



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Committee

Friday, 5 June 2015

2.00 pm

Council Chamber - Municipal Offices

Membership	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Garth Barnes, Wendy Flynn, Adam Lillywhite, Anne Regan, Rob Reid, Pat Thornton and Jon Walklett

The Council has a substitution process and any substitutions will be announced at the meeting

Agenda

1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	PUBLIC QUESTIONS These must be received no later than 12 noon on the fourth working day before the date of the meeting	
4.	MINUTES OF THE LAST MEETING To approve the minutes of the last meeting held on 10 April 2015	(Pages 3 - 6)
5.	MINUTES OF SUB COMMITTEE MEETING <ul style="list-style-type: none">1 May 2015 – Sandford Parks Lido	(Pages 7 - 12)
6.	APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY - THE COUNTRY KITCHEN, 6 GROSVENOR STREET, CHELTENHAM Report of the Licensing Officer	(Pages 13 - 20)
7.	LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining items of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1, 2 and 7, part 1 Schedule 12A (as amended)	

		Local Government Act 1972, namely: Information relating to any individual, Information which is likely to reveal the identity of an individual, Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	
8.		EXEMPT MINUTES To approve the exempt minutes of 10 April 2015	(Pages 21 - 24)
9.		ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
10.		DATE OF NEXT MEETING 3 July 2015	

Contact Officer: Annette Wight, Democracy Assistant, 01242 264130
Email: democratic.services@cheltenham.gov.uk

Licensing Committee**Friday, 10th April, 2015****2.00 - 2.50 pm**

Attendees	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Rob Reid, Pat Thornton, Jon Walklett and Helena McCloskey (Reserve)
Also in attendance:	Phil Cooper, Licensing Officer, Vikki Fennell, Solicitor

Minutes**1. APOLOGIES**

Apologies were received from Councillor Barnes.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. PUBLIC QUESTIONS

There were no public questions.

4. MINUTES OF MEETING HELD ON 6 MARCH 2015

The minutes of the meeting held on 6 March 2015 were approved and signed as a correct record.

5. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE

The Licensing Officer, Phil Cooper, introduced the report and explained that Mr Mozir Choudhury was currently licensed as a hackney carriage driver in Cheltenham. He informed Members that in October 2014 Mr Choudhury reported to the council that he had been convicted of driving without due care and attention, for which 5 penalty points had been added to his driving licence. The matter was brought before the licensing committee in December 2014. After hearing the facts the committee determined that Mr Choudhury's hackney carriage licence should be permitted to continue without further action, but the committee required Mr Choudhury to undertake the approved road safety driving test within 3 months of the committee's decision.

Mr Choudhury had confirmed that he undertook the driving test on 3 March 2015 but failed that test. Details of the individual areas of failure were outlined at paragraph 1.5 of the report. Mr Choudhury has since confirmed that he was attempting the test again on 2 June 2015 and had asked for an extension of the time available for him to pass the test. He had also confirmed that he would take driving lessons to help him with the test.

The Officer advised that members needed to consider whether Mr Choudhury was a fit and proper person to hold a hackney carriage driver's licence and therefore whether to permit the licence to continue, or to revoke the licence if they considered that he was not a fit and proper person to hold the licence.

A Member asked whether the Committee had the option of adding a requirement that Mr Choudhury must successfully pass the approved road safety driving assessment test within a period of 3 months. In response the Licensing Officer referred to paragraph 5.3 of the report explaining that this option was available to the committee but they had already exercised this and Mr Choudhury had failed the test.

Mr Choudhury was invited to address the committee. He apologised for failing the test which he had found more difficult as it was a newly introduced test. He believed he would definitely pass the test next time and was taking driving lessons to facilitate this and just asked that his request for more time to do this be considered.

When asked by a Member whether the driving assessment test had changed, the Licensing Officer confirmed that this was the case. It had previously been a test arranged by the County road safety unit but as part of the Council's taxi policy review of 2014, a new test was adopted which is carried out by the Driver Vehicle Standards Agency. In response to a question Mr Choudhury confirmed that he had now taken the test four times. He explained that the serious faults in his recent test were failure to stipulate the speed limit on a dual carriageway and what documents should be carried by a driver at all times, both questions he had appeared to have misunderstood. He reiterated that this was a completely new driver test which was tougher than the old test. He confirmed that since the last committee hearing he had taken 3 driving lessons.

A Member asked that should Mr Choudhury's licence be revoked today, would he be free to reapply should he pass the test. In response the Licensing Officer confirmed that Mr Choudhury would be able to reapply but would have to submit a new application and undertake all of the new tests.

Having heard Member's questions and from Mr Choudhury the Chair outlined the rationale for a potential decision. Having failed the approved driver safety assessment test on several occasions it would appear that Mr Choudhury could not drive his vehicle safely and to do this would require more work. He was therefore not deemed to be a fit and proper person to drive a taxi on the road. Members supported this view and believed Mr Choudhury had been given the opportunity to pass the test over the last few months. Should he subsequently pass the test he would be able to apply for a new licence.

Mr Choudhury was then invited to address the committee for a final time. He pleaded for an extension to pass the test as his livelihood and family depended on it.

Members were advised that they had the following recommendations regarding Mr Choudhury's Hackney Carriage driver's licence to determine :

1. Permitted to continue with no further action taken because the Committee considers Mr Choudhury to be a fit and proper person to hold such a licence
2. Revoked because the Committee considers Mr Choudhury to no longer be a fit and proper person to hold such a licence
3. If the Committee determines that Mr Choudhury's licence should be revoked as he is not a fit and proper person, the Committee may also

consider whether that revocation should have immediate effect in the interest of public safety.

Upon a vote it was (7 in favour 0 against 1 abstention)

RESOLVED, that Mr Choudhury's Hackney Carriage driver's licence be revoked with immediate effect, in the interest of public safety, because the Committee considers Mr Choudhury to no longer be a fit and proper person to hold such a licence.

6. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION

RESOLVED THAT in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining items of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1, 2 and 7, part 1 Schedule 12A (as amended) Local Government Act 1972, namely:

- **Information relating to any individual**
- **Information which is likely to reveal the identity of an individual**
- **Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.**

7. RENEWAL OF PRIVATE HIRE DRIVER APPLICATION

Members were advised that they had the following recommendations to vote on :

Mr Chimuka's private hire driver's licence be renewed with no further action taken because the Committee is satisfied he is a fit and proper person; or

Mr Chimuka's private hire driver's licence not be renewed on the grounds that he is not a fit and proper person under section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976.

Upon a vote it was (6 in favour, 2 against)

RESOLVED that Mr Chimuka's private hire driver's licence be renewed with no further action taken because the Committee is satisfied he is a fit and proper person

8. DATE OF NEXT MEETING

1 May 2015

Roger Whyborn
Chairman

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Licensing Sub-Committee

**Friday, 1st May, 2015
10.30 - 11.17 am**

Attendees	
Councillors:	Diggory Seacome (Chairman), Anne Regan and Rob Reid
Officers:	Phil Cooper and Vikki Fennell
Also in attendance:	

Minutes**1. ELECTION OF CHAIRMAN**

Councillor Diggory Seacome was duly elected as Chairman.

2. APOLOGIES

None.

3. DECLARATIONS OF INTEREST

None.

4. DETERMINATION OF APPLICATION FOR A PREMISES LICENCE

Licensing Officer, Phil Cooper, introduced the report as circulated with the agenda. An application had been made by Sandford Lido Limited for a premises licence in respect of Sandford Parks Lido, Keynsham Road, Cheltenham. The application was for a licence to authorise the sale of alcohol, the performance of plays, the exhibition of films, the performance of live and recorded music and the performance of dance.

A copy of the application was attached at Appendix A, together with site plans at Appendices B, C and D.

Following concerns raised by residents shortly after the application was originally submitted, the applicants revised their application to reduce its scope and identified a maximum number of occasions per year when the licence would be used to provide licensable activities. These were detailed in paragraph 1.3 of the report, together with the times and days of the week when these activities would happen.

The two tables in paragraph 1.3 showed the applicants' proposals firstly in relation to the normal operation of the premises throughout the year, and secondly in relation to a proposed annual six week winter event.

The Licensing Officer referred members to the operating schedule listing the steps the applicant intended to take to ensure that the activities at the premises would not cause crime or disorder, risk public safety, present a public nuisance or cause children to be harmed. These steps were listed in full in Appendix A. He informed the sub-committee that if a premises licence was granted it would

be subject to binding conditions consistent with the steps shown in the operating schedule.

He advised members that no objections had been received from the nine responsible authorities. However 49 representations had been received mostly from residents living in the area. Their objections were summarised in 4.1 of the report and were reproduced in full at Appendix E.

The representations related principally to such matters as the potential for noise nuisance from events at the premises as well as the potential for the sale of alcohol at the premises to risk public safety, cause harm to children and lead to crime and disorder both at the premises and in its vicinity.

The Officer advised that in making their decision the sub-committee must take into account all of the relevant representations and the steps the applicant had proposed to take in relation to promoting the licensing objectives.

Having given due consideration to all the relevant issues, the sub-committee may grant the licence as applied for, in which case it will be subject to mandatory conditions as well as conditions consistent with the steps proposed by the applicants. Alternatively if the sub-committee was satisfied that to grant the licence as applied for would compromise one or more of the licensing objectives, they may refuse the application in full, or they may grant the licence subject to such modifications or conditions as are appropriate to promote the four licensing objectives.

In response to questions from a member, the Officer confirmed that since the application had been submitted, there had been a change in law, in that the performance of plays and dance may now be provided without the need for a licence, so long as the audience was no more than 500 and the events ended by 11pm and if a premises already had a licence to sell alcohol then live and recorded music could be provided between 8pm and 11 pm for an audience of up to 500 without the need to have a licence for that entertainment. The Officer also clarified that at any stage, following the grant of a premises licence, any interested party may apply to the Licensing Authority to review a premises licence because of problems arising at the premises that are connected with any of the four licensing objectives.

The Chair asked that the part of the application in relation to the winter event be discussed first and invited a representative of the applicants to address the committee. There were four representatives present, namely Julie Sargent, Sandford Park Lido Business Executive, Iain Barton Sandford Parks Lido Events Manager, Susannah Moffat the DPS and Stu Phillips the Winterland Organiser. Mr Stu Phillips addressed the committee.

Mr Phillips informed members that he wanted to produce a high quality, themed Christmas event that would attract people from a 30-40 mile radius of Cheltenham. It would be properly monitored and well run and would combine education, conservation and fun. He planned to attract schools to visit in the day time, working with The Wilson and conservationists from London to give talks. The stalls would have an Edwardian / Victorian theme and the Santa's Grotto would be of a high standard. He informed members that they had already decided to reduce the length of time the event would run in the first year

from 6 to 4 weeks in view of comments from the neighbours. He assured members that there would be good security and monitoring in place and that this might even be a deterrent to any anti-social behaviour in the park.

Mr Phillips said he was aware that a couple of similar projects in the country had failed, but informed members that he had been organising such events for 30 years, that this would be very different and that he wanted to make Cheltenham known for its Christmas event.

A number of questions from the members were put to the applicant, which were answered as follows:

- The event had been reduced to 4 weeks as a result of neighbour comments, but also because a 6 week event needed planning permission. So it would be trialled for 4 weeks this year and if it proved its worth, extended to six weeks next year.
- The applicant confirmed the winter event would run from 5 December 2015 to 3 January 2016.
- A sustainability project had been carried out on the capacity of the car park, which showed that the summer season would still be busier than this winter event and that the car park was sufficient to carry the expected number of vehicles which would attend.
- One member was concerned about the sale of alcohol at an event primarily for children. The applicant stressed that this would be very strictly monitored. If anyone was drunk they would not be allowed in and would be escorted away. Whilst in the premises, situations would be closely monitored by security. The applicant said he had a clean licence and wanted the added attraction of being able to offer mulled wine, beer, wines etc, to adults who would bring their children and who could have a drink whilst the children were entertained. He didn't want to restrict it to just mulled wine as he would like to invite various alcohol suppliers, eg CAMRA. He confirmed that they would operate the Challenge 21 scheme, and felt the kind of alcohol on sale was not associated with thugs.
- The applicant confirmed that plastic glasses would be used and that the consumption of alcohol would be in a contained area, namely the marquee.
- He confirmed that he would join Cheltenham's Night Safe scheme and be linked in to the town centre and be receptive to warnings of disorder from / to the Police.
- He confirmed that CCTV was already installed, that staff would all have the relevant DBS checks for working alongside minors and that trained First Aiders would be on site.
- In reply to a reservation on the use of live animals, the applicant informed that he was working with conservationists and that Birdland were advising on the penguins.
- From the plan submitted of the winter event at Appendix C, the stalls appeared to be placed on the raised areas a couple of feet high which raised the issue of public safety. The applicant replied that the height was just over a foot and that a balustrade around the stalls would be created with steps and a handrail.
- A similar observation was made in relation to public safety and the pool and the applicant advised that a 1.8m high barrier with perspex for

viewing would be erected around the pool, some 2 feet away from the edge of the pool. He confirmed that there would be no swimming during the winter event or indeed at any time when alcohol was on sale.

- The applicant reassured members that there were no plans to have fireworks or strobe lighting, which could cause annoyance for neighbours.
- With regard to questions about noise control, the applicant advised that although there would be background music on the ice rink the noise level would be kept below the maximum limit of 96 decibels. He said it was directional sound that went from side to side and that there would be a canopy above the ice rink that would catch the rising sound. The only gap would be about one and a half metres between the barrier around the rink and the top of the canopy. He confirmed that the rink would be operational from 10am with the last skate at 9pm (8pm on Sundays).

In summing up, the Sandford Lido Business Executive, Julie Sargent, said that this was a great opportunity for the Lido to be used during the winter and for people to be able to engage in an unique experience in an unique setting.

The Chair then referred back to the summer side of the application. In response to a question from a member, the Licensing Officer reported that using TENs, the Lido had run several events over the course of 5 years, with six such events in 2014, and that licensing had not received any complaints. Environmental Health, noise control, had received a complaint last year against just one event in 5 years, which was a staff party and this had been dealt with verbally.

A member asked what type of plays and music would be staged and whether these would include heavy rock and musicals and again expressed the concern about the sale of alcohol in the vicinity of a swimming pool.

The Sandford Lido Business Executive replied saying that in the last year they have held 5 live music events, 4 of which were jazz evenings on a Sunday which finished at 9pm and one was a Blues Brothers Tribute band. She continued that they would like to be able to serve alcohol during the interval at these and other events and that alcohol would be served in the cafeteria and contained to that end of the Lido. She reiterated that alcohol would not be served during public swimming sessions, only in the evenings once swimming had finished. She also added that all evening events had two life guards on duty and although there was no barrier around the pool, the covers were put on and lifeguards were present.

Councillor Paul Baker attended the meeting and spoke as councillor and local resident. He informed the committee that he lived in Keynsham Road and represented Charlton Park ward. Councillor Baker congratulated the applicants. He was delighted that they had listened to the views of residents and had reduced the number of hours that alcohol would be sold and the number of events. He felt reassured that so long as the management were responsive to and aware of residents' views and that the licence could be reviewed at any time, that he would be happy to support this application. He felt that the winter event would be a great bonus for the town and was pleased that in the first year it would be limited to 4 weeks to see how it went, especially with regard to noise control.

Mr Baker felt that most of the objections had been to the original application, but now that it had been modified with some restrictions, it reflected a good balance and residents should be happy that the Lido had been willing to listen and modify.

Members adjourned from the Council Chamber at 11.03 to discuss their decision.

Members returned to the Council Chamber at 11.13.

The Chair stated that the committee had been impressed with the applicants' command of the situation and that this was appreciated and he read out their decision.

In respect of the application by Sandford Lido Limited in relation to Sandford Parks Lido, Keynsham Road, Cheltenham, the sub-committee has had regard to the statutory guidance issued by the Secretary of State, the Council's adopted policy statement, the representations made and the evidence it has heard. In particular the sub-committee has sought to promote the four licensing objectives when determining the application, those being the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.

The decision of the sub-committee was as follows: -

To grant the licence as applied for, subject to the following conditions being added to the licence in relation to the winter event:

1. Commitment to join night safe
2. Staff to ensure that people consuming alcohol in the marquee area will not take the alcohol outside of the marquee area.

The sub-committee had placed these conditions on the licence for the purpose of promoting the licensing objectives.

In all other respects the sub-committee had found that the licensing objectives were satisfied and that the conditions imposed on the licence would ensure the licence met these objectives.

The interested parties were reminded that should the applicant fail to meet the licensing objectives that they could report matters to the Licensing Authority and the applicant and that the licence could be the subject of a review.

The chair wished the applicants every success with the winter event and closed the meeting.

Diggory Seacome
Chairman

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Cheltenham Borough Council
Licensing Committee – 5 June 2015
Highways Act 1980
Local Government (Miscellaneous Provisions) Act 1982
Application for Permission to Place Tables and Chairs on the
Highway
The Country Kitchen
6 - 8 Grosvenor Street Cheltenham GL52 2SG
Report of Licensing Officer

1. Summary and Recommendation

- 1.1 An application has been received from Mr Richard Warwick in respect of The Country Kitchen, 6 - 8 Grosvenor Street, Cheltenham, GL52 2SG. The applicant has applied for permission to place 2 tables and 4 chairs on the pavement outside 6-8 Grosvenor Street.
- 1.2 Additionally, the applicant has also requested that the requirement for barriers around the tables and chairs be disapplied in his case.
- 1.3 It is intended that the tables and chairs be put out;

Monday	08:00-17:00
Tuesday	08:00-17:00
Wednesday	08:00-17:00
Thursday	08:00-17:00
Friday	08:00-17:00
Saturday	08:00-17:00
Sunday	

- 1.4 A picture of the proposed structure(s) is attached at **Appendix A** and a location plan at **Appendix B**.
- 1.5 **The Committee is recommended to resolve that:**
- 1.5.1 **The application be approved because Members feel the application is compatible with the current Street Scene Policy, or**
- 1.5.2 **The application be refused as the application falls outside the provisions of the current Street Scene Policy.**

1.6 Summary of implications

1.6.1 Financial

Contact officer: Sarah Didcote
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 26 4125

1.6.2 Legal

No right of appeal.

Contact officer: Vikki Fennell
E-mail: Vikki.Fennell@tewkesbury.gov.uk
Tel no: 01684 272015

2. Background

2.1 The current policy for *Town Centre Street Activities: Street Trading & Objects on the Highway* was approved on 1st April 2013. A copy of the whole policy has previously been circulated to members and extracts are included in the application pack that was given to the applicant.

3. Policy Principles, Aims and Objectives

3.1 This section outlines the policies the council will apply when making decisions on applications for consents.

3.2 In particular, this part of the policy will aim to promote the following aims and objectives:

- To have a clear & transparent policy governing all decisions relating to objects placed on the highway.
- To enable the Council to manage all objects placed on the highway in order to provide effective control measures.
- To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
- To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.

Each application is assessed against the outlined conditions included in the application pack and this policy.

No object and its associated activity may generate noise which is likely to cause nuisance or annoyance.

Any object given consent to be placed on the highway must be sufficiently weighed down or secured to ensure that the object will not cause any harm or damage.

The Council wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town. To this end, the Council will look favourably on applications by operators in appropriate locations to put tables and chairs on the pavement outside their premises.

Consent to place tables and chairs on the highway will only be granted for the consumption of food and drink, provided they are in association with a business operating from nearby premises.

Consent to place tables and chairs on the highway will be subject to the use of canvas barriers to cordon off the area where the tables and chairs are placed on the highway.

For health and safety reasons, the Council will not permit glass top tables.

Where consent has been issued for tables and chairs to be placed on the highway the Council may permit, within reason, other objects to be placed inside the area that has been cordoned off with barriers.

4. Consultee Comments:

4.1 Responsible Authorities

Cheltenham Business Partnership Manager - No Comments

Highways Enforcement Officer - No Comments

Environmental Health Officer – No Comments

Gloucestershire Constabulary - No Comments

Planning Enforcement Officer – “Whilst this is a bit tight in terms of pavement width, especially if barriers are insisted upon, I would not object to this modest licence request for this nascent business in a part of the town centre which would benefit from such business uplift.”

Waste & Recycling Manager – No Comments

Environmental Maintenance Officer – No Comments

Disability Awareness Advisor – No Comments

Townscape manager – No Comments

4.2 Interested Parties

No objections were received from interested parties and the applicant has confirmed that he has discussed his application with his neighbours who have no objections.

5. Licensing Comments

- 5.1 The Committee must determine the application with a view to promoting the Council's adopted policy.
- 5.2 This report has been brought to member's attention as prescribed in the scheme of delegation set out in the Street Scene Policy (page 6) adopted on 1st April 2013, whereby all new applications are referred to the Licensing Committee.
- 5.3 In addition the applicant has also requested that the requirement for barriers around the tables and chairs, which is a policy requirement, be disapplied in his case due to pavement width constraints.
- 5.4 In accordance with the current Street Scene Policy members must determine and consider if an application of this type positively enhances the enjoyment and reputation of the town as a tourist and leisure destination whilst being in keeping with the streetscape.

Background Papers

Service Records

Report Author

Contact officer: Mr Phil Cooper
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242775200

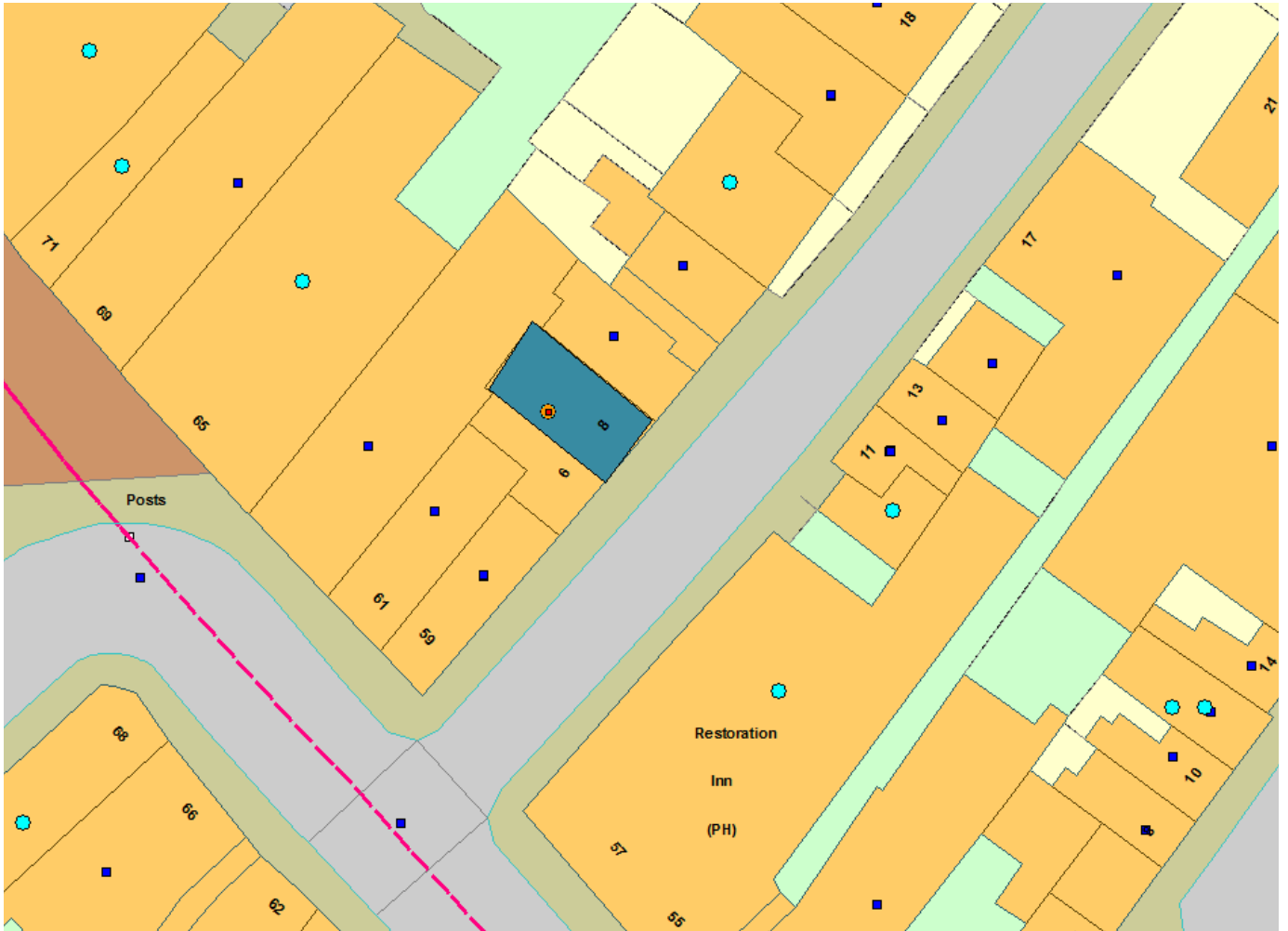
Tables + chairs placed outside for 5 minutes to take these photos.



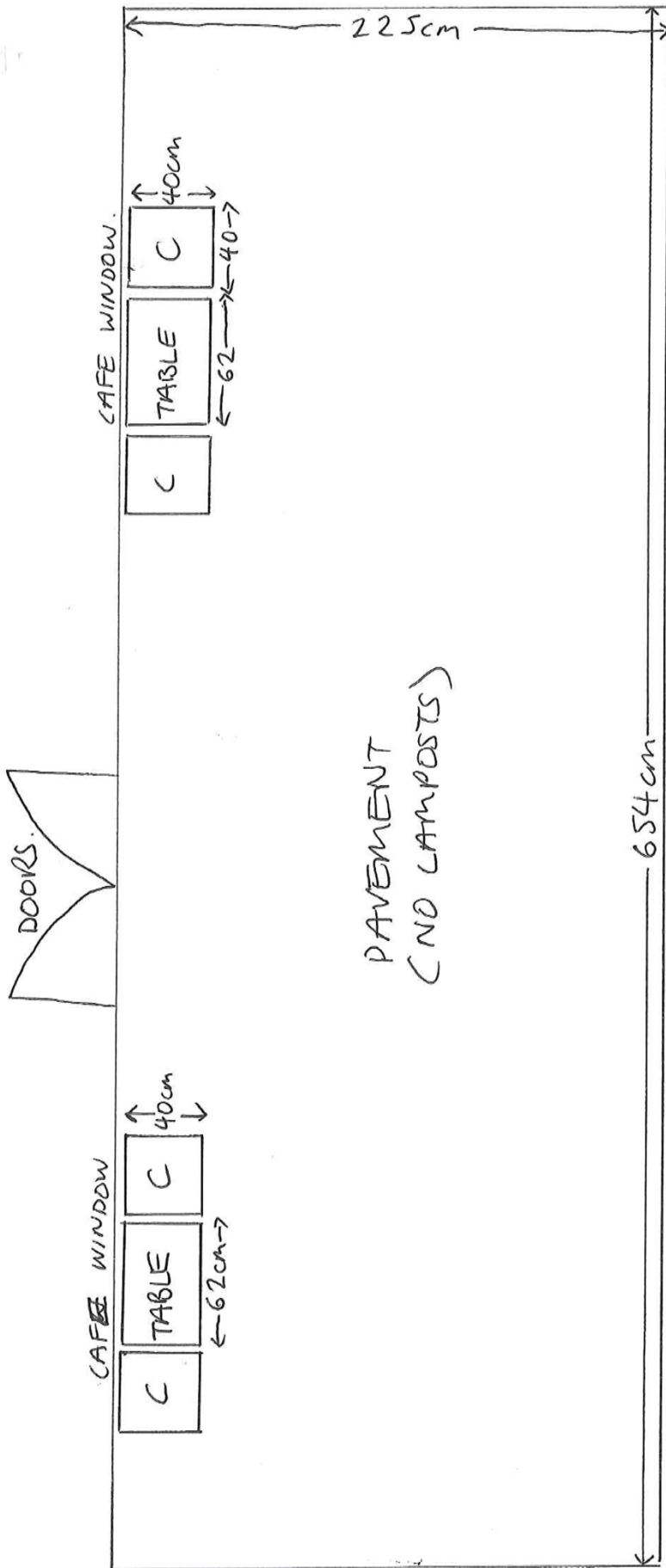
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Appendix B

Location Map



THE COUNTY KITCHEN - GROSVENOR STREET.



ROAD

SCALE 1:100

TABLES = 40 X 62 cm
CHAIRS = 40 X 40 cm

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