by Highways Licensing and it is therefore considered that the proposal's impacts on pedestrian movement have already been assessed and deemed acceptable.

Objections were also received with regard to the kiosks potential impact on street cleanliness through the spreading of litter and waste from the kiosk. If planning permission was to be granted, a condition could have been added requiring details of how the area around the kiosk would be maintained in a clean and tidy condition, including the provision of litter receptacles and the washing down of the pavement at the end of each trading day.

## **8.5 Economic Considerations**

During consideration for de-designation, members of the licensing Sub-Committee opted not to de-designate the pitch. One of the reasons the pitch retained its designation was that members suggested the pitch “*could make a positive commercial impact to the city by increasing employment opportunities as well as contributing to the vivacity of their local areas*”.

It is noted that Pitch 1640 would result in the employment of two part-time staff. While any additional employment is to be welcomed, the benefits to be gained by this would not outweigh the harm that the proposal would cause to this part of the city and the setting of the Smith Square Conservation Area. Notwithstanding this, a temporary street trading kiosk could be operated from the pitch without the benefit of planning permission.

## **8.6 Access**

There are no issues relating to access resulting from the development.

## **8.7 Other UDP/Westminster Policy Considerations**

There are no other UDP/Westminster policy considerations relevant.

## **8.8 London Plan**



This application raises no strategic issues.

### **8.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

### **8.10 Planning Obligations**

Planning obligations are not relevant in the determination of this application. The application would not be liable for either the Mayoral or WCC Community Infrastructure Levy.

### **8.11 Environmental Impact Assessment**

The proposed development is of insufficient scale to require an Environmental Impact Assessment. Where relevant, the environmental impact of the development has been assessed in earlier sections of this report.

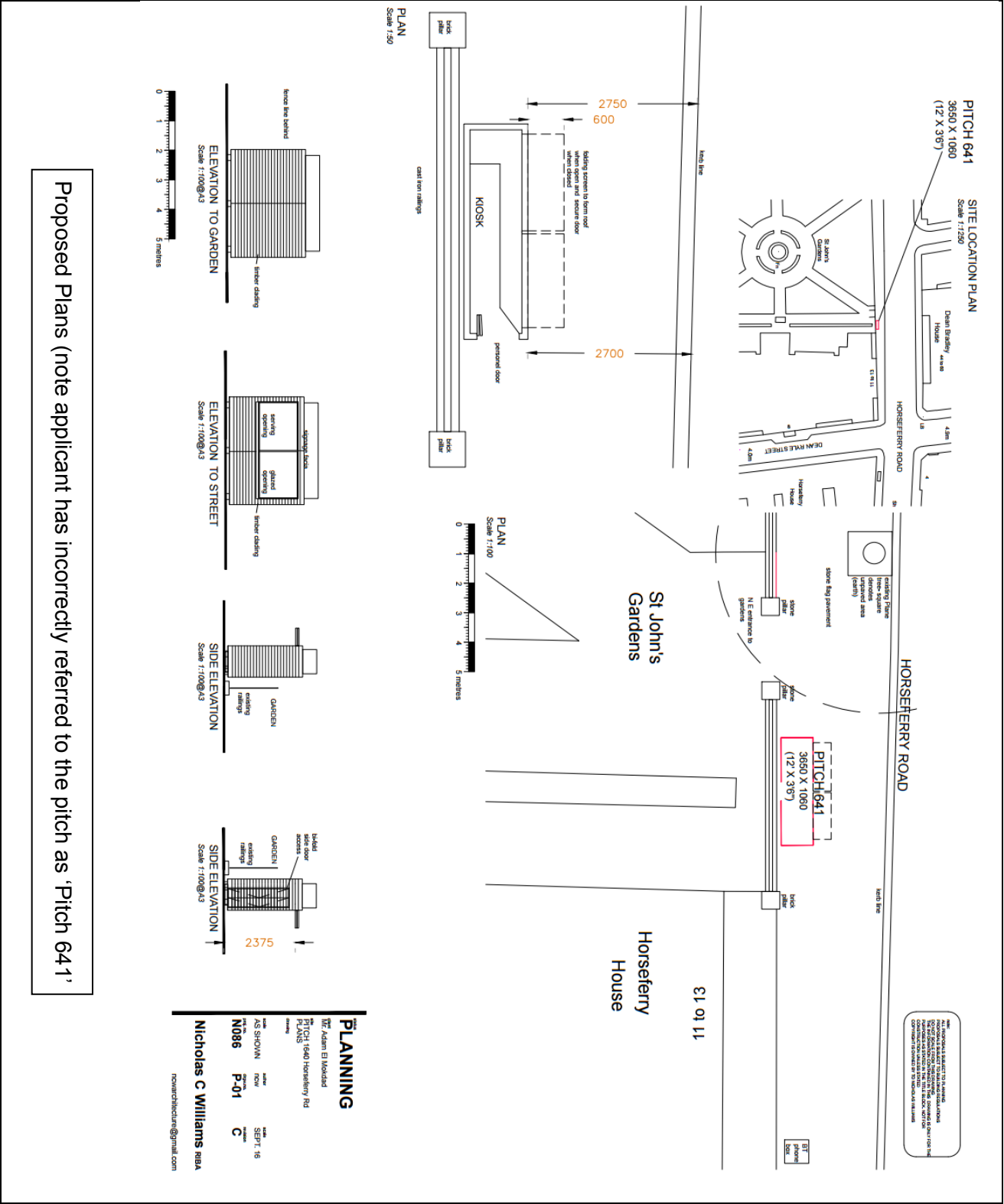
## **9. BACKGROUND PAPERS**

1. Application form.
2. Response from Thorney Island Society dated 9 January 2017.
3. Response from Environmental Health dated 28 December 2016.
4. Response from Cleansing Officer dated 20 December 2016.
5. Response from Licensing dated 24 March 2017.
6. Letter from occupier of C/o Ergon House, Horseferry Road dated 21 December 2016.
7. Letter from occupier of 44 Horseferry Road, Westminster dated 4 January 2017.
8. Letter from occupier of Flat 3 68 Gloucester Street dated 3 January 2017.
9. Letter from occupier of P.L.Lerner S.H. Rose, Hamilton House dated 11 January 2017.
10. Letter from occupier of 61 Marsham Court, Marsham Street dated 23 December 2016.
11. Letter from occupier of Flat 5, 50-52 Denbigh Street dated 3 January 2017.
12. Letter from occupier of 502 Bentinck House, 34 Monck Street dated 9 January 2017.
13. Letter from occupier of 4 Marsham Court, Marsham Street dated 22 December 2016.

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: VINCENT NALLY BY EMAIL AT [vnally@westminster.gov.uk](mailto:vnally@westminster.gov.uk)

## **10. KEY DRAWING**



Proposed Plans (note applicant has incorrectly referred to the pitch as 'Pitch 641')

**PLANNING**  
 Mr. Adam El Mokdad  
 1540 Horsesherry Rd  
 NEW YORK, NY 10061  
 PHONE: (212) 691-1000  
 FAX: (212) 691-1001  
 EMAIL: adam@nicholaswilliams.com  
**Nicholas C Williams nba**  
 newarchitectur@gmail.com

**Address:** Pitch 1640, Horseferry Road, London, SW1P 2AU,  
**Proposal:** Erection of a permanent retail (Class A1) street trading kiosk.  
**Reference:** 16/09235/FULL  
**Plan Nos:** P-01 Rev C.

**Case Officer:** Joe Whitworth

**Direct Tel. No.** 020 7641 1968

### Recommended Reason

**Reason:**

Because of its siting, design and appearance the kiosk would harm the appearance of this part of the City, the appearance and wider setting of the adjacent St John's Gardens, and the setting of the neighbouring Smith Square Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 9 (F) and DES 12, and SS 16 of our Unitary Development Plan that we adopted in January 2007.

### Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.