

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 11 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Harrow Road	
Subject of Report	Open Space At Junction Of Fernhead Road And, Elgin Avenue, London, ,		
Proposal	Continued use of designated public space and public highway for a street market (Monday to Saturday 09.00 to 20.00)		
Agent			
On behalf of	Roger Austin – Westminster Council		
Registered Number	16/07725/COFUL	Date amended/ completed	23 August 2016
Date Application Received	11 August 2016		
Historic Building Grade	Unlisted		
Conservation Area	No		

1. RECOMMENDATION

Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

2. SUMMARY

Planning permission was originally granted in 2008 for the use of Maida Hill junction as a retail street market and to hold community events. This permission has been renewed on a temporary basis with the most recent permission due to expire on 10 November 2016.

The current application seeks to renew the most recent permission (which was a slight variation on previous years permissions in that it allowed an extended area) for the Maida Hill market. The hours of operation are the same as those previously approved, which are Monday-Saturday 09.00-20.00.

The key issues in this case are:

- * The impact of the market in land use terms on the retail character and function of the Harrow Road District Shopping Centre.
- * The impact on the local highway network, including the availability of on street parking and the acceptability of servicing arrangements.
- * The impact on the amenity of neighbouring residents.

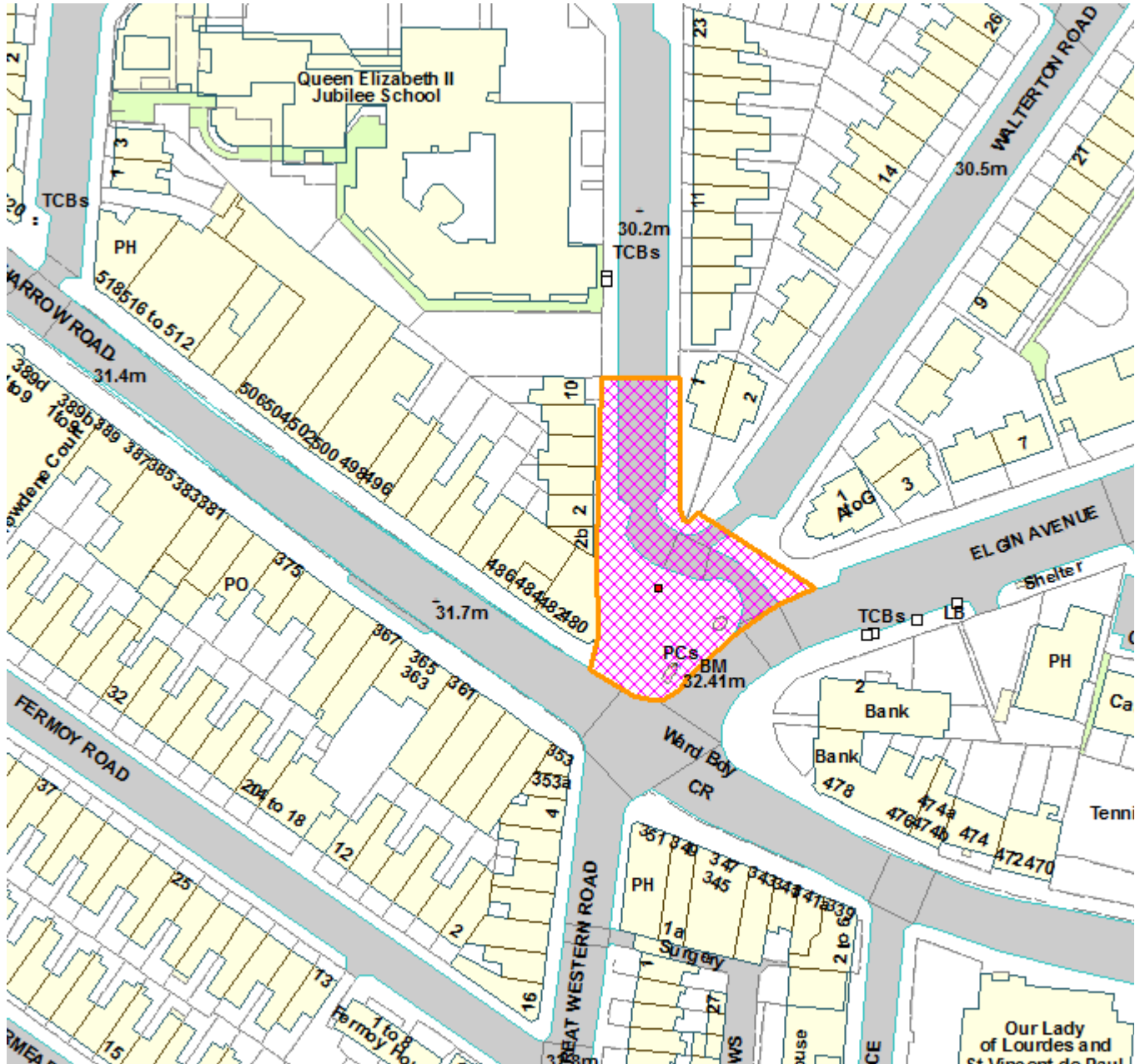
The use of the public highway as a temporary street market accords with Policy S12 of Westminster's

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<p>City Plan, and it is recommended that conditional permission is granted to renew the market for a further temporary period of one year. This further temporary period will allow a future review of the impact of the market on the amenity of neighbours and the area generally.</p>
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3. LOCATION PLAN



4. PHOTOGRAPHS



Photo to show area used for market

5. CONSULTATIONS

WARD COUNCILLORS FOR HARROW ROAD AND QUEENS'S PARK:

No responses received.

NORTH PADDINGTON SOCIETY

No objection to the market in principle, however pedestrian safety is a prime concern in this shared space. A letter outlining all the 'highways' concerns of this junction has been submitted and this focuses on the re-introduction on yellow lines, maintenance of bushes and shrubs and adequate signage.

HIGHWAYS PLANNING MANAGER

No response received.

TRANSPORT FOR LONDON

No objections.

CLEANSING MANAGER:

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 229; Total No. of Replies: 1.

The following concerns were raised:

Amenity & Parking:

- Increase in rubbish
- Market results in loss of parking facilities
- Poor quality market doesn't justify the amenity and parking implications upon neighbours.

Other:

- Market stall holders are impolite
- The area could be put to much better use

ADVERTISEMENT/SITE NOTICE: Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site relates to an area of open space at Maida Hill Place (formerly known as the Prince of Wales Junction) that is bounded by Harrow Road, Elgin Avenue, Fernhead Road and Walterton Road, and an area of public highway at the lower ends of Fernhead Road and Walterton Road.

The application site forms part of the Harrow Road District Shopping Centre, within the North Westminster Economic Development Area in Westminster's City Plan and North

West Westminster Special Policy Area (NWWSPA) in the Unitary Development Plan (UDP). The site is located outside a conservation area.

6.2 Recent Relevant History

10.11.2015 - Planning permission granted in respect of continued use of the public highway as a street market for six days a week from 09.00 to 20.00 (Monday to Saturday). (Council's Own Development). This permission was limited until 10 November 2016. (15/07349/COFUL)

Further to the granting of this permission a complaint was made by a local resident to the Local Government Ombudsman on the grounds that the Council was at fault when considering the market licenses and complaints of noise and other nuisance and that planning committee Councillor did not have all the relevant information before them when considering the application.

The findings of the Ombudsman was that the Council was not at fault when considering market licenses and complaints of noise and other nuisance but that it did act with fault when it failed to put all relevant information before the planning committee Councillors.

The members of the planning committee will have access to all the information submitted with the application, including the complaints log which is collated by the Market Team. This is a sensitive document and will therefore be forwarded to the members of the committee when the reports are published.

Previous permissions:

7.10.2014 – Planning permission granted in respect of continued use of the public highway as a street market for six days a week from 09.00 to 20.00 (Monday to Saturday). (Council's Own Development). This permission was limited until 30 September 2015. (14/06684/COFUL)

27 May 2014 – Planning permission granted for the use of public highway at the southern ends of Fernhead Road and Walerton Road between 09.00-20.00 (Monday to Saturday) to enlarge the Maida Hill market by provision of up to 36 additional stalls (14/01010/COFUL). This was limited until 30 September 2014.

24 September 2013 – Planning permission granted for use of area of land at junction of Harrow Road, Elgin Avenue, Walerton Road and Fernhead Road as a street market and to hold community events (sui generis use) (13/05069/COFUL). Permission granted for a temporary one year period until 30 September 2014.

16 June 2011 – Planning permission granted for continued use of open space for market and events purposes (11/00274/COFUL). This was until 31 December 2012.

9 July 2009 – Planning permission granted for variation of Condition 2 of planning permission dated 9 October 2008 (RN: 08/06957) to extend the operating hours of the market, namely from 10.00 to 20.00 hours on Thursday and Friday, 09.00 to 20.00 hours

on Saturday, and for three additional days of trading on Monday, Tuesday and Wednesday opening from 10.00 to 20.00 hours (09/04007/COFUL).

9 October 2008 – Planning permission granted for use of open space for market and event purposes for a temporary two year period at the Prince of Wales Junction (08/06957/COFUL).

7. THE PROPOSAL

The current application seeks permission to renew planning permission for a temporary period of one year, for the street market at the junction of Harrow Road, Elgin Avenue and the public highway at the southern ends of Fernhead Road and Walterton Road. The hours of operation are the same as those previously approved, which are Monday-Saturday 09.00-20.00.

In total, 58 stalls will be provided in the market, 36 pitches during the week and a further 15 on Saturdays. As is currently the case, the area of public highway in Fernhead Road will operate solely as a Saturday market, with the market at the top of Walterton Road and at the junction of Harrow Road and Elgin Avenue operating Monday to Saturday. The market will not operate on Sundays. In 2015, a temporary permission was granted to the retailers of the market to store their goods at 1 Elgin Avenue. This does not form part of this application and the applicant has advised that this arrangement is no longer to continue and traders will have to find their own storage for their goods.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The continuation of Maida Hill market is consistent with Policy S12 of Westminster's City Plan, which states that development within the North Westminster Economic Development Area should encourage economic activity. The redevelopment of a civic space at the Prince of Wales Junction/Maida Hill for community activities and to provide a focus for the area is a priority of the policy.

The continuation of the retail market is not considered to adversely impact the retail character and function of this part of the Harrow Road District Shopping Centre. The most recent Town Centre Health Check for the Harrow Road District Shopping Centre (2013) shows that the centre performs well in terms of unit occupancy, but the market was performing poorly.

Since the results and recommendations of the Health Check, the City Council has invested in two new market offers to the area: a general market from Monday-Friday, offering a range of commodities, and a Saturday market, which offers produce and design related commodities and street food, providing a more specialist and high end offer. Since its inception in May 2014, the expanded retail Saturday street market has assisted in bringing in more business to the District Shopping Centre.

The proposal therefore fully accords with Policy SS13 of the UDP.

8.2 Townscape and Design

The demountable market stalls are of a uniform design (as per the existing market stalls) and these will be removed at the end of the day. Therefore, the proposal will have limited impact on the townscape of this area.

8.3 Residential Amenity

Policies ENV6 and ENV13 in the UDP seek to resist proposals that result in a material loss of amenity, including noise disturbance, as do Policies S29 and S32 in the City Plan. One objection has been received from a nearby resident, raising general amenity concerns, from what they consider to be a 'non-quality' market.

As per the current permission, the market will be confined to the southern end of Fernhead Road and the junction of Harrow Road and Elgin Avenue, which is more commercial in character rather than residential, and is in close proximity to heavily trafficked roads, where a certain level of noise and activity associated with a market, shops and traffic is anticipated.

Whilst the amenity concerns of the adjoining resident are well understood, it is not considered that a further one year use will result in such material levels of harm to warrant refusal of permission.

Issue of anti-social behaviour, street drinking and groups loitering near the market during operating hours and after has previously been raised with the Police and the Community Protection Unit. It is understood that the Council and Police are working together to agree a strategy to tackle this issue and that emerging problems are reported to the fortnightly Tasking Meetings attended by the Council, local stakeholders, Harrow Road Councillors and the Police, the 'Town Team'.

There is a full time market manager to be on site to oversee the operation of the market day-to-day.

Subject to a condition to control the hours of operation of the street market, no objection is raised in amenity terms and the proposal is considered to be in accordance with Policy ENV13 of the UDP and Policy S29 of Westminster's City Plan.

8.4 Transportation/Parking

The alterations to public highway necessary to facilitate the proposed market expansion in 2014 included the relocation of parking, amendments to loading bays, alterations to road markings and prohibition of vehicles from entering the expanded market area along Fernhead Road and Walerton Road. These alterations were the subject of a Traffic Regulation Order. Committee has previously agreed to the proposed alterations to the highway network and parking layout as part of the expansion of the street market. The Traffic Regulation Order was made in May 2014 and the alterations to the parking and road layout implemented in July 2014. A letter from the North Paddington Society has been received to this planning application raising significant issues with the highways alterations that have taken place. This is not a matter for assessment under this application, however this letter of concern has been forwarded to officers within Highways Maintenance and Public Realm.

There is no alteration to the local highway network or parking layout proposed under this current application for a renewal of the street market.

In respect of servicing arrangements, there is no change proposed to the current servicing arrangements for the market from the slip road connecting Fernhead Road and Elgin Avenue (which is closed to traffic during market hours) and loading/unloading bays outside Nos. 2-4 Fernhead Road. In addition, there are eight dedicated pay by phone parking bays on the west side of Fernhead Road for market traders and provision for 16.5 metres of single and double yellow lines on Fernhead Road for retailers.

The site is well served by public transport; the 2013 District Shopping Centre Health Check survey confirms that 95% of people using Harrow Road arrive by foot and public transport. Visitor parking is available in the northern section of Fernhead Road up to Kennet Road and, from 18.30 weekdays and Saturdays, visitors and traders are able to park on single yellow lines, residents' bays and pay-by-phone bays, as no restrictions apply at these times.

8.5 Economic Considerations

The continued operation of the Maida Hill Place market and offers wider economic benefits to the area in accordance with Policy S12 in the City Plan.

8.6 Access

This application raises no issues and the market will be accessible to those with physical disabilities.

8.7 Waste and Recycling Storage/Collection

Policy ENV12 of the UDP requires all developments to make provision for the storage of waste and, in some cases, a waste management plan provided.

The applicant has provided a waste management plan as part of the application. This states that market refuse management comprises the removal of traders food waste and removing any recyclable materials where possible. The market pavement area requires regular cleaning, which is the responsibility of the City Council.

Refuse receptacles are supplied by the City Council's waste contractor and are lockable. Waste collections are undertaken daily by the City Council from the waste collection point at the junction of Elgin Avenue and Walterton Road.

One objection has been received on the grounds that since the market opened the levels of rubbish are unacceptable. The measures for the storage and collection of waste are considered to be acceptable and whilst there may be occasion where there is a little rubbish from traders/ visitors, this on the whole is dealt with quickly. No objections are therefore raised to the renewal of the market for a further temporary period of one year.

8.8 London Plan

This application raises no strategic issues.

8.9 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.

8.10 Planning Obligations

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

The proposals are not considered to be CIL liable.

8.11 Environmental Impact Assessment

Not applicable.

8.12 Other Issues

The objection raised on the grounds that the market holders are impolite is not considered to be a material planning consideration.

In terms of the quality of the produce/ items for sale sold at the market, this is considered to be a matter for the Market Team to address. The health checks, as referred to above, indicate that this is a well used market. The application cannot be refused on the basis of peoples shopping preferences.

9. BACKGROUND PAPERS

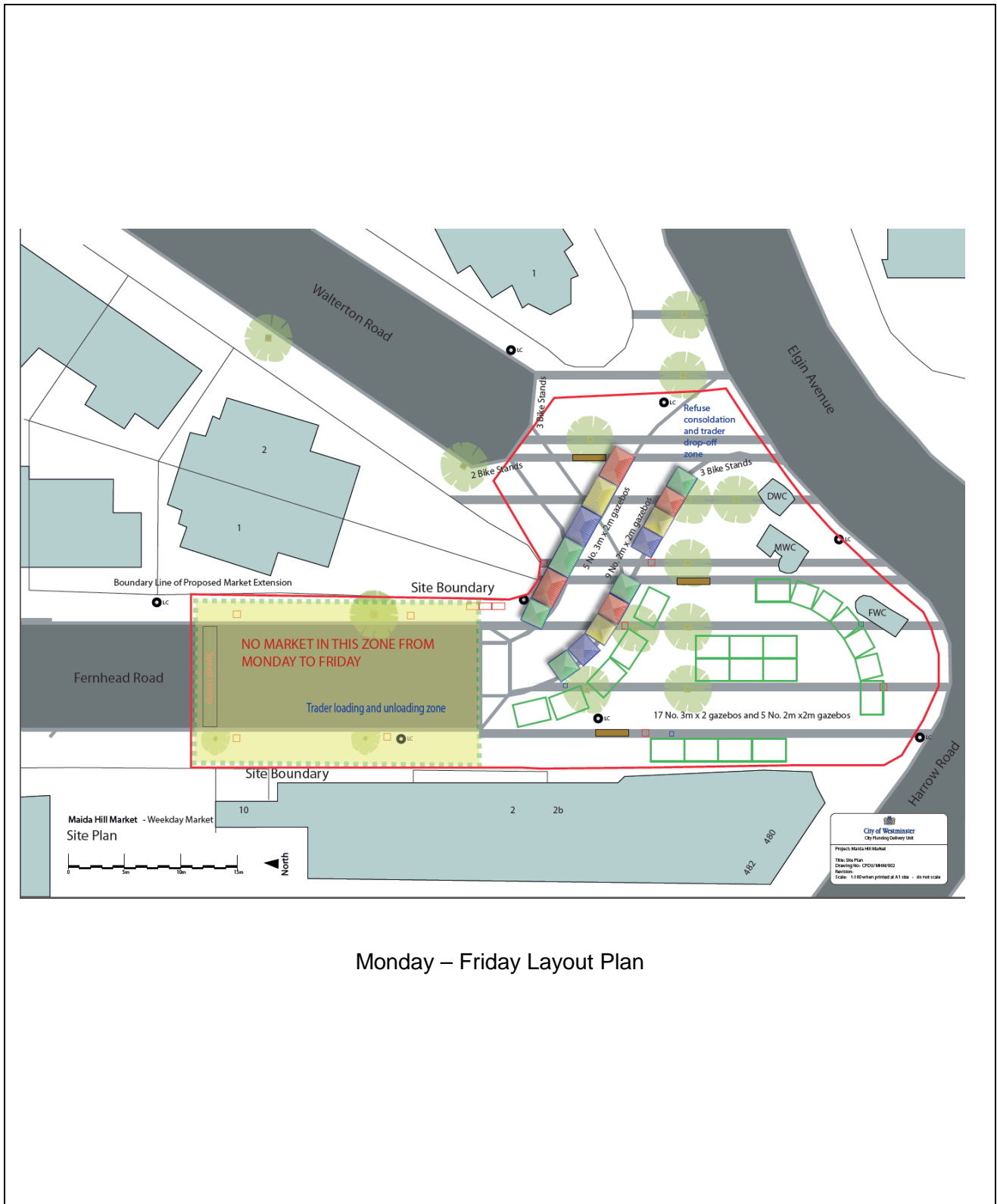
1. Application form
2. Complaint log (sent to Members of the Planning Committee, as log is considered to be a 'sensitive' item)
3. Response from North Paddington Society, dated 7 September 2016.
4. Letter from TFL dated 31 August 2016.
5. Memorandum from Cleansing Manager dated 7 September 2016.
6. Letter from occupier of 15, Fernhead Road, dated 12 September 2016

Selected relevant drawings

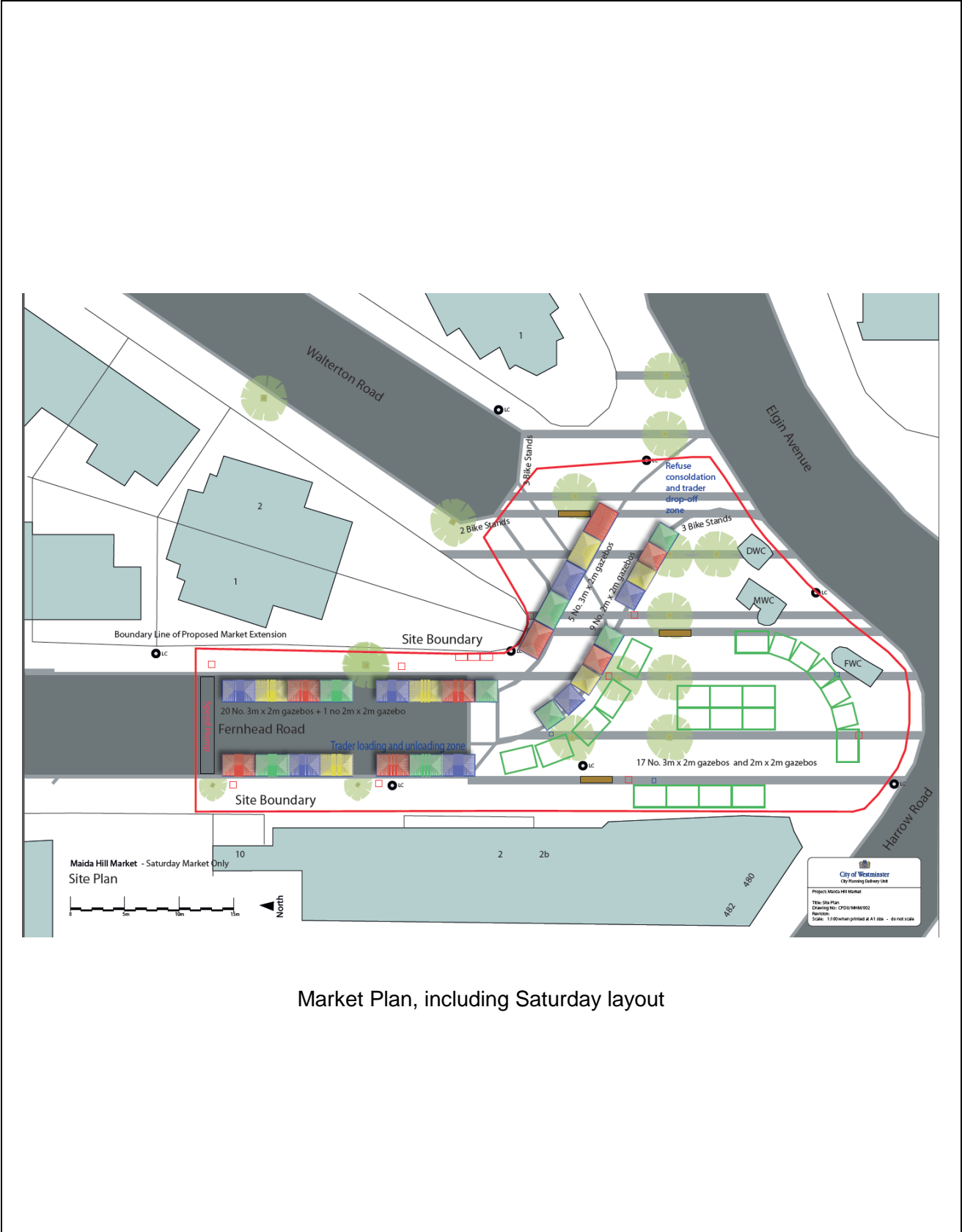
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

10. KEY DRAWINGS



Monday – Friday Layout Plan



Market Plan, including Saturday layout

DRAFT DECISION LETTER

- Address:** Open Space At Junction Of Fernhead Road And, Elgin Avenue, London,
- Proposal:** Continued use of designated public space and public highway for a street market (Monday to Saturday 09.00 to 20.00)
- Plan Nos:** CPDU/MHM/002 (titled 'Maida Hill Market - Weekday Market'); CPDU/MHM/002 (titled 'Maida Hill Market - Saturday Market Only'); Design and Access Statement dated August 2016; Market Supporting Information dated August 2016; Waste Service Plan.
- Case Officer:** Kimberley Davies **Direct Tel. No.** 020 7641 5939

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 The market can operate between the hours of 09.00 to 20.00 Monday to Saturday in the area shown on drawing CPDU/MHM/002 (titled 'Maida Hill Market - Weekday Market') and between the hours of 09.00 to 20.00 on Saturday only within the area within Fernhead Road shown on CPDU/MHM/002 (titled 'Maida Hill Market - Saturday Market Only').
Reason:
In order to reserve details of the days/ times for the operation of the market with the chosen market operator in order to safeguard the amenities of nearby residents as set out in S29 and S32 of Westminster's City Plan: Strategic Policies which we adopted in July 2016 and ENV6 and ENV13 of our Unitary Development Plan that we adopted in January 2007.
- 3 The market use allowed by this permission is limited until 31 October 2017.
Reason:
It is considered reasonable to impose a temporary time limit in order to assess the impact of the use of the market on the amenities of nearby residents in accordance with S29 of Westminster's City Plan: Strategic Policies which we adopted in July 2016 and ENV13 of the Unitary Development Plan, adopted January 2007.
- 4 No servicing of the market shall take place at any time from the Harrow Road.
Reason:
To ensure the smooth passage of vehicles and pedestrians on the Harrow Road as required by

Transport for London.

- 5 You must use the parking, access, loading, unloading and manoeuvring areas shown on the approved plans only for those purposes. (C23AA)

Reason:

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

- 6 No amplified music shall be played in connection with the market use.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 7 No deliveries or unloading of items associated with the market stalls shall be made between the hours of 20.00 and 08.00 hours.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (July 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

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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.