

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 24 January 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Harrow Road	
<b>Subject of Report</b>	1 Elgin Avenue, London, W9 3PR		
<b>Proposal</b>	Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place and Maida Hill Market.		
<b>Agent</b>	Julie Bundy		
<b>On behalf of</b>	Julie Bundy		
<b>Registered Number</b>	16/10632/FULL	<b>Date amended/ completed</b>	1 December 2016
<b>Date Application Received</b>	7 November 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	No		

## 1. RECOMMENDATION

Grant conditional permission for a temporary period of one year.

## 2. SUMMARY

This application seeks approval for the continued use of the car park underneath No. 1 Elgin Avenue for the storage of market stalls and associated equipment in association with the operation of the retail market at Maida Hill Place (the former Prince of Wales junction) which was reported to committee and approved for a further year on 11 October 2016 (16/07725/COFUL). The last permission for the storage use of the car park was granted in November 2015 (15/07501/COFUL) by Committee and was for a limited period until 9 November 2016.

It should be noted that as part of application 16/07725/COFUL, officers were informed that the storage facility at 1 Elgin Avenue was no longer required, and this was reported as such to the Committee.

Three letters of support have been received to the application. In previous years a resident directly above the car park has strongly objected to both the market and the continued use of the parking area for storage on the grounds of noise nuisance, disturbance and pollution, and cites poor management by former market operators. No objections have been received to this application.

The key issues in this case are:

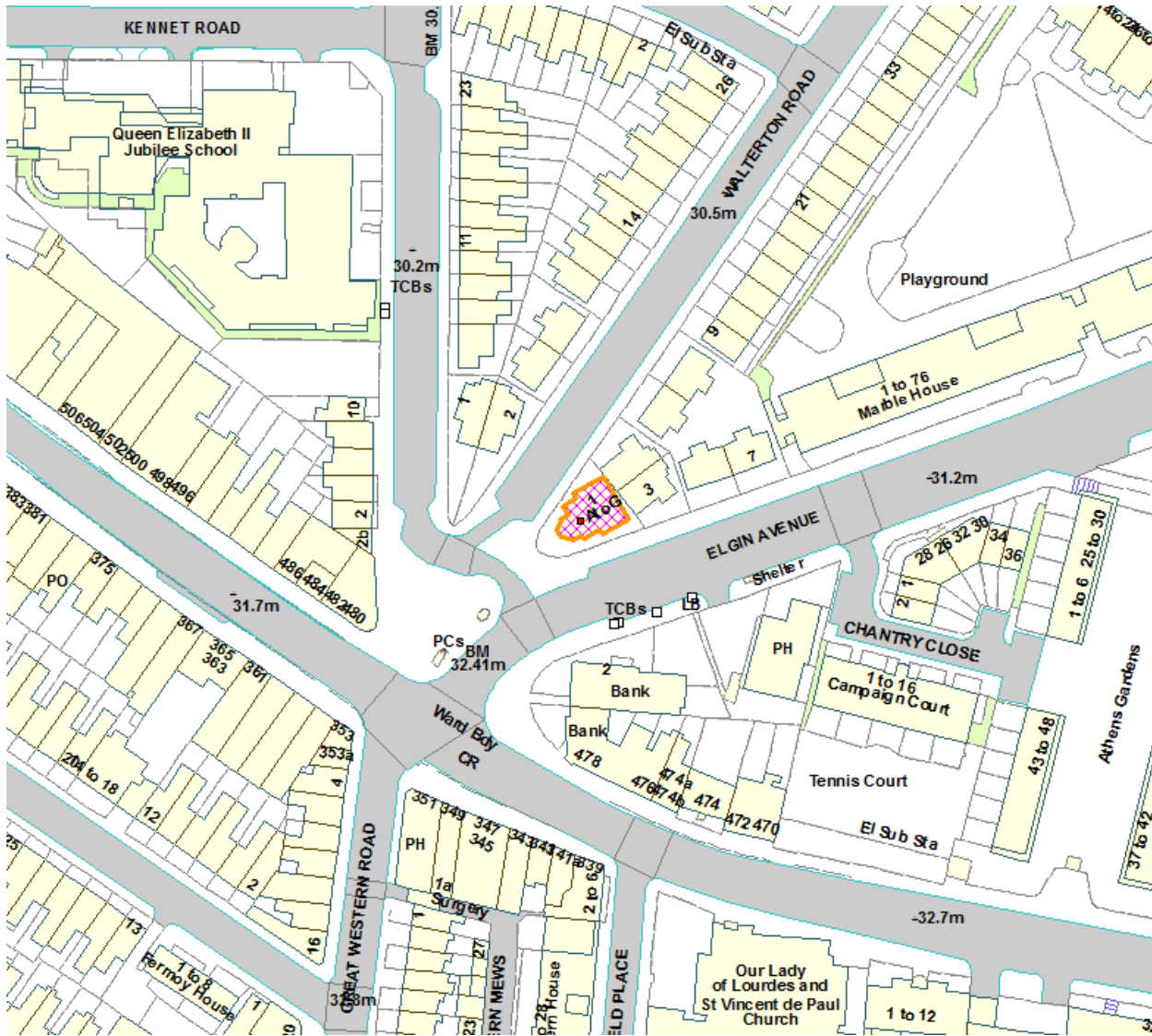
\* Whether the continued use of the car park for market storage will result in a material loss of amenity to residents in the flats above by reason of increased noise and disturbance.

\* The loss of four off street residents parking spaces in the car park which policy normally seeks to protect.

Whilst the loss of existing parking (four spaces) is regrettable, this loss has to be assessed in the light of the benefits a retail market brings to this part of the City. In order for the market to operate, a storage facility for the stalls and equipment needs to be provided nearby. The car park is located very close by to the proposed market, albeit it is recognised that there are flats immediately above and next door. There are no other suitable alternative locations for the market storage in the vicinity. It is proposed that this storage area will be used seven days a week.

Subject to conditions to control hours of use and a robust management plan, it is considered that the impact of noise and disturbance associated with the proposed use to the flats above can be mitigated. It is recommended that permission is only granted for an additional one year period (to be linked to the temporary market use) so that its operation can be reviewed in the light of any complaints received from residents.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Photo to show garage doors of 1 Elgin Avenue (accessed from Walterton Road)

## 5. CONSULTATIONS

### WARD COUNCILLORS FOR HARROW ROAD

Councillor McKie gives full support for the proposals.

### NORTH PADDINGTON SOCIETY

No objection. Comment that the basement storage is integral part of the market. The use of the car parking does not impinge on any other use and does not unreasonably disrupt neighbours.

### HIGHWAYS PLANNING MANAGER

Any response to be reported verbally.

### TRANSPORT FOR LONDON

No objection (comment made that there were no documents to view via the Council's website)

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 42

Total No. of replies: 2

No. in support: 2

Two letters received to the proposals, which support the retention of the storage facility to ensure the operation of the market.

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This four storey property is located at the junction of Elgin Avenue and Walerton Road and is in use as seven self-contained flats. Part of the lower ground floor is occupied as a car park for four vehicles which is accessed off Elgin Avenue.

The application site is not located within a conservation area, and lies within the North Westminster Economic Development Area (NWEDA) in Westminster's City Plan: Strategic Policies and the North West Westminster Special Policy Area (NWWSPA) in the UDP.

The car park has been used for storage purposes by the Maida Hill Market since the market use started in June 2009 on the open space at the former Prince of Wales junction. Retrospective permission was first granted in February 2010 for its use as market storage and this was limited until 18 July 2010 and was subsequently renewed until 31 December 2010. The last permission was granted in November 2015 by the Planning Applications Committee again for another limited period which expired on 9 November 2016.

## 6.2 Recent Relevant History

10 October 2016 - Continued use of designated public space and public highway for a street market (Monday to Saturday 09.00 to 20.00) (16/07725/COFUL) until 31 October 2017.

10 November 2015 - Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place street market. (Council's Own Development). (15/07501/COFUL)

7 October 2014 - Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place street market. (14/06689/COFUL).

27 May 2014 – Variation of Condition 5 of planning permission dated 24 September 2013 (RN. 13/05147/COFUL) for continued use of the car park at 1 Elgin Avenue for the storage of the street market stalls and associated equipment relating to Maida Hill Place street market; namely to extend the access times to the market storage facility to 08.00 and 11.00 and 17.00 and 20.00 Mondays to Fridays, and to 08.00 and 11.00, and 15.00 and 18.00 on Saturdays (14/01950/COFUL).

24 September 2013 – Permission was granted for continued use of the car park at 1 Elgin Avenue for the storage of street market stalls and associated equipment relating to Maida Hill Place street market (13/05147/COFUL).

16 June 2011 – Permission was granted for continued use of the basement car park at 1 Elgin Avenue for storage of market stalls (11/00275/FULL).

25 November 2010 – Permission granted for continued use of the basement car park to allow storage of market stalls for a temporary period until 31 December 2010 (10/07416/FULL).

18 February 2010 – Permission granted for continued use of the basement car park to allow storage of market stalls for a temporary period (09/09277/FULL)

## 7. THE PROPOSAL

Permission is sought for the continued use of the car park for the storage of equipment in association with the Maida Hill Place market. Access will be permitted for named market management staff and not for market traders. Access times are specified below:

Days	Access time for market set up	Access time for market close/breakdown
Monday to Saturday	08.00 to 11.00	17.00 to 20.00

In addition to the hours set out above, the management plan submitted with the application does state that the storage unit has the potential to be open between

08.00 and 19.00 which will be for additional access by the leaseholder only, to access the 'ping pong' table and piano which are put in the market area and for maintenance and cleaning

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The continued use of the car park for market storage will result in the displacement of a residential car park for four cars. The City Council's adopted planning policy (TRANS 23) normally seeks to protect existing residential car parking, and therefore there needs to be exceptional circumstances to warrant a policy departure.

In this case, the car parking spaces were not being used by the occupiers of No. 1, have been vacant for some time and had attracted anti-social behaviour. The use of this vacant car park provided essential storage for the market and was in close proximity.

The market use is considered to be benefit to the local area, as demonstrated in the applicants supporting statement, and is supported by Policy S12 in Westminster's City Plan and providing storage, allows this market use to continue in the future. However, this does need to be weighed against the impact of this use on the residents who live in No. 1 and this is set out in Section 8.3 of this report.

### **8.2 Townscape and Design**

No physical alterations are being proposed as part of this proposal.

### **8.3 Residential Amenity**

Policies ENV5, ENV6 and ENV13 in the UDP seek to resist proposals that result in a material loss of amenity, including noise disturbance and pollution, as do Policies S29, S31 and S32 in the City Plan. The resident who has previously objected to the application sets out that the market storage use has resulted in noise, disturbance and pollution and strongly objects to the use continuing.

As a result of these previous objections, the most recent application for the continued use of the market (submitted on behalf of the City Council) was submitted on the basis that this storage use was no longer required and that the market traders were aware of this. The application was reported to committee in October 2016 on this basis. The application currently before committee has been submitted by the leaseholder of the carpark area who was unaware that the market traders had been informed to cease storage in this area. Clarification has been sought from officers in the Council on this matter and therefore the application before committee must be assessed on its own merits.

It is recognised that the use of the garage by previous market operators has caused problems with the resident of the flat above. However, the Council has since taken over the responsibility as the market operator. It is managed on a daily basis by a market manager. Local residents and businesses will be able to contact the site manager with any issues as and when they arise. These are all logged on a daily/ weekly basis (a copy of

which was submitted with the application presented to Committee in November 2016 for the continued use of the market).

The applicant and supporters of the development argue that the benefits of the market outweigh the objections received from one resident.

In planning terms, the proposed use Monday to Saturday is considered acceptable, and given that there is no access before 08.00 and after 20.00 hours in the evening, any adverse impact should be mitigated together with a robust management plan. Given the restriction on the hours that the car park can be accessed, as well as the restriction on the people who can gain access, it is considered that the objections cannot be supported in this instance.

As previously advised, for clarification, market traders are not permitted to store perishables or food in the basement car park, but only for market stalls and associated equipment and overnight storage of bins. Whilst this is not included within the supporting information submitted with the application, (as in previous years) this will form one of the planning conditions to the temporary permission. As per previous permissions for the use of the basement car park as market storage, a condition is recommended requiring the use of rubber wheeled trolleys to transport heavy market equipment so that noise disturbance is limited.

#### **8.4 Transportation/Parking**

The loss of parking within the basement car park was previously found to be acceptable on a temporary basis when permission was granted in October 2015.

The current proposal to renew the permission for a further temporary period is not considered to have any additional impact on parking demand in the area. The Highways Planning Manager has previously stated that whilst the use of the car park for storage is not compliant with Policy TRANS23 of the UDP, a temporary permission would allow the residential parking use to be retained, should there be future demand.

#### **8.5 Economic Considerations**

The continued use of the car park for storage facilitates, the operation of the Maida Hill Place market, and offers wider economic benefits to the area in accordance with Policy S12 in the City Plan.

#### **8.6 Access**

The proposal does not raise any access issues. The access to the basement storage is suitable for the storage use that is proposed.

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

None 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. This application does not trigger a requirement for a Community Infrastructure Levy payment.

### **8.11 Environmental Impact Assessment**

Not relevant.

### **8.12 Other Issues**

None relevant.

### **8.13 Conclusion**

In conclusion, the storage facility provided in the basement of No.1 Elgin Avenue forms an important support function that enables the provision of a street market at the Maida Hill junction. As such, this storage use facilitates a use that is consistent with Policy S12 in the City Plan, which seeks to promote development within the North Westminster Economic Development Area (NWEDA) that fosters and supports economic development and employment generating uses.

It is recommended that temporary planning permission be granted for a further period, to coincide with the permission granted for the market, until 31 October 2017.

## **9. BACKGROUND PAPERS**

1. Application form.
2. Email from Transport for London dated 28 December 2016.
3. Letter from Councillor McKie of 26 Sutherland Place, London, dated 14 December 2016.
4. Letter from occupier of 35 Hornead Road, Maida Hill, dated 20 December 2016.
5. Letters from occupier of 13, Rodborough Court, Hermes Close, dated 22 December 2016.

### **Selected relevant drawings**

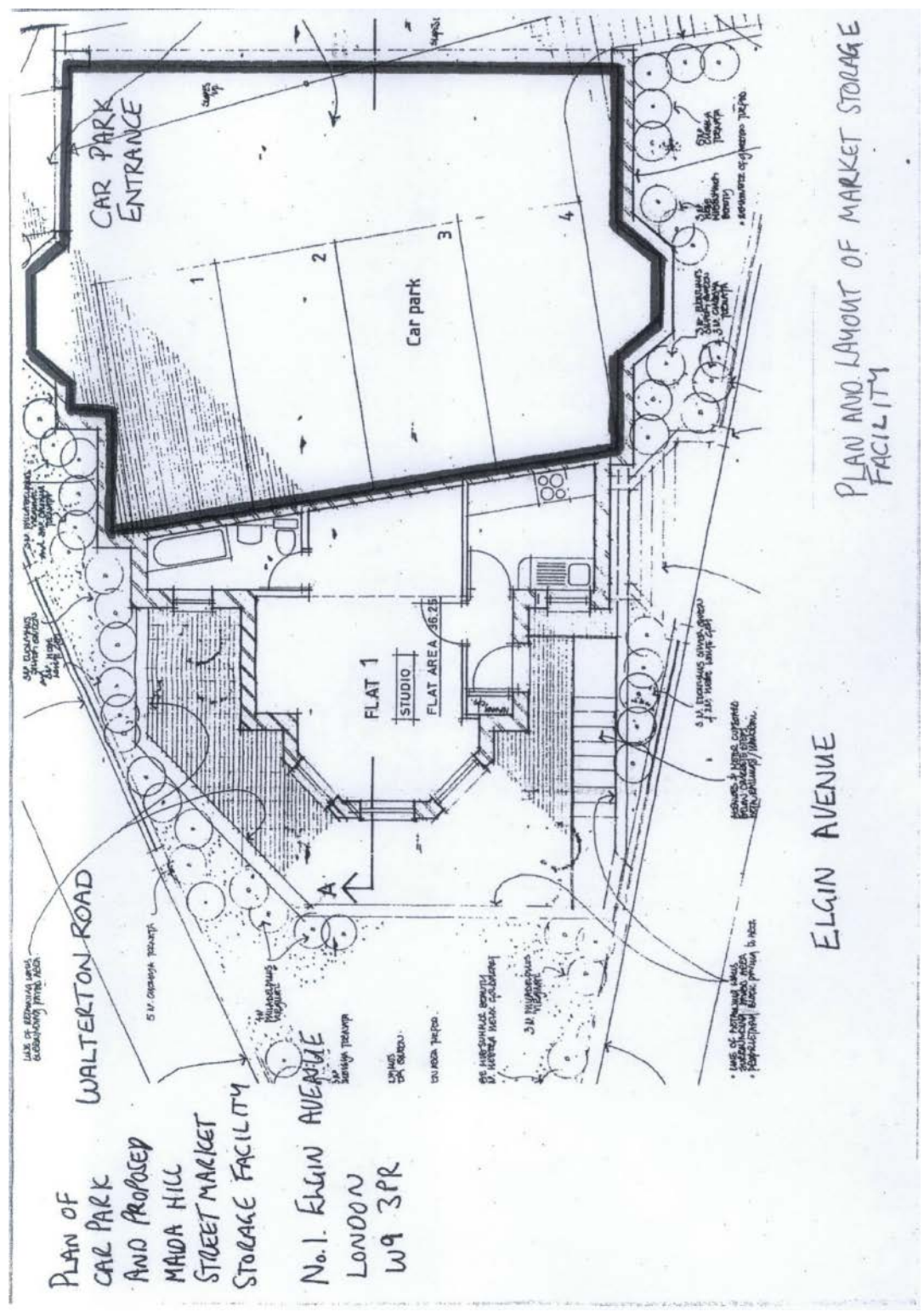
1. Plan Layout

(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: RUPERT HANDLEY BY EMAIL AT [rhandley@westminster.gov.uk](mailto:rhandley@westminster.gov.uk).

10. KEY DRAWINGS

Plan Layout



**DRAFT DECISION LETTER**

**Address:** 1 Elgin Avenue, London, W9 3PR,

**Proposal:** Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place and Maida Hill Market.

**Plan Nos:** Plan and layout of market facilities; Site location plan; Photo; Management Plan, Supporting Statement.

**Case Officer:** Kimberley Davies **Direct Tel. No.** 020 7641 5939

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

- 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 temporary use of the carpark for market storage (Class B8) in connection with Maida Hill Place street market can continue until 31 October 2017.  
Reason:  
The use of this residential carpark is only permitted on a temporary basis because of the special circumstances of the case, as set out in S12, S29 and S32 of the Westminster City Plan Strategic Policies that we adopted in November 2013 and policies ENV6, ENV13, TRANS23 of our Unitary Development Plan that we adopted in January 2007.
- 3 No goods or equipment shall be moved into or out of the market storage area hereby permitted except between the hours of 08.00 and 20.00 Monday to Saturday only. No goods or equipment shall be moved into or out of the market storage area on Sundays.  
Reason:  
To protect the environment of people in neighbouring buildings as set out in S29 and S32 of Westminster's City Plan: Strategic Policies that we adopted in November 2013 and ENV6 and ENV13 of the Unitary Development Plan that we adopted in January 2007.
- 4 Rubber wheeled trolleys must be used to transport goods and equipment in and out of the storage area.  
Reason:  
To protect the environment of people in neighbouring buildings as set out in S29 and S32 of the Westminster's City Plan: Strategic Policies that we adopted in November 2013 and ENV6, ENV13

of the Unitary Development Plan that we adopted in January 2007.

- 5 The use of the carpark for market storage in connection with Maida Hill Place market shall operate in accordance with the Operational Statement dated August 2015 unless varied by the City Council as Local Planning Authority.

Reason:

To protect the environment of people in neighbouring buildings as set out in S29 and S32 of the Westminster's City Plan: Strategic Policies that we adopted in November 2013 and ENV6, ENV13 of the 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. 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.