

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 6 December 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Marylebone High Street	
<b>Subject of Report</b>	<b>Bird Street, London W1</b>		
<b>Proposal</b>	Installation of 5 new retail kiosks (Class A1) on the western side of Bird Street and a replacement kiosk (Class A1) close to the junction with Oxford Street, and associated landscaping works to the highway.		
<b>Agent</b>	Atkins Ltd		
<b>On behalf of</b>	New West End Company		
<b>Registered Number</b>	16/08018/FULL	<b>Date amended/ completed</b>	19 August 2016
<b>Date Application Received</b>	19 August 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	No		

## 1. RECOMMENDATION

Grant conditional permission for a temporary period of 1 year.

## 2. SUMMARY

The application which is made on behalf of New West End Company (NVEC) will provide temporary design alterations to Bird Street, which aim to enliven the street, making it more inviting to pedestrians with improved access between Oxford Street and the streets to the north. The aim being that scheme would act as 'an oasis' for visitors who want break from the activity on Oxford Street.

Permission is sought for the installation of five new street trading kiosks on the eastern pavement, four of the kiosks would be used for retail purposes (Class A1) and one as ancillary refuse storage. The scheme also includes the removal and replacement of an existing kiosk close to the junction with Oxford street and landscaping works including pedestrianisation of the street.

The key issues for consideration are :

- \* The impact on the character and function of the area;
- \* The impact on residential amenity;
- \* The impact in design terms.

The scheme is considered to be acceptable in principle and the aim to add vibrancy to this side street north of Oxford Street is welcomed. Given that the scheme would result in only 4 new street trading kiosks selling goods and the operating times would be limited to between 10am and 8pm on Monday to Saturday and 11am and 7pm on Sunday, it is not considered that any additional activity would be so great that it would result in noise nuisance to residents opposite.

The design of the kiosks which are influenced by origami bird shape are considered acceptable and would add visual interest to the eastern side of the street.

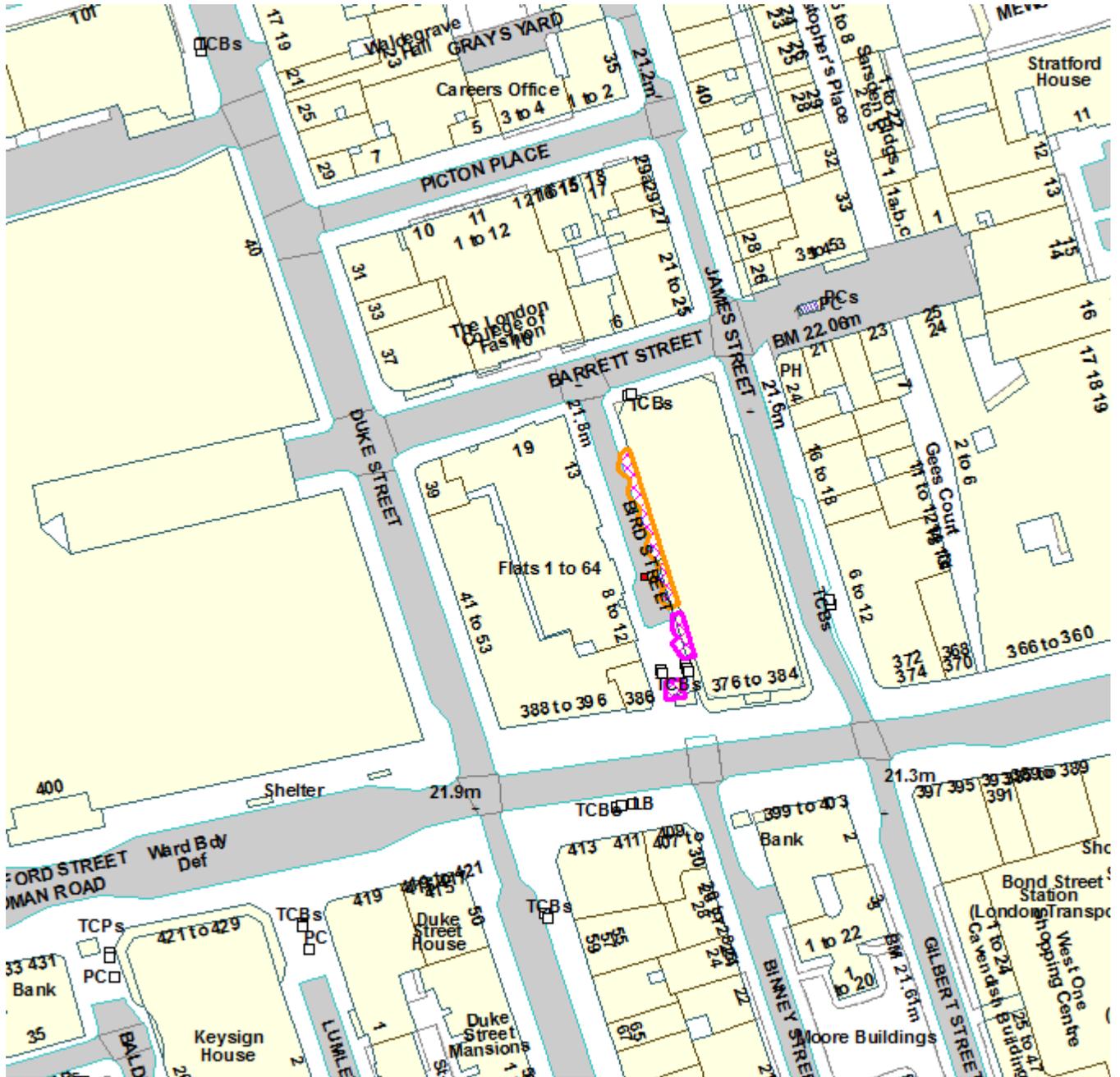
Some aspects of the scheme are however contentious. Objections have been received from residents and the City Council's Arboricultural Officer to the loss of two Maple trees at the southern end of the street, particularly as the proposal is for a temporary period. The applicant advises that the removal of the trees is essential to the scheme. Although regrettable it is not considered that the loss of the trees is so harmful that it warrants the scheme to be refused.

The loss of vehicular drop off outside the Phoenix residential block during the operating hours is also of a concern. This would be inconvenient to residents and is regrettable however again it is considered that it does not justify withholding permission.

The proposed new sculptured set of stalls and associated landscaping works would be considered to be acceptable on a temporary basis of 1 year. This will enable the impact to be monitored.

The alterations to the street require a Traffic Management Order (TMO) and licensing approval.

3. LOCATION PLAN



4. PHOTOGRAPHS



## 5. CONSULTATIONS

### MARYLEBONE ASSOCIATION:

Any response to be reported verbally.

### METROPOLITAN POLICE:

Any response to be reported verbally.

### LONDON FIRE AND CIVIL DEFENSE AUTHORITY:

Any response to be reported verbally.

### ARBORICULTURAL OFFICER:

Objection to the loss of 2 trees, and unsuitable landscape treatment

### CLEANSING:

Objection the proposal does not allow 2m clearance as required by Westminster Way to enable street cleansing

### HIIGHWAYS PLANNING MANAGER:

Objection, canopies are unacceptably low (only 3m and should be at least 5.3m) and would prevent emergency vehicles accessing the street. The main kiosk doors open over the highway and would result in an obstruction. No information is provided regarding how the existing carriageway is used. Vehicular access to the Phoenix apartment block would be lost. Details have not been provided how utilities would be accessed under the highway.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 74

Total No. of replies: 21

No. of objections: 21

21 Objections received raising some or all of the following issues:

Noise nuisance associated with increased activity (potential to attract buskers) and setting up and closing the stalls. Increase in anti-social behaviour. Existing anti- social behaviour in Bird Street could be reduced without the proposed kiosks by removing recessed fire exit doors of the Gap building (eastern side of the street);

Outdoor seating would result in noise nuisance (previously refused in connection with the ground floor restaurant);

Loss of privacy;

Increase in refuse;

Nuisance from smoking;

Proposed lighting would result in glare to residential properties, and would add to security issues encouraging people to linger in the vicinity;

#### Access

Loss of vehicular access to the Phoenix residential building on the western side of the street which will result in the loss of i) disabled access ii) emergency service vehicles iii) vehicular drop off to 35 flats;

#### Loss of trees

Would be harmful to the area, making the Reiss department store more visible from Oxford Street does not justify the loss of the trees;

#### Design

Inaccurate to describe the elevations as predominantly blank facades (the western side of Bird Street is not);

#### Other issues

The scheme should not adversely impact on existing trader

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

Bird Street is a short relatively narrow street on the northern side of Oxford street linking Oxford Street and Barrett Street. The site is at the western end of Oxford Street close to Selfridges department store. Bird Street is not within a Conservation Area but is located within the Core Central Activities Zone and the West End Special Retail Policy Area.

The eastern side of the street has a blank ground floor façade of a large department store occupied by GAP. The western side comprises the return frontage of a retail store, the entrance to the Phoenix residential building and a restaurant. Reiss department store is situated at the northern end of the street on Barrett Street. At the southern end of the street there is a street trading kiosk flanked by two trees with cycle parking and five telephone boxes all located on a short pedestrianised section of the street. Vehicular access is from the north off Barrett Street with no vehicular access from Oxford street. The carriageway is narrow with a vehicular drop off bay directly outside the residential building.

### **6.2 Recent Relevant History**

A number of temporary permission have been granted for a single Heritage style kiosks facing Oxford Street on Bird Street since 2002.

10 Bird Street (located on the western side of the street) on 25 September 2007 permission was refused for the placing of 12 tables and 24 chairs in between existing trees in connection with a ground floor restaurant use on the grounds that the tables and chairs would result in an obstruction to pedestrian movement and noise and disturbance to residents above (RN 07/06909/FULL).

## **7. THE PROPOSAL**

Permission is sought for a pilot scheme to provide temporary alterations to Bird Street for 1 year. The scheme seeks permission for the installation of 5 new kiosks on the eastern side of Bird Street, a replacement kiosk close to the junction with Oxford Street, and associated landscaping works.

Four of the new kiosks on the eastern side of the street and the replacement kiosk close to Oxford Street will all be used for retail purposes. The kiosk at the northern end of the street would be used for refuse storage purposes. Initially the design of the kiosks included canopies that extended across the width of the street just over 3m high. This has subsequently been amended increasing the height of the canopies to 4m.

Proposed landscaping works include removal of existing trees at the southern end of the street.

Trees along the western footway will remain with new demountable seating installed in between. An area towards the southern end of the street will be covered with artificial grass.

The landscaping includes the use of innovative materials and functions to respond to micro climatic conditions and generate energy through a new technology. This includes embed pavegen technology into the footway to generate energy through pedestrian movement, and count pedestrian flows. Gas Phase Advanced Oxidation (GPAO) units will be installed within the temporary seating structures as part of a trail to investigate potential for cleaning the air and improving air quality. The works include the removal of three bicycle stands and five telephone boxes

In addition to planning permission the kiosks will require street trading licences and landscaping works will require a Traffic Management Order under separate Highways legislation.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposal aims to transform the street to provide into an improved route for pedestrians and make Bird Street more inviting route north of Oxford Street. The aim is

to provide an oasis for visitors to Oxford Street to take time out from the hustle and bustle of shopping.

Strong objections have been received from residents of the Phoenix an apartment block of 35 flats on the western side of the street. These objections are summarised in Section 5 of this report. The main reasons for objection are that, rather than reducing anti-social behaviour, the scheme would increase activity with a resultant increase in anti-social behaviour and noise nuisance. Furthermore restricting vehicular access to Bird Street would hinder emergency vehicles and result in significant nuisance to residents.

A management plan has been submitted which covers

- i) Build and Maintenance
- ii) Security
- iii) Kiosk Management
- iv) Kiosk Content
- v) Cleaning
- vi) Opening times and
- vii) Special Events

All maintenance will be managed by New West End Company (NWECC). With regards to security, NWECC have a security team who will work closely with the Metropolitan Police. Weekly assessments will be carried out to ensure that anti -social behaviour is not increasing. NWECC will maintain a daily dialogue with kiosk holders to ensure that the pilot is run to the best possible standard. All kiosk content will be agreed as part of the licence application. With regards to cleaning, NWECC will continue to provide a street cleansing service via Veolia on top of the City Council's regular service. The cleaning will include three times a day waste pick up, daily clean of the astro turf, once a week soft wash of the timber painted surface and graffiti cleaning (if required). A bin store is provided as part of the scheme. No cooking or hot food will be sold from the kiosks. The proposed opening times are 10am to 8pm on Mondays to Saturday and 11am to 7pm on Sundays. Any special events would be subject to licensing control.

The management plan is considered to be robust and adherence to the plan would ensure that kiosks operate without harm to the locality. Given that operational hours are limited to between late morning and evening, coupled with the fact that there will only be four new trading kiosks it is not considered that the increased activity would present a noise problem or nuisance to residents in the street.

## 8.2 Townscape and Design

The kiosks will be located against the blank wall of the building on the east side of the street. This is a modern building which has a blank facade to Bird Street and makes little contribution to the character and appearance of the conservation area. The kiosks will bring street level activity.

The design of the temporary kiosks takes inspiration from an origami bird shape. They extend to a maximum of 4.25 metres from pavement level. The width of the kiosk varies from 3.5 meters to 9 metres. They are made of painted timber with translucent polycarbonate (plastic) doors. Another, free standing, kiosk is proposed at the junction with Oxford Street. These are unusual, interesting designs for street trading.

It is considered that these kiosks will enliven the east side of Bird Street and, whilst they would not be acceptable on a permanent basis, they are considered acceptable for a temporary period.

### **8.3 Residential Amenity**

The proposed kiosks and other works would not result in a significant increase in bulk and mass and would not result in a material loss of light or enclosure to properties in the vicinity.

An objection has been received that the scheme would result in a loss of privacy. There would however be no material increase in overlooking.

### **8.4 Transportation/Parking**

All servicing would take place from Bird Street prior to the 10am opening.

The Highways Planning Manager advises that details have not been provided how utilities companies would access plant under the highway. However this is something which is more appropriately considered under the Traffic Management Order.

### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

### **8.6 Access**

The Highways Planning Manager has objected that proposed canopies which project across the highway are unacceptably low (only 3m ) and would prevent emergency vehicles accessing the street. In response to this the application has been amended and the canopies have been raised to 4m in height. Objections were received from residents that fixing the canopies to their building is unacceptable. The revision which increases the height of the canopies means that they would be attached to first floor residential windows. Whilst this would not result in a material loss of light or enclosure it does appear unneighbourly. However this is not a planning matter and raises ownership issues.

Residents of the Phoneix apartment block have objected to the loss of vehicular drop off outside their building during the operating hours. This is regrettable however it is not considered that permission could be refused on this basis.

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

Existing Kiosk

An objection has been received on behalf of the existing street trader that the scheme would be harmful to trade. The existing stall is however being replaced as part of the scheme. Permission could not therefore be refused for this reason. The objection essentially raises ownership issues and not planning issues.

#### Trees

The Arboricultural Officer objects to the loss of two Maple trees at the southern end of the street, particularly as the proposal is for a temporary period. In the light of this a request was made that the application should be amended to retain the trees. The applicant advises that the removal of the trees is essential to ensure improved visibility along Bird Street from Oxford Street and that the success of the scheme depends upon the loss of the trees. Although removal of the trees is regrettable it is not considered that permission should be refused on this basis.

#### External Seating

The proposed landscaping includes seating between the trees on the western side of the street. Objections have been received that this would result in noise nuisance. The objectors refer to the fact an application for tables and chairs was previously refused due to potential increased noise nuisance. This refused scheme was for 12 tables and 24 chairs and would be much more intensively used than the proposed seating. Given the limited seating proposed it is not considered that its use would result in significant noise problems. This aspect of the application is considered to be acceptable.

### **8.8 London Plan**

This application raises no strategic issues.

### **8.9 National Policy/Guidance Considerations**

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

### **8.10 Planning Obligations**

Not applicable

### **8.11 Environmental Impact Assessment**

Not applicable

## **9. BACKGROUND PAPERS**

1. Application form and Management Plan
2. Letter from occupier of Flat 24 The phoenix, Bird street, dated 29 August 2016
3. Letter from occupier of 2 phoenix, 8 bird street, dated 31 August 2016
4. Letter from occupier of Flat 29, Phoenix, dated 28 September 2016
5. Letter from occupier of Flat 40, Phoenix, dated 28 September 2016
6. Letter from occupier of Highrise Ltd, The Esplanade, dated 28 September 2016
7. Letter from occupier of West End Street Trading Association, The Old Vicarage, dated

28 September 2016

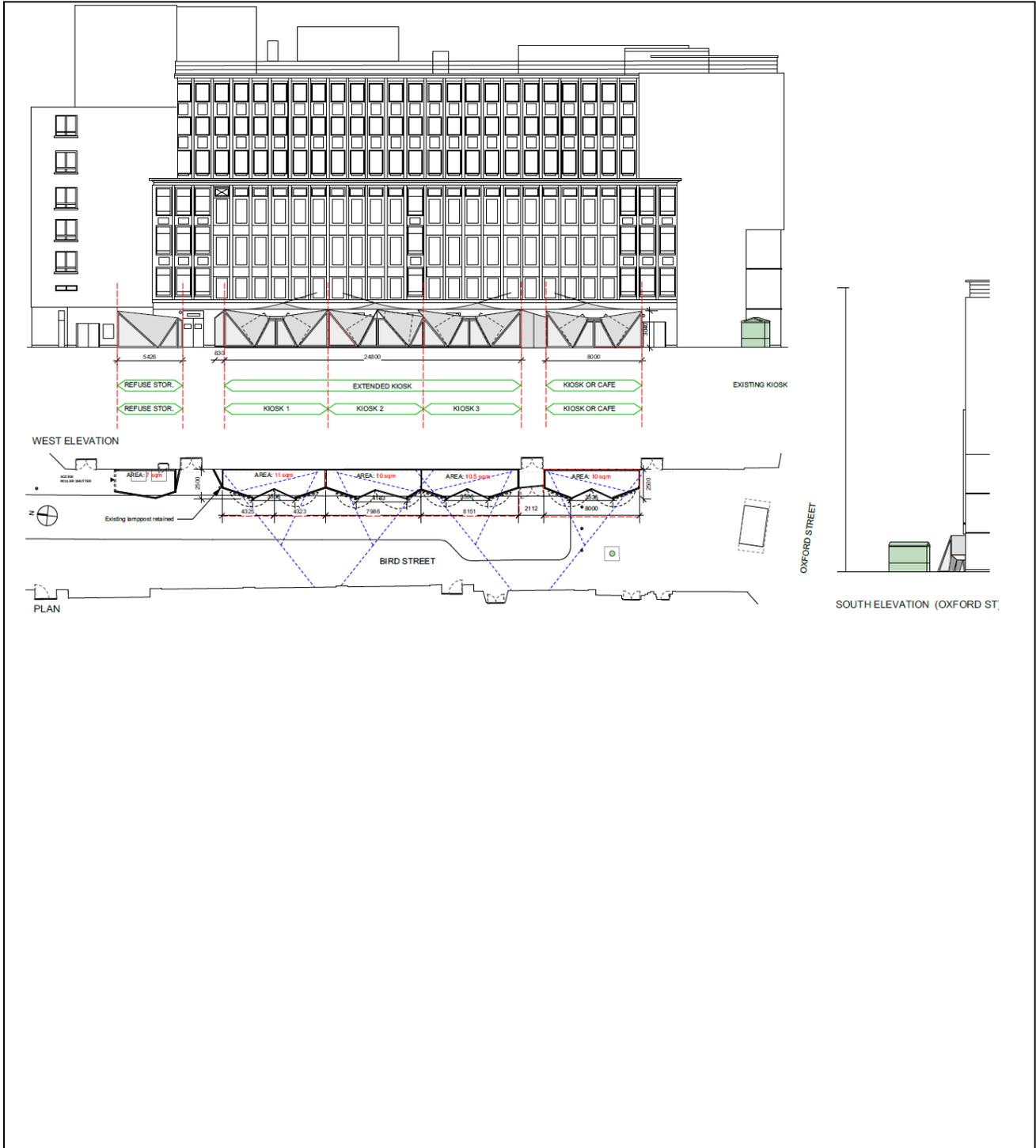
8. Letter from occupier of Flat 24, Phoenix, dated 28 September 2016
9. Letter from occupier of Flats 56 And 57, Phoenix, dated 28 September 2016
10. Letter from occupier of Flat 1, The Phoenix, dated 28 September 2016
11. Letter from occupier of Flat 61, Phoenix, dated 28 September 2016
12. Letter from occupier of Flat 5, Phoenix, dated 28 September 2016
13. Letter from occupier of Flat 19, Phoenix, dated 28 September 2016
14. Letter from occupier of Flat , Phoenix, dated 28 September 2016
15. Letter from occupier of Flat 8, Phoenix, dated 28 September 2016
16. Letter from occupier of Flat 10, Phoenix, dated 28 September 2016
17. Letter from occupier of Flat 60, Phoenix, dated 28 September 2016
18. Letter from occupier of Flat 16, Phoenix, dated 28 September 2016
19. Letter from occupier of Flat 30, Phoenix, dated 28 September 2016
20. Letter from occupier of flat 35 the Phoenix, bird street, dated 29 August 2016
21. Letter from occupier of Flat 38 the phoenix, Barratt street, dated 29 August 2016
22. Letter from occupier of Blue Legend Asset Corp, Flats 49 & 53, dated 26 September 2016
23. Memorandum from Cleansing dated 5 September 2016
24. Memorandum from Highways Planning Manager dated 11 November 2016
25. Memorandum from Arboricultural Officer dated 25 November 2016

### **Selected relevant drawings**

(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 [mhollington2@westminster.gov.uk](mailto:mhollington2@westminster.gov.uk)

10. KEY DRAWINGS



**DRAFT DECISION LETTER**

**Address:** Bird Street, London

**Proposal:** Installation of 5 new kiosks on the western side of Bird street and a replacement kiosk close to the junction with Oxford Street, and associated landscaping works to the highway.

**Reference:** 16/08018/FULL

**Plan Nos:** NWECBS-ATK-L-0001 (Site plan), A 001, A003, A004, B 001,

**Case Officer:** Mike Walton

**Direct Tel. No.** 020 7641 2521

**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 The kiosks hereby approved shall be operated in accordance with Management Plan received on 25 October 2016

Reason:

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

- 3 The kiosks hereby approved shall only be open to customers between the following times :, , Monday to Saturday 10:00 to 20:00 hours;, Sunday 11:00 to 19:00

Reason:

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

- 4 The street trading kiosks and associated works allowed by this permission can continue until 6 December 2017. After that, the use must end and you must remove structures from the highway. You must then

return the land to its previous condition and use. (C03DA)

**Reason:**

So we can assess the effect of the scheme and make sure that it complies with policies S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, of our Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (July 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You will have to apply separately for a licence for street trading kiosks.
- 3 You are advised that works to the highway will require separate approval under the Traffic Management Act 2004

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.