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| CITY OF WESTMINSTER | | | |
| PLANNING APPLICATIONS SUB COMMITTEE | Date 3 September 2019 | Classification For General Release | |
| Report of Director of Place Shaping and Town Planning | | Ward(s) involved St James's | |
| Subject of Report | Development Site Bounded By 10 To 18 Newport Place 28 To 35 Newport Court And, 51-79 Charing Cross Road, London, WC2H 0NE. | | |
| Proposal | Use of the public highway within an area measuring 11m x 4m for the placing of 8 tables, 32 chairs and 17 barriers on Newport Place in connection with the restaurant at Unit 14 Newport Sandringham. | | |
| Agent | Oliver Coleman | | |
| On behalf of | Mr C T Tang | | |
| Registered Number | 19/02502/TCH | Date amended/ completed | 3 April 2019 |
| Date Application Received | 3 April 2019 | | |
| Historic Building Grade | Unlisted | | |
| Conservation Area | Chinatown | | |

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The restaurant at Unit 14 forms part of Newport Sandringham building and faces Newport Court. The site is unlisted within the Chinatown Conservation Area, the Core Central Activities Zone and the West End Stress Area.

The restaurant unit is seeking permission for outdoor seating on the public highway on Newport Place with 8 tables and 32 chairs. A similar application has been submitted for outdoor seating at Unit 15 adjacent which is considered as Item 6 on this agenda.

The key issue in this case is the impact of the outdoor seating on residential amenity, particularly the residents of the flats above within Vale Royal House

Letters of objection have been received from residents within Vale Royal House principally on amenity grounds. For the reasons set out in this report, the proposed tables and chairs is considered, both individually and cumulatively when assessed with the proposed tables and chairs at Unit 15, to comply with relevant policies in the UDP and the City Plan. However, in line with normal practice to

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| allow for monitoring, the proposal is recommended for approval for a temporary period of one year. |
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3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the

4. PHOTOGRAPHS



Unit 14 (Shanghai Modern) above and in context with Unit 15 (Jinli) in Newport Place (below)



5. CONSULTATIONS

WARD COUNCILLORS FOR ST JAMES'S

Any response to be reported verbally.

SOHO SOCIETY

Any response to be reported verbally.

WASTE PROJECT OFFICER

No objection

HIGHWAYS PLANNING TEAM - CITY HIGHWAYS

No objection subject to recommended conditions. Discussed the proposal for a new Chinese pagoda in the vicinity with City Management and Communities department and considers that one year permission would avoid possible conflict.

LONDON CHINATOWN CHINESE ASSOCIATION

Support the scheme as it would enhance the clean image of Chinatown and became an asset to Soho.

VALE ROYAL HOUSE RESIDENTS ASSOCIATION

Oppose the development as it is deemed detrimental to the residents of the Vale Royal House.

FIRST CONSULTATION ADJOINING OWNERS/OCCUPIERS :

No. Consulted: 30

Total No. of replies: 15 (from 13 addresses)

No. of objections: 15

No. in support: 0

15 letters of objection on the following grounds:

Amenity

- Noise from customers using the tables and chairs.
- Noise from putting the tables and chairs away each night.
- Noise from buskers attracted by the tables and chairs.
- Impact on air pollution from food smells.
- Impact on air pollution and health from customer smoking. This is a major public health concern.
- The proposal would go against the council's aim of reducing noise pollution and protecting the residents as 'Noise Sensitive Receptors'.

Character of the Area

- The application should not be assessed in isolation. The proposal will set a precedent for other tables and chairs in the vicinity.
- Change of character of the square and the neighbourhood. Chinatown has no heritage of outdoor dining.

Other

- The original application for the refurbishment of the shop units did not include outdoor seating.
- The shopfronts to this restaurant unit should not have been openable.
- Outdoor dining would be contrary to the 2007 Chinatown Supplementary Planning Guidance.
- Reference made to the relocation of the depot and associated nuisance to residents.
- There were multiple issues from construction work when the shop units were refurbished under a different permission. No respect of WCC guidelines during redevelopment and no hope for the tables and chairs to be run differently.

Second Consultation dated 13 May 2019.

No. Consulted: 12

Total No. of replies: 1

No. of objections: 1

No. in support: 0

One letter of objection on the following grounds:

- No strategy to tackle noise caused by the movement of furniture
- No clear management plan when smokers stand around the barriers
- No clear management plan of the maintenance and cleaning of the outside seating area, the problems to be worsened when the Pagoda is built.
- Outdoor seating not part of the planning permission for redevelopment of the commercial units

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

Unit 14 is part of the Newport Sandringham Building, an unlisted building (dating from the early 1980s) which lies within the Chinatown Conservation Area, the Core Central Activities Zone and the West End Stress Area. Unit 14 is in use as restaurant and faces Newport Place.

The Newport Sandringham Building is a massive red brick structure designed by Diamond Redfern and Partners for the City of Westminster and includes residential flats to the upper floors and a mix of retail and restaurants along Charing Cross Road, Newport Place and Newport Court. The shopfronts have been altered following the July 2015 permission and in particular the Newport Place public realm has been enhanced and decluttered.

6.2 Recent Relevant History

Planning permission was granted on 14.07.2015 for the refurbishment and reconfiguration to create restaurant units (Class A3) to the Newport Place frontage at ground floor and part mezzanine; provision of retail units (Class A1) to Charing Cross Road at basement, ground and part mezzanine; and flexible use with retail (Class A1) or restaurant (Class A3) units to Newport Court at ground floor level. Change of use at basement of 79 Charing Cross Road to ancillary theatre accommodation in connection with the adjoining Arts Centre at 136 Shaftesbury Avenue (Welsh Chapel). Associated alterations including infilling of colonnade along Charing Cross Road; alterations to shopfronts on all three frontages; reconfiguration of internal service road and Cleansing Depot; alterations within service yard from Shaftesbury Avenue including new shutters and plant equipment ventilation. (RN: 15/02497/FULL)

7. THE PROPOSAL

Permission is sought for outdoor seating on the public highway on Newport Place for 8 tables and 32 chairs within an area measuring 11m x 4m . The hours sought are between 1200 midday (which is when the pedestrianisation of Newport Place comes into force) and 2200. The scheme also includes 17 barriers. A similar application has been submitted for outdoor seating at Unit 15 adjacent which is considered as Item 6 on this agenda.

The applicant had originally sought permission for a greater density of furniture with 12 tables and 40 chairs, 17 barriers and 1 parasol. However following consultation with local residents, revisions were made to reduce the amount of outdoor furniture and a revised Table and Chairs Management Plan submitted. The Management Plan has been prepared by the landlord (Shaftesbury) for the restaurant tenants within 10, 12-14 and 16-18 Newport Place, to assist with their applications for external table and chairs and the long term management of the external space.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The use of the highway for tables and chairs in connection with eating and drinking establishments is assessed under Policy TACE 11 of the UDP. This policy states that 'Planning permission for the provision of tables and chairs on the footway will only be granted when such developments (including any means of enclosure that may be required by the relevant licensing authority) will not:

- 1 unacceptably intensify an existing use
- 2 cause obstruction
- 3 endanger pedestrians and wheelchair users
- 4 cause or exacerbate a problem with refuse storage or street cleansing
- 5 have a detrimental effect on the character and appearance of the area, or the setting of a listed building
- 6 cause a nuisance to residents
- 7 harm the amenity of the area

8 create opportunities for crime.

Intensification of existing use

The area for tables and chairs will form part of a larger restaurant unit which measures 388sqm. It is not considered that an additional 32 covers will intensify the Class A3 use to an extent that it will cause harm to the character and function of the area or local environmental quality.

Obstruction

Newport Place has recently been enhanced with public realm improvements. This has resulted in an uncluttered area of public realm for pedestrian use from 1200 hours (midday). As currently laid out the tables and chairs will not cause any obstruction for pedestrians. At the time of writing details of the future installation of a replacement pagoda were not available. However, there is an indication in the public realm where it might be relocated which would not interfere with pedestrian movement around the tables and chairs. In any event permission is only recommended for a 12 month period, so if the pagoda is installed during this time then a future application would be able to take this obstruction into account.

Impact on pedestrians and wheelchair users

For the reasons set out above the proposal will not endanger pedestrians and wheelchair users.

Refuse storage or street cleansing

The Projects Officer (Waste) has no objections to the scheme in cleansing terms.

Effect on the character and appearance of the area, or the setting of a listed building

Objections have been received on the grounds that the introduction of tables and chairs will change the character of a protected heritage landscape. The proposed tables and chairs and other associated furniture are considered acceptable in design terms and they will have minimal impact on the appearance of the surrounding area. Moreover, they will be removed every evening and stored inside. The documents submitted show signs on the proposed barriers. Whilst the barriers themselves are approved under this application, the advertising shown on these requires advertisement consent. An informative will request the applicant to seek advertisement consent for any signs proposed on the barriers. Therefore it is not considered that the introduction of temporary outdoor furniture will harm the appearance of the China Town Conservation Area.

Impact on the amenity of the area

The Policy Application for TACE 11 states that 'The City Council will have regard to the proximity to residential accommodation and will not normally permit tables and chairs outside premises that have upper floors in residential use.' In this instance there are residential flats immediately above the proposed tables and chairs at Vale Royal House and letters of objection have been received on amenity grounds from individual residents and from the residents' association. These concerns are noted, however, it is considered that exceptional circumstances apply to allow tables and chairs in this location.

The site is in a busy central location with many other food and drink uses at ground floor level and in an area with a high pedestrian footfall. The shopfronts in Newport Place that

form part of the 2015 permission are permitted to be fully open until 2200hrs which will provide a strong active frontage to Newport Place. The proposed external tables and chairs will be an extension of the open shopfront. The proposed trading hours for the tables and chairs (between 1200h (midday) and 2200h each day) are considered reasonable and do not extend into late night hours. Whilst the use of the tables and chairs may generate noise given the approved openable shopfronts and the busy character of the area, it is not considered that the proposal will increase noise levels significantly beyond existing relatively ambient noise level. For these reasons it is not considered the proposal will cause significant harm to residential amenity to residents of Vale Royal House, either individually or cumulatively when the proposed application for tables and chairs at Unit 15 is taken into account.

The applicant has provided a Management Plan in support of the application. This sets out the requirements for the management of the tables and chairs including:

- Customer behaviour that may cause a disturbance or nuisance to our local residents should not be tolerated.
- An incident log should be recorded and maintained in respect of all incidents occurring in the outside seating area.
- Notices must be displayed in the outside seating area reminding customers to respect local residents and use the outside seating area as quietly as possible.
- External music and speakers are not permitted
- It will be a Condition of Entry to the restaurant that no customers will be permitted to smoke, use electronic cigarettes, Hookah or vaping equipment. This also applies to the outside seating area. Signage will be placed on entry and on the restaurant menus highlighting this Condition of Entry. It will be the restaurants responsibly to enforce this Condition of Entry policy.

One objector queried the lack of a noise report in support of the application, however, it is not considered reasonable to request a noise survey for this type of application, particularly as the tables and chairs have not yet been installed.

Given the openable character of the shopfront, it is not considered that withholding permission for tables and chairs on grounds that it would cause a problem of food smells is sustainable.

There is a strong concern about the impact of any smoking from some residents at Vale Royal House. Smoking is not within the control of planning as the area underneath the residential windows is public highway meaning that anyone can legitimately currently smoke outside the premises. It is recognised however that the presence of tables and chairs increases the chances that someone might smoke in this location whilst having a meal. The best way to control the smoking nuisance is through the management of the tables and chairs and the revised Management Plan document makes it clear that smoking is not allowed within the outdoor seating area and that signage advising this is required by the restaurant operator. This is welcome in amenity terms.

The letters of objection raise concerns that proposed tables and chairs might attract buskers, street entertainers, beggars and drug users as it is already an issue. Whilst the existing nuisance is understood it is not considered that the tables and chairs will worsen the existing situation. In addition, as set out in the Management Plan all furniture must

be removed or rendered unusable by 2200hrs so they will not provide shelter for drug users and homeless persons at night time.

Opportunities for crime.

It is considered that the Management Plan sets effectively how the tables and chairs should be managed. However, it does not include the provision of hooks under the tables to allow customers to safely store bags. An informative is recommended to require these be provided.

Conclusion

The council's adopted policy recognises that al fresco eating and drinking is popular and can provide opportunities for visitors, residents and workers to experience and contribute to the vibrancy and character of an area. Therefore, these policies permit tables and chairs where they are safe, where a convenient pedestrian environment is maintained and where no unreasonable harm to local residential amenity and environmental quality occurs. As set out above the proposed tables and chairs are considered to comply with the relevant sections of TACE 11. It is recommended that permission is only granted on a temporary basis of one year so that the impact of the tables and chairs on residents and compliance with the recommended conditions can be monitored.

8.2 Townscape and Design

The site is located within the China Town Conservation Area. Policy S25 of the City Plan states that in 'Recognising Westminster's wider historic environment, its extensive heritage assets will be conserved, including its listed buildings, conservation areas, Westminster's World Heritage Site, its historic parks including five Royal Parks, squares, gardens and other open spaces, their settings, and its archaeological heritage.' UDP policy DES9(E) states that 'Permission will only be granted for development, involving a material change of use, which would serve either to preserve or enhance the character and appearance of the conservation area.' For the reasons set out in Paragraph 8.1, it is not considered that the change of use from public highway to outdoor seating will harm the appearance of the China Town Conservation Area.

8.3 Residential Amenity

The closest residential properties are located immediately above the application site within Vale Royal House.

Policy S29 of the City Plan S29 states that 'Development should ensure that the need to secure a healthy and safe environment is addressed, including minimising opportunities for crime.....The council will resist proposals that result in an unacceptable material loss of residential amenity and developments should aim to improve the residential environment.' Policy S32 states that 'the council will work to reduce noise pollution and its impacts and protect Noise Sensitive Receptors from noise by...requiring development to minimise and contain noise and vibration.

Policy ENV 13 of the UDP seeks to 'maintain and where possible improve the quality of life for residents, workers and visitors to Westminster.' Policy ENV 6 of the UDP seeks to 'reduce noise levels throughout the City to below maximum levels set out in World

Health Organisation guidelines; to limit and contain noise from development; to protect noise sensitive properties from noise disturbance; to protect tranquil areas.'

For the reasons set out in Paragraph 8.1 it is considered that the proposal is in accordance with policies S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our UDP (January 2007) and will not result in an unacceptable material loss of residential amenity to residents of Vale Royal House.

8.4 Transportation/Parking

Policy S41 of the City Plan states all developments will prioritise pedestrian movement and the creation of a convenient, attractive and safe pedestrian environment. This is also the aim of policy TRANS 3 and TACE 11 of the UDP. The 'Westminster Way: Public Realm Strategy' SPD recommends that proposals for commercial activities on pedestrianised streets/ alleyways should maintain at least half of the footway width clear of any commercial activity – this should usually be 25% on each frontage. In other circumstances, the minimum allowable clearway for pedestrians is a 2 metre width. The Highways Planning Manager confirmed with the current road layout no objection is raised for the tables and chairs to be laid out at times when the road is closed to traffic.

The unit is 388 sqm in size it is therefore reasonable to consider that the outdoor furniture could be accommodated internally outside the permitted hours. A condition will ensure that no outdoor furniture will remain on the pavement after 22h.

There is a project to site a new Chinese pagoda in the vicinity of the proposed areas for tables and chairs. However, no planning application has been submitted yet. The Highways Planning Manager has confirmed that a year permission could be done safely, and gives the opportunity to assess the proposals again if future circumstances are different.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

Not applicable

8.7 Other UDP/Westminster Policy Considerations

Cleaning

One resident queried the lack of a clear management plan for the maintenance and cleaning of the outside area. It is a requirement of the OMP that the external space must be well maintained and cleaned.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal

consultation, any representations received are being considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

8.9 Neighbourhood Plans

None relevant.

8.10 London Plan

This application raises no strategic issues.

8.11 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.

8.12 Planning Obligations

Planning obligations are not relevant in the determination of this application.

8.13 Environmental Impact Assessment

Not applicable.

8.14 Other Issues

The letters of objection advise that tables and chairs were not part of the 2015 permission that approved the refurbishment of the ground floor commercial units. Concerns have also been raised about the problems experienced by residents during the construction of the 2015 permission and that allowing tables and chairs for those units will create a precedent. These concerns are noted however each planning application is assessed on its own merit, having regard to the specific proposal and the circumstances and policies in place at the time. Accordingly, the absence of outdoor seating in the 2015 scheme does not preclude future applications for tables and chairs at this location and approval of these developments does not mean that similar proposals elsewhere will be accepted.

Some of the residents consider that the additional outdoor space is not required given the size of the existing unit. This is a non-planning matter and it is not reasonable to refuse permission on lack of need.

An objector has questioned the validity of the 2015 permission as 'the decision at the time was made when Robert Davis was Head of Planning.' This is considered to be a non-planning matter and the current application is assessed on its own merits.

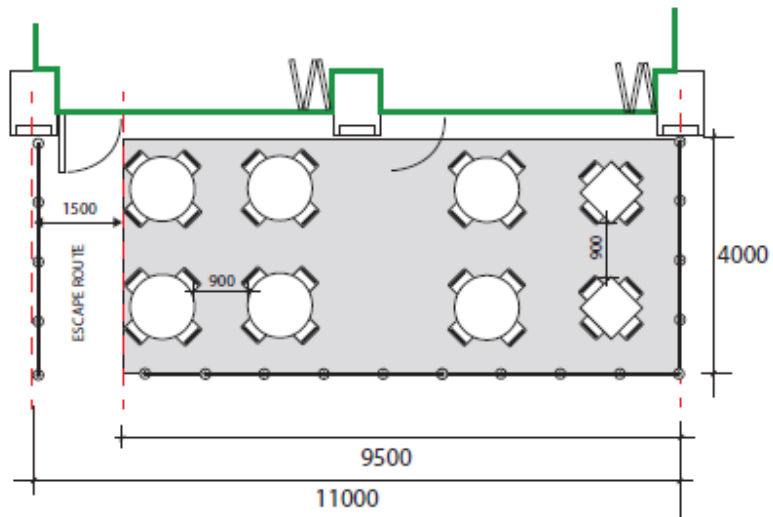
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(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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| IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MATTHEW MASON BY EMAIL AT mmason@westminster.gov.uk |
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9. KEY DRAWINGS



Proposed outdoor seating layout



Proposed elevation of outdoor seating area

DRAFT DECISION LETTER

- Address:** Development Site Bounded By 10 To 18 Newport Place 28 To 35 Newport Court And, 51-79 Charing Cross Road, London, WC2H 0NE,
- Proposal:** Use of the public highway within an area measuring 11m x 4m for the placing of 8 tables, 32 chairs and 17 barriers on Newport Place in connection with the restaurant at Unit 14 Newport Sandringham for a period of one year.
- Reference:** 19/02502/TCH
- Plan Nos:** Location plan; 1118-15538; 1118-15626; 1118-15649; 1118-19247; Tables and chairs management plan; barrier details.

Case Officer: Aurore Manceau

Direct Tel. No. 020 7641 7013

Recommended Condition(s) and Reason(s)

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 You must not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing 1118-19247. (C25AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 You can only put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved on the pavement between 12.00 and 22.00. (C25BA)

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 4 The tables and chairs must only be used by customers of the restaurant at Unit 14. (C25CA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 5 This use of the pavement may continue until 30 September 2020. You must then remove the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved. (C25DA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 6 You can only put out on the pavement the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved shown on drawing 1118-19247. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007. (R25EA)

- 7 You must manage the tables and chairs at all times in accordance with the approved Table and Chairs Management Plan.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

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. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, neighbourhood plan (where relevant), supplementary planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You cannot put tables and chairs in the area unless you have a street trading licence., , If you want to know about the progress of your application for a licence, you can contact our Licensing Service on 020 7641 8549. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter., , Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times. (I47AB)
- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)
- 4 You must get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 for the following advertisements: signs on barriers. (I04AA)
- 5 You are advised to provide hooks under the tables to allow secure storage of customer belongings. The next iteration of the Tables and Chairs Management Plan should make this a requirement of the restaurant operator.

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.