



City of Westminster

# Licensing Sub-Committee Report

Item No:

Licensing Ref No:

**16/04480/LIIS**

Date:

**7 July 2016**

Classification:

**For General Release**

Title of Report:

**Street Trading  
Pitch 1771 – Marylebone Road, NW1 5LR**

Report of:

**Operational Director Premises Management**

Policy context:

**To provide a safe, well-regulated environment.**

Financial summary:

**None**

Report Author:

**Taruna Adnath, Senior Licensing Officer  
Street Licensing, Premises Management**

Contact Details:

**Telephone: 020 7641 1496  
E-mail: [tadnath@westminster.gov.uk](mailto:tadnath@westminster.gov.uk)**

## 1. APPLICATION DETAILS

<b>Proposal:</b>	The designating resolution passed by the Council on 25 July 1990, subsequently varied on 16 December 1999, be varied so as to vary the designation of Pitch 1771 located at Marylebone Road		
<b>Applicant:</b>	Lee Robert Kitchiner	<b>Date Application Received:</b>	13 October 2016
<b>Pitch and Location:</b>	Isolated Pitch 1771 – Marylebone Road, NW1 5LR		
<b>Ward Name:</b>	Regent's Park		
<b>Description of Current Receptacle:</b>	Removable kiosk selling wrapped ice-cream, soft ice-cream, soft drinks and crepes. Dimensions of the pitch: L3.65m W1.52		

### **A SUMMARY OF PURPOSE OF THIS REPORT:**

The Licensing Sub Committee is asked to consider the results of the statutory consultation to vary the pitch designation of Pitch 1771 located at Marylebone Road to a new proposed location as detailed further in this report

### **B Licensing Background**

Mr Lee Robert Kitchiner was first licensed in 2004, after the previous licence holder, Mr Titelbaum transferred his licence to Mr Kitchiner due to retirement. Mr Kitchiner had worked for Mr Titelbaum for over 14 years, when the licence was transferred. Pitch 1771 is located on the pavement on Marylebone Road at its junction with Allsop Place in front of Madame Tussaud.

The licence permits the sale of wrapped ice-cream, soft ice-cream, soft drinks and crepes.

#### **Appendix A**

### **C Planning Background:**

On 7 April 2014, Mr Lee Robert Kitchiner submitted a planning application bearing reference 14/03272/LIFULL seeking permission to:

- (a) Relocate the existing street trading pitch designation to a position approximately 5m away from the original designation
- (b) Approval of a semi permanent kiosk

Planning permission was granted on 2 June 2015. **Appendix B (Copies of Planning Decision and Licensing Sub Committee Report)**

On 13 October 2015, Mr Lee Robert Kitchiner approached the Licensing Service to initiate the procedure to relocate the existing pitch designation in line with the Planning decision. **Appendix C**

### **D Relevant Responses:**

On 6 May 2016, the Licensing Service undertook the statutory consultation to vary the designating resolution passed on 25 July 1990, subsequently varied on 16 December 1999.

The Licensing received no response to the statutory consultation. Ward Councillors were consulted

and no response was received.

**MATTERS FOR CONSIDERATION:**

Mr Lee Robert Kitchiner has advised the Licensing Service that the new receptacle will be in place around November 2016.

The Licensing Service has advised Mr Kitchiner that if Members are minded to grant the variation of designation, a variation application to change the pitch designation/location on the current street trading licence and a further application for approval of receptacle need to be submitted and same will be dealt by an authorised officer of the Licensing Service in accordance with the Scheme of Delegation.

Members are invited to consider:

- (a) In principle, the variation of the original designation of Pitch 1771 to be moved 5m away as per location plan showing the existing pitch location to the proposed new designation attached at **Appendix D** and in line with the Planning Permission attached at **Appendix B**.
- (b) To delegate to an authorised officer of the Licensing Service to determine the date that the actual variation of the designation will take effect.

<b>Current Licensing Position</b>	A permanent street trading licence under the City of Westminster Act 1999 is held by Mr Kitchiner to trade from pitch 1771. Mr Kitchiner is licensed to sell wrapped ice-cream, soft ice-cream, soft drinks and crepes  The existing designated area of the pitch is L3.65m x W1.52m. <b>See Appendix A</b>
<b>Current Planning Position</b>	Planning permission ref 14/03271/LIFULL was granted for 3 years. <b>See Appendix B</b>
<b>List of Appendices:</b>	A - Permanent street trading licence B - Planning Permission 14/03271/FULL C- Email from Applicant dated 13 October 2015 D - Location Plan showing proposed new designation
<b>Results of Ward Member Consultation</b>	No response

**1. STREET TRADING POLICY**

The following policies within the City Of Westminster Statement of Street Licensing Policy apply:

**Stall Design- Policy ST1**

*Only those stalls approved by an authorised officer of the licensing authority shall be used by the licence holder (in accordance with Standard Condition 10). Stalls must be visually appealing, be of sound construction, easy to maintain, adequate for the purposes intended and must meet with all the licence conditions as well as the following criteria. The Westminster Way Catalogue provides details of the stalls likely to be considered suitable and unsuitable for street trading*



*Policy ST1(6) states that "Planning permission will be required for all stalls not removed at nights. Stalls that meet the following descriptions will be likely to be considered acceptable in design terms in suitable locations"*

*Policy ST1(7) states that the "traditional Heritage Kiosk will be the minimum standard acceptable to the Licensing Authority but may not be appropriate in areas of the highest townscape quality."*

*Policy ST1(8) states "Where licensed traders wish to trade from stalls other than Heritage Kiosk, preference will be given to the stalls shown in the Westminster Way Catalogue and which meet the description given in 1(9) below. Other designs of kiosk would need special consideration and would only be approved if they are considered an improvement for the locality."*

## **2. LEGAL FRAMEWORK**

### **VARIATION OF DESIGNATION:**

- 2.1 Under the provisions of section 6(1) of the Act, the council must, before passing a resolution to vary a designating resolution, consult the Commissioner of Police, Highway Authority, any body representing the relevant street traders, and all licence holders who might reasonably be affected by the proposed resolution.
- 2.2 Section 6(5) of the Act provides that the council shall give to any person who makes representations by the due date an opportunity to make oral representations to the council and may at their discretion give to other persons making representations a similar opportunity.
- 2.3 For the present exercise officers have extended consultation to include the Planning Department.
- 2.4 Under Section 19(1) of the Act, any person aggrieved by a resolution varying or rescinding a designating resolution may appeal to the Magistrates' Court. An appeal may be brought at any time before the expiration of a period of three months commencing on the date on which notice of the proposed resolution has been given in writing to the person aggrieved.
- 2.5 Any procedural deficiencies may also be challenged by an application to the High Court for Judicial Review.

If you have any questions about this report, or wish to inspect one of the background papers, please contact <b>Taruna Adnath</b> on <b>020 7641 1496</b> or at <a href="mailto:tadnath@westminster.gov.uk">tadnath@westminster.gov.uk</a>
--

### **Background Documents – Local Government (Access to Information) Act 1972**

- City of Westminster Act 1999
- City Of Westminster Statement of Street Licensing Policy adopted in December 2013
- Rules of Procedure for Licensing Sub-Committee



DUPLICATE LICENCE



1. THE WESTMINSTER CITY COUNCIL hereby grants to Mr Lee Robert Kitchener  
A licence to engage in street trading in the City of Westminster on Pitch 1771
2. This licence authorises the holder to trade solely in the articles, and in the manner, and at the places and times specified in the Schedule to the licence and is granted subject (1) to the standard conditions made under Section 10(1) of the City of Westminster Act 1999; (2) to any Act amending the same and to any Orders made thereunder; and (3) to any other statutory enactment which is in force for the time being.
3. This licence shall remain in force until it is cancelled or revoked by the Council.

Dated this: 7 September 2006 \_\_\_\_\_  
 DIRECTOR OF LEGAL AND ADMINISTRATIVE SERVICES

**SCHEDULE**

Class of Articles	Wrapped Ice-Cream, Soft Ice-Cream, Soft Drinks and Crepes						
Street	<b>Isolated Pitch 1771</b>						
Position or Place at which the holder may trade	Marylebone Road North Footway Fronting London Planetarium Backing Onto Guard-Rails Between Allsop Place and Layby						
Size of Pitch	L: 3.65m W: 1.52						
Day	MON	TUE	WED	THUR	FRI	SAT	SUN
From Time	09:00	09:00	09:00	09:00	09:00	09:00	09:00
To Time	20:00	20:00	20:00	20:00	20:00	20:00	20:00

FURTHER CONDITIONS

# APPENDIX B

Westminster City Council

Westminster City Hall  
64 Victoria Street  
London SW1E 6QP

westminster.gov.uk



City of Westminster

CERTIFIED TRUE RECORD OF  
COUNCIL'S DECISION OF \_\_\_\_\_

- 2 JUN 2015

Your ref: MR LEE KITCHINER  
My ref: 14/03271/FULL

Please reply to:  
Tel No:

Richard Langston  
020 7641 7923

Mr Lee Kitchiner  
Crepes & Shakes  
Licensed Pitch 1771  
Outside Madame Tussauds  
Marylebone Road  
London  
London  
NW15LR

**Development Planning**  
Westminster City Hall  
64 Victoria Street  
London SW1E 6QP

2 June 2015

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990  
PERMISSION FOR DEVELOPMENT (CONDITIONAL)

The City Council has considered your application and permits the development referred to below subject to the conditions set out and in accordance with the plans submitted.

Unless any other period is stated in the Schedule below or by conditions attached; this consent, by virtue of Section 91(1) of the Town and Country Planning Act 1990 (as amended), is granted subject to the condition that the development shall be commenced within 3 years of the date of this decision.

Your attention is drawn to the enclosed Statement of Applicant's Rights and General Information.

## SCHEDULE

<b>Application No:</b>	14/03271/FULL	<b>Application Date:</b>	07.04.2014
<b>Date Received:</b>	07.04.2014	<b>Date Amended:</b>	08.09.2014
<b>Plan Nos:</b>	LKMR001RevASR; LKMR003; LKMR005; LKMR007; 3032-DR-001Rev05; 3032-DR-002Rev05; 3032-DR-003Rev05; 3032-DR-004Rev05; 3032-DR-005Rev05; 3032-DR-006Rev05; Photographs; Statement;		
<b>Address:</b>	Pitch 1771, Marylebone Road, London, NW1 5LR		
<b>Proposal:</b>	Relocation of street trading pitch and new kiosk.		

See next page for conditions/reasons.

Yours faithfully

John Walker  
Director of Planning



14/03271/FULL

**Conditions:**

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

**Reason:**

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

- 2 You must carry out any building work which can be heard at the boundary of the site only:
  - \* between 08.00 and 18.00 Monday to Friday;
  - \* between 08.00 and 13.00 on Saturday; and
  - \* not at all on Sundays, bank holidays and public holidays.

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

**Reason:**

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

- 3 The building can remain for 3 years from the date on this decision letter. After that you must remove it and return the land to its previous condition.

**Reason:**

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 4 The kiosk canopies shall be secured shut except during trading hours.

**Reason:**

To protect the environment of people in neighbouring properties and the appearance of the site. This is in line with S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7, DES 5 and DES 6 of our Unitary Development Plan that we adopted in January 2007. (R13CC)

**Note:**

- The Plain English Crystal Mark applies to those conditions, reasons and informatives in this letter which have an associated reference number with the prefix C, R, X or I.
- The terms 'you' and 'your' include anyone who owns or occupies the land or is involved with the development.
- The terms 'us' and 'we' refer to the Council as local planning authority.







- 5 All trading activity and storage of refuse shall be within the licensed trading area.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

- 6 No advertisements shall be displayed on the kiosk hereby approved other than those comprising the name of the trader of the kiosk and the nature of his or her business.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Dorset Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 7 No items of merchandise shall be displayed or installed on the outside of or hung from the canopy of the kiosk.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Dorset Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 8 The windows shall remain clear of advertisements at all times. No advertisements shall be displayed on the outside or behind the windows of the kiosk.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Dorset Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 9 The base of the kiosk shall not extend beyond the boundary of the designated pitch and shall not be formed of concrete.

Reason:

To ensure that the kiosk does not extend beyond the area highway designated as a street trading pitch and that the kiosk can be easily removed if this is necessary for any reason.

Note:

- The Plain English Crystal Mark applies to those conditions, reasons and informatives in this letter which have an associated reference number with the prefix C, R, X or I.
- The terms 'you' and 'your' include anyone who owns or occupies the land or is involved with the development.
- The terms 'us' and 'we' refer to the Council as local planning authority.





- 10 You must apply to us for full particulars of the colour and finish of the external panelling of the kiosk.

You must not start any work on the development until we have approved what you have sent us.

You must then carry out the work according to these particulars.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Dorset Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 11 You must not start work on the site until appropriate arrangements have been made with the City Council in consultation with Transport for London to secure the following.

Relocation of Ledgible London totem sign.

You must include in the arrangements details of when you will carry out the alterations. You must only carry out the development according to the approved arrangements. The relocation of the sign must take place before the new kiosk opens.

Reason:

To make sure that an acceptable standard of public highway is provided where this is effected by the development, as set out in S33 of Westminster's City Plan: Strategic Policies adopted November 2013 and in accordance with Policy S41 of Westminster's City Plan: Strategic Policies i and TRANS 3 of our Unitary Development Plan that we adopted in January 2007.

- 12 You must not start work on or occupy the new kiosk location until the kiosk on Pitch 1771 is removed.

Reason:

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

**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: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

Note:

- The Plain English Crystal Mark applies to those conditions, reasons and informatives in this letter which have an associated reference number with the prefix C, R, X or I.
- The terms 'you' and 'your' include anyone who owns or occupies the land or is involved with the development.
- The terms 'us' and 'we' refer to the Council as local planning authority.







- 2 Condition 11 prevents work starting on the development until you have applied for, and approval has been given for certain matters. It is important that you are aware that any work you start on the development before approval has been given will not be authorised by this permission.
- 3 Please contact Coleen Gardner, the City Council's Legible London Project Manager on 0207 641 3142 for further advice regarding suitable arrangements to meet Condition 11. You will be expected to pay for all costs associated with the signs relocation, including the physical works and legal costs.
- 4 Under condition 11 we are likely to accept a legal agreement under section 106 of the Town and County Planning Act to secure the relocation of the Legible London totem sign . Please look at the template wordings for planning obligations (listed under 'Supplementary planning guidance') on our website at [www.westminster.gov.uk](http://www.westminster.gov.uk). Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition. (177AA)

Note - As the requirements of the Building Regulations may impact on the design of the proposed development, our Building Control team can offer advice and guidance at an early stage. If you would like to take advantage of this free service please contact 020 7641 7230 to arrange a preliminary discussion.

**Note:**

- The Plain English Crystal Mark applies to those conditions, reasons and informatives in this letter which have an associated reference number with the prefix C, R, X or I.
- The terms 'you' and 'your' include anyone who owns or occupies the land or is involved with the development.
- The terms 'us' and 'we' refer to the Council as local planning authority.





raised by 750mm to provide an extra floor level for residential use and to relocate rooflights.

An additional representation was received from Icen Projects (29.05.15)

**RESOLVED:**

That conditional permission be granted.

**6 UNITED KINGDOM HOUSE, 180 OXFORD STREET, W1**

Infilling of internal lightwells at second to seventh floor levels to provide additional office space (Class B1), extension at eighth floor roof level to provide single residential dwelling (Class C3) flat with associated terraces, new plant enclosure at eighth floor level and creation of separate ground floor entrance on Great Titchfield Street for residential access and associated internal alterations.

A late representation was received from Marcus Sebastian Wisskirchen (28.05.15).

**RESOLVED:**

The application was rejected.

**7 19 LOWNDES CLOSE, SW1**

Variation of Condition 1 of planning permission dated 29 April 2014 (RN: 13/11106/FULL) for the demolition of existing building and the erection of new single family dwelling with a new basement and installation of an air conditioning unit within an acoustic enclosure at rear third floor level; namely, to change the drawing numbers to allow an additional extension at rear third floor level and to reposition the air conditioning unit and enclosure.

**RESOLVED:**

That conditional permission be granted in accordance with amended drawings submitted by the applicant which deleted the rear third floor air conditioning plant from the proposals and subject to the deletion of draft condition 14 relating this air conditioning unit.

**8 12 - 14 TAVISTOCK STREET, WC2**

Use of the ground floor as restaurant and cafe (Class A3). Installation of a full height extract flue within an internal service riser terminating at roof level.

**RESOLVED:**

That conditional permission be granted subject to amended Condition 4 setting the opening hour at 8am.

**9 PITCH 1771, MARYLEBONE ROAD, NW1**

A late representation was received from Councillor Antonia Cox (02.06.15)

**RESOLVED:**

That conditional permission be granted.

**14 30 QUEEN'S GROVE, NW8**

Excavation to extend existing basement below part of rear garden and demolition and reinstatement of existing garden room and lower ground floor rear extension.

**RESOLVED:**

That conditional permission be granted.

**15 53B CLIFTON HILL, NW8**

Erection of dormer to rear roof slope, installation of new rooflights to front roof slope and alterations to front elevation.

**RESOLVED:**

Withdrawn by officers.

**16 68-76 BELGRAVE ROAD, SW1**

Creation of a single storey infill extension to hotel (Class C1) at rear first floor level [Charwood Street side elevation].

**RESOLVED:**

That conditional permission be granted.

The Meeting ended at 9.00 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 2 June 2015	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Wards involved</b> Regent's Park	
<b>Subject of Report</b>	<b>Pitch 1771, Marylebone Road, London, NW1 5LR</b>		
<b>Proposal</b>	Relocation of street trading pitch and new kiosk.		
<b>Agent</b>	Mr Lee Kitchiner		
<b>On behalf of</b>	Mr Lee Kitchiner		
<b>Registered Number</b>	14/03271/FULL	<b>TP / PP No</b>	TP/14097
<b>Date of Application</b>	07.04.2014	<b>Date amended</b>	08.09.2014
<b>Category of Application</b>	Minor		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Dorset Square		
<b>Development Plan Context</b> - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone  Central Activities Zone Frontage		
<b>Stress Area</b>	Outside Stress Area		
<b>Current Licensing Position</b>	Street Licence issued for existing Pitch (Pitch 1771)		

## 1. RECOMMENDATION

Grant conditional permission including a condition to secure the following:

- a) Relocation of the Legible London Totem sign.





This product includes mapping data licensed from Ordnance Survey with the permission of the Controller of Her Majesty's Stationary Office.

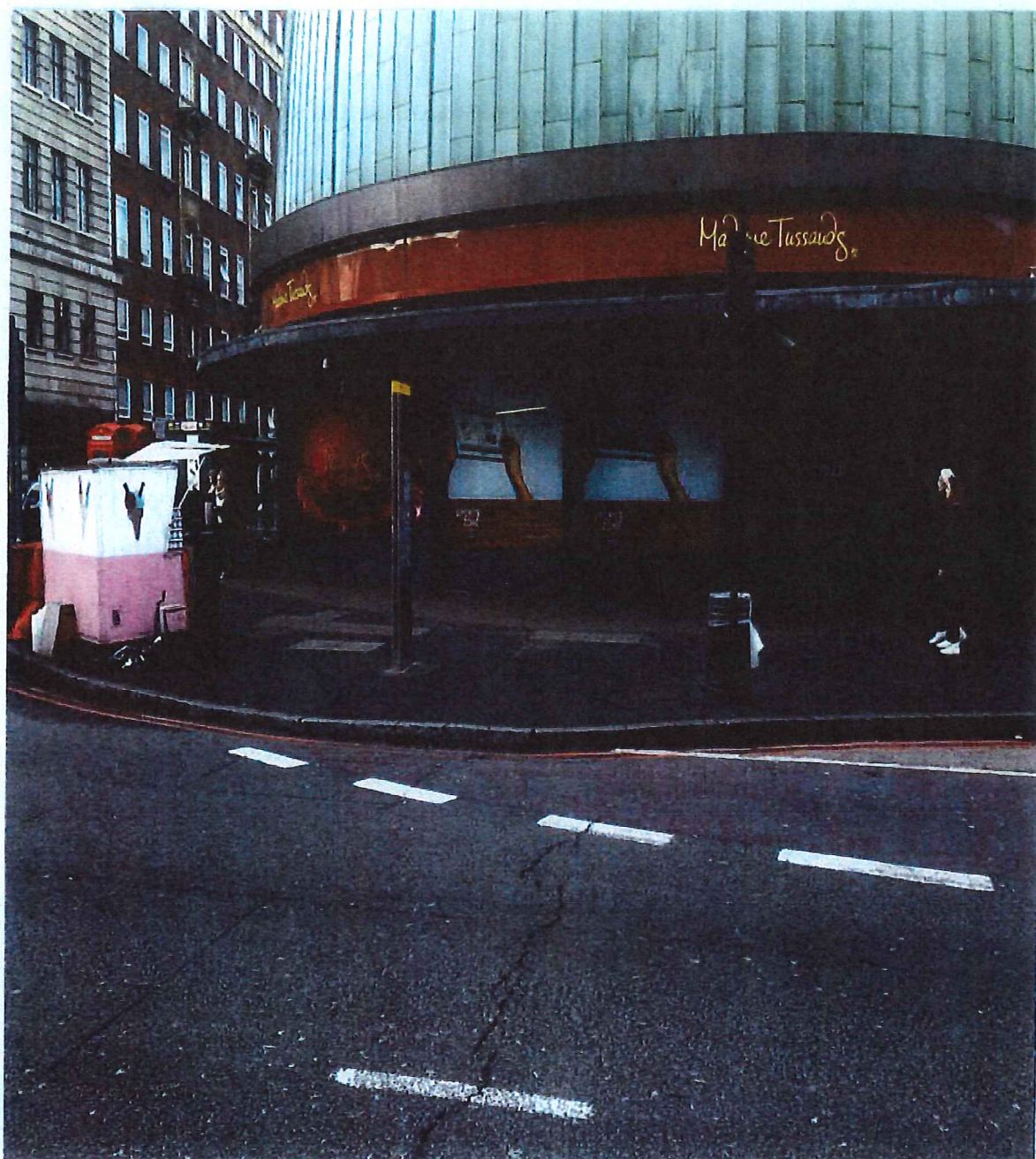
Data Source:

N



0 5 10 20 Metres





PITCH 1771, MARYLEBONE ROAD, NW1

## 2. SUMMARY

Pitch 1771 is located on the pavement on Marylebone Road at its junction with Allsop Place in front of Madame Tussauds.

Permission is sought for the relocation of an existing street trading pitch to a position approximately 5m away and the erection of a semi-permanent kiosk.

The key issues in this case are:

- The design of the kiosk, taking into account the impact on the character and appearance of the Dorset Square Conservation Area.
- The impact of the proposal on pedestrian movement at this busy junction.

The proposed design of the kiosk is considered to be an improvement on the existing situation (even though it is acknowledged the current kiosk does not have planning permission) and is appropriate for the conservation area. On the above basis, the proposal is considered to be acceptable provided the kiosk is contained within the designated pitch. The application is therefore recommended for approval, for three years, after which time its retention can be considered in light of changing circumstances. Whilst it is recognised that this is a busy junction, both Transport for London and the Highways Planning Manager agree that the new location is acceptable subject to a Grampion condition to require the relocation of the London Legible sign.

## 3. CONSULTATIONS

### COUNCILLOR RIGBY

Proposal to upgrade existing kiosk is welcome. In principle support the proposal but believes it is important that any pitch and design, including sizing, is located sensitively and in keeping with surrounding area. Proposed design is to be questioned in terms of size and bulk and effect on setting of Madame Tussauds. Also concerned given the proposed size to its impact on pedestrian flow in this busy location.

### THE ST MARYLEBONE SOCIETY

Proposal is an improvement on the existing kiosk but needs to be considered in its context adjacent to Planetarium.

Some members welcome traditional design, some consider it pastiche detracting from Planetarium copper dome.

Current location causes obstruction, new proposal likely to adversely affect pedestrian access due to increase in size. Transport for London preparing Masterplan for area which should be considered when positioning kiosk. Suggest that it should be positioned adjacent to other takeaway for easier deliveries to both kiosks and not block views of drivers at junction.

### ENVIRONMENTAL HEALTH

No objection.

### CLEANSING MANAGER

No objection although suggests initially granted for a year to enable any problems to be identified and addressed.

### TRANSPORT FOR LONDON (TfL)

Believes there is sufficient room to facilitate the new kiosk. A Road Safety Audit Stage 1 request is made in regard to the proposed relocation of a Legible London sign. This would be



done if planning permission is granted. Requests information is submitted showing that collected rainwater will run into drains without causing ponding on the footway. Suggests applicant provides details how the structure can be temporarily moved to facilitate utility and resurfacing works.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 3; Total No. of Replies: 3.

All responses from the Baker Street Quarter Partnership commented that Madame Tussauds would like to ask that the proposed pitch is used but the kiosk be reduced in height, the canopies be reduced in size and the permission be for a three year period.

ADVERTISEMENT/SITE NOTICE: Yes

#### RECONSULTATION FOLLOWING AMENDMENTS TO REDUCE THE HEIGHT OF THE KIOSK AND REDUCE PROJECTION OF THE CANOPY

#### HIGHWAYS PLANNING MANAGER

Was broadly happy with previous application but welcomes proposed reduction in the size of the canopy. Does not think new kiosk introduces a safety issue that is not currently present. Concerns that kiosk doors open out, need to move Legible London sign, concern about the electricity supply post being located unnecessarily too far away from the kiosk and the possibility of hanging goods from the canopy.

#### TRANSPORT FOR LONDON

There is enough room for the new kiosk. Request a Road Safety Audit is carried out regarding the relocation of the Legible London sign.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

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

The Baker Street Quarter commented that the Baker Street Quarter and Madame Tussauds are happy with the revised design and would like to express in the strongest terms that they would like the location of the pitch to be reviewed after a three year period to reflect the possible impact on Allsop Place and its junctions with Marylebone Road from the Baker Street Two Way project.

## 4. BACKGROUND INFORMATION

### 4.1 The Application Site

The application site lies at the junction of Allsop Place and Marylebone Road, outside Madame Tussauds, within the Dorset Square Conservation Area. Marylebone Road is a Red Route under the highway authority of Transport for London (TfL).

### 4.2 Relevant History

The existing pitch benefits from a long standing street trading licence. It appears there is an agreement between the traders' association and the Council's Street Trading Licencing to allow the stall to remain in situ overnight. No planning permission has been applied for or granted and no planning enforcement action taken against it, therefore no planning history exists for the site.

## 5. THE PROPOSAL

Planning permission is sought for the erection of a new street trading kiosk to be in situ 24 hours a day, on a new pitch 5m away from the current pitch site. The intention is to relocate the street trading pitch so the existing pitch becomes redundant.

## 6. DETAILED CONSIDERATIONS

### 6.1 Land Use

The kiosk is to be used for retail purposes which is considered acceptable in land use terms.

### 6.2 Townscape and Design

The street trading pitch has been in place for many years and it appears there is an agreement with the City Council's Street Trading Licencing for it to remain in situ overnight. The current kiosk is an enclosure fitted onto a trailer chassis with an extendable canopy. The pitch also contains a soft drink storage container. A street trading licence was granted in 2012 for a larger kiosk, the footprint of which would occupy the whole pitch. Canopies would project from the front and one side of the kiosk. Although not a permanent structure the existing structure is considered to harm the visual amenity of this part of the conservation area.

The proposed new kiosk would be 3.436m high, 3.65m wide and 1.52m deep and would feature an overhanging canopy. Two retractable awnings are proposed on two sides. The structure has a pitched roof with finials, moulded panels, decorative corner brackets and decorative ironwork to fascia panel. The principal facing material is to be Glass Reinforced Plastic (GRP). The design has been amended during the consideration of the application. The amendments included reducing the height from the originally proposed 3.886m and reducing the awning's projection from 1.8m to 1m.

The site is located within the Dorset Square Conservation Area and is outside the Madame Tussauds complex of buildings which are identified as unlisted buildings which make a positive contribution to the character and appearance of the conservation area.

The proposed kiosk has been designed in a more historical style to be more harmonious within the conservation area, albeit it is recognised that its siting will result in more clutter on the street. However, given the history of a pitch adjacent, the proposal is considered on balance acceptable, subject to a temporary three year permission.

### 6.3 Amenity

There are residential flats nearby but considering the distance from these properties and the fact that the use of the pitch is in only a slightly different location from that which already exists, it is not considered the proposal is likely to result in harm to the amenities of these residents.

### 6.4 Transportation/Parking

The proposed kiosk will occupy the same sized pitch as the existing one but will be relocated 5m away. The proposed location maximises the distance between the pitch and the canopy of the neighbouring building leaving a width of 3.3m of unobstructed highway between the pitch and the canopy of the neighbouring building and 2.42m of unobstructed highway between the extended canopy of the kiosk and the canopy of the neighbouring building. Sufficient height clearance is provided between the pavement and the proposed extended canopy. It is therefore considered that the proposal is a slight improvement on the existing pitch in highways terms. It will be capable of being removed if necessary. The proposal would require the relocation of a Legible London Totem sign.

The proposal is considered acceptable by the Highways Planning Manager although it was stated that the electricity supply post should be located closer to the kiosk, concerns were raised that goods could be hung off the canopy and it was highlighted that the Totem sign would need to be relocated. It is recommended that a condition be attached to any planning permission requiring the applicant to make suitable arrangements for the relocation of the



sign. The applicant is aware that there will be cost implications associated with the relocation of the sign.

Transport for London is the Highway Authority for Marylebone Road and they believe there is sufficient room to facilitate the new kiosk. They have also stated that a Road Safety Audit (RSA) should be undertaken as part of the arrangements to relocate the Legible London sign. It is therefore considered that the proposal is acceptable in pedestrian and highway safety terms, subject to a condition to secure the relocation of the sign.

#### **6.5 Economic Considerations**

None relevant.

#### **6.6 Equalities and Diversities**

Not relevant in the determination of this application.

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

None relevant.

#### **6.8 London Plan**

The proposals do not raise strategic issues.

#### **6.9 Planning Obligations**

The proposal is not of sufficient scale to require planning obligations.

#### **6.10 National Planning Policy Framework (NPPF)**

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. The relevant policies in the City Plan which has replaced the Core Strategy have been discussed in this report and other policies in the previous report have not changed significantly. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13 November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

The UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

#### **6.11 Environmental Assessment including Sustainability and Biodiversity Issues**

None relevant.



## 7. CONCLUSION

The proposal is considered acceptable in design and highways terms subject to a temporary three year permission.

## BACKGROUND PAPERS

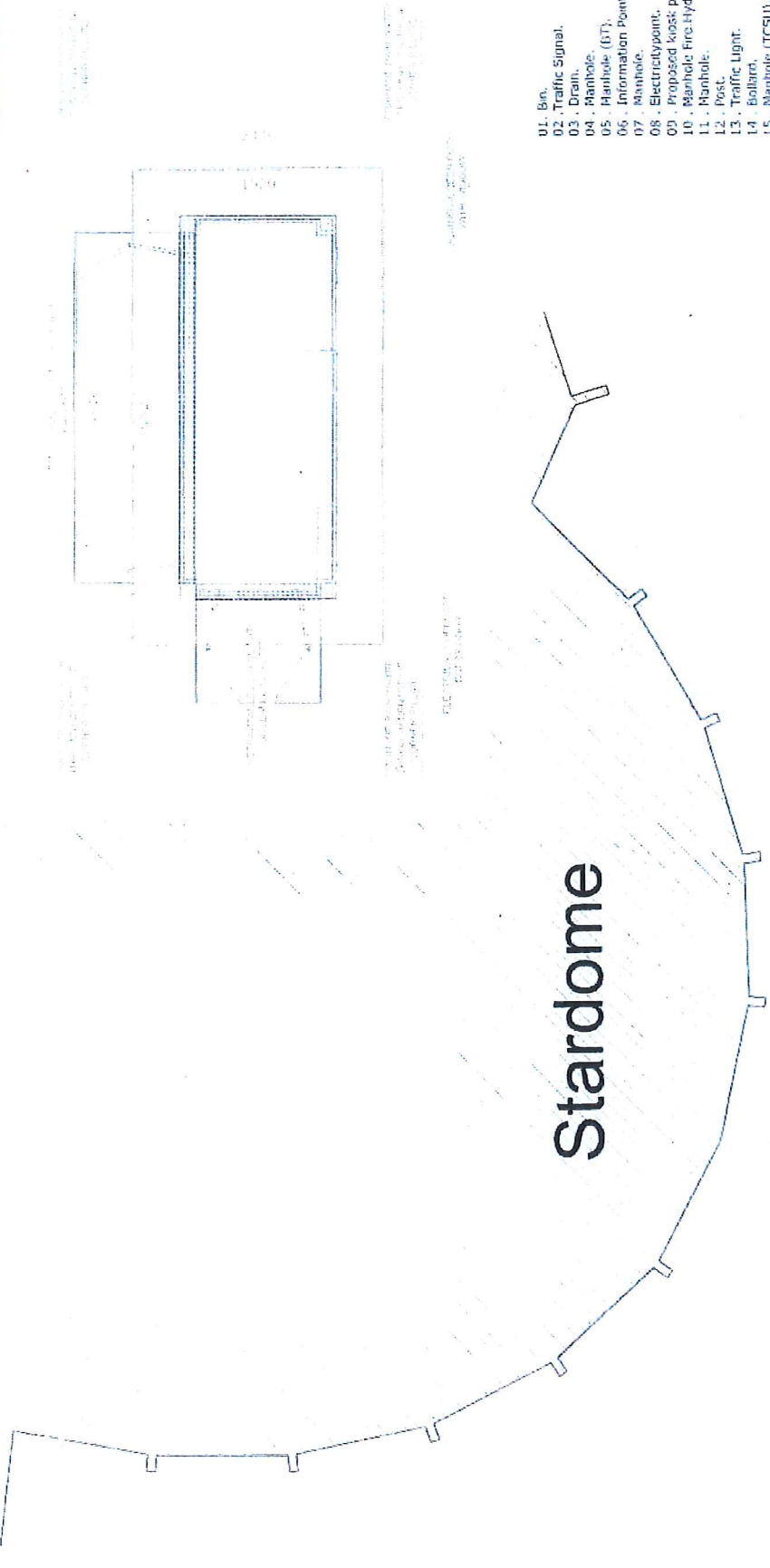
1. Application form
2. Letter from Councillor Rigby dated 14 October 2014
3. Emails from Transport for London dated 10 October 2014 and 27 April 2015
4. Memorandum from Highways Planning Manager dated 21 October 2014
5. Memo from Cleansing Manager dated 8 October 2014
6. Email from St Marylebone Society dated 6 October 2014
7. E-mails from the Baker Street Quarter Partnership dated 21 October 2014 and 13 November 2014.
8. Email from Transport for London dated 27 April 2015.
9. Memorandum from Highways Planning Manager dated 21 April 2015.
10. Email from Baker Street Quarter Partnership and Madame Tussauds dated 13 March 2015.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT AMANDA COULSON ON 020 7641 2875 OR BY E-MAIL – [acoulson@westminster.gov.uk](mailto:acoulson@westminster.gov.uk)



Do not scale drawings. All dimensions shall be taken from the drawing. The contractor shall be responsible for the accuracy of the information provided. The contractor shall be responsible for the accuracy of the information provided.

Prepared by: A.C. Retail Solutions Ltd 2013  
 Not Drawing No: 3002-01R-014



- 01. Bin.
  - 02. Traffic Signal.
  - 03. Drain.
  - 04. Manhole.
  - 05. Manhole (BT).
  - 06. Information Point to be relocated here.
  - 07. Manhole.
  - 08. Electricitypoint.
  - 09. Proposed kiosk position.
  - 10. Manhole Fire Hydrant.
  - 11. Manhole.
  - 12. Post.
  - 13. Traffic Light.
  - 14. Bollard.
  - 15. Manhole (TCSU).
  - 16. Tactile Ground Service Indicators.
  - 17. Phone Booth.
  - 18. Post L772.
- See 1650mm x 3650mm.

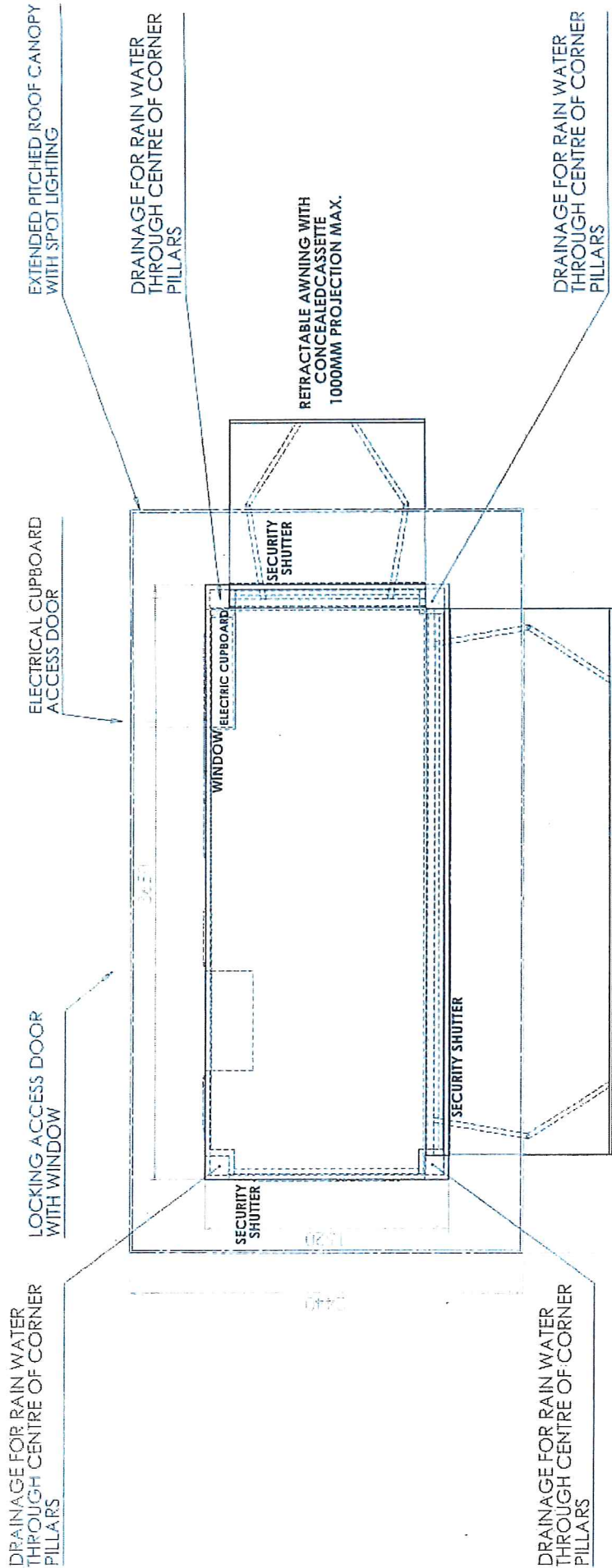
13 14

17

PROJECT: Marylebone Rd, London NW1 5LR  
 DATE: Jan / 2015  
 DRAWN BY: ASR  
 CHECKED BY: ASR  
 PROJECT: Proposed Ground Floor Plan  
 SCALE: 1:100 (A3)  
 SHEET: 01  
 TOTAL SHEETS: 05  
 PROJECT NO: 165035  
 DRAWING NO: 165035-01

**KIRSA ARCHITECTS**





RETRACTABLE AWNING WITH CONCEALED CASSETTE 1000MM PROJECTION MAX.

TITLE: KIOSK  
 DATE: 12/01/2015  
 REVISION: 05

ALL DIMENSIONS IN MILLIMETRES UNLESS STATED OTHERWISE

SCALE: 1:25  
 PAGE: A3

DATE: 14/05/2013  
 DATE:

CUSTOMER: LEE KITCHENER

MATERIAL:

ORIENTATION: DRAWING NO

DRAWN BY: ANDY NICHOLSON

CHECKED BY:

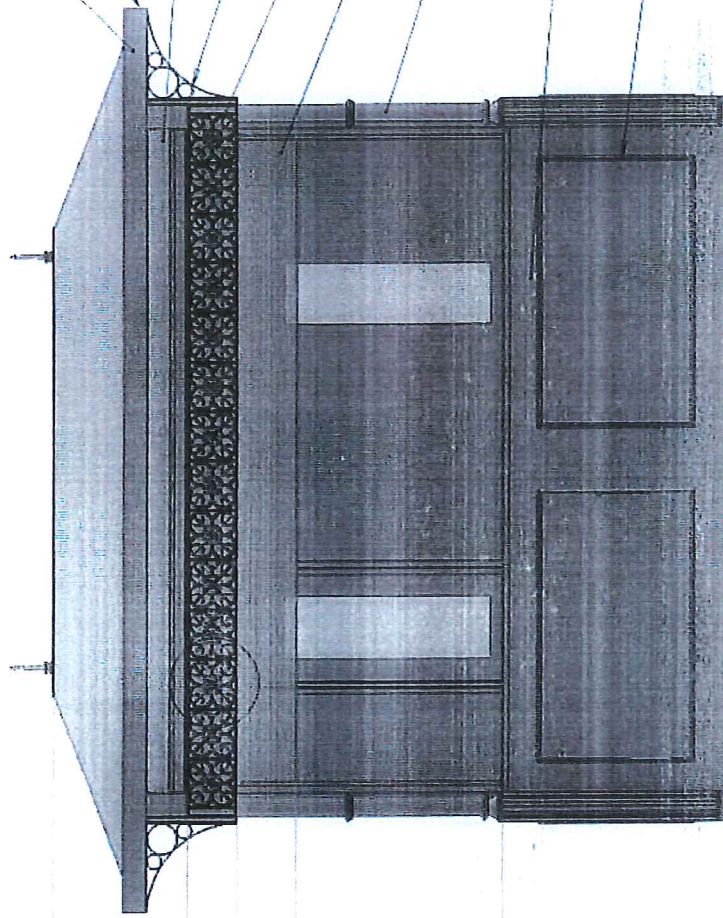
3032-DR-004

THIRD PARTY PROJECT

COPYRIGHT A/JC RETAIL SOLUTIONS LTD. 2013



- DRAINAGE INTO CORNER PILLAR FOR RAIN WATER
- EXTENDED PITCHED ROOF CANOPY WITH LIGHTING
- RETRACTABLE AWNING INTO FACIA WITH HINGED ACCESS DOOR
- TRADITIONAL BRACKET DETAIL TO CORNERS
- APPLIED DECORATIVE PANEL TO FACIA
- 300MM TOUGHENED GLASS DOWNSTAND
- TRADITIONAL COLUMN POST DETAIL TO CORNERS
- MODULAR FRAMEED CONSTRUCTION WITH POWDER COATED FINISH
- INSULATED PANELS WITH MOULDED DETAILS



2436  
1146  
1050  
300  
315  
476

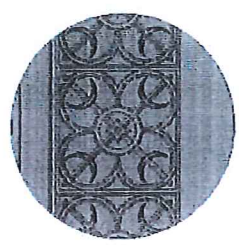
PROPOSED FRONT ELEVATION

TITLE: KIOSK  
 CUSTOMER: LEE KITCHENER  
 MATERIAL: IRONWORK  
 ORIENTATION: DRAWING NO.: 3032-DP-001  
 DRAWN BY: ANDY NICHOLSON  
 CHECKED BY: ANDY NICHOLSON

DATE: 12/01/2015  
 REVISION: 05  
 ALL DIMENSIONS IN MILLIMETRES UNLESS STATED OTHERWISE  
 SCALE: 1:25  
 PAGE: A3  
 DATE: 14/05/2013  
 DATE:



COPYRIGHT AJC RETAIL SOLUTIONS LTD. 2013



DETAIL A - SHOWING IRONWORK DETAIL. SCALE 1 : 10



DRAINAGE INTO CORNER  
PILLARS FOR RAIN WATER

EXTENDED PITCHED ROOF  
WITH LIGHTING

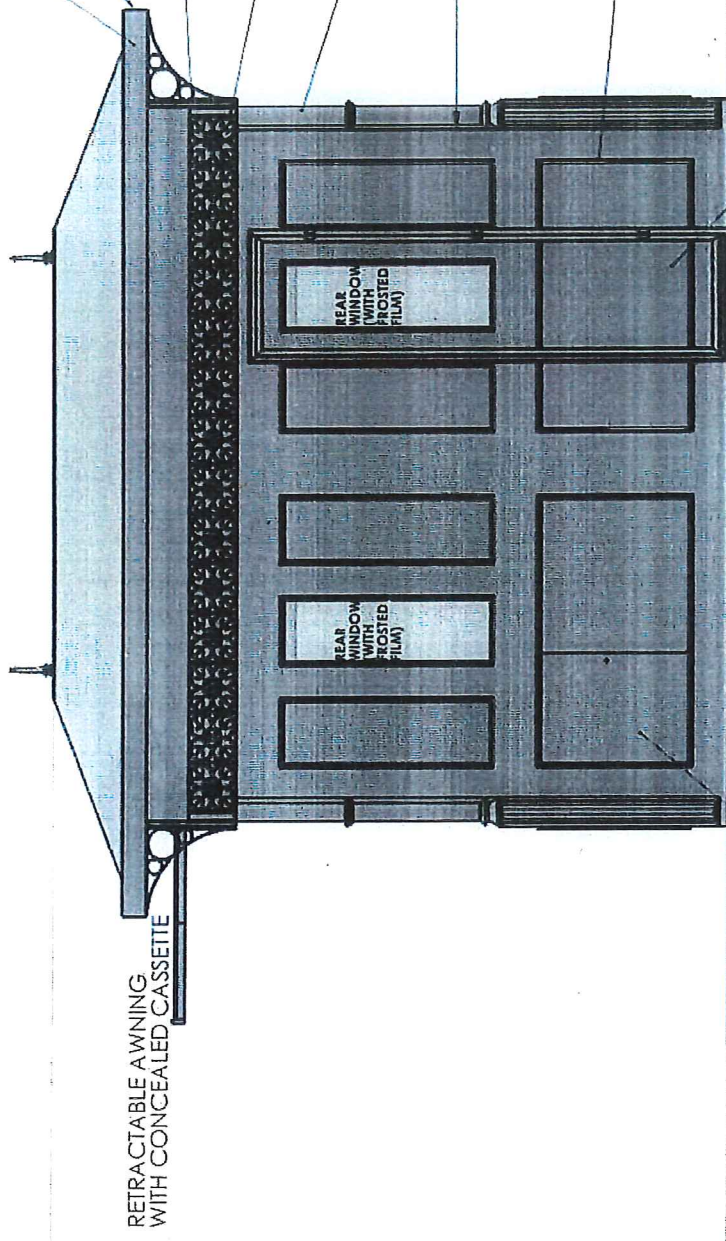
TRADITIONAL BRACKET DETAIL TO  
CORNERS

APPLIED DECORATIVE PANEL  
TO FACIA

TRADITIONAL COLUMN POST  
DETAIL TO CORNERS

MODULAR FRAMED CONSTRUCTION  
WITH POWDER COATED FINISH

INSULATED PANELS WITH  
MOULDED DETAIL



RETRACTABLE AWNING  
WITH CONCEALED CASSETTE

LOCKING ACCESS DOOR

ELECTRIC CUPBOARD ACCESS DOOR

TITLE KIOSK

CUSTOMER LEE KITCHENER

MATERIAL

OPERATION DRAWING NO. 3032-DR-002

DRAWN BY ANDY NICHOLSON

CHECKED BY

DATE 12/01/2015

REVISION 05

ALL DIMENSIONS IN MILLIMETRES UNLESS  
STATED OTHERWISE

SCALE 1:25

PAGE 3

SIZE A3

DATE 14/05/2013

DATE

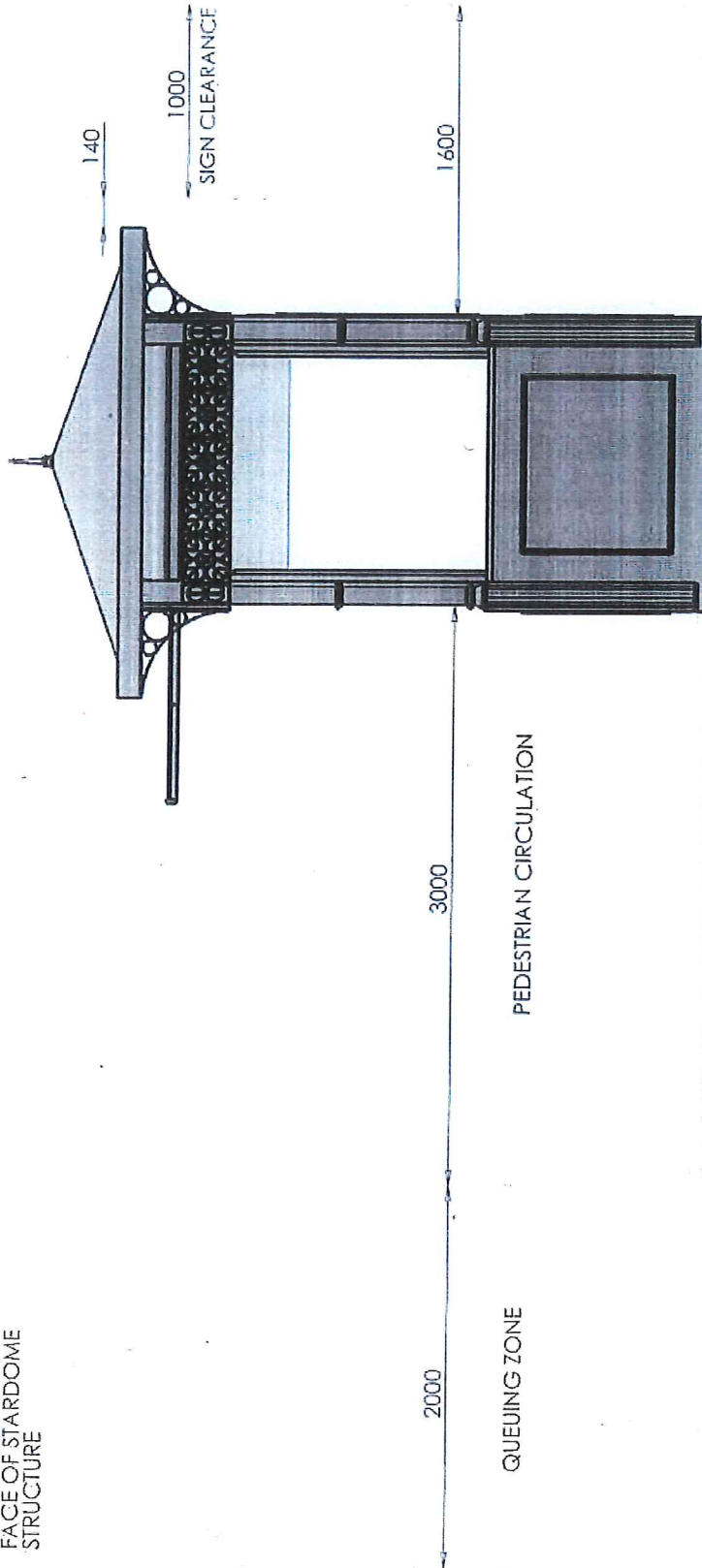


THIS DRAWING IS THE PROPERTY OF AJC RETAIL SOLUTIONS LTD. 2013

COPYRIGHT AJC RETAIL SOLUTIONS LTD. 2013



FACE OF STARDOME  
STRUCTURE



KERBSIDE

TITLE: KIOSK

CLIENT: LEE KITCHENER

MATERIAL:

ORIENTATION: DRAWING NO.

DRAWN BY

3032-DR-003

CHECKED BY

DATE: 12/01/2015

REVISION: 05

ALL DIMENSIONS IN MILLIMETRES UNLESS  
STATED OTHERWISE

SCALE: 1:25

PAGE: A3

DATE: 14/05/2013

ANDY NICHOLSON

DATE:



THIRD ANGLE  
PROJECTION

COPYRIGHT AJC RETAIL SOLUTIONS LTD. 2013

# APPENDIX C

**From:** lee K [mailto:kleeki@hotmail.co.uk]  
**Sent:** 13 October 2015 15:35  
**To:** Hine, David  
**Subject:** Re: Street Trader Pilot Project - Pitch 1771

Good Afternoon Mr Hine

Thanks for the speedy response, appreciated.

I previously approached WCC for permission for a new kiosk with AJC the kiosk manufacturer, I met with Mr Mason and Deirdre Hayes, who was impressed with what we had done and he asked us if we would be able to produce a new traditional style of Neri kiosk for WCC as a pilot project to bring street trading into the new century, we designed a high quality, traditional, aesthetically pleasing kiosk made mainly from iron, the kiosk has been approved by WCC, Highways and TFL, unfortunately Mr Mason has left WCC before the project was finished and Ms Hayes is on maternity leave, planning permission has been granted, I offered to move the kiosk over slightly to a correct location for line of sight and orientation, about 1-2 metres from where I am currently am positioned. The ledger map has been arranged to be moved by Collen Gardner at a cost to myself, the kiosk is envisaged to have electric and water installed, which would be contained within the kiosk, this is to help reduce street furniture and clutter, WCC needs to decide on the base for the new kiosk, as the site is on asphalt and sloping there is two options, either the kiosk stands on jacks, which will sink into the asphalt, as my other kiosk has already done and make it uneven, the connections would be slightly visible , or for the site to have the asphalt removed ( within the pitch dimensions ) levelled with sand and paving slabs to be laid as a base so as not to be intrusive for the site, I will happily cover the costs for this to be done, and believe this to be the best option, as we are trying to bring street trading into the new century, the new lines need to be drawn, I can contact Dave Franks if you prefer to have the electric installed but will need the lines drawn first and a nod to go ahead, the water would be installed by the local water company at a cost to myself, the project has taken some time as there as there was so many different hoops to jump through, we have finally received planning consent and now the manufacturer and me are eager to finish the project and have the new kiosk installed, we are ready to move forward but need WCC to give the green light and lines etc. If you can access the minutes from the meeting it may help with the clarification of the project and what has been granted. If you need any information from me please feel free to request.

I am sorry that I have to direct this towards you I am sure you are very busy.

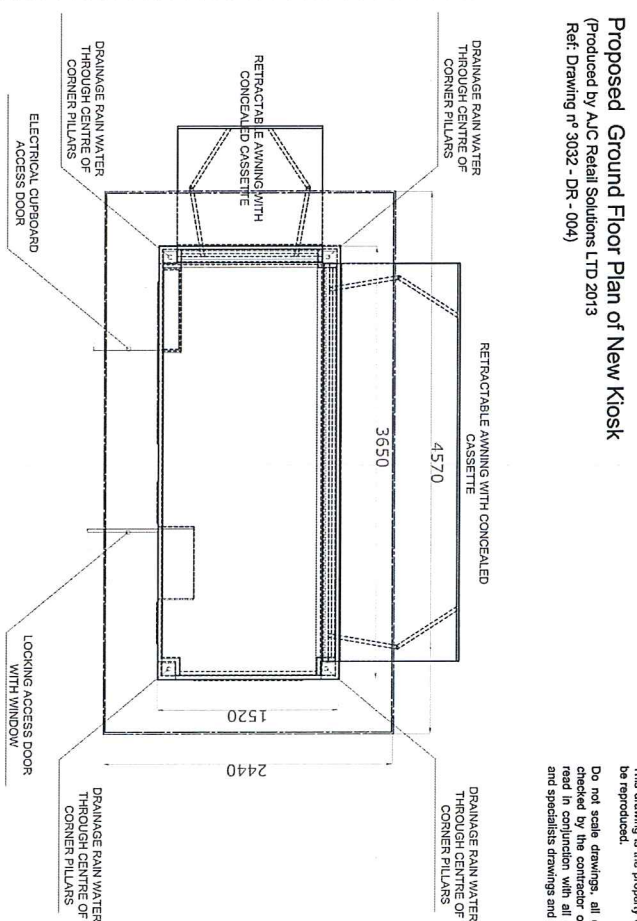
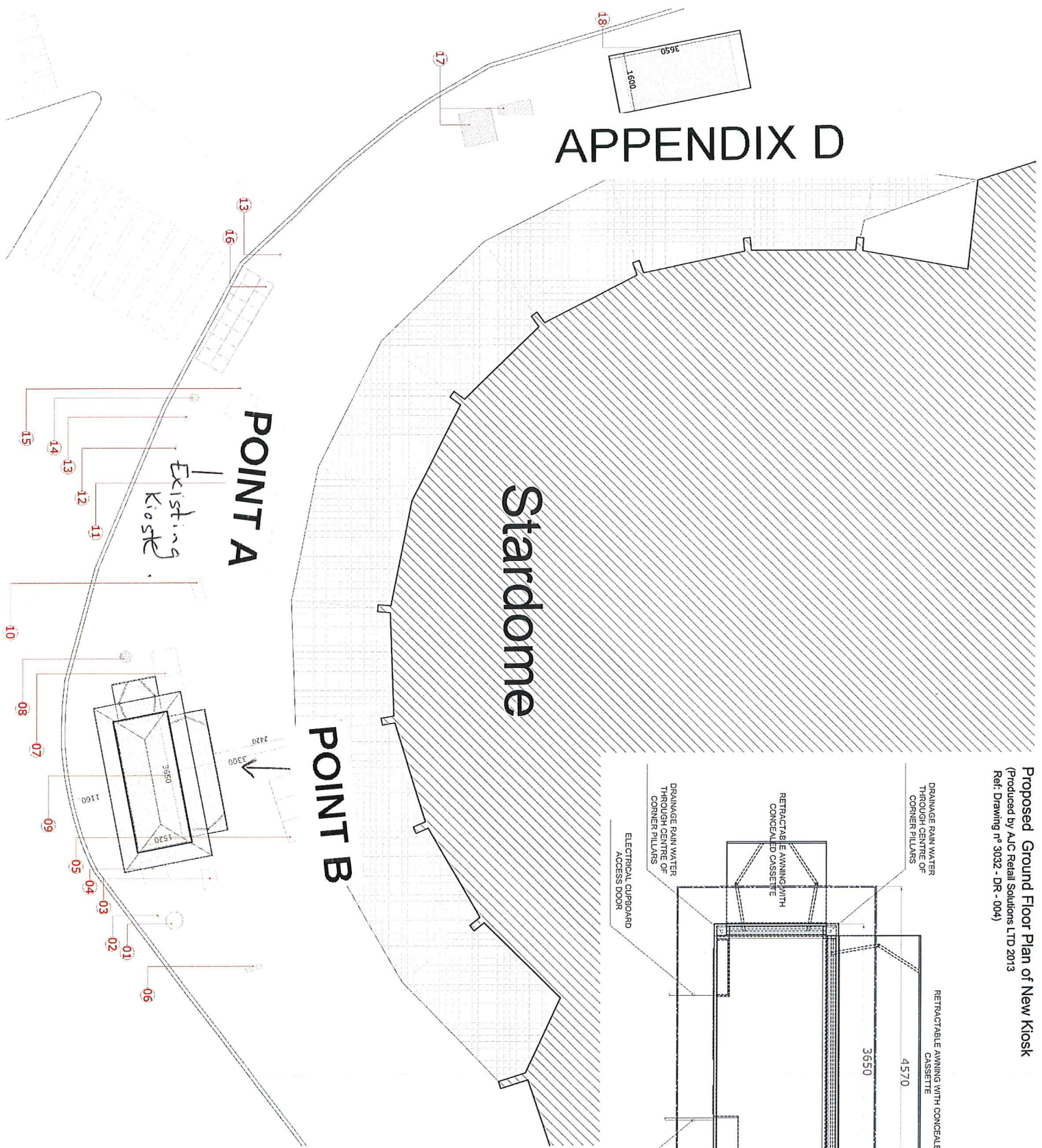
Thank you for your time

Lee Kitchiner

Pitch 1771



# APPENDIX D



**Proposed Ground Floor Plan of New Kiosk**  
 (Produced by AJC Retail Solutions LTD 2013  
 Ref: Drawing n° 3032 - DR - 004)

This drawing is the property of RS Architects and is not to be reproduced.  
 Do not scale drawings, all dimensions and levels to be checked on site. This drawing is to be read in conjunction with all other Architects, Engineers and specialist drawings and specifications

- 01. Bin.
  - 02. Traffic Signal.
  - 03. Drain.
  - 04. Manhole.
  - 05. Manhole (BT).
  - 06. Information Point to be relocated here.
  - 07. Manhole.
  - 08. Electricity point.
  - 09. Proposed kiosk position.
  - 10. Manhole Fire Hydrant.
  - 11. Manhole.
  - 12. Post.
  - 13. Traffic Light.
  - 14. Bollard.
  - 15. Manhole (TCSU).
  - 16. Tactile Ground Service Indicators.
  - 17. Phone Booth.
  - 18. Pitch 1772.
- Size 1650 mm x 3650 mm.

RS Architects 31 Koneve Drive Barnet EN5 2NW  
 www.rsarchitects.co.uk

Project Marylebone Rd, London NW1 5LR  
 020 8449 5441

Client Proposed Ground Floor Plan

DATE Jan / 2015 DRAWN ASR  
 SCALE 1:100 @ A3 CHECK  
 STATUS Planning  
 DRAWING NO. LKM/R005 REVISION

**RS ARCHITECTS**





**NEW DESIGNATION**