



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Committee

Wednesday, 6 June 2018

6.00 pm

Pittville Room - Municipal Offices, Promenade

Membership	
Councillors:	David Willingham (Chair), Paul McCloskey (Vice-Chair), Tim Harman, Diggory Seacome, Angie Boyes, Flo Clucas, Mike Collins, Alex Hegenbarth, Roger Whyborn and Dennis Parsons

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

Agenda

1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	APPOINTMENT OF SUB-COMMITTEES AND SUBSTITUTES	(Pages 3 - 6)
4.	PUBLIC QUESTIONS These must be received no later than 12 noon on the fourth working day before the date of the meeting	
5.	MINUTES OF LAST MEETING To approve the minutes of the last meeting held on 6 th December 2017.	(Pages 7 - 10)
6.	APPLICATION TO REPEAT A STREET TRADING CONSENT - ITEM WITHDRAWN Mr Mustafa Ayguher	
7.	APPLICATION FOR STREET TRADING CONSENT Mr Tee Smith	(Pages 11 - 16)
8.	APPLICATION FOR PERMISSION TO PLACE AN OBJECT ON THE HIGHWAY S.Rouse & Co, 99 Gloucester Road, Cheltenham GL51 8NG	(Pages 17 - 26)

9.		ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	
10.		DATE OF NEXT MEETING 5 th September 2018.	

Contact Officer: Sophie McGough, Democracy Officer, 01242 264130
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Cheltenham Borough Council

Licensing Committee – 6 June 2018

Licensing Committee Appointment of Sub-Committees

Report of the Licensing Team Leader

1. Background

- 1.1 The Licensing Committee is one of two regulatory committees with a broad range of responsibilities and delegated powers. Its primary role is to determine contentious licensing applications, deal with all licence holder disciplinary issues, to suspend and/or revoke licences, to act as lead consultee to the Cabinet on all licensing matters and to establish licensing sub-committees. A list of the committee's delegated functions is set out in part 3C of the Council's constitution – Committee Functions.
- 1.2 On 12 April 2017 the Licensing Committee approved a revised committee structure to become effective from September 2017. The full committee continues to meet quarterly, acting as consultee to Cabinet / Lead Member on policy matters, establishing sub-committees and dealing with relevant briefings, training, updates and policies and reviewing performance.
- 1.3 The committee is made up of 10 Members and the political balance must equate to that of the Council. Each party can also nominate substitutes up to the number of places that each party has on the committee. The Members and substitutes were appointed at Selection Council on 14 May 2018.
- 1.4 Under the committee's revised structure, three sub-committees, need to be established to discharge the committee's substantive business. The intention is that the membership of the sub-committees will rotate on an annual basis to maintain competency, experience and balance attendance requirements.

Name of Sub-committee	No of Members	Politically Balanced	Special requirements/Quorum	Substitutes allowed
Miscellaneous	5	Yes	Quorum of 3	Each party can nominate up to the same number of substitutes as members on the sub-committee.
Sexual Entertainment Venues (SEV)	5	Yes	Quorum of 3	ditto
Alcohol and Gambling	3	Not a requirement	3 Members of the Licensing Committee. All 3 Members must be present.	Not allowed. One or more reserves from the Licensing Committee can be nominated when the sub- committee is formed.

1.5 The Committee is recommended to:

- i) **Select 5 Members to form the Miscellaneous Licensing Sub-committee (4 Lib Dems, 1 Conservative and up to the same no of substitutes)**

- ii) **Select 5 Members to form the SEV Licensing Sub-Committee (see section 2.4 for alternative options)**
(4 Lib Dems, 1 Conservative and up to the same no of substitutes)
- iii) **Appoint a chair and vice-chair for each sub-committee above**
- iv) **That the Alcohol and Gambling Sub-Committee be constituted and note that Members will be selected from the full membership of the Licensing Committee when required and a chair will be appointed at the start of any meeting.**

1.6 Summary of implications

Legal As outlined in the report.

Contact officer: One Legal
E-mail: legalservices@teWKesbury.gov.uk
Tel no: 01684 272693

2. Review, structure and meeting arrangements

- 2.1 In April 2017 the Licensing Committee approved a revised structure and operation. Under the revised structure, the Licensing Committee meets up to 4 times a year, acting as consultee to Cabinet / Lead Member on policy matters, establishing sub-committees and dealing with relevant briefings, training, updates and policies and reviewing performance.
- 2.2 The full committee establishes 3 licensing sub-committees to deal with the substantive business of the committee such as licence applications and reviews.
- 2.3 Sub-committee (1) will have responsibility for hackney carriage, private hire and miscellaneous licensing functions, which will include but not be limited to street trading, objects on the highway, scrap metal dealers, charitable collections and animal establishments. This sub-committee will normally meet monthly and the dates of the meetings have been set in advance.
- 2.4 Sub-committee (2) will have responsibility for sex establishments / sexual entertainment venues. **An alternative to setting up this sub-committee would be for any such applications to be dealt with by the main committee or the Miscellaneous sub-committee and this option can be discussed at the meeting.**
- 2.5 Sub-committee (3) - due to statutory requirements, when dealing with individual applications and reviews under the Licensing Act 2003 (alcohol, regulated entertainment and late night refreshment) and Gambling Act 2005, 3 members (plus one or more reserves from the Licensing Committee membership) will determine the application. Again this sub-committee will meet on a case-by-case basis on dates that cannot be set in advance and membership should be rotated amongst members of the full committee.

3. Performance management – monitoring and review

- 3.1 All Committee Members and substitutes must be fully training before they can participate in any meetings of the Licensing Committee or its sub-committees and until then can only attend as observers. Existing Members are expected to attend refresher training when provided.
- 3.2 The effectiveness of the new meeting arrangements and committee structure will be measured against its success in addressing the issues identified under the review's rationale.

Background Papers

Report to Licensing Committee 6 September 2017

Contact Officer

Licensing Team Leader

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Licensing Committee

Wednesday, 6th December, 2017
6.00 - 6.40 pm

Attendees	
Councillors:	David Willingham (Chair), Mike Collins, Adam Lillywhite, Dennis Parsons, Diggory Seacome, Max Wilkinson and Pat Thornton
Also in attendance:	Phil Cooper and Fiona Samuda

Minutes**1. ELECTION OF CHAIR AND VICE CHAIR**

Councillor Thornton nominated Councillor Willingham as Chair. This was seconded by Councillor Collins.

Resolved That

Councillor Willingham be elected as Chair of the Licensing Committee.

Councillor Willingham nominated Councillor Paul McCloskey as Vice Chair which Councillor Parsons seconded. Councillor Thornton also put herself forward as Vice Chair. Members voted 6 to 1 in favour of Councillor McCloskey as Vice Chair.

Resolved That

Councillor McCloskey be elected as Vice Chair of the Licensing Committee.

Councillor Willingham confirmed that Councillor Flynn had stood down as Chair. Members raised some concern that they had not been informed of Councillor Flynn's resignation.

2. CONFIRMATION OF MEMBERSHIP OF SUB-COMMITTEES

The Chair confirmed that Councillor Helena McCloskey would sit on the Alcohol and Gambling Sub-Committee.

3. APOLOGIES

Apologies were received from Councillor Paul and Helena McCloskey and Councillor Harman.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. PUBLIC QUESTIONS

There were no public questions.

6. **MINUTES OF LAST MEETING**

The minutes of the last meeting held on 6th September 2017 were approved and signed as a true record.

7. **MINUTES OF SUB COMMITTEE MEETINGS - ALCOHOL AND GAMBLING**

The minutes of the meeting held on 2nd October 2017 were approved and signed as a true record.

8. **RATIFICATION OF MISCELLANEOUS LICENSING SUB-COMMITTEE'S RESPONSE TO TAXI & PRIVATE HIRE POLICY REVIEW**

The Chair introduced the report and explained that following the sub-committee meeting held on Wednesday 22nd November it was the licensing committee's responsibility to ratify and approve the sub-committee's response to the review of Cheltenham Borough Council's private hire and taxi licensing policy in readiness for submission to cabinet for consideration.

Some Members wished to raise concerns over grandfather rights and the sub-committee's preference towards option C to '*amend the grandfather rights rules so that those who retain it can interchange between saloon cars and wheelchair-accessible vehicles without those rights being affected*'. They felt that this was discriminatory against those with disabilities and that there was a need to enhance and promote equality, they felt option A would be more preferential.

The Chair suggested that the committee proceeded to go through the Policy – Consultation Document question by question and that should Members have any concerns they could raise them at the relevant question. No concerns were raised with regards to questions 1-9.

Several concerns were raised regarding question 10 and Grandfather rights and a discussion ensued. Some Members who had attended the previous sub-committee meeting justified why option C had been agreed as the preferential option. They rationalised that:

- The cost for a replacement taxi was in the region of £30,000-£40,000 and it was unfair to impose this cost upon taxi drivers.
- Wheelchair accessible vehicles were uncomfortable and it was unfair to impose this upon able-bodied persons. One Member made reference to a previous colleague who had found wheelchair-accessible vehicles so uncomfortable that they had preferred a saloon car with their wheelchair in the boot.
- One Member reasoned that there were around 400 licensed taxis in Cheltenham and the number of wheelchair users in the area was fewer than 400, they, therefore, felt there was an issue of proportionality as there was not a 400 a day demand for wheelchair users.
- In most cases, it was suggested that wheelchair users already had a driver with whom they called upon if necessary or relied on their spouse or other family Members.
- Members did, however, reason that if a wheelchair user required a vehicle that it was easily available.

Concerns were raised over the fact that not all Members were party to the previous discussion and some felt there had been a lack of engagement with

disability groups and professional bodies. It was agreed that it was imperative to seek guidance from professional bodies on the review of the licensing policy and that user groups should be spoken to on the consultation process. The Chair confirmed that colleagues who were wheelchair users had been consulted to and advised that Leonard Cheshire and the National Star College were aware of the consultation.

Following discussion Members were invited to vote on what their preferred approach would be.

The vote was 3 in favour of option A and 4 in favour of option C.

Councillor Willingham, Wilkinson and Collins voted in favour of option A, Councillor Thornton, Lillywhite, Seacome and Parsons voted in favour of option C.

Members then proceeded to discuss question 11. The Licensing Officer suggested that the Council should maintain a list of wheelchair licensed vehicles on the Council's website, with the contact details of drivers if they agreed to it. Members agreed this would be a good idea but that it was imperative that contact details were made available out of hours. One Member raised a concern that Licensing Officers do not actively promote consultation from interested parties and that the Council should consult as widely as possible when adopting new policies as the committee were not experts in this field. The Chair confirmed that the consultation had been made available online and that there had been a press release.

The Committee had no queries regarding question 12.

Resolved That

1. *The responses of the miscellaneous licensing sub-committee be noted; and*
2. *The sub-committee's response for submission to Cabinet for consideration be approved.*

9. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION

None

10. DATE OF NEXT MEETING

Wednesday 7th March 2018 at 6pm.

Chairman

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Cheltenham Borough Council

Licensing Sub-Committee – 6 June 2018

Local Government (Miscellaneous Provisions) Act 1982

Application for Street Trading Consent

Mr Tee Smith

Report of the Licensing Officer

1. Summary and recommendation

- 1.1 An application has been made by Mr Tee Smith for street trading consent in respect of two mobile ice cream vehicles.
- 1.2 The trading times relating to the application are as follows:

Every day
17:00-22:30
- 1.3 The vehicles are Mercedes Sprinters as pictured at **Appendix A**.
- 1.4 If street trading consent is approved, it will apply to the whole borough with the exception of certain locations that are prohibited in the council’s adopted policy. These are listed at paragraph 2.2.
- 1.5 **The sub-committee can:**
 - 1.5.1 **Approve the application because Members are satisfied that the location, size of unit and type of goods are suitable;**
 - 1.5.2 **Refuse the application because Members consider the location, size of unit or goods being sold to be unsuitable.**

1.6 Implications

Legal The Local Government (Miscellaneous Provisions) Act 1982 provides that a local authority can grant a trading consent for an individual within their area. Under the legislation consent can be granted for a period not exceeding 12 months. Consent must therefore be reviewed every 12 months. A local authority can apply reasonable conditions to the consent.

Any application should be considered in line with the Council's policy on Street Trading.

Contact officer: One Legal
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2. Policy Principles, Aims & Objectives

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

Each application will be determined on individual merits and in view of promoting the principles and objectives contained in this policy.

In particular the policy aims to promote the following aims and objectives in reference to street trading activities:

- prevent the obstruction of the streets by street trading activities;
- sustain established shopkeepers in the town;
- maintain the quality of the townscape and add value to the town;
- encourage inward investment; and
- promote quality markets.

2.2 Special conditions for mobile ice cream traders

1. Trading is prohibited in the following streets or parts of streets:

- a) High Street (from Sandford Park entrance to Townsend Street)
- b) Promenade (from High Street to Montpellier Walk)
- c) Clarence Street
- d) North Street
- e) Pittville Street
- f) Regent Street
- g) Rodney Road
- h) Winchcombe Street (from High Street to Warwick Place)
- i) Imperial Square
- j) Montpellier Walk
- k) Montpellier Street
- l) Warden Hill Road (within 100 meters of frontage to Bournside School), both sides of the road in any direction, during the period half an hour before school opening to 1 hour after closing during school terms).
- m) Loweswater Road (from the junction with Alma Road to the junction with Langdale Road during the above period and times).
- n) Evesham Road and roads adjacent to Pittville Park.

2. Trading is prohibited within 75 meters of the gates of all schools, except Bournside School (see Special Condition 1) on both sides of the road in any direction during the period half an hour before school opening to one hour after closing during school terms.

3. The consent holder shall comply with all traffic regulations, rules, orders and directions which apply to the public highways on which he trades.

4. The consent holder is required to comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013 or any modification or re-enactment thereof.

2.3 Assessment criteria

In considering applications for the grant or renewal of a consent the following factors will be considered:

- **Needs of the Area** - The retail offer of each individual pitch. The goods complement and do not conflict with the goods sold by other retailers (including other street traders) within vicinity. This criterion permits the council to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area. The council does however recognise that the surrounding retail offer is subject to change therefore it will apply this criterion to applications for new or renewal applications.
- **Public Nuisance** – Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public or properties in the vicinity from noise, misbehaviour, emissions, smells etc.
- **Public Safety** – Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.
- **Appearance of the Stall or Vehicle** – Trading units must enhance the visual appearance of the street rather than detract from it and be constructed in a suitable scale, style and of appropriate materials. It should also be designed to be fully accessible for all customers and advertising material must be limited to the name of the stall, the type of product sold and a simple price list and be professionally designed and printed. The council will generally not permit trading units over 3 meters tall to avoid obstruction of sight.
- **Environmental Credentials** - The impact of the proposed operation on the local environment including street surfaces, tree pits & materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste created by customers.

3. Consultee Responses

During the consultation process the following objection was received from a Cheltenham Borough Councillor:

I'm not happy and object to allowing these vans to attract potentially noisy crowds on residential streets at 10.30 on a Sunday night. I regard their intentions as irrelevant if we are being asked to license them for anywhere in town.

4. Licensing Comments

- 4.1 The applicant has provided the following additional information about the way he intends to trade:
- The vehicles' chimes are not used – instead, the vehicle uses social media to announce its arrival in a place.

- The intention is that the vehicles will arrange with local businesses such as supermarkets to use their car parks, rather than parking on the street.
- The applicant has a food registration certificate and has the appropriate level of public liability insurance.

4.2 The overarching aims of Cheltenham Borough Council's street trading policy are to:

- Prevent the obstruction of the streets by street trading activities;
- Sustain established shopkeepers in the town;
- Maintain the quality of the townscape and add value to the town;
- Encourage inward investment; and
- Promote quality markets.

4.3 Other considerations when deciding whether street trading is appropriate are:

- The needs of the area;
- The potential for public nuisance;
- Public safety;
- The appearance of the trading unit; and
- The impact on the environment.

4.4 Members are advised that any street trading consent, once granted, can be reviewed at any time if problems occur and are reported.

4.5 Members are further advised that conditions can be applied to street trading consents if they are proportionate and appropriate. These could include specifications about the locations in which trading is allowed.

4.6 All applications should be determined on their individual merits taking into account the policy considerations and the comments made, whilst balancing the needs of the community with the legitimate aspirations of businesses.

Background Papers

Service Records

Adopted Street Trading Policy

Case Officer

Contact officer: Mr Philip Cooper
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Tel no: 01242 262626



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Cheltenham Borough Council

Licensing Committee – 6 June 2018

Highways Act 1980 Part VIIa Local Government (Miscellaneous Provisions) Act 1982

Application for permission to place an object on the Highway – A-board

Report of the Licensing Officer

1. Executive Summary

- 1.1 An application has been made to place an advertising board (A-board) on the highway outside S.Rouse & Co, 99 Gloucester Road, Cheltenham GL51 8NG. The proposed A-board is 1.3m high x 0.76m wide.
- 1.2 It is intended that the A-board will be placed on the highway on the following days and at the following times:

Monday	09:00-17:00
Tuesday	09:00-17:00
Wednesday	09:00-17:00
Thursday	09:00-17:00
Friday	09:00-17:00
Saturday	09:00-17:00
Sunday	None

- 1.3 A location plan is attached at **Appendix A**.
- 1.4 A photo of the location is attached at **Appendix B** and a photo of the A-board is at **Appendix C**.
- 1.5 The sub-committee can:**
- 1.5.1 Approve the application because Members are satisfied that the location is suitable, or**
- 1.5.2 Refuse the application because it does not comply with the provisions of the adopted Street Scene policy.**
- 1.6 **Summary of implications**

Legal

The decision of the sub-committee does not carry a right of appeal.

Contact officer: One Legal

E-mail: legalservices@teWKesbury.gov.uk

Tel no: 01684 272693

2. Introduction

2.1 Responsibility for this aspect of highways enforcement has transferred from the highways agency to the borough council.

3. Policy Principles, Aims & Objectives

3.1 Under the council’s current adopted policy, A-boards are subject to maximum dimensions of 1100mm (43”) in height and 844mm (32”) in width.

3.2 The policy states the following in relation to A-boards: “In setting the policy principles relating to ‘A’ boards, the Council seeks to strike a balanced approach between promoting the Council’s priorities, in particular strengthening the borough’s economy by assisting and promoting local businesses, but at the same time ensuring free passage along footpaths and maintaining the visual street environment by the controlled use of ‘A’ boards in the streets.”

3.3 Within the conservation area, the policy allows A-boards only where premises have no ground-level street frontage because they are in a basement, on an upper floor, or in an alleyway. This restriction does not apply outside the conservation area. [This application relates to a location that is outside the conservation area].

3.4 Permission to place an A-board on the highway is subject to the following standard conditions:

Conditions of Consent

(a) A minimum of 1.8 metres of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary.

(b) Where there are existing consents in place in the vicinity of the application, there must be a minimum distance of 4 metres (either way) between ‘A’ boards.

(c) The size of the ‘A’ board does not exceed 1100mm (43”) in height (inc feet) and 844mm (32”) in width.

(d) The ‘A’ board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises.

(e) The ‘A’ board must not contain any visual or written material that could be construed as inappropriate or offensive. *(Any breach of this condition will result in the immediate removal of any such signs.)*

(f) The ‘A’ board must not cause an obstruction to access by emergency or service vehicles.

(g) The ‘A’ board must not interfere with sight lines for any road users. *(For example ‘A’ boards placed on street corners, central reservations, roundabouts, pedestrian safety refuges and junctions, or pedestrian crossing facilities.)*

(h) The ‘A’ board must be sufficiently weighed down to avoid falling over. *(It will not be sufficient that ‘A’ board is attached to fixed structures. The applicant must be able to demonstrate that the ‘A’ board has been sufficiently weighed down and the Council reserves the right to inspect the ‘A’ board prior to issuing a consent.)*

(i) The ‘A’ board must relate to the trade of the premises.

(j) The 'A' board must be constructed in such a way that it does not have any moving parts (*i.e. rotating or swinging 'A' boards*).

(k) The object does not obstruct the safe passage of users of the footway or carriageway in any other way not mentioned above.

4. Consultee Comments

4.1 The following objection was received from Cheltenham Borough Council's Planning Enforcement team:

I object to this application on the grounds that it does not comply with policy and is not reasonably required having regard to their privately owned large forecourt.

Not only does the A board exceed the size dimensions but it also conflicts with -

(d) The A board must be placed directly outside the premises, immediately adjacent to the front of the premises.

The A board will not in accordance with this policy as it has a large forecourt as I have said and there is plenty of room for the A board to be legitimately displayed on this forecourt which is directly outside the premises.

5. Licensing Comments

5.1 This report has been brought to members' attention as prescribed in the scheme of delegation set out in the adopted policy, whereby all applications for A-boards which do not comply with the policy requirements are referred to the Licensing Committee for determination.

5.2 The application does not comply with the policy requirements in that the height of the A-board (1.3m) exceeds the maximum permitted height set out in the adopted policy (1.1m).

5.3 Members should also consider the planning enforcement officer's comments relating to the policy requirement that "The A board must be placed directly outside the premises, immediately adjacent to the front of the premises." Members will note from the attached photograph that the shop has a forecourt between the shop frontage and the highway where it is proposed to locate the A-board.

5.4 This application must be determined on individual merits.

5.5 Whilst the policy and officer recommendation should not fetter the sub-committee's discretion, the sub-committee should only depart from the policy where there are clear and defensible reasons for doing so.

6. Officer recommendation

6.1 The officer recommendation is that this application be refused.

Reason(s): The application does not comply with the adopted policy due to its size exceeding the maximum permitted dimensions.

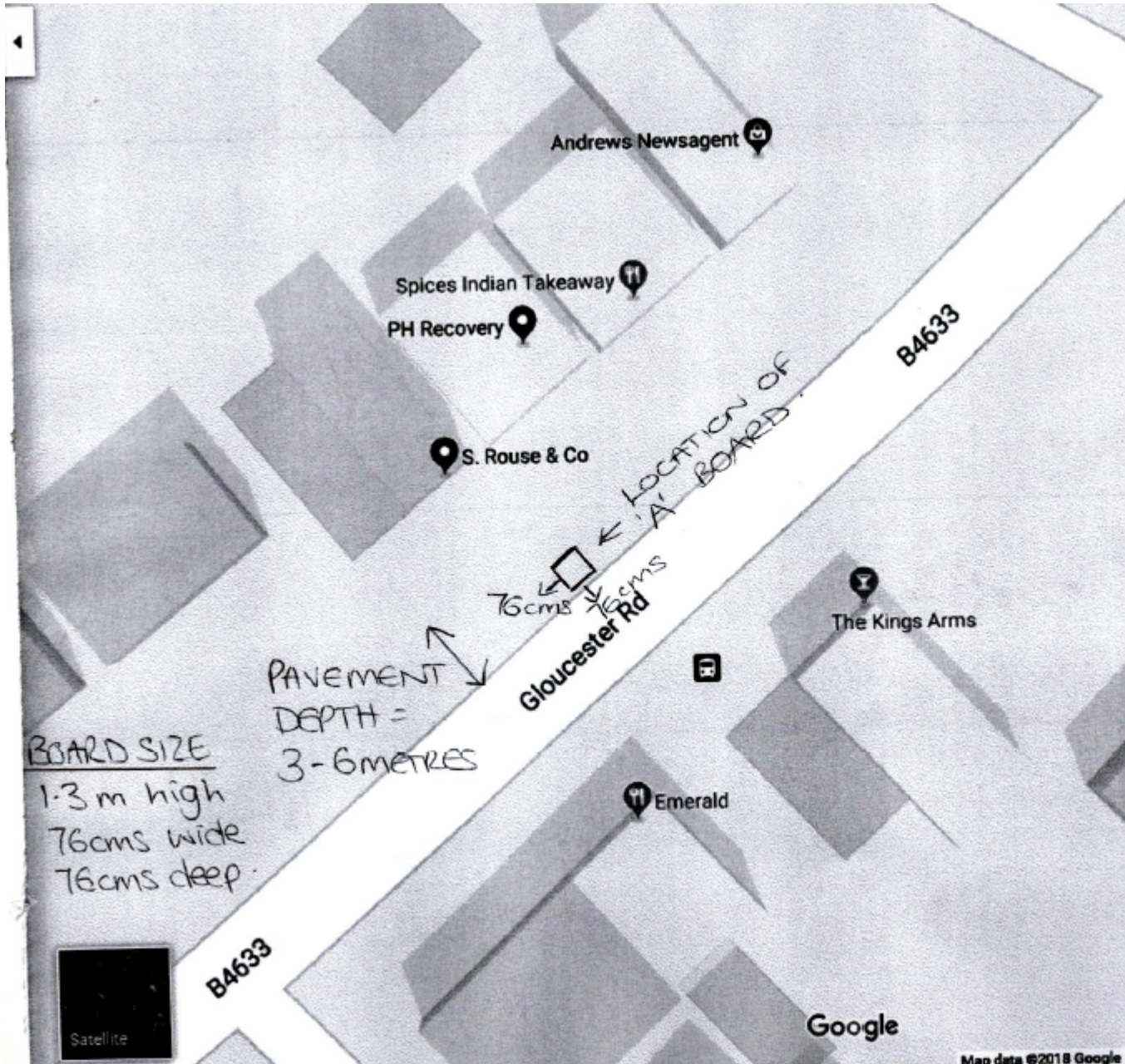
Background Papers

Service Records

Case Officer

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