

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 19th April 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	Cavendish Square, London, W1G 9DB		
Proposal	<p>1. Erection of a Spiegel tent touring structure (with an internal capacity of up to 600), a box office, two bar areas, seven catering units, toilets, storage, outdoor seating areas and fencing with lighting and associated plant in conjunction with use of Cavendish Square for the Underbelly Festival at Cavendish Square 2022 (Sui Generis), with a maximum of 2,000 visitors at any one time, for a temporary period from 28 April 2022 to 31 July 2022. Installation and deinstallation will take place over the periods between 13 April 2022 and 8 August 2022.</p> <p>2. Temporary display of signages at Cavendish Square in association with the Underbelly Festival at Cavendish Square 2022 over the periods between 28 April 2022 to 31 July 2022, with installation and deinstallation taking place over the periods between 13 April 2022 and 8 August 2022.</p>		
Agent	Gerald Eve LLP		
On behalf of	Underbelly Limited		
Registered Number	22/01162/FULL 22/01127/ADV	Date amended/ completed	22 February 2022
Date Application Received	22 February 2022		
Historic Building Grade			
Conservation Area	Harley Street		

1. RECOMMENDATION

1. Grant conditional permission.
2. Grant conditional advertisement consent.

2. SUMMARY

Permission is sought for the use of Cavendish Square for a pop-up event for a temporary period of 3 months from 28 April. The proposals include a temporary theatre to the north-east of the Square together with seven food stalls and two bars and associated adverts. The event will be operated by Underbelly who have an established record of running festivals and outdoor events in the UK. Planning permission and advertisement consent were granted for similar proposals in 2021.

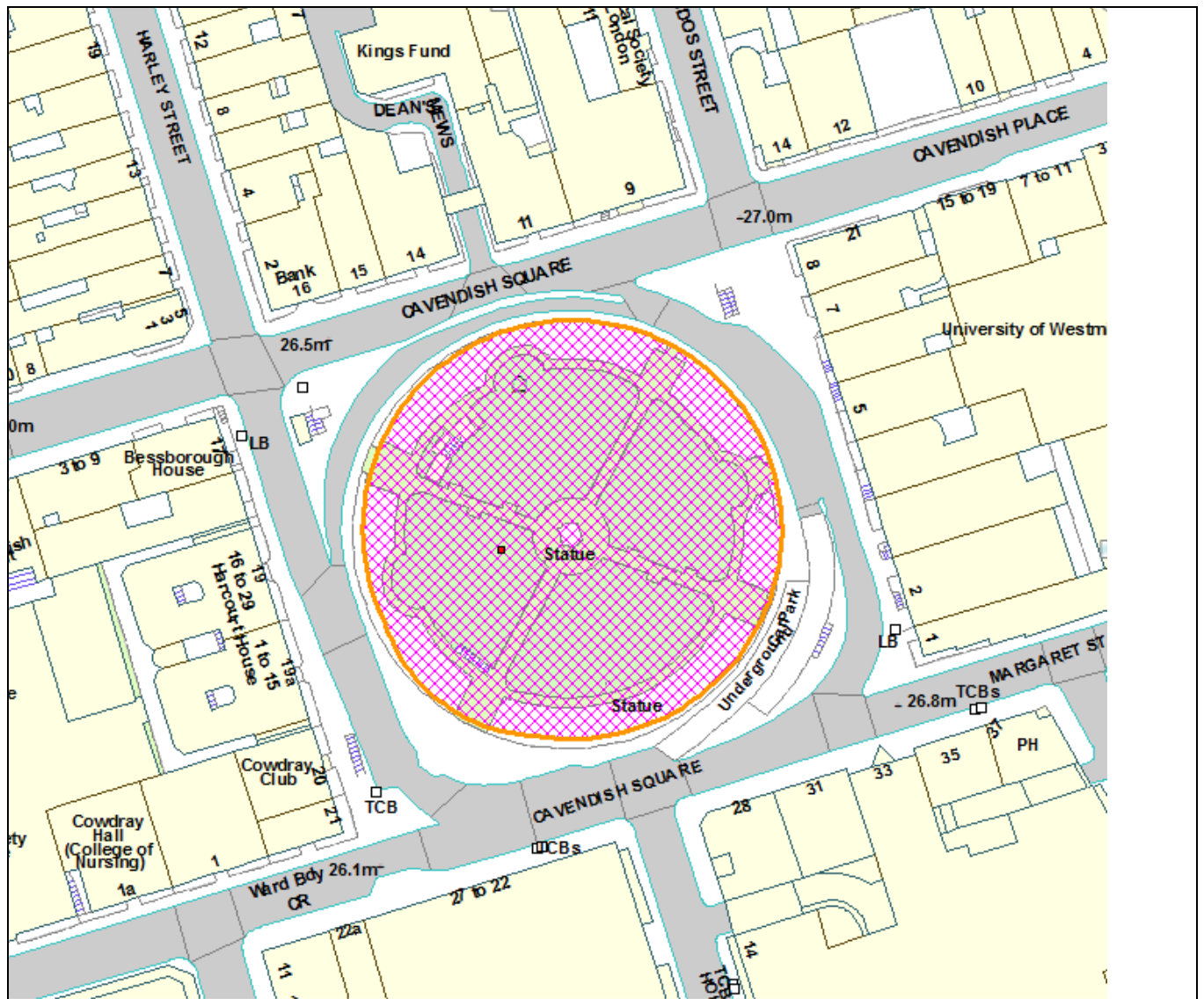
The key issues for consideration are:

- The acceptability of using the Square as an entertainment venue in land use and amenity terms.
- The impact of the structures on the townscape, the character and appearance of the Harley Street Conservation Area.

Cavendish Square is a sensitive historic environment of high significance. The proposed structures and advertisements will occupy a large part of the gardens and will be highly visible from the surrounding area. They are considered to have a harmful impact on the character of the gardens, the character and appearance of this part of the Harley Street Conservation Area and the setting of adjacent listed buildings. On the basis that it is only intended to be in place for a period of three months, it is considered that the impact on the heritage assets is one of less than substantial harm, because of the temporary nature of the structures and advertisements. However, the creation of a cultural event which would attract tourism and custom to the local area, and the jobs created by such an event, are considered public benefits which outweigh that harm.

Subject to appropriate conditions including requiring the event to be operated in accordance with the Operational Management Plan (OMP) and securing site restoration, the temporary scheme is considered acceptable.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

COUNCILLOR GLANZ

Supports attempts to ensure that the West End remains a vibrant and unique set of experiences for people to enjoy, but not at the expense of the significant loss of limited outdoor space to those who live here for such an extended period of time.

HISTORIC ENGLAND

No objections raised. Suggest that the 'Recommended management practices' set out in Historic England's good practice guide 'Temporary Structures in Historic Places' (2010) are followed.

HISTORIC ENGLAND (ARCHAEOLOGY)

No objections raised.

METROPOLITAN POLICE

Any response to be reported verbally.

THE GARDENS TRUST

Any response to be reported verbally.

LONDON HISTORIC PARKS AND GARDENS

Any response to be reported verbally.

MARYLEBONE ASSOCIATION

Objections raised on the grounds that the 3-month duration will prevent any use and enjoyment of the square for the majority of the spring and summer period; that 2,000 people will bring associated noise, disruption, with the added vehicular disruption caused by deliveries and waste removal; and that the drinking establishments may exacerbate disruption and anti-social behaviour. Object also to the loss of public accessible green space and as the proposed festival occupies the majority of the square, it renders it unusable. An alternative site should be considered.

WESTMINSTER PARKS & GARDENS

No objections raised.

HIGHWAYS PLANNING MANAGER

No objections raised.

ENVIRONMENTAL SCIENCES

No response to date.

ARBORICULTURAL OFFICER

No objections raised.

PROJECTS OFFICER (WASTE)

Additional bins/waste storage required.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 272; Total No. of replies: 4
No. of objections: 2
No. in support: 2

Two letters of objection raising the following concerns:

- *Cavendish square is too small a square and the tranquillity of the square is too important to locals, shoppers and visitors
- * The area is considered 'deprived of green space' and therefore it should not be reduced
- * Noise
- * Last year, the carnival music on the north side of Cavendish square was unbearable
- * Many pubs and restaurants have really struggled in the last 2 years and the proposals will suck trade from local hospitality businesses
- * 3 months is too long for such an event
- * Last year's effort just looked tatty, not a great attraction for the World Class Shopping Centre Oxford Street

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION**6.1 The Application Site**

Cavendish Square lies one block north of Oxford Street and one block to the west of Regent Street within the heart of the West End. The Square links into Henrietta Place and Margaret Street to the south west and south east, and Wigmore Street and Cavendish Place to the north west and north east.

Oxford Circus Underground Station is situated approximately 200 metres to the south east of the site. Beneath the gardens is a 3 level underground car park, accommodating 432 car parking spaces with car wash and toilet facilities totalling 17,443 m². The subterranean car park which was constructed in 1969 is open on a 24 hour basis. Above ground it comprises ramp enclosures and stair accesses mostly constructed in dark brown brick. The entrance and exit ramps are located in the south west corner.

The site lies within Marylebone, within the Harley Street Conservation Area, the Core Central Activities Zone and the West End Retail and Leisure Special Policy Area. Regent Street Conservation Area lies adjacent to the Harley Street Conservation Area to the east. Cavendish Square is surrounded by several Grade 2 and 2 * listed buildings. A grade 2 listed Statue of Lord George Bentinck is located at the southern end of the square.

The surrounding area is mainly commercial although Harcourt House No 19a Cavendish Square is a building of 25 flats situated on the western side of the Square.

6.2 Recent Relevant History

On 28 April 2020, a resolution to grant planning permission (subject to the completion of a S106 legal agreement, and the views of the Mayor of London) was reached for the “Demolition and erection of above ground structures in conjunction with the use of an underground car park (Sui Generis) as a flexible mixed use commercial development comprising uses within the following use classes A1-A5, B1, B2, B8, C1, C2, D1, and D2 along with the excavation of a 4th basement level, new entrances and associated landscaping and highways works to provide up to 25,953 sqm (GIA) of floorspace”.

On 2 June 2021, planning permission was granted for the “Erection of a Spiegeltent touring structure (with an internal capacity of approximately 500), a box office, a bar area, 9 catering units, toilets, storage, outdoor seating areas and fencing in conjunction with use of Cavendish Square for Underbelly Summer Event 2021 (Sui Generis), with a maximum of 2,000 visitors at any one time, for a temporary period from 14 June 2021 to 8 October 2021.”

7. THE PROPOSAL

Permission is sought for the installation of a temporary pop up events tent, market stalls, bar and ancillary facilities for a period of three months. The intention is that the event will be operational from 28 April 2022 to 31 July 2022. Advertisement consent for associated signage is also sought.

The proposals comprise 7 market food stalls, two bars, a box office, toilets and associated back of house storage, plant and equipment. The form of the events tent would be based on the travelling entertainment Spiegel tents from Belgium and Germany. The proposed structure primarily comprises a 23.5 metre diameter tent for the main arena, with a bar area and foyer space. The proposed structure consists of a steel frame, with wood panel cladding, coloured glazing, and a fabric roof. The main structure is 8.5 metres in height. Separate back of house equipment, dressing rooms and storage containers will be located to the north of the Spiegel tent.

The Spiegel tent is a self-contained theatre/cabaret tent, operated by Underbelly, which will have a capacity of 480 seated guests and 600 standing. It will house a range of live cabaret, comedy, music and children’s theatre. The Spiegel tent may also be used for ad-hoc events and functions in conjunction with, or for, local stakeholders, businesses and Westminster City Council. Entrance to the site will take place between 12:00 to 22:00 on Mondays and between 12:00 and 23:00 on Tuesday to Sundays. Performances in the theatre tent will terminate at these same times.

Access to the Spiegel tent will be for ticket holders or invited guests only. There will be free access to the food and drink stalls within the site, and the total capacity for the entire site is to be capped at a maximum of 2,000 visitors at any one time.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The London Plan policy SD4 promotes cultural, arts, entertainment and the nighttime

economy and tourism functions within the CAZ. London Plan policies HC5 supports the use of land for pop-ups or meanwhile uses for cultural and creative activities during the day and at night-time to stimulate vibrancy and viability and promote diversity in town centres, Cultural Quarters and other areas.

The site lies within the West End Retail and Leisure Special Policy Area, an area of world-renowned retail and leisure destinations and some of London's most recognised tourist attractions and public spaces. Policy 2 of the City Plan promotes an improved retail and leisure experience in this area and prioritises diverse evening and night-time economy and an enhanced cultural offer. In addition, Policy 15 seeks to maintain and enhance the attractiveness of Westminster as a visitor destination, balancing the needs of visitors, businesses and local communities.

Policy 16 states that proposals for food and drink and entertainment uses will be of a type and size appropriate to their location. In terms of arts and cultural uses, new uses are supported in commercial areas of the CAZ. The policy also states that events in the public realm should also support the character and function of the area in which they take place and must be organised in a way that minimise the impact on the long-term access to open space, amenity of residents, businesses and others, and maintain the quality of the public realm.

The use of Cavendish Square for a temporary pop-up event for leisure, cultural and entertainment uses is in accordance with these policies. Objectors contend that the Square is a quiet and calm place and that the proposals would result in a loss of green space in an area which is deprived of open space. Cavendish Square itself does not fall within an area of open space deficiency however, Policy 34 does protect all open spaces and their quality, heritage and ecological value, tranquillity and amenity. However, the supporting text for Policy 34 does indicate that open spaces may be used for temporary events, provided the land is fully remediated following the event.

The applicants have confirmed that the gardens will remain open for the public who do not wish to make use of Underbelly Festival's offering. The only area of the gardens that is ticketed is the Spiegeltent venue itself, which uses a relatively small section, and that once operational, the gardens will open every day as per the normal Westminster City Council opening hours so there are no restrictions on times it can be accessed. The applicants also confirms that they are looking to increase the number of gates from which the gardens can be accessed. Three of the four gates will be open until midday, and the north-west gate will be open whenever possible, including until 6pm daily, to allow a through-route through the gardens.

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 Square in accordance with City Plan policies.

The London Squares Preservation Act

The Square is protected by the London Squares Preservation Act 1931. The primary purpose of the Act is that protected Squares be preserved permanently as open space. The Act requires that a protected square should only be used for authorised purposes namely for the purpose of an ornamental garden, pleasure ground or ground for rest,

play and recreation. Section 3(1) of the Act states that only buildings and structures allowed on London Squares are those which are “necessary or convenient for, and in connection with, the use and maintenance of such squares.”

The Act does allow temporary uses in the gardens, provided they are for short periods only.

8.2 Townscape and Design

a. Cavendish Square

Cavendish Square was laid out as a garden by Charles Bridgeman in 1717 as an early part of the Cavendish-Harley Estate. It lies within the Harley Street Conservation Area and makes an important contribution to its significance, character and appearance.

Cavendish Square is a sensitive historic environment of high significance. On the east side of Cavendish Square are four grade 2 listed buildings and one grade 2 star. On the north side are two grade 2 star listed buildings and two grade 2 listed buildings. On the west side are three grade 2 and one grade 2 star listed buildings.

The gardens are not included on the Historic England register of historic parks and gardens but they are included in the list of squares and gardens protected by the London Squares Preservation Act 1931.

The primary negative feature of the Square is the underground car park which was created in 1970, along with new walls and railings erected around the garden. This has a harmful impact on the townscape quality and integrity of the Square, the character and appearance of the conservation area and the settings of the adjacent listed buildings.

b. Legislation and policy

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

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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.”

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. 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.

The London Squares Preservation Act 1931 seeks to protect designated squares, gardens and enclosures in Greater London. Section 3 (1) of the Act confirms that its purpose is to limit the use of London Squares to 'ornamental pleasure grounds or grounds for play, rest and recreation' and confirms that the only buildings and structures allowed on London Squares are those which are "necessary or convenient for, and in connection with, the use and maintenance of such squares."

c. The proposal

The proposed temporary event involves the erection of seven market stalls, a large tent, two bars, toilets and associated back of house storage and equipment, all within the gardens. The main structure is the Spiegeltent which will be located in the north eastern part of the site, with back of house storage stored to the rear, enclosed by hoarding. The Spiegeltent is constructed from steel and aluminium frames, with painted timber wall panels and coloured glazing. The roof will be grey tent fabric.

The walls and floors of the stalls will be clad with painted timber and have felt covered roofs. The bar takes the form of a shipping container, converted for use as a bar.

Advertisement consent is sought for a number of illuminated advertisements. These include three large signs at the entrances to the gardens, signs on the food stalls, three signs on the box office, one on the bar and one on the entrance to the Spiegeltent. The size of the adverts are the same as permitted in 2021.

There will also be five signs on the hoardings.

d. Consideration

The proposed structures and advertisements will occupy a large part of the gardens and will be highly visible from the surrounding area. They will have a harmful impact on the character of the gardens, the character and appearance of this part of the Harley Street Conservation Area and the setting of adjacent listed buildings. If this was a longer term proposal then it would result in substantial harm to the heritage assets referred to above, and would be wholly unacceptable

The proposals are considered to be contrary to the provision of the London Squares Preservation Act 1931, because they prevent the public from enjoying the gardens for the purposes they were intended for. However, the Act does allow temporary uses in the gardens, provided they are for short periods only.

e. Harm v benefits

On the basis that it is only intended to be in place for a period of four months, it is considered that the impact on the heritage assets could be said to be less than substantial harm, because of the temporary nature of the structures and advertisements. In considering this application the harm caused to heritage assets needs to be weighed up against any public benefits. The proposed theatre will provide economic and cultural gains, and the provision of a pop-up visitor attraction for a temporary period will help to attract workers, residents and visitors to the area and create a number of temporary jobs. The public benefits are considered to outweigh the less than substantial harm caused, and the proposal is considered acceptable in terms of its impact on the designated heritage asset(s). Therefore, the recommendation to grant conditional permission is compliant with the requirements of the NPPF and the statutory duties of

the Planning (Listed Buildings and Conservation Areas) Act 1990.

8.3 Residential Amenity

In amenity terms the main issue is the impact of noise from the proposed events, and the impact of additional people attracted to the Square, and whether this will also cause significant additional noise and disturbance.

There are residential flats in Harcourt House to the west of the Square, flats at 14 John Princes Street to the east, and some residential to the north of the Square in Harley Street, Deans Mews and Chandos Street. However, the majority of buildings in the Square are in commercial use.

Objectors are concerned that the event will cause noise and disturbance and comment that the music from last year's event was unbearable. It is acknowledged that the proposed use has the potential to result in an increased noise nuisance to neighbouring residential occupiers and later into the evening. The hours of operation are restricted, with a terminal hour of 23:00 every night, apart from Mondays when the festival will close at 22:00. These hours are earlier than last year, when the event closed at 23:00 Sundays – Wednesdays and 23.30pm on Thursdays, Fridays and Saturdays.

Performances in the Spiegeltent are programmed from midday daily and ending at 22:00 on Sundays to Wednesday and 23:00 on Thursdays to Saturdays. In addition, the Spiegeltent has been located to the north-west of the site, which is the furthest point within the Square from the residential flats in Harcourt House. It is also anticipated that most customers at the end of the events will head south either to public transport links on Oxford Street or the taxi rank on the south side of Cavendish Square.

The capacity of the Spiegeltent has been reduced from 800 standing / 650 seated last year to 600 standing / 480 seated this year. This is due to the internal layout of the stage and a slight reduction in the size of the tent compared to last year.

In response to the concerns raised to the capacity of the event, the applicants have confirmed that although the planning application states a capacity of 2000, this is based on the square meterage of the gardens and the fact that it remains a public park for the duration of the event. In 2021, where the same capacity was in place, there were no more than 100 people in the gardens when performances were not taking place in the Spiegeltent and the maximum capacity never exceeded 600 people on site at any given time.

The application is also supported by an operational management plan (OMP) which sets out a number of measures to ensure it will not have a detrimental impact on the amenity of adjoining residents, including: calendar and operational times, dispersal policies, management structure roles and responsibilities, security, pedestrian and vehicular access, health and safety, evacuation procedure, refuse waste management and neighbour liaison procedures. The headlines in the suggested OMP appear to be comprehensive.

A noise management plan has also been submitted that sets out the following measures to control noise:

- i. The Spiegeltent structure has a wooden surround with a heavy internal fabric to attenuate sound levels.
- ii. Underbelly will agree sound levels, the procedure for setting such sound levels and the method for ensuring that they are adhered to in accordance with the Licensing Authority.
- iii. Amplified noise levels within the Spiegeltent shall be restricted so as not to exceed 85dB(A) Leq over any 15 minute period when measured at the mixing desk.
- iv. The timing of daily events has been made to ensure that there is no amplified noise audible from the site above the off-site environmental noise, at the closest noise sensitive premises after 10pm on any day.

In preliminary discussions Environmental Sciences have raised no objections and have advised that there were no noise or other complaints received following last year's event. As with last year's event, noise limits will be set, and agreed with Environmental Services before any events commence. A condition is recommended which requires the use to operate in accordance with the submitted OMP. On this basis it is considered that the use would operate without detriment to the locality.

8.4 Transportation/Parking

City Plan policy 24 supports a sustainable pattern of development which maximises trips made by sustainable modes and Policy 25 prioritises pedestrian movement. The proposed use is likely to generate an increase in trips to the site. Underbelly expect most customers to make use of public transport and actively encourage use of public transport to access their events. For those with mobility issue who do require the use of a car to access the event, there is a 24-hour taxi rank located on the Square itself. In addition, there is a 24-hour car park located beneath Cavendish Square with 432 spaces including charging bays for electric vehicles.

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 applicant advises that events are programmed to allow for a graded dispersal of customers and to ensure the entry and egress of patrons is managed safely and its impact minimised. Underbelly submit that the event is designed so that any queuing which does take place, takes place within the footprint of the festival site. Customers are encouraged to purchase tickets in advance to avoid any queues at the box office. Any queue which may occur due to checking of tickets will occur at the entrance to the tent, within the footprint of the site, rather than the entrance to the site. Entry is free to the site itself, so other than bag checking, there will be no delay in customers entering.

Whilst an assessment of how many customers would be expected to enter and leave by each entrance/exit has not been provided, the Highways Planning Manager accepts that the application is very much for a temporary period, and that the time of most concern is at the end of performances when stewards will be deployed to the relevant crossing points to support pedestrian movements. This is one of the measures within the OMP and will be secured by condition.

Servicing

Policy 29 requires servicing, collection and delivery needs to be fully met within a development site. The Highways Planning Manager recognises that the constraints of the site preclude off street servicing.

Deliveries and servicing to the Site will take place on street on the eastern side of the Square. All deliveries at this stage of the development are pre-scheduled and will be made between 6am and 12pm. No deliveries will be scheduled after opening time. The applicant advises that the number of deliveries is likely to be low, with one daily delivery for food, one for refuse and six deliveries per week for drink. Subject to this amended delivery location, it is considered that vehicular activity associated with the development will not adversely impact on the highway.

These measures are the same as in the event agreed last year, and the Highways Planning Manager advises that this did not appear to cause any highway safety/disruption problems and is acceptable.

Cycling

London Plan cycle parking standards require 1 space per 8 staff and 1 space per 30 customers. Whilst it is unlikely that there will be many people cycling to the site, some staff are likely to cycle and a condition is proposed requiring cycle spaces to be made available on site.

8.5 Economic Considerations

The Event would create 120 temporary jobs and Underbelly commit to seeking to recruit locally where appropriate. For the installation and de-installation periods, Underbelly works with crewing company 'Connection Crew' which gets ex-homeless people back into work.

Objectors are concerned that the proposal would affect local hospitality and in response the applicants have confirmed that food and non-alcoholic drinks purchased elsewhere can be consumed in the gardens. The only restriction is that alcohol purchased elsewhere cannot be consumed. As well as being a licensing condition, this allows Underbelly staff to ensure that sensible drinking is encouraged and prevents anti-social behaviour.

8.6 Access

The gardens will remain open to the public at all times during the day, with restricted access only if capacity is exceeded. As throughout the rest of the year, the gardens will be closed at night.

The scheme will provide level access to all the event facilities in accordance with Part M of the building regulations.

8.7 Other UDP/Westminster Policy Considerations

Plant

An acoustic report has been submitted in support of the application assessing the

background noise levels measured at the nearest noise sensitive receptors. The report assesses noise from the plant including the chillers and generator plant. Subject to the normal noise conditions, this aspect of the application is considered to be acceptable.

Refuse /Recycling

An area for waste and recycling has been shown on the plans, and an updated drawing has been received to show the capacity of the waste storage bins to address the concerns of the Waste Project Officer.

Bins will be provided at entrances and exits and the operator intends to employ staff to perform a rubbish patrol following closure. This patrol will pick up bottles, flyers, food wrapping etc. in the immediate vicinity of the premises. This is set out within the OMP.

Trees

The gardens comprise mainly mature London Planes, ornamental shrubs, amenity grass and a hedge enclosure that runs around the circular garden area. All the trees within the site are protected by Tree Preservation Orders and are to be retained. The application is supported by an Arboricultural Impact Assessment that sets out that during the construction and dismantling of the development, the root protection areas of a number of the trees will require suitable tree protection. This will be by ground protection and tree protection fencing. The Councils Arboriculturist advises that the tree protection details within the submitted arboricultural report are similar to that approved within last year's application for the same event and are sufficient.

Air Quality

Policy 32 expects all major developments to be air quality neutral and requires all new development that include potentially air pollution generating uses to demonstrate how these impacts are being appropriately minimised and mitigated. In this case, the proposals do include a diesel generator and an informative has been added to ensure that the operation of the generator meets with the same emission standards as laid down in the Non-Road Mobile Machinery (NRMM) Regulations. The Council also has an air quality monitoring station on Cavendish Square that will be used to gauge any impact on the monitoring results.

Lighting

Festoon lighting will be hung around the entire site boundary above the perimeter hoarding and there will be flood lighting within the site. At the end of trading, lighting will be reduced to encourage the gradual dispersal of customers. An informative has been added to the decision notice to ensure that any lighting does not cause any nuisance for neighbours at night.

8.8 Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in

Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.9 Neighbourhood Plans

None relevant.

8.10 London Plan

This application raises no strategic issues.

8.11 National Policy/Guidance Considerations

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2021 unless stated otherwise.

8.12 Planning Obligations

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

8.13 Environmental Impact Assessment

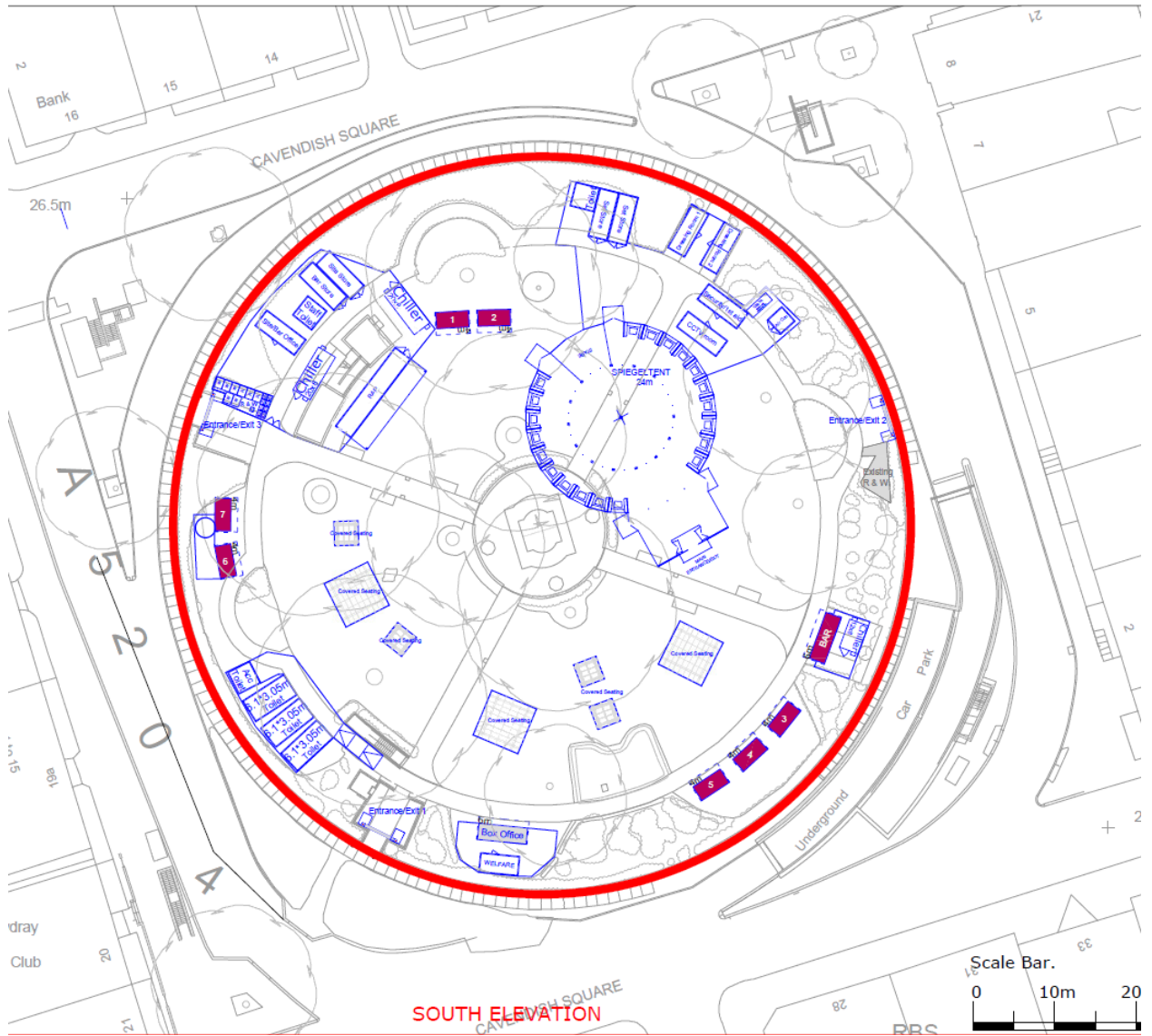
The proposals are not of sufficient scale to require an Environmental Impact Assessment.

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

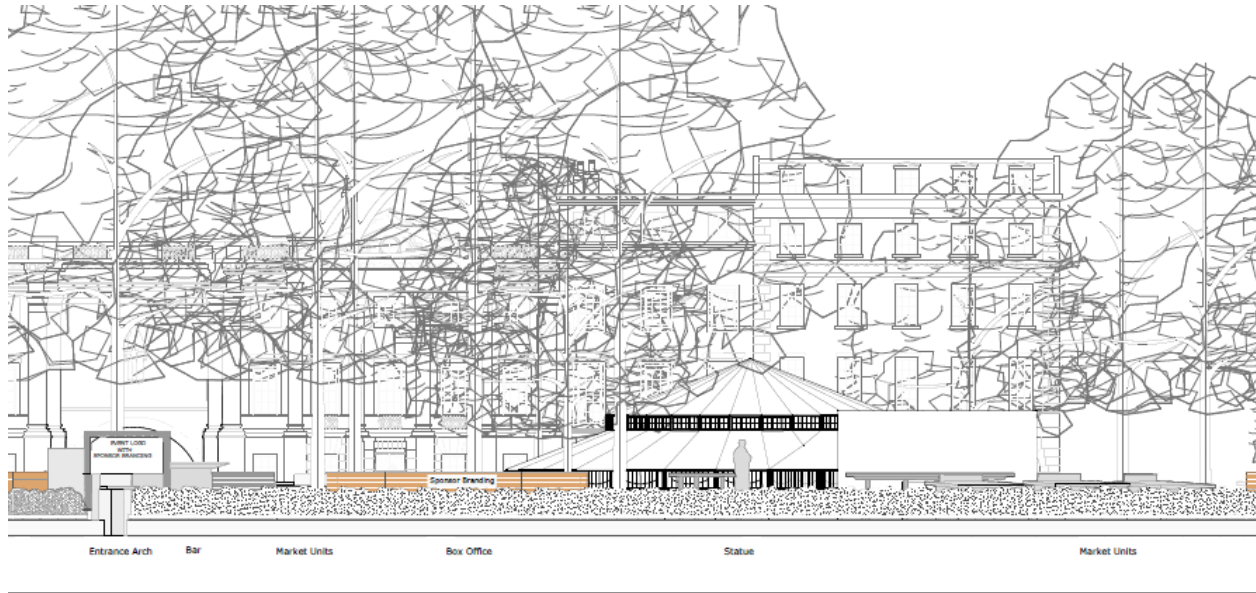
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT mhollington@westminster.gov.uk

9. KEY DRAWINGS

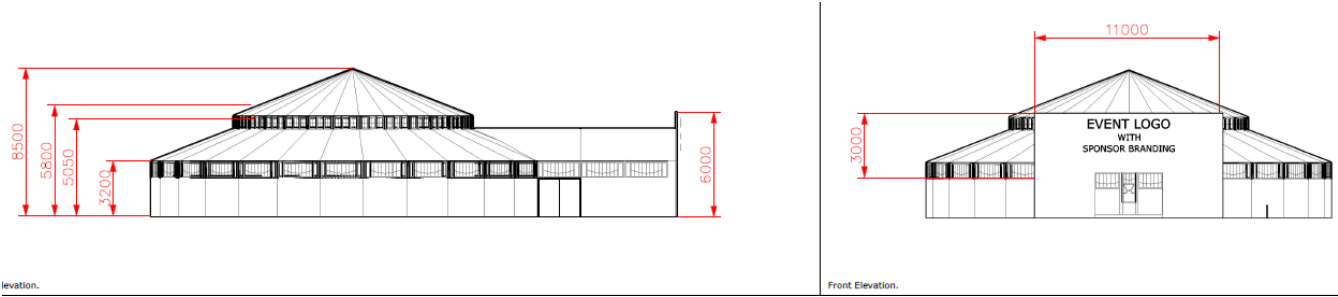
Site plan



South elevation



Spiegeltent



levation.

Front Elevation.

DRAFT DECISION LETTER

Address: Cavendish Square, London, W1G 9DB

Proposal: Erection of a Spiegeltent touring structure (with an internal capacity of up to 600), a box office, two bar areas, seven catering units, toilets, storage, outdoor seating areas and fencing with lighting and associated plant in conjunction with use of Cavendish Square for the Underbelly Festival at Cavendish Square 2022 (Sui Generis), with a maximum of 2,000 visitors at any one time, for a temporary period from 28 April 2022 to 31 July 2022. Installation and deinstallation will take place over the periods between 13 April 2022 and 8 August 2022.

Reference: 22/01162/FULL

Plan Nos: UB-CSS-22-003, UB-CSS-22-004, UB-CSS-22-005, UB-CSS-22-006, UB-CSS-22-007, UB-CSS-22-008, UB-CSS-22-009, UB-CSS-22-0010, UB-CSS-22-0011, UB-CSS-22-0012; UB-CSS-22-201; Noise Survey and Acoustic Assessment dated 1 February 2022; Tree Survey and Arboricultural Impact Assessment dated February 2022; Operational Management Plan v1.3 dated 14 March 2022

Case Officer: Jo Palmer

Direct Tel. No. 020 7641
07866040238

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

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

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

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 The development hereby permitted shall not be begun before 28 April 2022 and can continue until 31 July 2022. After that the use must end and you must remove the structures, seating and fencing. You must then return the land to its previous condition and use.

Reason:

The building should not remain for a longer period because it would be contrary to Policy 34 of the City Plan 2019-2040. (R03BC)

- 4 Customers shall not be permitted to events within the Square before 12:00 or after 22.00 hours on Mondays, and before 12:00 and after 23:00 Tuesdays to Sundays.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 5 You must carry out the measures included in your management plan dated 14 March 2022 at all times that the Event use is in use. (C05KA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 6 (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 in writing 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 in writing 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 written approval by the City Council. Your submission of a noise report must include: (a) A schedule of all plant and equipment that formed part of this application; (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment; (c) Manufacturer specifications of sound emissions in octave or third octave detail; (d) The location of most affected noise sensitive receptor location and the most affected window of it; (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (g) The lowest existing LA90, 15 mins measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment. (C46AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note (November 2019), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

- 7 Before you operate the event use, you must provide the separate stores for waste and materials for recycling shown on drawing number UB-CSS-22-201 and thereafter you must permanently retain them for the storage of waste and recycling. You must clearly mark them and make them available at all times to everyone using the event use.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 8 You must not start any site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until you have carried out the tree protection measures within the submitted arboricultural report dated February 2022.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021).

(R31AD)

- 9 You must provide a minimum of 25 cycle parking spaces prior to the commencement of the Event use. Thereafter the cycle spaces must be retained and the space used for no other purpose. (C22FC)

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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 Please make sure that the lighting is designed so that it does not cause any nuisance for neighbours at night. If a neighbour considers that the lighting is causing them a nuisance, they can ask us to take action to stop the nuisance.
- 3 The diesel generator should meet with the same emission standards as laid down in the Non-Road Mobile Machinery (NRMM) Regulations

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.

DRAFT DECISION LETTER

Address: Cavendish Square, London,

Proposal: Temporary display of signages at Cavendish Square in association with the Underbelly Festival at Cavendish Square 2022 over the periods between 28 April 2022 to 31 July 2022, with installation and deinstallation taking place over the periods between 13 April 2022 and 8 August 2022.

Reference: 22/01127/ADV

Plan Nos: UB-CSS-22-003, UB-CSS-22-004, UB-CSS-22-005, UB-CSS-22-006, UB-CSS-22-007, UB-CSS-22-008, UB-CSS-22-009, UB-CSS-22-0010, UB-CSS-22-0011, UB-CSS-22-0012;

Case Officer: Jo Palmer

Direct Tel. No. 020 7641
07866040238

Recommended Condition(s) and Reason(s)

- 1 The advertisements can stand until 8 August 2022. You must then remove them without delay.

Reason:

The advert is temporary, so under Policy 43 of the City Plan 2019-2040 (April 2021), we can only approve it for a limited period. (R04AC)

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.