

Licensing (General) Sub-Committee

Wednesday, 28th July 2010
at 9.30 am

PLEASE NOTE TIME OF MEETING

Conference Room 3 - Civic Centre

This meeting is open to the public

Members

Councillor Parnell (Chair)
Councillor Willacy (Vice-Chair)
Councillor Drake
Councillor Fitzgerald
Councillor McEwing
Councillor Norris
Councillor Thomas

Contacts

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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 Six Priorities

- Providing good value, high quality services
- Getting the City working
- Investing in education and training
- Keeping people safe
- Keeping the City clean and green
- Looking after people

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 2010/11

2010	2011
2 JUNE	12 JANUARY
30 JUNE	9 FEBRUARY
28 JULY	9 MARCH
1SEPTEMBER	6 APRIL
29 SEPTEMBER	
27 OCTOBER	
25 NOVEMBER	
15 DECEMBER	

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.

Business to be discussed

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

Rules of Procedure

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

Quorum

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

Disclosure of Interests

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

Personal Interests

A Member must regard himself or herself as having a personal interest in any matter

- (i) if the matter relates to an interest in the Member's register of interests; or
- (ii) if a decision upon a matter might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers and inhabitants of the District, the wellbeing or financial position of himself or herself, a relative or a friend or:-
 - (a) any employment or business carried on by such person;
 - (b) any person who employs or has appointed such a person, any firm in which such a person is a partner, or any company of which such a person is a director;
 - (c) any corporate body in which such a person has a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (d) any body listed in Article 14(a) to (e) in which such a person holds a position of general control or management.

A Member must disclose a personal interest.

Continued/.....

Prejudicial Interests

Having identified a personal interest, a Member must consider whether a member of the public with knowledge of the relevant facts would reasonably think that the interest was so significant and particular that it could prejudice that Member's judgement of the public interest. If that is the case, the interest must be regarded as "prejudicial" and the Member must disclose the interest and withdraw from the meeting room during discussion on the item.

It should be noted that a prejudicial interest may apply to part or the whole of an item.

Where there are a series of inter-related financial or resource matters, with a limited resource available, under consideration a prejudicial interest in one matter relating to that resource may lead to a member being excluded from considering the other matters relating to that same limited resource.

There are some limited exceptions.

Note: Members are encouraged to seek advice from the Monitoring Officer or his staff in Democratic Services if they have any problems or concerns in relation to the above.

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 PREJUDICIAL INTERESTS

In accordance with the Local Government Act 2000, and the Council's Code of Conduct adopted on 16th May 2007, Members to disclose any personal or prejudicial 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 Cabinet Administrator prior to the commencement of this meeting.

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 30th June 2010 and to deal with any matters arising, attached.

5 EXTENSION OF EXISTING MILLBROOK ROAD AIR QUALITY MANAGEMENT AREA

Report of the Head of Planning and Sustainability recommending an amendment to the existing Millbrook Road Air Quality Management Area by Order extending the area, attached.

Tuesday, 20 July 2010

SOLICITOR TO THE COUNCIL

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LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 30 June 2010

Present: Parnell (Chair), Willacy (Vice-Chair), Drake, Norris, Osmond and Thomas

Apologies Councillor Neil Fitzgerald and Councillor Catherine McEwing

7. **APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

The Panel noted that Councillor Osmond was in attendance as nominated substitute for Councillor Fitzgerald in accordance with Council procedure Rule 4.3.

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

RESOLVED that the Minutes of the meeting held on 2nd June 2010 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**

The press and public, unless otherwise excluded by Category 4 of that paragraph 10.4 of the Council's Access to Information Procedure Rules, be excluded from the meeting in respect of Minute No 10 and be invited to return immediately following private session at which time the matter be determined and the decision of the Panel be announced.

10. **APPLICATION FOR RENEWAL OF A SEX SHOP LICENCE - HIDDEN ASSETS, 439 MILLBROOK ROAD WEST**

The Sub-Committee considered the report of the Solicitor to the Council concerning a request for the renewal of the sex shop licence in respect of Hidden Assets, 439 Millbrook Road West. (Copy of report circulated with agenda and appended to signed minutes).

Mr Smith (Applicant) was present and with the consent of the Chair addressed the meeting.

The Sub-Committee considered the decision in confidential session in accordance with Category 4 of Paragraph 10.4 of the Council's Access to Information Procedure Rules

RESOLVED

- (i) that the application for renewal of a sex shop licence in respect of Hidden Assets, 439 Millbrook Road West be granted;
- (ii) that the application to vary condition 6(b) of the current licence regarding the colour of the shop front be granted;

- (iii) that the application to vary condition 15 of the current licence regarding the frosted glass on both of the front windows be granted; and
- (iv) that the application to vary conditions 10 / 16(b) of the current licence regarding the wording and arrow is approved with the exception of the movement of the wording “Licensed Sex Shop” from above the door to the window.

REASON FOR THE DECISION

Whilst there was no compelling evidence presented to the Sub-Committee that would justify refusal of the application for renewal of the licence; the movement of the wording “Licensed Sex Shop” to the proposed location was considered to be more prominent and thus less discreet.

Agenda Item 5

DECISION-MAKER:	LICENSING (GENERAL) SUB COMMITTEE		
SUBJECT:	EXTENSION OF EXISTING MILLBROOK ROAD AIR QUALITY MANAGEMENT AREA		
DATE OF DECISION:	28 JULY 2010		
REPORT OF:	HEAD OF PLANNING AND SUSTAINABILITY DIVISION		
AUTHOR:	Name:	NEIL TUCK	Tel: 023 8083 3409
	E-mail:	neil.tuck@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

N/A

SUMMARY

This is a report recommending an amendment to the existing Millbrook Road Air Quality Management Area by Order extending the area. The extension is required as new monitoring station data and additional NOx tubes have provided monitoring results which show that national air quality objectives for Nitrogen Dioxide (NO₂) have been exceeded beyond the existing boundary.

RECOMMENDATIONS:

- (i) That the amendment to the Air Quality Management Area (AQMA) at Millbrook Road (an extension to the area of the existing AQMA), be approved as set out at Appendix 1 and 2.
- (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 the Order 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, Millbrook Road AQMA has 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 an area as an Air Quality Management Area.

CONSULTATION

2. Leaflets with a map of the proposed area and letters explaining dates of decisions and who to contact to make representations were sent to all residents within the AQMA and emailed to all statutory consultees. The leaflet has also been put on the City Council web pages.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. The option of not making the new declaration has been considered but this would not meet the statutory duty placed on the Council and has been rejected.

DETAIL

4. 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).
5. In June 2005, six AQMAs were declared in Southampton 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. Two new AQMAs and two amendments to existing AQMAs, were declared in July 2008 based upon monitoring data contained in the Further Assessment Report (October 2006) and Detailed Assessment Report (Sept 2007) which demonstrated that the air quality objective for NO₂ would not be achieved.
6. Through a combination of monitoring data and modelling contained in the Further Assessment Report (July 2009) and the Updating and Screening Assessment Report (November 2009) undertaken on Southampton City Council's behalf as part of the statutory air quality management process, an extension to an existing AQMA for Millbrook Road has been identified where the air quality objective for NO₂ will not be achieved. This extension reflects the Council's increased ability to monitor air quality rather than a deterioration in the conditions along Millbrook Road, as the monitoring data which justifies the extension was collected from NO_x tubes installed since 2005.
7. The Updating and Screening Assessment of air quality in Southampton, was sent to the Department of Environment, Food and Rural Affairs (DEFRA), where the assessor broadly accepted the conclusions and accepted that we will declare an extension to the AQMA at Millbrook Road.
8. 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. The air pollutant in the Millbrook Road area, and indeed in all the existing AQMAs, is Nitrogen Dioxide (NO₂), which is predicted to exceed the annual mean objective of 40 micrograms per cubic meter (ug/m³). 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).

9. Southampton City Council has a statutory duty under Part IV of the Environment Act 1995, to include areas that exceed the objective and the proposed AQMA extension is shown on a map appended to this report. The area identified as having receptor building facades within the 40 µg/m³ contour, is coloured red.
10. 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 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, will be integrated with the Local Transport Plan (LTP).
11. 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 already decided to declare parts of their area as AQMAs.
12. 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 November 2009. The AQAP sets out a number of proposals to improve local air quality, the majority of which are transport related. 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 existing LTP and progress against air quality objectives and targets will therefore be reported on through the LTP annual monitoring process. Air Quality is one of the key drivers affecting the development of the new Local Transport Plan 3.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

13. None

Revenue

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 and Sustainability and Environmental Health and Consumer Protection Divisions of the Environment Directorate. Some direct expenditure is expected for publicity and advertising of the declaration.

Property

15. None

Other

16. None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

17. 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.
18. 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.
 - 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 will be given more weight in the development of the new Local Development Framework and Development Documents. The existence of AQMAs will also be significant in planning decisions for developments within and close to the AQMA boundaries and 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 of the policy framework:
- The Community Strategy
 - Sustainability principles
 - Medium Term Plan Chapter 14 Sustainable city
 - Local Plan sustainable development policies
 - The Climate Change and Air Quality Strategy
 - The Housing Strategy reducing emissions and air pollutants through improved energy efficiency
 - Local Transport Plan 2001/2 – 2005/6 making a key contribution to local air quality management.

SUPPORTING DOCUMENTATION

Appendices

1.	Draft AQMA order
2.	AQMA map

Documents In Members' Rooms

1.	None
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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.	None	
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Background documents available for inspection at: N/A

FORWARD PLAN No: N/A **KEY DECISION?** NO

WARDS/COMMUNITIES AFFECTED:	ALL
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APPENDIX 1

**SOUTHAMPTON CITY COUNCIL (MILLBROOK ROAD) VARIATION OF AIR
QUALITY
MANAGEMENT AREA (NUMBER SEVEN)(NITROGEN DIOXIDE) ORDER
2010**

ENVIRONMENT ACT 1995 PART IV SECTION 83

ORDER VARYING AN AIR QUALITY MANAGEMENT AREA

The Council of the City of Southampton in exercise of the powers conferred upon it by s.83(1) of the Environment Act 1995, hereby makes the following Order.

This Order may be cited as “**the City of Southampton (Millbrook Road) Variation of Air Quality Management Area (Number Seven) Order 2010**” and shall come into effect on the 28th September 2010.

The City of Southampton (Millbrook Road) Air Quality Management Area (number Seven) Order 2008 is hereby varied to take account of additional monitoring data demonstrating an exceedence of the national air quality objective for Nitrogen Dioxide (NO₂) beyond the existing boundary. The effect of the variation is to extend the designated Area from that set out in Schedule One to that set out in Schedule Two.

The area edged in red on map, Air Quality Management Area (7)(No 2) is to be designated as an air quality management area (“the Designated Area”). The Designated Area incorporates the area described in Schedule Two and more particularly delineated on the map, Air Quality Management Area (7) (No.2).

The Order, Schedules and Map may be viewed at:

Main Reception at Gateway, Civic Centre, Southampton, SO14 7LY

Monday, Tuesday, Thursday and Friday from 8.30am to 5.30pm

and Wednesday 9.30am to 5.30pm.

The Designated Area is designated in relation to a likely breach of the nitrogen dioxide (annual mean) objective as specified in the Air Quality Regulations (England) 2000.

The Order shall remain in force until it is varied or revoked by subsequent Order.

DATE: 28th September 2010

SCHEDULE ONE

The area comprising the City of Southampton (Millbrook Road) Air Quality Management Area (Number Seven) Order 2008 is as set out on the map Air Quality Management Area 7, and is further described below.

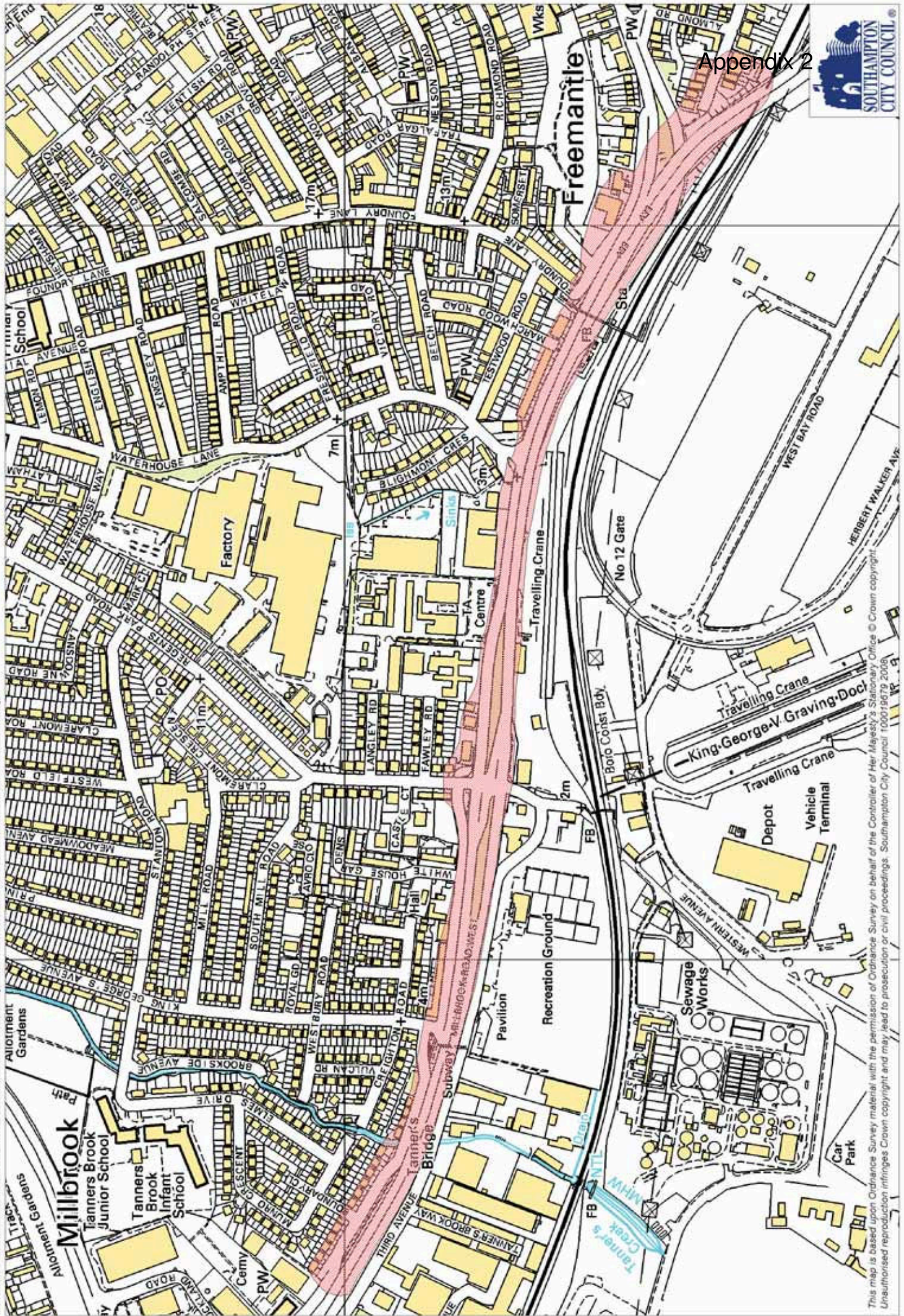
HIGHWAY	JUNCTION/ADJOINING ROAD
Millbrook Road West	From the junction with Foundry Lane and ceasing at the junction with Regents Park Road including the surrounding land and properties as more particularly delineated on the map comprising part of this Order.

SCHEDULE TWO

The area comprising the City of Southampton (Millbrook Road) Variation of Air Quality Management Area (Number Seven) Order 2010 is as set out on the map Air Quality Management Area 7 (no.2), and is further described below.

HIGHWAY	JUNCTION/ADJOINING ROAD
Millbrook Road West	From a position in Mountbatten Way 200 metres beyond the junction with Paynes Road and ceasing at a position in Millbrook Road West 100 metres beyond the junction with Boundary Close including the surrounding land and properties as more particularly delineated on the map Air Quality Management Area 7 (no.2) comprising part of this Order.

AQMA 7 - MILLBROOK ROAD (PROPOSED AMENDMENT)



Appendix 2



This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Southampton City Council 100019679 2008

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