

Licensing (General) Sub-Committee

Thursday, 29th November, 2012
at 9.30 am

PLEASE NOTE TIME OF MEETING

Conference Room 3 - Civic Centre

This meeting is open to the public

Members

Councillor Cunio (Chair)
Councillor Parnell
Councillor Mrs Blatchford
Councillor Vassiliou
Councillor Lewzey

Contacts

Democratic Support Officer
Sharon Pearson
Tel: 023 8083 4597
Email: sharon.pearson@southampton.gov.uk

Head of Legal, HR and Democratic Services
Richard Ivory
Tel. 023 8083 2794
Email: Richard.ivory@southampton.gov.uk

PUBLIC INFORMATION

Terms of Reference

The Sub-Committee deals with licenses, permits and forms of consent (other than those for which the Council is responsible under the Licensing Act 2003), including

- Hackney carriage and private hire drivers, vehicles and operators
- Public music and dancing
- Amusements with prizes
- Street trading
- Sex establishments

Relevant Representations

Those who have made relevant representations may address the meeting about the matter in which they have an interest with the consent of the Chair.

•Southampton City Council's Seven Priorities

- More jobs for local people
- More local people who are well educated and skilled
- A better and safer place in which to live and invest
- Better protection for children and young people
- Support for the most vulnerable people and families
- Reducing health inequalities
- Reshaping the Council for the future

Smoking policy –

The Council operates a no-smoking policy in all civic buildings.

Mobile Telephones – please turn off your mobile telephone whilst in the meeting.

Fire Procedure – in the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

Access – access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Dates of Meetings: Municipal Year 2012/13

Meetings of the Committee are held as and when required.

CONDUCT OF MEETING

Terms of Reference

The terms of reference of the Audit Committee are contained in Article 8 and Part 3 (Schedule 2) of the Council's Constitution.

Rules of Procedure

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

Business to be discussed

Only those items listed on the attached agenda may be considered at this meeting.

Quorum

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

CONDUCT OF MEETING

DISCLOSURE OF INTEREST

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Personal Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PERSONAL INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

(i) Any employment, office, trade, profession or vocation carried on for profit or gain.

(ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

a) the total nominal value for the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or

b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

Other Interests

A Member must regard himself or herself as having a, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

Agendas and papers are available on the Council's website at
www.southampton.gov.uk

1 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)

To note any changes in the membership of the Sub-Committee made in accordance with Council Procedure Rule 4.3.

2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer.

3 STATEMENT FROM THE CHAIR

4 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)

To approve and sign as a correct record the Minutes of the meeting held on 28th July 2011 and to deal with any matters arising, attached.

5 EXCLUSION OF THE PRESS AND PUBLIC

At a predetermined point during the consideration of all items the Sub-Committee may move into private session in order to receive legal advice when determining issues. The press and the public, unless otherwise excluded by Category 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

6 DECLARATION OF NEW AIR QUALITY MANAGEMENT AREAS (AQMA)

Report of the Senior Manager for Planning, Sustainability and Transport, seeking approval for the declaration of 3 new Air Quality Management Areas and to amend 4 existing Air Quality Management Areas (AQMA), attached.

7 **APPLICATION TO VARY A SEX SHOP LICENCE - PRIVATE SHOP, GROUND FLOOR, HANOVER BUILDINGS, SOUTHAMPTON, SO14 1JA**

Report of the Head of Legal, HR and Democratic Services, detailing an application to vary a sex shop licence in respect of Private Shop, Ground Floor, Hanover Buildings, Southampton, SO14 1JA, attached.

Wednesday, 21 November 2012

HEAD OF LEGAL, HR AND DEMOCRATIC
SERVICES

LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 28 JULY 2011

Present:

Councillors Mrs Blatchford, Drake, Parnell (Chair), Thomas and Willacy

7. **APPOINTMENT OF VICE CHAIR**

RESOLVED that Councillor Willacy be appointed as Vice-Chair of the Sub-Committee for the 2011/12 Municipal Year.

8. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

RESOLVED that the Minutes of the meeting held on 1 June 2011 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

9. **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED that in accordance with the Council's Constitution, specifically the Access to Information Rules, the press and public be excluded from the meeting at a predetermined point in the hearing in respect of any consideration of the following matters and specifically in respect of any consideration of Items 10 and 11 on grounds based on Categories 1 and 2 of paragraph 10.4 of the Council's Access to Information Procedure Rules because failing to do so would constitute a breach of the Data Protection Act 1998 as well as a breach of a Common Law duty of confidentiality.

10. **PRIVATE HIRE DRIVER**

The Sub-Committee considered the confidential report of the Head of Legal and Democratic Services seeking consideration on whether an individual was a fit and proper person to be a Private Hire Driver. (Copy of report circulated with agenda and appended to signed minutes).

The individual was present and with the consent of the Chair addressed the meeting.

The Sub-Committee considered the decision in confidential session in accordance with Categories 1 and 2 of Paragraph 10.4 of the Council's Access to Information Procedure Rules.

RESOLVED that the individual's licence be suspended until the qualifications now ordinarily required of a new applicant were obtained, or such of those the Licensing Manager may consider necessary to ensure the applicant is fully aware of:

- i) the conditions attached to the license of a private hire driver; and
- ii) the general requirements / standards required.

REASONS FOR DECISION

The Sub-Committee considered very carefully whether the individual remained a fit and proper person in accordance with the legislation to hold a private hire drivers licence.

The Sub-Committee considered the conviction of drink driving which was relevant and remained unspent. It was however felt this was an isolated incident and that a course had been undertaken regarding drinking and driving. It was not felt that the failure to report the offence was dishonest. The failure to report the offence identified a clear lack of understanding of the licence and the conditions attached to it. Accordingly, it was felt necessary to require a suspension until further qualifications were obtained or anything else the Licensing Manager thought necessary in order to be satisfied the individual had the necessary understanding of the licence.

Human Rights legislation had been taken into account whilst making the decision.

The Sub-Committee must stress that drink driving was a very serious matter and that any future issues of conduct or conviction of any nature would have serious implications upon the licence.

11. **PRIVATE HIRE DRIVER**

The Sub-Committee considered the confidential report of the Head of Legal and Democratic Services seeking consideration on whether an individual was a fit and proper person to hold a hackney carriage driver's licence. (Copy of report circulated with agenda and appended to signed minutes).

The individual was present and, with the consent of the Chair, addressed the meeting.

The Sub-Committee considered the decision in confidential session in accordance with Categories 1 and 2 of Paragraph 10.4 of the Council's Access to Information Procedure Rules.

RESOLVED that the Hackney Carriage Driver's Licence should not be revoked.

REASONS FOR THE DECISION

The Sub-Committee carefully considered whether the individual was a fit and proper person, in accordance with the legislation, to hold a Hackney Carriage Driver's Licence.

The Sub-Committee had taken into account the report and oral representations made at the hearing.

It was noted that the guidelines made it clear that drivers should have at least three years conviction free before an application was entertained for new licences. However, in light of all the circumstances, including the individual's previous good behaviour and conduct, and the circumstances of the offence it was not considered appropriate to revoke the licence in this instance.

The Sub-Committee does take any offence seriously, particularly those relating to drugs. However, on the evidence presented the Sub-Committee was satisfied that this was an isolated occurrence and that the individual had co-operated and made full admission of the facts. In light of the individual holding a licence for 11 years without conviction or complaint, the Sub-Committee felt it was unlikely such an offence would be committed again.

It must be stressed that any further convictions or issue of conduct would have potentially grave implications upon the licence.

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Agenda Item 6

DECISION-MAKER:	LICENSING (GENERAL) SUB COMMITTEE
SUBJECT:	DECLARATION OF NEW AIR QUALITY MANAGEMENT AREAS
DATE OF DECISION:	29 NOVEMBER 2012
REPORT OF:	SENIOR MANAGER FOR PLANNING, SUSTAINABILITY AND TRANSPORT
STATEMENT OF CONFIDENTIALITY	
N/A	

BRIEF SUMMARY

Under Part IV of the Environment Act 1995 (the 1995 Act) the council is required to carry out statutory air quality reviews and assessments based on monitoring and modelling on a 3 yearly cycle. The government sets national health-based standards against key pollutants. Where these standards are exceeded, local authorities are under a duty to declare them as Air Quality Management Areas (AQMAs) and produce an Air Quality Action Plan (AQAP). Through a combination of monitoring data and modelling contained within the 2011 Air Quality Progress Report, six additional areas have been identified where the air quality objective for NO₂ will not be achieved and this report is asking for approval for these areas to be declared as new AQMAs (in the case of Burgess Road, Victoria Road and New Road) and amendments to existing AQMAs (in the case of Bitterne Road AQMA, Romsey Road AQMA, Redbridge Road AQMA and Millbrook Road AQMA).

RECOMMENDATIONS:

- (i) That the extension to the area of four Air Quality Management Areas at Bitterne Road, Romsey Road, Redbridge Road and Millbrook Road, and the declaration of three new Air Quality Management Areas at Burgess Road, Victoria Road and New Road be approved as set out in Appendices 1 to 7.
- (ii) To delegate authority to the Solicitor to the Council to take all action necessary to give effect to the recommendations including the drafting, publication and confirmation of such Orders and other legal processes or documentation as may be required.

REASONS FOR REPORT RECOMMENDATIONS

1. As a result of the review and assessment of air quality carried out by the City Council, the above areas have been identified as not being likely to meet the national objectives for air quality due to emissions from traffic. The City Council has a statutory duty to declare such areas as Air Quality Management Areas.

DETAIL (Including consultation carried out)

2. All combustion processes in air produce oxides of nitrogen (NO_x). Nitrogen dioxide (NO₂) and nitric oxide (NO) are both oxides of nitrogen and together

are referred to as NO_x. Road transport is the main source, followed by the electricity supply industry and other industrial and commercial sectors. NO₂ is associated with adverse effects on human health. At high levels NO₂ causes inflammation of the airways. Long term exposure may affect lung function and respiratory symptoms. NO₂ also enhances the response to allergens in sensitive individuals. The national air quality standards are health-based and AQMAs are only declared in areas where levels of NO₂ are exceeded and human receptors are present (e.g. residential building facades, school etc). There are currently a total of eight AQMAs in the city. Each one was declared where the national standard for nitrogen dioxide (NO₂), as set out in the National Air Quality Strategy, was exceeded. The exceedances were all a result of emissions from road transport.

3. The uptake of diesel vehicles into the car fleet has increased emissions of NO₂ and PM10, offsetting the improvements in emission standards for petrol vehicles. Improved spatial coverage of air quality monitoring diffusion tubes, targeting “hotspots” has identified additional residential locations where the NO₂ standard is currently being exceeded. The monitoring programme is reassessed and changed every year, which has led to new areas of exposure being identified.
4. In the latter part of 2011 an Air Quality progress report was published as part of the statutory review and assessment cycle. Through a combination of monitoring data and modelling contained within the report, six additional areas have been identified where the air quality objective for NO₂ will not be achieved. These areas, three of which are new, three of which are amendments to existing AQMAs, are as follows:
 - A new AQMA at Burgess Road (The row of houses from 66 Burgess Road to 46 on the south side of the road to encompass the zone of exceedance)
 - A new AQMA at Victoria Road (Victoria road at the junction with Portsmouth Road stopping short of 23 and 24 Victoria Road)
 - A new AQMA at New Road (Including the block of mixed commercial and residential at the Carronades. Just east of this block is a high rise Premier Inn hotel. Parkview Mansions is included and 10 New Road)
 - An extension to Bitterne Road AQMA (Extend the existing Bitterne Road AQMA over the Northam Bridge to encompass Princes House and the pub (with residential above) on the corner exceeding the air quality standard.)
 - An extension to Romsey Road AQMA (extended to include 134 Romsey Road and the block of houses within which 134 resides)
 - Conjoin Redbridge Road AQMA and Millbrook Road AQMA (Join up the 2 existing AQMAs including residential receptor housing blocks)
5. The air pollutant in all of the above areas is Nitrogen Dioxide (NO₂), which is predicted to exceed the annual mean objective of 40 micrograms per cubic meter (ug/m³). Southampton City Council has a statutory duty under Part IV of the Environment Act 1995 to include areas that exceed the objective and

which include human receptors (residential buildings, schools etc) as one or more declared AQMAs. Maps of the proposed AQMAs are included as appendices to this report (Appendices 1 to 7).

6. The declaration of AQMAs has important implications for spatial planning and transport planning processes with the requirement that the City Council will take action to move towards compliance with air quality objectives and, by implication will be precluded from taking action which worsens air quality in AQMAs. Taking action to improve air quality is a key commitment set out in the Southampton City Council Low Carbon City Strategy which was agreed by Cabinet in June 2011 (and previously in its Air Quality and Climate Change Strategy, which was agreed by Cabinet in May 2004). As the basis of all our AQMA declarations is road transport emissions, air quality actions, in accordance with guidance from DEFRA, has been integrated with the Local Transport Plan.
7. To date, over 200 local authorities have declared AQMAs, so any declaration by Southampton City Council would not be unusual within the current framework of air quality management. Other councils in Hampshire including Winchester, Portsmouth, Eastleigh and New Forest have previously decided to declare parts of their area as AQMAs.
8. In November 2007, Southampton City Council produced an Air Quality Action Plan (AQAP) – a requirement of authorities that have declared AQMAs. This was updated in 2009 to take into account the 2008 AQMA declarations and new source apportionment data arising from the 2009 Further Assessment. The AQAP sets out a number of proposals to improve local air quality, the majority of which are transport related. Actions range from mitigation of the council's own fleet emissions, for example through fuel efficiency improvements, modal shift driven by a behaviour change programme, strategic corridor improvements and highway alterations to improve accessibility for pedestrians and public transport. A range of other specific measures were proposed relating to transport and highways management, mitigation techniques, and future partnership working opportunities.
9. Whilst there is obviously a need to focus on getting air quality in the AQMAs back up to national standards, the AQAP maintains a strategic approach to air quality and aims to address air pollution on a city-wide basis. The AQAP has been integrated into the LTP and progress against air quality objectives and targets will therefore be reported on through the LTP annual monitoring process. The AQAP will be updated to take into account the additional and amended AQMAs arising from the conclusions reached in the 2011 Air Quality Progress Report.
10. The Detailed Assessment of air quality in Southampton was sent to the Department of Environment, Food and Rural Affairs (DEFRA), where the assessor accepted the conclusions in full and accepted that we will declare three new AQMAs at Burgess Road, Victoria Road and New Road and extend

the existing Bitterne Road AQMA over the Northam Bridge to encompass Princes House, extend the Romsey Road AQMA to include 134 Romsey Road and conjoin Redbridge Road and Millbrook Road AQMAs to form one continuous AQMA.

11. Leaflets with maps of each proposed area and letters explaining dates of decisions and who to contact to make representations were sent to all residents within the AQMAs and emailed to all statutory consultees. The leaflet has also been put on the City Council web pages along with the maps. Site notices have been put up in each of the areas.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

12. The option of not making any new declarations has been considered but this would not meet the statutory duty placed on the council and has been rejected.

RESOURCE IMPLICATIONS

Capital/Revenue

13. There are no capital implications.
14. The financial and staffing implications associated with the declaration of AQMAs and the preparation of the Air Quality Action Plan have been identified within the existing Environment and Transport portfolio funding for Planning, Transport and Sustainability and Environmental Health and Consumer Protection Divisions of the Economy and Environment Directorate. Some direct expenditure in the region of £1,000 is expected for publicity of the declarations.

Property/Other

15. N/A

LEGAL IMPLICATIONS

Statutory Power to undertake the proposals in the report:

16. Local authorities have a duty under section 83(1) of the 1995 Act to designate areas where the Air Quality Objectives are unlikely to be met on time (or beyond the deadline) as AQMAs. These areas have to be designated officially by means of an 'order' made by the City Council.
17. In declaring AQMAs local authorities are expected to; carry out appropriate consultation with interested parties including residents and businesses in the areas, publicise the proposals, and for the decision to follow the legal process for the making of orders by the council. This can be summarised as follows;
 - Briefing for Cabinet Member to ensure the necessary finance is in place within the portfolio.

- Consultation with public and statutory consultees (as detailed in paragraph 2).
- Making the order(s) which is a non-executive function and needs to be approved via the Licensing (General) Sub-Committee.
- Once the Order(s) are approved DEFRA must be notified and supplied with a copy of the order(s). They should also be published in at least one local newspaper and in the locality. Although this is not a statutory requirement it is considered to be good practice.

18. The orders will need to be "made" by Legal Services following the decision of Licensing Panel and the Council seal affixed.

Other Legal Implications:

19. Air Quality considerations are given weight in the Local Development Framework and Development Documents. The existence of AQMAs are significant in planning decisions for developments within and close to the AQMA boundaries. The Local Transport Plan will need to specifically address the air quality action plan.

POLICY FRAMEWORK IMPLICATIONS

20. The proposals are covered by and consistent with a number of elements in the policy framework:

- The Community Strategy
- Sustainability principles
- Medium Term Plan Chapter 14 Sustainable city
- Local Plan sustainable development policies
- The Low Carbon City Strategy
- The Housing Strategy reducing emissions and air pollutants through improved energy efficiency
- Local Transport Plan 3

AUTHOR:	Name:	Neil Tuck	Tel:	023 8083 3409
	E-mail:	neil.tuck@southampton.gov.uk		

SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

1.	Map of proposed Burgess Road AQMA
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2.	Map of proposed Victoria Road AQMA
3.	Map of proposed New Road AQMA
4.	Map of proposed extension to Bitterne Road AQMA
5.	Map of proposed extension to Romsey Road AQMA
6.	Map of the eastern stretch of the proposal to conjoin Millbrook Road AQMA and Redbridge Road AQMA
7.	Map of the western stretch of the proposal to conjoin Millbrook Road AQMA and Redbridge Road AQMA

Documents In Members' Rooms

1.	N/A
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Integrated Impact Assessment

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	Yes/No
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Other Background Documents

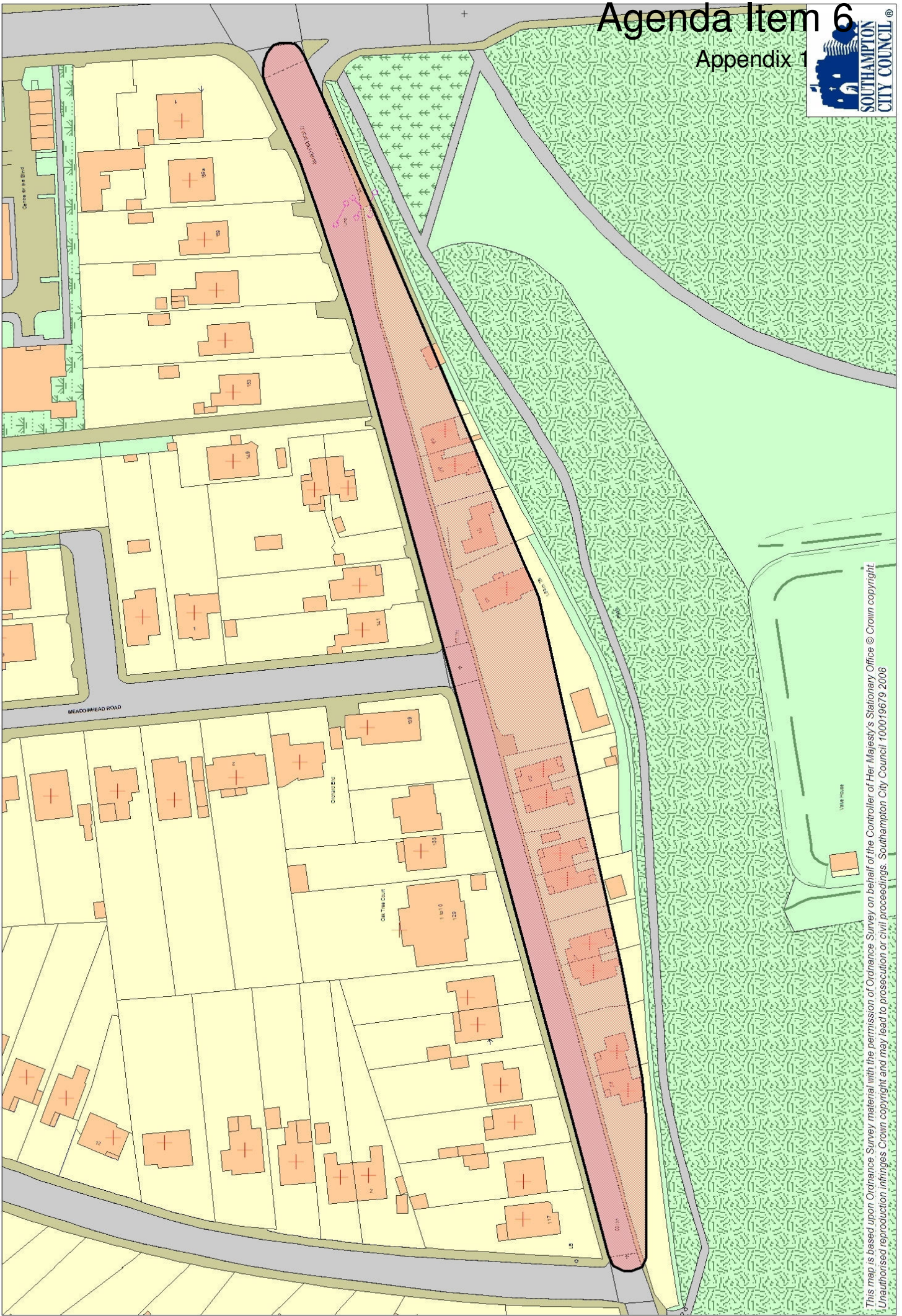
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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Integrated Impact Assessment and Other Background documents available for inspection at:

WARDS/COMMUNITIES AFFECTED:	
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Burgess Road



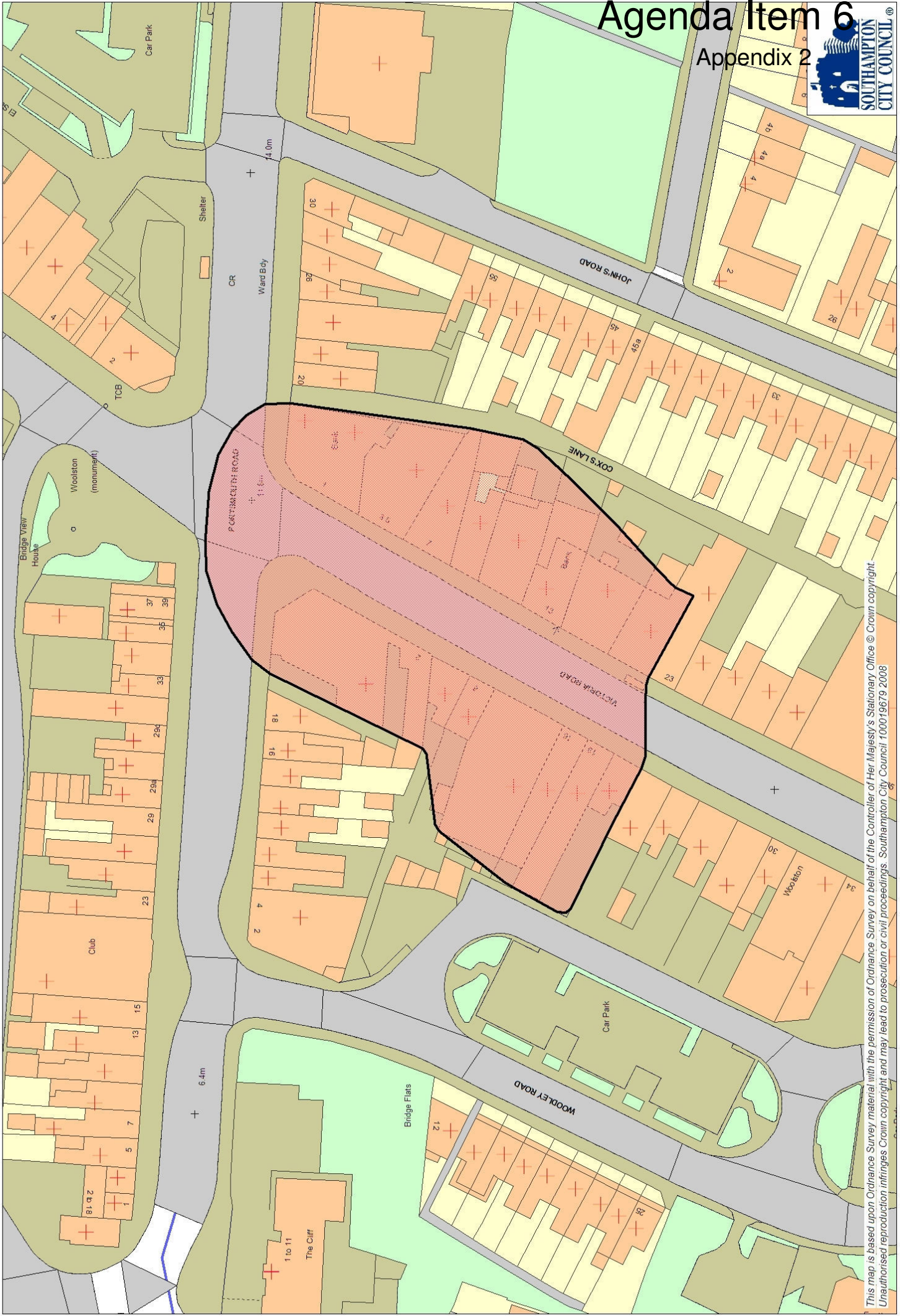
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Agenda Item 6

Appendix 2



Victoria Road



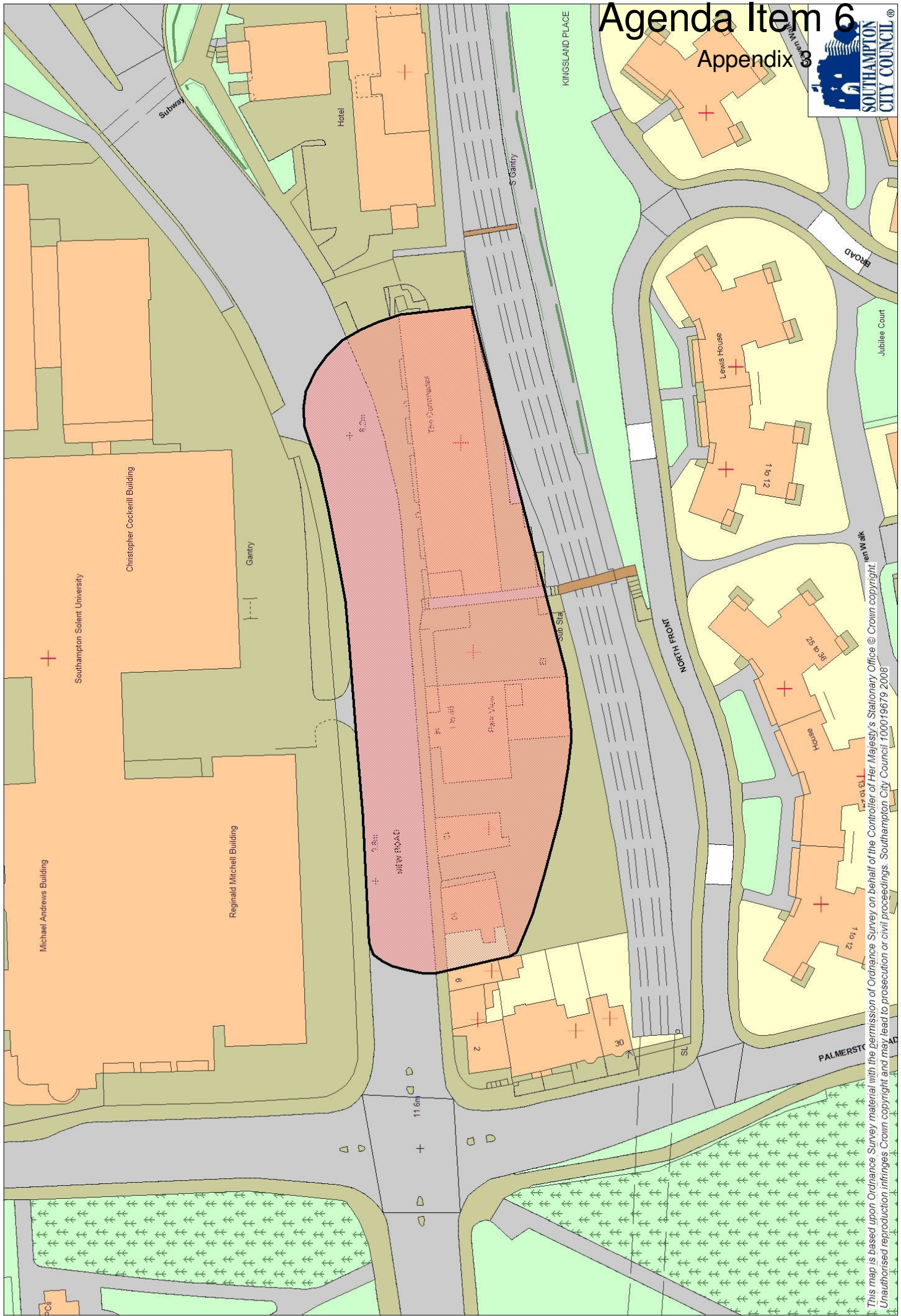
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New Road

Agenda Item 6

Appendix 3

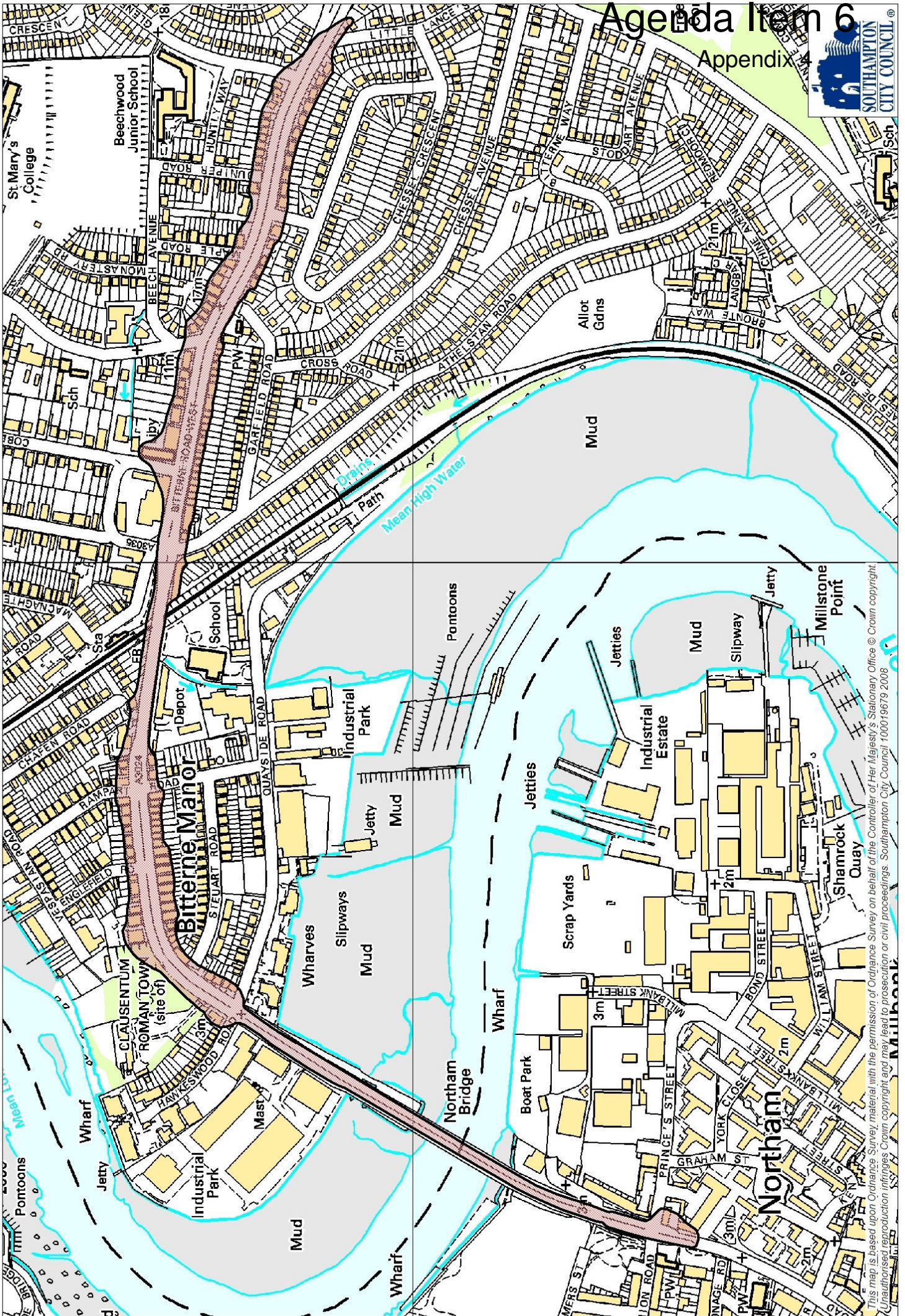


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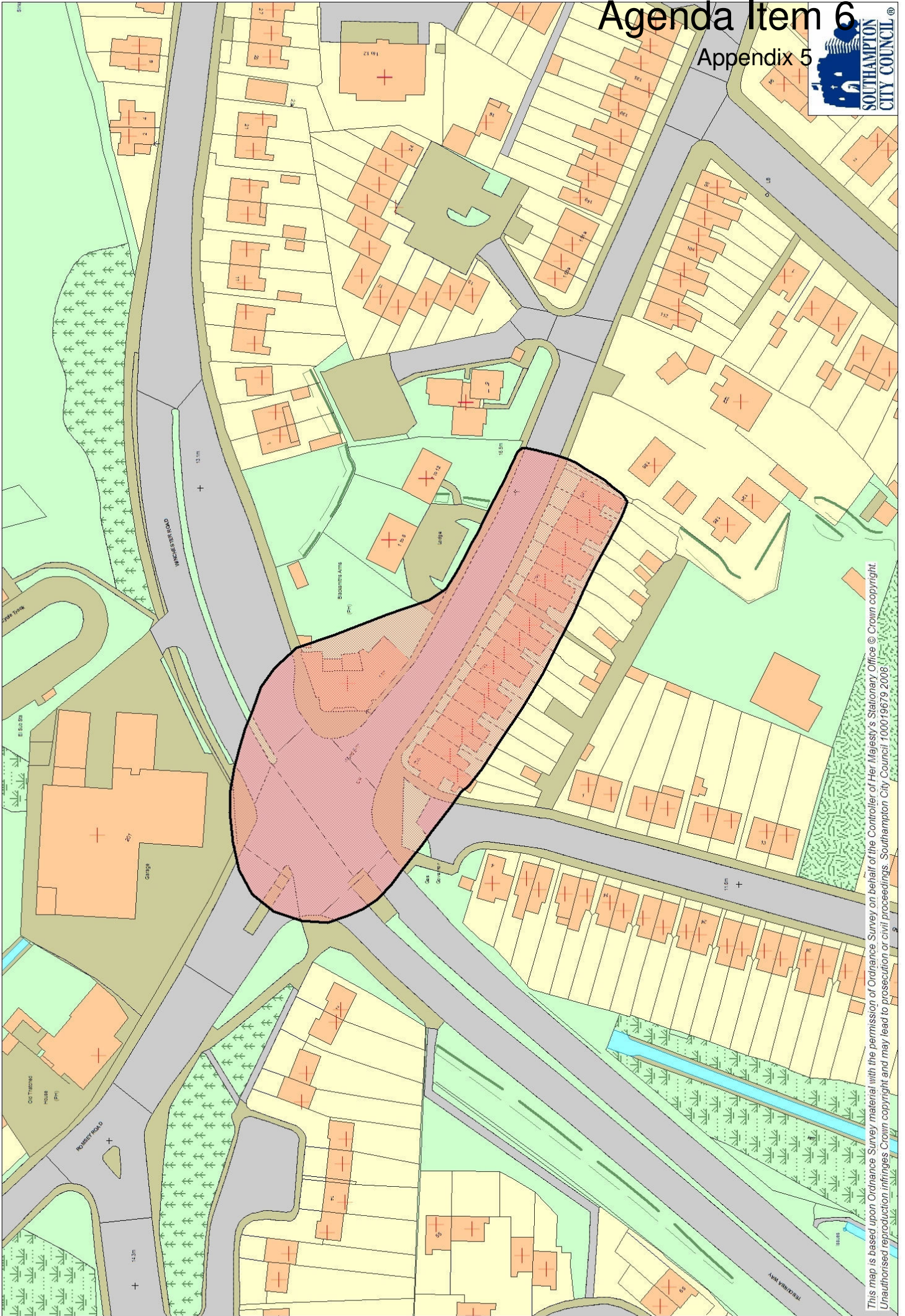


Bitterne Road



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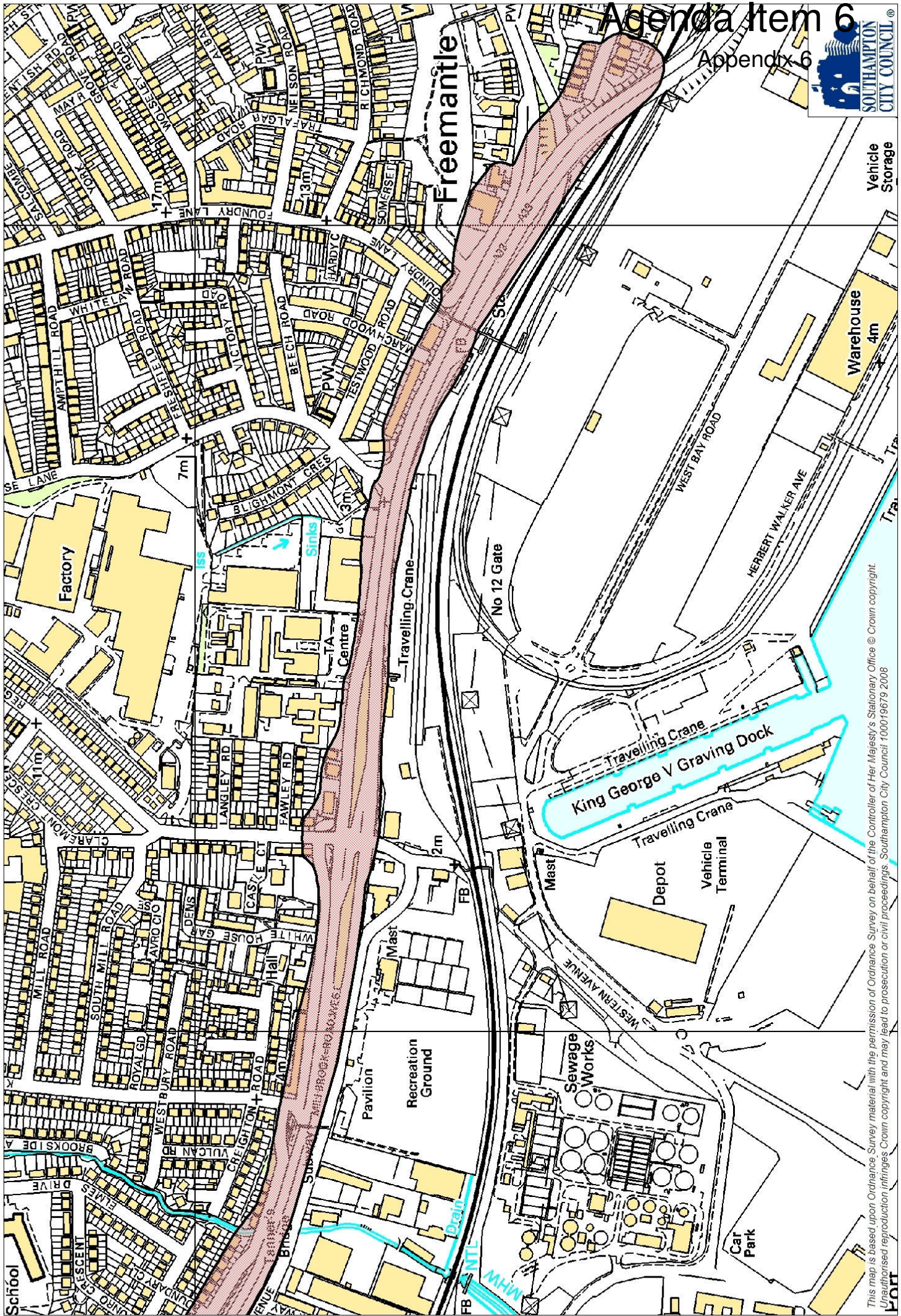
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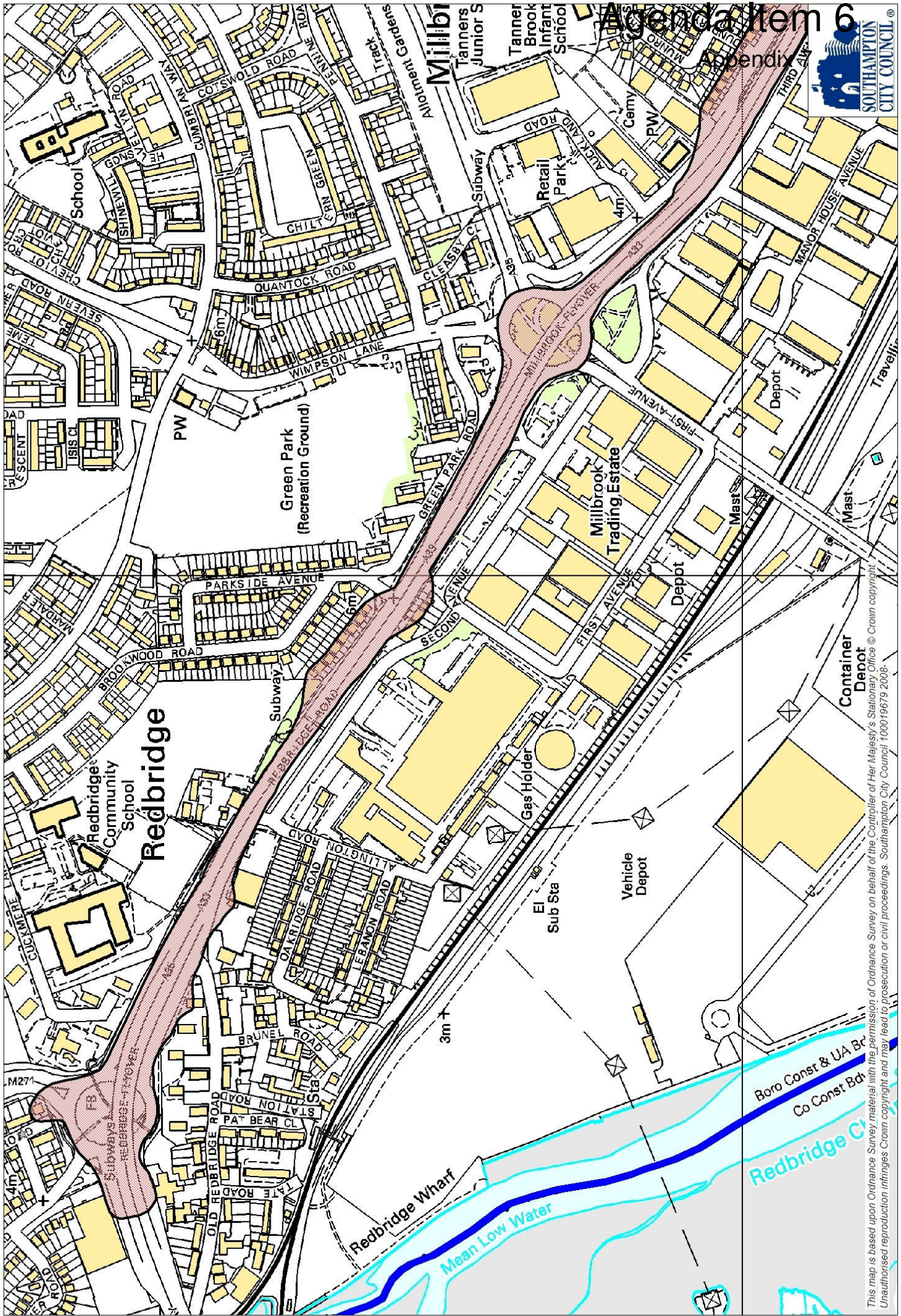


Redbridge/Millbrook Road (East)



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Agenda Item 7

DECISION-MAKER:	LICENSING (GENERAL) SUB-COMMITTEE
SUBJECT:	APPLICATION FOR VARIATION OF A SEX SHOP LICENCE – PRIVATE SHOP, GROUND FLOOR, 16 HANOVER BUILDINGS, SOUTHAMPTON, SO14 1JA
DATE OF DECISION:	29 TH NOVEMBER 2012
REPORT OF:	HEAD OF LEGAL, HR AND DEMOCRATIC SERVICES
STATEMENT OF CONFIDENTIALITY	
Not applicable.	

BRIEF SUMMARY

The Sub-Committee is requested to determine the application for the variation of a sex shop licence from Darker Enterprises Limited in respect of the Ground Floor, 16 Hanover Buildings, Southampton.

RECOMMENDATIONS:

- (i) For the Sub-Committee to consider and determine the application for the variation of the sex shop licence in respect of the Ground Floor, 16 Hanover Buildings.

REASONS FOR REPORT RECOMMENDATIONS

1. The determination of applications for variation of sex shop licences is not delegated to officers, therefore it is for the sub-committee to consider and determine the application.

DETAIL (Including consultation carried out)

2. Southampton City Council first adopted the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1982 with effect from 16th March 1983.
3. Following High Court challenges to other local authorities' adoption of the legislation, the City Council was advised by Counsel in 1995 that it would be appropriate to readopt the provisions. The Council resolved the adoption of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 on 10 April 1995, with the provisions coming into effect from 3 July 1995. Notices setting out the effect of the provisions were published in the Southern Daily Echo on 5 and 12 May 1995.
4. Darker Enterprises Limited, has held a sex shop licence in Southampton since 2003, with the licence being renewed annually since. A licence was initially held at 131 Above Bar Street until the premises were subject to a compulsory purchase order and the business relocated to its current site on the Ground Floor of 16 Hanover Buildings in July 2008.
5. On 12th June 2012 an application was made by Darker Enterprises Limited to renew the sex shop licence in respect of the Ground Floor of 16 Hanover Buildings. At the same time as making this renewal application, the applicant submitted a request to vary the conditions of the licence to permit changes to the current shop frontage.

6. The renewal of the licence was unopposed and in line with the scheme of delegation, which gives the Licensing Manager the power to determine such applications in those circumstances, the renewal of the licence has been deemed granted. Therefore, the renewal application is not presented for the consideration of the committee.
7. In summary, the applicant has requested to make the following changes to the shop frontage;
 1. Addition of address and telephone number to fascia board.
 2. Addition of location website to fascia board.
 3. Change of name on fascia board to Private Shops.
 4. Change of style and colour of name on fascia.
 5. Addition of “Stockists of DVDs, magazines, toys and lingerie”.
 6. Wording “A great single and couple friendly store” on window with silver background.
 7. Wording “Licensed Adult Centre” on window with silver background.
 8. One window to have mannequin dressed in lingerie with rear of display area blanked to prevent view of shop interior.
8. The applicant has submitted a covering letter listing the proposals along with an impression of the proposed changes. These are attached to this report as **Appendix 1**. A photograph of the appearance of the current shop frontage has also been supplied by the applicant and is attached as **Appendix 2**.
9. In proposing these changes, the applicant would be seeking to vary conditions 16(b) and 16(c) of the current licence. Condition 16(b) states;

‘The exterior of the premises shall consist of material and colours of a discreet nature appropriate to the character of the locality and shall be in keeping with the appearance of other premises in the vicinity. There shall be no external advertisements nor shall the frontage contain displays of advertisements of any nature or permit the interior of the place licensed to be viewed from outside’.

In addition condition 16 (c) currently sets out the requirements of the licensing authority in terms of agreed appearance and signage for these premises.

A copy of the current licence containing all the conditions relating to this premises is attached as **Appendix 3**.

10. Nickii Humphries, the Interim Licensing Manager at the time the application was made, advised the applicant that she had concerns that the proposed new shop frontage was not sufficiently discreet and appropriate to the character of the locality and that the proposed colour scheme would not be in keeping with the appearance of other premises in the vicinity. These views of the Licensing Manager are summarised in relation to each of the proposals as follows;

1. Addition of address and telephone number to fascia board. – **No objections to this request**
2. Addition of location website to fascia board – **No objections to this request**
3. Change of name on fascia board to Private Shops UK - **No objections to this request**
4. Change of style and colour of name on fascia board – **Concerns as outlined above**
5. Addition of “Stockists of DVDs, magazines, toys and lingerie” – **Concerns as outlined above**
6. Wording “A great single and couple friendly store” on window with silver background – **Concerns as outlined above**
7. Wording “Licensed Adult Centre” on window with silver background – **No objections to proposed wording but refer to overall design issues**
8. One window to have mannequin dressed in lingerie with rear of display area blanked to prevent view of shop interior – **Concerns as outlined above.**

A copy of the email sent to the applicant outlining these concerns is attached as **Appendix 4**. The views expressed by the interim Licensing manager at the time of the application are upheld by the current Licensing Managers.

11. There is no requirement under the Act to advertise a variation of the licence, only for the application, renewal or transfer of a licence. Therefore, there is no formal mechanism of consultation for this process, although a copy of the proposed variation was served on Hampshire Constabulary by the applicant.
12. The Hampshire Constabulary Western Licensing Unit have advised that they have concerns that the addition of the proposed words ‘*Stockist of DVDs, Magazines, Toys & Lingerie*’ (under the words ‘*PRIVATE SHOPS UK*’) could be misinterpreted by children who may enter the premises. Hampshire Constabulary have suggested that to deter any under 18’s entering the premises, these words be removed or amended, or that the word ‘*Adult*’ be inserted, or the word ‘*Toys*’ removed. A copy of the email sent by Hampshire Constabulary outlining these concerns is attached as **Appendix 5**.
13. Section 18 of the Local Government (Miscellaneous Provisions) Act 1982 permits that the holder of a sex shop licence may at anytime apply for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
14. The authority may;
 - Make the variation specified in the application; or

- Make such variations as they think fit; or
 - Refuse the application.
15. Should the committee be mindful to grant any variation to the appearance of the current shop frontage, it is recommend the applicant be advised of the need check with the Planning department as to whether planning permission is required before any changes are implemented.
 16. An applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused may appeal within twenty-one days of the giving of written notice of the grounds of the refusal, to the Magistrates' Court.
 17. A note of the procedure that the Sub-Committee has adopted for consideration of applications of this kind is attached as **Appendix 6**.

RESOURCE IMPLICATIONS

Capital/Revenue

18. There are no financial implications.

Property/Other

19. Not applicable.

LEGAL IMPLICATIONS

Statutory Power to undertake the proposals in the report:

20. Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 sets out the City Councils power to determine an application to vary the terms, conditions or restrictions of a sex shop licence.

Other Legal Implications:

21. CRIME AND DISORDER ACT 1998

Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

22. HUMAN RIGHTS ACT 1998

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.

POLICY FRAMEWORK IMPLICATIONS

23. The decision to determine the application in the manner set out in this report is not contrary to the council's policy framework.

AUTHOR:	Name:	John White	Tel:	023 8083 3002
	E-mail:	licensing@southampton.gov.uk		

SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

1.	Covering letter outlining proposals and impression of proposals
2.	Photograph of current shop frontage
3.	Copy of current licence
4.	Email from the Licensing Manager to the applicant
5.	Email response from Hampshire Constabulary
6.	Procedure for hearing the application

Documents In Members' Rooms

1.	
2.	

Integrated Impact Assessment

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	Yes/No
--	--------

Other Background Documents

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.		
2.		

Integrated Impact Assessment and Other Background documents available for inspection at:

WARDS/COMMUNITIES AFFECTED:	
------------------------------------	--

Report Tracking

VERSION NUMBER:

DATE LAST AMENDED:

AMENDED BY:

FOR DEMOCRATIC SERVICES USE ONLY:

DATE AND TIME REPORT RECEIVED:

Date

Time:

CLEARANCE:

[TYPE YES or NO]

Name:

Tel: _____

SPECIAL DELIVERY

Licensing Team
Southampton City Council
PO Box 1344
Southampton
SO15 1WQ



12th June 2012
(Date of application)

Dear Sir/Madam,

**Re: Local Government (Miscellaneous Provisions) Act 1982
Application for Renewal of Licence: Ground Floor, 16 Hanover Buildings,
Southampton, SO14 1JX**

Please find enclosed our application for the renewal of a licence under Schedule 3 of the above Act, in respect of the above premises, together with our cheque in the sum of £3,500 being the fee currently applicable.

This application for renewal also seeks permission to change the exterior of the premises as follows:-

- a) Addition of address and telephone number to fascia board.
- b) Addition of location website to fascia board.
- c) Change of name on fascia board to Private Shops UK.
- d) Change of style and colour of name on fascia board.
- e) Addition of 'Stockists of dvds, magazines, toys and lingerie' or Stockists of Adult dvds, magazines, toys and lingerie' to fascia board.
- f) Wording 'A great single and couple friendly store' on window with silver background.
- g) Wording ' Licensed Adult Centre' on window with silver background.
- h) One window to have mannequin dressed in lingerie with rear of display area blanked to prevent view of shop interior.

A mock up of the proposed is attached, together with the existing frontage.

We understand that certain Councils distribute copies of the application to the public and we have, therefore, enclosed the private addresses in a separate envelope marked 'Private & Confidential' in order to protect the family homes. We would be grateful if you would observe the confidentiality of this information and not release same to members of the public.

We confirm that a copy of the application has been sent to the Chief Constable, Hampshire Constabulary. We also confirm that the public notice will be published in a local paper and a copy of the notice will be displayed at the premises for 21 days from the date of application.

If you have any queries or require additional information, please do not hesitate to contact us.

Yours faithfully
For and on behalf of
DARKER ENTERPRISES LIMITED

C C Mason
Director

Encls

Proposed

16 Hanover Buildings
Tel: 02380 231647

PRIVATE SHOPS UK

Stockists of DVDs, Magazines, Toys & Lingerie

www.PRIVATEXXX.co.uk

A Great Single & Couple Friendly Store

LICENSED ADULT CENTRE

A Great Single & Couple Friendly Store

WARNING
PROHIBITED TO BE OPENED
TO MINORS UNDER 18 YEARS
WHICH MAY CAUSE
OFFENSE

**NO ADMITTANCE TO
PERSONS UNDER 18
YEARS OF AGE**

OPENING TIMES

MON	10:00am - 6:00pm
TUE	10:00am - 6:00pm
WED	10:00am - 6:00pm
THURS	10:00am - 6:00pm
FRI	10:00am - 6:00pm
SAT	10:00am - 6:00pm



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Existing

PRIVATE SHOP

WARNING
PERSONS PLEASE BE CAREFUL
THIS NOTICE WILL BE VOID
IF YOU DO NOT READ IT
THEY WILL BE RESPONSIBLE
FOR ANY DAMAGE
NO ASSISTANCE TO
PERSONS ENTERING BY
THESE DOORS

OPENING TIMES

MON	10:00am - 6:00pm
TUE	10:00am - 6:00pm
WED	10:00am - 6:00pm
THURS	10:00am - 6:00pm
FRI	10:00am - 6:00pm
SAT	10:00am - 6:00pm

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2011/01577/19SEXE

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SECTION 2

SOUTHAMPTON CITY COUNCIL by virtue of the powers contained in section 2 and schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982

HEREBY GRANTS to

Darker Enterprises Limited

of Unit 11B, Trade City, Ashton Road, Harold Hill, Romford, Essex, RM3 8UJ

a licence to use the premises known as

The Private Shop

and situate at

16 Hanover Buildings

in the City of Southampton as a

SEX SHOP

until the 1st day of July 2012

- SUBJECT:** (a) to the regulations for Sex Establishments made by the said Council and in force at the date hereof
- and (b) to conditions nos. 1 to 32, which said standard conditions, as varied, are incorporated in the list of conditions and restrictions, annexed hereto.

The licence fee of £3500.00 has been received for and on behalf of the Council.

Dated this 2nd July 2011

Mr. C. Mason
Managing Director
Darker Enterprises Ltd
Unit 11B
Trade City
Ashton Road
Harold Hill
Romford
Essex
RM3 8UJ

Head of Legal & Democratic
Services for and on behalf of
Southampton City Council

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COPY

16-PS-July 2011



Regulations for Sex Establishments

Southampton City Council, in exercise of the powers conferred upon them by paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act, 1982 and of all other powers enabling them in that behalf make the following Regulations:

- 1 (a) In these Regulations the following expressions that is to say "Sex Establishment", "Sex Shop", "Sex Cinema", "Sex Article", and "Vessel" shall have the meanings respectively assigned to them by Schedule 3 of the Act.
- (b) In these Regulations the following expressions shall have the meanings hereby respectively assigned to them namely: -
 - "the Act" - means the Local Government (Miscellaneous Provisions) Act, 1982.
 - "the Council" - means Southampton City Council.
 - "the licensed premises" - means any premises, vehicle, vessel or stall licensed under the Act.
 - "licence holder" - means a person who is the holder of a sex establishment licence.
 - "permitted hours" - means the hours during which the licensed premises are permitted under Regulations 2 and 3 hereof to be open to the public.
 - "sex establishment licence" - means a licence granted pursuant to Schedule 3 of the Act.

Conditions applicable to licences for Sex Establishments

2. The licensed premises shall be closed throughout Good Friday, Christmas Day and every Sunday and public holiday and may be open only during the permitted hours prescribed in Regulation 3 hereof.
3. The permitted hours of opening, unless varied by special condition, shall be as follows:-

Mondays	9:30 a.m. to 8:00 p.m.
Tuesdays	9:30 a.m. to 8:00 p.m.
Wednesdays	9:30 a.m. to 8:00 p.m.
Thursdays	9:30 a.m. to 8:00 p.m.
Fridays	9:30 a.m. to 8:00 p.m.
Saturdays	9:30 a.m. to 8:00 p.m.
4. The licensed premises shall not be used for any purpose other than the business of a sex establishment.
5. The licensed premises shall not be open for the purposes for which the sex establishment licence is granted on any occasion when the Council may signify in writing to the licence holder, occupier or other person having at the time the care and management of the premises, that the same should not be open.
6. No person who is or appears to be under the age of 18 or is known by the licence holder or any servant or agent of his present on the licensed premises to be under that age shall be admitted to or shall be permitted to remain on the licensed premises.

7. The licence holder:-
 - (a) shall display on the licensed premises in a conspicuous position his sex establishment licence;
 - (b) shall exhibit on those premises such notices in such form and in such position as may be prescribed;
 - (c) shall comply with any prescribed restriction with respect to the exhibiting of other written matter or of signs of any description on the licensed premises.
8. No facilities shall be provided in a sex shop for:-
 - (a) seeing any television broadcast or the replaying of any video tape or film or other like matter, except for a looped video recording, the content of which and location of the equipment, shall be approved by the Licensing Manager, nor;
 - (b) hearing any sound broadcast tape or other like matter other than facilities for the reception of radio programmes broadcast by the British Broadcasting Corporation or the Independent Broadcasting Authority.
9. No music, dancing or other entertainment whether of a like kind or not shall be provided or permitted, other than as permitted by Regulation 8 of these Regulations, and no refreshment of any kind shall be served on nor shall any facilities for the taking of such refreshment be provided upon the licensed premises.
10.
 - (a) The licence holder shall exhibit in the lobby of the licensed premises in a position visible to persons entering the premises a notice, in addition to his name, in not more than one place, in characters not exceeding three inches in height and consisting only of the words "licensed sex shop";
 - (b) The licence holder may exhibit on the exterior of the main entrance to the licensed premises in a position visible to persons entering the premises such indication, if any, as he thinks fit to give of the times at which the licensed premises are open;
 - (c) No other notices, unless pursuant to these Regulations, may be exhibited.
11. The licence holder shall exhibit in a conspicuous manner and in some conspicuous place inside the licensed premises and at the point of access to the licensed premises a notice stating that persons under the age of eighteen years are not admitted thereto.
12. The licence holder shall not display in any position visible to persons outside the premises any matter which does not comply with the Indecent Displays (Control) Act 1981.
13. The licence holder shall not permit any person other than persons employed by him, his servant or agent, statutory undertakers or, if applicable, his landlord to enter upon any part of the premises which are not available to the public in connection with the display, sale, hire, exchange, loan or demonstration of sex articles.
14. The licence holder shall not display any advertisement which is visible to persons outside the premises except as permitted by these Regulations or under the Act and no advertisements shall be displayed wherever visible which depict any article or thing intended for use in connection with or for the purpose of stimulating or encouraging acts of force or restraint which are or may be associated with sexual activity.
15. The licence holder shall ensure that the interior of the sex establishment shall not be visible to persons outside the premises.
16.
 - (a) The exterior of the licensed premises shall be of materials approved by the Council
 - (b) The exterior of the premises shall consist of material and colours of a discreet nature appropriate to the character of the locality and shall be in keeping with the appearance of other premises in the vicinity. There shall be no external advertisements nor shall the frontage contain displays of advertisements of any nature or permit the interior of the place licensed to be viewed from outside.

- (c) Unless otherwise agreed in writing with the City Council, the following will be deemed to comply with condition 16 (a) and (b) above:

A brown Perspex fascia sign no larger than 15 feet by 4 feet bearing the name of the licensed premises and the street number of the property on each side of the name in roman font lettering no more than 12 inches in height together with beading or a beading effect around the premises name and street numbers;

Beige vertical blind placed behind the front glazing to the licensed premises;

That no lettering/advertisement be placed on the frontage, save as stipulated above and on the door which would display the statutory notice and opening hours which shall be no more than 3 inches maximum;

That 2 swan neck lights be installed above the fascia, subject to planning permission;

That the adjoining wall to the property be painted black/brown in anti graffiti paint where available;

That the bill poster be removed if possible.

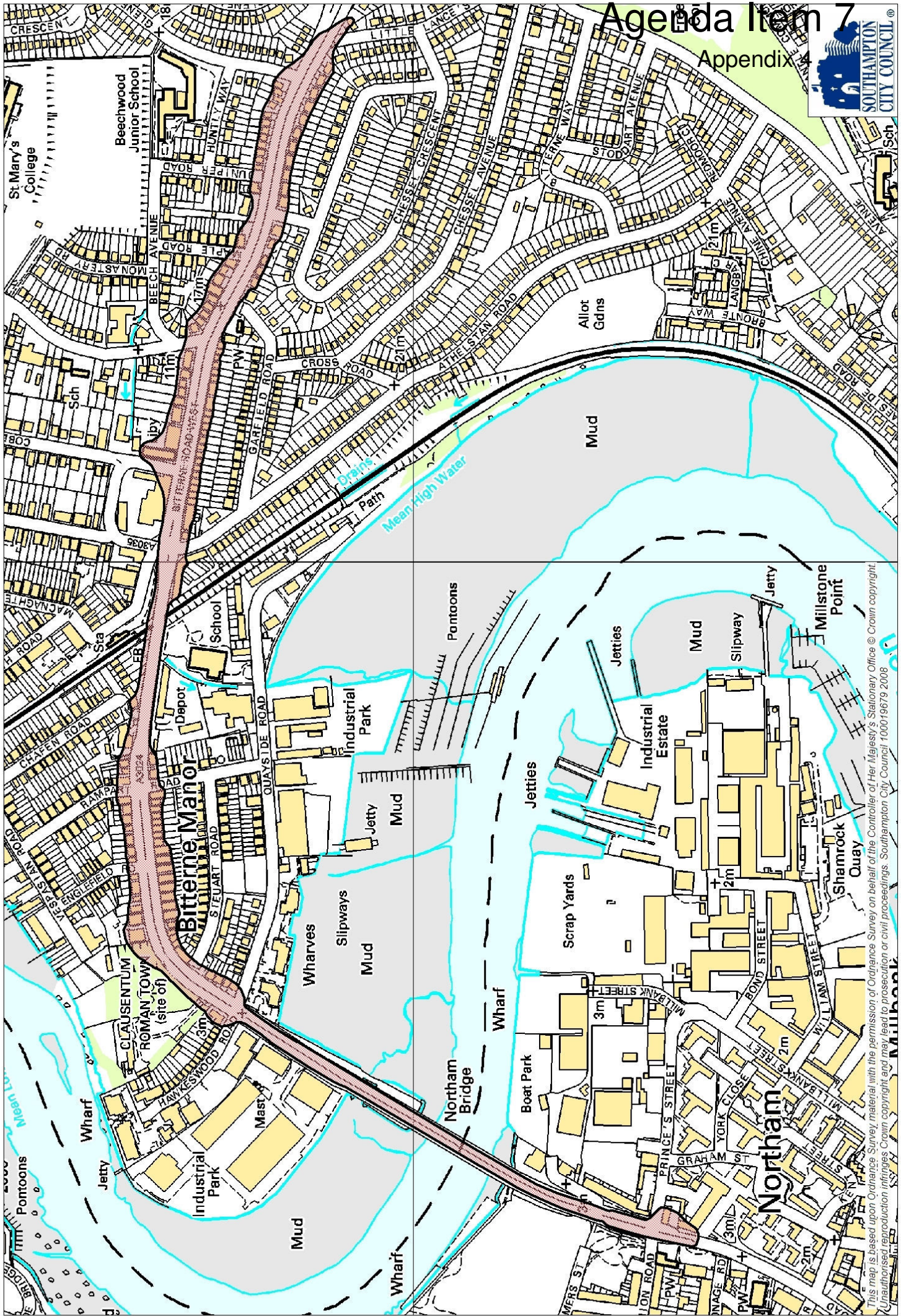
17. No illuminated signs or exterior lights shall be affixed to the licensed premises unless approved by the Council.
18. The holder of a sex cinema licence shall observe such regulations and conditions as may be approved by the Council from time for cinemas having a licence under the Cinemas Act 1985 as shall be applied by the Council by special condition to the sex establishment licence, giving such reference to the said Cinema licence conditions as may be deemed appropriate and the regulations and conditions shall have the same force and effect as if the same were severally contained in these regulations.
19. The licence holder shall not knowingly allow the licensed premises to be the habitual resort of a reputed prostitute or the habitual resort or meeting place of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution.
20. If the Council notifies the licence holder, occupier or other person having at the time the care and management of the premises in writing by delivering notice at the licensed premises that any particular sex article, advertisement or matter shall not be displayed the same shall be withdrawn from view forthwith.
21. No film or video material shall be kept at the sex establishment except such film or video material that bears a reproduction of the Certificate of the British Board of Film Certification.
22. The licence holder shall comply with all fire and safety requirements of the Council and maintain and keep available for use all specified fire fighting equipment and extinguishers.
23. The external doors of the licensed premises shall be fitted with self-closing mechanisms and such mechanisms shall be maintained in good order. No external door shall be fixed in the open position at any time during the permitted hours.
24. Applicants for the grant, renewal or transfer of a sex establishment licence or waiver thereof shall make their application on the form approved from time to time by the Council returnable to the office of the Solicitor to the Council together with the approved fee (where a sex establishment licence is required). A copy of the application in all cases shall be sent to the Chief Constable of Hampshire Constabulary, West Hill, Winchester not later than 7 days after the date of the application to the Council.
25. Applicants for the grant, renewal or transfer of a sex establishment licence shall advertise notice of their application in the form approved by the Council and in accordance with the prescribed dimensions by publishing the advertisement in a local newspaper circulating in Southampton not later than 7 days after the date of the application. A copy of the advertisement as published and date of publication shall be lodged with the Council forthwith.

26. Applicants for the grant, renewal or transfer of a sex establishment licence shall display a notice in the form approved by the Council and furnish two completed copies to the Council forthwith so that a copy may be sent to the appropriate public library. The Notice shall be displayed at the premises to be licensed for 21 days beginning with the date of the application to the Council and in a place where the notice can be inspected and conveniently read by the public from outside the premises.
27. A police officer or an authorised officer of the Council may at any reasonable time enter and inspect any premises in respect of which a sex establishment licence is for the time being in force.
28. The licence holder or some responsible person, being 21 years of age or over, nominated by him in writing shall be in attendance at the premises at all such times as the premises are open to the public and any nomination shall be produced to any police officer or authorised officer of the Council and give the name and address of the person nominated.
29. A closed circuit television system shall be installed in the place licensed to the satisfaction of the Council's Licensing Manager. The system shall efficiently record the operation of the place licensed and shall automatically indicate the date and time of the events recorded to a standard that would be acceptable as evidence in the Courts. All closed circuit television recordings shall be retained for a minimum of 28 days and shall be made available at the place licensed for inspection by a police officer or an authorised officer of the Council.
30. The licensee shall notify the Council and Hampshire Constabulary of the name, address and date of birth of any manager or employee involved in the operation of the business at the place licensed within seven days of them commencing employment. The City Council shall reserve the right to object to any person being involved in the operation of the business at the place licensed where it considers them unsuitable, in particular by reason of relevant unspent criminal convictions.
31. The licensee shall produce and maintain a list of all stock carried at the place licensed and shall make it available to a police officer or authorised officer of the Council on demand.
32. The licence holder shall ensure that any rear entrance shall at no time form, or be used, as an entrance or exit for members of the public or customers.

LL19/0015 – July 2011



Bitterne Road



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White, John

From: LICENSING WESTERN Mailbox [western.licensing@hampshire.pnn.police.uk]
Sent: 04 July 2012 14:41
To:
Cc: White, John
Subject: Yearly renewal of of licence and proposed new shop front

FAO Jan Singleton

Further to the above application for Premises 16 Hanover Buildings, Southampton.

Police have no objections to this renewal of this licence.

With regards to the new signage, the only concerns that I have is the words under PRIVATE SHOPS UK '*Stockist of DVDs, Magazines, Toys & Lingerie*' be removed or amended as this could be misinterpreted by children who may enter the premises. Or if the word Adult be inserted or 'toys' removed to deter any under 18's entering the premises.

This email has also been forwarded to Southampton City Council Licensing who make the final decision.

This is for your consideration.

Kind regards

Karen Reeves

Western Licensing
Southampton Central Police Station
Southern Road
Southampton
SO15 1AN
Tele: 0845 045 45 45
DD: 02380 674768
Email:

This electronic message contains information from Hampshire Constabulary which may be legally privileged and confidential. Any opinions expressed may be those of the individual and not necessarily the Hampshire Constabulary.

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APPENDIX 6

Special Procedure for the Licensing (General) Sub-Committee – Applications for Sex Establishment licences

One of the Council's Corporate Legal Advisors will be in attendance throughout the proceedings and he/she is there to advise Members. Sub-Committee Members may seek clarification on points of procedure at any time.

Please note that the Sub-Committee will normally adjourn for lunch at 1:00 p.m. and that comfort breaks will be taken at the discretion of the Chair at appropriate points during the meeting.

1. INTRODUCTION

- ◆ Everyone to introduce themselves
- ◆ The Licensing Officer will introduce the report, including background information and any written objections received.
- ◆ Members' questions to the Licensing Officer

2. OBJECTORS

If Objectors (including Police) have attended indicating a wish to address the Sub-Committee the Sub-Committee will consider each request in light of its discretion to permit oral representations.

As a guide, such representations will only be permitted if appropriate in order to briefly summarise and expand upon the main points of objection as set out in written submissions. Mere recitation of previous written submissions will not be permitted, nor will the introduction of entirely new grounds of objection.

Questions of Objectors will not be permitted by any party (including Members).

3. APPLICATION

The applicant or their representative will outline the details of the application and call any witnesses in support.

Questions may be asked of the applicant or of any witnesses by:

Licensing Officer

Members of the Sub-Committee

The applicant may call supporting witnesses at their discretion during the presentation of their application. Questions may be asked by the Sub-Committee Members / Licensing Officer of such witnesses at any appropriate point in their presentation

If any written objections have been received the applicant or their representative will be invited to comment on them

4. SUMMING UP

The applicant or their representative will have a final opportunity to sum up their application.

5. CONSIDERATION OF DECISION - CONFIDENTIAL SESSION

Members of the Sub-Committee will retire to consider the decision. In doing so the Solicitor to the Sub-Committee and the Sub-Committee Administrator will retire with them, but will take no part in the discussion of the merits of the case or what the decision should be

Should the Solicitor to the Sub-Committee be required to clarify any points of law, these will be repeated in the public session.

6. ANNOUNCEMENT OF DECISION

Sub-Committee Members will return and the Chair of the Sub-Committee will deliver the decision in public session. The Licensing Officer will confirm this decision in writing to the Applicant within 7 days of the Sub-Committee decision, together with details of any relevant right of appeal.

Note: This procedure note is issued as a guide only – the order and conduct of business may be varied by the person presiding at any time in order to facilitate the determination of the matter, having regard to statutory restrictions and the rules of natural justice.