

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 30 March 2021	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Knightsbridge And Belgravia	
Subject of Report	Marble Arch, London, W1H 7DX		
Proposal	Temporary installation of a viewing platform, landscaping, walkway and staircase, and other associated works, at Marble Arch for a temporary period of six months.		
Agent	Gerald Eve		
On behalf of	Westminster City Council		
Registered Number	21/01005/COFUL	Date amended/ completed	19 February 2021
Date Application Received	19 February 2021		
Historic Building Grade	Marble Arch Grade 1 listed		
Conservation Area	Royal Parks		

1. RECOMMENDATION

Grant conditional permission for a temporary period of 6 months under Regulation 3 of the Town and Country Planning General Regulations 1992.

2. SUMMARY

Permission is sought for a Council's own development for the erection of a visitor attraction on the Marble Arch traffic island for a temporary period of 6 months from June 2021. The proposal involves the construction of a landscaped hill with a viewing platform in an open area to the west of the Grade 1 listed Marble Arch. The proposed sculpted elevated walkway would provide visitors with new views of Oxford Street, Marble Arch, Edgware Road and across Hyde Park.

The key issues for consideration are:

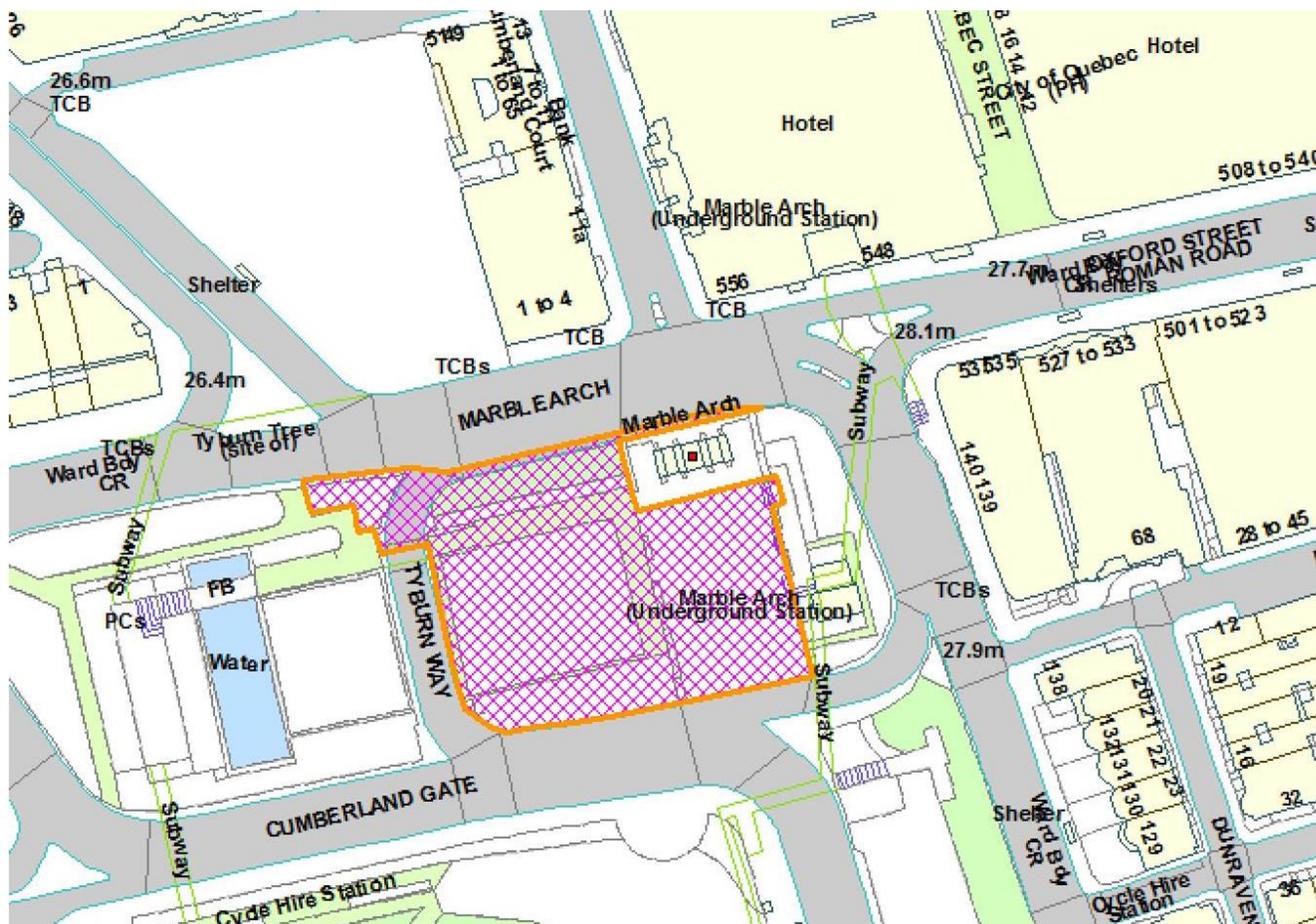
- The acceptability of the proposal in land use terms
- The impact that the proposed structure would have on the townscape, the character and appearance of the Royal Parks Conservation Area, the setting of the Grade 1 registered Hyde Park, the setting of the Grade 1 listed Marble Arch and the settings of adjacent conservation areas.

The location of the structure is sensitive due to its setting adjacent to the Grade 1 Listed Marble Area and location on Metropolitan Open Land (MOL). However, the provision of a temporary visitor

attraction is aimed at attracting visitors back to the Oxford Street District by increasing footfall, and supporting economic recovery following the Covid -19 pandemic. This is a clear planning benefit which is considered to outweigh the less than substantial harm that would be caused to the designated heritage assets.

Subject to appropriate conditions, including requiring the attraction to be operated in accordance with the submitted Operational Management Plan (OMP) and securing site restoration once the temporary period has expired, the proposal is considered acceptable.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

GREATER LONDON AUTHORITY - Any response to be reported verbally

TRANSPORT FOR LONDON - Any response to be reported verbally

METROPOLITAN POLICE

No objection, recommend that 'the mountain is enclosed by a 2.4m permeable boundary line security rated fencing with security rated accessed controlled gates alongside dedicated on site 24/7 security staff

THE ROYAL PARKS - Any response to be reported verbally

MARYLEBONE ASSOCIATION - Any response to be reported verbally

RESIDENTS SOCIETY OF MAYFAIR AND ST JAMES'S

Any response to be reported verbally

HYDE PARK ASSOCIATION - Any response to be reported verbally

SOUTH EAST BAYSWATER ASSOCIATION - Any response to be reported verbally

BAYSWATER ASSOCIATION - Any response to be reported verbally

KNIGHTSBRIDGE ASSOCIATION - Any response to be reported verbally

THE St MARYLEBONE SOCIETY - Any response to be reported verbally

MAYFAIR RESIDENTS GROUP - Any response to be reported verbally

HISTORIC ENGLAND

Welcome the proposal to construct the temporary 'Marble Mountain' installation adjacent to, rather than above, the Grade I listed Marble Arch. Nevertheless, the large installation in the backdrop of the historic arch would have an impact on the appreciation of the arch's significance and thus would cause a degree of harm. In accordance with the NPPF, great weight should be given to the conservation of all designated heritage assets, with particular weight given assets of the highest significance such as the Grade I listed Marble Arch. Planning permission should only be granted if Westminster City Council is persuaded that the proposals are clearly and convincingly justified and the public benefits outweigh the harm.

HIGHWAYS PLANNING MANAGER

No objection, request that a servicing management plan and cycle parking are secured by condition

WASTE PROJECT OFFICER

Request refuse details are secured by condition

HIGHWAYS PLANNING MANAGER

No objection, request that a servicing management plan and cycle parking is secured by

condition

THE GARDENS TRUST

Objection, on the grounds that better use could be made of the substantial construction/maintenance/demolition costs, perhaps providing funds for the greening, improvement and conservation of existing open spaces within the borough.

ARBORICULTURAL SECTION

Tree pruning is regrettable, reuse of the planting is unlikely to practical

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 3389

Total No. of replies: 58

No. in support: 6 including from the Portman Estate and New West End Company Business Improvement District (representing 600 businesses and 150,000 employees across the West End) and Baker Street Quarter Partnership (Baker Street Q), support the scheme for the following reasons;

- The proposed installation is an excellent example of new dynamic ways to draw visitors back into the district and give a much needed boost to West End businesses which have suffered through the pandemic, helping recovery;
- The intention to help reinvigorate the West End's economy is welcomed;
- The comprehensive Operational Management Plan (OMP) is welcomed;
- The attraction will help tourism and bring visitors back to central London;
- The viewing platform will offer unique views of Hyde Park, Oxford Street, Mayfair, Marylebone, Park Lane and Edgware Road.

1 Neutral comment neither objecting or supporting the application that queries the cost of the project and whether there are other plans for permanent improvements in the area,

No. of objections: 51 on some or all of the following grounds

Land Use/ Principle:

- The cost of a temporary structure is a waste of public money;
- A full cost benefit analysis should be provided;
- Other projects are more worthy of funding;
- Concern that the structure will become permanent;
- Question whether 'the hill' will achieve its aim to encourage the economic recovery;
- A more permanent and creative solution should be found to attract people to Oxford Street.

Design:

- The structure would be an eyesore and would be harmful to the historic Grade 1 listed Marble Arch

Highways:

- The development would result in vehicular and pedestrian congestion;

Other Issues:

- Damage to the Environment;
- Increased Pollution;
- Increased potential for crime.
- Disruption during installation and removal.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The Marble Arch was designed by John Nash in 1828, originally as the ceremonial gateway to the forecourt of Buckingham Palace. When the Palace was remodelled and extended in 1851, the arch was relocated to its current position as the north east entrance gateway to Hyde Park. In 1908, the arch was severed from the royal park by the introduction of a new road, designed to accommodate improved traffic movement through to Park Lane. This resulted in the arch becoming separated from the park on a traffic island. In 1961-2 the traffic island was enlarged and split into two halves to allow for a gyratory (Tyburn Way) to link Cumberland Gate with the western extension of Oxford Street to the north of the traffic island, as evident in its current form. The Marble Arch was first listed as grade I in February 1970.

Marble Arch is located on the north eastern side of the island and is a key landmark at the western end of Oxford Street. The site comprises a hard landscaped area of tarmac and grassed area located to the south west of the Arch part of the East Island.

The surrounding area is diverse in terms of the scale, height, form and design of buildings. The site is within the Royal Parks Conservation Area and is designated as Metropolitan Open Land (MOL). Hyde Park is listed at Grade 1 on the Register of Parks and Gardens. The Bayswater Conservation Area is situated to the north west, the Portman Estate Conservation Area to the north and Mayfair Conservation Area to the east. The site lies within the Central Activities Zone.

6.2 Recent Relevant History

The eastern traffic island has been the subject of a number of temporary uses including art installations, Olympic sports installations during the games in 2012, and use as an ice rink between November and January 2002-2008.

In 2011 permission was refused for a much larger development straddling Tyburn Way to provide a temporary event facility to promote the 2014 Sochi Winter Olympics. The application was refused due to concerns over scale, design, traffic generation, security and loss of trees.

The most recent temporary permission was for a theatre event space in 2017 which was initially granted for a 6 month period from April to December (RN 16/11546/FULL). A subsequent consent permitted the theatre from 29 July 2017 to 06 April 2018 (RN 17/04354/FULL).

7. THE PROPOSAL

Permission is sought for the erection of visitor attraction which will comprise of an elevated walkway with a viewing platform providing views along Oxford Street, Edgware Road, Hyde Park and over Marble Arch. The structure would be landscaped with grass (both real and artificial), trees and planting to resemble a grass-covered hill on its southern, western, and eastern sides.

The structure is to be located on the western side of the traffic island rising from east to west, from the hard landscaped tarmacked area to the grassed area in the west of the island. To facilitate the structure a large modern bronze sculpture of a horse's head will need to be temporarily removed from the grassed area on the west of the island.

The structure would be created from scaffolding broadly rectangular in footprint. The scaffolding will create a hill profile. A walkway would be provided up the hill which will connect to a top viewing platform. The top of the viewing platform is 22.5 m in height. The hill is served by a lift. The top of the lift overrun is 25.5m in height. The viewing platform would be 66 m² enclosed by a 2.4m barrier and would offer 360 degree views. The planting on the top, east, south and west elevations would use trays with plants and an irrigation system. The north elevation would be open scaffolding.

Operational Details

An operational management plan (OMP) has been submitted as part of the application. The OMP covers the following: opening hours, ticketing policy, operational overview, visitor throughput, queue management, management and staffing, security, maintenance and noise. The OMP is considered to be comprehensive, the key elements are discussed further in this report.

Access onto the hill will be ticket only booked on-line, with no sales of tickets on site. Every visitor will have a specific fifteen minute arrival slot to ensure that visitor arrival pattern and numbers passing onto the island are managed. The applicant estimates that the capacity is likely to be 130-220 visitors per hour with social distancing measures in place. The proposed opening hours are 10am to 10pm daily. A 10-hour operating day could therefore accommodate an average of 1,200 visitors per day with social distancing. The applicant has not yet finalised the terms on which the tickets will be available, whether it will be free or subject to a charge for partial cost recovery.

Pedestrians and cyclists would be able to enter the site from the existing access routes from the north and south of the island and the existing Marble Arch Underground Station. Visitors would be able to walk up the one-way, elevated path to the viewing platform at the top where they would be able to experience new views along Oxford Street, Edgware Road and Hyde Park. The walkway would have balustrades on both sides of the path for safety and to provide stability for visitors and the pathway would be anti-slip. A lift would also be provided, which would provide access to the top of the structure for wheelchair users and those with impaired mobility. The lift would be accessed from a hard standing area, adjacent to the north elevation of the structure. Public toilet facilities are to be incorporated into the scaffolding on the northern side of the structure.

When leaving the viewing platform, visitors would walk down the internal staircase to ground level, where they would either walk through a void underneath the scaffolding or out of the

scaffolding to the east. The void would be a flexible space of approximately 495 sqm, which could be used for a range of uses such as art displays, exhibitions or an event space. After visiting the attraction, visitors would be encouraged to continue their journey along Oxford Street to support the economic recovery of the West End.

All points of pedestrian access will be manned by security personnel. The entry gate staff would be responsible for ensuring that only genuine visitors with tickets are allowed access inside the secure perimeter.

Operational security will ensure that the site perimeter is controlled at all times including out of operational hours when the attraction is closed to visitors. Fully trained security staff will patrol and control access to the site and be on duty 24 hours a day.

There are number of measures built into the design to actively assist in discouraging crime and anti-social behaviour. Fences (2.4m high) would also be erected around the perimeter and base of the structure to prevent people climbing up the scaffolding. Crash barriers will be provided on the carriage way to the south and west of the island, for hostile vehicle prevention, and would be concealed within the structure. Security lighting, intruder alarms and CCTV surveillance will be installed, and there will be no hidden areas or benches that could encourage rough sleeping.

The proposals would be for a temporary period of 6 months. Initially it was anticipated that the structure would be in use between July 2021 - January 2022. It is envisaged that the attraction would be operational from 21st June to align with the Governments relaxation of the Covid-19 lockdown regulations. Once the temporary permission has expired and the attraction is closed, the site will be cleared of any structures and returned to its original condition.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The site is designated as Metropolitan Open Land (MOL) as part of the Hyde Park Metropolitan Open Land designation, a Royal Park. London Plan policy G3 states that MOL should be afforded the same protection as Green Belt, which is protected at a national level, with development only permitted in very special circumstances.

City Plan Policy S11 states that 'The Royal Parks, their settings, views and tranquillity will be protected from inappropriate development and activity. Developments will only be allowed where they are essential and ancillary to maintaining or enhancing the value of the park as open space and that do not harm the park's

- a) Open landscape character;
- b) Heritage value;
- c) Nature conservation value;
- d) Tranquillity; or
- e) Value as a public open space.

Policy S35 Open Space protects and enhances Westminster's open space network. UDP policy ENV 14 V (A) states that proposals should protect and enhance MOL. UDP policy ENV15 states that development on public open space is prohibited unless essential and ancillary to maintaining or enhancing that land as valuable open space.

The fact that the site is located on an island separated from the main Hyde Park, that there is extensive history of temporary uses over the past 20 years and that the scheme would result in the provision of a visitor attraction for a temporary period which it is hoped will help the recovery of Oxford Street following the Covid-19 pandemic are considered to be extenuating circumstances to justify an exception to the strong policy presumption not to develop on MOL.

On the basis that permission is subject to a condition which requires the site to be restored to its present position there would be no permanent impact on the openness of the MOL in accordance with London Plan, Westminster City Plan and UDP policies.

8.2 Townscape and Design

The key legislative requirements in respect to designated heritage assets are as follows:

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy DES 9 (F) in the UDP requires that where development will have a visibly adverse effect upon a conservation area’s recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not normally be permitted.

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

As already stated Marble Arch is a grade 1 listed building in the Royal Parks Conservation Area. The flat open landscape of the island landscape allows views of Marble Arch from many directions. This open character contributes positively to the significance of this part of the Royal Parks Conservation Area. The key feature of the traffic island is Marble Arch which is highly prominent and dominates the landscape.

The proposed structure will be sited to the west of the arch. It will be approximately 25 metres high, which is about twice the height of Marble Arch. The structure will have sloping sides with vegetation, except for the north side and part of the east side, which will be vertical and clad in a white fabric made from flame retardant, UV stabilized high-density polyethylene (HDPE).

The arch will be hidden by the structure in some street level views, mainly those from the south west. Views from the west are already partially obscured by trees. The view from the south along Park Lane will be partly obscured by the lower slopes of the structure, on the left hand side of the view. The proposed structure will appear in the backdrop of Marble Arch in views from the east, from Oxford Street.

Overall the structure will have a harmful impact on the setting of, and views of, the grade 1 building which will lose some of its prominence in the landscape. It also has a harmful impact on the character and appearance of this part of the Royal Parks Conservation Area, and on the settings of the Grade 1 registered Hyde Park and the adjacent conservation areas, because it will replace the flat landscape and obscure important views, especially views of Marble Arch.

If it were a long-term or permanent structure it would result in substantial harm to the heritage assets referred to above, in particular the setting of Marble Arch and the character and appearance of the Royal Parks Conservation Area. However, on the basis that it is only intended to be in place for a period of six months, it is considered that the impact on the heritage assets could be said to be less than substantial harm, because of its temporary nature. In considering this application the harm caused to heritage assets needs to be weighed up against any public benefits. This is a view shared by Historic England.

8.3 Residential Amenity (Daylight/Sunlight and Privacy)

The proposed structure would not result in a material loss of amenity to the occupants of any of properties surrounding the island block.

8.4 Transportation/Parking

Traffic Impact

The proposed scheme is anticipated to have a negligible impact on traffic operation. It is not anticipated that the scheme will generate any meaningful demand for increased traffic movements because it is well served by public transport and is easily accessed on foot or by bike.

As the structure will be built across the existing pedestrian east west route which links the two islands, an extension of the footway on the north side of the island will be required to maintain the east -west pedestrian connection. The extension of the footway on the north side of the island will require the loss of approximately one lane of carriageway space. A transport statement submitted in support of the application refers to the lane in question having a very low level of utilisation and does not provide any meaningful traffic capacity as it is required to merge immediately on exit of the circulating stop line. The Highways Planning Manager raises no objection to this aspect of the application but does advise that the surrounding roads are part of the Transport for London Road Network (TLRN) for which TfL are the highway authority. At the time of writing this report TfL have not commented on the application. Any response received will be verbally reported to Committee.

Servicing

City Plan policy S42 and UDP policy TRANS20 require new developments to be provided for on-site servicing. Delivery vehicles stopping on the highway can result in localised congestion to other motorists. The proposal includes off-street vehicle servicing areas.

There are three proposed points of vehicular access for the site:

- Directly from the southern arm of the gyratory;
- Off Tyburn Way, and
- A proposed on-street loading bay on Tyburn Way

Deliveries and servicing movements are anticipated to be extremely low throughout normal operation of the site. The Transport Statement indicates that servicing would be limited to a couple of vehicles on a daily basis with a few more vehicles accessing the site on a weekly basis. All servicing would occur between 0700 and 1000 – outside of the opening hours of the structure. The site operators will manage the movement of delivery and servicing movements to minimise conflicts with traffic and bus operation and ensure that they are carried out safely. The access from the southern arm of the gyratory will operate as a Marshalled Gateway point. All vehicles entering and exiting at this point will do so in forward gear.

The Highways Planning Manager raises no objection to the application but requests that a Servicing Management Plan is secured by condition prior to commencement of development. However given anticipated low levels of servicing, this is not considered necessary and this aspect of the application is acceptable. With regard to his request for cycle parking, this is not considered to be necessary for a temporary structure, and given the likely reliance on public transport.

With regard to the request for the provision of waste storage, this is not considered necessary as it is not anticipated that the proposal will generate any significant amount of waste.

8.5 Economic Considerations

Oxford Street is an international shopping destination with a multitude of flagship stores. However, despite being a global retail destination, it is well documented that Oxford Street is facing a number of challenges as online shopping and increased commercial rates have created a difficult trading environment. These challenges have been intensified by the Covid-19 pandemic. The applicant's submission refers to a 60% decline in retail transactions between January and July 2020 in London.

The aim of the proposed visitor attraction is to encourage visitors back to the West End, increasing footfall aiding the economic recovery of Oxford Street and helping to maintain Oxford Street as a global retail destination. The intention is to create a new point of interest which would act as a catalyst to draw visitors to the western end of Oxford Street by providing an additional attraction promoting linked trips and associated spend with businesses in the district.

8.6 Access

City Plan policy S14 prioritises pedestrian movement. The structure will result in the closure of the existing pedestrian route east-west connecting the two Marble Arch islands. The proposed layout will provide a temporary footway surface to the north of the main eastern island that will safely facilitate this pedestrian connection and therefore retain the ability for pedestrians to move safely between the two islands.

The greatest through movement of pedestrians takes place between Oxford Street and Hyde Park and this is unaffected by the scheme. The Marble Arch Hill scheme will require some of current piazza space to be utilised for visitor queuing but a clear width equivalent to the current

pedestrian crossing dimension on the south part of the piazza will be retained meaning that there will be no loss of pedestrian comfort for people walking between Hyde Park and Oxford Circus. This wide pedestrian route on the east side of the piazza will also provide a clear and comfortable connection to the London Underground station entrance located on the island.

The proposal will generate an increase in trips to the site. However, given the accessibility to public transport facilities in the area it is considered that the increase is unlikely to have any significant adverse impact on the public highway. The proposed on-line ticketing system should prevent crowds forming or extensive queuing to access the site.

Access onto the Marble Arch Hill structure itself will be via a controlled and ticketed access point. The structure is designed to present a sheer surface at its base that will prevent casual access and this will be combined with perimeter fencing to provide a secure boundary to the site.

Cycling

The main exiting north-south cycling route across the east island linking Hyde Park and Oxford Street will remain unchanged. The connection for cyclists between the two islands will be rerouted to the north and use a shared footway similar to existing. The transport statement indicates that there is a low demand for cycling and walking along this route.

8.7 Other UDP/Westminster Policy Considerations

Noise

The attraction is unlikely to be a major source of noise as no mechanical plant is proposed. There is mains power and back-up generators would only be used on a temporary basis in emergency situations to supply power to the lift and to ensure sufficient lighting to aid safe passage off the hill should an evacuation be necessary. The attraction operating hours means the latest time visitors would be admitted would be 9:30pm for a closure at 10pm. Given the sites location, the number of anticipated visitors, the opening hours and existing background traffic noise levels it is considered that the development would not result in a substantial noise impact.

Trees

On the northern border of the island there are seven trees which include species of False Acacia, Maple, Norway Maple and London Plane. These trees are protected by virtue of being within the Royal Parks Conservation Area, and are owned and managed by the City Council. The footprint of the structure and the top of the viewing platform has been designed to minimise the impact on the trees. None of the trees will be removed.

The southern part of the canopies of trees T5 and T7 (two large London planes) are proposed to be pruned in order to allow the construction and use of the structure. The Head of Arboricultural Services comments that it is regrettable that the structure has been positioned in such a way that it requires tree pruning to accommodate it. Furthermore, that the reduction of the southern part of the canopy of T7 by 3.5m to accommodate a temporary structure is undesirable as it would be harmful to the appearance of the tree.

Whilst these comments are noted, the footprint of the structure and the top of the viewing platform has been designed to minimise the impact on the trees. None of the trees will be

required to be removed. In the circumstances given the economic benefits that will be derived from the scheme it is considered that permission could not reasonably be withheld due to the impact on the trees.

Sustainability

Relocation of trees, grass, wood and soil.

The proposal is that elements used in the construction of the structure, namely wood, soil, grass, and trees will all find new uses in nearby gardens and parks. The submission refers to 'a co-ordinated dismantling programme to enable the transplanting of the numerous plants and trees used in landscaping of the hill to other projects in and beyond the Oxford Street District for the benefit of its communities'.

The focus will be on greening school environments, community spaces, and housing amenity areas. The planting used on this project will meet the City Council's priorities for health and well-being. It is envisaged that the project as a whole can then contribute to the development and illustration of the Council's Green Infrastructure Strategy.

The Head of Arboricultural Services advises that there are limitations on suitable space available for such material and attempting to transplant living plant material is likely to result in a high mortality rate. Therefore, this is unlikely to be a practical proposition. In the circumstances whilst the intention to re-use as much of the structure as possible is welcomed and encouraged. Given potential practical difficulties highlighted it is not recommended that this is secured by condition.

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 in June and July 2019 and it was submitted to the Secretary of State for independent examination in November 2019. The City Plan examination hearings took place between 28 September and 16 October 2020. Following the examination hearings, the Council consulted on the main modifications recommended by the Inspectors between 30 November 2020 and 18 January 2021. However, having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will continue to attract limited weight at this present time prior to the publication of the Inspector's final report.

8.9 Neighbourhood Plans

Not applicable

8.10 London Plan

An application is referable to the Mayor if it meets the criteria set out in the Mayor of London Order (2008). Category 3 refers to developments which may affect strategic policies. Category 3D refers to land allocated as Green Belt or Metropolitan Land involving the construction of a building with floorspace of more than 1000m². In this case the site is Metropolitan Land but the floorspace is circa 700 m² GIA (that is, the offices, WCs, void space beneath the hill, and ticket office). The scheme does not meet this criteria and is not therefore referable to the Greater

London Authority. Although formal direction from the Mayor's office is not required to determine the application, given that the proposal is for a visitor attraction in a strategic location the GLA have been consulted on the application. Any response will be reported verbally to Committee.

Policy G3 of the London Plan relates to Metropolitan Open Land (MOL) and states that Metropolitan Open Land is afforded the same status and level of protection as Green Belt:

"1) MOL should be protected from inappropriate development in accordance with national planning policy tests that apply to the Green Belt." Assessment against this policy is discussed in the land use section 8.1 of this report.

Policy E10 of the London Plan relates to Visitor Infrastructure and states London's visitor economy and associated employment should be strengthened by extending its attractions. The proposal is considered to accord with this policy objective.

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.

8.12 Planning Obligations

Not applicable.

8.13 Environmental Impact Assessment

The proposal is not of sufficient scale to require an Environmental Impact Assessment.

8.14 Other Issues

Representations

The consultation responses are summarised in section 5 of this report. A significant number of objections have been received, primarily on two grounds:

- that the concept is ill conceived and there is no evidence or guarantee that it would be a benefit to the economy, and
- that the temporary project would be expensive and that funds should be directed elsewhere to alternative projects.

Whilst these comments are noted, there have also been letters of support for the scheme, including support from the Portman Estate, New West End Company and Baker Street Quarter Partnership (Baker Street Q). These welcome the provision of the attraction, applauding the proactive stance of the Council to help reinvigorate the West End's economy.

Ultimately, in this forum, the proposal has to be considered on its planning merits. Notwithstanding the objections, it is not considered that permission could reasonably be refused for either of the main reasons for objection. The application needs to be determined in accordance with the development plan, as outlined above. The proposals are also envisaged within the City Council's Oxford Street District Framework and overall are considered to accord with planning policy.

Crime prevention

In response to consultation the Metropolitan Police comment that it is imperative to consider the impact the proposal may have within the existing environs. With increased crowding and people queuing it will attract nuisance begging, busking, street performances, and unlicensed street selling into the area. Also this increased footfall and concentration of pedestrians may create pinch points along these routes which criminals could take advantage of by way of pick pocketing and distraction thefts. Marble Arch is often used as a meeting point for protests and processions going down Park Lane and Oxford Street towards Whitehall and Trafalgar Square. The structure of the mountain would be ideal for activists to utilise various demonstration tactics.

Therefore the structure and its associated environs must be enclosed within a 2.4m (minimum) visually permeable boundary line security rated (LPS 1175 SR1 certified as a minimum) alongside corresponding security rated accessed controlled gates alongside dedicated on site 24/7 security staff. The application initially included a 2m high security fence. Further to discussions with the Police the form of the perimeter fencing has been amended and the height increased to 2.4m to comply with the request of the Police. A condition is recommended that the fencing as now proposed is provided and maintained whilst the attraction is in situ.

A number of measures are built into the design to actively assist in discouraging crime and anti-social behaviour, including:

- vehicle protection measures against unauthorised or malicious entry;
- security fencing to protect against entry under the hill or to the back of house areas;
- lighting to assist security monitoring and on-site CCTV surveillance;
- fencing at the base of the hill to prevent access directly onto the slope;
- a 2.4 m high retaining wall integrated around the perimeter at street sides (connection to grade to be detailed) to prevent access directly onto the slope; and
- no hidden areas or benches that could encourage rough sleeping.

Full details of the security measures and personnel are included in OMP. The arrangements are considered to be comprehensive. A condition is recommended that the use is carried out in accordance with the OMP which will ensure that the measures are implemented at all times that the attraction is in operation.

Counter Terrorism

The applicant advises that they have worked with the Police and have developed a counter terrorism plan. They advise that the Operator will continue to work closely with the Counter Terrorism Policing Team.

Harm v Public Benefits

Whilst being mindful of policies DES 1, DES 9, DES 10, DES12, DES14 of the Unitary Development Plan and S11, S25 and S26 of the City Plan, given the public benefits that would be delivered, which comprise:

- attracting workers, visitors and residents back to the Oxford Street District to increase footfall following Covid-19 pandemic and acting as a catalyst to support the economic recovery of Oxford Street and the wider West End;

- new temporary viewpoints of Oxford Street, Edgware Road, Hyde Park and the Grade 1 listed Arch;
- additional greening in the City,

it is considered that the public benefits outweigh the harm identified. Therefore, the recommendation to grant conditional permission is compliant with the requirements of the NPPF.

(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: PAUL QUAYLE BY EMAIL AT PQUAYLE@WESTMINSTER.GOV.UK



DRAFT DECISION LETTER

Address: Marble Arch, London, W1H 7DX

Proposal: Temporary installation of a viewing platform, landscaping, walkway and staircase, and other associated works, at Marble Arch for a temporary period of six months.

Reference: 21/01005/COFUL

Plan Nos: TP1081-N-100, TP1081-N-100a, TP1081-N-100b, TP1081-N-100c, TP1081-N-100d, TP1081-N-101, TP1081-N-101a, TP1081-N-102, TP1081-N-102a, TP1081-N-102b, TP1081-N-200, TP1081-N-201, TP1081-N-301, TP1081-N-302, TP1081-N-303, TP1081-N-401.

Case Officer: Mike Walton

Direct Tel. No. 020 7641
07866039922

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 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: 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. You must carry out piling, excavation and demolition work only: between 08.00 and 18.00 Monday to Friday; and, 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 You must write to us to advise the first date that the structure will be open to the public. The use can continue for a temporary period of 6 months from this date. After that the use must end and you must remove the structure and return the land to its previous condition and use.

Item No.
1

Reason:

The building shall not remain for a longer period because it would be contrary to policy S22 of Westminster's City Plan (November 2016) and ENV14 and ENV15 of our Unitary Development Plan that we adopted in January 2007.

- 4 The structure shall be open to the public between the hours of 10am and 10pm daily.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 5 The use as a visitor attraction shall be carried out in accordance with the Operational Management Plan submitted by Britton McGrath Associates dated 15 February 2021.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Royal Parks Conservation Area. This is in line with S25 of Westminster's City Plan (November 2016) and DES 9 of our Unitary Development Plan that we adopted in January 2007.

- 6 You must provide the lift access as shown on TP1081-N-100 whilst the structure is open to the public.

Reason:

To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in S28 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)

- 7 You must not start using the proposed development until security fencing, at least 2.4m high, and to at least the LPS 1175 SR1 standard, has been installed around the perimeter of the site and as shown on drawing TP1081-N-100 dated 16.3.21, or in accordance with any other drawings subsequently submitted to, and approved by, us pursuant to this condition. The fencing must be retained as long as the visitor attraction remains in situ.

Reason:

To prevent unauthorised access to the site and in the interests of preventing crime and anti-social behaviour, in accordance with advice from the Metropolitan Police.,

Informatives

- 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 You are advised that Trees on Marble Arch are owned and managed by the City Council. The tree surgery set out in your Arboricultural Impact Assessment and Method Statement must be carried out by the City Council's tree contractor. You will have to pay for work to the trees.
- 3 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please email AskHighways@westminster.gov.uk. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority).
- 5 For advice on how you can design for the inclusion of disabled people please see the guidance provided by the Equality and Human Rights Commission, the Centre for Accessible Environments and Habinteg. The Equality and Human Rights Commission has a range of publications to assist you (www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility' (2012) is a useful guide (www.cae.org.uk). If you are building new homes, you must provide features which make them suitable for people with disabilities. For advice see www.habinteg.org.uk, , It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

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.