

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date:</b> 18 <sup>th</sup> November 2018	<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>	Mr Chris Struthers		
<b>On behalf of</b>	Mr Chris Struthers		
<b>Registered Number</b>	18/08250/FULL	<b>Date amended/ completed</b>	27 September 2018
<b>Date Application Received</b>	27 September 2018		
<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 also being presented before committee (RN: 17/10180/COFUL). It is proposed that this storage area will be used seven days a week. Permission was last granted for the storage use of the car park was granted in January 2017 (RN: 16/10632/FULL) by Committee and was for a limited period until 31<sup>st</sup> October 2017.

There have been no objections raised to the continued use of the car park for the storage of market stalls.

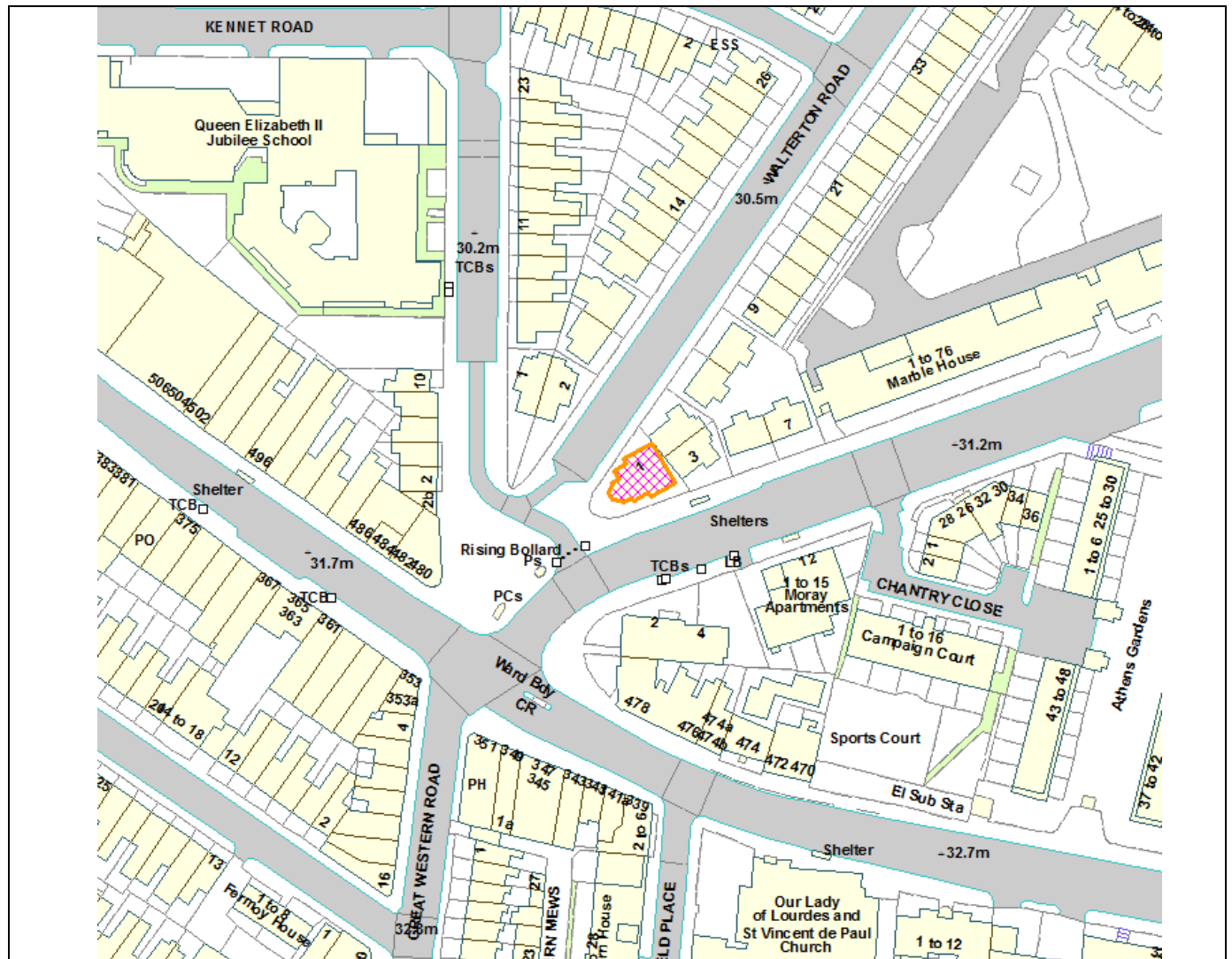
The key issues in this case are:

- Whether the continued use of the car park for market storage will result in a material loss of amenity to neighbouring residents by reason of increased noise and disturbance.
- The loss of four off street residents parking spaces in the car park.

Whilst the loss of existing parking 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

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



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and/or database rights 2013.  
All rights reserved License Number LA 100019597

#### 4. PHOTOGRAPHS

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



## 5. CONSULTATIONS

### WARD COUNCILLORS FOR HARROW ROAD:

Any response to be reported verbally

### NOTTING HILL EAST NEIGHBOURHOOD FORUM:

Supports proposals

### NORTH PADDINGTON SOCIETY:

Supports proposals. Aware of measures to manage the Maida Hill Market and the storage unit improves the opportunities for uses of the space that benefit the area and discourage antisocial behaviour.

### MAIDA HILL NEIGHBOURHOOD FORUM:

Any response to be reported verbally

### TRANSPORT FOR LONDON:

No comments.

### WASTE PROJECT OFFICER:

Raise no objection

### HIGHWAYS PLANNING - DEVELOPMENT PLANNING:

Use of the car park is contrary to policy TRANS 23, however as no highways or transport issues, there are no objections to the continued temporary permission.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 48

Total No. of replies: 0

### 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 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 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 on 24<sup>th</sup> January 2017 by the Planning Applications Committee again for another limited period which expired on 31<sup>st</sup> October 2017.

## 6.2 Recent Relevant History

24th January 2017 - 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. (16/10632/FULL),

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, 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.

During the course of previous applications at this site, objections were raised regarding the operation of the site, noise and disturbance. Since the last temporary permission dated 1<sup>st</sup> February 2017, there have been two records of complaints to the planning enforcement team on the grounds of a breach of the Management Plan and breaches of conditions 3 and 6 relating to storage and movement hours. Following investigation, no further action was taken and the cases closed. A complaints log has been submitted with the application, which lists complaints to Westminster's Noise Team.

The complaints logs between 28<sup>th</sup> September 2016 and October 2018 submitted in with the application includes some complaints regarding rubbish being left outside the garage, cars being parked outside the garage, the garage door banging in the wind. In the above cases the actions column of the log address the issues by informing Catalyst (management company of 1 Elgin Avenue) of the door banging in the wind and informing the complainant that parking outside of the garage is a parking issue and not controlled be the market operators. Similarly the waste put outside the garage was not from the market and was directed to viola to dispose of.

The log also contains some complaints of the garage being used outside of the agreed hours in July, September, October 2017. The complaints log states that the key holders and market operators where spoken to regarding the hours of use. Some of the complaints were on days that the market was not in use and the claims are therefore un-substantiated.

As advised with previous applications, 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.

Subject to conditions to limit the use of the garage for a further year and mitigation measures such as the management plan, rubber wheels and limited hours of operation, the use of the garage is considered acceptable, in amenity terms

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

The loss of parking within the basement car park was previously found to be acceptable on a temporary basis when permissions were granted from 2010 through to 2017.

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 and the operation of the Maida Hill Place market, 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 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 started on Monday 12 November 2018 and will close on Friday 21 December 2018. Following this informal consultation, any representations received will be 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 to this application.

## **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.

No pre-commencement conditions are recommended.

## **8.12 Planning Obligations**

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

## **8.13 Environmental Impact Assessment**

None.

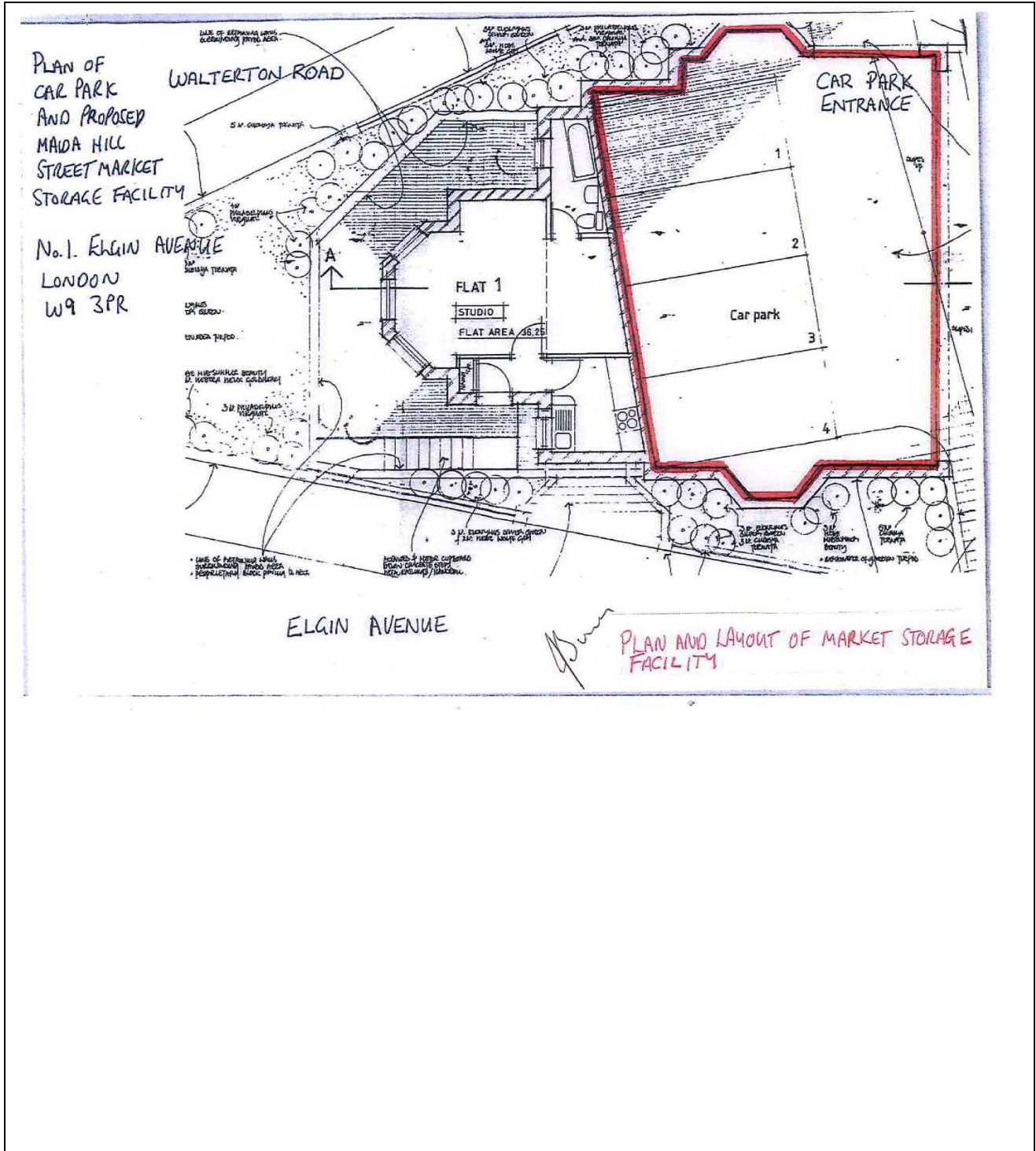
## **8.14 Other Issues**

None.

(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)

9. KEY DRAWINGS



**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.

**Reference:** 18/08250/FULL

**Plan Nos:** Site location plan, Plan of car park and proposed Maida Hill street market storage facilities, Management Plan and opening times for 1 Elgin Avenue

**Case Officer:** Max Jones **Direct Tel. No.** 020 7641 1861

**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 can continue until 31st December 2019.

**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 that we adopted in November 2016 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 that we adopted in November 2016 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 that we adopted in November 2016 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 Management Plan and opening times statement submitted with the application 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 (November 2016) and ENV6 and ENV13 of the Unitary Development Plan that we adopted in January 2007.

- 6 You must not use the car park for the storage of perishables or food.

Reason:

To protect the environment of people in neighbouring buildings as set out in S29 of the Westminster's City Plan (November 2016) and 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.