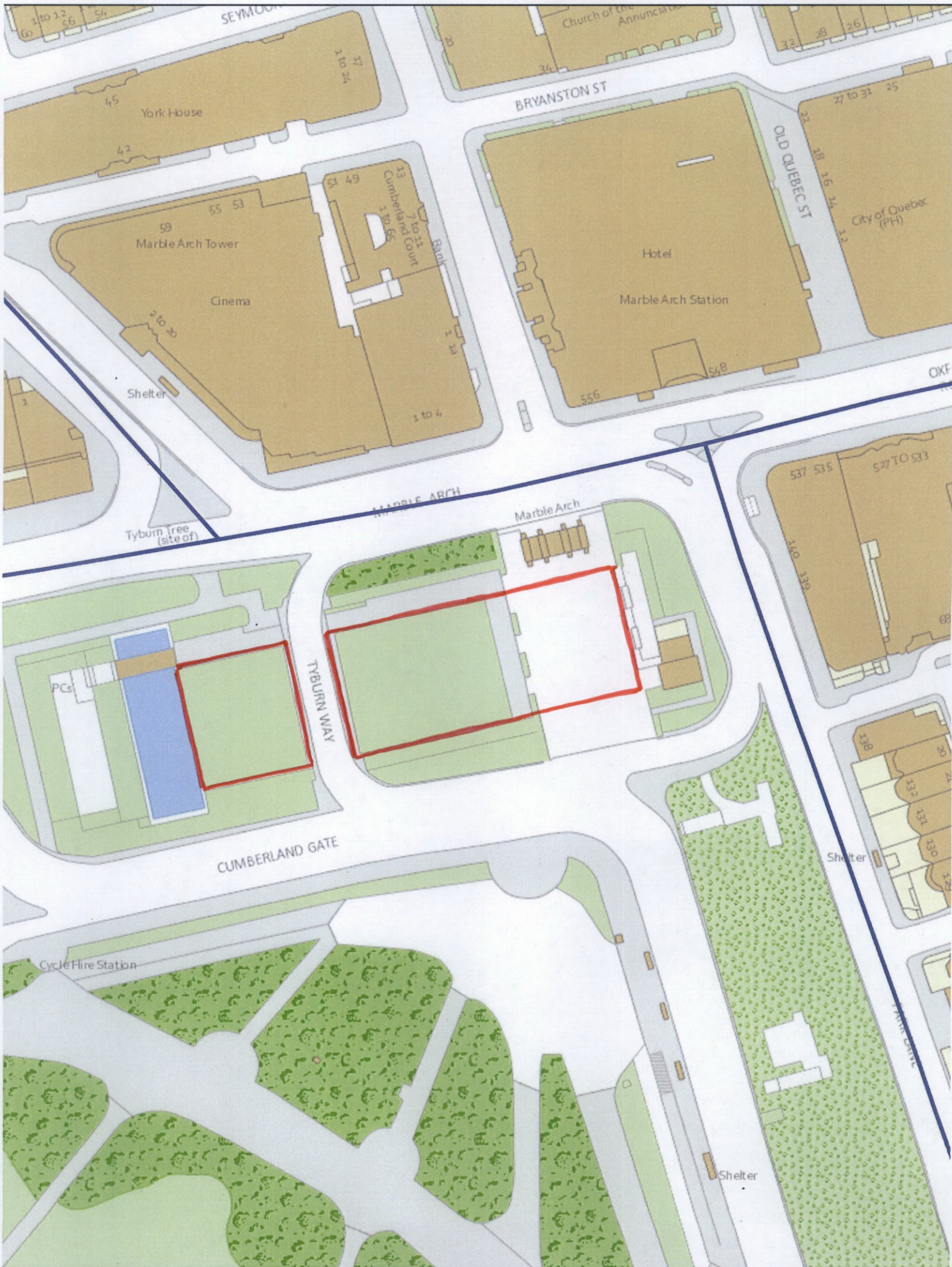


CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 1 September 2015	Classification For General Release	
Report of Director of Planning		Wards involved Knightsbridge And Belgravia	
Subject of Report	Marble Arch, London, W1H 7DX		
Proposal	Use as a temporary Christmas event including structures and attractions (including food, drink and craft sales) between 1 December 2015 to 1 January 2016, 1 December 2016 to 1 January 2017, 1 December 2017 to 1 January 2018 (with set up and site clearance a week either side of the event), opening between 11.00 and 20.00 daily. (Council's Own Development)		
Agent	Wildstone Planning		
On behalf of	Westminster City Council		
Registered Number	15/04407/COFUL	TP / PP No	TP/21761
Date of Application	19.05.2015	Date amended/ completed	12.06.2015
Category of Application	Other		
Historic Building Grade	Grade I Listed Building		
Conservation Area	Royal Parks		
Development Plan Context - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone Outside Central Activities Zone		
Stress Area	Outside Stress Area		
Current Licensing Position	Not Applicable		

1. RECOMMENDATION

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





MARBLE ARCH, W1

2. SUMMARY

The application site comprises the traffic islands which are located at the western end of Oxford Street on its south side. Before the creation of the road traffic gyratory around the islands they were part of Hyde Park and still contain the Grade I listed Marble Arch monument, which is on the eastern island. The islands are largely open, containing planted gardens including many mature trees and with a paved piazza in front of the monument, are part of designated Metropolitan Open Land (MOL) and within the Royal Parks Conservation Area. At the time of writing the report there was a fairground wheel on the site, which does not require planning permission as it has permitted development for 28 days.

This is a Council's own application to allow use of the area of land on the eastern island for a temporary Christmas event with structures and attractions, including a maze and food, drink and craft sales, for a temporary period throughout each December for the next three years until 2018. A festive media screen associated with the event and installed on the western island has already been granted advertisement consent (in July 2015). The proposed dates for the use of the land for the Christmas event are between 1 December 2015 to 1 January 2016, 1 December 2016 to 1 January 2017, 1 December 2017 and 1 January 2018 (with set up and site clearance a week either side of the event). The hours of opening to members of the public will be between 11.00 and 20.00 daily.

The key issues are:

- The impact of structures associated with the temporary event on the character and setting of the Grade I listed Marble Arch and the Royal Parks Conservation Area.
- The impact of structures associated with the temporary event on the character of the setting of the Metropolitan Open Land (Hyde Park).
- The impact of the temporary event on the amenity of neighbouring occupiers.

The event area would be divided into three areas. Zone 1 contains the festive media screen which has been approved under a separate advertisement consent. Zone 2 will contain a maze measuring 20m x 15m. At the heart of the maze will be a 4.5m Christmas tree and a 'festive lodge' selling refreshments will be located at the entrance to the maze. Zone 3 would be located directly south of the Marble Arch and will house food, beverage and arts and crafts concessions within wooden street stalls.

There have been previous proposals for temporary events and structures on the Marble Arch traffic islands. In 2011 the City Council refused an application for temporary structures and ice rink arena which was proposed to promote the Sochi Winter Olympics. These proposals were significantly larger and bulkier than that currently proposed, consisting of two temporary pavilions up to 11.5m in height, a covered bridge across Tyburn Way and a 725 person seater ice arena covering 550m². It was also proposed to use the traffic island for a longer period than the current proposal, for six months from May until October.

In 2003 and 2004 the City Council granted permission for the use of the Marble Arch island for a temporary 10 week period for an ice rink. The proposals also involved a single storey restaurant building and an L-shaped single storey pavilion structure.

In design and land use terms the proposed event and its associated structures conflict with UDP Policy ENV14 which states "Planning permission will not be granted on or under Metropolitan Open Land unless the development is essential and ancillary to maintaining or enhancing the land as valuable open space..." There is also potential concern about the visual impact of the event on the setting of the Grade I listed Marble Arch, the character and

appearance of this part of the Royal Parks Conservation Area and whether it serves to protect or enhance that character and appearance and impact on Metropolitan Open Land.

Such a proposal, if proposed to be permanent or in situ for a long period of time, would be highly contentious and would normally be unacceptable in terms of the impact on the sensitive open setting. However, despite the impact of the proposed event on the Grade I listed Marble Arch, conservation area and Metropolitan Open Land, there is considered to be sufficient flexibility to allow the proposal given that it will be present for a comparatively short period of six weeks over the Christmas period, a time of year when such events are not unusual. With the exception of the Christmas tree at the centre of the maze (measuring 4.5m), it will comprise of comparatively modest sized structures which will limit the impact on the listed structure and conservation area, as opposed to a large single structure. In addition, the event is located in the busy north east corner of Hyde Park, at the junction between Oxford Street and Edgware Road, which will again limit the impact of the event. It is not, therefore, considered that the event will cause sustained harm to the character and appearance of this part of the Royal Parks Conservation Area or the Grade I listed Marble Arch.

In amenity terms, the applicant has advised that the event's opening hours will be 11.00-20.00 hours and that no amplified sound or live entertainment are proposed. There may be more noise during assembly and de-assembly one week either side of the event, but given the site's busy location at the junction between Edgware Road and Oxford Street it is considered unlikely that this will cause harm to neighbouring residents' amenity. A condition is recommended to require the submission of a noise report to demonstrate that generators and plant associated with the event will operate below background noise levels at any nearby residential property and that noise nuisance can be prevented. The applicant will also submit a noise management report.

The site is well located for public transport and there will be no parking on-site. At this stage detailed plans showing the layout of the maze, or the number and layout of the street stalls has not been provided. It is recommended that a condition is imposed which requires more detailed layout plans prior to any works commencing on site. This will allow the City Council to ensure that pedestrian movement from the pedestrian crossings to the north and south of Marble Arch and access to Marble Arch Underground Station are unhindered. The Highways Planning Manager has confirmed no objection to the proposal subject to receipt of satisfactory layout plans and the imposition of a condition requiring a detailed servicing management plan for the event.

Given that the proposed event is for a temporary period over a limited period of three years, it is considered that, subject to appropriate conditions, the proposals are acceptable in land use, transport, design and amenity terms.

3. CONSULTATIONS

HISTORIC ENGLAND

Flexible authorisation received.

MARYLEBONE ASSOCIATION

Objections to the temporary festive media screen (this has already been granted temporary advertisement consent).

In terms of the event itself, the proposed opening hours of 11.00-20.00 appear reasonable, however, it is unclear why operations generating excessive noise need to run from 07.00-22.00 (the hours proposed for assembly and de-assembly of the event) and if officers are minded to approve the application this should be reduced, for example 08.00-21.00.

TRANSPORT FOR LONDON

Any response to be reported verbally.

ENVIRONMENTAL HEALTH

No objection.

HIGHWAYS PLANNING MANAGER

No objection subject to the imposition of relevant conditions requiring further details regarding servicing and waste storage.

THE ROYAL PARKS

Any response to be reported verbally.

BAYSWATER RESIDENTS ASSOCIATION

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 495; Total No. of Replies: 0.

ADVERTISEMENT/SITE NOTICE: Yes

BACKGROUND PAPERS

1. Application form.
2. Comments from the Marylebone Association dated 14.7.2015.
3. Comments from Historic England dated 29.06.2015.
4. Memorandum from Environmental Health dated 09.07.2015.
5. Memorandum from Highways Planning Manager dated 18.08.2015.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT PAUL QUAYLE ON 020 7641 2547 OR BY E-MAIL pquayle@westminster.gov.uk

DRAFT DECISION LETTER

Address: Marble Arch, London, W1H 7DX

Proposal: Use as a temporary Christmas event including structures and attractions (including food, drink and craft sales) between 1 December 2015 to 1 January 2016, 1 December 2016 to 1 January 2017, 1 December 2017 to 1 January 2018 (with set up and site clearance a week either side of the event), opening between 11.00 and 20.00 daily. (Council's Own Development)

Plan Nos: 3007/PP/01; 3007/PP/02; 3007/PP/03; 3007/PP/10; 3007/PP/11; Installation and Operation Management Statement.

Case Officer: Billy Pattison

Direct Tel. No. 020 7641 3267

Recommended Condition(s) and Reason(s):

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 You must carry out any building work which can be heard at the boundary of the site only:

- * between 08.00 and 18.00 Monday to Friday;
- * between 08.00 and 13.00 on Saturday; and
- * not at all on Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours. (C11AA)

Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 The temporary Christmas event allowed by this permission shall only be open to the public between 01 December 2015 to 1 January 2016, 01 December 2016 to 1 January 2017, 01 December 2017 and 1 January 2018. The structures associated with the temporary event can be erected from one week before the event opens to the public and shall be removed within one week of the event closing to the public. You must then return the land to its previous condition and use.

Reason:

The use is not as set out in DES1, DES5, DES9, DES12, DES15 and ENV14 of our Unitary Development Plan that we adopted in January 2007. Use for more than a limited period would be harmful to the objectives of the Plan. (R03AB)

- 4 You must not open the Christmas event to customers outside the following times: between 11.00 and 20.00 hours.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29

of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 5 No music shall be played at any times.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 6 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 7 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AC)

- 7 (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 L A90, 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: Strategic Policies adopted November 2013, 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.

- 8 You must apply to us for approval of 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 visiting the event.

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 9 The land shall be reinstated to its condition prior to the development taking place, including any replacement planting, within one month of the event closing to the public each year.

Reason:

To safeguard the setting of the adjacent Grade I listed building, the openness of Metropolitan Open Land and to preserve the character and appearance of the Royal Parks Conservation Area as set out S25 and CS 28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 9, DES10, DES 12 and ENV 14 of our Unitary Development Plan that we adopted in January 2007.

- 10 Before any work begins each year we must approve detailed drawings at a scale of 1:100 of the layout of both Zone 2 and Zone 3, and detailed drawings at a scale of 1:50 of the elevations of all structures. You must then ensure that the event is installed in accordance with the approved layout plans and structures for that year and retained as such until the event is disassembled.

Reason:

In the interests of public safety and to avoid obstructing pedestrians as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 11 You must apply to us for approval of details of a noise management plan demonstrating how you will manage noise levels at the event responsibly to minimise disruption to local residents and businesses. You must not open the event to members of the public until we have approved what you have sent us. The event shall then be managed in accordance with the approved report.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

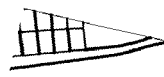
- 12 Prior to the occupation of the development, you shall submit and have approved in writing by the local planning authority, a detailed servicing management strategy for the Christmas event. All servicing shall be undertaken in accordance with the approved strategy unless otherwise agreed in writing by the local planning authority.

Reason:

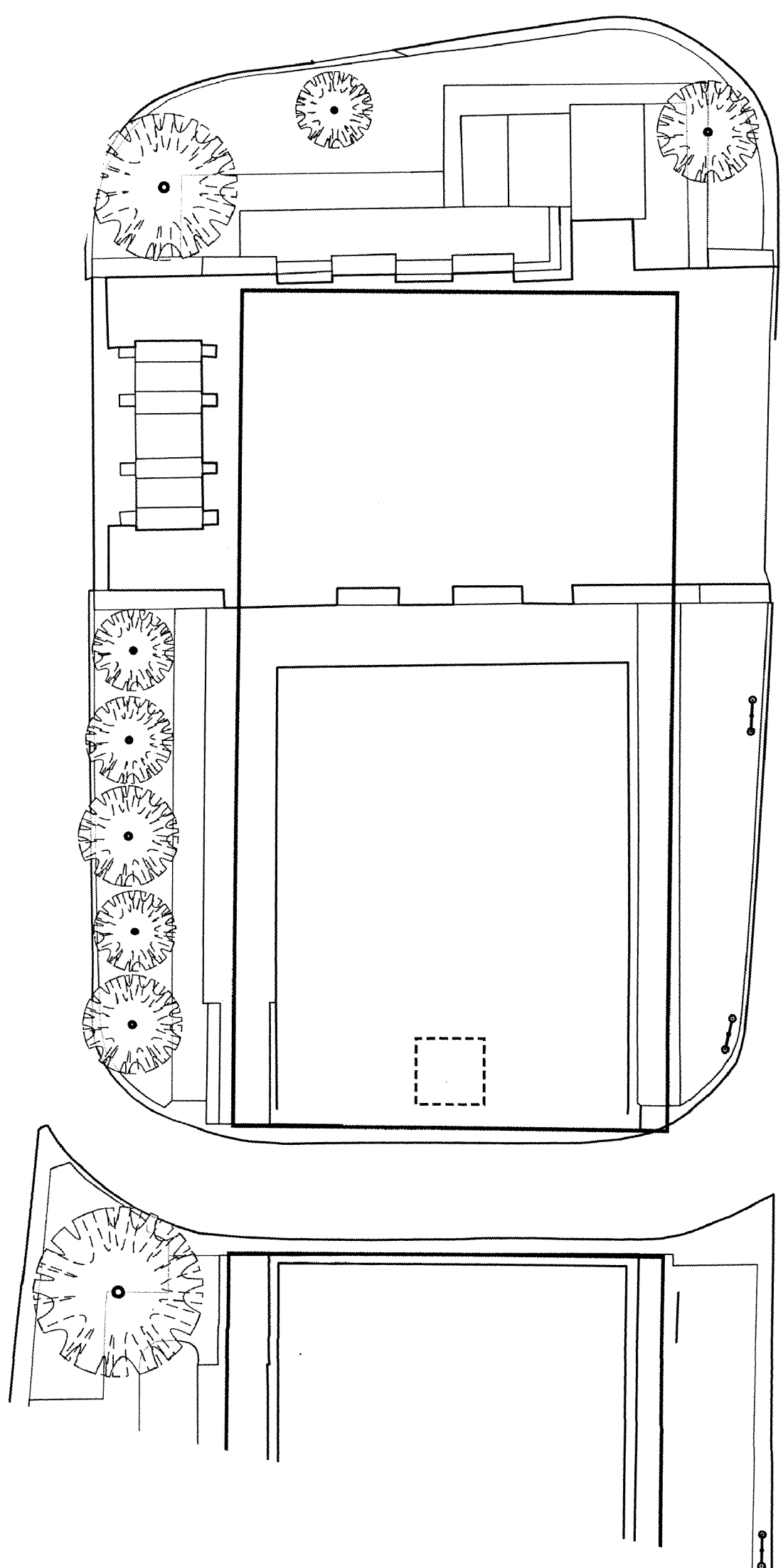
To ensure that the servicing facility operates as designed and does not impact on the safety or operation of the highway as required by Policy TRANS 20 of our Unitary Development Plan that we adopted in January 2007.

Informative(s):

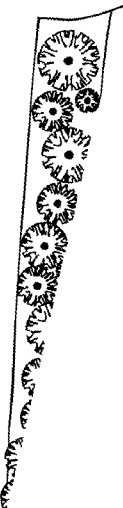
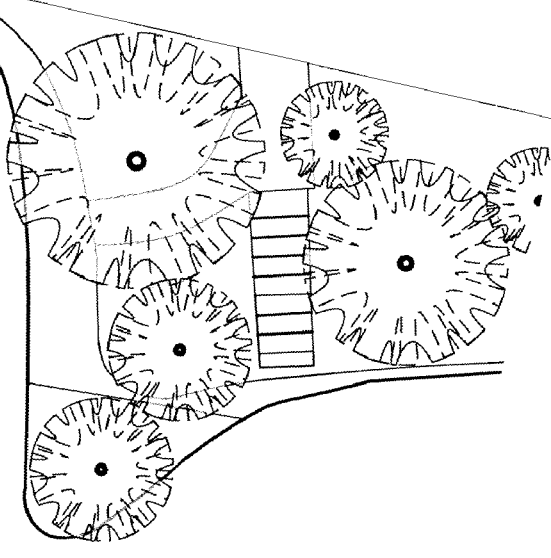
- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, 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.



Park Lane



Cumberland Gate



7

Park Lane

