



# CHEL TENHAM

## BOROUGH COUNCIL

### Notice of a meeting of Licensing Sub-Committee - Miscellaneous

**Wednesday, 4 October 2017**  
**6.00 pm**

<b>Membership</b>	
<b>Councillors:</b>	Adam Lillywhite, Dennis Parsons (Vice-Chair), Diggory Seacome, Pat Thornton and David Willingham (Chair)
<b>Officers:</b>	Louis Krog, Vikki Fennell and Phil Cooper

### Agenda

<b>1.</b>	<b>APOLOGIES</b>	
<b>2.</b>	<b>DECLARATIONS OF INTEREST</b>	
<b>3.</b>	<b>MINUTES OF THE LAST MEETING</b> Minutes of the meeting held on 6 September 2017	(Pages 3 - 4)
<b>4.</b>	<b>REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE</b> Mr Arsalan Khan Maroofkhil - HCD127	(Pages 5 - 6)
<b>5.</b>	<b>REVIEW OF A PRIVATE HIRE DRIVER'S LICENCE</b> Mr Mansour Mosayeb Khozani - PHD068	(Pages 7 - 10)
<b>6.</b>	<b>APPLICATION FOR PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY</b> The Find, 20 Regent Street, Cheltenham, Gloucestershire, GL50 1HE	(Pages 11 - 20)

**Contact Officer:** Bev Thomas, Democracy Officer,  
**Email:** [democratic.services@cheltenham.gov.uk](mailto:democratic.services@cheltenham.gov.uk)

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### Licensing Sub-Committee - Miscellaneous

**Wednesday, 6th September, 2017  
7.00 - 7.20 pm**

<b>Attendees</b>	
<b>Councillors:</b>	David Willingham (Chair), Adam Lillywhite, Dennis Parsons, Diggory Seacome and Pat Thornton
<b>Officers:</b>	Vikki Fennell, Phil Cooper

### Minutes

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

The Licensing Officer welcomed Members to the meeting and invited nominations for Chair and Vice-Chair.

Upon a vote Councillor David Willingham was elected as Chair and Councillor Dennis Parsons was elected as Vice-Chair.

Councillor David Willingham took his position as Chair.

**2. APOLOGIES**

There were no apologies.

**3. DECLARATIONS OF INTEREST**

Councillor Parsons declared that he had visited the proposed street trading location. Councillors Willingham and Thornton declared that the location was in the ward they represented. Councillors Seacome and Lillywhite declared that they were aware of the proposed trading location.

**4. DETERMINATION OF AN APPLICATION FOR A STREET TRADING CONSENT**

The Licensing Officer, Phil Cooper, introduced the report regarding an application received from Mr Stoyan Velez for street trading consent to sell hot spiral chips and sweetcorn from a catering cart from Collets Drive Cheltenham from 9am-6pm on Fridays and Saturdays, initially for a 4 week trial period.

The Licensing Officer informed Members that an objection had been received from the Gloucestershire County Council Area Highways Representative which was outlined in Section 4.1 of the report. He also briefed Members that the proposed trading location was not in the town centre and was therefore not one of the locations approved for street trading in the council's policy, however the application was fully compliant and was put before the committee due to an objection having been received.

Members were advised to determine the application based on its individual merits taking in to account the assessment criteria laid down in paragraph 3.2 of the report, the policy principles, aims and objectives and the comments

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received in relation to the application. The Committee were advised that they could approve the application if Members were satisfied that the location and goods being sold were suitable or refuse the application because the location or goods being sold were not suitable.

Mr Velev was invited to address the committee. He informed Members that this was the third application he had made to trade with the previous two applications for the town centre. He was proposing to trade for a trial period of 4 weeks. He did not believe there was a problem with the proposed location due to the proximity of the 200 space car park at Tesco and the double yellow lines in the area which would prevent cars from parking.

In response to questions from Members Mr Velev confirmed that he had discussed his application with Tesco and that he intended to use a petrol generator to operate his handcart. When asked by the Chair if he had further comments he reminded Members that this application had been considered by the committee in respect of two different locations so Members should be familiar with his proposed application.

Members debated the application and the following points were made :

- The concept of the operation was welcomed
- The proposed location was still deemed not to be suitable as it could still cause traffic obstructions to other road users with vehicles stopping to buy goods so the objection from Gloucestershire Highways was pertinent
- A Member referred to a number of antisocial behaviour issues in close proximity to the proposed location and considered whether the facility could exacerbate the situation.
- Members asked whether the applicant could discuss with officers a more suitable location which would be acceptable. In response the Licensing Officer explained that whilst officers could not suggest an alternative location they could discuss where would be more suitable. A Member added that this had been done in the past with other street trading operators.

Upon a vote the sub committee was unanimously against approving the application as laid down in paragraph 1.5.1 of the report and as a consequence paragraph 1.5.2 fell. The Chair strongly urged the applicant to convene a meeting with the Licensing Team for further guidance on a suitable location outside the street trading policy zone.

David Willingham  
**Chairman**

## Cheltenham Borough Council

### Licensing Sub-Committee – 4 October 2017

#### Review of a Hackney Carriage Driver's Licence

##### Mr Arsalan Khan Maroofkhil – HCD127

#### Report of the Licensing Officer

#### 1. Summary and Recommendation

- 1.1 Mr Arsalan Khan Maroofkhil holds hackney carriage driver's licence HCD127 which is due for renewal on 15 January 2018.
- 1.2 A complaint has been made against Mr Maroofkhil, details of which are contained in the attached background papers.
- 1.3 In light of the complaint the matter is being referred to members of the licensing sub-committee to determine whether or not Mr Maroofkhil remains a fit and proper person to hold a hackney carriage driver's licence.
- 1.4 **The sub-committee is recommended to resolve that:**
- 1.4.1 **Mr Arsalan Khan Maroofkhil's hackney carriage driver's licence be continued with no further action, because the sub-committee is satisfied that Mr Maroofkhil is a fit and proper person to hold such a licence, or**
- 1.4.2 **Mr Arsalan Khan Maroofkhil's hackney carriage driver's licence be revoked as the sub-committee considers Mr Maroofkhil is not a fit and proper person to hold such a licence.**
- 1.4.3 **Subject to resolution 1.4.2, that Mr Maroofkhil's hackney carriage driver's licence be revoked with immediate effect in the interest of public safety.**

#### 1.5 Implications

- 1.5.1 Financial **Contact officer: Sarah Didcote**  
**E-mail: sarah.didcote@cheltenham.gov.uk**  
**Tel no: 01242 264125**
- 1.5.2 Legal There is a right of appeal against a decision to revoke a licence which, in the first instance, is to the Magistrates' Court.
- Contact officer: Vikki Fennell**  
**E-mail: Vikki.Fennell@tewkesbury.gov.uk**  
**Tel no: 01684 272015**

#### 2. Background

- 2.1 The Borough Council must be satisfied that the holder of a Hackney Carriage licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

- 3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the Licensee/Applicant and the risks to the safety and comfort of the public.
- 3.2 Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.3 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, *courteous* [emphasis added], mentally and physically fit, honest and not persons who would take advantage of their employment.

### 4. Licensing Comments

- 4.1 The sub-committee must be satisfied that Mr Arsalan Khan Maroofkhil is a fit and proper person to continue to hold a hackney carriage driver's licence.
- 4.2 If Members are minded to allow Mr Maroofkhil's licence to continue, they may choose to instruct officers to issue Mr Maroofkhil with a warning letter as to his future conduct which will remain on file should further complaints come to light.
- 4.3 Mr Maroofkhil has been sent a copy of this report and invited to attend this meeting to speak in support of his application and to answer members' questions or to be represented. In considering the application on its own merits Members should have regard to the adopted Probity Guide.

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**Background Papers**

Service Records

**Report Author**

**Contact officer:** Mr Phil Cooper  
**E-mail:** [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)  
**Tel no:** 01242775200



3.1 Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.

The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.

Hackney carriage and private hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that an applicant must disclose ALL convictions when applying for the grant of a licence. The Council may take into account anything they consider relevant to the determination of the application.

When the relevant required information has been returned, the application will be considered in the light of the information provided. The information will be used to ascertain whether the information given on the original application form was correctly and truthfully provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage.

A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a Licence. This is a criminal offence and, as such, may lead, not only to consideration of the applicant as not being a “fit and proper person”, but criminal proceedings.

In the event that there are no relevant convictions, cautions or fixed penalties held, the applicant will be considered to be a “fit and proper person” and the matter will be determined by the issue of the licence [subject to the successful completion of all other assessments].

Applications where convictions, cautions or fixed penalties are held will be considered by a Licensing Officer who, having regard to this policy may refer the application to a Licensing Committee for determination. This will result in either the determination of the applicant as a “fit and proper person”, indicated by the issue of a licence, or the application being refused. In these circumstances, the applicant has the right of appeal to the Magistrates’ Court, such appeal to be lodged within 21 days of the decision being notified.

The Council will only consider spent convictions if it appears to be relevant for deciding whether the applicant is a fit and proper person to hold a licence and that justice cannot be done in the case, except by admitting or requiring evidence relating to that spent conviction.

For the purpose of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions.

**Fit and Proper Person**

There is no absolute definition as to what constitutes a “fit and proper person”. However, considering the range of passengers that a driver may carry, for example, elderly people, unaccompanied children, people with disabilities, those who have had too much to drink, lone women and foreign visitors, the Council will want to have confidence that such people would be able to rely on the driver.

Some important areas that will be considered by the Council are:

- a) Honesty and trustworthiness – licensed drivers and operators often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. For example, any passenger would expect to be charged the correct fare for a journey and then given the correct change, they would

also expect a driver to hand in any article left by a passenger in a vehicle, and also to maintain confidentiality between driver and fare.

- b) Courtesy - taxi drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. A driver will not be expected to have any convictions or cautions for offences of a violent or threatening nature.
- c) Consistently good and safe driving - those paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence.
- d) Good knowledge of the area that they are working in.
- e) Good physical and mental health.
- f) Ability to read, speak and understand English, together with a working knowledge of arithmetic in giving the correct change, etc.

#### 4. Licensing Comments

- 4.1 There is a statutory duty on the council to ensure that people licensed as private hire drivers are, and remain, fit and proper people.
- 4.2 The information in the background papers calls into question Mr Khozani's fitness in terms of his honesty and trustworthiness.
- 4.3 Taking into account the information in this report, the background papers and the information provided by Mr Khozani during the meeting, Members should determine whether they are satisfied that he is a fit and proper person.
- 4.3 If Members determine that Mr Khozani's licence should be permitted to continue, Members may wish to instruct officers to issue Mr Khozani with a warning letter as to his future conduct which will remain on file should further complaints or convictions come to light.
- 4.5 Mr Khozani has been sent a copy of this report and invited to attend this meeting to speak in support of himself and to answer members' questions or to be represented. In considering the application on its own merits Members should have regard to the adopted Probity Guide.

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#### Background Papers

#### Service Records

#### Report Author

**Contact officer:** Philip Cooper  
**E-mail:** [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)  
**Tel no:** 01242775004

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## Cheltenham Borough Council

### Licensing Sub-Committee – 4 October 2017

#### Highways Act 1980 Local Government (Miscellaneous Provisions) Act 1982

#### Application for permission to place tables and chairs on the highway

**The Find, 20 Regent Street, Cheltenham, Gloucestershire,  
GL50 1HE**

#### Report of the Licensing Officer

**1. Summary and Recommendation**

1.1 Mr David Orme has made an application to place 2 tables and 4 chairs on the highway outside The Find, 20 Regent Street, Cheltenham, Gloucestershire, GL50 1HE.

1.2 It is intended that the tables and chairs be placed on the highway at the following times:

Monday	08:00 - 20:00
Tuesday	08:00 - 20:00
Wednesday	08:00 - 20:00
Thursday	08:00 - 20:00
Friday	08:00 - 22:00
Saturday	09:00 - 22:00
Sunday	10:00 - 22:00

1.3 A picture of the proposed furniture is attached at **Appendix A**, a site location plan at **Appendix B** and a hand-drawn plan to illustrate the measurements is attached at **Appendix C**.

1.4 The application does not comply with the council's policy on objects on the highway because the applicants have indicated that they do not intend to have barriers separating the furniture from the rest of the highway, which is a policy requirement.

1.5 The council's standard recommendation is that any objects on the highway should leave a minimum distance of 1.8m to allow for pedestrian access. In this case, according to the plan provided - and verified by officers - the distance left between the tables and chairs and the kerbside is 1.8m without the addition of barriers.

**1.6 The sub-committee can:**

**1.6.1 Grant the consent because members are satisfied that there are sufficient grounds to depart from the policy in this instance, or**

**1.6.2 Refuse the consent because the application falls outside the provisions of the current Street Scene Policy.**

**1.7 Summary of implications**

Legal No right of appeal.

**Contact officer: One Legal**  
**E-mail: [legalservices@teWKesbury.gov.uk](mailto:legalservices@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 1<sup>st</sup> 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 During the consultation process no objections or comments were received

#### **5. Licensing Comments**

5.1 The sub-committee must determine the application with a view to promoting the Council's adopted policy.

5.2 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 objects on the highway which do not comply with the policy requirements are referred to the licensing committee (or relevant sub-committee) or for determination.

5.3 The applicant, Mr David Orme, have been sent a copy of this report and invited to attend the meeting

5.4 Members will note that the application does not comply with the council's policy in as much as the applicants do not propose to use barriers, whereas the policy requires the following: 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

5.5 Whilst the policy and officer recommendation should not fetter the committee's discretion, the 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: The council's adopted policy includes a requirement that barriers will be used wherever tables and chairs are permitted on the highway.

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**Background Papers**

Service Records

**Case Officer**

**Contact officer: Mr Phillip Bowen**  
**E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)**  
**Tel no: 01242 775200**

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Base of table.  
Top to be 600mm  
round black plain melamine  
No photograph available  
as the tables are made  
to order.

MORE VIEWS



Details

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**Dimensions:**  
Do not scale this drawing. In all cases figured dimensions to be followed. Any discrepancies to be reported to Basnett Associates.

**Foundations:**  
Design of foundations where relevant is based on the assumption that the ground is of average quality (including Regulations 1991). Approved documents A1/A2 or other relevant standards apply.

**Notes:**

**Revisions:**

**Client:**  
Mr. D. Orme,  
The Villa,  
Hambrook Street,  
Charlton Kings,  
Cheltenham, Glos. GL52 6LP

**Contract:**  
20 Regent St.  
Cheltenham,  
Glos. GL50 1HE

**Drawing:**  
Block and Location Plan

**Drawn:**  
RB

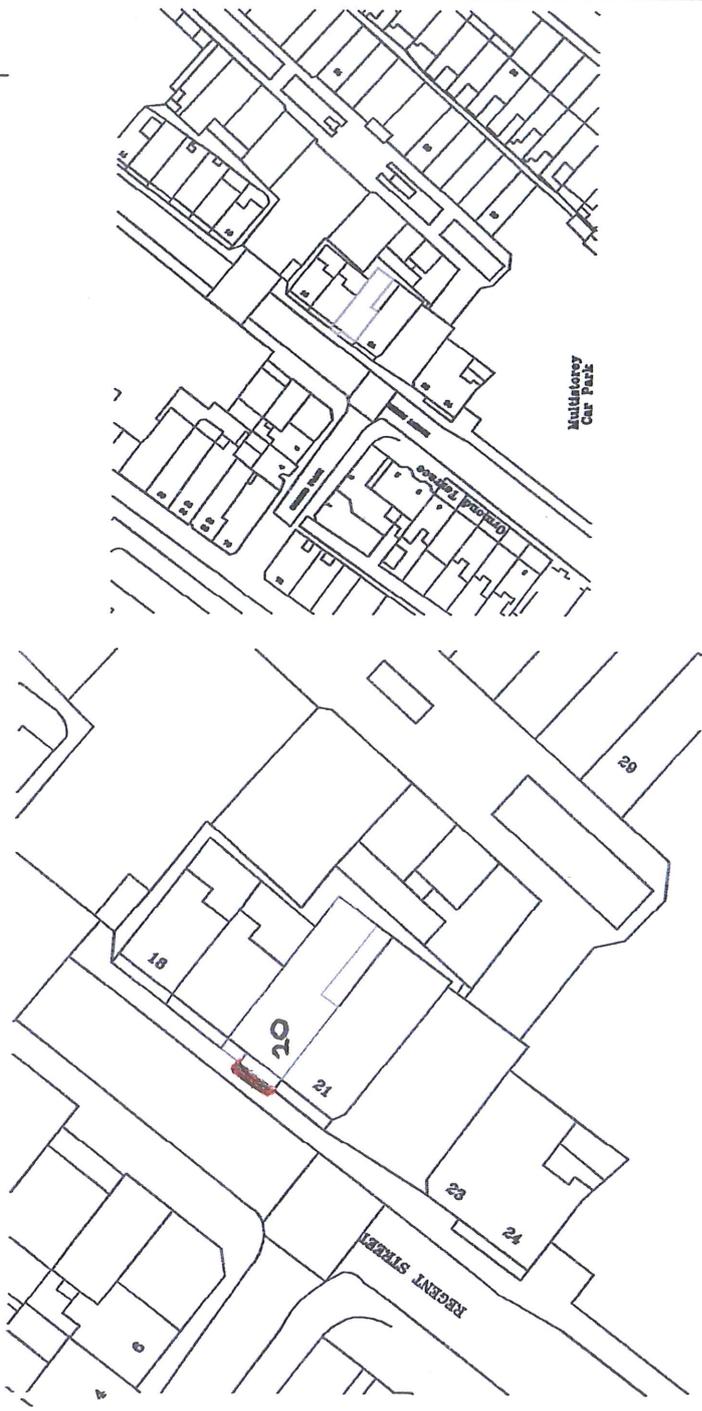
**Date:**  
December 2016

**Scale:**  
1:50@A1 & 1:100@A3

**Dwg. No.:**  
20 Regent/04

**BASNETT ASSOCIATES**  
CHARTERED SURVEYORS  
BUILDING AND DESIGN CONSULTANTS

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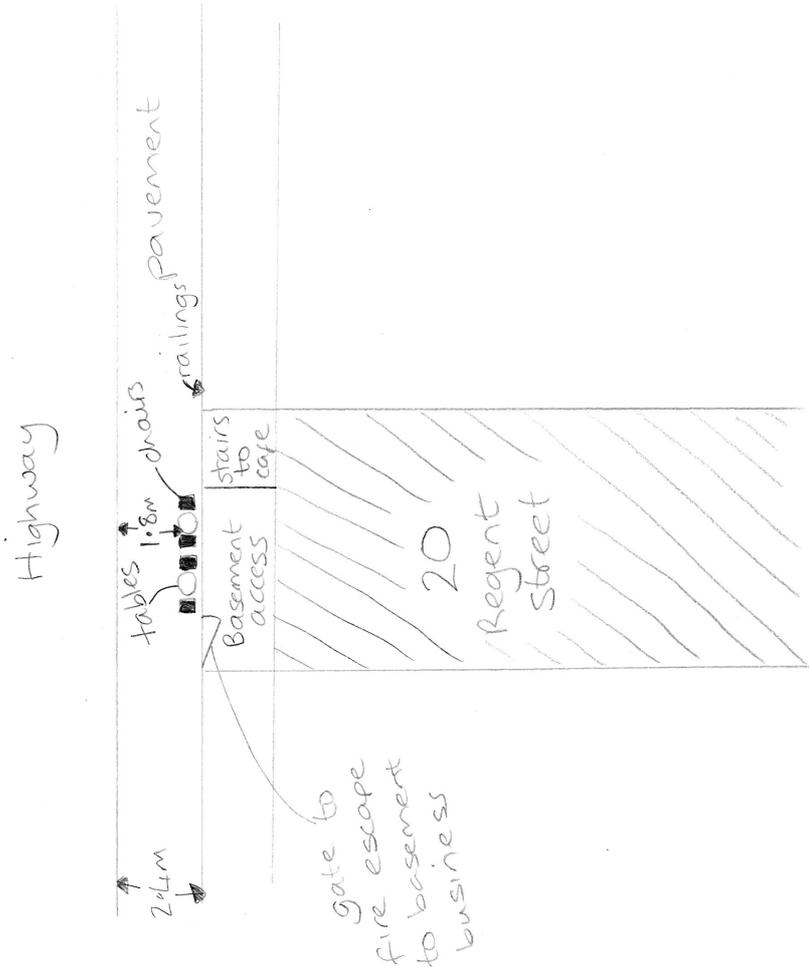


Block Plan 1:500

Location Plan 1:1250

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