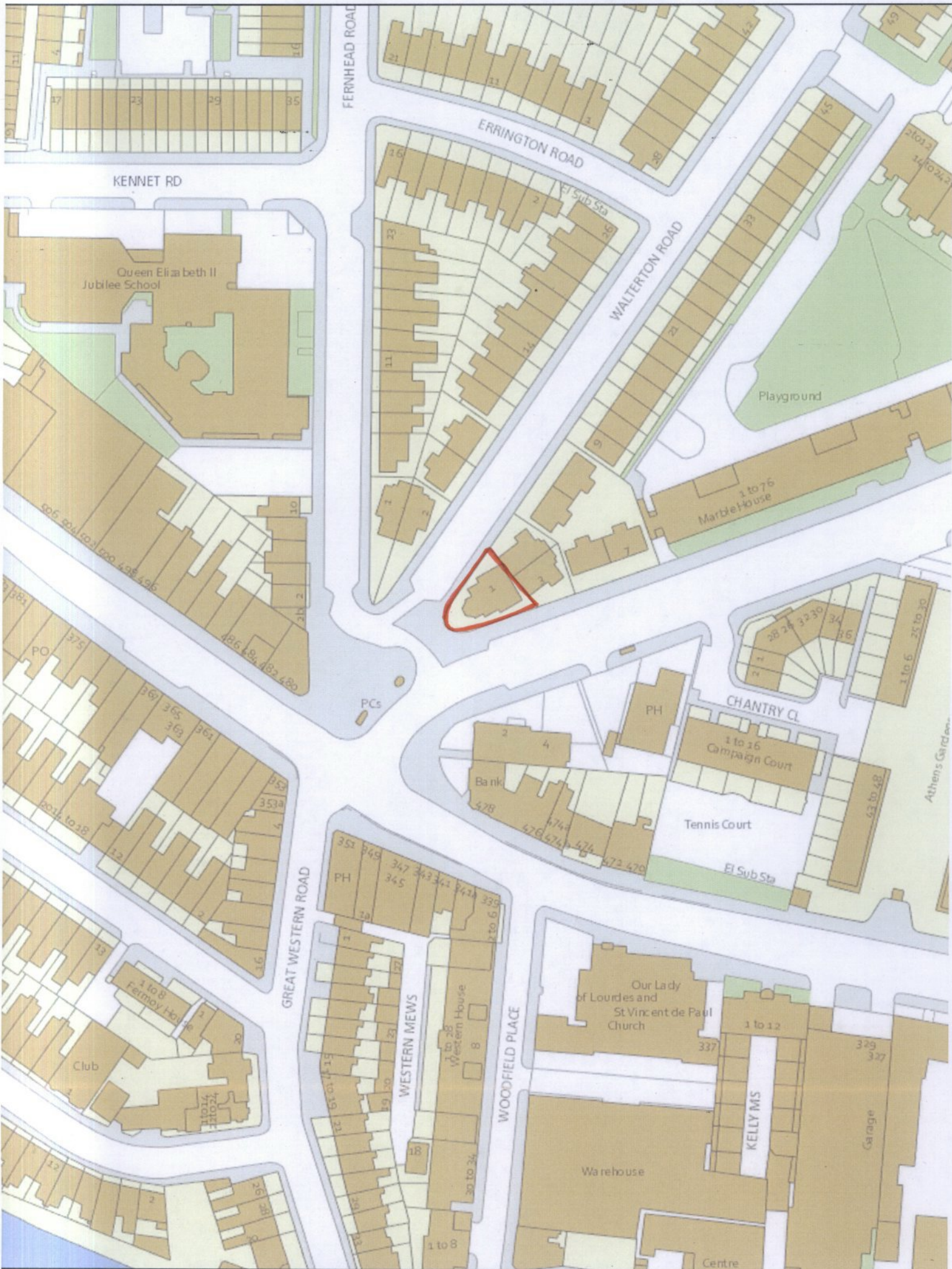


CITY OF WESTMINSTER			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 10 November 2015	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Wards involved</b> Harrow Road	
<b>Subject of Report</b>	1 Elgin Avenue, London, W9 3PR		
<b>Proposal</b>	Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place street market. (Council's Own Development).		
<b>Agent</b>	Westminster City Council		
<b>On behalf of</b>	Westminster City Council		
<b>Registered Number</b>	15/07501/COFUL	<b>TP / PP No</b>	TP/6067
<b>Date of Application</b>	13.08.2015	<b>Date amended/ completed</b>	13.08.2015
<b>Category of Application</b>	Minor		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Outside Conservation Area		
<b>Development Plan Context</b> - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Outside London Plan Central Activities Zone Outside Central Activities Zone		
<b>Stress Area</b>	Outside Stress Area		
<b>Current Licensing Position</b>	Not Applicable		

## 1. RECOMMENDATION

Grant conditional permission.





15 Sep 2015 08:41:20



1 ELGIN AVENUE, W9

## 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 is also being reported to the Committee for a decision. The last permission for the storage use of the car park was granted in October 2014 by Committee and was for a limited period until 30 September 2015.

A resident above the car park strongly objects to the continued use on the grounds of noise nuisance, disturbance and pollution, and cites poor management by former market operators.

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 a 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. CONSULTATIONS

### NORTH PADDINGTON SOCIETY

No comments received to date.

### HIGHWAYS PLANNING MANAGER

The permanent loss of residential parking is contrary to policy TRANS23(A) and it is therefore difficult to support this. A time-limited permission would allow the residential parking use to be retained should there be future demand for it.

### TRANSPORT FOR LONDON

No objections.

### WARD COUNCILLORS FOR HARROW ROAD AND QUEEN'S PARK

Councillor Barrie Taylor supports the application.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 146; Total No. of Replies: 1.

The following concerns were raised:

- The continuous use of the garage under their bedrooms is seriously diminishing quality of life, from making the occupiers breathe exhaust fumes from all the traders/managers cars, vans and lorries, to constant excessive noise from moving the furniture back and forth, to

illegally 'employing' the drunks, which in turn gather right under their windows every day, until late at night, making enough noise to prevent them hearing their own telly in their own living room, let alone enjoying some peace and quiet.

- There are only a few stalls (some days only one or two), which really should not be enough to justify disturbing them, especially considering the permanent greengrocer always comes at 06.00 and can (and did before the Council prevented him) carry his own covers, avoiding the need to disturb neighbouring residents.
- Allegations are made in respect of the applicant, who is employed by the City Council, sharing confidential correspondence with the market traders. However, this is not a planning matter.

ADVERTISEMENT/SITE NOTICE: Yes.

#### **4. BACKGROUND INFORMATION**

##### **4.1 The Application Site**

This four storey property is located at the junction of Elgin Avenue and WALTERTON 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 October 2014 by the Planning Applications Committee again for another limited period which expired on 30 September 2015.

##### **4.2 Relevant History**

7 October 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. (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).

## 5. 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 Friday	08.00 to 11.00	17.00 to 20.00
Saturday	08.00 to 11.00	15.00 to 18.00
Sundays and Bank Holidays	09.00 to 10.30	17.00 to 19.00

## 6. DETAILED CONSIDERATIONS

### 6.1 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 a benefit to the local area and is supported by Policy S12 in Westminster's City Plan: Strategic Policies 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 6.3 of this report.

### 6.2 Townscape and Design

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

### 6.3 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 objector sets out that the market storage use has resulted in noise, disturbance and pollution and strongly objects to the use continuing.

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 the Harrow Road Programme Manager. Local residents and businesses will be able to contact the site manager with any issues as and when they arise.

In planning terms, the proposed use seven days a week is considered acceptable, and given no access before 08.00 and after 20.00 hours in the evening, this should mitigate any adverse impact 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.

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. This is set out in the Operational Statement submitted with this application, which forms 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.

#### **6.4 Highways/Parking Issues**

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 2014.

The current proposal to renew the permission for a further temporary period of one year is not considered to have any additional impact on parking demand in the area. The Highways Planning Manager states 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.

#### **6.5 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.

#### **6.6 Access**

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

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

None relevant.

#### **6.8 London Plan**

The proposals do not raise strategic issues and does not have significant implications for the London Plan.

#### **6.9 National Policy/Guidance Considerations**

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the

framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

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

### **6.10 Planning Obligations**

Not relevant in the determination of this application.

### **6.11 Environmental Assessment including Sustainability and Biodiversity Issues**

The proposal is of insufficient scale to require an environmental assessment.

### **6.12 Other Issues**

Objections are made on the grounds of insufficient justification for the majority of the proposed market stalls. However, it has been made clear elsewhere in this report that the proposal, which include a variety of different stalls, contributes to the objectives of Policy S12 in the City Plan.

### **6.13 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 one year until 9 November 2016.

## **BACKGROUND PAPERS**

1. Application form
2. Email from Transport for London dated 25 August 2015
3. Email from the Highways Planning Manager dated 2 October 2015
4. Representation from Councillor Barrie Taylor dated 22 August 2015
5. Representation from the owner/occupier of 1 Elgin Avenue dated 4 September 2015

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT NATHAN BARRETT ON 020 7641 5943 OR BY E-MAIL – [nbarrett@westminster.gov.uk](mailto:nbarrett@westminster.gov.uk)



**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 street market. (Council's Own Development).

**Plan Nos:** Planning Statement (August 2015), Site Plan, Layout of Market Storage Facility and View of Car Park Entrance and Maida Hill Street Market.

**Case Officer:** Claire Berry

**Direct Tel. No.** 020 7641 4203

**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 temporary use of the carpark for market storage (Class B8) in connection with Maida Hill Place street market shall continue until 9 November 2016.

**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.

**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.

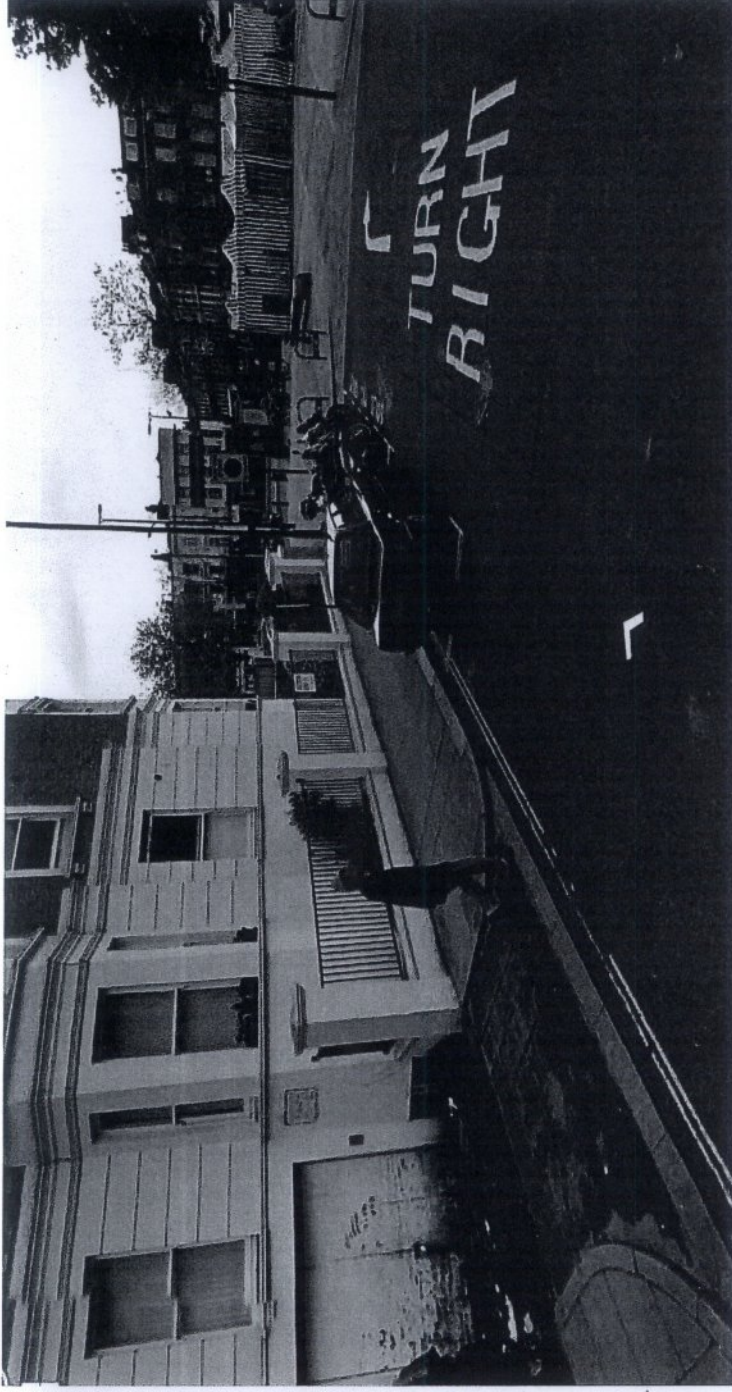
**Informative(s):**

- 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: Strategic Policies adopted November 2013, 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.

**Maida Hill Market  
Storage Facility**

**1 Elgin Avenue  
London W9 3PR**

View of car park  
entrance and Maida Hill  
Street Market











## City of Westminster

### Planning Statement Maida Hill Place Market – Market Storage Facility, 1 Elgin Avenue August 2015

#### Previous Consents:

The table below illustrates the previous consents relating to the change of use from car park to market storage area (Class B8).

Application Reference	Date of Consent	Expiry of Temporary Consent
09/09277/FULL	18/02/2010	18/07/2010
10/07416/FULL	25/11/2010	25/12/2010
11/00275/FULL	16/06/2011	30/06/2013
13/05147/COFUL	24/09/2013	24/09/2014
14/01950/COFUL	27/05/2014	24/09/2014
14/06689/COFUL	07/10/2015	30/09/2015

The application is for the continued temporary change of use of the car park at 1 Elgin Avenue for storage facility for market and events equipment associated with Maida Hill. This application is linked to the continued use of the public highway and open space at Maida Hill for a street market and events.

*This planning application proposes no changes to the existing permission and conditions agreed by the Planning Sub Committee on 7<sup>th</sup> October 2014 (application reference: 14/06689/COFUL).*

#### Hours of Operation:

Market stalls and associated equipment will be transported to and from the storage facility to Maida Hill Place on rubber wheeled trolleys between the hours listed below:

Days	Access time for market set up	Access time for market close/breakdown
Monday to Friday	Between the hours 8am and 11am only	Between the hours 5pm and 8pm only
Saturday	Between the hours of 8am and 11am only	Between the hours 3pm and 6pm only
Sunday and Bank Holidays	Between the hours of 9am and 10.30am only	Between the hours 5pm and 7pm only

**Application Length:**

The council is looking to apply for one year's planning permission for the continued use of the car park at 1 Elgin Avenue for storage for Maida Hill Market. The days and hours of operation remain the same as the existing planning permission.

**Update:**

The use of the market storage facility has been operating within accordance of the conditions of the application.

To date there has only been some incidences reported where access was outside the designated hours. A full log of these incidents and other complaints relating to the storage unit will be supplied to the Case Officer for review.

**Operational Statement:**

The use of the space will be for the storage of market equipment and is perfectly adequate for the size and type of market proposed. The below points outline how the facility will be used and managed if planning permission is granted:

- Access will be permitted for market management staff only and not traders;
- Access times will be within the specified hours only as listed in the Management Plan;
- The storage facility will be used solely for storage of equipment relating to the market operation and any associated events;
- All market equipment will be stored safely and correctly when not in use;
- The facility will not be used for the storage of food or perishables to prevent or attract pests;
- Rubber-wheeled trolleys will be used to transport heavy market equipment to minimise noise and disruption the local residents;
- No parked vehicles will be permitted in the space;
- Relevant contact numbers will be displayed and issued to local residents by way of a letter drop;
- A record of any complaints received, and how these were dealt with and the timescales will be kept by market management and will publically available upon request; and,
- The operation of this storage facility and the market will be overseen by the City Council's Harrow Road Programme Manager, who has over responsibility for the market and the associated operations. This process has been in place since 24<sup>th</sup> September 2013.

**Market Space – use of the public highway:**

A separate application has been submitted for the continued use of the public highway at Maida Hill for a market and events space.

The application does not seek to vary any of the existing conditions of the current applications.

# Site Plan

## 1 Elgin Avenue, London W9 3PR

\_\_\_\_\_ Market Storage Unit

