

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 26 July 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	Harley Street Underground Car Park, Queen Anne Mews, London, W1G 9HF,		
Proposal	Use of part of basement level 1 for storage or distribution uses (Class B8).		
Agent	Mango Planning & Development Ltd		
On behalf of	Getir UK Ltd		
Registered Number	22/01045/FULL	Date amended/ completed	4 March 2022
Date Application Received	17 February 2022		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY & KEY CONSIDERATIONS

The application proposes the conversion of 15 car parking spaces within an existing public car park at basement level -1 for use as a storage and as a distribution centre (Class B8) operated by Getir to provide grocery products direct to consumers.

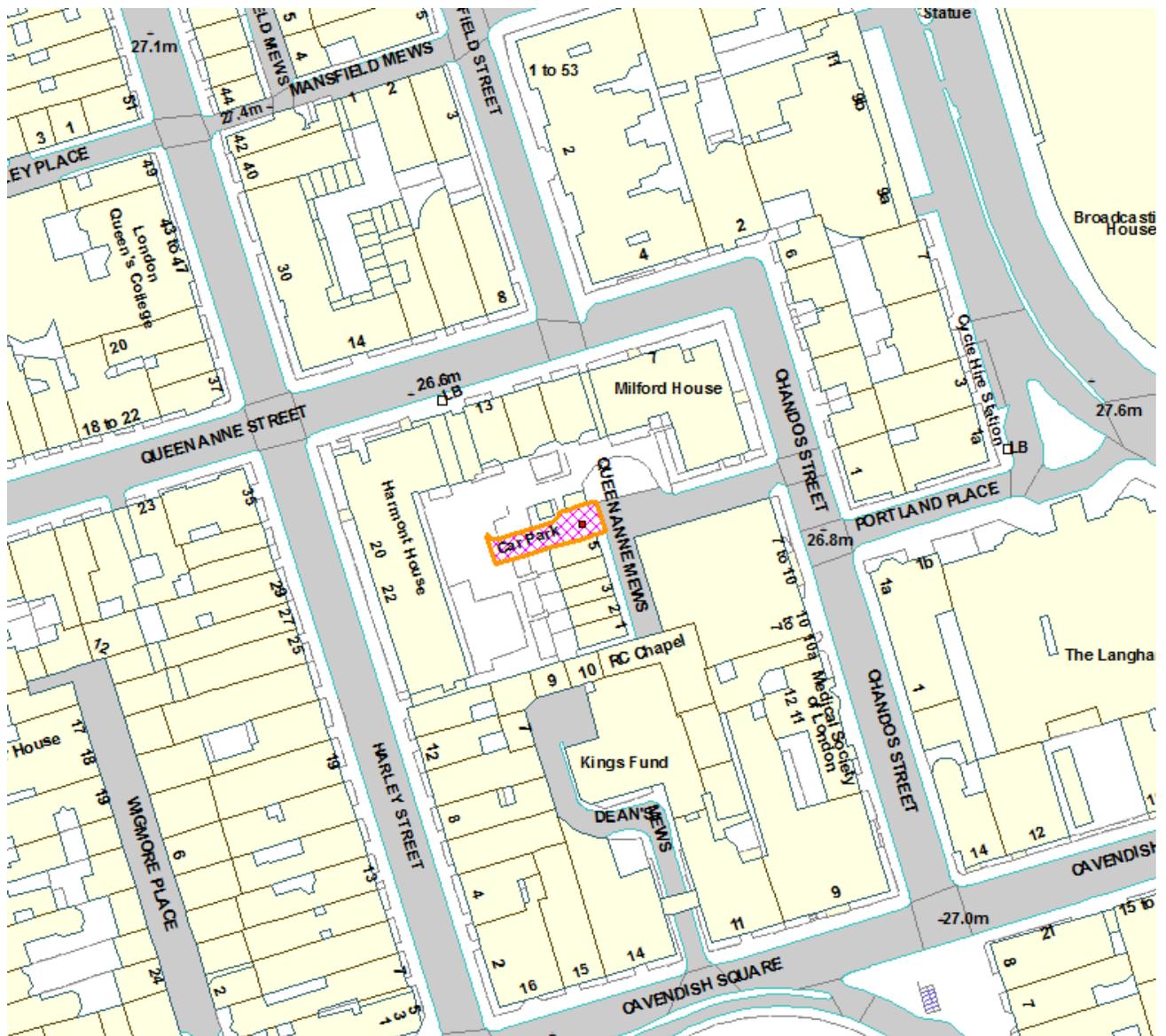
The key considerations in this case are:

- The acceptability of the proposed use in terms of traffic generation.
- The impact on the amenity of neighbouring residential properties.

Objections have been received from neighbouring residents on the basis that they consider that the proposal would harm residential amenity and the operation of the local highway network.

For the reasons set out in the main report, it is considered that the proposal, with conditions, is acceptable in land use and highways terms and neighbouring residential occupiers would not be unduly harmed. As such, the application is recommended for approval.

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





5. CONSULTATIONS

5.1 Application Consultations

AMENITY SOCIETY (Marylebone Association):

Any response to be reported verbally.

HIGHWAYS PLANNING MANAGER:

No objection subject to conditions

PROJECT OFFICER FOR WASTE

Further details required.

ENVIRONMENTAL HEALTH

No objection

ADJOINING OWNERS / OCCUPIERS

No. of original consultees: 145

No. Replies: 6 objections on the following grounds:

- Notices not served.
- Question whether the proposed use would require mechanical plant given its subterranean location.
- Noise associated with the increase usage of roller shutters, vehicle movements and from staff talking.
- Ability to service within the car park when considering the 1.82m height restriction.
- Potential for deliveries post 8pm.
- Supply of alcohol from the site has the potential to increase anti-social behaviours.
- Precedent for future 24/7 businesses.
- Disagreement with description of the character of the area within the applicant's submission.

SITE NOTICE

Yes

5.2 Applicant's Pre-Application Community Engagement

The Early Community Engagement Guidance encourages developers carrying out development to engage with those living adjacent or very close to the site at an early stage prior to the submission of a formal application. However, given the nature of the development, the application is not required to submit details of the engagement they have undertaken with their application. Therefore, whilst details of any pre-application engagement with neighbours that may have taken place has not been submitted, this is not contrary to the expectations of the guidance for development of this scale.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

6.2 Neighbourhood Planning

The application site is not located within an area covered by a Neighbourhood Plan.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

The application site is Harley Street Underground Car Park, which is accessed via an entrance ramp in Queen Anne Mews. The car park is set over three basement levels beneath two blocks of residential flats (Milford House and Harmont House). The vehicular access / egress ramp are also adjacent to Nos. 1-5 Queen Anne Mews, which comprise five dwellings. There is a separate pedestrian staircase to the car park on the north side of Queen Anne Mews.

The site is within the Harley Street Conservation Area and within the Central Activities Zone.

Although there are other uses within the car park, including a self-storage facility, the area relevant to this application is in use as a commercial car park (Sui Generis).

7.2 Recent Relevant History

09/03914/FULL

Use of Basement Level 3 of car park to provide lettable self-service storage facilities (Class B8).

Permitted – 6 August 2009

10/08788/COFUL

Retention of a roller shutter across the entrance/exit to close the car park when required

for maintenance purposes or in an emergency.

Permitted – 9 December 2010

The hours of use of the roller shutter (between 09.00 and 19.00) and the number of times it may be operated per year (12) were restricted by condition.

13/07597/FULL

Use of part third basement level as a self-storage facility (Class B8).

Permitted – 29 October 2013

The approved operating hours are between 08.00 and 20.00.

14/07202/FULL

Removal of Condition 2 of planning permission dated 9 December 2010 (RN: 10/08788) for the retention of a roller shutter across the entrance/exit to close the car park when required for maintenance purposes or in an emergency; NAMELY, to allow the roller shutter to operate without any time or frequency conditions.

Permitted – 24 November 2014

16/10759/FULL

Use of part of the public car park (part third basement level) as a self- storage facility (Class B8).

Permitted – 30 May 2017

17/08870/FULL

Removal of Condition 10 of planning permission dated 30 May 2017 (RN: 16/10759) for, 'Use of part of the public car park (part third basement level) as a self- storage facility (Class B8)'; to make the permission permanent rather than temporary for one year.

Permitted – 21 November 2017

21/06522/FULL

Use of part of basement as a last mile logistics hub (Sui Generis).

Permitted - 19 November 2021.

This relates to the same part of the basement as the current application and permits delivery vans to drop off parcels which are then distributed to their final destination using cargo bikes stored in the premises. A condition requiring an Operational Management Plan to be submitted for the City Council's approval secures details of the customer collection process, staffing levels, location of activity, instructions provided to customers and hours of operation.

This permission has not been implemented but remains extant.

8. THE PROPOSAL

Permission is sought for the conversion of 15 car parking spaces within an existing public car park at basement level -1 for use as a storage and as a distribution centre (Class B8).

It is intended that the space will be operated by Getir, a company whose operation is the storage and distribution of grocery products direct to consumers.

No customers are allowed within the unit and no transactions occur on the premises as

orders are made via a phone app, collected and delivered to customers by couriers on e-mopeds and e-bikes. Sales do not take place at the site and there is no ability for customers to collect an order.

The proposed hours of operation are between 08:00 to 00:00 daily.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Loss of car parking spaces

Policy 27 (G) states that proposals for the redevelopment of existing car parks for alternative uses will be supported. Therefore, the principle of the loss of commercial car parking is acceptable.

The existing car park has a total of 287 spaces. The applicant indicates that the average occupancy is 115 vehicles or 40%. The proposal will convert 15 existing spaces. The average usage of the car park will therefore still be able to be accommodated in the remaining spaces.

Proposed storage and distribution centre

London Plan Policy SD4(M) states, *'Sufficient capacity for industry and logistics should be identified and protected, including last mile distribution, freight consolidation and other related service functions within or close to the CAZ and Northern Isle of Dogs to support the needs of businesses and activities within these areas'*.

London Plan Policy T7(F) adds, *'Development proposals for new consolidation and distribution facilities should be supported provided that they do not cause unacceptable impacts on London's strategic road networks and:*

- 1) reduce road danger, noise and emissions from freight trips*
- 2) enable sustainable last-mile movements, including by cycle and electric vehicle*
- 3) deliver mode shift from road to water or rail where possible (without adversely impacting existing or planned passenger services)'*.

City Plan Policy 29(A) states, *'The council will strongly support the provision of consolidated facilities for freight, servicing and deliveries in new development in accordance with emerging London Plan policy. The net loss of existing off-street facilities will be resisted'*.

This strong policy support for distribution facilities means that the principle of the proposed use is considered to be an acceptable replacement for the lawful use of this part of the site as a commercial car park. This is subject to details relating to the operation of the use.

Whilst Getir do not currently operate from a premises within Westminster, it previously operated from 96A Clifton Hill. The commencement of the use in this location was not authorised, being in breach of a condition that restricted the building's use to offices.

The City Council received a large number of complaints and objections from the local amenity society and residents in relation to this unauthorised use and the problems it

has created for residents living in this area. This resulted in formal enforcement action being taken in the form of a Breach of Condition Notice being served. Subsequently, a planning application was made that attracted objections from a Ward Councillor, the local amenity society, the local MP and a significant number of local residents (120) on the grounds of the detrimental impact on residential amenity grounds. These included:

- Noise disturbance from vehicle movements occurring sometimes late at night, including large delivery trucks, motorbikes used by employees arriving and departing for shifts, and scooters used to distribute goods to customers.
- Employees creating noise through conversations with each other and on mobile phones outside premise including late at night.
- Noise from internal operation including noise from audio notifications when processing orders, slamming of doors, stacking shelves etc.,
- Noise as a result of delivered goods being transported on trolleys from the road down the alleyway to the premises, reversing alarms, horns and amplified music from delivery vehicles.
- Light pollution from the premises entrance and rooflights late at night.
- Increased litter and smoking by employees within the access alleyway.

The application was subsequently refused due to its impact on residential amenity and inappropriate servicing arrangement. Getir subsequently ceased operations at 96A Clifton Street.

In contrast to 96A Clifton Street, the application site is located on a mixed-use area, uses electric vehicles which generate less noise, contains all operations and servicing within the car park and there are other storage and distribution uses contained within the car park which have operated without complaint.

Neighbouring residents have also raised concerns regarding the proposed use as they consider that the operation will result in noise nuisance associated with the increased usage of roller shutters required for vehicles entering the car park, vehicle movements and from staff talking. Concerns have also been raised on the grounds that supply of alcohol from the site has the potential to increase anti-social behaviours and the proposed hours of use will set a precedent for future 24/7 businesses in the locality.

The roller shutter is managed by the car park operators. The current application does not propose any change to the operation of the roller shutter, which is not subject to controls over the hours of its use and is no noisier than motor vehicles leaving the car park. In these circumstances, it is not considered that these objections could be supported.

With regards to operational noise disturbance to neighbouring residents, all site operations will be contained within the basement and, as such, it is not considered that the proposal will result in noise disturbance subject to a requirement for the use to operate in accordance with an Operational Management Plan (OMP) which must identify process, scheduling and staffing, controlling the maximum number of deliveries to and from the site, the type of vehicle used and measures to ensure staff will not loiter on Queen Anne Mews. It is recommended that the submission of an OMP for the City Council's approval be secured by condition prior to the commencement of the use.

With regards to noise from vehicles, deliveries from the site will utilise electric vehicles

and it is recommended that this be secured by condition. Given that these vehicles are much quieter than vehicles powered by the internal combustion engine, it is not considered that their noise emission will be materially harmful to the amenity of neighbouring residents.

Whilst concerns regarding the supply of alcohol from the site and the resultant potential to increase anti-social behaviours are noted, it is not considered that this grounds to refuse the application as many premises within Westminster serve/sale alcohol in line with the terms of their license and operate within the same catchment as the proposed use would cater for.

Contrary to the view expressed by neighbours, it is sought to operate between 08:00 and 00:00 and not 24 hours daily. Environmental Health has questioned whether the use could terminate at 23:00. Given the existing 24/7 car park, it is considered unreasonable to reduce the proposed hours further than those sought.

9.2 Environment & Sustainability

The proposed use will provide a delivery service utilising electric vehicles. This accords with the aspirations of the City Council, as set out in Policies 32 and 33 of the City Plan, in terms of its commitment to improving air quality in the City.

9.3 Biodiversity & Greening

Given the subterranean nature of the application site, the incorporation of biodiversity features or greening is not appropriate.

9.4 Townscape, Design & Heritage Impact

This application does not alter any external features.

9.5 Residential Amenity

The local environmental impacts are detailed within both Section 9.1 and 9.6 of this report.

An objector questions whether the proposed use would require mechanical plant given its subterranean location. To support the application, an acoustic report was submitted which states that, *'...based on a site visit to an existing Getir site it was noted there will be no external refrigeration plant and all chilled/frozen goods will be stored in internal chiller cabinets'*. In light of this, Environmental Health team was re-consulted and raised no objection to this aspect of the proposal. As such, this objection cannot reasonably be upheld.

9.6 Transportation, Accessibility & Servicing

Car Parking

The site is within a Control Parking Zone which means anyone who does drive to the site will be subject to those controls. The impact of the change of use on existing on-street parking levels will be minimal.

Cycle Parking

The London Plan requires a minimum of two cycle parking spaces to support sustainable travel by staff. The applicant indicates that staff would be able to store their bicycle in the space that the delivery bicycles are stored. While not an ideal approach to dedicated cycle parking, the Highways Planning Manager no objection is raised on this specific point.

Trip Generation & Servicing

The applicant indicates that there would be 384 trips to and from the site between 08:00 and 00:00 daily utilising e-bike or e-moped. The applicant considers that it is likely that these trips will be largely evenly disrupted throughout the day. The result would be 24 trips per hour. If there are busier periods, there could be more intense periods of vehicle movements at certain times.

The applicant also states there will be up to 27 deliveries a week to the site to allow stock to be sent out for distribution. These forecasts are based on Getir's operations on other sites. The location for deliveries to the site has now been confirmed as within the car park and deliveries will be limited to be being made by small vans (due to the limited height of the car park).

The proposed use will create a significant increase in activity on the local highway network both through deliveries being made from the distribution centre and from deliveries to it. While activity is likely to have a noticeable impact on the local highway network, subject to conditions requiring a servicing and operation management plan and ensuring all servicing of the premises takes place between the hours of 08:00 and 20:00 daily, it is not considered that a refusal on transport grounds is justified.

Waste & Recycling Storage

The Projects Officer (Waste) has requested further information in relation to waste storage. A condition is recommended to be imposed requiring revised details to be submitted for the City Council's approval prior to the commencement of the use.

9.7 Economy including Employment & Skills

The West End has been particularly hard hit by the pandemic and there is a need for businesses within the Central Activities Area to be supported at this time to enable their post pandemic recovery. Whilst the development is of insufficient scale to require an employment and skills plan, the proposed development will contribute to the recovery of the CAZ in accordance with Policies 1 and 13 in the City Plan 2019-2040 through the creation of 30 full time equivalent posts.

9.8 Other Considerations

An objection has been raised on the grounds that the applicant did not serve the correct notice.

During the course of this application, when officers became aware that not all notices has been served, they contacted the applicant and instructed them to do so. Additional notices were served on the 06 April 2022.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

Planning obligations are not relevant in the determination of this application. No pre-commencement conditions are recommended.

10. Conclusion

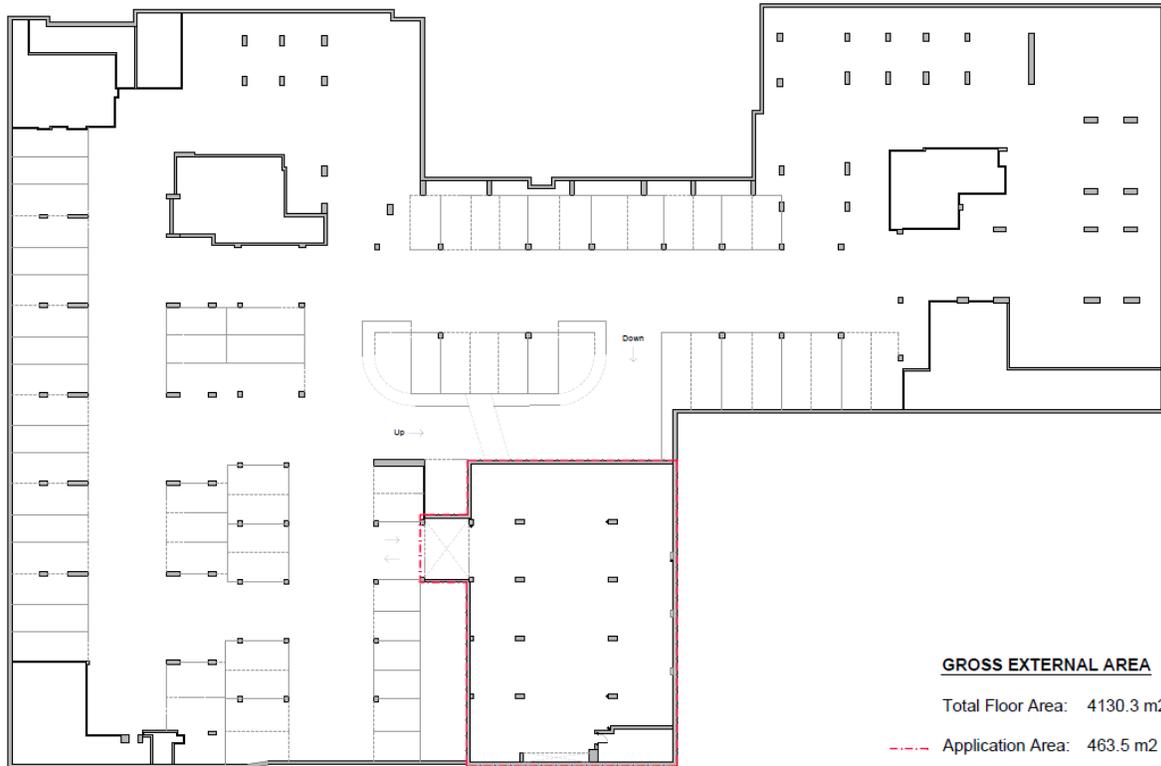
It is considered that the proposal is acceptable in land use, amenity and highway terms and complies with Policies 1, 7, 13, and 29 of the City Plan 2019 - 2040 (April 2021) and Policies SD4 and T7 of the London Plan. The application is therefore recommended for conditional approval.

(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: MARK HOLLINGTON BY EMAIL AT MHOLLINGTON2@WESTMINSTER.GOV.UK

11. KEY DRAWINGS

Level -1 (Area outlined in red denotes the area applicable to this application)



DRAFT DECISION LETTER

Address: Harley Street Underground Car Park, Queen Anne Mews, London, W1G 9HF

Proposal: Use of part of basement level 1 for storage or distribution uses (Class B8).

Plan Nos: 1100 Rev 4, 1011 Rev P1

Case Officer: Damian Lavelle

Direct Tel. No. 07779431364

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 You must apply to us for approval of an Operational Management Plan prior to commencement of the use. The OMP must identify process, scheduling and staffing, controlling the maximum number of deliveries to and from the site, the type of vehicle used and measures to ensure staff will not loiter on Queen Annes Mews.

You must not commence the use hereby approved until we have approved in writing what you have sent us.

You must then operate the use hereby approve in accordance with the approved Operational Management Plan for life of development.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policies 24, 25 and 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 3 You must apply to us for approval of a Servicing Management Plan prior to commencement of the use. The plan must identify process, internal storage locations, scheduling of deliveries and staffing

You must not commence the use hereby approved until we have approved in writing what you have sent us.

You must then operate the use hereby approved in accordance with the approved Servicing Management Plan for the life of the development.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 4 All areas for servicing, including off-street vehicle areas, holding areas and access corridors, must be retained for this purpose for the life of the development and used for no other purpose that prevents off-street servicing from occurring. No servicing including waste collections shall occur from the highway.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 5 You must apply to us for approval of details of how waste is to be stored on site and how materials for recycling will be stored separately. You must not occupy the storage and distribution centre use hereby approved until we have approved what you have sent us. You must then provide the waste and recycling storage prior to occupation of the development and thereafter permanently retain the stores according to these details. You must clearly mark them and make them available at all times to everyone using the storage and distribution centre. You must not use the waste and recycling store for any other purpose. (C14GB)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 6 No combustion engine motorised vehicles (including mopeds, motorcycles, cars, vans) are permitted to make deliveries from the site.

Reason:

To protect the reduce the environmental impacts associated with development as set out in Policies 7, 12, 24, 32 and 33 of the City Plan 2019 - 2040 (April 2021).

- 7 You must not operate a delivery service from the premises outside of the hours of 08:00 to 00:00.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021)

- 8 The delivery of all goods shall take place within level -1 of the car park and not outside the car park. No delivery shall be received to the premises outside of 08.00 - 20.00 daily.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in

neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021).
(R23AD)

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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 With regards to Condition 2, you are advised that no more than 30 deliveries per week will be acceptable. All deliveries to the site to be made internally within the underground car park and no goods transferred from vehicle from the highway.

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.