

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 19 June 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	64 North Row, London, W1K 7DA		
Proposal	Variation of Condition 3 of planning permission dated 25 October 2001 (RN: 00/09772/FULL) for the ' Use of part ground floor, basement and sub-basement as a health and fitness centre (Class D2)'; NAMELY, to extend the opening hours to 02.00 daily for a temporary 30 day period each year during Ramadan until 2020.		
Agent	Adams Planning and Development		
On behalf of	Virgin Active Ltd		
Registered Number	17/10442/FULL	Date amended/ completed	23 November 2017
Date Application Received	23 November 2017		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application site relates to a Virgin Active gym, known as the Mayfair Health Club, which is located at part ground floor, part basement and most of the sub-basement level of Hereford House; a mixed block between Oxford Street and North Row. The site falls within the Core Central Activities Zone (Core CAZ) and the Mayfair Conservation Area.

Planning consent was granted in 2001 for the use of the premises as a health and fitness centre (Class D2) comprising some 4,500sqm. The basement level accommodates a swimming pool, jacuzzi, sauna, café, reception, office and staff room. The sub-basement level accommodates a cycle studio, fitness studio, stretch area, free-weights, activity area, cardio equipment area and changing rooms. The 2001 consent does not have a limit on the capacity of the health and fitness centre (apart from a restriction of 100 persons in any ancillary bar/café element). The submission indicated up to 500 people using the premises as a whole but this was not restricted by condition. The current applicant advises that, when each piece of equipment is used and every studio, pool and office is occupied to maximum capacity at the same time, there is actually a maximum overall capacity of 400.

Condition 3 of the 2001 consent restricts the opening hours to:
06.00 – 23.00 Monday to Saturday excluding Bank Holidays,
07.00 – 22.00 Sundays and Bank Holidays.

This was to protect the amenity of the adjoining premises and the area generally.

Virgin Active seek to vary this condition in order to allow the health and fitness centre to operate until 02.00 daily for a temporary 30 day period each year during Ramadan. The applicant sets out that the Mayfair Health Club has a high proportion of Muslim membership and that the current opening hours do not accommodate fasting. As a consequence the applicant states that there is an annual reduction in membership during the month of Ramadan where customers change membership to 24 hour gyms.

It should be noted that the applicant originally proposed opening until 03.00 during Ramadan each year, for a 10 year period; in response to objections this has been reduced to 02.00 for a temporary period of two years as a trial run.

The dates of Ramadan for which extended opening hours are sought, have been defined in the submission as: 6 May – 4 June 2019, and 24 April – 23 May 2020.

The key issue for consideration is the impact of the extended hours of opening on neighbouring residential amenity. The nearest residential properties are 40 flats located within the same building (Hereford House) over second to eighth floor levels. There are also residential buildings to the south, located along North Row.

Four objections have been received on the grounds of excessive late night opening hours and increased noise disturbance.

During the past two years (2016 and 2017) no complaints have been received about noise relating to customers entering or leaving the Virgin Active premises. Six complaints were received regarding early morning linen deliveries to Virgin Gym between the hours of 5am and 6am. Condition 6 currently limits service deliveries to 08.00 – 18.00 daily. It should be noted that there have been several complaints received from residents regarding deliveries to Primark and Pizza Hut, both of which operate entirely independently from the application site.

Since the health and fitness club is located at basement and sub-basement level (apart from the ground floor corner entrance), the use of the space itself would not result in any harm to neighbours living conditions: there is no light-spill from any ground floor windows, and any internal noise is controlled by condition 4 of the 2001 consent, which requires: “No sound emanating from the establishment should be audible in any adjoining or adjacent properties”.

The entrance to the gym is directly beneath residential windows at second floor level and it is acknowledged that the opening of the health and fitness centre until 02.00 is likely to give rise to an increase in noise from gym members entering and exiting the premises. However, it is considered that gym users are unlikely to arrive or leave in large numbers. Further, any noise would be transient in nature, and limited to a temporary period of thirty days during Ramadan each year.

An Operational Management Plan (OMP) has been submitted which sets out that opening times for the club will be clearly displayed, and that pool, sauna and steam facilities will close 15 minutes prior to the advertised closing time. No personal training, induction programmes or studio classes will be

carried out during the extended opening hours for Ramadan, and members will be refused entry if under the influence of alcohol, narcotics or certain medications. The OMP sets out that there will be a minimum of 5 members of staff present during the extended opening hours and that a reception staff member will monitor the number of members on site. During the extended hours the front door will be locked, only members will be able to gain access via a keycard (and not potential members using free trial day passes). Notices will be displayed encouraging members to leave quietly.

The applicant has highlighted that the terms of their lease prevents noise nuisance, and that other conditions attached to the consent already protect residents from noise disturbance –namely condition 4 which sets out that the use should not result in noise that is audible to any adjoining or adjacent properties. It should be noted that the terms of the lease are not directly controlled by the planning system.

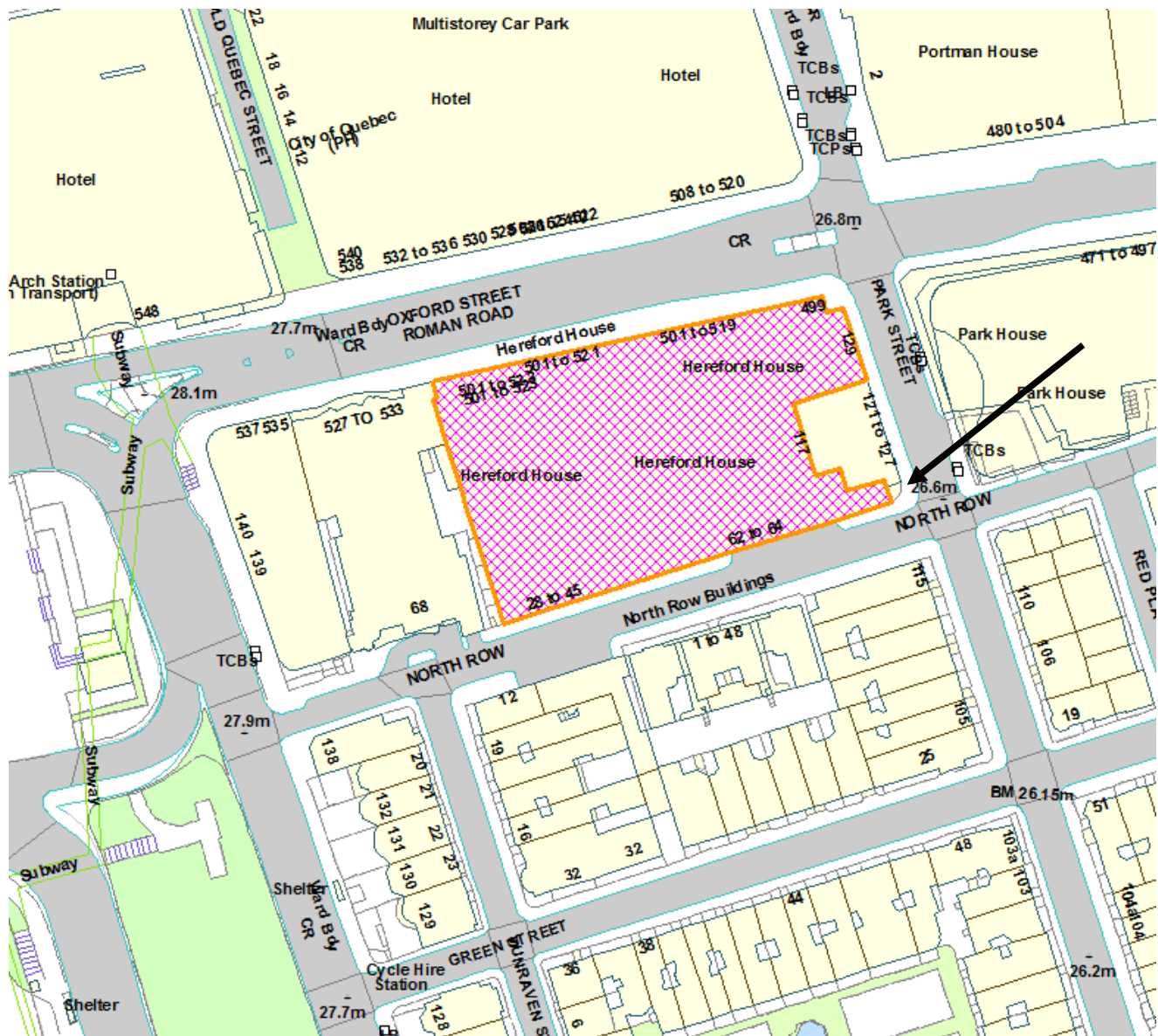
Since the original submission, the applicant has provided additional information on the current attendance figures for the last two hours of opening. This demonstrates that on average there are currently 24-31 people arriving at the health and fitness centre between the hours of 20.00 and 21.00, and that this reduces to an average of just 5-9 people arriving between 21.00 and 22.00.

On this basis, the applicant has agreed to a capacity limit of 100 people between the hours of 23.00 and 02.00 daily during the 30-day Ramadan period although it is expected that far fewer members would actually attend during these hours.

It should be noted that there are other late night uses in the surrounding area; directly to the west, at 141 Park Lane there is a lounge bar which is licenced Thursday to Saturday 23.00 – 03.00, and to the north is the Thistle Hotel which allows 24hr access for guests, and has licensed bars which open daily until 02.00. As such, the proposal for a health and fitness centre to open for a limited period until 02.00 during Ramadan would not be at odds with the general character or function of the area.

It is recommended that conditional planning consent be granted for a capacity limit of 100 people between the hours of 23.00 and 02.00 daily during the 30-day Ramadan period for a trial period of two years. On this basis it is considered that the objections would be adequately addressed.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 252

Total No. of replies: 4 (4 Objection, 0 Support)

Objections have been received on the following grounds:

- Increase in noise disruption
- Excessively late opening hours sought

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 Recent Relevant History

Use of part ground floor, basement and sub-basement as a health and fitness centre (Class D2) - Granted 21/09/2001

Alterations to Park Street and North Row elevations to accommodate a new canopy, louvres and window openings. – Granted 21/06/2002

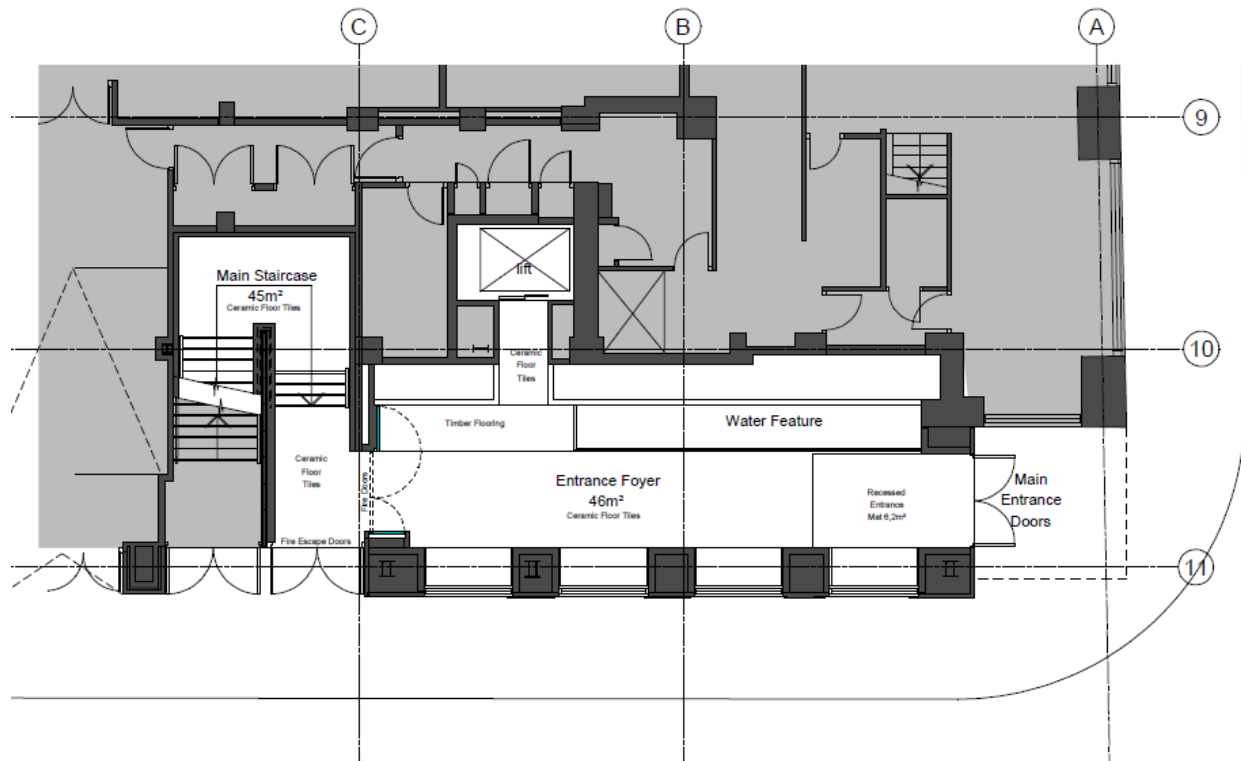
Details of refuse areas pursuant to condition 5 of planning permission dated 25 October 2001 (RN0009772) - Granted 17/12/2002

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

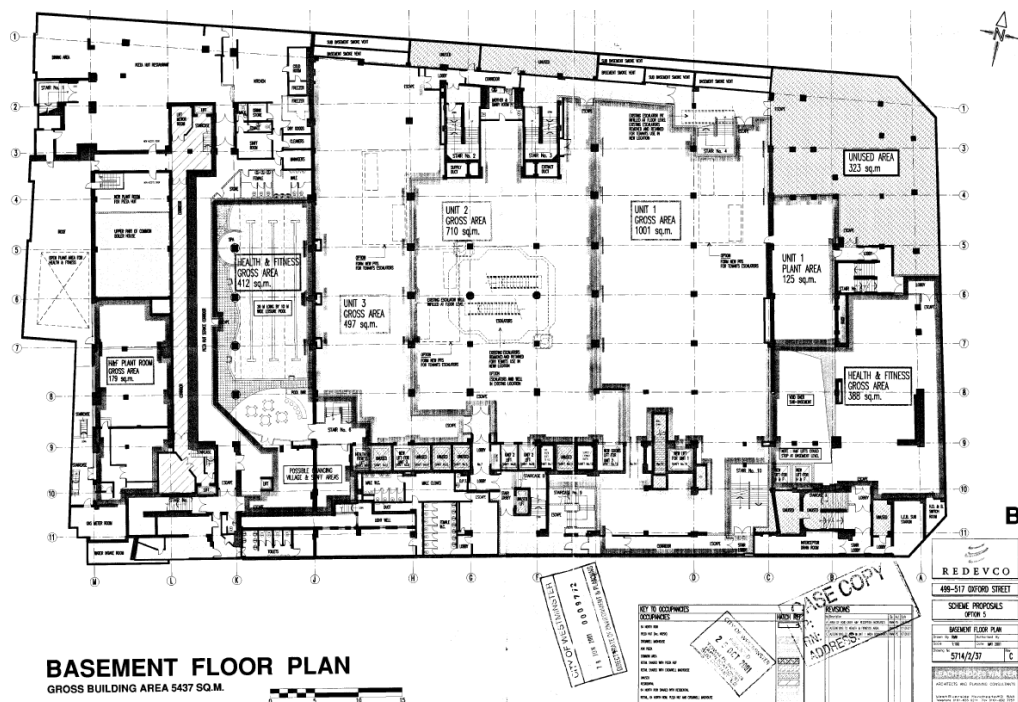
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

7. KEY DRAWINGS

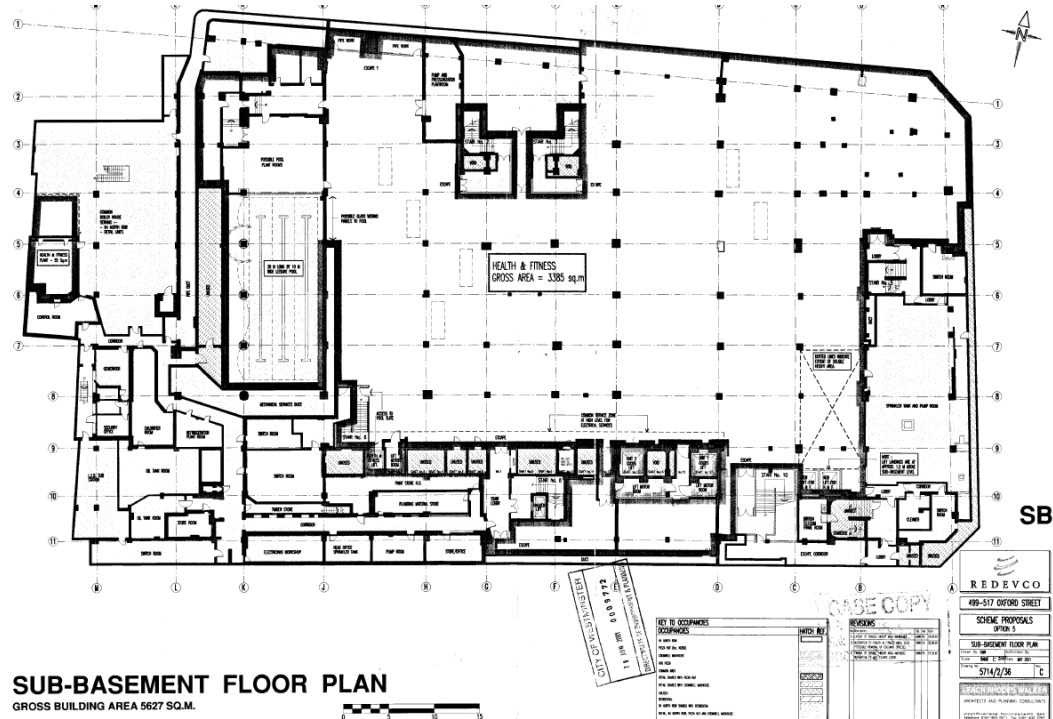
EXISTING AND PROPOSED GROUND FLOOR LEVEL



EXISTING AND PROPOSED BASEMENT FLOOR PLAN



EXISTING AND PROPOSED SUB BASEMENT LEVEL



DRAFT DECISION LETTER

Address: 64 North Row, London, W1K 7DA,

Proposal: Variation of Condition 3 of planning permission dated 25 October 2001(RN: 00/09772/FULL) for the ' Use of part ground floor, basement and sub-basement as a health and fitness centre (Class D2)'; NAMELY, to extend the opening hours to 03.00 daily for a temporary 30 day period each year during Ramadan until 2020.

Reference: 17/10442/FULL

Plan Nos: 5714/9/01, 57149/02A, 5714/9/03, 5714/2/36C, 5714/2/37C, as amended by 2/46C, 2/45B, 2/48B, Operational management statement by Adams Planning + Development ref. 2013-59e

Case Officer: Gemma Bassett

Direct Tel. No. 020 7641 2814

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 The accommodation hereby approved shall only be used for health club purposes and for no other purpose (including any other purpose within Class D2 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order). (C05A)

Reason:

In granting this permission the City Council has had regard to the policies set out in H10 and SC19 of the City of Westminster Unitary Development Plan adopted July 1997, and ENV6 of our Replacement Unitary Development Plan (First Deposit version) , and considers that planning permission would have been refused for unrestricted use within Class D2 of the Use Classes Order. (R05A)

- 3 The use hereby permitted shall not be carried on except between the hours of 6.00am to 11.00pm on Monday to Saturday excluding Bank Holidays and 7.00am to 10.00pm on Sundays and Bank Holidays, except for a temporary period during the following specified 30-day time periods each year during Ramadan:

2019: 6 May - 4 June,
2020: 24 April - 23 May.

During these specified periods, opening hours will be extended to 06.00am - 2.00am the following day, Monday to Sunday. (C12B)

Reason:

To safeguard the amenity of the adjoining premises and the area generally. (R12D)

- 4 No sound emanating from the establishment should be audible in any adjoining or adjacent properties.(C13H)

Reason:

To safeguard the amenity of the occupiers of adjoining residential properties and the area generally by preventing noise nuisance. This is in accordance with SC19 of our Unitary Development Plan and ENV6 of our Replacement Unitary Development Plan (Second Deposit version). (R13E)

- 5 You must provide the separate stores for waste and materials for recycling for the lifetime of the development. The stores shall be in accordance with the details approved by the City Council as Local Planning Authority on 17 December 2002 under reference 02/09184/ADFULL or in accordance with other soundproofing measures as submitted to and approved by the City Council .You must clearly mark them and make them available at all times to everyone using the health and fitness centre (D2 use);.

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007.

- 6 Service deliveries to the premises shall not take place except between the hours of 8.00am and 6.00pm

Reason:

To safeguard the amenity of the adjoining premises and the area generally. (R12D)

- 7 Any bar/cafe element shall accommodate a maximum of 100 persons only and shall remain ancillary to the primary use of the premises as a health and fitness centre (Class D2). It shall not be open to visiting members of the public other than those persons who are members of the health and fitness club on the site.

Reason:

To safeguard the amenity of surrounding residential occupiers.

- 8 You must not allow more than 100; customers into the property at any one time between the hours of 23.00 and 03.00 during the temporary 30 day period of late opening for Ramadan each year until 2020.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

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, 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.

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.