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| CITY OF WESTMINSTER | | | |
| PLANNING APPLICATIONS COMMITTEE | Date 25 October 2016 | Classification For General Release | |
| Report of Director of Planning | | Ward(s) involved Marylebone High Street | |
| Subject of Report | 75 Wigmore Street, London, W1 | | |
| Proposal | Use of ground and basement of 75 Wigmore Street as a mixed use restaurant (Class A3) and retail (Class A1) use (sui generis) in connection with the existing restaurant at 77 Wigmore Street. | | |
| Agent | Rolfe Judd Planning | | |
| On behalf of | SCP Estate Ltd | | |
| Registered Number | 16/06747/FULL | Date amended/ completed | 18 July 2016 |
| Date Application Received | 18 July 2016 | | |
| Historic Building Grade | Unlisted | | |
| Conservation Area | Stratford Place | | |

1. RECOMMENDATION

Grant Conditional Permission

2. SUMMARY

The application site involves No.75 Wigmore Street which is an unlisted building in the Stratford Place Conservation Area. The immediate surrounding area is characterised by a vibrant mix of commercial and residential uses and is well known for its shops and eating establishments.

The property forms part of a larger redevelopment site at 71-77 Wigmore street and 15-19 St Christopher's Place which is currently under construction. No.75 has historically been in use as a sandwich shop and the redevelopment scheme granted in 2013 retained this A1 use with 22m² at ground floor and 63m² at basement level (85m² in total). The upper floors are being fitted out for residential use in accordance with 2013 permission. The basement and ground floors of No. 77 are lawfully in use as a restaurant.

In June 2016, planning permission was refused for the use of No.75 as an extension to the existing restaurant at No. 77 Wigmore Street and associated alterations to the ground floor shopfront. The application was refused as it was considered that the use would result in the loss of retail which contributes to the character and function of this part of the CAZ.

Permission is now sought to use the retail unit at 75 Wigmore Street as a restaurant to be used in

connection with the existing restaurant at the adjoining property No.77 Wigmore Street from 17:00 daily. This proposal differs from the previous application as it is proposed to operate as a retail unit during core shopping hours and it retains a separate independent retail entrance.

The key issues in this case are the loss of the retail floorspace and the impact of the extended restaurant use.

UDP Policy SS 5 seeks to protect retail use at ground and basement level, only allowing non-A1 uses if they are not detrimental to the character and function of an area, do not lead to a concentration of three or more consecutive non-A1 uses or increase an overconcentration of entertainment uses in a street or area. City Plan Policy S21 protects existing retail uses except where the unit is no longer viable.

In support of the application, the applicant argues that the approved retail unit provides a very small retail trading area at ground floor level, and once a staircase is installed claims that this would effectively create a small kiosk unit, making a very difficult space for most retailers to trade from. The application therefore seeks to retain the basement and ground floor of No. 75 as retail floorspace during daytime hours only. The retention of a 'retail' element within the unit, albeit ancillary to the adjoining restaurant use is considered an acceptable solution in this case and will be secured by condition. Whilst there is no known occupier at present, the applicant envisages a cafe/restaurant occupier with a retail area selling food products. The entrance to the premises will provide independent access to the retail area. Therefore customers can access the retail space without entering the restaurant area. In light of this, it is considered that the proposed arrangement would help ensure the ongoing viability of the retail unit during core trading and will continue to contribute to the character and function of this part of the Central Activities Zone. On this basis it is not considered that there would be a detrimental loss of retail floorspace.

As the occupier of the premises is not yet known, the layout of the unit has not yet been finalised. As such, it is difficult to ascertain how the retail function of the floorspace will be retained during daytime hours and therefore a condition has been imposed securing an Operational Management Plan requiring the submission of retail fit out plans. The applicant has referred to recent permissions at 11 and 23 Charlotte Street where similar arrangements have been secured.

However, during night time hours, the intention is that No. 75 would be used in connection with the adjoining restaurant at 77 Wigmore Street. The existing restaurant measures 211m² and the combined units would create a restaurant of 296m². This increase in restaurant floorspace needs to be considered under Policy TACE 8 of the UDP. This states that permission for restaurant uses between 150m² and 500m² of gross floor area will generally be permissible, where the proposed development will have no adverse impact on residential amenity or local environmental quality, and no adverse effect on the character or function of its area. Policy S24 of the City Plan also relates to new entertainment uses and is similarly worded.

The nearest residential is located on the upper floors of the application site and therefore the principle of extending the existing restaurant needs careful assessment. The authorised opening hours of the lawful restaurant at No.77 are from 08.00 to 23.30 Monday to Saturday, and 10.00 to 22.30 on Sundays. These hours are considered acceptable, in line with the hours set out in the UDP and a condition will be imposed to ensure the terminal hour of the restaurant function ties in with the permitted restaurant use. The impact of an additional floorspace of 85m² for Class A3 purposes is not considered to significantly change the operation of the restaurant in this location and it is not considered that, subject to conditions, the proposal would have a detrimental impact on the living

conditions of neighbouring residents nor local environmental quality.

The existing extract duct at the rear of No. 77 would be used and conditions have been imposed to ensure that the design and structure of the development shall be of such a standard that it will protect residents within the same building from noise and vibration from the development.

The site is located within a Controlled Parking Zone, which means that single and double yellow lines in the vicinity allow loading and unloading to occur. The largest regular service vehicle expected to be associated with this development in this location is the refuse collection vehicle. This will service the proposal in a similar fashion to the existing use on site and given the size of the unit it is not expected that there will be a significant increase in servicing traffic associated with the potential use.

The proposed application does not include cycle parking. Despite the objections of the Highways Planning Manager given the small size of the unit (which is below the 100m² threshold identified in the London Plan) it is not considered to be necessary or practicable for a cycle space to be provided here. Details for the storage of waste have been secured by condition.

With the imposition of appropriate conditions it is considered that the proposal is acceptable in highways, land use, and amenity terms, therefore is recommended for approval.

3. LOCATION PLAN



4. PHOTOGRAPHS



5. CONSULTATIONS

MARYLEBONE ASSOCIATION:
No response to date.

HIGHWAYS PLANNING MANAGER:
No objection subject to conditions.

ENVIRONMENTAL HEALTH:
No objection subject to conditions.

CLEANSING:
No objection subject to condition.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 40

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND PAPERS

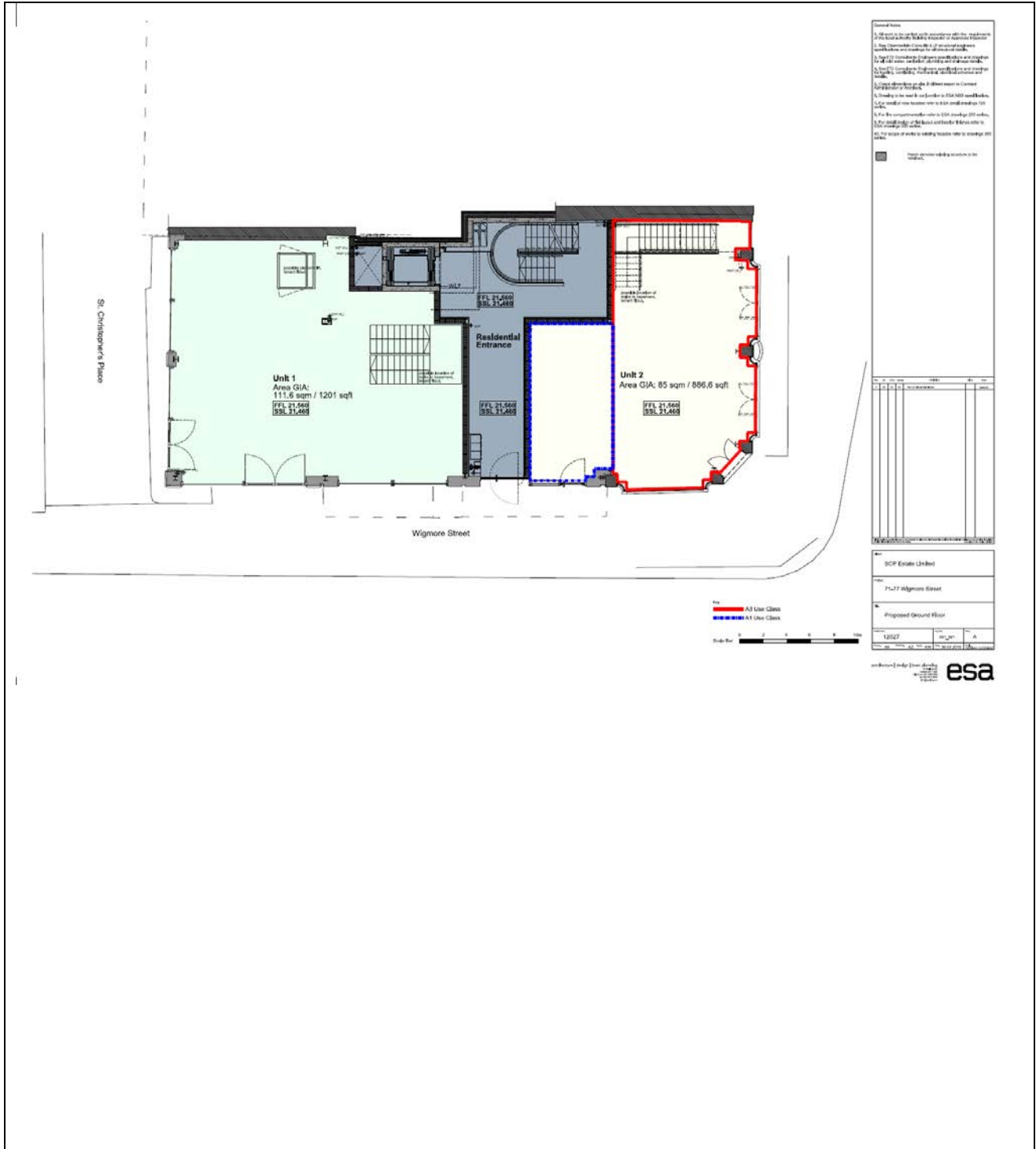
1. Application form
2. Response from Environmental Health dated 18 August 2016
3. Memorandum from Highways Planning Manager dated 09 August 2016
4. Memorandum from Cleansing dated 12 August 2016

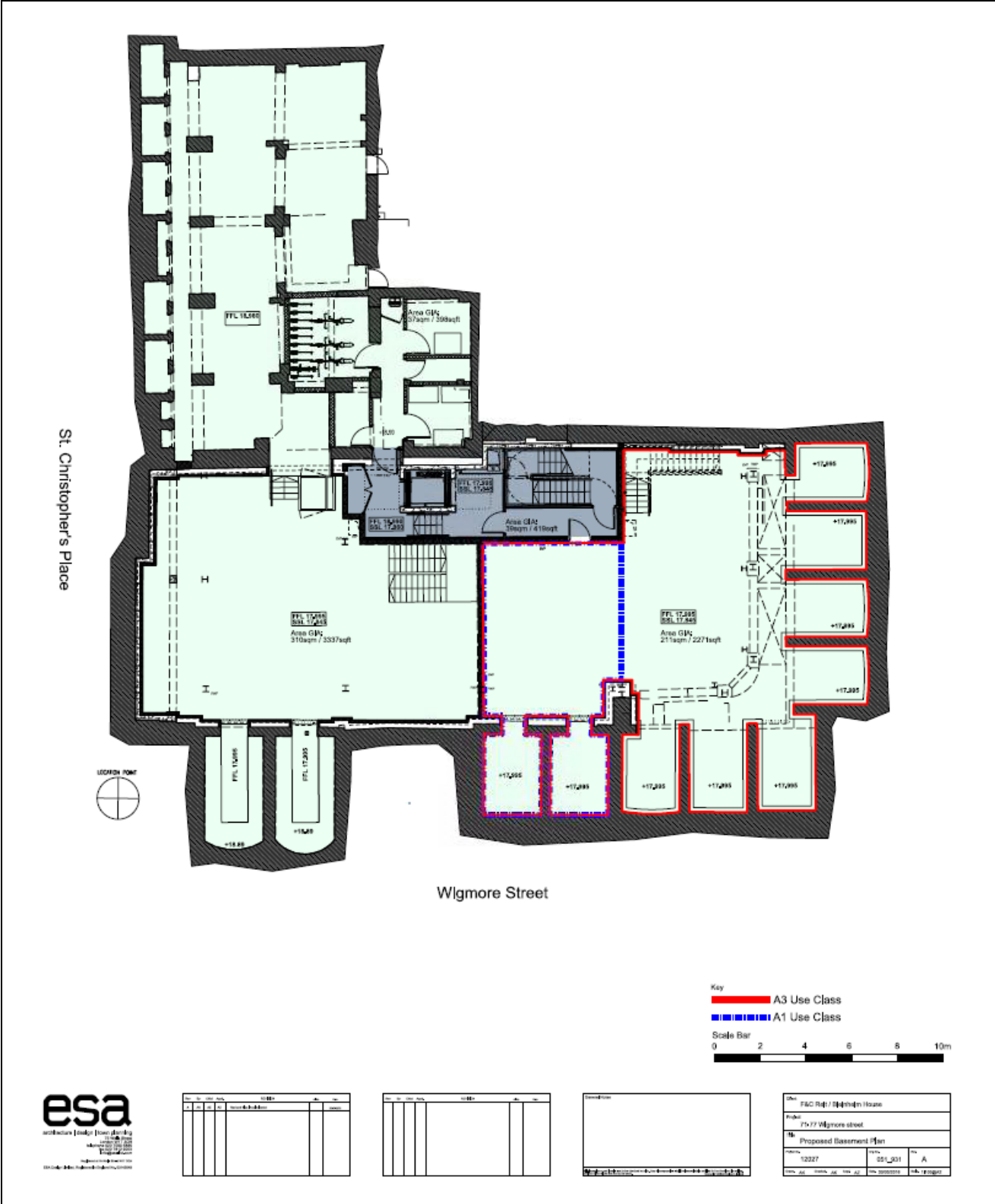
Selected relevant drawings

(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: JO PALMER BY EMAIL AT JPALME@WESTMINSTER.GOV.UK.

7. KEY DRAWINGS





DRAFT DECISION LETTER

Address: 75 Wigmore Street, London, W1U 1QD,

Proposal: Use of ground and basement of 75 Wigmore Street as a mixed use restaurant (Class A3) and retail (Class A1) use (sui generis) in connection with the existing restaurant at 77 Wigmore Street.

Reference: 16/06747/FULL

Plan Nos: Drawings 051_921/A (Proposed Basement Plan) and 051_921/A (Proposed Ground Floor Plan)

Case Officer: Damian Lavelle

Direct Tel. No. 020 7641 5974

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 Customers shall only be permitted within the premises between 08:00 to 23:30 on Monday to Saturday (not including bank holidays and public holidays) and between 10:00 and 22:30 on Sundays, bank holidays and public holidays. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7 and TACE 8 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 3 The restaurant function of the basement and ground floors hereby approved must only operate in conjunction with the restaurant at No. 77 Wigmore Street.

Reason:

The plans do not include any kitchen extractor equipment. For this reason we cannot agree to unrestricted use as people using neighbouring properties would suffer from cooking smells. This is as set out in S24 and S29 of Westminster's City Plan (July 2016) and ENV 5 of our Unitary Development Plan that we adopted in January 2007. (R05EC)

- 4 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 5 The retail area marked in blue within 75 Wigmore Street outlined in drawings 051_921/A (Proposed Basement Plan) and 051_921/A (Proposed Ground Floor Plan) must be used for retail (Class A1) purposes from the time the unit opens each day until 17.00

Reason:

To ensure the retention of a retail character and function to the unit during the daytime to support the retail vitality and character and function of the area in accordance with Policies S6 and S21 of our City Plan that we adopted in July 2016 and Policy SS5 of our Unitary Development Plan that we adopted in January 2007.

- 6 Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it) the Class A1 retail accommodation hereby approved shall not be used as a food retail supermarket, unless otherwise agreed in writing by the City Council as local planning authority.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 7 You must submit a plan to the City Council indicating proposals for the storage of general waste, food waste and recyclable materials which must be approved prior to occupation. You must clearly mark them and make them available at all times to everyone using the commercial units. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste stores for any other purpose.

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 8 You must submit an Operational Management Plan accompanied by retail fit out plans which must be approved prior to occupation of the sui generis use hereby approved, to fully detail and identify how the retail function of the floorspace will be retained during the hours required by Condition 5 of this permission. You must thereafter carry out the measures included in the approved management plan at all times that the retail use is in operation.

Reason:

To ensure the retention of a retail character and function to the unit during the daytime to support the retail vitality and character and function of the area in accordance with Policies S21 of our City Plan that we adopted in July 2016 and Policy SS5 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. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (July 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.

- 2 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)

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.