

LUTON BOROUGH COUNCIL

ENVIRONMENTAL PROTECTION ACT 1990, SECTION 78B

RECORD OF DETERMINATION THAT LAND IS CONTAMINATED LAND

Luton Borough Council ("the Council") has determined that the land at:

2-10 Guildford Street, Luton, Beds

within the boundary marked in red on the attached plan, reference Plan 1 and Plan 2, being land within the Council's area is contaminated land for the purposes of section 78A(2) of the Environmental Protection Act 1990 because:

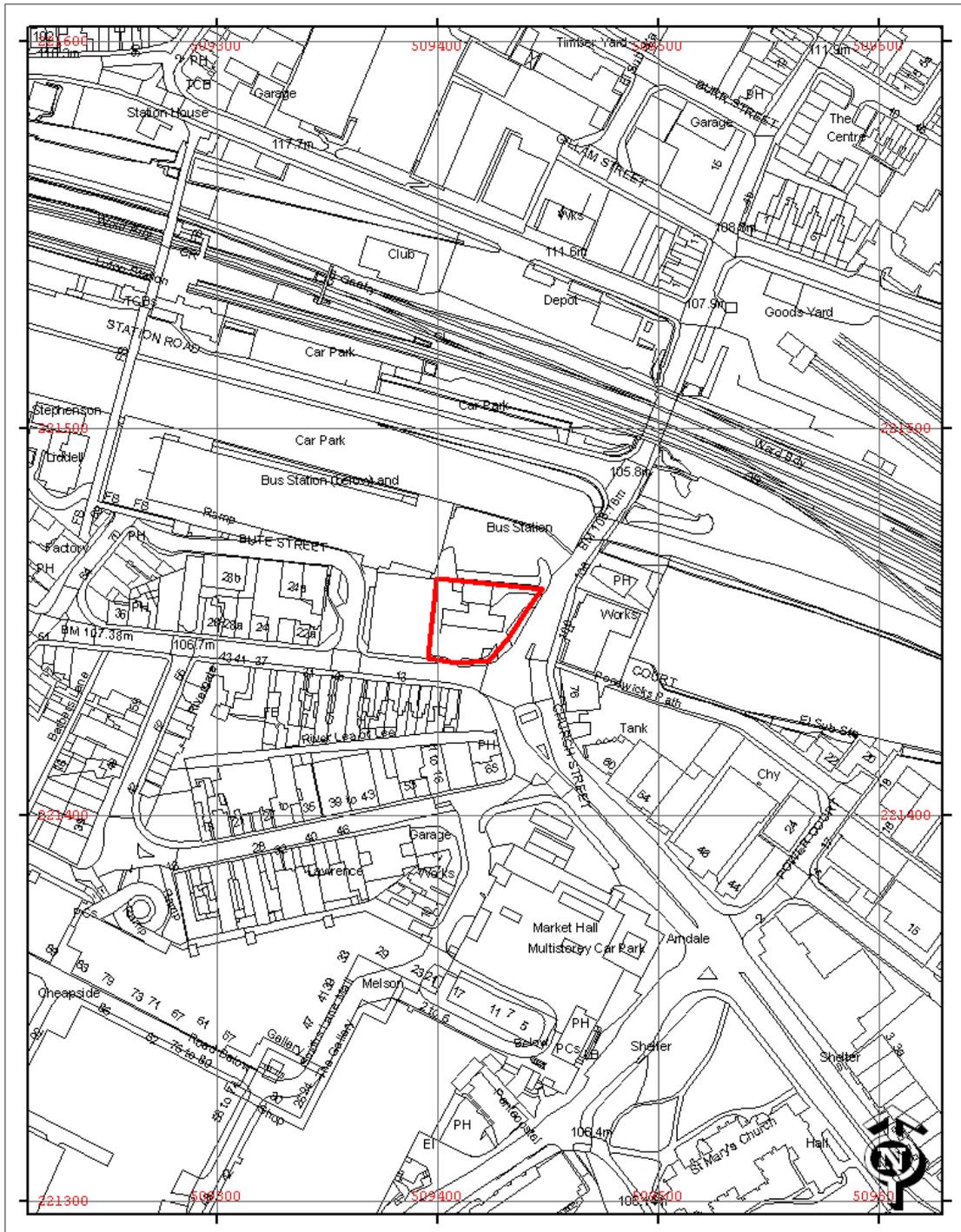
The Council has identified a contaminant, a pathway, and a receptor with respect to the current use of the land and is satisfied that as a result of this pollutant linkage pollution of controlled waters is being caused.

A summary of the basis on which this determination has been made is set out in the Schedule to this record.

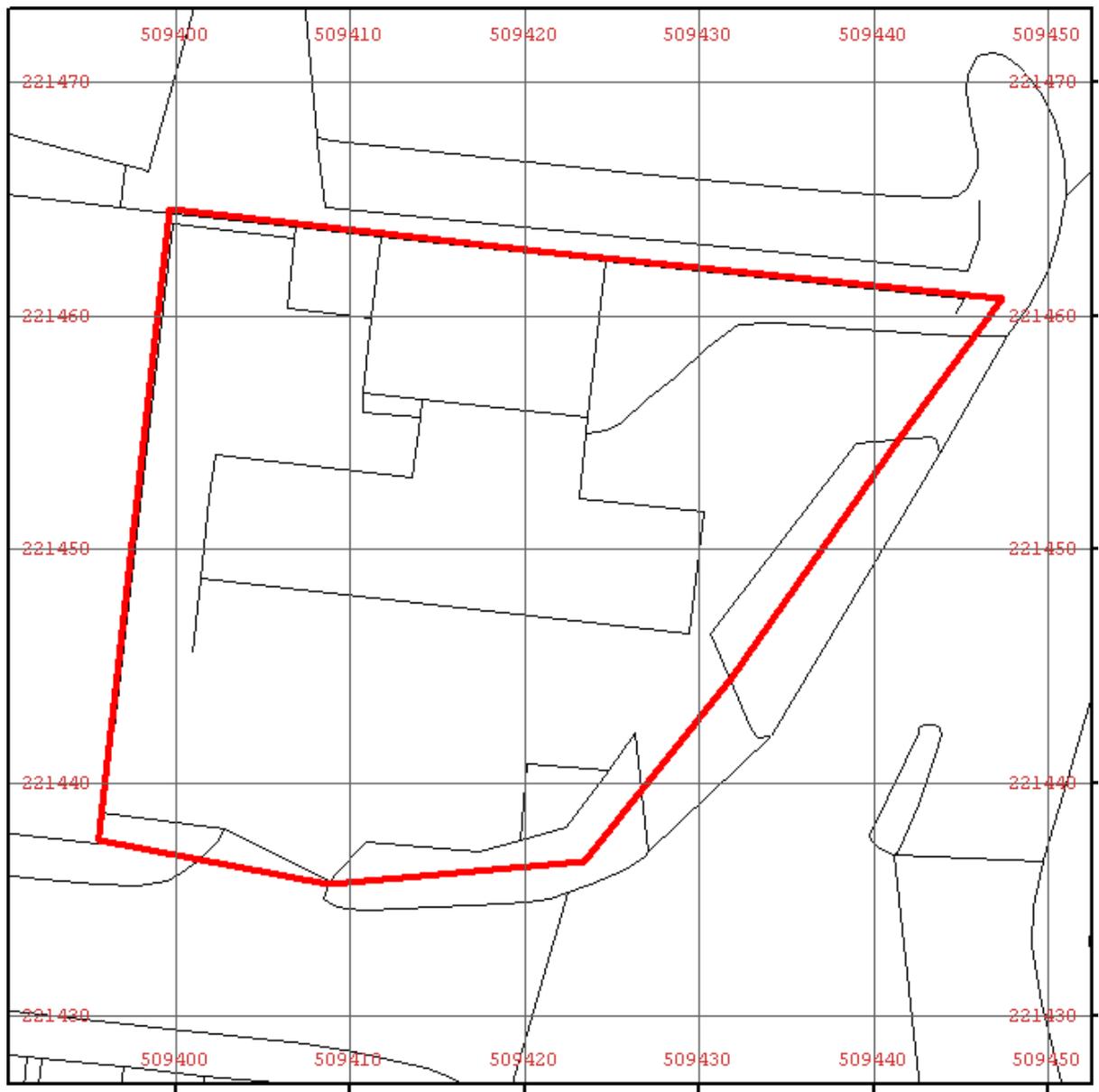
Dated: 22 May 2009

**Ian Pringle
Group Leader (Environmental Protection)
Luton Borough Council**

Plan 1



Plan 2



Schedule

1. Description of the significant pollution linkage

Contaminant	Pathway	Receptor
Hydrocarbons (unleaded petrol)	Leaching through the putty chalk	Controlled waters

2. Summary of the evidence upon which the determination is based

- 2.1 In December 2001, an underground storage tank on the site failed resulting in the loss of approximately 40000 litres of unleaded petrol (hydrocarbon) into the ground. Subsequent partial remediation of the site resulted in the recovery of approximately 12000 litres of free-phase hydrocarbon. Approximately 28000 litres of unrecovered hydrocarbon remain beneath the site and adjacent sites.
- 2.2 The analysis of soil samples taken from boreholes has established that the majority of unrecovered hydrocarbons are in the putty chalk between 6 and 9m depth below ground level.
- 2.3 Groundwater samples have been taken from boreholes situated on and around the site. The analysis of samples indicates the presence of petrol-derived hydrocarbons in groundwater.
- 2.4 A hydraulic containment system was installed in 2003 as a temporary measure to limit the lateral migration of hydrocarbons towards the Crescent Road public water supply pumping station. The hydraulic containment system is still in operation.
- 2.5 Other than the removal of free-phase hydrocarbons no further remediation has taken place. There have been no remedial measures to remove hydrocarbons from the putty chalk or those dissolved in groundwater.
- 2.6 The advice of the Environment Agency has been sought who consider that there is sufficient information available to determine the site under Part 2A of the Environmental Protection Act 1990 (EPA).

3. Summary of the relevant assessment of this evidence

- 3.1 The Council has carried out an appropriate scientific and technical assessment of all the available evidence and has had regard to advice provided by the Environment Agency.
- 3.2 A contaminant (potential pollutant) exists in that unrecovered hydrocarbons remain beneath the site

- 3.3 A pathway exists in that hydrocarbons are leaching out of the putty chalk into groundwater (controlled waters).
- 3.4 A receptor exists which is the groundwater aquifer beneath the site.
- 3.5 The Council has identified a significant pollutant linkage comprising a contaminant, a pathway and a receptor.
- 3.6 Hydrocarbons constitute poisonous, noxious or polluting matter.
- 3.7 On the basis of this assessment, the Council is satisfied on the balance of probabilities that both of the following circumstances apply:
 - a potential pollutant is present under the land in question which constitutes poisonous, noxious or polluting matter.
 - that potential pollutant continues to enter controlled waters by the pathway identified in the pollutant linkage.

4. Summary of the way in which the authority considers that the requirements of statutory guidance has been satisfied

- 4.1 Paragraph 3 above sets out the results of the tests applied by the Council in conforming with Defra Circular 01/2006, Environmental Protection Act 1990:Part 2A, September 2006.