

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date:</b> 18 <sup>th</sup> December 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Harrow Road	
<b>Subject of Report</b>	<b>Open Space At Junction Of Fernhead Road And, Elgin Avenue, London, ,</b>		
<b>Proposal</b>	Continued use of designated public space and public highway for a street market (Monday to Saturday 09.00 to 20.00)		
<b>Agent</b>			
<b>On behalf of</b>	Ruchi Chakravarty - Westminster Council		
<b>Registered Number</b>	17/10180/COFUL	<b>Date amended/ completed</b>	25 January 2017
<b>Date Application Received</b>	15 November 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	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 expired on 31 October 2017.

The current application seeks to renew the most recent permission (which was a slight variation on previous year's permissions in that it no longer proposes the full area previously allowed on Fernhead Road) for the Maida Hill market. The hours of operation are the same as those previously approved, which are Monday-Saturday 09.00-20.00.

This application is linked to the application for the storage unit submitted on the 27<sup>th</sup> September 2018. Given the length of time between the submission of the two applications, re-consultation was undertaken with neighbours on this application. No responses have been received as a result of this re-consultation

The key issues in this case are:

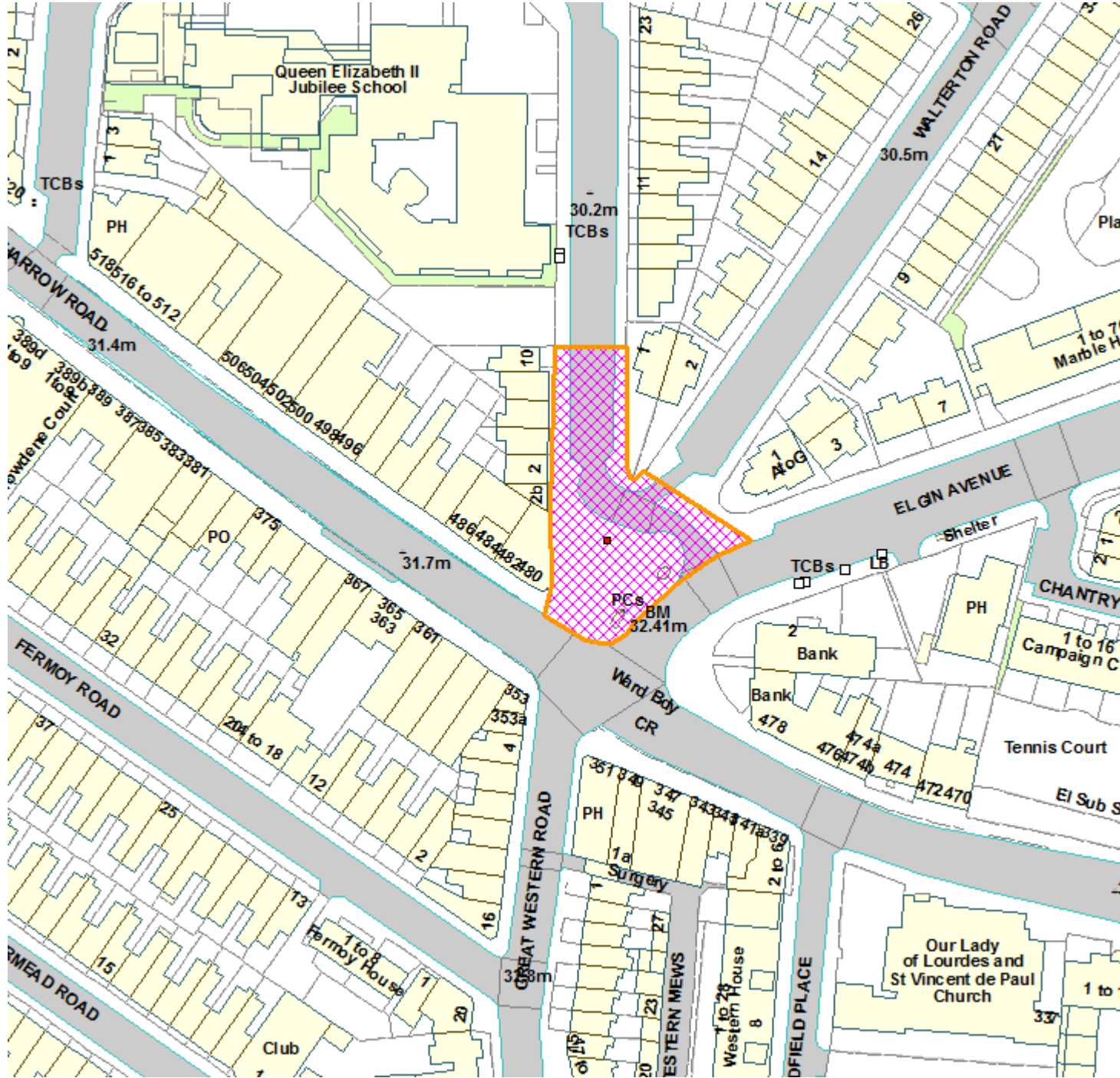
- The impact of the market in land use terms on the retail character and function of the Harrow

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 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.

### 3. LOCATION PLAN



#### 4. PHOTOGRAPHS



Photo to show area used for market

## 5. CONSULTATIONS

### *ORIGINAL CONSULTATION:*

#### WARD COUNCILLORS FOR HARROW ROAD AND QUEENS'S PARK:

Verbal support of proposals from Cllr Bush. Any other responses to be reported verbally.

#### TRANSPORT FOR LONDON

No objection.

#### NORTH PADDINGTON SOCIETY

Any responses to be reported verbally.

#### HIGHWAYS PLANNING MANAGER

No objection.

#### CLEANSING MANAGER:

No objection.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 214;

Total No. of objections: 3.

The following concerns were raised:

#### Amenity & Parking:

- The market is disruptive day and night both in terms of setting up/dismantling and operation;
- The fish stall is smelly and attracts seagulls which result in further mess;
- The market attracts antisocial behaviour;
- Noise from the use of the storage area at 1 Elgin Avenue;
- Increase in rubbish;
- Impact upon use of Fernhead Road for access and subsequent congestion;
- Parking of market vehicles on Fernhead Road, taking away parking from residents which isn't controlled by parking attendants
- Considerable No of complaints have been made to Westminster departments and staff.

#### Other:

- Health and safety standards over the products sold in the market;

ADVERTISEMENT/SITE NOTICE: Yes.

*NO RESPONSES RECEIVED TO RE-CONSULTATION:*

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

### **6.2 Recent Relevant History**

Permission has been granted for the use of the public highway market on a yearly basis since 2008. The most recent permission is as follows:

11.10.2016 - 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 31 October 2017 (16/07725/COFUL)

Alongside the applications for the use of the public highway for market purposes, yearly permissions have been granted for the use of the basement car park at 1 Elgin Avenue for the storage of street market stalls and associated equipment relating to the market. The most recent permission is as follows:

1.2.17 – Planning permission granted for the continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place and Maida Hill Market. This permission was limited until 31 October 2017 (16/10632/FULL).

## **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, 36 pitches are proposed on the site Monday to Saturday. In recent years a further 15 pitches have been allowed on Saturdays on Fernhead Road, however this is no longer proposed. The market will not operate on Sundays.

In 2017, a temporary permission was granted to the leaseholder of the basement carpark of 1 Elgin Avenue for the retailers of the market to store their goods at 1 Elgin Avenue, until 31 October 2017. This wasn't originally approved alongside the concurrent

market application 16/07725/COFUL as officers were informed that this space was no longer required by the market traders. The use of the storage area does also not form part of this application. However, an application for the use of the basement for storage has now been submitted and is to be determined in conjunction with this application.

## **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 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. Objection has been received from a nearby resident, raising general amenity concerns, in relation to the market.

As per the previous permission, the market will be confined to the very 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 residents are well understood, it is not considered that a further one year use, in the hours proposed 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. There is an area based city inspector who deals with logged complaints. A large majority of the logged complaints relate to music and anti-social behaviour in the area, seemingly centring around the permanent benches and not the market itself.

While it is apparent from the logs that there are issues relating to noise and anti-social behaviour, it is not considered that they are directly related to the market.

Subject to a condition to control the hours of operation of the street market, it is not considered that a refusal on amenity grounds could be sustained 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 previously expanded Saturday 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 WALTERTON ROAD. These alterations were the subject of a Traffic 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. Objections to the parking arrangements for the market on Fernhead Road have been received. This is not a matter for assessment under this application, as 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. Objections have been received on the grounds that the parking in the area is not controlled in the area. This is a matter for parking officers.

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 as the market has level access

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



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 the market is supplied with a Eurobin from Veolia, the 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. Objections in relation to smells and wastes from a fish stand have been received. The market pavement area requires regular cleaning, which is the responsibility of the City Council Street Cleansing Team.

One objection has been received on the grounds that since the market opened the levels of rubbish are unacceptable. Whilst there may be occasion where there is rubbish from traders/ visitors as would be expected for a function such as a market, any issues which are reported to the City Inspector prior to usual waste collection, are passed to Veolia and are 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 on these grounds..

### **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12 November 2018 and will close on Friday 21 December 2018. Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

### **8.9 Neighbourhood Plans**

None relate to this area.

### **8.10 London Plan**

This application raises no strategic issues.

### **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.

No pre-commencement conditions were recommended.

### **8.12 Planning Obligations**

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

The proposals are not considered to be CIL liable.

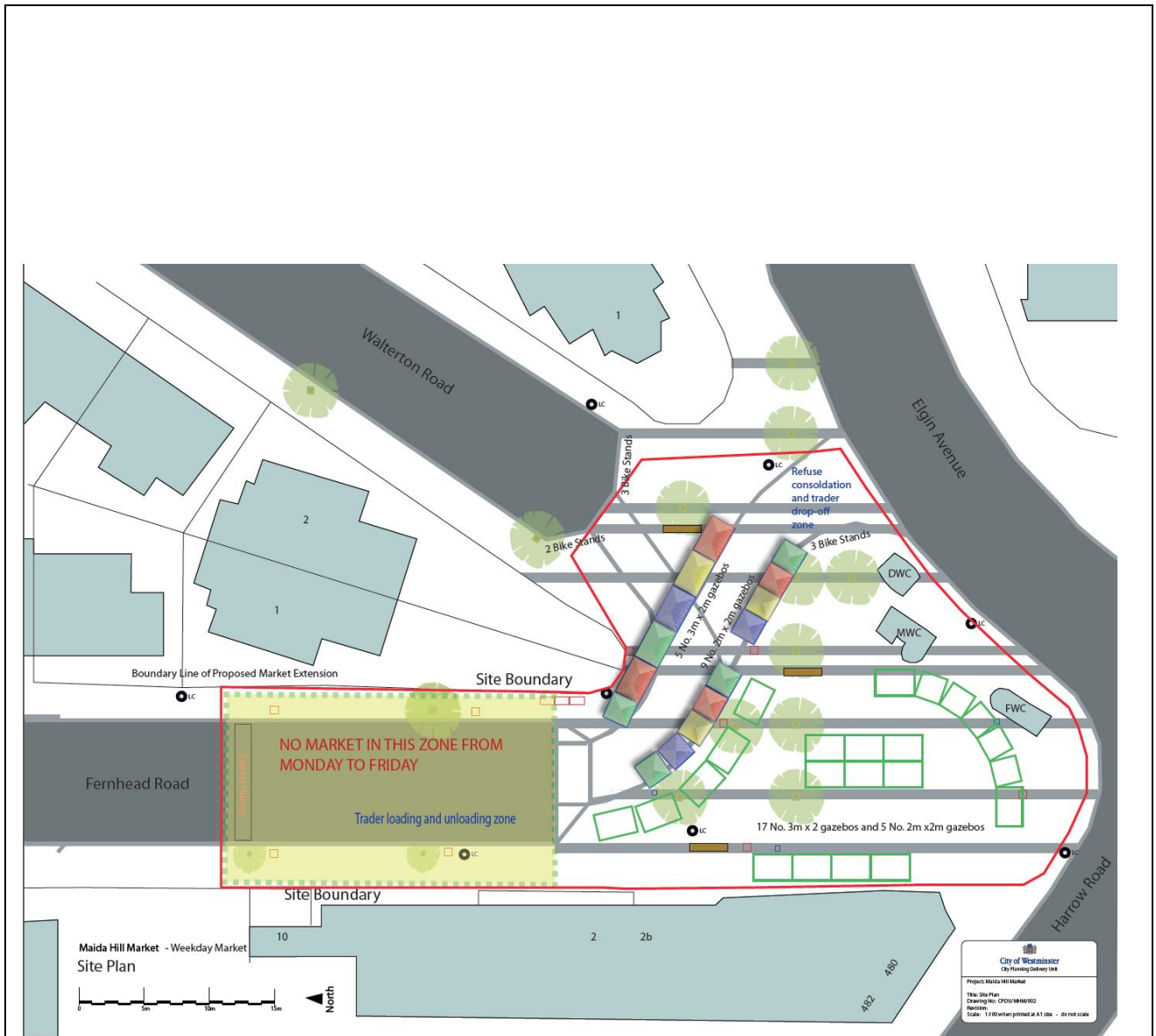
### **8.13 Environmental Impact Assessment**

Not applicable to a development of this scale.

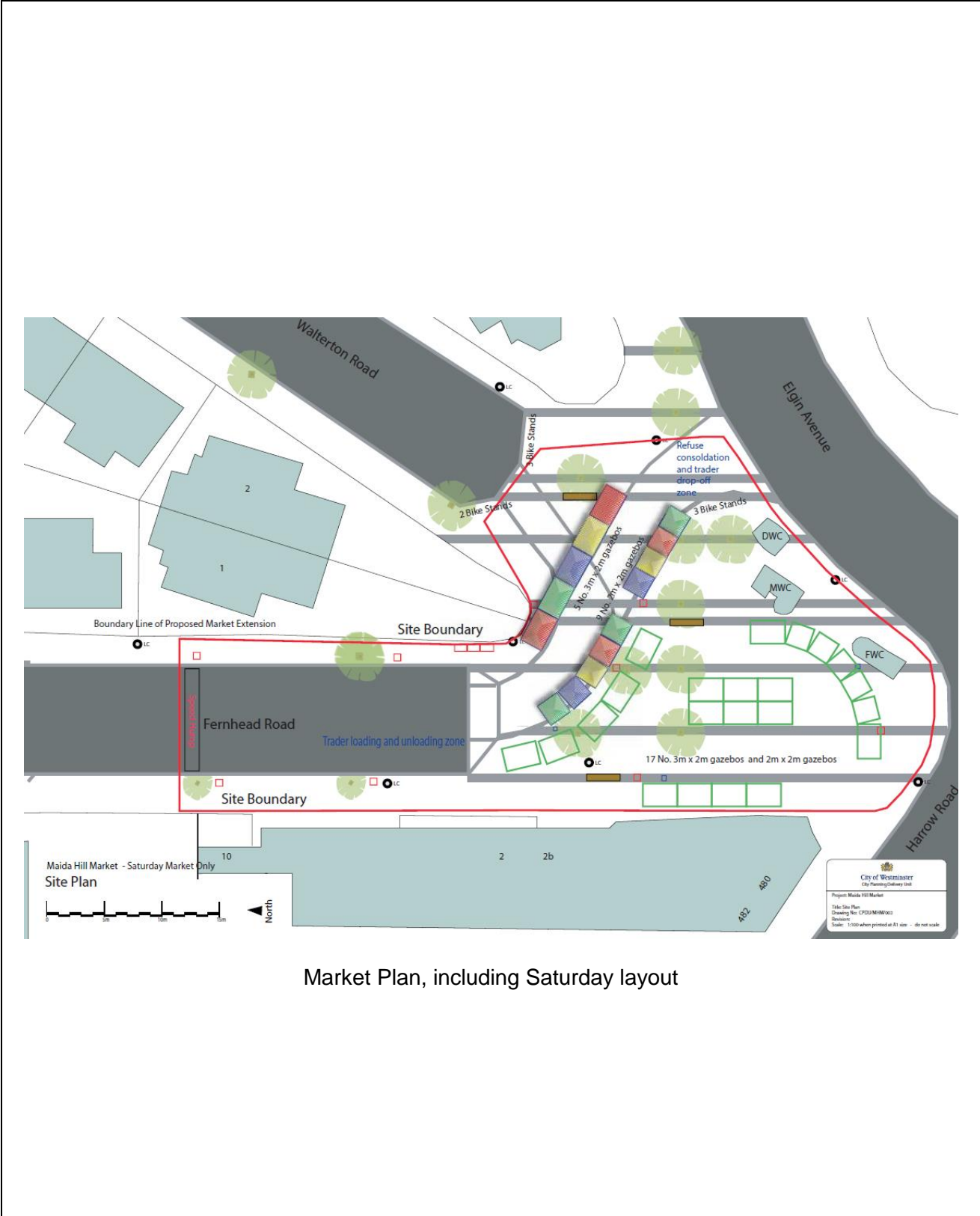
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

## 9. 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 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 December 2019.

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 which we adopted in November 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 (November 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 (November 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 (November 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.

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.