

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 21 July 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Church Street	
<b>Subject of Report</b>	466 - 490 Edgware Road, London, W2 1EJ,		
<b>Proposal</b>	Extension of existing retail unit (A1 class) with associated elevational alterations and change of use of permitted petrol filling station (sui generis) to electric vehicle charging facility (sui generis).		
<b>Agent</b>	Mr Rob Scadding		
<b>On behalf of</b>	Planning Potential Ltd.		
<b>Registered Number</b>	20/01251/FULL	<b>Date amended/ completed</b>	20 February 2020
<b>Date Application Received</b>	20 February 2020		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	No		

## 1. RECOMMENDATION

Grant conditional permission, subject to a unilateral undertaking securing the reinstatement of the vehicle crossover/highway on Orchardson Street and the provision of/funding towards an on-street charging station within the Church Street Ward.

## 2. SUMMARY

This application relates to a vacant retail unit and non-operational 'protected' petrol filling station on the ground floor of a recently completed development with residential accommodation at upper levels.

Permission is sought for the construction of an extension within the forecourt to provide additional storage room/ plant room to be used in connection with the retail unit and change of use of permitted petrol filling station (sui generis) to an electric vehicle charging facility (sui generis) with three rapid charging bays.

Letters of support for an Aldi supermarket have been received. Objections have also been received primarily on the grounds that the new charging station is too small and the whole forecourt should be given over to the electric charging station.

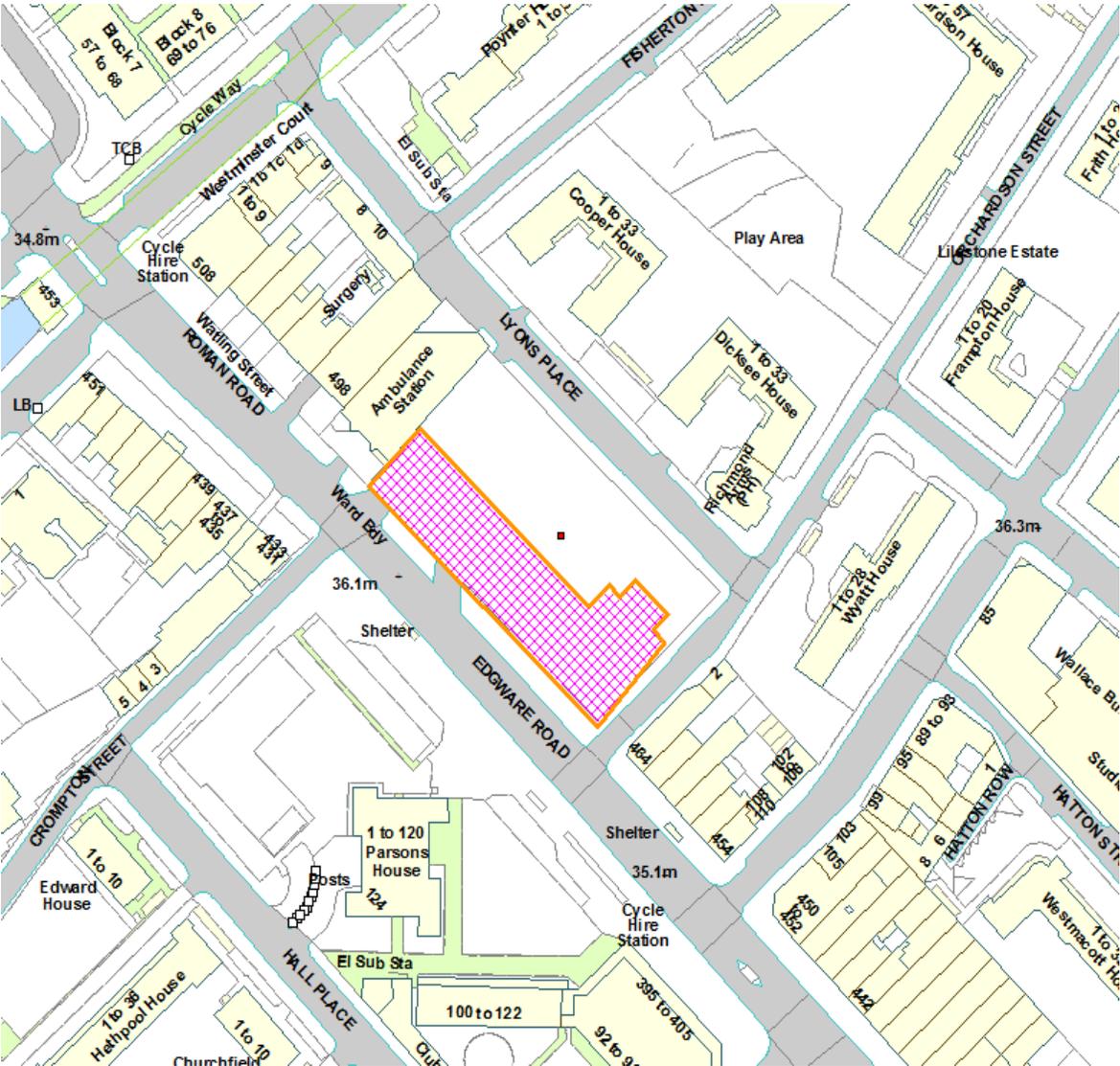
The key issues in the determination of this application are:

- The impact of the proposals in land use terms;
- The impact of the proposals upon the design and townscape of the area;

- The impact of the proposals upon the amenity of nearby residents;
- The impact of the proposals upon the highway network.

For the reasons as set out within the report, officers consider that on balance the loss of petrol station, is, in this exceptional circumstance acceptable and a departure from policy TRANS17 can be agreed. The proposals for an electric charging station and the associated design alterations are all considered acceptable and comply with the City Council Unitary Development Plan (UDP) and City Plan policies.

3. LOCATION PLAN



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4. PHOTOGRAPHS

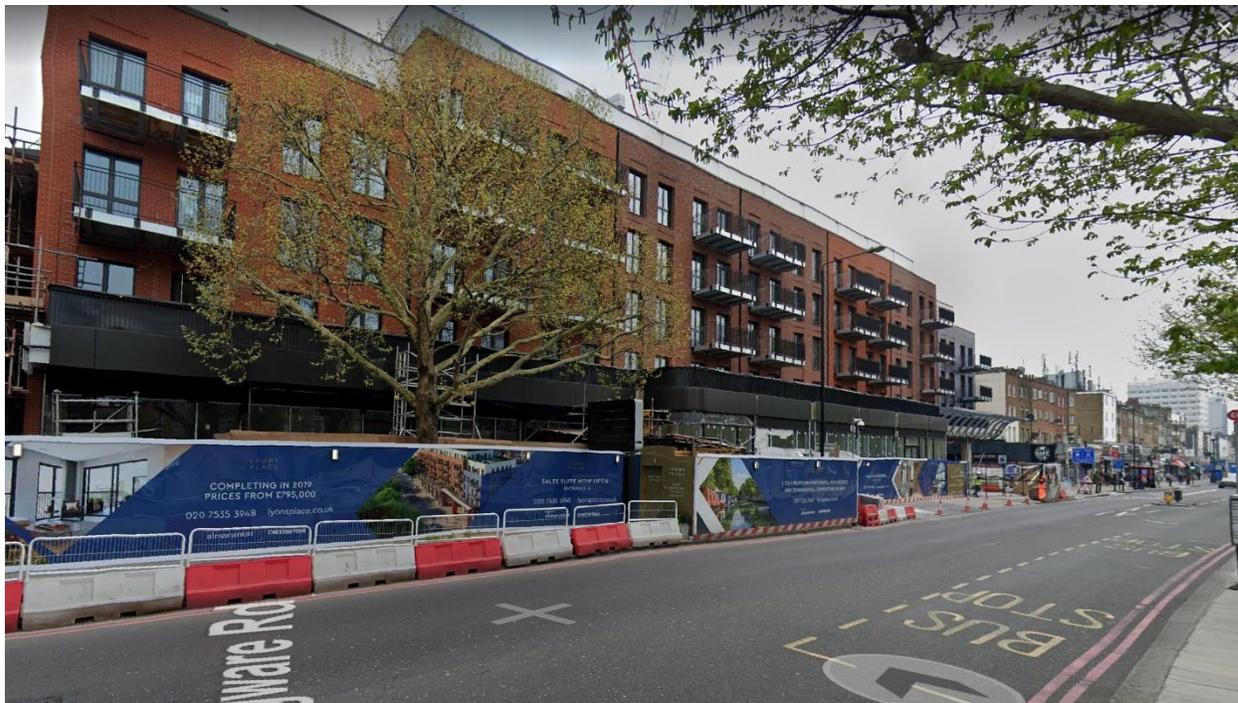
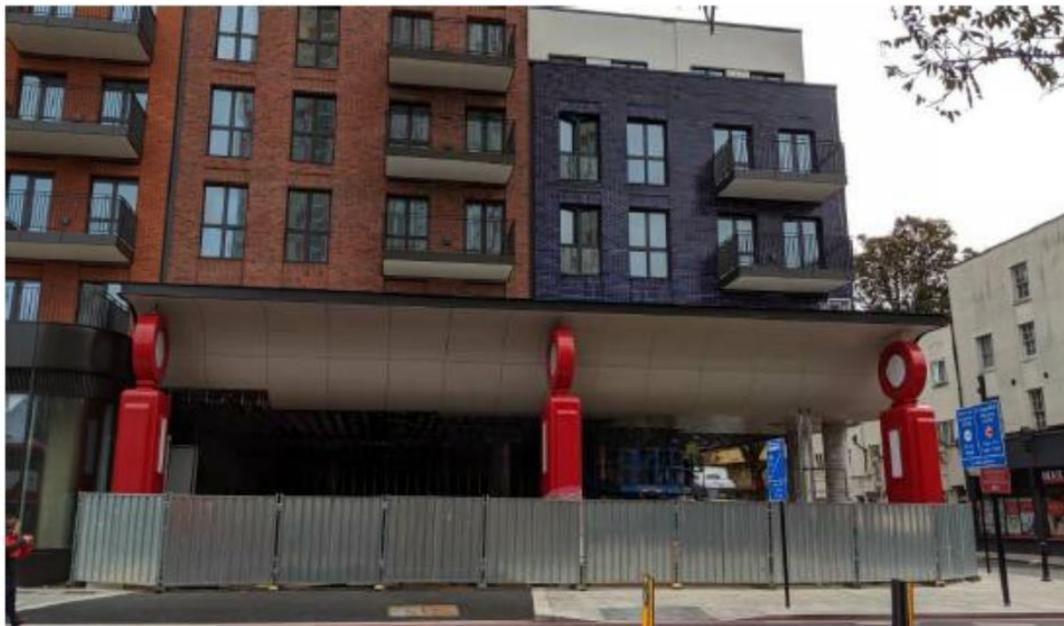


Photo taken from Google Street View to show whole site and context

Completed (but vacant) petrol station forecourt and retail unit (taken from applicants submission)



## 5. CONSULTATIONS

### COUNCILLOR GRAHAME:

Supports the comments raised by the Church Street Ward Planning & Licensing Group.

### CHURCH STREET WARD PLANNING & LICENSING GROUP:

Support given to the proposals, encouraging green fuels. They note that they raised an initial objection to the siting of a replacement petrol station underneath the affordable housing units.

### ST MARYLEBONE SOCIETY:

Objection raised on the grounds that only 52% of the existing forecourt is to be given over to EV charger bays and this is an insufficient replacement for the protected petrol station. Concerns also raised that as the forecourt is to be shared with deliveries that the EV may not operate as guaranteed or could be misused by users of the retail unit.

### TRANSPORT FOR LONDON:

The development should increase the short-stay cycle parking provision and queries are raised/comments made as to the need of a servicing and management plan; that the EV facility should be closed when servicing is taking place; further swept path analysis should be undertaken for the EV charging spaces; the changes to the cross over must be subject to a S278 agreement and a code of construction practice should be prepared and approved by Westminster in conjunction with TfL.

### HIGHWAYS PLANNING MANAGER:

No objections raised to the loss of car parking, trip generation, waste provision, servicing and vehicle tracking or the proposed works to the highway.

Objection is raised to the loss of the petrol station, on the basis of the submission before the City Council and the justification put forward by the applicant. Whilst the principle of an electric charging station could be supported, the lack of detail surrounding the proposal and the provision of 3 rapid charging spaces means there is no overall material improvement to the highway environment from the proposal. An objection is also raised to the proposals on the grounds that the proposals do not provide access to or provision of sufficient long or short terms cycle parking.

### ENVIRONMENTAL SCIENCES:

No objection.

### ARBORICULTURAL SERVICES:

No objection.

### WASTE PROJECTS OFFICER:

Objection to the waste details submitted. It is recommended that a condition to secure appropriate provision is attached to any future permission.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 248

Total No. of replies: 19

No. of objections: 11

No. in support: 8

Eleven objections have been received on some or all of the following grounds:

- There is a dire need for a continued petrol station within the borough;
- The Council was wrong in its earlier decision to approve a petrol station, when an operator can now not be found and the entire forecourt should now be given over to electric chargers;
- Whilst support is given to the principle of the electric chargers, the proposal does not include enough electric charging stations because of the extension proposed for the supermarket;
- The applicant is missing an opportunity to improve air pollution/air quality.
- This would be an ideal please for a taxi only rapid charging point and should not serve private vehicles

Eight letters of support have been received on some or all of the following grounds:

- An Aldi is a welcome and affordable addition to this area;
- A large supermarket in walking distance is much sought after;
- An Aldi and the three electric charging points proposed outweighs the loss of the petrol station;
- The loss of the petrol station is welcomed given that there are two petrol stations in close proximity;
- The three electric charging points are supported.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This application relates to a vacant retail unit and non-operational petrol filling station on the ground floor of a recently completed development with residential accommodation at upper levels. The site lies on the eastern side of Edgware Road and is bounded by Orchardson Street to the south and Lyons Place to the east. To the north is the St John's Wood Ambulance Station.

The site is not listed nor lies within a conservation area. The site is located within the North Westminster Economic Development Area (NWEDA) and forms part of the secondary frontage within the Church Street/ Edgware District Shopping Centre.

### 6.2 Recent Relevant History

Planning permission was granted in November 2015 (13/12709/FULL) for the *'Demolition of existing buildings and erection of a new building of basement, ground and five upper floors fronting Edgware Road with three storey townhouses to Lyons Place frontage comprising replacement Petrol Filling Station (sui generis), retail unit(s) (Class A1) and 76 (Class C3) residential units (47 affordable housing units and 29 private*

*market units) together with 39 car parking spaces and 118 cycle parking spaces, landscaping, plant and ancillary works'. This permission was linked to the redevelopment of land at 5-9 Marble Arch, 2-20 Edgware Road, 53-59 Bryanston Street (RN 13/12710/FULL).*

The November 2015 permission has subsequently been varied twice, by permissions 16/03528/FULL (14 July 2016) and 17/06290/FULL (21 December 2017) to take into consideration further design refinement; removal of the CHP previously approved; energy changes and to allow the use of the approved retail unit (Class A1) as a car showroom (sui generis) or a retail (Class A1) use. This application was approved on the basis that no retailer had been found for the space and that as the site had had a car showroom on site in recent years, that this would have made a suitable alternative. Whilst not explicit, like with the petrol station and retail unit operating together, it was envisaged that the car showroom and petrol station could operate together.

Details of secure cycle storage for the car showroom/ retail/petrol filling station use(s), pursuant to condition 11 was approved in January 2019.

The development has been completed and residents are in occupation. The retail unit has been built out as a retail unit and the petrol station has a completed, non-operational forecourt.

## **7. THE PROPOSAL**

Planning permission is sought for the extension of the existing retail unit (670m<sup>2</sup>) within the petrol forecourt area by 207m<sup>2</sup>. The extension will accommodate a back of house warehouse and include a storage room and plant room. This in turns requires the reduction in size of the permitted petrol filling station, the loss of 8 car parking spaces and a change of use to an electric vehicle charging facility. The plans show that the charging facility would allow for 3 vehicles to be charging at any one time.

The application has been submitted as a stand-alone application as the development is substantially complete. The applicant is Aldi.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### **8.1.1 Increase in retail accommodation**

The increase in Class A1 retail accommodation of 207m<sup>2</sup> to accommodate a plant and storage room is supported by policies S12 (NWEDA) and S21 of the City Plan (November 2016) and S6 of the UDP (Jan 2007). Support has been given to the proposals as Aldi is the applicant and many residents are encouraged to see a low cost, local supermarket in the area. It should be noted that this application is not subject to the requirements of a personal permission and any Class A1 retailer could operate from here.

#### **8.1.2 Loss of Petrol Station**

An objection has been received on the grounds of the loss of the petrol station as there are not enough in the area.

The UDP has a list of 'protected' filling stations and UDP Policy TRANS 17 states that under Part A, "the City Council will resist the loss of the following filling stations, or ensure they are replaced when redevelopment takes place." 466 Edgware Road station is included within this list. Part B goes on to state "the City Council will normally refuse applications for new petrol and other vehicle refuelling or recharging stations unless they are accessibly located on the TLRN or Distributor Road Networks". Part C states "the City Council will promote the availability of sustainable fuels such as Liquefied Petroleum Gas (LPG) as well as recharging points for electric vehicles at filling stations".

There has historically been a petrol station on this site for many years. It was vacant from 2004 onwards and as part of the 2015 permission, a replacement petrol station was required as part of the redevelopment as required by TRANS17. This re-provision was robustly tested and considered viable at that time, potentially linked to the operation of the retail unit and was acceptable in terms of the servicing implications on the highway.

The petrol station now on site (currently non-operational as the works to develop this site have only recently been completed) was relocated from the northern part of the site to the southern part of the site abutting Orchardson Street. At the time of that assessment, the replacement petrol station attracted a number of objections questioning the need for its re-provision when there was another petrol station across the road, and there were also objections on the grounds of its new location.

The applicant has submitted marketing evidence to demonstrate that eight petrol station operators (BP, Esso, Mobil, Jet, Texaco, Caltex, Chevron, Shell) were originally approached to see whether there would be any interest in the operation of this unit. All these operators advised that they had no interest in the operation of the petrol station. Further to this, the applicant advises that additional interest was expressed from Euro Garages and Applegreen Plc, but after discussions with these operators, the facility was declined as 'they would require a substantial retail unit to operate alongside the petrol filling stations with a minimum of 10 parking spaces for customers to leave their vehicles and use the retail space.

It appears the applicant has approached petrol station operators on the basis that the retail unit, attached to the petrol station area (and always seen as a potential linked operation), was a separate commercial entity and not part of any discussions. The petrol station was therefore advertised in its reduced form (as this is to be extended within to provide for the plant room/storage area) resulting in a reduction of any form of carparking for retail shoppers (originally approved in this location was 8 car parking spaces). Had the retail unit and petrol station been marketed as a package it is not certain if the outcome of later discussions would have been different.

On the basis of the submission currently before the City Council, Carter Jonas was appointed to assess this marketing evidence and to provide an insight into the wider issue of petrol stations and electric charging hubs.

Carter Jonas firstly confirm that whilst the ownership of electric vehicles is soaring, there is still demand for good quality petrol station sites and moreover the retailer/ petrol station operators are still building larger networks across the UK.

However, having also separately approached the above listed operators (and others) Carter Jonas found that, from the six responses received, that this site was not suitable for those operators because of the existing competition in the area (a petrol station is sited across the road and to the north of the site on the junction with Hall Road/ Maida Vale); the layout of the forecourt is too restrictive; traffic count not high enough and that the site is difficult to serve (despite evidence submitted as part of the earlier application evidencing that the servicing of a petrol station could be done).

Whilst the loss of the existing petrol filling station is contrary to the aims of policy TRANS17 of the UDP and an objection to the proposals has been raised by the Highways Planning Manager; given the findings of the Council's independent consultants it has been demonstrated that there is now insufficient demand for a filling station at this site. Although some of this can be attributed to changes proposed since planning permission was originally granted (namely the severing of the retail unit and the loss of car parking) the other reasons cited by the operators are not controllable by the applicant namely that there are two other petrol stations in close proximity of the site and the volume of passing traffic is too low. It is therefore considered that the loss of a filling station at this site when weighed against the benefits of its replacement with an extended supermarket and the provision of charging points for electric vehicles can be justified if these benefits outweigh that loss. These benefits are discussed below.

(i) An extended supermarket

As previously stated, additional retail facilities are supported by planning policy and are especially welcome in the current uncertain economic situation. Even before the coronavirus crisis the retail sector overall was experiencing an unprecedented downturn, and the significant investment by Aldi therefore shows confidence in the local area that should be supported. This will be the first Aldi store in Westminster and it will significantly improve shopping choice for local people, which is in accordance with NPPF objectives (para. 89 (b)).

There will be significant employment benefits for local people as the store will provide up to 40 new jobs covering a range of opportunities, which Aldi will seek to recruit from the local area.

(ii) Electric Vehicle Charging Station

There has been substantial support for to the principle of an electric charging station at the site, which is overwhelmingly preferred by local residents to a filling station. However, there have been some concerns raised at the way it is proposed to be delivered- specifically that the station is not large enough and the whole of the forecourt, as originally allocated for fuel-filling, should become an enlarged electric vehicle charging station. This view is expressed in a letter received on behalf of the Licensed Taxi Drivers Association (LTDA) stating that the 3 charging points are inadequate and would do little to encourage the electric taxis which according to them are leading the way in zero emission capable vehicles, especially in such close proximity to Marylebone Station and Paddington Station. The LTDA would like to see Marylebone Station converted to an EV taxi only station – a view shared by Chiltern Railways (who manage the station) and it should be encouraged by Westminster Council by providing many more charging points. The LTDA stresses that there is an urgent need for designated taxi-only rapid charging point to support the number

of the new e-taxis on the road. The LTDA also raises concerns that the 3 spaces could be used as car parking for the retail unit, and therefore not used to charge vehicles at all.

Whilst the objectives of the LTDA are understood, the current proposals would still offer 3 more electric charging points than the extant planning permission which offered none. If that planning permission were implemented, the fuel-filling station would eventually have become an irrelevance to the LTDA as taxis gradually become electric only. Therefore, even though the 3 charging points would not be exclusively for taxi use, the current proposal would provide some opportunity for charging electric taxis compared to filling station. These charging points will be prevented from being used for parking by planning condition.

The current City Plan does not set specific targets for the provision of EV charging facilities, however TRANS 17 of the UDP as noted above states "The City Council will promote the availability of sustainable fuels such as Liquefied Petroleum Gas (LPG) as well as recharging points for electric vehicles at filling stations". Policy S41 of the City Plan 'Pedestrian Movement and Sustainable Transport' also heavily support the use of vehicles powered by alternative fuels and the provision of parking that can be used by such vehicles *"Sustainable transport options will be supported and provided for, including the following priorities... Prioritising parking provision for disabled, car sharing and alternative fuel vehicles... Encouraging use of alternative sustainable fuels and technology..."*

The principle of an electric vehicle charging station is therefore supported to enable increased take up for this form of sustainable transport.

The Council's consultants Carter Jonas invited five electric vehicle charging infrastructure providers to offer potential models suitable for this development site. The detailed responses are contained within the consultant's report in the background papers, which in summary are:

- one provider confirmed that with only 3 charging spaces this would be financially unviable, but if it allowed for 6 spaces that this would make the site viable;
- one provider stated that a site allowing for either 2 or 8 rapid space would be a feasible option;
- one provider raises concerns that the site for public access could become overloaded and result in queuing and maybe suited to a 'workplace' system of charging;
- one provider confirmed that they would entertain further discussion but on a 2 or 6 charger facility;
- one provider says that whilst a 3 charger station could be feasible concerns about 'passing vehicles' have been made.

All of the providers responded to the discussions by confirming that they would seek the installation of rapid chargers for use at this site, and the applicant has since confirmed that the three charging spaces would be rapid chargers.

Whilst is clear that providers would prefer larger facilities and sites, this has to be weighed against the requirements of the Aldi store which needs the part of the filling station site to make the site work for them. Similarly, the Highways Planning Manager considers that the limited number of charging points would not 'compensate' for the loss of the fuel filling station and that this would not meet the aims of City Council policy.

Whilst these points are understood, it remains the case that given that there is insufficient demand for a filling station, the offer of a 3 bay electric charging station would go some way to improving sustainable transport options in the area and improving air quality, and subject to conditions securing an operational and management plan (which would also overcome concerns raised by objectors), that on balance the proposals are considered acceptable.

The applicant has also offered to fund an on-street charging station, although no further details have been provided on this at present. It is not currently known if there is a suitable location 'within the vicinity' of the application site, however it is considered that this could be explored within the Church Street ward and secured via legal agreement.

## 8.2 Townscape and Design

Design alterations associated with the development include the minor relocation of the main entrance door to the unit on Edgware Road, the creation of a new fire door on Edgware Road, the blocking up of two existing doors one of which was originally leading to the forecourt area and the extension to the forecourt area.

The elevational changes to the main Edgware Road façade are all considered acceptable given the materials are to match the existing window/door frames.

The extension to the forecourt will be contained within the undercroft area, chamfered to allow for the retention of a charging station but will terminate slightly short of the Orchardson Street residential elevation. The solid element of the extension is proposed to be white render and the louvres to the plant room are proposed to be dark grey. Whilst the full height wall may appear stark, it is considered that given its set back from the pavement and that it has been designed to match the large feature pillars of the forecourt, that this is acceptable in design terms. A condition is recommended to ensure the paint colour matches that exactly of the pillars. The louvres to the plant room are considered to be large. They are proposed to be painted grey and, in that respect will match the underside of the forecourt canopy and the balconies above. Whilst these will be visible when using the charging station and walking along Edgware Road/ Orchardson Street, this area of the site was always intended on being a service/ utility area by the nature of the approval and therefore the large bank of louvres is considered acceptable in this instance.

The proposals are not considered to be harmful to this brand new high quality development or the wider townscape and are considered to be in accordance with DES1 and DES 5 of the UDP and S28 of the City Plan and Chapter 12 of the NPPF which requires great weight be placed on design quality.

Signage and vinyls are shown on the submitted plans, and the extent of vinyls has been reduced and revised due to officer's concerns over the amount of active retail frontage there was proposed. These will be subject to an advertisement application and are shown for information only.

### 8.3 Residential Amenity

Policy S29 of the City Plan relates to health, safety and wellbeing, stating that the Council will resist proposals that would result in an unacceptable material loss of amenity. Policy ENV13 of the UDP relates to protecting amenities, daylight and sunlight, and environmental quality. Policy ENV 13 (D) states that the City Council will resist proposals which result in a material loss of daylight/sunlight, particularly to existing dwellings and educational buildings. Policy ENV 13 (E) goes on to state that developments should not result in a significant increase in sense of enclosure, overlooking, or cause unacceptable overshadowing, particularly on gardens, public open space or on adjoining buildings, whether in residential or public use. Policy ENV 6 seeks to protect noise sensitive properties from noise disturbance. Policy ENV7 of the UDP and S32 of the City plan seeks to protect the amenity of occupiers of adjacent properties from noise.

Permission has already been granted for the use of this unit as retail accommodation and therefore its operation by Aldi raises no concerns. The original permission for the retail unit allowed for servicing between the hours of 7am and 8pm Monday to Saturday. Details of servicing have not been forthcoming and therefore a servicing management plan is to be secured. It is recommended that the hours of servicing are still appropriate and that Sunday servicing should now be allowed also. Sunday servicing should be restricted to between 9am and 5pm.

The new plant room/storage requires grey louvres to allow for ventilation of mechanical plant that will serve fridges/freezers etc. Under the original application a condition securing a supplementary acoustic report was required as the application was speculative. As Aldi are now the applicant, it is known what plant is required and an acoustic report reflecting this has been submitted.

The City Council's Environmental Health officer has assessed the report and considers that the proposed plant is acceptable and will comply with the Council's policies and standard conditions. It is therefore considered that the proposed plant will not affect the amenity of neighbouring properties. A condition is recommended to control the hours of plant and ensure a lower night time operation.

The operation of the filling station as an electric charging station, compared to the approved petrol filling station raises no amenity concerns in terms of noise and comings and goings. Highways related concerns will be address below.

The proposals are considered to comply with the City Council's amenity policies.

### 8.4 Transportation/Parking

The loss of the petrol station and the provision of an electric charging station have been addressed in the land use section of this report. As a result of these proposals, there are some technical highways issues arising from the application.

#### 8.4.1 Loss of Car Parking

The current application site has space for 8 off-street car parking spaces for the A1 retail unit (although these have not yet been marked out). The removal of all non-residential

car parking from the site, as a result of the extension of the retail unit and reconfiguration is acceptable and consistent with TRANS1, TRANS21 and TRANS22, as well as STRA25. The site is within a Control Parking Zone which means anyone who does drive to the site will be subject to those controls.

#### 8.4.2 Trip Generation

It is accepted that the majority of trips associated with the approved site as a retail unit (excluding servicing) will be via public transport or other sustainable modes (eg walking, cycling). Trip generation modelling indicates that the proposed development will not have a significantly detrimental impact on the safety or operation of the highway network, despite the increase in floor space (see separate comments below on servicing and cycle parking).

#### 8.4.3 Servicing and Vehicle Tracking

The vehicle tracking for the 13.2 metre service vehicle needed for the retail store, indicates that the vehicle would be able to manoeuvre onto the site and exit, allowing servicing to occur from within the site. As the site was designed to accommodate a petrol tanker, the proposed retail servicing is considered no worse than that for the petrol filling store. It is noted both the proposed retail delivery vehicle and a petrol tanker were larger delivery vehicles than usual for Westminster. The objections raised on this ground can therefore not be sustained. The applicant has confirmed the vertical clearance as 4.2 metres and the Highways Planning Manager considers this protection of space should be conditioned.

The applicant has recently confirmed that all servicing of the retail unit is to occur off-street as previously conditioned under the original approvals (in early discussions of this application it was proposed to service on-street and this was considered wholly unacceptable) and, on balance, the proposal is considered to be consistent with S41, S42, TRANS3 and TRANS20. An updated Servicing Management Plan and Operational Management plan is to be secured by condition (this is also at the request of TfL) and the applicant has agreed to this.

#### 8.4.4 Reinstatement of Redundant Footway

The footway in Orchardson Street currently has a recess and this is no longer required in the development proposed. TfL and the Highways Planning Manager considers that this should be reinstated to improve the environment for pedestrians and other highway users, consistent with S41 and TRANS3. The applicant has agreed to this. This is to be secured by legal agreement.

#### 8.4.5 Cycle Parking

As originally approved under the 2015 permission, the retail unit/ petrol station required 7 cycle spaces for the retail unit but the development actually provided 12 spaces in the forecourt (and this was conditioned to be provided). No long term spaces were proposed for the staff of the retail unit/petrol station and this was therefore conditioned.

Under application 18/07199/ADULL, 5 long term basement spaces were approved, and 12 short terms spaces on the pavement (secured as part of the S278 highways works and agreed by TfL and already in situ).

As required by the draft London Plan policy T5, the A1 retail unit would now generate a

need for at least 6 long term cycle parking spaces and at least 39 short term cycle parking spaces. It should be noted that the applicant's transport consultant argues that this is an inconsistent approach, however given that this is a stand alone application and therefore not reliant on some of the previous conditions/ details approved of the sites full redevelopment, current policy is to be applied.

If applying the standard to the uplift of 207m<sup>2</sup> only (as the applicant argues) 2 long term cycle parking spaces and 12 short term cycle parking spaces are required. While there have been amendments to the cycle parking, there remains no indication that access to the previously approved long stay cycle parking within the basement is part of this application for the retail unit and given the applicants comments with regards to the ground floor refuse/waste storage discussed above, this remains doubtful. Details of long stay cycle parking should be secured by condition.

For short stay provision, the applicant proposes that in addition to the 12 on street spaces approved under 18/07199/ADFULL on the pavement, that an additional 10 spaces are now proposed within the forecourt area. The short terms spaces cannot be guaranteed to be available for shoppers, and this view is echoed by TfL and therefore the additional provision of spaces within the forecourt is welcomed. This provision is significantly less than the 39 short term spaces that 877m<sup>2</sup> of A1 retail space would generate and a 2 space shortfall that the uplift of 207m<sup>2</sup> would generate (12 cycle parking spaces).

The applicant was asked to investigate further provision in the forecourt car parking it remains unclear why part of this could not accommodate the short-term cycle parking requirement. Overall, the applicant's reluctance to meet current cycle parking standards to support this sustainable transport mode is disappointing, however it is not considered that a refusal on this basis, given the marginal benefits of the proposals, could be sustained. A condition to secure the provision of the short terms spaces in the forecourt is recommended.

## **8.5 Economic Considerations**

Any economic benefits associated with the development proposals are welcomed.

## **8.6 Access**

The proposals raise no issues with regards to access for those with disabilities and the shell of both the retail unit and filling station have been built in accordance with the previously approved schemes.

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

### **Waste**

The Waste Projects officer has objected to the proposals on the grounds that the proposed plans show waste storage within the filling station forecourt but does not indicate whether this is for general waste and/or recyclable materials and suggests a condition to secure further details of this.

Officers also consider that in design terms this location is not desirable. Whilst a filling

station forecourt is a service and utility area, waste rubbish will inevitably make this area look more untidy. Under the previous applications refuse areas/bulk stores were proposed at ground floor level to the rear of the retail unit accessed by a set of doors from the retail unit and that this serviced all uses within the development. This was conditioned. The submitted floor plans still show a door from the retail unit to the back of house/ residential area and therefore this provision appears to still be possible. The applicant has however confirmed that the retail unit is not afforded any access to the rear waste storage now. The applicant confirms that Aldi's cardboard and packaging is back-hauled to their depot to be recycled, so any waste stored for collection on site will be limited. Waste bins will be kept in a secure bin store that will be locked and the applicant has confirmed that they would be happy to ensure the design of the enclosure is identical to that for the plant. The applicant is also willing to agree a condition to secure a waste management plan, including details of general waste and/or recyclable materials provision. This condition would be applicable if another operator occupied the premises.

### **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

### **8.9 Neighbourhood Plans**

There are no neighbourhood plans for this area.

### **8.10 London Plan**

The proposed electric charging station is compliant with the general aims and aspirations of policies of the London Plan and the draft new London Plan unless discussed otherwise within this report.

### **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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

During the course of this application, a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the submission of an Operational Management Plan and a Servicing Management Plan. The applicant has agreed to the imposition of the condition.

### **8.12 Planning Obligations**

The footway to Orchardson Street, adjacent the side elevation of the undercroft extension will need to be reinstated. Whilst the applicant has agreed to this, it is recommended that this is secured by a unilateral undertaking, despite the applicants request for a planning condition.

Funding for/provision of one on-street charging point has been offered by the applicant. At the time of writing, and as discussed earlier it is unclear whether there is capacity on the surrounding highway network in the vicinity as research into this has not been done. The principle of this offer is welcomed and its location within the wider Church Street ward is to be explored. This is to be secured by unilateral undertaking.

### **8.13 Environmental Impact Assessment**

The proposals are of an insufficient scale to require an Environmental Impact Assessment.

The City Council declared a climate emergency in September 2019 and has committed WCC to becoming carbon neutral by 2030 and for the whole city to follow suit by 2040. The City of Westminster is an Air Quality Management Area (AQMA) where residents frequently are exposed to high levels of particulate matter and nitrogen oxides that can be harmful to human health. It is the City Council's intention to reduce air pollution through a range of methods and the use of Electric Vehicles (EVs) is one of the obvious methods by which pollutants can be reduced.

The use of the approved filling station as an electric charging station, rather than using fossil fuels is therefore welcomed and supported by local and national policy.

### **8.14 Other Issues**

None relevant.

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

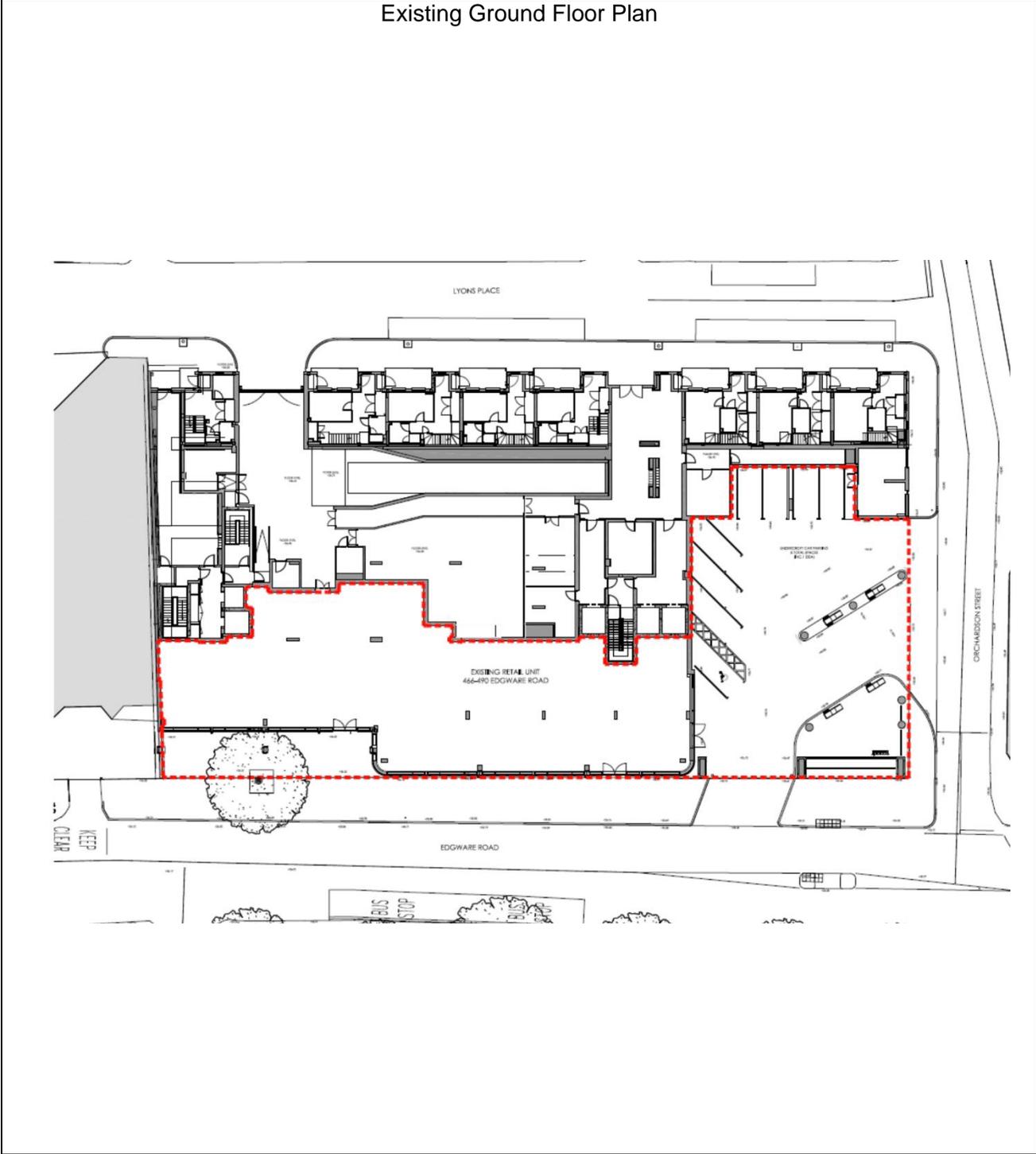
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: KIMBERLEY DAVIES BY EMAIL AT [kdavies1@westminster.gov.uk](mailto:kdavies1@westminster.gov.uk)

9. KEY DRAWINGS

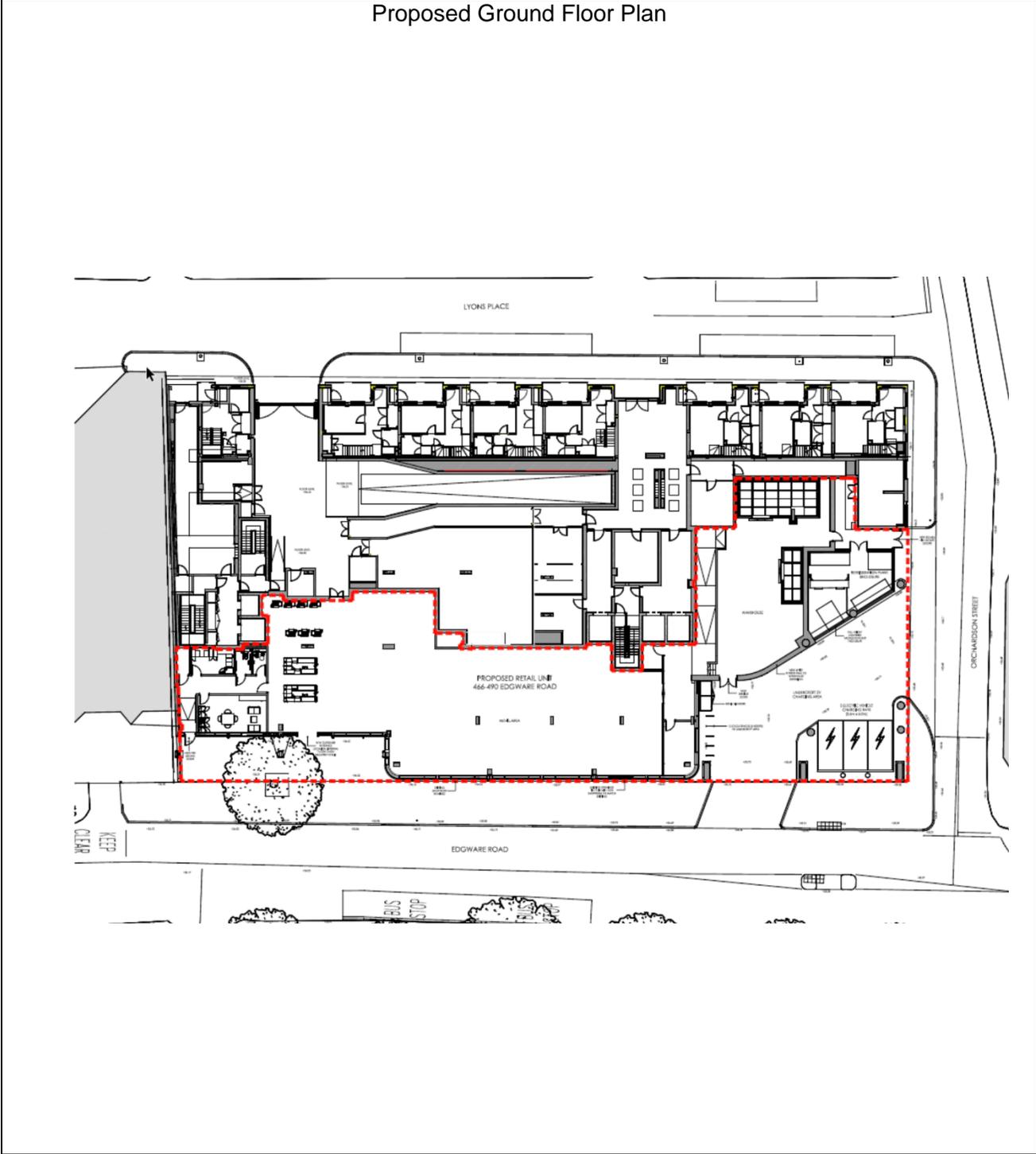
Visual of proposed Aldi store



Existing Ground Floor Plan



Proposed Ground Floor Plan



Proposed Edgware Road Elevation



Proposed Orchardson Street Elevation



**DRAFT DECISION LETTER**

- Address:** 466 - 490 Edgware Road, London, W2 1EJ,
- Proposal:** Extension of existing retail unit (A1 class) and change of use of permitted petrol filling station (sui generis) to electric vehicle charging facility (sui generis).
- Plan Nos:** 2091-2-CHE: 100; 101; 102; 103; 104 A; 105 A; 106; Noise Impact Assessment 1.2 dated 14 May 2020.

## For Information Only:

Cover Letter; Design and Access Statement; Statement from DLB Estates dated 6 Feb 2020; Transport Statement; Letter of Rebuttal from Transport Consultant dated 27 April 2020 , letter of rebuttal from agent dated 5 June 2020 and email correspondence last dated 8 July 2020..

**Case Officer:** Kimberley Davies

**Direct Tel. No.** 07866036948

**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 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
- o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

## You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

## Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 Prior to commencement of development, you must apply to us for approval of an Operational Management Plan. The OMP must include details of management of the Electric Vehicle Charging Points, how access will be managed, how vehicles will not be allowed to stay beyond charging time, how only vehicles cost structure not to exceed borough average for on-street charging facilities and how servicing for the A class unit shall occur in conjunction with access to the Electric Vehicle Points. The site shall only then operate in accordance with the Operational Management Plan.

Reason:

To ensure that the electric charging station can operate effectively without hindering the ability to service the approved retail use, in the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2, TRANS 3 and TRANS17 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 4 Prior to the occupation of the A1 unit, a minimum of three 50kW rapid chargers shall be installed and operational. They shall be managed and operated in accordance with the approved Operational Management Plan and be retained thereafter.

Reason:

To provide an alternative vehicle fuelling station as required by S41 of the City Plan and TRANS17 of the UDP.

- 5 Prior to commencement of development, you must apply to us for approval of an updated Servicing Management Plan (SMP) which must be followed/maintained for life of development, unless a revised strategy is approved in writing by the Local Planning Authority. The plan must identify process, internal storage locations, scheduling of deliveries and staffing. All servicing shall take place between 07.00 and 20.00 Monday to Saturday and between 09.00am and 17.00 on Sunday. The SMP must thereafter be maintained and followed by the occupants 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 S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 6 All areas for servicing, including vehicle manoeuvring areas, shall be retained for that purpose. All vehicle manoeuvring areas shall retain a minimum of 4.2 metres vertical clearance.

Reason:

To make sure that the service bay will be available for all types of vehicles for which it has been designed, 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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23BB)

- 7 All vehicles must enter and exit the site in forward gear.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 8 No servicing to occur from on the highway; all servicing to occur from within the site.

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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 9 Prior to occupation of the development, a minimum of 10 short stay cycle parking shall be installed in the forecourt, as indicated on drawing 2091-2-che-105 A and thereafter maintained for the life of the development.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2016 (R22FA)

- 10 Prior to commencement of development, you must apply to us for approval of details of the long stay cycle parking (minimum 11 long term spaces in total) within the development site, include details of access. These will thereafter be maintained for the life of the development.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2016 (R22FA)

- 11 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 12 Prior to occupation of development, you must apply to us for approval of details of a waste strategy for the retail unit. The strategy must include details of how waste is

going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the retail unit.

Reason:

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

- 13 The louvres to the plant room hereby approved shall be painted grey and be retained in that condition thereafter.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 14 The white rendered wall of the plant/store room hereby approved shall be painted to match exactly that of the colour of the pillars within the fuelling forecourt and be retained in that condition thereafter.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 15 The new entrance doors to the retail unit must be constructed in the same materials (frames and glazing) and colour of the existing shopfront.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 16 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-

specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

(R46AB)

- 17 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration. (R48AA)

- 18 In order to comply with Conditions 16 and 17, you must adhere to the recommendations within the hereby approved acoustic report regarding night time plant operation.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AB)

- 19 You must not use any part of the development until we have approved appropriate arrangements to secure the following.

- i) Reinstatement of redundant vehicle crossover as footway and associated work to the surrounding highway (legal, administrative and physical).
- ii) Funding towards/ the provision of an on-street charging station within the Church Street ward.

In the case of each of the above benefits, you must include in the arrangements details of when you will provide the benefits, and how you will guarantee this timing. You must only carry out the development according to the approved arrangements. (C19BA)

Reason:

To make sure that the development provides the planning benefits that have been agreed, as set out in S33 of Westminster's City Plan (November 2016) and in TRANS3, TRANS20, TRANS17 of our Unitary Development Plan that we adopted in January 2007. (R19AC)

**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, neighbourhood plan (where relevant), 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 HIGHWAYS LICENSING:

Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures).

## CONSIDERATE CONSTRUCTORS:

You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).

## BUILDING REGULATIONS:

You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)

- 3 You must get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 for the following advertisements: vinyls and hanging signs. (I04AA)
- 4 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)
- 5 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point.

If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other

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<b>3</b>

costs. We will carry out any work which affects the road. For more advice, please email [AskHighways@westminster.gov.uk](mailto:AskHighways@westminster.gov.uk).

- 6 Please email our Project Officer (Waste) at [wasteplanning@westminster.gov.uk](mailto:wasteplanning@westminster.gov.uk) for advice about your arrangements for storing and collecting waste.
  
- 7 Under condition 19, we are likely to accept a legal agreement under section 106 of the Town and County Planning Act to secure all highways works immediately surrounding the site required for the development to occur, including reinstatement of redundant vehicle crossover as footway and associated work to the surrounding highway (legal, administrative and physical) and the funding towards/ provision of an on-street charging station within the Church Street ward as set out in the letter dated 5 June from Planning Potential and email chain last dated 8 July 2020. Please look at the template wordings for planning obligations (listed under 'Supplementary planning guidance') on our website at [www.westminster.gov.uk](http://www.westminster.gov.uk). Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition. (I77AA)