LONDON BOROUGH OF SUTTON

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

LONDON BOROUGH OF SUTTON (ALCOHOL CONSUMPTION IN PUBLIC PLACES) (CENTRAL ROAD, CHEAM COMMON ROAD AND LONGFELLOW ROAD PLAYGROUND) ORDER 2020

RECITALS

A. The London Borough of Sutton ("the Council") is satisfied that the requirements set out in Chapter 2 of Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014 ("the Act") have been satisfied and that it is, in all the circumstances, appropriate to make this Order.

B. The Council is satisfied that activities have been and will continue to be carried on in the public places within the Restricted Areas which have had and will continue to have a detrimental effect on the quality of life of those in the locality, such activities being the consumption of alcohol in public places other than premises excluded from this Order, leading to anti-social behaviour.

C. The Council, in making this Order, is satisfied on reasonable grounds that activities have been carried out in the Restricted Areas, and have had a detrimental effect on the quality of life of those in the locality and it is likely that those activities will be carried in the Restricted Areas and will have that effect.

D. The Council is further satisfied that the effect, or likely effect, of the activities-

   a. is, or is likely to be of a persistent or continuing nature;
   b. is, or is likely to be such as to make the activities unreasonable; and
   c. justifies the restrictions imposed by this Order.

E. The Council is satisfied that the prohibitions and requirements imposed by this Order are ones that it is reasonable to impose in order to prevent the detrimental effect from continuing, occurring, or recurring or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

F. The Council has had regard to the rights and freedoms set out in the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 ("the Convention"). In particular, the Council has had regard to the rights and freedoms set out in Article 10 (right of freedom of expression) and Article 11 (right of freedom of assembly) of the Convention and has concluded that, in so far as this Order imposes restrictions on such rights and freedoms, those restrictions are lawful, necessary and proportionate.

The Council of the London Borough of Sutton (the Council) in exercise of its powers under Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 hereby makes the following Order:-

Citation

1. This Order may be cited as the London Borough of Sutton (Alcohol Consumption in Public Places) (Central Road, Cheam Common Road and Longfellow Road Playground) Order 2020.

Commencement & Duration

2. This Order shall come into force at 0001 hours on 21st October 2020 and will remain in force for 3 years thereafter, unless extended, or discharged before that date.

Interpretation

3. In this Order –

"the Act" means Anti-social Behaviour, Crime and Policing Act 2014;

"alcohol" means spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor (in any state), but does not include alcohol which is of a strength not exceeding 0.5% at the time of the sale or supply;

"Authorised Person" means a constable, police community support officer, or other person authorised for the purposes of this Order by the Council;

"the Council" means the London Borough of Sutton;

"public place" means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission;

"Restricted Areas" means the public places identified to in Article 4.

Public Space effected by this Order

4. This Order applies to the land described in Schedule 1 to this Order and shown edged red on the attached Plans ("the Restricted Areas"), being public places within the Council's area where the public consumption of alcohol has been carried on which has had a detrimental effect on the quality of life of those in the locality, or it is likely that those activities will be carried on in those public places and that they will have such effect.

Prohibition on consumption of alcohol

5. (1) Subject to paragraph (2) no person shall consume alcohol within the Restricted Areas so as to cause, or be likely to cause nuisance or annoyance to any other person.

(2) The prohibition in paragraph (1) does not apply to the premises etc. within the Restricted Areas set out in Schedule 2 to this Order.

Imposition of Requirements

6. (1) Paragraph (2) applies where an authorised person reasonably believes that a person (P) —

(a) is or has been consuming alcohol in breach of in Article 5(1), or

(b) intends to consume alcohol in circumstances in which doing so would be a breach of that Article.

(2) An authorised person may require P—

(a) not to consume, in breach of Article 5(1), alcohol or anything which the authorised person reasonably believes to be alcohol;

(b to surrender anything in P's possession which is, or which the authorised person reasonably believes to be, alcohol or a container for alcohol.

(3) An authorised person who imposes a requirement under paragraph (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.

(4) If an authorised person reasonably believes that a person (P) has breached a requirement imposed under paragraph (2) he or she may require P to give his or her name and address to the authorised person.

(5) An authorised person who imposes a requirement under paragraph (4) must tell P that—

(a) failing to give his or her name and address when required to do so under paragraph (4), or

(b) giving a false or inaccurate name or address in response to a requirement under that paragraph is an offence.

(6) A requirement imposed under paragraphs (2) or (4), by an authorised person who is not a constable or police community support officer, is not valid if the person—

(a) is asked by P to show evidence of his or her authorisation, and

(b) fails to do so.

(7) An authorised person may dispose of anything surrendered under paragraph (2)(b) in whatever way he or she thinks appropriate.

Failure to comply with the Order

Offence of failing to comply with the Order

7. By Section 67(4) of the Act it is not an offence to consume alcohol in breach of Article 5(1) but, by Section 63(6) of the Act, a person who fails without reasonable excuse to comply with a requirement imposed on him or her under Article 6(2) of this Order commits an offence and is liable on summary conviction in the Magistrates' Court to a fine not exceeding level 2 on the standard scale.

8. By Section 67 of the Act, a person who fails without reasonable excuse to comply with a requirement imposed on him or her under Article 6(4) of this Order commits an offence and is liable on summary conviction in the Magistrates' Court to a fine not exceeding level 3 on the standard scale.

Fixed Penalty Notices

9. An authorised person may issue a fixed penalty notice (FPN) to anyone he or she has reason to believe has committed an offence under Sections 63(6) or 67 of the Act. A person issued with a FPN must pay the fixed penalty of £80 within 14 days to discharge any liability to conviction for the offence. The penalty is automatically reduced to £50 if paid within 10 days.

SCHEDULE 1 Article 4

Land identified by Description

All those areas of the London Borough of Sutton in the Table below, comprising the land named in column 1, described in column 2 and shown edged red on the corresponding attached Plan numbered as shown in column 3.

Land	Description and link to interactive Plan	Plan No.
Central Road, Worcester Park	The entire length of the public highway comprising Central Road, Worcester Park (Part) (including the footways, and forecourts) from the Borough boundary with the Royal Borough of Kingston upon Thames in the west to the junction	1

	of Central Road and Lindsay Road, Worcester Park in the east. https://www.sutton.gov.uk/download/downloads/id/4760/central_road_worcester_park.pdf	
Cheam Common Road	The entire length of the public highway comprising Cheam Common Road (including the footways, forecourts and grassed areas) from the junction of Central Road and Lindsay Road, Worcester Park in the west to the junction with London Road (A24), North Cheam in the east. https://www.sutton.gov.uk/download/downloads/id/4758/cheam_common_road.pdf	2
Longfellow Road Playground	The area within the boundary of Longfellow Road Playground. https://www.sutton.gov.uk/download/downloads/id/4759/longfellow_road_playground.pdf	3

SCHEDULE 2 Article 5

Premises etc. to which Article 5(1) does not apply

(1) The prohibition in Article 5(1) to this Order does not apply to—

(a) premises (other than council-operated licensed premises) authorised by a premises licence to be used for the supply of alcohol;

(b) premises authorised by a club premises certificate to be used by the club for the supply of alcohol;

(c) a place within the curtilage of premises within paragraph (a) or (b);

(d) premises which by virtue of Part 5 of the Licensing Act 2003 (Permitted temporary activities) may at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the 30 minutes before that time;

(e) a place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under Section 115E of the Highways Act 1980 (highway-related uses).

(2) prohibition in Article 5(1) to this Order does not apply to licensed premises operated by the Council—

(a) when the premises are being used for the supply of alcohol, or

(b) within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.

(3) In this paragraph—

"club premises certificate" has the meaning given by Section 60 of the Licensing Act 2003;

"premises licence" has the meaning given by Section 11 of that Act;

"supply of alcohol" has the meaning given by Section 14 of that Act.

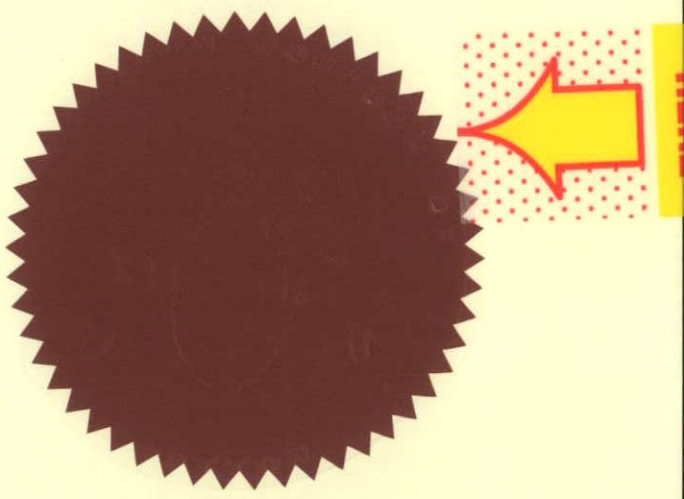
(4) For the purposes of this Article 5, licensed premises are operated by the Council if they are authorised by a premises licence to be used for the supply of alcohol and—

(a) the licence is held by the Council, or

(b) the licence is held by another person but the premises are occupied by the Council or are managed by or on behalf of the Council.

Dated 20th day of October 2020

THE COMMON SEAL of THE MAYOR AND)
BURGESSES OF THE LONDON BOROUGH)
OF SUTTON was hereunto affixed as a deed)
in the presence of :-)



Signature _____

Name _____

Authorised Signatory in accordance with
Standing Order 41.

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Seal Register No. 20/7274

Notes for Information

Challenging the validity of the Order

Any challenge to this order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in the restricted area, or who regularly works in or visits that area. This means that only those who are directly affected by the restrictions have the power to challenge it.

Interested persons can challenge the validity of this Order on two grounds: -

(a) that the Council did not have power to make the order, or to include particular prohibitions or requirements; or
(b) that a requirement of the Act has not been complied with.

Where such an application is made, the High Court can decide to suspend the operation of the order pending the Court's decision, in part or in totality pending the final determination of the proceedings. The High Court may uphold the order, quash it, or vary it.

ANTI-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014

Section 59 – Power to make orders

(1) A local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.

(2) The first condition is that—

(a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or

(b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

(3) The second condition is that the effect, or likely effect, of the activities—

(a) is, or is likely to be, of a persistent or continuing nature,

(b) is, or is likely to be, such as to make the activities unreasonable, and

(c) justifies the restrictions imposed by the notice.

(4) A public spaces protection order is an order that identifies the public place referred to in subsection (2) ("the restricted area") and—

(a) prohibits specified things being done in the restricted area,

(b) requires specified things to be done by persons carrying on specified activities in that area, or

(c) does both of those things.

(5) The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order—

(a) to prevent the detrimental effect referred to in subsection (2) from continuing, occurring or recurring, or

(b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

(6) A prohibition or requirement may be framed—

(a) so as to apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories;

(b) so as to apply at all times, or only at specified times, or at all times except those specified;

(c) so as to apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified.

(7) A public spaces protection order must—

(a) identify the activities referred to in subsection (2);

(b) explain the effect of section 63 (where it applies) and section 67;

(c) specify the period for which the order has effect.

(8) A public spaces protection order must be published in accordance with regulations made by the Secretary of State.

Section 66 - Challenging the validity of orders

(1) An interested person may apply to the High Court to question the validity of—

(a) a public spaces protection order, or

(b) a variation of a public spaces protection order.

"Interested person" means an individual who lives in the restricted area or who regularly works in or visits that area.

(2) The grounds on which an application under this section may be made are—

(a) that the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied);

(b) that a requirement under this Chapter was not complied with in relation to the order or variation.

(3) An application under this section must be made within the period of 6 weeks beginning with the date on which the order or variation is made.

(4) On an application under this section the High Court may by order suspend the operation of the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied), until the final determination of the proceedings.

(5) If on an application under this section the High Court is satisfied that—

(a) the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied), or

(b) the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement under this Chapter,

the Court may quash the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied).

(6) A public spaces protection order, or any of the prohibitions or requirements imposed by the order (or by the order as varied), may be suspended under subsection (4) or quashed under subsection (5)—

(a) generally, or

(b) so far as necessary for the protection of the interests of the applicant.

(7) An interested person may not challenge the validity of a public spaces protection order, or of a variation of a public spaces protection order, in any legal proceedings (either before or after it is made) except—

(a) under this section, or

(b) under subsection (3) of section 67 (where the interested person is charged with an offence under that section).

Section 63 – Consumption of alcohol in breach of prohibition in order

(1) This section applies where a constable or an authorised person reasonably believes that a person (P)—

(a) is or has been consuming alcohol in breach of a prohibition in a public spaces protection order, or

(b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition.

In this section "authorised person" means a person authorised for the purposes of this section by the local authority that made the public spaces protection order (or authorised by virtue of section 69(1)).

(2) The constable or authorised person may require P—

(a) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol;

(b) to surrender anything in P's possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.

(3) A constable or an authorised person who imposes a requirement under subsection (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.

(4) requirement imposed by an authorised person under subsection (2) is not valid if the person—

(a) is asked by P to show evidence of his or her authorisation, and

(b) fails to do so.

(5) A constable or an authorised person may dispose of anything surrendered under subsection (2)(b) in whatever way he or she thinks appropriate.

(6) A person who fails without reasonable excuse to comply with a requirement imposed on him or her under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Section 67 – Offence of Failing Comply with order

(1) It is an offence for a person without reasonable excuse-

(a) to do anything that the person is prohibited from doing by a public spaces protection order, or

(b) to fail to comply with a requirement to which a person is subject under a public spaces protection order.

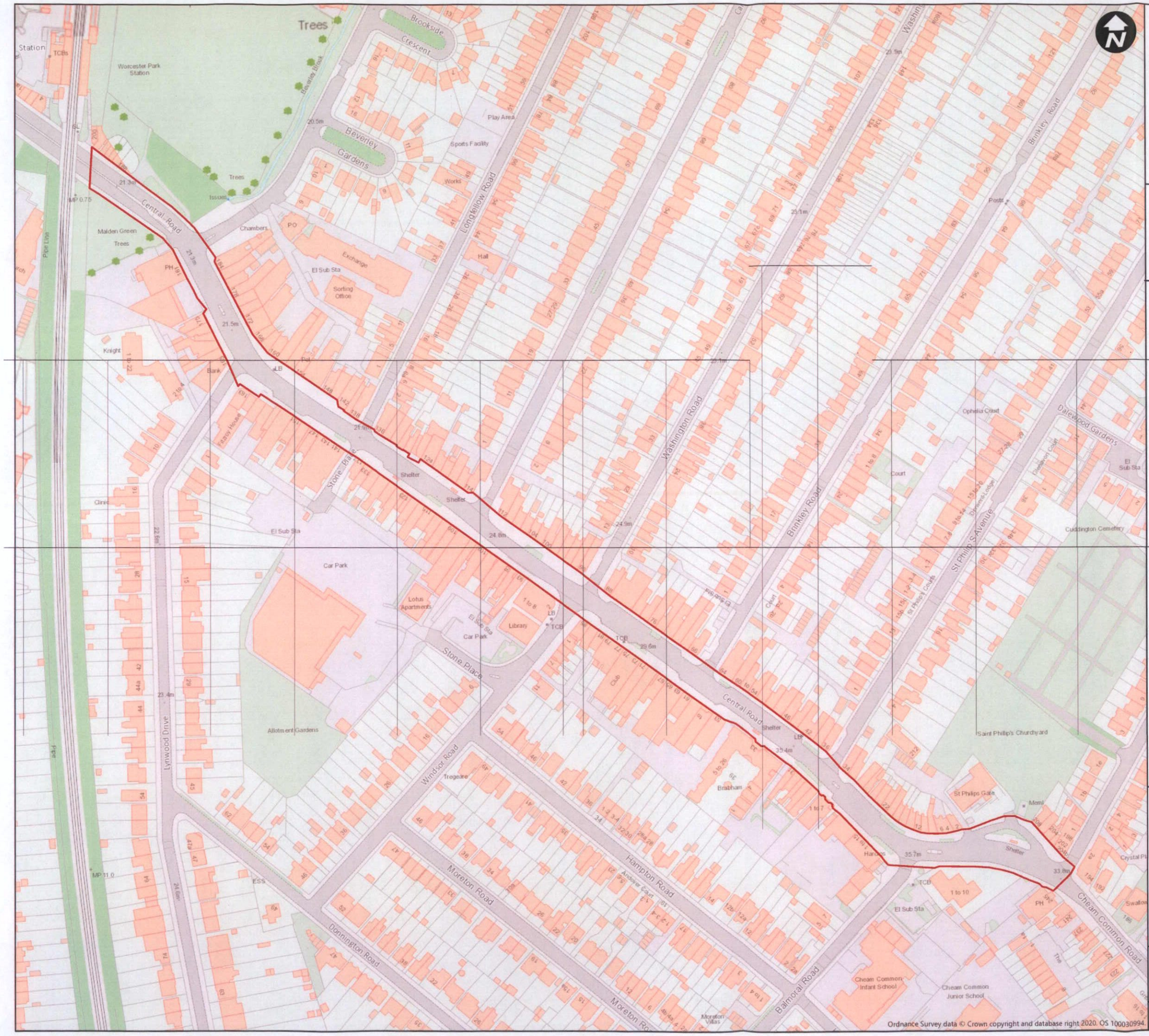
(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order.

(4) Consuming alcohol in breach of a public spaces protection order is not an offence under this section (but see section 63).

LONDON BOROUGH OF SUTTON
(ALCOHOL CONSUMPTION IN PUBLIC PLACES)
(CENTRAL ROAD, CHEAM COMMON ROAD AND LONGFELLOW ROAD PLAYGROUND)
ORDER 2020 - ARTICLE 4

Plan No. 1
Central Road



Sutton

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Data Management Team

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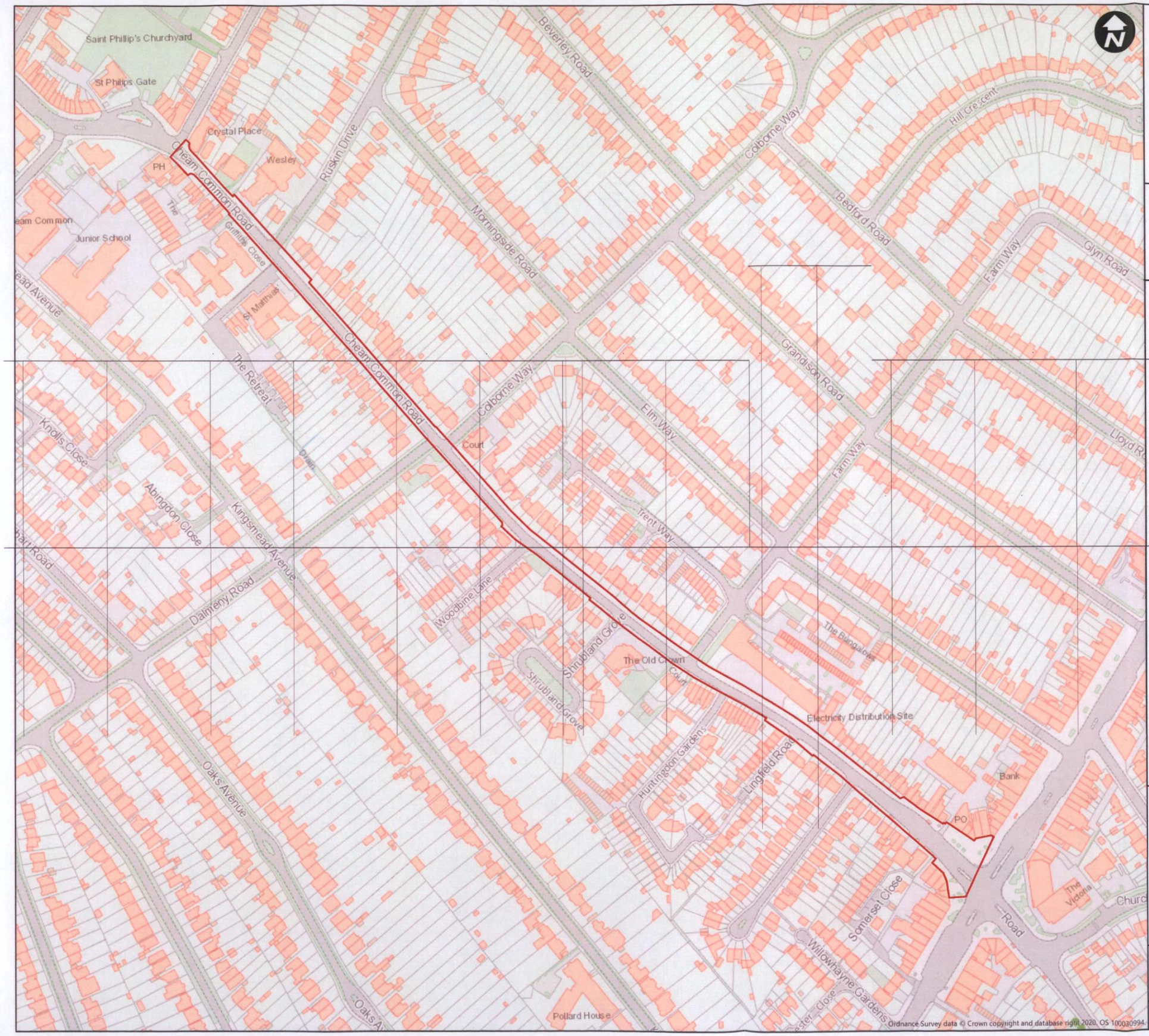
LONDON BOROUGH OF SUTTON
(ALCOHOL CONSUMPTION IN PUBLIC PLACES)
(CENTRAL ROAD, CHEAM COMMON ROAD AND LONGFELLOW ROAD PLAYGROUND)
ORDER 2020 - ARTICLE 4

Plan No. 2
Cheam Common Road



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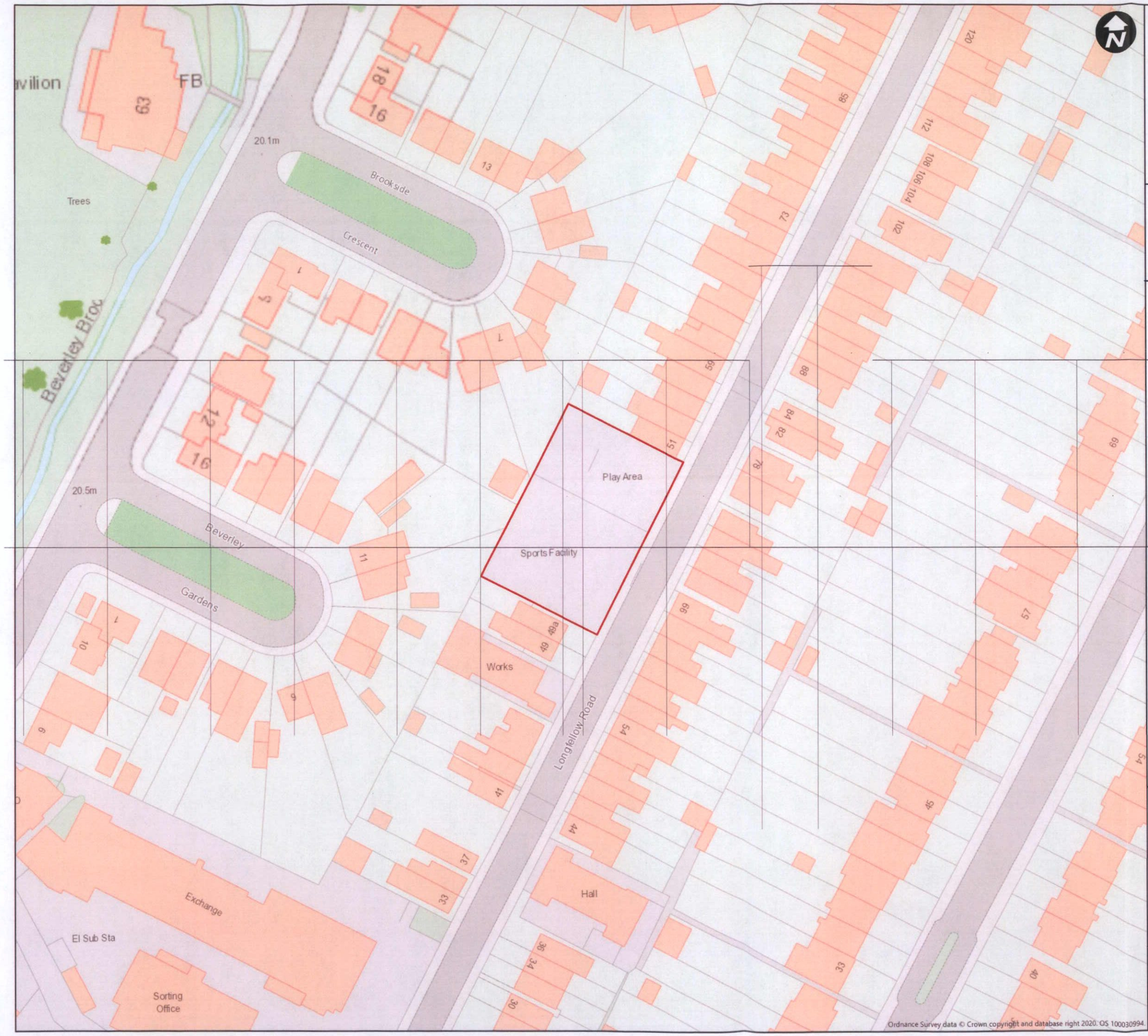

LONDON BOROUGH OF SUTTON
(ALCOHOL CONSUMPTION IN PUBLIC PLACES)
(CENTRAL ROAD, CHEAM COMMON ROAD AND LONGFELLOW ROAD PLAYGROUND)
ORDER 2020 - ARTICLE 4

Plan No. 3
Longfellow Road Playground

Sutton

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