



South Northamptonshire Council

Contaminated Land Strategy

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Executive Summary

Since April 2000, local authorities have had a duty to manage contaminated land issues within their areas. The duty was conferred by Part 2A of the Environmental Protection Act 1990 (“the Act”) and associated Statutory Guidance. The Act gives local authorities the lead role in dealing with contaminated land and requires each authority to publish a written strategy setting out how it will carry out its duties. South Northamptonshire District Council published its strategic approach to managing contaminated land in July 2001: South Northamptonshire District Council – Statutory Contaminated Land Strategy Framework Document.

The 2001 strategy has been reviewed and revised following the publication in April 2012 of new Statutory Guidance from DEFRA. This revised strategy explains how the Council will implement the contaminated land regime from 2020 onwards, taking account of the latest guidance, experience over the past decade and the resources available to the Council. The revised strategy is available both in hard copy and on the Council’s web site.

South Northamptonshire District Council recognises that decisions about contaminated land are not made on a purely technical basis. There will be a variety of regulatory, commercial, financial, legal and societal factors, which also affect how particular contaminated land issues should be addressed. The Council also recognises that decisions about contaminated land need to be scientifically robust, proportionate and transparent.

The Strategy takes a risk-based ‘suitable for use’ approach. This means assessing risks associated with land contamination in the context of the actual or intended use of a site.

The principal objectives of the revised strategy are to:

- meet the statutory requirements to produce a strategy and review it;
- set out a strategic approach to the identification and remediation of contaminated and potentially contaminated land;
- adopt a systematic and robust approach for dealing with sites that appear to be contaminated;
- inform stakeholders of the Council’s intentions and actions;
- set out how the Council will liaise with the Environment Agency and other stakeholders;
- ensure appropriate records are kept in a Public Register;
- minimise burdens on individuals, businesses and the wider community;
- encourage the re-use of brownfield land

Wherever possible, these objectives will be achieved through voluntary remediation and / or the redevelopment or regeneration of sites. This approach aims to minimise burdens on individuals, business and the wider community while ensuring that unacceptable risks are dealt with effectively.

1 Introduction

In April 2000, the UK Government introduced a new duty on each local authority to inspect the land within its area and identify any areas that could be defined as "contaminated land". Where a local authority finds such land, it must ensure it is remediated to reduce or remove risks to people and the environment. The government set out its requirements for dealing with contaminated land within Part 2A of the Environmental Protection Act 1990 ("the Act") and associated 'Statutory Guidance' documents.

1.1 What is Contaminated Land?

Contaminated land is defined in Part 2A of the Environmental Protection Act 1990 as any land, which appears to the local authority in whose area it is situated to be in such condition, by reason of substances in, on or under the land that:

"Significant harm is being caused or there is a significant possibility of such harm being caused, or pollution of controlled water is being or is likely to be caused."

"Harm" is defined as:

"Harm to the health of living organisms or other interference with the ecological systems of which they form a part, and in the case of man includes harm to his property."

The fact that a harmful substance is in, on or under a piece of land does not in itself mean that land is "contaminated land". The source of harm may be present but unless a possible route exists through which it is likely to cause harm to health, ecosystems or property or to cause pollution of controlled waters, the land is not contaminated within the meaning of the Act.

In order for there to be a 'significant possibility of significant harm' the above source-pathway-receptor linkage must be identified. Only once this 'pollutant linkage' has been established for a harmful substance can the land in question be designated as "contaminated land" under the Act.

1.2 The Statutory Regime

The statutory basis of the Government's contaminated land regime is to be found in Part 2A of the Environmental Protection Act 1990 (which was inserted by the Environment Act 1995). The Act gives local authorities the lead role in dealing with contaminated land issues within their area and requires each authority to publish a written strategy setting out its approach. Strategies can reflect the particular circumstances of an authority's area but must be written in accordance with statutory guidance issued by the Secretary of State for Environment, Food and Rural Affairs. Revised statutory guidance was published in April 2012 (*Environmental Protection Act 1990: Part 2A - Contaminated Land Statutory Guidance*).

The 2012 guidance replaces the previous statutory guidance. It sets out the overarching objectives of Government policy on contaminated land and the Part 2A regime as follows:

- (a) To identify and remove unacceptable risks to human health and the environment.
- (b) To seek to ensure that contaminated land is made suitable for its current use.
- (c) To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principles of sustainable development.

The Guidance explains how local authorities should implement the contaminated land regime, including how they should go about deciding whether land is contaminated land in the legal sense of the term. The Guidance does not apply to radioactive contamination of land, which is covered by separate statutory guidance.

Enforcing authorities are required to use Part 2A only where no appropriate alternative solution exists. Alternatives include development of land under the planning system, during the building control process, or where action is taken independently by landowners. Other legislative regimes may also provide a means of dealing with land contamination issues, such as building regulations; the regimes for waste, water, and environmental permitting; and the Environmental Damage (Prevention and Remediation) Regulations 2009.

1.3 A Strategic Approach

The Guidance requires local authorities to take a strategic approach to carrying out its duties which should be rational, ordered and efficient, and reflect its local circumstances. Strategic approaches may vary between local authorities but all authorities should set out their approach as a written strategy.

Strategies should include:

- Aims, objectives and priorities, taking into account the characteristics of the area
- A description of relevant aspects of the area
- The approach to strategic inspection of the area
- The approach to prioritising detailed inspection and remediation activity
- How the approach under Part 2A fits with broader approaches to land contamination, such as using the planning system to ensure land is made suitable for use when it is redeveloped
- How the authority will seek to minimise unnecessary burdens on the taxpayer, businesses and individuals

1.4 The Council's Revised Strategy

South Northamptonshire District Council published its strategic approach to managing contaminated land in July 2001: South Northamptonshire District Council – Statutory Contaminated Land Strategy Framework Document. This document has been reviewed four times since then.

The 2011 strategy was reviewed with particular reference to the 2012 Statutory Guidance. This current (revised) strategy explains how the Council will implement the contaminated land regime from 2019 onwards and takes account of the latest guidance, experience over the past decade and the resources available to the Council at the current time. The revised strategy is available on the Council's web site.

1.5 Management of the Strategy

Environmental Protection will act as lead service within the Council for the purpose of managing the Strategy.

A designated Officer will have responsibility for dealing with enquiries and incidents relating to land contamination and generally implementing the strategy. This Officer will also be the main contact for liaison with the Environment Agency, Natural England, DEFRA, land owners, agents, members of the public and other stakeholders concerning potentially contaminated land.

The designated Officer will review the strategy at regular intervals of no less than 5 years or when statutory changes or new guidance require it.

1.6 The Public Register

The Council must maintain a public register containing certain information about the sites it has dealt with under the Part IIA regime. Sites are only included on the register once a declaration has been made i.e. land has been declared "Contaminated Land" as defined in Part 2 of the Environmental Protection Act 1990

2 Objectives and Priorities

South Northamptonshire District Council recognises that decisions about contaminated land are not made on a purely technical basis. There will be a variety of regulatory, commercial, financial, legal and societal factors, which also affect how particular contaminated land issues should be addressed. The Council also recognises that decisions about contaminated land need to be scientifically robust, proportionate and transparent.

The District Council is the lead regulator on contaminated land and will work in partnership with other organisations, particularly the Environment Agency and Natural England to resolve issues effectively.

2.1 General Approach of the Council

South Northamptonshire District Council will take a risk-based approach to assessing whether land is contaminated. Risks will be assessed according to the suitable for use principle in accordance with Statutory Guidance. This means assessing risks associated with land contamination in the context of actual or intended use of a site. The Council's approach to assessing the risks posed by particular sites is explained in section 6.

In developing its strategic approach, the Council has paid due regard to its local circumstances and information currently available. This has enabled consideration of the following aspects:

- available evidence that significant harm or pollution of controlled waters is actually being caused;
- the extent to which human and ecological receptors and controlled waters are likely to be distributed within different parts of the authority's area;
- the extent to which those receptors are likely to be exposed to a contaminant as a result of the use of the land or the geological and hydrogeological features of the area;
- the extent to which information on land contamination is already available;
- the history, scale and nature of industrial and military activities which may have contaminated the land in different parts of the District;
- the nature and timing of past redevelopment in different parts of the District;
- the extent to which remedial action has already been taken by the authority to deal with land-contamination problems, or is likely to be taken as part of the District's Local Plan and Development Plan for its area.

The Council is also mindful that other regulatory provisions can be relevant to problems with land contamination. Overlaps with planning, water pollution and Environmental Permitting legislation are important examples. The Council will seek to resolve problems using alternative provisions wherever this appears appropriate, with a view to minimising burdens on individuals, business and the wider community.

2.2 Objectives of the Strategy

The principal objectives of this strategy are to:

- meet the statutory requirements to produce a strategy and review it;
- set out a strategic approach to the identification and remediation of contaminated and potentially contaminated land;
- adopt a systematic and robust approach for dealing with sites that appear to be contaminated;
- inform stakeholders of the Council's intentions and actions;
- set out how the Council will liaise with the Environment Agency and other stakeholders;
- ensure appropriate records are kept in a Public Register;
- minimise burdens on individuals, businesses and the wider community;
- encourage the re-use of brownfield land

2.3 Aims and Priorities

In accordance with the requirement to take a strategic approach, a prioritised list of the Council's aims has been devised to aid decision-making in a cost effective manner. The Council's prioritised aims in dealing with contaminated land will be to:

- protect human health;
- protect controlled waters;
- prevent damage to property; livestock and crops etc;
- protect designated ecosystems;
- prevent further contamination of land;
- encourage voluntary remediation; and
- encourage re-use of brownfield land.

Wherever possible, these aims will be achieved through voluntary remediation and/or the redevelopment or regeneration of sites. The approach aims to minimise the burden on individuals, business and the wider community while ensuring that unacceptable risks are dealt with effectively.

3 Characteristics of the South Northamptonshire Area

The district of South Northamptonshire was established in 1974 from the former local authorities of Brackley Borough Council, Brackley Rural District Council, Towcester Rural District Council and part of Northampton Rural District Council. It lies to the south-west of Northampton and extends to the outskirts of Banbury, Oxfordshire covering an area of 63,156 hectares.

3.1 Geographic and Demographic Setting

The population is estimated to be in the region of 86,000 people living in two main towns and 74 parishes comprising of 101 villages and hamlets. Brackley, the larger of the two towns, has an estimated population of 13,600 whilst the other, Towcester, is the administrative centre of the district and has an approximate population of 9,200. Overall the district has low population density spread over a wide area and is the fastest growing of the district.

Both Towcester and Brackley are old market towns with coaching connections and both the Romans and the Normans occupied Towcester. Over the past twenty years they have both rapidly expanded with housing, industry and public facilities.

3.2 Geological Characteristics

Solid and Drift Geology sheets indicate that the Lias Group of Clays, predominantly the Lower Lias, underlies the area. There are areas of boulder clays, Northampton Sand, Blisworth Limestone, limestone, pockets of terrace river gravel and Marlstone Rock Bed. The town of Towcester is built on alluvium. The district includes parts of the Natural Areas of West Anglian Plain, Yardley-Whittlewood Ridge and Midland Clay Pastures. Site investigations indicate that there are elevated levels of naturally occurring arsenic in the soil as a result of the sandstone and ironstone in the area and parts of Northamptonshire are classified by the NRPB as “Radon Affected Areas” due to the ironstone and Marlstone in the area.

3.3 Water Resources

Four rivers and their tributaries pass through the district, they are the River Tove, the River Great Ouse, the River Nene, and the River Cherwell. The Grand Union and the Oxford canals cross the area and Boddington Reservoir lies on the boundary to the north of the district. There are localised marshlands and watercourses of wildlife interest. A major aquifer is located at Blisworth and in the surrounding area where Blisworth Limestone is found. Approximately sixty properties are served by private water supplies via wells, springs and boreholes.

3.4 Protected Buildings and Land

Fifty of the villages and hamlets in the district are conservation areas and some 1,800 buildings are included on the Secretary of State’s List of Buildings of Special Architectural or Historic Interest. Thirty-four ancient monuments are scheduled comprising predominantly Roman remains, moats, mottes and fishponds although some of the buildings still remain in use. In addition there are a number of “places of

interest” which permit public access including Forestry Enterprise woodland some of which includes important concentrations of ancient semi-natural woodland such as Yardley Chase and Whittlewood Forest, historic houses, a racecourse and two motor sport racing circuits. There are twelve Sites of Special Scientific Interest totalling 1009.6 hectares designated for protection because of the ecological, geological or physiographical features they contain. In addition there are approximately 160 locations that have been classified as County Wildlife Sites by the Northamptonshire Wildlife Trust. The Grafton Way/Knightley Way long distance footpath spans the district from north to south attracting ramblers to the area and there are some extensive areas of pasture including examples of unimproved neutral grassland.

3.5 Current and previous Land uses (including known information on contamination)

Farming is a major activity in this mainly rural district, but there are also approximately 1,500 other businesses based in the district, ranging from one-person enterprises to large industrial units and factories. ⁽¹⁾ Businesses in the area include motor sports related engineering, electronic component manufacturers, soap works and food processing plants. Of these businesses there are currently nineteen installations operating under permit under Part B of the Pollution Prevention and Control Act 1999. These include eleven petrol stations, a cement works, an animal feed producer, three mobile crushers, and three dry cleaners. There are three installations regulated by the Environment Agency under Pollution Prevention and Control Act 1999 Part A1.

There are eighty-one known former waste management facilities six of which were opened pre-1976 before licensing of such sites was introduced. Nine facilities are currently operational. The Environment Agency offices in Bedford and Kettering license these sites.

The district is edged by the M40 and the M1, the A5 and A45 run across it. Two railways cross the district, the London to Glasgow route and the Birmingham and Coventry to Oxford and Banbury route. There are also a number of disused railway tracks within the boundary.

Since South Northamptonshire is a predominantly rural area there are different contaminated land issues to those areas of the country that are mainly industrial. Agricultural land may have contamination problems due to the use of fertilizers and other chemicals for many years. On land that has never been built upon it is possible to identify from old maps areas that have at one time been pits and have since disappeared from more recent maps. These locations may have been filled with a variety of unknown substances.

Historically many buildings that are now private homes were used as workplaces, in particular tanneries, abattoirs and breweries. Land previously used for what are now considered to be industrial processes may potentially be contaminated. Sites that have been identified as historically having had significant industrial processes take place on them are now often found to have houses built upon them prior to the contaminated land regulations being in existence and questions may arise as to the condition of that land. Sites that have recently been developed have often been

subject to clean-up works before redevelopment as part of the planning process in order to satisfy “suitable for use” criteria.

3.6 Normal (Natural) Presence of Contamination

Normal levels of contamination in soil should not cause land to qualify as contaminated land. Normal levels may result from the natural underlying geological formation, for example the Northampton Sand and Ironstone and arsenic, or from low level diffuse pollution and common human activity such as lead from car exhausts.

A number of potential sources of natural contamination are described within existing information published, for example, by the British Geological Survey (BGS). Such information will be taken into account when assessing any potentially contaminated sites.

4 Strategic Inspection

All local authorities are required to adopt a strategic approach to the identification of contaminated land in their area. The Statutory Guidance requires that the approach adopted should:

- be rational, ordered and efficient;
- take account of local circumstances.

The latest statutory guidance acknowledges that approaches will vary between local authorities.

4.1 The 2001 Strategic Approach

In its 2001 Strategy, the Council detailed its strategic approach, which generally related to the gathering of information about potentially contaminated land and the subsequent assessment and prioritisation of these sites. The approach involved a number of stages including the following:

1. A framework for inspection of sites requiring urgent attention
2. Collection of information on potentially contaminated sites
3. Initial assessment of potentially contaminated sites
4. Compilation of a list of potentially contaminated sites
5. Risk-based assessment and prioritisation of sites
6. Detailed inspection of high risk sites from the priority list

At stage 2, information was gathered from a variety of data sources, including historical mapping and business directories. This information was then used to compile a list of some 277 locations where contaminated land could theoretically be present. Sites were added to the list where an information source indicated that a possibly contaminative use or activity had, at some time, taken place at the location. In practice, it is very likely that the vast majority (and possibly all) of these sites are not contaminated land as defined by the Act. Stages 6 has not been completed (See 4.2).

4.2 The Revised Strategic Approach

Having regard to the latest Statutory Guidance, experience of dealing with contaminated land issues over the past decade and the resources available to the Council, a different strategic approach is now considered appropriate.

In reaching this decision, account has been taken of the following factors:

- Many potentially polluting sites have already been remediated, redeveloped, or are still in active industrial use.
- Some brownfield sites have been, or are due to be developed under planning controls which will ensure they are remediated where necessary.
- When the Council has received reports or complaints related to land contamination these have been and will continue to be resolved as they arise.

- To date, no land has been identified where the Authority considers that there is a reasonable possibility that a significant contamination linkage exists for the purposes of designating the land as contaminated under the Part 2A regime.

The Council must also consider the resources it has available and the need to target limited resources where they can be of most benefit. Undertaking a proactive assessment and prioritisation of the list of 277 “potentially contaminated” sites would require specialist Officer and Geographical Information System resources that are currently in place. However, resources are frequently diverted to other areas of Environmental Protection work. Therefore such a task will take a considerable time to complete and would need to be followed by detailed investigation of the highest risk sites before any firm decisions could be reached on contamination.

The detailed inspection of individual sites can be an expensive, time consuming and potentially controversial task. Affected properties may suffer significant property blight during the process. While this would, of course, be justified for sites where significant risks to sensitive receptors have been identified, such information is unlikely to be available prior to detailed inspection unless the site is currently giving cause for concern.

The Council considers that it can better prioritise its response to the risks of land contamination within its area by acting on information concerning the current status of sites. This approach would combine use of Development Control provisions for sites undergoing development, with a robust response to reports and complaints about potentially contaminated land. This approach would replace the previous prioritisation and proactive site inspection approach set out in the 2001 Strategy. The revised strategic approach is set out below and in the next section.

4.3 Planning Controls

The Council will make use of the planning system to address sites that may be affected by land contamination.

Since the production of the Contaminated Land Strategy in 2001, it has been recognised that, generally, the most appropriate and efficient way to address the issues associated with contamination is through the planning process. The onus is placed on the developer to address potential contamination issues as part of the wider planning process, including providing detailed assessments produced by competent consultants where necessary.

Issues of land contamination are a material consideration within the planning system and, as such, receive attention as part of all relevant applications. The Environmental Protection Team is consulted on relevant applications, which provides an opportunity for technical queries to be raised and additional information to be requested from applicants when necessary.

4.4 Reactive Investigations

Although the Council's approach to identifying potentially contaminated land will principally be via the development control process, there may still be a need to investigate some sites, in particular where information is received that suggests a problem of land contamination is of current concern to one or more sensitive receptors.

If information comes to the attention of the Council that indicates a site is causing concerns relating to contaminated land, the Council will undertake any necessary investigation in accordance with the statutory and other relevant guidance. The detailed inspection of relevant sites is described in the next section.

4.5 Responding to Complaints

A complaint regarding contaminated land will be dealt with following the same procedure as currently used to deal with statutory nuisance complaints.

All complainants may expect:

- their complaint to be logged and recorded;
- to be contacted by an officer regarding their complaint within a reasonable amount of time; and
- to be kept informed of progress towards resolution.

Every effort will be made to resolve complaints quickly and efficiently and most complaints are likely to be resolved by the provision of information, or by agreeing voluntary action with the landowner.

Where complaints relate to land that appears to constitute contaminated land as defined under the Act the investigation is likely to take longer to resolve. Complainants will be advised of the key stages in the process as the investigation continues including the requirement to identify the following:

1. evidence of a viable pollutant linkage, possibly requiring a detailed site investigation, before a formal determination of contaminated land is permissible;
2. prior consultation with interested parties and other stakeholders;
3. a minimum of a three month period between determination and serving of a remediation notice; and
4. the requirement for the enforcing authority to make every effort to identify the original polluter of the land (or "Class A" person).

The regulations allow conditions 2 and 3 to be waived in extreme cases, but not conditions 1 and 4. The decision making process can therefore take many months to complete.

4.6 Budgetary Provision

The inspection and assessment of potentially contaminated land can be a complex and time-consuming activity. The cost of such activities varies enormously, making it difficult to anticipate budgetary pressures from one year to the next. Where the Council becomes aware of the need to inspect a site under Part 2A of the Act it will be important that appropriate budgetary provision is made to cover any necessary investigations.

The Environmental Protection Team Leader will assess the likely costs of Part 2A inspections as and when they arise, with a view to ensuring appropriate financial provisions are put in place.

In addition to its inspection responsibilities, the Council also has responsibilities as a land owner. Should any of its land be found to be contaminated land the Council may need to carry out remediation work or take other actions. Remediation can be very expensive and the Council is aware of the risks it potentially carries in this regard.

5 Detailed Inspection

If information comes to the attention of the Council indicating a site is causing concerns relating to contaminated land, the Council will investigate in accordance with the statutory and other relevant guidance.

The Statutory Guidance requires that:

“If the local authority identifies land where it considers there is a reasonable possibility that a significant contaminant linkage (as defined in paragraphs 3.8 and 3.9) exists, it should inspect the land to obtain sufficient information to decide whether it is contaminated land, having regard to section 3 of this Guidance.”

The guidance also makes clear that, under Part 2A, the starting point should be that land is not contaminated land unless there is reason to consider otherwise. All decisions about contaminated land will be made on the basis of a robust risk assessment, undertaken in accordance with the Guidance.

5.1 Risk Assessment of Sites

Part 2A takes a risk-based approach to defining contaminated land. The Statutory Guidance defines “risk” as the combination of:

- (a) the likelihood that harm, or pollution of water, will occur as a result of contaminants in, on or under the land; and
- (b) the scale and seriousness of such harm or pollution if it did occur.

For a significant risk to exist there needs to be one or more contaminant-pathway-receptor linkages – “**contaminant linkage**” – by which a relevant receptor might be affected by the contaminants in question. In other words, there must be contaminants present in, on or under the land in a form and quantity that poses a hazard, and one or more pathways by which they might significantly harm a sensitive receptor.

The receptors recognised as being potentially sensitive in Part 2A are:

- **Human Beings**
- **Ecological Systems or Living Organisms forming part of a System within certain Protected Locations**, including: Sites of Special Scientific Interest (SSSI), National Nature Reserves (NNR), Nature Reserves, Special Areas of Conservation (SAC), Special Protection Areas (SPA), Candidate SACs, RAMSAR sites, Areas of special protection for birds, Source protection zones, Groundwater-private abstractions, Groundwater-major aquifers.
- **Property in the Form of Buildings**, including Ancient Monuments:
- **Property in other Forms**: Crops, Livestock, Home-grown produce, owned or domesticated animals, wild animals subject to shooting or fishing rights; and
- **Controlled Waters**: Surface waters (e.g. rivers, lakes, streams). Groundwater as defined in Section 4.36 of the Statutory Guidance. Drinking water abstractions as defined in the Water Resources Act 1991 Section 104.

Risks will be considered in relation to the current or likely future use of the land, in accordance with statutory guidance.

5.2 The Inspection Process

The inspection process will typically involve a number of incremental steps starting with a desk-based study. This may then be followed by a site visit and walkover; a generic quantitative risk assessment; and various stages of more detailed quantitative risk assessment as required. The process will normally continue until it is possible to decide:

- (a) that there is insufficient evidence that the land might be contaminated land to justify further inspection and assessment; and/or
- (b) that the land is or is not contaminated land.

For the inspection of land to proceed to the next stage of risk assessment there must be evidence that an unacceptable risk is reasonably likely to exist. If the Council considers there is little reason to consider that the land might pose an unacceptable risk, inspection activities will normally stop at that point.

5.3 Receptor-Source-Pathway Model

Inspections will normally make use of a receptor–source–pathway model as a means for identifying any potentially significant pollutant linkages at the site. This approach aims to establish the presence and condition of the most sensitive receptors at an early stage in order to target resources at the highest risks.

In order to undertake the receptor-source-pathway analysis certain information must be established. The requirements are:

- current land use plans;
- locations of current and former landfills and other areas of filled ground;
- locations of groundwater abstraction wells, both public and private;
- identification of aquifer designation and vulnerability;
- current surface water classification under the Environment Agency’s General Quality Assessment Chemical Grading for Rivers and Canals Scheme and the river ecosystem classification under the Surface Waters (River Ecosystem Classification) Regulations 1994;
- current processes authorised by the Environment Agency or Local Authority under the Environmental Permitting regulations.
- location of statutory and non-statutory sites of ecological importance;
- potential sources of contamination based on the industries listed in the DOE Industry Profiles; and
- the current and historical locations of these industries.

The further detailed inspection of relevant sites will be carried out in accordance with the Defra Guidance and other relevant guidance and standards.

5.4 Consultation with Interested Parties

The Council will consult the landowner before inspecting the land unless there is a particular reason why this is not possible, for example because it has not been possible to identify or locate the landowner. Where the owner refuses access, or the landowner cannot be found, the authority may consider using statutory powers of entry, subject to statutory guidance and the particular circumstances of the case.

The Council will also consider informing other interested parties (for example occupiers of the land and owners and occupiers of neighbouring land) and whether to publish a written statement.

5.5 Special Sites

If the local authority inspects land which it considers (if the land were to be determined as contaminated land) would be likely to meet one or more of the descriptions of a special site set out in the Contaminated Land (England) Regulations 2006, it will consult the Environment Agency and, subject to the Agency's advice and agreement, arrange for a joint approach to inspection of the land.

5.6 Deciding that land is not Contaminated Land

Where the Council inspects land under Part 2A and then decides it is not contaminated land it will issue a written statement to that effect to the land owner (rather than coming to no formal conclusion). The statement will make clear that on the basis of its assessment, the authority has concluded that the land does not meet the definition of contaminated land under Part 2A. The Council will also keep a record of its reasons for deciding that land is not contaminated.

6 Determination and Remediation

The Council has the sole responsibility for determining whether any land appears to be contaminated land although it can rely on information or advice provided by another body such as the Environment Agency, or a suitably qualified and experienced practitioner appointed for the purpose.

There are four possible grounds for the determination of land as contaminated land (non-radioactive contamination):

- (a) Significant harm is being caused to a human, or relevant non-human, receptor.
- (b) There is a significant possibility of significant harm being caused to a human, or relevant non-human, receptor.
- (c) Significant pollution of controlled waters is being caused.
- (d) There is a significant possibility of significant pollution of controlled waters being caused.

Where, following detailed inspection of a site, the Council reaches a decision that land is “Contaminated Land” under the Act, it will proceed as follows and in accordance with the statutory guidance.

6.1 Determination Steps

Once an area of statutory contaminated land has been identified, there are three main stages that need to be completed prior to formal determination of land as contaminated land under the Act:

- a) The Council must have identified one or more significant contaminant linkage(s), and carried out a robust, appropriate, scientific and technical assessment of all the relevant and available evidence.
- b) In the case of any land which, following determination as contaminated land, would be likely to meet one or more of the descriptions of a “Special Site” set out in the Contaminated Land Regulations 2006, the Council will consult the Environment Agency before deciding whether or not to determine the land.
- c) The Council must have informed the owners and occupiers of the land and any other person who appears to the authority to be liable to pay for remediation, of its intention to determine the land (to the extent that the authority is aware of these parties at the time) unless the authority considers there is an overriding reason for not doing so. Where appropriate, time will also be allowed to reach informal arrangements to deal with the problems.

Where possible, the following steps will also be completed prior to formal determination:

- decide what remediation is required and attempt to achieve remediation through a voluntary agreement if possible and appropriate;
- record appropriate information on the public register

6.2 Formal Determination of Contaminated Land

The Council will prepare a written record of any determination that land is contaminated land. The record will include:

- a description of the particular significant pollutant linkage, identifying all three components of the pollutant, pathway and receptor;
- a summary of the evidence upon which the determination is based;
- an analysis of significant harm or significant pollution;
- a summary of the relevant assessment of this evidence; and
- a summary of the way in which the authority considers that the requirements of statutory guidance have been satisfied.

6.3 Issuing Determination Notices

Once the Council has determined land as contaminated land, it will give notice of its decision to:

- (a) the Environment Agency;
- (b) the owner of the land;
- (c) any person who appears to the authority to be in occupation of the whole or any part of the land; and where identified:
- (d) each person who appears to the authority to be an appropriate person; in accordance with section 78B(3) of Part 2A.

6.4 Remediation of Contaminated Land

Once land has been determined as contaminated land, the Council will consider how it should be remediated and, where appropriate, issue a remediation notice. If land is deemed to be a “special site” the Environment Agency takes on responsibility for remediation following determination.

The process of deciding who is responsible for remediation of contaminated land can be quite complicated and the Council will have regard to the detailed Statutory Guidance in reaching its decisions.

The Council will seek to recover its costs wherever possible, in accordance with the Act and Statutory Guidance.

7 Management of Communication

7.1 Management of the Strategy

Environmental Protection is the lead service within the Council for the purpose of managing the Strategy. A designated Officer has responsibility for dealing with enquiries and incidents relating to land contamination and generally implementing the strategy. This Officer is also the main contact for liaison with the Environment Agency, Natural England, DEFRA, land owners, agents, members of the public and other stakeholders concerning potentially contaminated land.

Elected members will be informed at the earliest opportunity of any plans to determine an area of Council-owned land, or where the Council is the “appropriate person” and may be liable for remediation costs. Ward Councillors will be informed of any plans to determine land within their area.

The designated Officer will review the strategy every 5 years and when statutory changes or new guidance require it.

7.2 Liaison and Communication

Effective liaison with other bodies is central to the implementation of this strategy. Statutory consultees for the 2019 Contaminated Land Strategy will be:

- Environment Agency
- Natural England
- English Heritage
- DEFRA
- Northamptonshire County Council
- Neighbouring Local Authorities
- Internal consultees

There is considerable scope for members of the public, businesses and voluntary organisations to make important contributions in dealing with contaminated land. The revised strategy will be published on the Council’s website and the involvement of non-statutory consultees in the process of dealing with contamination land will be encouraged wherever appropriate.

The statutory definition of contaminated land requires that there must be a **significant possibility of significant harm to human health or non-human receptors** or **significant possibility of pollution of controlled waters**. The Council recognises that the expectations of some members of the public will not be met by the powers the local authority may exercise under the Part 2A regime.

Wherever possible, Council Officers will seek to explain matters in terms that can readily be understood by non-specialists.

7.3 Owners, Occupiers and other Interested Parties

The Council's approach to its regulatory duties is to seek voluntary action before taking enforcement action. This approach has been adopted and used to good effect for issues of land contamination previously and recognises that in many cases, remediation can be achieved more effectively by agreement rather than by enforcement. This approach requires effective communication with owners, occupiers and other interested parties at all stages. The designated Officer will keep owners, occupiers and other interested parties informed as necessary.

7.4 Powers of Entry

Under Section 108 (6) of the Environment Act 1995, the Council has been granted powers of entry to carry out its investigations and inspections.

Before the Council carries out an inspection using statutory powers of entry it will first attempt to liaise with owners and other interested parties with a view to avoiding the need to using such powers.

The Council will not carry intrusive investigations at a site if:

- it has already been provided with detailed information on the condition of the land upon which the Council can determine whether the land is contaminated; or
- a person offers to provide such information within a reasonable and specified time, and then provides such information within that time.

Where the Council decides to carry out intrusive investigation it will be in accordance with appropriate technical procedures for such investigations (for example BS10175:2011 and BS5930: 2015)

7.5 The Public Register

Under the regulations, the Council is required to maintain a public contaminated land register. The Environmental Protection Team will hold the register at the Council's Moat Lane office in Towcester. It will be accessible on request by members of the public during office hours.

The regulations specify the information that can be recorded on this register, which will include:

- remediation notices;
- details of the site reports obtained by the authority relating to remediation notices;
- remediation declarations, remediation statements and notification of claimed remediation;
- designation of sites as "special sites";
- any appeals lodged against remediation and charging notices; and
- convictions.

The public register will not hold details of historic land use and other records used in the assessment and investigation of potentially contaminated land.

7.6 Provision of Information to the Environment Agency

The Environment Agency is required to prepare an Annual Report for the Secretary of State on the state of contaminated land in England and Wales. This report includes:

- a summary of local authority inspection strategies, including progress against the strategy and their effectiveness;
- the amount of contaminated land and the nature of the contamination; and
- measures taken to remediate land.

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As local authorities are the lead regulators on contaminated land, the national survey is heavily reliant on information provided by local authorities. A memorandum of understanding has been drawn up between the Environment Agency and the Local Government Association that describes how information will be exchanged between the local authority and the Environment Agency. The Council will seek to provide information to the Environment Agency in accordance with this guidance.

The local authority will also provide information to the Environment Agency whenever a site is determined as contaminated land, and whenever a remediation notice, statement or declaration is issued or agreed. The Environment Agency has provided standard forms allowing this information to be provided in a consistent format and the Council will use these to fulfil its reporting requirements where appropriate.

8 Review Mechanisms

The Council will review its written strategy periodically to ensure it remains up to date. This will occur at least every 5 years and when statutory changes or new guidance require it.

All decisions made with regard to contamination need to be made objectively, consistently, transparently, and with proper regard to uncertainty. One important aspect of managing contaminated land is the need to review decisions made about particular sites, to establish whether any material changes have occurred. Examples of factors which influence the decisions and which have the potential to change include:

- site use
- use of adjoining land
- climatic or meteorological change
- change in physical characteristics e.g. the water environment
- legislative or internal or external policy changes
- technical standards or procedures
- actions taken by humans or other agents to reduce the effectiveness of remedial measures.

All decisions made under part 2A will therefore be made and recorded in a consistent manner that will allow for effective review as and when circumstances require it.

9 References

Environmental Protection Act 1990. HMSO (1990)

The Environment Act 1995 HMSO (1995)

The Contaminated Land (England) Regulations 2000. SI 2000/227 HMSO (2000)

DEFRA Contaminated Land Statutory Guidance, April 2012

CLG National Planning Policy Framework, March 2012

British Standards Institute. Code of Practice for Site Investigations. BS5930: 2015

British Standards Institute. Investigation of Potentially Contaminated Sites – Code of Practice. BS10175:2011

CLR11 – Model Procedures for the Management of Land Contamination

English Heritage 2005. Assessing the Risk Posed by Land Contamination and its Remediation on Archaeological Resource Management

10 Acknowledgements

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