BABERGH AND
MID SUFFOLK
DISTRICT COUNCILS

Contaminated Land Strategy

Strategy Document
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APPENDICES

1 INTRODUCTION

Babergh and Mid Suffolk District Councils (from herein termed the Councils) have responsibility for regulating contaminated land legislation in their respective districts, under provisions in Part IIA of the Environmental Protection Act 1990 that were introduced in April 2000. The duty is to ensure that people, property and the environment are not significantly harmed by contaminants in the ground, and that existing damage meeting the definition of Contaminated Land is remedied.

The Councils will inspect the whole of the two districts for Contaminated Land and take action to prevent significant harm from occurring. It is Government policy to ensure that the polluter pays, and the Councils have powers to require polluters to clean-up Contaminated Land that may cause significant harm or water pollution.

Contaminated land, and the law controlling it, are complicated issues. Identifying Contaminated Land is a technically demanding process, and a great deal of information is generated by the Councils in the execution of their statutory duties. One of the Councils' responsibilities is to ensure that the Contaminated Land inspection process is carried out in a rational and efficient manner. It is also necessary to show that resources will be allocated to tackling the most serious contaminated land problems first.

This strategy explains how the Councils will go about inspecting the districts for Contaminated Land, and how we will manage the information that it generates.

1.1 General Policies of Babergh and Mid Suffolk District Councils

In January 2024, the two Councils adopted their respective plans setting out the priorities that each will deliver from 2023 to 2027:

- Babergh District Council. "Our Plan for Babergh. A more resilient and sustainable future".
- Mid Suffolk District Council. "The Mid Suffolk Plan. Helping to create thriving and resilient communities".

As two sovereign local authorities, Babergh and Mid Suffolk District Councils retain separate corporate visions and areas of focus, which underpin their work.

Babergh District Council's Vision**:** "'To help to create a resilient, more sustainable future, with and for, all the residents and communities of Babergh".

The opportunities and challenges that we will focus on:

- Revitalised and improved environment
- Thriving economy
- Resilient communities

***Mid Suffolk District Council's Vision*:** "To help to create a resilient, more sustainable future, with and for, all the residents and communities of Mid Suffolk.

The opportunities and challenges that we will focus on:

- Housing and infrastructure
- Resilience
- Community wellbeing
- Environmental sustainability

1.2 Regulatory Context

The law on Contaminated Land is made under Part IIA of the Environmental Protection Act 1990 [1]. The provisions of Part IIA came into force on 1 April 2000. Each local authority in England is required to prepare and publish a strategy for inspection of Contaminated Land. This joint strategy fulfils that requirement for both Babergh and Mid Suffolk District Councils.

Please note that this section provides a summary and explanation of the main provisions of the Contaminated Land legislation. It is not a definitive or exhaustive guide, and it has no legal force. Please refer to Department for Environment, Food and Rural Affairs (DEFRA) Circular 04/2012 [2], (hereinafter referred to as "the Statutory Guidance") and the Contaminated Land (England) Regulations 2012 [3] for a full description.

The Councils' duties under the Act can be summarised as:

- the inspection of the districts of Babergh and Mid Suffolk from time to time for land that may be contaminated;

- the inspection of individual sites to determine whether they are Contaminated Land; and

- to ensure that appropriate action is taken to remediate (clean-up) Contaminated Land.

In carrying out its duties, the Councils must comply with Statutory Guidance, contained in DEFRA Circular 04/2012.

Central Government's objective on Contaminated Land is to ensure that all land is "suitable for use". This recognises that England's industrial history has resulted in a legacy of contamination, and that to encourage safe and beneficial use of such land it is necessary to consider and address any risks that contamination may pose. Risks are dependent on many factors – for example the nature of the contamination, the geology of the site, and the activities that are being carried out on the site.

The Contaminated Land regulatory regime is based on the principle of "suitable for use". The local authority is required to use risk assessment on a site-by-site basis to identify areas that may be causing significant harm or water pollution. If the land is found to meet the statutory definition of Contaminated Land, we have a duty to ensure that appropriate action is taken.

The definition of Contaminated Land from the Environmental Protection Act 1990, Part IIA, Section 78A (2) is:

"any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that –

(a) significant harm is being caused or there is a significant possibility of such harm being caused; or

(b) pollution of controlled waters is being, or is likely to be, caused."

For land to meet the statutory definition of Contaminated Land, there must be a "significant pollutant linkage" and "Significant Possibility of Significant Harm" to end users and the environment. To determine whether there is a significant pollutant linkage, the Councils will look for:

A Source: the physical presence of a contaminant in, on or under the ground, in quantities large enough to be a potential hazard.

A Pathway: a means by which the source can come into contact with something or someone that could be harmed.

A Receptor: something or someone that could be harmed by the contamination – for example a person using the land, a stream close to the land, or a building built on the land.

Where source, pathway and receptor are all present, the Councils will assess the risk of significant harm or water pollution. If the definition given above appears to be met, then the land will be classified as Contaminated Land.

Risk assessment is a structured method for making decisions in circumstances where there is uncertainty. In risk assessment we distinguish between the concepts of hazard and risk:

Hazard is an attribute or situation that in particular circumstances could lead to harm.

Risk is a combination of the probability, or frequency, of occurrence of a defined hazard and the magnitude of the consequences of the occurrence (i.e. how likely is the hazard, and how bad would it be if it happened).

The source-pathway-receptor analysis described above is used to identify the hazard (the pollutant linkage). The risk assessment considers how likely the pollutant linkage is to exist, and how severe the consequences would be if it did exist. This could involve, for example, considering how much contaminant might be able to contact the receptor, over what time period, and how sensitive the receptor might be to the contaminant. At the end of the process, the assessor will be able to determine whether the pollutant linkage is a significant pollutant linkage, and therefore whether the site is Contaminated Land.

When Contaminated Land is identified, the Councils will decide what "remediation action" is necessary. The term "remediation action" refers to any action that is necessary to further evaluate, monitor, or treat a significant pollutant linkage. It does not necessarily always mean the removal of the contamination from the land – the aim is to carry out the most appropriate and sustainable action to make the land

suitable for use, and to prevent significant harm or water pollution. Examples of remediation actions include, amongst others:

- taking further samples and carrying out testing to gain a better understanding of the problem;

- carrying out long term monitoring of gas levels or groundwater quality to find out whether contamination is migrating;

- preventing contamination from contacting receptors (e.g. people) by fencing a site or capping it with clay or concrete; and

- removing contamination by excavation or by carrying out biological, chemical or physical treatment.

1.3 Regulatory Roles of the Local Authority and the Environment Agency

Both Babergh and Mid Suffolk District Councils are the main regulators for Contaminated Land in their respective districts - neither Council has the power to act in each other's district and each Council remains legally responsible for its own area. There are some circumstances where the Environment Agency also has a regulatory role, and these are explained below.

The Councils' principal functions as regulator for Contaminated Land are:

- to ensure that the two districts are periodically inspected to identify Contaminated Land;

- to determine whether any site is Contaminated Land; and

- to act as enforcing authority to ensure that Contaminated Land is remediated appropriately (except where the site is a special site, in which case the Environment Agency acts as enforcing authority).

The enforcement role applies only to sites that are identified as Contaminated Land (i.e. sites that meet the statutory definition of Contaminated Land). When such a site is identified, the authority will:

- establish who is responsible for the contamination;

- decide what action is required;

- ensure that the appropriate action is carried out – either through agreement with the person responsible for the contamination, or by serving a remediation notice;

- determine who should bear what proportion of the costs of the remediation; and

- record information about the regulatory action on a public register.

The Environment Agency has four important functions in regulating Contaminated Land:

- to assist local authorities in investigating Contaminated Land;

- to provide site specific guidance to local authorities on Contaminated Land, particularly where water pollution is involved;

- to act as enforcing authority when a site is designated as a Special Site[1]; and

- to publish periodic reports on Contaminated Land.

1.4 Enforcement Policy

The Legislative and Regulatory Reform Act 2006 requires Local Authorities to have regard to the Principles of Good Regulation when exercising a specified regulatory function. The Councils have a Joint Corporate Enforcement Policy which applies to work undertaken under Part IIA of the Environmental Protection Act 1990. The policy is underpinned by six fundamental principles.

- Courtesy and Helpfulness
- Openness
- Clear Standards and Practices
- Proportionality
- Consistency
- Training of Staff

A full copy of the Joint Corporate Enforcement Policy is available to view on the Councils' websites.

1.5 Development of the Strategy

This Contaminated Land Strategy has been developed jointly across the two councils to ensure consistency and cost effectiveness in both districts. Babergh and Mid Suffolk District Councils are members of the Norfolk and Suffolk Contaminated Land Officer Group (NSCLOG), which discusses and coordinates approaches to the regulation of Contaminated Land across Norfolk and Suffolk and ensures consistency across the two counties.

1.6 Objectives of the Strategy Document

1. To fulfil the statutory requirement to publish and update the Contaminated Land Strategy for Babergh and Mid Suffolk District Councils – this strategy supersedes previous versions.

2. To set out a strategy that meets the statutory requirements. These are:

    (a) be rational, ordered and efficient;

    (b) be proportionate to the seriousness of any actual or potential risk;

[1] A Special Site is a site that meets one of the statutory definitions for Special Sites. In general, Special Sites have had uses where the Environment Agency is likely to already have a regulatory responsibility, for example sites subject to Environmental Permitting. Special Sites are not necessarily more contaminated than other kinds of site. Examples of Special Sites are nuclear sites, current MOD sites, oil refineries, and sites that may be causing pollution of drinking water resources.

(c) seek to ensure that the most pressing and serious problems are identified first;

(d) ensure that resources are concentrated on investigating in areas where the authorities are most likely to identify Contaminated Land; and

(e) ensure that the local authority efficiently identifies requirements for the detailed inspection of particular areas of land.

3. To explain how the Councils plan to carry out their duties under Part IIA of the Environmental Protection Act 1990.

4. To provide an accessible source of reference on Contaminated Land issues across the heart of Suffolk, and to inform stakeholders of the Councils' intentions.

5. To explain how the Councils will communicate with the Environment Agency and provide the Agency with the information that is required by Part IIA.

2 CHARACTERISTICS OF THE BABERGH AND MID SUFFOLK DISTRICTS

2.1 Characteristics of the Area

Babergh District

The Babergh district lies within the southern part of Suffolk, covering approximately 240 square miles. The district is wedge shaped, narrowing from the west towards the Shotley peninsula, which is formed by the River Stour and the River Orwell and defines the easternmost extent of the district. The wedge extends inland for about 35 miles, widening with distance to the west, including the Stour valley, and valleys of the River Box, River Brett and River Glem.

The district includes the towns of Sudbury, Hadleigh and the southwestern outskirts of Ipswich within its area. The 2021 census estimates show Babergh's population as 92,300. Approximately 30% of Babergh's population reside in the towns and villages of Sudbury, Great Cornard, Hadleigh, Long Melford and Capel St Mary. The remainder of the population is distributed across the rest of the district, mostly in outlying villages.

Beyond the main towns, the character of the district is predominantly rural comprising almost all the area known as 'Constable Country' and dominated by a diverse range of predominantly arable agricultural activities. The rural area is dotted with picturesque villages and hamlets, many of which have well preserved historic buildings.

Mid Suffolk District

The Mid Suffolk district lies centrally in the county of Suffolk, east to west, and is bordered in the north by the Waveney Valley and the Norfolk border. The main part of the district is a gently undulating plateau of boulder clay which gives way to the main river valleys at its edge, notably the Waveney Valley in the north and the Gipping Valley in the south. The area is predominantly rural in character with an

agriculture-based economy, although there is also a history of localised industry, some of which has continued into modern times.

The 2021 census places the population of Mid Suffolk at 105,700. The district area covers 336 square miles and 122 parishes. Such an extensive area is naturally diverse in character, but there are two distinct parts to the district. The northern part is particularly rural and has a significantly lower density of population and tends to have significantly less infrastructure than the south. The southern part is highly accessible in comparison because of the A14 trunk road, and its population is centred on the larger town and villages. It is this area, the A14 corridor, where there is more pressure for growth.

2.2 Redevelopment History and Controls

There has been a decline in agriculture and rural based employment over recent years in both districts. As a result, there have been a wide range of initiatives to stimulate the rural economy by providing suitable sites and premises for business, town centre improvements and provision of new housing in existing settlements, particularly as infill developments. Success of these initiatives in attracting investment has used up most of the available land, creating shortages within the districts of suitable land for future employment and housing uses. Further development of land for housing and employment uses is therefore expected as a result of continued demand.

The National Planning Policy Framework (NPPF) as initially issued in 2012 and subsequently updated regularly, states that all development policies should ensure that developments are acceptable from the perspective of land contamination – this is the same objective as Part IIA of the Environmental Protection Act 1990. The underlying principle of the NPPF is that once the land has been redeveloped it should not be possible for the land to be determined as Contaminated Land as defined by Part IIA of the Environmental Protection Act 1990.

Some new building has occurred on previously used land within the districts. The Councils are responsible for controlling such development under the planning system and have considered the potential for contamination in cases where the risk was apparent based on known information. It is recognised however, that standards for Contaminated Land remediation (clean-up) have changed substantially in recent years with increased knowledge of the risk of contamination. It is therefore possible that developments have been permitted in the past without the stringent risk control measures now required.

The Councils have worked with other local authorities in Suffolk in developing and implementing development control procedures in line with legislation to ensure that all new development considers the issue of contamination adequately. Where contamination of land is known or suspected, the Councils will require the developer to carry out a site-specific risk assessment prior to registration of the planning application, should a risk be identified a full intrusive ground investigation may be deemed necessary but depending on risk may be required via planning condition. Following any approval with conditions it is required that all investigations follow the naturally progressive methodology outlined in LCRM.

Local validation lists include the requirements for planning applications. These are updated regularly and can be found at:

- www.babergh.gov.uk/w/validation-requirements
- www.midsuffolk.gov.uk/w/validation-requirements

2.3 Current and Past Industrial History

Introduction

Contamination of the land can arise from a wide variety of processes and activities associated with industry and its development and growth. The industrial history of an area therefore provides an unparalleled insight into the areas that might contain land affected by Contaminated Land.

Early history

Both districts have a long and varied history, evident from the many historical buildings and monuments which remain today. The activities carried out early in the districts' history are primarily agricultural, and as a result the districts' industrial roots lie in the activities which processed produce from the land, such as wool and grain. The industries initially able to grow and prosper in the districts included the cloth/textile and brewing industries.

Although most of the Ipswich urban area lies outside the districts, the town has had a strong influence on the prosperity and development of the districts due to the port. The port at Ipswich has assisted trade within the town and over the two districts since the 16th century owing to improved roads and navigable rivers, most notably the River Gipping. Initially, this made Ipswich an important centre for the grain trade, and became home to industries such as maltings, oil and cake mills, manure works, tanneries, clothing manufacture and steam mills.

The histories of the Babergh and Mid Suffolk districts diverge during the late Medieval period with the areas to the west of the districts centre more upon the processing of wool and silks as part of the textile industry whereas Mid Suffolk remains predominantly agricultural centring more on the production of crops and associated processing but with small areas of isolated heavy industry in the town of Stowmarket.

The histories of Lavenham, Long Melford, Hadleigh and Sudbury are characteristic of the early development of the Babergh district. These settlements prospered during the 15th and 16th Centuries owing to the wool and cloth manufacturing industry. Hadleigh, once a prominent Viking town, developed as one of Babergh's principal market towns being a centre of cloth manufacture. However, changes in the manufacturing techniques moved production to Colchester and Norwich and by the 19th Century the cloth industry was in serious decline. Many communities including Sudbury developed a silk weaving industry when the woollen industry was diminishing. Other areas such as Lavenham and Long Melford turned their factories to the manufacture of textiles such as horsehair and coconut matting.

The cloth, wool and textile industries may have left localised legacies of contamination owing to the use, storage and disposal of substances used in the processes employed. For instance, the wool industry requires that fleeces be cleaned, and greases removed. This will have required the use of detergents and later may have involved the use of solvents. Dyeing and printing is a closely related activity to the cloth and textile industry. Early dyes were produced from natural

sources such as plants, animals and minerals, however later the colour came from synthetic dyes and was derived from substances such as coal tar hydrocarbons and other chemical compounds. Many of the yarns and fabrics may have been treated with chemicals to improve their workability or to prevent fungal or mould growth. Tanneries may also have developed in neighbouring areas to the textile factories to process animal skins, using chemicals to clean, degrease and cure the hides.

Many of the substances used in and associated with the textile industry were used in liquid form such as washing and rinsing water, dyes and treatment baths. These liquids would have been easily spilled or may have leaked from containers, and wastes may have been disposed of on site, leading to contamination of the land.

The development of the textile industry was much less pronounced in the area that is now the Mid Suffolk district which focused more on arable agriculture and is demonstrated through the large expanses of sparsely populated countryside with a disparate agricultural economy. There were large towns which developed during this period such at Debenham and Eye which developed along the same lines as similar towns in Babergh although towns such as Stowmarket did not develop significantly during this period.

19th and 20th Centuries

By the 19th Century the prosperity of the cloth and textile industry was beginning to decline, and by the end of the century was no longer a thriving industry. However, many of the districts' towns and villages continued to develop with the coming of the railway, and those such as Bentley, Stowmarket, Hadleigh, Needham Market, Lavenham, Long Melford and Sudbury were connected to the railway system and had become home to railway stations by the mid-19th Century.

Construction of the railways would have required significant amounts of raw materials for the construction of rail foundations and embankments. It is possible that a lack of raw materials from local sources may have necessitated the use of waste materials such as clinker, slag and ash from nearby industries. Furthermore, railway depots and goods sheds may have been used to store miscellaneous substances including stocks and supplies of oils, greases, ores, coal, timber, steel and bricks that may have caused local contamination.

Sudbury in the 19th Century had a flourishing brick and lime works and was also home to a brewery and maltings. The Stour Navigation canal had become another important means of transportation of raw materials and goods to and from Sudbury, and by the early 19th Century, warehouses had been erected to take advantage of opportunities the Stour Navigation canal provided. Silk works replaced the wool industry, and silk is still woven in Sudbury today.

By the 19th and 20th Centuries, the industrial activities carried out in many settlements had diversified. In Long Melford, industries included an iron and brass foundry (Adrian Works), a laundry (Lavender Laundry), tramshed and electricity works, and food processing. By the 1840's, Hadleigh is also recorded as supporting other activities such as shoemakers, farmers and carpenters.

Similarly, Stowmarket was subject to extensive expansion in its agriculture-based industries as a direct response to the opening of the Gipping Navigation which linked Stowmarket with the Port of Ipswich and beyond. This was further enhanced by the arrival of the railway which brought about significant changes in the industries in

Stowmarket resulting in a shift to heavier industries including chemical and munition works.

By the 19th Century Ipswich had developed as a centre for agricultural engineering and heavy engineering. By the 1860's, Gasworks including gasholders were erected in Stowmarket, Hadleigh, Sudbury, Lavenham and a range of smaller facilities distributed across the two districts. In the early-mid 20th Century airfields developed and expanded with the onset of World War II, at Chilton, Great Waldingfield, Rattlesden, Wattisham, and Lavenham amongst others.

Industries such as these used and produced a wide variety of substances with the potential to contaminate the land. The production of iron and brass generates large quantities of waste slag, slurries and dusts, each containing contaminants such as arsenic and lead. Laundries, particularly if offering dry cleaning services (available from the 1860's), will have stored and used potentially contaminating chemicals, with contamination of the land most likely resulting from spillages, leaks and disposal of the dry-cleaning solvents and wastes.

During the 20th Century there was an expansion in light industrial activity in both district with numerous companies relocating to the area following the Second World War. Industries that grew in the area during the post war period include vehicle component manufacture, sugar beet refining, pet food production as well as numerous small light industrial activities.

21st Century

Currently the districts are home to numerous diverse businesses and industries, from traditional retailing in market towns to information driven businesses. Stowmarket, Sudbury, Hadleigh, Needham Market, the A140 corridor and the western margin of Ipswich contain active industrial areas. Agriculture also remains an important activity in the district, particularly crops for food production and grain for maltings and livestock use. The districts' history and countryside also form the basis for a thriving tourist industry.

2.4 Current Land Use Characteristics

The districts of Babergh and Mid Suffolk are primarily rural with much of the land used for agricultural activities. The rolling countryside contains grassed and wooded river valleys to give the districts a rich landscape and wildlife heritage, and a significant proportion of the districts is occupied by nature reserves, special protection and conservation areas and Ancient Monuments.

Beyond Ipswich and the towns of Sudbury, Stowmarket, Hadleigh, Eye and Long Melford, the rural land is interspersed with small towns and villages, and as a result there are dwellings in nearly all areas so that Babergh and Mid Suffolk have no large tracts of very sparsely populated land.

Industrial activities are centred in the areas of Sudbury, Stowmarket, Brantham, Hadleigh and the outskirts of Ipswich. In general, industrial premises are present around the edges of the towns because the centres pre-date large scale industrialisation. Much of the residential land is also around the outskirts of the towns as a result of expansion.

2.5 Details of the District Councils' Ownership of Land

Some land in the districts is in the Councils' ownership. As part of the inspection of the districts for Contaminated Land, the Councils will consider their own land, and land that they have previously owned in the same manner as land in private ownership.

The highest concentrations of land in the ownership of the Councils are located in Sudbury, Stowmarket, Needham Market and Hadleigh, with smaller landholdings in numerous smaller villages and settlements across the two districts. The land owned by the Councils have a variety of uses including housing, public open spaces, recreation facilities, land used for shops, offices and factories and some land that is vacant and awaiting redevelopment. There are also the premises where the two Councils conduct their own business, such as council offices and depots. Some of the land owned by the Councils is leased (e.g. the shops and other premises) mostly in Hadleigh, Needham Market, Stowmarket and Sudbury, with a small number of leased sites across the remainder of the two districts.

The Councils are also aware of land that has been in their ownership that has been sold on to new owners. Again, the highest concentrations of these are located in Sudbury, Stowmarket, Needham Market and Hadleigh, but with numerous small landholdings distributed throughout the district, mostly associated with villages and other settlements.

The Councils consider that it is possible that there is some land where their activities may have caused contamination. Examples of such activities are vehicle maintenance and refuelling, waste management activities and storage and use of hazardous chemicals such as herbicides and pesticides.

2.6 Protected Locations

Ecological sites

The Contaminated Land regime enables local authorities to act to prevent significant harm to sites of ecological importance. The Contaminated Land regime as defined in Part IIA of the Environmental Protection Act 1990 [1] only recognises protected locations as receptors if they are designated as such by the legislation quoted in Table 1 of the DEFRA Circular 04/2012 [2]. Such statutory protected sites include:

- Sites of Special Scientific Interest (Wildlife and Countryside Act 1981, Section 28).
- National Nature Reserves (Wildlife and Countryside Act 1981, Section 35).
- Marine Nature Reserves (Wildlife and Countryside Act 1981, Section 36).
- Areas of Special Protection for Birds (Wildlife and Countryside Act 1981, Section 3).
- European Sites – Special Areas of Conservation and Special Protection Areas, and candidate sites for these designations (Conservation (Natural Habitats etc) Regulations 1994, Regulation 10).

- Any habitat or site afforded policy protection under paragraph 6 of Planning Policy Statement Note (PPS 9) on nature conservation (i.e. candidate Special Areas of Conservation, potential Special Protection Areas and Listed Ramsar sites).

- Nature Reserves established under section 21 of the National Parks and Access to the Countryside Act 1949.

Currently within the two districts there are 74 Sites of Special Scientific Interest (SSSI), the majority of which are in the western part of the district. There are also 59 designated conservation areas, including areas of Sudbury, Needham Market, Hadleigh, and the estuary at Shotley, which forms part of the Suffolk coast Ramsar site.

Historic Buildings and Ancient Monuments

Buildings, property, ancient monuments and important archaeological sites are all considered receptors that should be protected under the Contaminated Land legislation.

The two districts contain more than 2000 known archaeological sites, however only 48 of these are scheduled ancient monuments.

There are approximately 8,000 buildings listed by DEFRA as being of Special Architectural or Historic Interest.

2.7 Broad Geological/Hydrogeological Characteristics

Introduction

Knowledge of the Geology is essential for understanding the nature and history of an area. The underlying rocks determine the physical features, scenery and appearance of the land. Geological deposits can form materials of economic importance such as gravel, clay, lime and iron, and influence the local industries and their development. The geology also controls the presence, quantity and movement of groundwater. In the context of Contaminated Land, geological formations can contribute to pollutant linkages by acting as contaminant sources, pathways or receptors.

The ‘solid’ rocks that underlie the districts are sedimentary rocks of Tertiary and Cretaceous age, laid down somewhere between 2 and 135 million years ago. Above these lie Drift deposits (superficial deposits), which were laid down within the last 2 million years up to the present day but have not yet become solid rock.

A simplified representation of the order in which the rock layers were deposited is presented below, with the youngest at the top and oldest at the bottom:

Drift Deposits	including:	Peat, Alluvium, Head, Glacial Silt, River Terrace Deposits, Lacustrine Deposits, Glacial Till (Boulder Clay), Glacial Sand and Gravel
Tertiary Rocks	including:	Crag London Clay Lambeth Group (Woolwich and Reading Beds)
Cretaceous Rocks	including:	Chalk

Drift Deposits

The Drift deposits consist generally of clays, silts, sands and gravels. These deposits, which overlie the solid rock formations, vary greatly in thickness and are not present over the whole of both districts.

Isolated deposits of Peat, Alluvium, Head, Glacial Silt, River Terrace Deposits and Lacustrine Deposits are present throughout the districts. These deposits are mainly accumulated as river sediments and are comprised of a mixture of clay, silt, sand, gravel and peat. Consequently, the majority of these deposits are associated with the rivers Stour and Orwell, their tributaries, and the estuary at Shotley.

The predominant Glacial deposits present over the districts are generally categorised as Glacial Till (also known as Boulder Clay) or as Glacial Sand and Gravel. Glacial Till is a highly variable clay with differing amounts of chalk, flint, silt and sand, whereas Glacial Sand and Gravel is a more heterogeneous mixture of sands and gravels. The materials within these deposits are typically derived from erosion of the Cretaceous Chalk and other deposits by ice and meltwaters during the ice age. The Glacial Till deposits generally overlie the Glacial Sands and Gravel deposits in the district. However, the Glacial Sand and Gravel is typically exposed within river valleys and in the south-east of the districts, where overlying Glacial Till is absent.

'Solid' Geological Strata

Below the Drift deposits lie the solid deposits. The solid geology within the districts generally comprises of Crag and London Clay underlain by Lower London Tertiary Deposits (including Woolwich and Reading Beds, and Thanet Beds).

Below these geological formations lies the Cretaceous Chalk. The Chalk typically consists of an alternating sequence of chalky limestones and marls (clays), and often contains flint nodules. The Chalk is a porous and permeable deposit, which can store and transmit large quantities of water – see Water Resources section.

This sequence is unlikely to be complete over the whole of the two districts. Where deposits are absent this will either be because over a particular area the material was not deposited, or at some stage after deposition it was subsequently eroded, perhaps by the sea, river or glacial activity, however the order of the deposits will remain the same.

Naturally Enriched Soils and Rocks

Potentially harmful substances occur naturally within the environment, often within naturally enriched sources such as soils and rocks, including mineral deposits. These occurrences may exceed national average background concentrations and be sufficiently high to be harmful to receptors. The likelihood of a harmful effect occurring to a receptor is however dependent upon several environmental factors relating to the nature of a substance and the exposure pathway. The presence of a naturally enriched source does not therefore mean that a harmful effect will necessarily occur [6].

The legal definition of Contaminated Land does not distinguish between substances that are natural or artificially derived. Consequently, naturally occurring substances could under certain environmental circumstances cause a site to be assessed under the Contaminated Land regulatory regime. They would, however, must be regarded as sufficiently above regional background levels to constitute Contaminated Land as included in the 2012 revision of the statutory guidance.

A study has been carried out by the British Geological Survey that provides a general indication of areas with concentrations of five substances considered to be the most potentially harmful to human health and the aquatic environment (arsenic, cadmium, copper, lead and zinc). This information indicates isolated areas to exist in the districts where these substances may exceed national average background concentrations for natural sources such as soils and rocks. For example, much of the district is underlain by London Clay, which can have a high arsenic content.

In many circumstances, the natural occurrence of such substances does not present a problem. However, where disturbance of natural soil and rock sources has been caused, e.g. by quarrying activity, substances may have been released to the environment and caused contamination.

Normal Background Concentrations

It will not be possible to determine a site as Contaminated Land for concentrations of contaminants that would be normally expected within a given area. Details on background levels for a limited suite of contaminants have been provided by the British Geological Survey. Additional expert advice will be sought on what reasonably constitutes a background level if deemed necessary.

Radon

Radon is a naturally occurring radioactive gas. Some rock types emit it, and its occurrence is thus determined by geology. In open spaces, when radon mixes with air, it is quickly diluted into the atmosphere. However, if allowed to accumulate inside buildings, exposure to radon can increase the risk of cancer. Problems are particularly acute in areas of a dwelling with limited ventilation (e.g. cellars and basements).

Guidance from DEFRA has shown that the Babergh District contains an area which is underlain by geological deposits that potentially exceed the action levels for radon protection. Within these areas a geological assessment is required to determine the level of protection required for new dwellings. The National Radiological Protection Board has carried out radon surveys to identify existing homes which are at risk.

2.8 Key Water Resources/Protection Issues

Introduction

Water is stored in two main forms, either it is present as groundwater and stored in the rocks below the districts, or it forms surface water features such as rivers, reservoirs, and lakes.

The act of obtaining water from a source, be it the groundwater or a surface water body, is termed 'abstraction'. This may be obtained for a variety of purposes, e.g. groundwater and surface water may be abstracted for public and for private water supplies. The main water resource in the districts is the groundwater located in the chalk aquifer, which provides a potable drinking water supply and may therefore be classified as a contaminant receptor.

Contaminated Land may have the potential to release pollutants into the aquatic environment, especially where contaminants are present directly above a water bearing deposit or adjacent to a surface watercourse. For this reason, the Councils will seek to inspect Contaminated Land in proximity to a vulnerable water source as a priority, to ensure that water supplies are protected from pollution originating from such land.

Hydrogeology/Groundwater

The districts are underlain by several different geological deposits (see geology section 2.7) capable of storing and yielding water. These deposits include Drift Sands and Gravels, the Tertiary Crag and Woolwich/Reading Beds, and most importantly the Cretaceous Chalk. Permeable rocks able to transmit and store exploitable quantities of groundwater such as these are termed aquifers, and the Environment Agency classify rocks either as a 'non-aquifer', 'minor aquifer' or 'major aquifer'. Major aquifers may be used to support large abstractions for public supply. Minor aquifers will seldom produce large enough quantities of water for public abstraction but are important for both local supply such as private water supplies and supplying rivers.

Vulnerability of the groundwater to pollution is dependent on the geological materials that surround and cover the water bearing deposits. These materials may act as a pollutant pathway by allowing the movement of pollution towards an aquifer (if they are permeable, for example sands and gravels). They may also form a barrier (if they are of low permeability like clay) between the aquifer and the potential pollutants, and hence provide some protection.

The groundwater is most vulnerable where no protective deposits such as clay exist above the aquifer in which it is contained. Where these unprotected areas coincide with Contaminated Land the groundwater is likely to be most at risk.

Groundwater is abstracted from several locations within the districts. To protect the water supplies from pollution, the Environment Agency has designated Groundwater Source Protection Zones around many of these abstraction points. The zones restrict the type of activities and development permitted within their boundaries to protect the groundwater reserves.

Hydrology/Surface Waters

The districts are crossed by numerous surface watercourses, which range in size from rivers, such as the River Stour, River Gipping and River Orwell, to small streams and brooks. These watercourses are fed by precipitation as it drains from the land (the drained area for a particular watercourse is termed its 'catchment' area).

Water supplies may be obtained from these water bodies for use in public water supplies and for agriculture and industry uses – significant abstractions are licenced by the Environment Agency under its Catchment Abstraction Management System (CAMS). In certain areas the surface waters may be able to replenish the groundwater reserves, and many surface water bodies form the natural habitats for sensitive ecosystems and wildlife.

For these reasons the quality of the surface waters over the district is important. The Environment Agency monitors the quality of the rivers and streams and classifies them from "Very Good – Grade A" through to "Bad – Grade F".

Most of the rivers and brooks tested within the districts have been classified as being of fairly good quality. Less frequently they have been found to be of good and fair quality, and occasionally very good and poor. Fairly good quality watercourses include the River Stour and Belstead Brook. The waters of the River Brett are of fairly good, through fair to poor quality. The Stour estuary is classed as 'Estuary Quality C' near the Shotley peninsula. The River Gipping which forms a section of the boundary between the two districts has a history of poor water quality but has steadily improved since the mid 1990s.

The quality of a surface water body is potentially sensitive to any Contaminated Land within its catchment area. The quality of the water will be most at risk of deterioration where it flows through or is directly adjacent to Contaminated Land. The areas most likely to contain sources of pollution are the industrialised areas of the districts.

2.9 Known Information on Contamination

A desk-based survey of the Babergh and Mid Suffolk districts has been carried out to determine the extent to which we might expect to identify Contaminated Land. This involves looking for Sources, Pathways and Receptors in the district, and identifying places where we might expect them to be near each other.

The survey makes use of information already held by the Councils gathered under other regimes (e.g. Planning and Development Control) and other lists/registers prepared internally or by Suffolk County Council and the Environment Agency of sites that have had potentially contaminative uses. These include lists of closed landfill sites, registered petrol storage sites and a "brownfield sites" register. The Councils are also aware of some potentially contaminated sites that are in close proximity to, or form part of statutory protected sites.

2.10 Action already taken to deal with Land Contamination

The Councils have acted to deal with contamination in the districts. Most of this action has taken place through redevelopment controls within the planning and development regime. In accordance with sustainable use principles, the recycling of land to new and beneficial use has therefore been a continuous process. The

Councils been involved in this process as the regulator (Planning and Environmental Protection) and also as the landowner where the Councils' own land has been remediated. Details of this work exist in the planning archives and elsewhere in the Councils' records.

The issue of land contamination has altered significantly in recent years, particularly with respect to advances in assessment procedures and remediation technologies. It is therefore possible that previously remediated land may not meet modern standards, although it is considered quite unlikely that remediated sites will be statutory Contaminated Land.

2.11 Conclusions

Review of the characteristics of the two areas has identified important potential sources and receptors within the districts. These require further assessment to determine whether the potential sources identified are actually present and whether significant pathways exist linking these to the receptors also identified. This determination will be made as part of the assessment procedure described in Section 4.0.

3 AIMS, OBJECTIVES AND WORK PROGRAMME

3.1 Aims

In carrying out our statutory duties of inspection of the two districts for Contaminated Land, and ensuring appropriate remediation action is taken, the Councils have the following overall aims:

- to ensure the protection of human health, water resources, property and the environment from harm or pollution resulting from Contaminated Land;
- to apply the principles of “suitable for use” and “polluter pays” in dealing with Contaminated Land across the districts;
- to carry out the inspection of the districts in a rational, ordered, and efficient manner;
- to ensure that resources are concentrated on addressing the most serious problems first;
- to secure voluntary remediation action by the polluter wherever possible;
- to ensure that cases where Babergh District Council or Mid Suffolk District Council may be the polluter are dealt with promptly and responsibly;
- to encourage the safe and beneficial use of previously developed land; and
- to communicate with stakeholders and interested parties in a transparent and responsive manner.

3.2 Objectives

Our objectives are to:

- Maintain, expand, and routinely update our Geographical Information Systems (GIS) to store, manage and retrieve information about Contaminated Land in the two districts, with a view to integrating to form one GIS database for the two Councils by April 2025;
- To continually improve data handling and information storage when a need is identified;
- to continually review the comprehensive survey of potentially contaminated sites in Babergh and Mid Suffolk to identify additional sites should new information become available to the Councils, and reappraise past actions when a need is identified;
- use risk assessment to prioritise potentially contaminated sites for further investigation (a list of sites has been prioritised for inspection, although this may require amendment in the future in the light of new information, revised priorities, or complaint);

- carry out detailed inspections on potentially contaminated sites based on risk to receptors;

- monitor our activities and prepare regular reports on progress; and

- review this strategy on a 5-year basis or when regarded as necessary by updates to legislation and guidance.

3.3 Priorities and Work Programme

Following the formulation of a joint strategy our priority activities are to:

- review information on actual harm and pollution of controlled waters to identify sites that may require urgent action and respond proactively to new information;

- continually develop staff familiarity and competence with the GIS platform and its links to the corporate GIS platform and work towards producing a single data management system for the two Councils;

- progress the detailed inspection of potentially contaminated sites in accordance with each Council's prioritised schedule; and

- continue to identify stakeholders and interested parties and develop effective means of communicating and liaising on Contaminated Land issues.

This strategy defines the Councils' role in regulating Contaminated Land under Part IIA of the Environmental Protection Act 1990 [1]. However, the same staff resources are used to assist the Planning teams of the two Councils in regulating the remediation of land contamination during redevelopment of previously used sites. This work is important since redevelopment will often introduce pathways and receptors for contaminants to present a risk to human health and provides a mechanism for voluntary remediation prior to redevelopment. It also achieves the same ends as Part IIA i.e. to make land "suitable for use". Hence, it is also our priority to:

- assist the Councils' Planning teams in the implementation of local policies to ensure that land contamination is addressed as a material concern within the planning process; and

- assist the Planning and Building Control teams in regulating the remediation of contaminated sites during the planning and building control processes.

3.4 Inspection of Particular Areas of Land

In the period since the adoption of Part IIA in 2000 the Councils have made considerable progress in identifying potentially contaminated sites and prioritising them for future detailed inspection. Originally, each Council had its own GIS for use in carrying out this process, as described in Section 4.3. The GIS platforms have been used to carry out a "desk-top" survey of the entirety of both districts. A proprietary software package was then used by Babergh District Council to perform a

preliminary risk assessment on each site using a source-pathway-receptor analysis to determine the risk it poses to human health, controlled waters, ecological systems and property, whereas Mid Suffolk District Council opted for a more subjective assessment of risk. Each approach has resulted in broadly comparable risk ratings for all sites that have been integrated for this joint strategy. By April 2025 the Councils will merge their GIS functions into the open-source 'QGIS' software platform.

The two Councils had slightly different systems for categorising the risk presented by individual sites. The following categorisation system has therefore been devised to allow for comparison between sites across the two districts.

Former Babergh Rating	Former Mid Suffolk Rating	New Rating
A	1	A
B	2	B
C	3	C
DE	4	D

Further details of the preliminary risk assessment procedure are given in Section 4.5 and Appendix 3.

Category A Contaminants certainly or probably present. One or more pathways to identified receptors are likely to exist. There is a high risk of an unacceptable impact on identified receptors. The current use of the site may not be suitable. High priority, with action to inspect the site being required in the short term.

Category B The presence of contaminants is likely. One or more pathways to identified receptors are likely to exist. There is a high-medium risk of an unacceptable impact on identified receptors. The current use of the site may not be suitable. High to medium priority, with action to inspect the site being required in the short to medium term.

Category C Contaminants may be present. One or more pathways to identified receptors are likely to exist. There is a medium-low risk of an unacceptable impact on identified receptors. Medium to low priority, with action to inspect the site being required in the medium to long term.

Category D Contaminants may be present. There is a medium-low risk of the existence of pathway(s) to identified receptors. It is unlikely that the contaminants will have a significant effect on identified receptors. Low priority, with action to inspect the site being required in the long term or when redeveloped.

The initial site prioritisation work identified over 2500 potentially contaminated sites across the two districts.

Detailed inspection of sites

A priority of previous versions of this strategy was to commence detailed inspections as soon as the prioritised schedule of sites was complete. A significant amount of regulatory work has been undertaken by the Councils in parallel with this site-prioritisation process. Work has already commenced on inspecting several

Category A and B sites. A significant number of sites have, or are in the process of being dealt with, through the Development Control process - in these cases, the costs of site investigation are borne by the developer, and the Councils monitor and determines whether planning conditions have been complied with. In addition, several sites have come to our attention via other routes and have been prioritised and acted on as a matter of urgency - these include contamination of drinking water supplies and fuel leaks from domestic properties.

Inspection Programme

Sites will be inspected in order of priority. However, the risk rating assigned to a site may be amended and other sites may be added to the inspection programme, if new information becomes known during our work. This might include for example, a change of use of surrounding land (introduction of new receptors) or the potential for pollutant linkages to become significant because of unplanned events such as flooding, subsidence, or a pollution spillage.

Where Contaminated Land is identified, it will be determined in accordance with the statutory requirements. The sites which are in a contaminative state, but which do not constitute Contaminated Land under the legislation, will only be inspected further if the status of the land changes e.g. if a new receptor is introduced through the Development Control process.

The inspection and regulatory work carried out to-date has been informative for the purposes of setting a timetable for future inspection work. It has confirmed that the detailed inspection and regulation of individual "higher risk" sites can be extremely time-consuming and costly, particularly where contamination is subsequently found, and remediation is required.

This inspection programme will be reviewed every 5 years as a minimum.

Details of the inspection process are given in Section 4.5.

It should be noted that the timeframe for undertaking Part IIA inspections for the Category A, B and C sites will be heavily dependent on two factors.

Firstly, Central Government has set a clear objective of “Brownfield First” in order to protect the green belt and this means that the majority of the UK’s housing delivery will need to be provided on previously developed land or through conversion of existing buildings. The redevelopment of previously used sites in the district will necessitate significant input from the Environmental Protection team into the regulation of planning conditions imposed to secure the remediation of land contamination – this is one of our priorities, given that redevelopment often introduces new pathways and receptors for contaminants to present an “immediate risk” to human health. The rate of redevelopment will therefore affect the Environmental Protection team’s resources that can be dedicated to Part IIA inspection work. The remediation of contaminated brownfield sites during redevelopment may, of course, obviate the need for inspection and regulation under Part IIA. However, the priority given to assisting the Councils’ Planning and Building Control teams may result in sites being dealt with ahead of our prioritised schedule under Part IIA. It should be noted that the level of remediation undertaken through the planning process reflects the state of the housing market.

Secondly, the timetable will be affected by the expenditure incurred on inspecting individual sites. It is impossible to accurately estimate what the detailed inspection of sites will reveal and how much further work it will necessitate. Consequently, it is not possible to quantify the likely expenditure on a site until it is actually inspected and assessed in detail. The inspection of certain sites may require appointment of a consultant to obtain samples by excavating trial pits and boreholes, which could incur significant expenditure, whilst other sites may be inspected using in-house resources only. In practice, the detailed inspection of sites will be a continuum, balancing the systematic approach outlined above with the availability of resources.

Potentially significant sums may be required if enforcement action is necessary to secure remediation of sites. In such circumstances, we will attempt to secure Government assistance to deal with site specific issues.

It should be noted that these arrangements relate specifically to the Councils' enforcement role and not that as landowner. Should land in the Councils' possession be identified as Contaminated Land then funding of remediation will be considered on a case-by-case basis.

4 PROCEDURES

4.1 Internal Management Arrangements for Inspection and Identification

Responsibility for carrying out the inspection duty is held by the Environmental Protection team. Overall responsibility for the management of the Contaminated Land function is held by the Head of Public Protection. Responsibility for organising inspections of individual sites lies with the Senior Environmental Management Officer responsible for land contamination.

When site investigation, appointment of external consultants or other significant expenditure of Council resources is required as part of a detailed inspection, the proposal and justification in terms of Part IIA statutory requirements will be approved by the appropriate delegated officer.

When a determination that land should be designated statutory Contaminated Land is made, a completed standard form containing the information required by the Statutory Guidance, paragraph B52 shall be approved by the Environmental Protection Manager, or other delegated officer.

Following the inspection of a site, a summary of the findings should be made available to the owner of the property detailing the outcomes and a rating of the site using the 1-4 categorisation system specified in the 2012 revision of the Statutory Guidance, which should inform future actions. Those sites designated as Category 1 will require immediate remediation as a clear risk of harm is present to the end users of the site. Category 4 sites are those where there is no conceivable possibility of harm being caused to end users. Categories 2 and 3 are those sites for which there is a significant possibility of significant harm but the decision to undertake remediation needs to consider other socioeconomic factors, with those falling into Category 2 being those for which there is a clear benefit for remediation.

4.2 Land owned by the District Councils

It is the Councils' policy as regulator for Contaminated Land to deal with Council owned land, and land where the Councils may be responsible for contamination, within the same system as all other land. The main principle will be to deal with the most serious cases first, regardless of ownership – our main priority is to protect human health.

As landowners, the Councils wish to ensure that all their own land is suitable for use. We will also undertake to carry out any remediation that we discover is necessary, promptly and efficiently.

The Councils maintain a record of all land that is, or has been, owned or leased by them. We propose to inspect those sites that appear on our prioritised list of potentially Contaminated Land.

We have limited resources with which to carry out this inspection, and we do not propose to divert resources from progressing action on potentially serious problems to deal with less pressing, but Council–owned problems.

4.3 Information Collection

To carry out their inspection duties, the Councils require information on potential sources, pathways, and receptors across the districts. For the Babergh district, most of this information has been provided under contract by the British Geological Survey (BGS), who have obtained digital data from various sources and entered it into a GIS designed specifically for the purpose of carrying out the Contaminated Land inspection task. For the Mid Suffolk district, information has been collated from manually importing data from historic Ordnance Survey maps and other contemporary sources. The different methods of data collection across the two Councils have resulted in differences in the information held and maintained on the two systems. Over the coming years this divergence in information management will be closed and attempts made to harmonise the two systems as the Councils adopt a single QGIS platform for all data handling.

4.4 Information and Complaints

Additional information obtained by the Councils will be the responsibility of the Environment Protection team.

During the detailed inspection of individual sites, the Councils will proactively seek further information on the site concerned, which may include examination of the following sources:

- trade and street directories;
- local archives, museums, libraries and County Record Office;
- records of the location of sites for the burial of diseased livestock and agricultural spreading of industrial/commercial sewage waste;
- Health and Safety Executive records on potentially hazardous sites;
- site reports and other site-specific information held by Babergh District Council, Mid Suffolk District Council and Suffolk County Council;
- Rating records;
- Local Authority Local Plans;
- Planning and Building Control records of approved applications;
- Brownfield site registers; and
- Ministry of Defence records (where accessible).

Further details of the inspection process are given in Section 6.

Further information may also be gained via the planning process e.g. changes in land use, or it may be volunteered by statutory bodies e.g. notification of new SSSIs by Natural England. Periodically, the Councils will also review the information they hold and update it.

The receipt of new information will often trigger a review of site inspections. Further details are given in Section 7.

Confidential Information

Under the Environmental Information Regulations, information that the Councils receive in respect of Contaminated Land will generally be in the public domain unless there are good reasons that it is confidential. There are specific criteria for confidentiality, both generally for environmental information, and specifically relating to the Public Register of Contaminated Land. Details are given in Appendix 2.

If information which is confidential is offered to either Council by a third party, or requested from a third party by the Councils, a written explanation of the reasons the information is confidential should be provided along with the information itself.

Provision of information by the public and interested parties

All members of the public, businesses, voluntary organisations and any other interested parties may contact the Councils using the contact details given in Section 5.1, whether the purpose is to offer information, to make an enquiry or to make a complaint (either about the condition of land, or about our service with respect to land contamination).

Where the Councils are offered information by any person or organisation, we will acknowledge receipt within 5 working days. Where appropriate, we will also explain what action we intend to take and/or what we will do with the information. We will generally seek to verify information.

If information is offered anonymously, we will accept it and treat it just like any other information and act as appropriate.

Further details on our provisions for liaison with the public and interested parties are given in Section 5.

4.5 Information evaluation

Actual Harm or Pollution

The Councils are already aware of several sites in the districts that may well be contaminated, however at this stage we do not have information that any of these are causing significant harm or pollution of controlled waters.

We will identify such sites – likely to be the most pressing and serious cases – through the mechanism described below. This mechanism is designed to ensure that these sites will be in the highest priority category.

If in future information that indicates the possible presence of a site causing actual harm or pollution of controlled waters becomes available, we will divert resources from less serious sites to deal with it.

Effectiveness of previous action

Babergh and Mid Suffolk District Councils are also aware of several sites that have been remediated prior to redevelopment. We become aware of these through the

planning control process and have ensured that appropriate clean-up was carried out by means of planning conditions. We will continue to do this.

We do recognise that the standards for “suitable for use” have become increasingly strict in recent years as technical understanding of the field of toxicology has developed, and that the mechanism for determining whether a site is suitable for use has changed considerably.

It is therefore our intention to adopt a precautionary approach, and to include remediated sites in our database of potentially contaminated sites. We will inspect these in order of priority along with all other sites, taking the fact that remediation has been carried out into account in our risk assessment. It is likely therefore that we will ask owners of some remediated sites to provide us with details of the remediation work.

Strategic inspection, and prioritisation of sites for detailed inspection

The Councils have used GIS and historic mapping to identify sites where a source, a pathway, and a receptor (a pollutant linkage) are potentially present. Overlaying the many different map layers and identifying locations where sources and receptors are both present achieve this. For example, if an old factory site (identified from historical maps) is built on top of a sensitive aquifer (identified from the groundwater vulnerability maps), we would identify the site as potentially having a pollutant linkage.

Babergh District Council commissioned the BGS to systematically search the GIS to identify such sites, and to digitise their locations – the result of this is that we are able to view all the sites that may be contaminated, and to perform automatic searches to find them, for example by grid reference or by postcode. Mid Suffolk District Council undertook a similar investigation but over a period of 10 years, manually identifying sites from historic mapping.

The Councils have carried out a preliminary risk assessment for each of the identified sites and placed them in priority categories for detailed inspection. The risk assessment method is based on guidance published in 1995 by the Department of the Environment [7], [8], and it depends on the proximity of the receptor to the source. We will therefore treat sites as the highest priority where the source and receptor are very close together, and lower priority where they are far apart.

At Babergh District Council the preliminary risk assessment was carried out by an automated scoring system based on a prioritisation tool developed by the Canadian Council of Ministers for the Environment (CCME) published in 1992 [8]. This tool has been adapted for use in the Babergh district and allows scoring of the different sources, pathways and receptors for a site and its environs. Mid Suffolk District Council undertook a similar desk-based approach using officer assessment of sites, where scoring was attached to the source, pathway and receptor to give an overall risk rating for the site and placed each site into one of four categories of risk.

There is also an element of expert judgement and experience in the risk assessment process – for example, some kinds of potential contamination are more likely to be harmful than others, and some contaminants are only harmful to receptors.

The GIS and risk rating processes enable us to generate a list of the sites to be inspected in each priority category. We have included further details of the preliminary risk assessment procedures to be used in Appendix 3.

Detailed inspection

The Councils will continue detailed inspection of sites in order of priority. Detailed inspection is done on a site-by-site basis, and the purpose is to gain sufficient information to determine whether there is a significant pollutant linkage, and therefore whether the site is, or is not statutory Contaminated Land. If at any point during the detailed inspection it becomes apparent that the land under investigation is not likely to constitute Contaminated Land, then we will halt investigations. Detailed inspection will be carried out solely by the Environmental Protection team after appropriate training, although in some instances we may need to appoint external consultants.

Typically, detailed inspection may include the following activities:

- consultation with the Environment Agency and any other appropriate statutory bodies;
- identification and consultation with the landowner, occupier, and any potential Appropriate Persons;
- search for further site-specific information – for example previous site investigation reports;
- a site visit and walkover survey; and
- taking soil, water, and gas samples from the site for analysis if necessary.

It may become apparent at the detailed inspection stage that the site is or may be a Special Site (see Glossary for definition). In this case, the Environment Agency may take over the detailed inspection and become the regulator for the site (see Section 6.3).

4.6 Process for the Identification of Contaminated Land

Once the detailed inspection is complete, the Councils will be able to determine whether the site is statutory Contaminated Land. The Statutory Guidance sets out how we must do this. There are four grounds for determining that a site is Contaminated Land:

a) significant harm is being caused;
b) there is a significant possibility that significant harm is being caused;
c) significant pollution of controlled waters is being caused; and
d) significant pollution of controlled waters is likely to be caused.

The Statutory Guidance gives details of the receptors that can be considered and explains what constitutes “significant harm”. The term “pollution of controlled waters” also has a specific legal meaning. These statutory terms and definitions are explained further in the Glossary.

The Government has reviewed the wording of the legislation on the "pollution of controlled waters" so that Part IIA will only apply where "significant" pollution of controlled waters is being caused, or there is a "significant" possibility of such pollution being caused. This will ensure that only "significant" water pollution will trigger the regime, thus avoiding land being formally identified as "Contaminated Land" based on very small amounts of matter entering controlled waters. Statutory guidance has been issued for the determination of what is "significant" pollution in this context.

In making our determination, we must carry out an appropriate technical assessment to identify specific significant pollutant linkages. One significant pollutant linkage is enough to make a site statutory Contaminated Land, but there will frequently be many. We are obliged to risk assess all sites that have been or are to be inspected under Part IIA of the Environmental Protection Act 1990 since 2012 to determine a classification of risk with Categories 1 and 2 being determined as Contaminated Land as defined by the Act and Categories 3 and 4 as not being sufficiently impacted by previous uses to be determined as Contaminated Land. A risk summary for all inspected sites will be provided with the result of the risk determination (see appendices for example risk assessment). A fuller risk assessment will be provided for all sites that are determined as Contaminated Land.

When the pollutant linkage concerns a receptor where another statutory body has a regulatory role, we will ensure that the relevant body has been consulted, and that our approach reflects their advice. For example, if the receptor were a protected ecological area, the consultee would be Natural England. The most common instance of such consultation is likely to be with the Environment Agency on the issue of pollution of controlled waters.

Consultation with the Environment Agency will also be required where a site is potentially a Special Site. This is considered further in Section 6.3.

4.7 Recording of Determinations and Formal Notifications

The Statutory Guidance requires us to prepare a written record of any determination that land is Contaminated Land. The record must include information summarised below (by reference to other documentation if necessary):

- a description of the significant pollutant linkage, identifying all three components of source, pathway and receptor;
- a summary of the evidence upon which the determination is based;
- a summary of the relevant assessment of this evidence; and
- a risk summary outlining the risks posed at the site and details of the way in which we consider that the requirements of the Statutory Guidance have been satisfied.

We are also required to notify the Environment Agency when we make a determination that land is Contaminated Land. The Agency has prepared a standard form for this purpose, and we will forward this to the Agency's designated Area Contaminated Land Officer each time we make a designation.

4.8 "Appropriate Persons" - Liability and Enforcement

The term "Appropriate Person" is used by Part IIA to refer to any organisation or individual who will bear responsibility for carrying out any action required by the councils (or the Environment Agency). The definition is given in section 78A (9) as:

"any person who is an appropriate person, determined in accordance with section 78F.., to bear responsibility for any thing which is to be done by way of remediation in any particular case."

When Contaminated Land is identified, it will be determined by means of identifying one or more significant pollutant linkages. We will seek to discover the organisation or individual that caused the contamination. This person is a "Class A Appropriate Person". There may be more than one Class A Appropriate Person, and in this case, they will be held liable for the costs of remediation in proportion to the amount or severity of contamination that they have caused.

In a circumstance when no Class A Appropriate Person can be identified, liability for remedying a significant pollutant linkage will fall to the landowner or occupier. These people are referred to as "Class B Appropriate Persons".

There are circumstances where a significant pollution linkage may exist, but no Appropriate Person can be found. These circumstances are defined in the Statutory Guidance DEFRA Circular 04/2012 as arising where:

"(a) the significant pollution linkage relates solely to the pollution of controlled waters (and not to significant harm) and no Class A person can be found;

(b) no Class A or B persons can be found; or

(c) those who would otherwise be liable are exempted by one of the relevant statutory provisions (i.e. sections 78J(3), 78K or 78X(3))."

In such circumstances, the significant pollution linkage becomes an "Orphan Linkage". Where an orphan linkage is the only significant pollutant linkage identified, the enforcing authority (normally the district council or the Environment Agency) will bear the cost of any remediation required.

In more complicated cases where there are two or more significant pollution linkages, of which some are orphan linkages, we will consider each of these separately. There are circumstances where all or part of the remediation costs for orphan linkages are recoverable from Appropriate Persons identified for other significant pollutant linkages. These circumstances generally apply where the remediation required for the orphan linkages are also required for some or all the other significant pollution linkages for which Appropriate Persons have been identified.

The Councils will seek to identify and consult with people who may be Appropriate Persons as soon as possible during the detailed inspection process. It is our intention to agree voluntary remediation for Contaminated Land sites wherever possible. Remediation notices will only be served where voluntary action is not forthcoming within a reasonable period.

Recovery of costs

It is the intention of the legislation that Appropriate Persons will pay the costs of remediation, either by volunteering to do so or by compulsion following service of a Remediation Notice. There are several exemptions where Appropriate Persons may not have to pay for the works.

In making their decisions, the Councils must have regard to any hardship which may be caused to the person in question as detailed in the Statutory Guidance, along with any additional guidance or case law subsequently published.

In view of the wide variation in situations which are likely to arise, including the history and ownership of land, and liability for its remediation, the Councils will need to have regard to the circumstances of each individual case and the following general principles:

- The Councils will aim for an overall result which is as fair and equitable as possible to all who may have to meet the costs of remediation, including national and local taxpayers.

- The "polluter pays" principle, by virtue of which the costs of remediating contamination are to be borne by the polluter. The Councils will consider the degree and nature of responsibility of the Appropriate Person for the creation, or continued existence, of the circumstances that lead to the land in question being identified as Contaminated Land.

In general, this will mean that the Councils will seek to recover in full their reasonable costs. However, the Councils will consider waiving or reducing the recovery of costs to the extent that they consider this appropriate and reasonable, either:

- to avoid any hardship which the recovery may cause to the Appropriate Person. The term "hardship" is not defined in Part IIA, and therefore carries its ordinary meaning – hardness of fate or circumstance, severe suffering, or privation; or

- to reflect one or more of the specific considerations set out in the Statutory Guidance.

Part 6 of the Statutory Guidance includes guidance in respect of owner-occupied dwellings, to which the Councils will have regard. Where a Class B person owns and occupies a dwelling on Contaminated Land, the Councils will consider waiving or reducing their costs recovery, where that person satisfies the Councils that, at the time the person purchased the dwelling, he did not know, and could not reasonably have been expected to have known, that the land was adversely affected by the presence of a pollutant. If the Councils grant such a waiver or reduction, it will be to the extent needed to ensure that the Class B person in question bears no more of the cost of remediation than it appears reasonable to impose, having regard to their income, capital and outgoings. Where the Appropriate Person has inherited the dwelling, this approach will be applied with respect to the time at which they received the property.

In certain circumstances, the Councils may consider deferring recovery of their costs and securing them by a charge on the land in question. Such deferral may lead to

payment from the Appropriate Person either in instalments or when the land is next sold.

The Councils will inform the Appropriate Person of any cost recovery decisions taken, explaining the reasons for those decisions.

5 GENERAL LIAISON AND COMMUNICATION STRATEGIES

5.1 Contacting us and Viewing the Public Register

We welcome feedback from members of the public and interested organisations, so please contact us if you have any comments that you would like us to consider.

The Councils maintain Public Registers detailing regulatory activity on Contaminated Land, which may be viewed on our websites.

Freedom of Information or requests for Environmental Information may be made through our self-service platform which is available on our websites.

You may also make enquiries about Contaminated Land by telephone, e-mail, or in writing. There may be a charge to cover our costs in answering some kinds of query; we will always tell you in advance if there will be a charge. Some information is confidential. Details of when information will be treated as confidential are given in Appendix 2.

Should you wish to provide the Councils with information about land contamination, ask them to consider looking at a parcel of land, or if you have a complaint about any aspect of our contaminated land service, then please email this information to environmental@baberghmidsuffolk.gov.uk.

5.2 Liaison with the Environment Agency

Babergh and Mid Suffolk fall within the Environment Agency's Anglian Region. The Environment Agency has appointed Contaminated Land Officers to liaise with the local authorities and to regulate Special Sites. All contact will be made via the appropriate area office. Contact details are given in Appendix 1.

Contact with the Environment Agency will take place on the following occasions:

- to seek site specific guidance at the detailed inspection stage;
- when a site is, or may be, a Special Site;
- when a site is designated "Contaminated Land"; or
- to provide summary information on Contaminated Land (see below).

The Councils will work with the Environment Agency according to the agreed Protocol for Land Contamination between the Environment Agency and the Local Government Association (LGA), dated 14 April 2003 [10].

From time to time, the Environment Agency must prepare and publish a report on the state of Contaminated Land in England. The purpose of this report is to assess the scale and significance of the problem, and the effectiveness of measures put in place to address it. To allow the Environment Agency to do this, the Councils must supply data to it from the body of information obtained under this inspection strategy. The Councils are committed to working collaboratively with the Environment Agency in all aspects of work relating to land contamination.

The Environment Agency has already provided a considerable amount of digital data to assist in the preparation of this strategy. This includes, for example, information on the location of sites regulated under Environmental Permitting (England and Wales) Regulations 2016 at its predecessors. The Councils will ask the Environment Agency to provide updates to this information.

5.3 Liaison with other Statutory Bodies

The Statutory Guidance requires that other statutory bodies be consulted with respect to the identification of Contaminated Land. Contact with other statutory bodies will generally take place under four circumstances:

- when the Councils ask for generic information about potential sources, pathways or receptors in the districts (or requests that information already provided is updated);

- when the Councils consult on a site-specific basis;

- when the statutory body makes an enquiry about an area of land; or

- when the Councils consider that a statutory body might be responsible for Contaminated Land (i.e. an Appropriate Person).

The statutory bodies to be consulted with respect to the above are:

- Environment Agency
- Suffolk County Council
- Historic England
- Natural England
- DEFRA
- The Health and Safety Executive
- The Food Standards Agency
- Anglian Water/Essex and Suffolk Water

Most of these statutory bodies with whom contact will take place have been consulted in the preparation of this strategy. Many of these have nominated a contact to deal with Contaminated Land. Their contact details are given in Appendix 1.

Under certain circumstances, it may also be necessary for the Councils to undertake consultation with neighbouring local authorities. As is recognised in the legislation [1] and the Statutory Guidance [2], this may be required where:

- Contaminated Land lies across local authority boundaries;

- where Contaminated Land outside the districts (but adjoining or adjacent to them) causes significant harm or has the potential to cause significant harm within the districts; or

- where Contaminated Land outside the districts (but adjoining or adjacent to them) is causing or is likely to be causing pollution of controlled waters within the districts.

Where consultation is necessary with neighbouring local authorities concerning sites outside the districts, the Councils will liaise with the relevant neighbouring authority and the Environment Agency (in the case of controlled waters). This liaison will be carried out to determine which is the most appropriate enforcing authority and an appropriate course of action.

5.4 Owners, Occupiers, and other Interested Parties

The Councils will seek to identify owners, occupiers and other interested parties on a site-specific basis as part of our detailed inspection process. We will normally contact site owners and occupiers at an early stage in detailed inspection, to arrange a site visit and to enquire whether any information on ground conditions is available.

5.5 The Wider Community

As part of the Councils' general policy to ensure that the community is kept well informed about our activities, and can access information, we have made this strategy available on our websites and to provide contact details for land contamination enquiries there. The Councils are also keen to identify any community groups with an interest in land contamination. If you represent such a group, please make contact as described in Section 5.1 above.

5.6 Risk Communication Plan

The Councils aim to make defensible and transparent decisions about land contamination. Decisions are not made on a purely technical basis, but involve regulatory, commercial, financial, legal, and social factors.

We will use a risk assessment procedure to evaluate the risks from Contaminated Land. Risk assessment is not a solely numerical process but involves value judgements and assumptions. We recognise that this introduces an element of subjectivity and potential for different people to disagree about the findings of the risk assessment.

It is important to us that people in Babergh and Mid Suffolk feel confident that risks from Contaminated Land are being properly managed. It is therefore our intention to communicate what we are doing and listen to peoples' concerns about Contaminated Land. This strategy forms part of that communication.

Communication with stakeholders about sites will be our focus for risk communication. We plan to identify stakeholders during the detailed inspection process. Who the stakeholders are, and the nature of their interest will be very dependent on site-specific factors. It is predictable that they will nearly always include the owner and occupier of the land, and people who may be Appropriate Persons. In some cases, there may also be people who are identified as possible receptors, and these people would also be stakeholders.

We will contact stakeholders as soon as it becomes apparent to us that there is something important to communicate. For example, we would consult residents if we planned to carry out a site investigation on, or very close to a public park. In general, "something important" will constitute any circumstance where people could be

concerned by what is happening on a site, or when we become aware that there may be a significant pollutant linkage which affects somebody's interests.

It is our intention that communication about Contaminated Land will be a two-way process, in which stakeholders are able to meaningfully contribute to decision-making. How we will organise communication will depend on the number of people concerned and on the nature of the risks to be assessed. Published guidance on best practice will be used by our officers in deciding the most appropriate format.

We also have responsibilities to achieve best value in our use of resources, and to avoid raising concerns unnecessarily. We therefore need to strike a balance, so that we neither spend too much money giving people information they do not want, nor spend too little and leave people without information that they do want. We recognise that extensive public consultation costs the Councils money and uses officers' time and will therefore seek to carry out only the consultation that is necessary. We are also aware that concerns over contamination on land can affect market value and saleability of property, and we do not wish to publicise non-existent problems.

6 PROGRAMME FOR INSPECTION

6.1 Ensuring Compliance with Good Practice

There is a well-established body of published guidance on good practice for carrying out the various stages of the inspection process (see 6.4 below for a description). The Councils will use appropriate guidance documents to define the standard and scope of work required. We will refer to Land Contamination Risk Management protocols published by the Environment Agency and provides the technical framework for applying a risk management process when dealing with land affected by contamination.

6.2 Ensuring Compliance with Statutory Guidance

The Statutory Guidance requires that we comply with some specific rules when carrying out detailed inspections (set out below). Many of them are designed to ensure that we focus explicitly on the issue of identifying significant pollutant linkages, and only expend resources to seek further information when this is necessary.

We will implement the following procedures to ensure that the Statutory Guidance and best value principles are complied with:

- Between the stages listed below, we will explicitly consider:

  a) whether we have enough information to determine that the site is Contaminated Land

  b) whether there is still a reasonable possibility of a significant pollutant linkage.

- We will always ask landowners and occupiers whether there is any available information on contamination from previous site investigation work.

- If we can identify someone who may be an Appropriate Person, we will ask them to carry out the site investigation for us. We will always seek voluntary remediation rather than enforcement action as a first measure.

- When we commission a site investigation, the scope will be limited to that required to determine whether a significant pollutant exists.

- When we commission a site investigation, we will carry out an environmental assessment to ensure that damage is minimised as far as possible in the process of obtaining samples.

Statutory Guidance on detailed inspection

i) The detailed inspection should provide sufficient information or evidence to indicate the actual presence of a pollutant.

ii) The detailed inspection may include the following actions:

a) collation and assessment of documentary information, or other information from other bodies (see Section 4);

b) a site visit to carry out a visual inspection and in some cases, limited surface sampling; and

c) an intrusive investigation of the land (e.g. trial pits, boreholes).

iii) The Councils have the statutory power to enter a site/area to carry out inspection and take samples.

iv) Before exercising their powers of entry to a site, the Councils should be satisfied based on information already obtained that:

a) there is a reasonable possibility of the presence of a contaminant, a receptor and a linkage; and

b) where intrusive investigation is deemed necessary, that it is likely that the contaminant is present and given the current use of the land that the receptor is actually or likely to be present.

v) The Councils should not use their power of entry to carry out any intrusive investigation if:

a) detailed information* on the condition of the land has been provided by the Environment Agency, or some other person; or

b) a person offers to provide such information* within a reasonable and specified time and subsequently provides the information within the agreed time period.

*provided that the information is reliable and adequate.

vi) The Councils should ensure that any intrusive investigations are carried out in accordance with the appropriate technical standards.

vii) The Councils should ensure that it takes all reasonable precautions to avoid harm, water pollution or damage to natural resources, or features of historical or archaeological interest, whilst carrying out an intrusive investigation.

viii) The Councils shall consult Natural England on any action that would require the consent of Natural England, prior to carrying out intrusive investigations on any area notified as a SSSI.

ix) The Councils shall consult Historic England on any action that would require the consent of Historic England, prior to carrying out intrusive investigations on any area notified as a Scheduled Monument.

x) The Councils should not carry out any further detailed inspection if, based on information supplied from an inspection, there is no longer a reasonable possibility of a pollutant linkage.

6.3 Arrangements for Dealing with Special Sites

At any point in the detailed inspection process, it may become apparent that the site is a Special Site (see glossary for definition). When we identify a potential Special Site, we will consult with the Environment Agency. The Environment Agency may also identify Special Sites through their regulatory activities, and when this occurs, they will consult us.

Provided that the Environment Agency agrees that the site is or may be a Special Site, the Environment Agency will then assist with the detailed inspection and the decision as to whether the site is statutory Contaminated Land.

It is the Councils' responsibility to make the determination that a site is statutory Contaminated Land, and to decide whether the site is a Special Site. We will have regard to the Environment Agency's advice in the matter. When we designate a site as a Special Site, we must notify the Environment Agency, the site owner and occupiers, and any parties that we have identified as Appropriate Persons. The regulatory responsibility for the site will then pass to the Environment Agency.

In the event of a disagreement between the District Councils and the Environment Agency over whether a site is a Special Site, the Secretary of State makes the decision.

6.4 Methods of Inspection

The process of detailed inspection of potentially Contaminated Land is technically complex, and potentially time consuming and expensive. It is also like the process of assessing land contamination for redevelopment purposes. Good practice procedures for the latter purpose are well established, and there are many published technical guidance documents, but the fundamental process is outlined clearly in Land Contamination Risk Management (LCRM) guidance issued by the Environment Agency.

Briefly, good practice in land contaminated assessment follows a series of well-defined stages. It is not always necessary to proceed to the final stage. If at any point, there is sufficient information available to be able to make an informed and reliable decision about what action is required then the assessment process is complete, and a formal risk summary will be provided to the landowner outlining the conclusion. The stages are always carried out in the order below.

1. "Desk study" – the collection of available published information on potential sources, pathways and receptors at the site. Our GIS will contain most of the required information for this stage, although we will seek additional information (for example, existing site investigation reports) at the detailed inspection stage.

2. "Walkover survey" – a visit to the site and its surroundings to check the actual site uses and confirm the presence of receptors. It is also often possible to see visible evidence of contamination.

3. “Preliminary risk assessment” – our site prioritisation method will already have produced an estimate of the likely severity of risks at each site. At the detailed inspection stage, we will refine this to obtain a more reliable assessment of risks. At this point we will consider whether further investigation is necessary.

4. “Site investigation” – the above three stages enable design of a targeted sampling and analysis programme. The site investigation may require appointment of a consultant and contractor to obtain samples by excavating trial pits and boreholes. This can be expensive, so proper definition of the objectives of the study is essential.

5. “Screening” – Once data on the actual presence of contaminants is available, the site’s soil quality can be compared with guideline values appropriate at the point of assessment.

6. “Qualitative risk assessment” – where contaminant concentrations exceed guideline levels, or where there are no guideline levels, a simple risk assessment process is used to consider the likelihood of significant harm or water pollution to the identified receptors. In many cases this is sufficient. Expert judgement is required to carry out the assessment.

7. “Quantitative risk assessment” – if it is not possible to achieve adequate certainty with a qualitative risk assessment, there are a variety of quantitative methods to estimate risks. In a quantitative assessment we seek to calculate how much of any given contaminant may be able to contact the receptor over various time periods. This often requires a computer model. We compare the result of our quantitative assessment with a measure of acceptable contaminant loading – for example a World Health Organisation Tolerable Daily Intake for human exposure to a toxic substance, or a statutory Environmental Quality Standard for the concentration of a polluting substance in surface water.

   We will not always have enough data from the site investigation to complete a quantitative assessment, and it may be necessary to carry out further stages of site investigation prior to the quantitative assessment.

   Several of the quantitative assessment methodologies are in themselves staged, requiring progressively more data and more complex analysis. We will choose appropriate models from the range available and follow the published procedures for their use. Where models are approved by the UK Environment Agency, we will use these in preference to other models, if they are relevant to the situation.

6.5 Format of Information

To ensure that the process of detailed inspection is consistent, we use a standard form which records the stages of the assessment and prompts for the decisions and procedures required to ensure that the Statutory Guidance is complied with. All this information will be stored electronically.

Each site is different and so the information we obtain and the assessments we make will not be identical in every case. We will also generate an amount of correspondence. We will often acquire bulky reports, and other information such as photographs. All new information will be stored electronically. Historic files will be held in a secure offsite storage facility until such time as they may be electronically scanned.

6.6 Frequency of Inspection

We propose to carry out detailed inspection on each site once only, unless a review is triggered by a change in circumstances. Changes that will trigger a review of a detailed inspection are listed in Section 7.1.

6.7 Health and Safety Procedures

The Councils will discharge their obligations under the Health & Safety at Work etc. Act 1974 in all the work carried out under Part IIA, as it does for all other Council activities.

We recognise that work involving potentially Contaminated Land may carry specific risks – this is true of many of the activities undertaken by the Environmental Protection team. We will carry out a health and safety risk assessment in respect of all work activities. Any necessary safety precautions identified will be implemented.

6.8 Powers of Entry

Under Section 108 of the Environment Act 1995, the Councils have the power to authorise a person to enter land to inspect it, or to take samples. This person could be a member of the Council staff, or it could be a Council appointed consultant or contractor.

The powers enable the person authorised by us to enter land, along with any equipment that is necessary to perform the investigation required. This could be, for example, an excavator and drilling rig.

Normally, we will enter land by agreement with the landowner and occupier. Statutory powers of entry will only be used if we are denied entry to a potentially contaminated site.

6.9 Arrangements for Appointing External Consultants

From time to time, the Councils may appoint external consultants to assist with inspections, or other aspects of the land contamination duties. Consultant appointments will be made in accordance with our normal procedures for procuring services that we require.

7 REVIEW MECHANISMS

In this section, we tell you how we will review the work we are carrying out for this strategy including the factors that will influence when such review takes place.

7.1 Reviewing Inspections

The process for identifying potentially Contaminated Land is an ongoing activity. Further information may come to light at any stage in the procedure, and we will consider information obtained from or volunteered by the public, site owners, businesses and voluntary organisations. New and updated information will also often be provided because of regular exchanges of information between departments (particularly between Environmental Protection and Planning) and with the Environment Agency and other statutory bodies.

Section 4 explains how the Councils will identify potentially Contaminated Land and carry out inspections to determine which sites are Contaminated Land. We make decisions about Contaminated Land based on information available at the time. The decision relates to 'current use' which means any use, which is currently being made, or is likely to be made and which is consistent with any existing planning permission. 'Current use' is defined by the Statutory Guidance and includes:

- temporary uses permitted under planning legislation;
- future uses or developments which do not require a new or amended grant of planning permission or notifications for change of use; and
- likely informal recreational use of land (authorised and unauthorised) e.g. children playing on the land.

When considering a future use, which qualifies as a 'current use', we will assume that this proceeds in accordance with any existing planning permission, including any conditions relating to cleaning up or preventing contamination.

For agricultural uses, 'current agricultural use' does not extend beyond growing or rearing of crops or animals, which are habitually grown or reared on the land.

When further information is obtained for a site, we will search the GIS databases to determine whether the site concerned has already been assessed. If so, the site priority will be reviewed in the light of the new information. If the site has not previously been identified, we will follow the procedure outlined in Section 4, including the new information, to determine its priority category.

If the site has already been subject to detailed inspection, we will review the inspection, and the decisions made in the light of the new information.

Examples of information that may result in reviews of site prioritisation and inspection decisions are as follows:

- proposed changes in the use of surrounding/adjacent land (planning applications and Development Structure Plan reviews);
- planning applications;

- unplanned changes in the land use e.g. persistent unauthorised use of land by children, travellers, fly-tipping;

- unplanned events where consequences cannot be addressed through other relevant environmental legislation e.g. localised flooding, landslides, accidents, fires, spillages;

- reports from statutory bodies of localised health effects that appear to relate to a particular area of land;

- reports from statutory bodies of adverse ecological effects that appear to relate to a particular area of land;

- reports from statutory bodies of adverse water quality effects that appear to relate to a particular area of land;

- verifiable reports of unusual or abnormal site conditions received from members of the public, business, voluntary organisations e.g. wildlife trusts, conservation groups, environmental pressure groups, etc;

- updates of information provided by the Environment Agency e.g. changes to receptors such as Groundwater Source Protection Zones, abstraction licence applications; and

- updates of information provided by Natural England e.g. new SSSI's or other designated protected areas.

7.2 Review of the Inspection Strategy

The Councils will review this inspection strategy at a period of no more than five years to ensure that it continues to represent an efficient use of resources and remains effective in meeting the requirements of the legislation.

As we complete the bulk of the inspection task and gain experience with the legislation, we anticipate that less frequent reviews may become more appropriate.

In some circumstances we might need to review the strategy before the scheduled date. Examples of changes that might trigger an unscheduled review are:

- amendments or changes to the law on Contaminated Land, or changes in legislation that is closely related (e.g. water pollution or Environmental Permitting legislation);

- changes to the structure or area of responsibility of the principal regulators (i.e. District Councils or the Environment Agency);

- large scale environmental emergency affecting the districts (e.g. catastrophic water pollution incident, Foot and Mouth disease);

- significant changes in the budget allowance for Contaminated Land duties; and

- establishment of precedents in Court cases which lead to alterations in interpretation of Contaminated Land law.

8 INFORMATION MANAGEMENT

In the course of preparing this strategy and subsequent inspection work, the Councils have already obtained, and will continue to obtain, large amounts of information from a variety of sources that will need to be managed efficiently. Statutory Guidance states that we must tell you how we will do this. In this section of the strategy, we therefore set out how we will manage the information we obtain.

It is our intention to have an inspection strategy that is as transparent as possible so that reasons for the decisions made concerning Contaminated Land can be readily understood. We will therefore manage information as set out below to achieve this aim and to comply with requirements of the DEFRA guidance.

8.1 Information Storage

It is planned that by April 2025, both Councils' data handling systems and GIS platforms will be aligned and ensure that wherever possible, information is stored electronically and using site specific codes.

8.2 Public Register Information

The Public Register is a record of regulatory action taken on Contaminated Land. Only sites where a Remediation Notice has been served will appear on the Public Register. Each Council will maintain identical, but separate, Public Registers. In summary, the Public Registers contain:

- details of the remediation notice:
    1. who the Council has served a notice on;
    2. where the Contaminated Land the notice refers to is;
    3. why the land is Contaminated Land, what the contamination is and where it came from (if not from the land in question);
    4. what the Contaminated Land is currently used for;
    5. details of what remediation each appropriate person has to do and when this has to be done by; and
    6. the date of the notice.
- details of any appeals and the resulting decisions;
- remediation declarations (published by the enforcing authority);
- remediation statements (detailing the remediation that has been done);
- appeals against charging notices;
- designation of Special Sites;

- notifications of claimed remediation;
- convictions in relation to remediation notices; and
- guidance issued by the Environment Agency.

It is our intention to store this information electronically as far as possible, as part of the GIS and linked database. A summary of Public Register entries is available on our websites.

The Councils will undertake to add new information to their registers as soon as it is reasonably possible after it has been generated. The contents of the registers will therefore change over time as the information in it is added to or updated.

8.3 Inspection Information

Local authorities are subject to the requirements of the Environmental Information Regulations 2004, the Freedom of Information Act 2000 and the Data Protection Act 2018. Accordingly, we are committed to ensuring open access to information unless there are specific legal or technical reasons preventing us to do so, including relating to the General Data Protection Regulation 2018. This could be where releasing information is:

- prejudicial to national security
- prejudicial to future legal proceedings
- subject to copyright restrictions
- work in progress
- data relating to individuals.

General information and advice about land quality is available on our websites. Specific enquiries about Contaminated Land should be made through our websites as outlined above. We must deal with a request for information within 20 working days except where the enquiry is complex or involves a large amount of information. Should an answer not be possible within this time, we will tell you how long it will take to answer your request.

There may be a charge to cover our costs in answering an enquiry. We will always say in advance if there will be a charge. No charge will be made for inspecting any public register of information.

8.4 Responsibility for Data Management

The GIS, paper files and databases to contaminated land inspection are the responsibility of the Environmental Protection team. External consultants may provide technical support.

8.5 Arrangements for Internal Access

The GIS, databases and paper files have been specifically set up for the contaminated land function. It is not intended to network the full GIS across the organisation to allow access by other departments. A simple polygon-based layer of

potentially Contaminated Land has been added to the corporate GIS for the purposes of assisting the Councils' Planning team in implementing appropriate safeguards on development but contains no data other than shapefiles.

It is predictable that the Planning and Land Charges teams will need to refer to the full GIS. This shall be done by direct request to the Environmental Protection team to carry out a search on their behalf, in the same way as internal consultation presently operates.

8.6 Updating and Maintaining Information

The GIS platform is capable of being updated and added to by authorised staff. Training will be provided to selected staff in the use and manipulation of the GIS platform for data storage and presentation. This training will include the ability to interrogate datasets, add new information, layers and linked databases, perform risk assessments and site characterisation/prioritisation and generate reports.

Many of the layers within the GIS platforms will become out of date within a few years. Good examples of databases which require regular updating are sites with environmental permits, known pollution incidents and locations of private water abstractions.

Where the Councils are the primary producer of new data – for example private water abstraction locations – we will update the database as the new information becomes available. Our data quality control system will enable us to track updates, and to know when the data was last updated. Where data is produced by another organisation – for example the Environment Agency keeps the register of sites with Environmental Permits – we will request updates at a time-scale appropriate to the data.

Some data, for example, historical maps, do not go out of date. Other kinds of maps, e.g. geological and topographical maps are occasionally updated by the organisations that publish them. The Councils will jointly purchase new issues of such maps as they become available.

9 REFERENCES AND GLOSSARY

9.1 References

[1] Environmental Protection Act 1990, Part IIA: inserted by Environment Act 1995, Section 57. See Environment Act 1995 for text of Part IIA.

[2] Environmental Protection Act 1990, Part IIA. Contaminated Land Statutory Guidance, DEFRA 2012, Department for Environment, Food and Rural Affairs.

[3] The Contaminated Land (England) Regulations 2012. Statutory Instrument (SI) DEFRA 2006, No.1380.

[4] Planning Policy Statement 3 – Housing, Communities and Local Government, 2006.

[5] British Geological Survey (1995) Potentially harmful elements from natural sources and mining areas: characteristics, extent and relevance to planning in Great Britain, BGS Technical Report WP/95/3.

[6] Department of the Environment (1995) A Guide to Risk Assessment and Risk Management for Environmental Protection, HMSO, London.

[7] M.J. Carter Associates (1995) Prioritisation and Categorisation Procedure for Sites which may be Contaminated CLR Report No. 6, Department of the Environment.

[8] CCME (1992) National Classification System for Contaminated Sites Publication ref. PN1005, Canadian Council of Ministers for the Environment.

[9] Working Better Together Protocol Series, Land Contamination Protocol No. 5 (2003) Environment Agency and Local Government Association.

[10] SNIFFER (1999) Communicating understanding of contaminated land risks Scotland and Northern Ireland Forum for Environmental Research, SEPA, Stirling.

[11] Department for Environment, Food and Rural Affairs and Environment Agency (2004) Model Procedures for the Management of Land Contamination CLR Report No. 11, Environment Agency.

[12] Department for Environment, Food and Rural Affairs and Environment Agency (2002) The Contaminated Land Exposure Assessment Model (CLEA): Technical basis and algorithms CLR Report No. 10, Environment Agency.

[13] The Environmental Information Regulations 2004. Statutory Instrument (SI) 3391.

[14] Data Protection Act 2018.

[15] Freedom of Information Act 2000.

[16] Department of the Environment (1995) Potential Contaminants for the Assessment of Land, Consultants in Environmental Science Ltd (CES), Draft Final Report.

9.2 Glossary

This glossary has been prepared to assist understanding of technical and legal terms used in this contaminated land strategy. Definitions should therefore be taken in the context of contaminated land; they are not necessarily full and all-encompassing definitions appropriate to any purpose. Explanations of terms with legal meaning have been simplified and/or further explained for clarity and should not be assumed to comprise full legal definitions. These are given by the Statutory Guidance [2].

ABSTRACTION

The pumping or collection of water for drinking or other use from a well, spring, river or other water source.

ALLUVIUM

Deposits formed from the sediments laid down by rivers and streams (ancient and existing), composed of clay to coarse gravel sized material, but usually consisting of sand and gravel.

APPROPRIATE PERSON

Any person who is found to be liable to pay for remediation under the terms of the Environmental Protection Act 1990 Part IIA. This is firstly the polluter. If no polluter can be identified, then the landowner may be the appropriate person. Where a significant pollution linkage exists but no Appropriate Person can be found, this linkage is referred to as an Orphan linkage.

AQUIFER

A body of rock or sediment that is sufficiently permeable to store and transmit water under the ground, in quantities that permit use of the water.

CHARGING NOTICE

A notice placing legal charge on land by an enforcing authority enabling the authority to recover reasonable remediation costs from the appropriate person (s).

CONTAMINATED LAND

The definition of Contaminated Land from the Environmental Protection Act 1990, Part IIA, Section 78A (2) is:

“any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that –

(a) significant harm is being caused or there is a significant possibility of such harm being caused; or

(b) pollution of controlled waters is being, or is likely to be, caused.”

CONTROLLED WATERS

"Controlled waters" are all natural inland and near coastal waters, including groundwater, as defined in Section 78A(9) of the Environment Act [1] by reference to Part III (section 104) of the Water Resources Act 1991. Therefore, all lakes, rivers, streams, estuaries and coastlines are controlled waters. Pollution of controlled waters means the addition of any "poisonous, noxious or polluting matter or any solid waste matter".

DISCHARGE CONSENT

A consent, issued by the Environment Agency, allowing the discharge of wastewater (e.g. run-off, or treated effluent from a factory) to a controlled water. The consent specifies the quantity and quality of wastewater that may be discharged at the consented location.

ENVIRONMENTAL PERMITTING

A system for regulating industrial sites in the UK, made under the Environmental Permitting Act 2007. It requires industrial sites operating particular processes to obtain permits to operate from the Environment Agency or Local Authority. In general, processes regulated under Environmental Permitting Regulations are likely to be more polluting than those not regulated; however, this covers all forms of pollution and does not necessarily mean that Environmental Permit sites are likely to cause contamination of the ground.

GEOGRAPHICAL INFORMATION SYSTEM (GIS)

A computer program that enables map-related data to be stored, viewed and processed.

GROUNDWATER

Water which flows through a soil or rock, beneath the water table.

GROUNDWATER SOURCE PROTECTION ZONE

An area around a major groundwater abstraction (drinking water source) where ground contamination may result in the contamination of the water source. Groundwater Source Protection Zones are defined by the Environment Agency and there are restrictions on development of some kinds (e.g. landfill sites) within them.

NATIONAL AVERAGE BACKGROUND

The normal range of concentrations of a substance, or substances occurring in an area (excluding mineralised or 'contaminated' samples). Determined by statistical analysis of stream sediment geochemical data for Great Britain [6].

ORPHAN LINKAGE

A significant pollutant linkage for which no Appropriate Person can be found, or where those who would otherwise be liable are exempted by one of the relevant statutory provisions.

Where an orphan linkage is the only significant pollutant linkage identified, the enforcing authority (normally Babergh District Council or Mid Suffolk District Council, or the Environment Agency) will bear the cost of any remediation required.

In more complicated cases where there are two or more significant pollution linkages, of which some are orphan linkages, the Councils will consider each of these separately. There are circumstances where all or part of the remediation costs for orphan linkages are recoverable from Appropriate Persons identified for other significant pollutant linkages. These circumstances generally apply where the remediation required for the orphan linkages are also required for some or all the other significant pollution linkages for which Appropriate Persons have been identified.

PATHWAY

A mechanism for a receptor to be exposed to a contaminant that may harm the receptor.

POLLUTANT LINKAGE

A circumstance where it is possible that a contaminant (source) may contact a receptor (via a particular pathway).

POTENTIALLY CONTAMINATIVE USE

A development that exists, or has previously existed, on a site where the nature of the development is such that it is possible that contamination of the ground may have occurred.

PUBLIC REGISTER

The register maintained by the enforcing authority containing details of land that is Contaminated Land.

RECEPTOR

(a) A living organism (including humans) or group of organisms, and ecological system or piece of property that is being or could be harmed by a contaminant.

(b) Controlled waters, which are being, or could be, polluted by a contaminant.

REMEDIATION

Remediation is an action carried out to reduce the risk of significant harm or water pollution. It entails breaking or removing significant pollutant linkages, by treating the source (contaminant); blocking the pathway or protecting or removing the receptor.

REMEDIATION DECLARATION

A document prepared and published by the enforcing authority, detailing remediation actions that it would have specified for a given site but is prevented from so doing by Section 78E (4) and (5). This says that the authority must only specify remediation that is reasonable, given the seriousness of the harm or water pollution, and the cost of the works that would have to be carried out.

REMEDIATION NOTICE

A notice specifying what an Appropriate Person has to do by way of remediation and when he is to do each of the specified actions by. Note that the actions specified do not always consist of “remediation”. “Assessment actions” and “monitoring actions” can also be specified in remediation notices.

REMEDIATION STATEMENT

A statement prepared and published by the responsible person detailing the remediation actions that have been carried out (or are planned).

RESPONSIBLE PERSON

The person responsible for carrying out the remediation. Not necessarily the same as the appropriate person.

RUN-OFF

Surface water that flows across an area and into rivers, streams etc. or drains during rainfall (i.e. all the water that does not soak into the ground).

SIGNIFICANT HARM

Significant harm includes:

- Death, disease, serious injury, genetic mutation, birth defects or the impairment of reproductive functions in humans.

- Irreversible adverse change or threat to endangered species, affecting an ecosystem in a protected area (e.g. Site of Special Scientific Interest).

- Death, serious disease or serious physical damage to pets, livestock, game animals or fish.

- A substantial loss (20%) in yield or value of crops, timber or produce.

- Structural failure, substantial damage or substantial interference with right of occupation to any building.

SIGNIFICANT POLLUTANT LINKAGE

A pollutant linkage where the amount of contaminant (source) that may be able to contact the receptor is likely to be sufficient to result in significant harm or pollution of controlled waters.

SIGNIFICANT POSSIBILITY OF SIGNIFICANT HARM

In determining whether there is a significant possibility of significant harm, the local authority will use a risk assessment approach, considering both the severity and the likelihood of the possible harmful effect. This will involve establishing:

the nature and degree of harm predicted;

the susceptibility of the receptors to which harm might be caused; and

the time-scale within which the harm might occur.

SITE WITH STATUTORY PROTECTION

Ecological and Conservation Protected Areas to which Part IIA applies, i.e.

- Sites of Special Scientific Interest (Wildlife and Countryside Act 1981 Section 28).
- National Nature Reserves (Wildlife and Countryside Act 1981 Section 35).
- Marine Nature Reserves (Wildlife and Countryside Act 1981 Section 36).
- Areas of Special Protection for Birds (Wildlife and Countryside Act 1981 Section 3.
- European Sites – Special Areas of Conservation and Special Protection Areas, and candidate sites for these designations (Conservation (Natural Habitats etc) Regulations 1994 Regulation 10.
- Any habitat or site afforded policy protection under paragraph 13 of Planning Policy Statement Note PPS 9 on Biodiversity and Geological Conservation (i.e. candidate Special Areas of Conservation, potential Special Protection Areas and Listed Ramsar sites.
- Nature Reserves established under section 21 of the National Parks and Access to the Countryside Act 1949.

SOURCE

A substance capable of causing harm, that is present in, on, or under the ground.

SPECIAL SITE

A Special Site is a contaminated land site that is regulated by the Environment Agency instead of the Local Authority

STATUTORY GUIDANCE

Guidance that must be complied with by the enforcing authority. The Statutory Guidance for English local authorities is given in DEFRA Circular 04/2012 [2].

SUPERFICIAL DEPOSITS

Deposits which are present above the solid rock geology, have not yet become solid rock, and are typically less than 2 million years old.

TOPOGRAPHY

The topography describes the relief of the ground over an area or region and is generally expressed as contours on a map.

TRIBUTARY

A small river or stream that flows into a larger river or stream. Usually, a number of smaller tributaries merge to form a river.

WALKOVER SURVEY

A preliminary survey of a site carried out by visual inspection. Normally the survey is guided by a checklist of areas or features to be inspected.

APPENDIX 1

THIRD PARTY CONTACT DETAILS

Contaminants Division Food Standards Agency Floors 6 and 7 Clive House 70 Petty France London SW1H 9EX Tel 0330 332 7149	Environment and Transport Department Suffolk County Council Endevour House, 8 Russell Road Ipswich IP1 2BX Tel 01473 583000
Duty VO Department for Environment, Food & Rural Affairs 100 Southgate Street Bury St Edmunds IP33 2BD Tel 01284 778150	Historic England Inspector of Ancient Monuments East of England Region Brooklands 24 Brooklands Avenue Cambridge CB2 2BU Tel 01223 582700
Groundwater Manager Anglian Water Services Ltd Endurance House Chivers Way Histon Cambridgeshire CB4 4ZY Tel 01223 547590	Natural England Government Buildings, 100 Southgate Street, Bury St Edmunds, Suffolk, IP33 2FE Tel 01284 762218
Area Contaminated Land Officer Environment Agency Cobham Road Ipswich Suffolk IP3 9JE Tel 08708 506506	Health and Safety Executive HSE Inspector Osprey House Hedgerows Business Park Colchester Road Chelmsford Essex CM2 5PF

APPENDIX 2

CONFIDENTIALITY OF INFORMATION

The majority of the information generated by, or supplied to, the Councils about the condition of land will be in the public domain. This will be true whether or not the site appears on the Public Register.

Under certain circumstances the councils may not be able to place information on the Public Register (or release it in response to other requests). Circumstances where information is withheld are:

- where this is in the interests of national security;
- where this is commercially confidential; and
- where the information relates to the affairs of any individual or business.

Where information has been excluded from the Public Register for reasons of commercial confidentiality, the Councils will place a statement on the Register to indicate this. Any person who wishes to have information excluded from the Public Register on the grounds of commercial confidentiality must follow certain procedures – these are set out below.

Supply of any other environmental information held by the Councils is also subject to 12 specified exceptions (determined by the Environmental Information Regulations 2004 [14]), although non-disclosure of information may be subject to a public interest test – see below. These include:

- where this is in the interests of national security;
- where the information is an issue in any legal proceedings or enquiry;
- where the information is still being completed, or is an internal communication of a relevant person;
- where this would affect the confidentiality of the deliberations of a relevant person; and
- where this is commercially confidential.

The confidentiality of any information supplied to the councils by third parties is determined when the information is received. Where a third party states that information it supplies to the Councils is commercially confidential or cannot be released for any of the other reasons given above, then the Councils will ask for a justification to be provided giving the reasons for this. Information that is confirmed as confidential on the basis of a justification cannot be released to other parties. Where the Councils are unable to supply information, it will give the reason for this.

Excluding commercially confidential information from the Public Register

Under Part IIA, information cannot be excluded from the Public Register on the grounds of commercially confidentiality solely because its release might affect the value of the land.

Any business, organisation or individual that believes an item should be excluded from the Public Register on the grounds of commercial confidentiality may contact the councils. If the Councils considers that a Public Register entry may be commercially confidential, we will contact the person concerned to allow them an opportunity to request that the information should be excluded. In order for information to be excluded, the affected person must:

- request in writing that particular information should be excluded from the Public Register; and

- provide a written explanation of why the information is commercially confidential (note that this may not consist solely of a potential effect on land value).

The Councils will then decide whether the information should be excluded from the Public Register. When exclusions are made, a statement will appear on the Public Register explaining that information has been excluded because it is considered commercially confidential.

If the Councils consider that the information is not commercially confidential, then the person concerned will be notified in writing. That person then has 21 days to appeal to the Secretary of State, during which time the information will not appear on the Public Register. If no appeal is made, the information will be placed on the Public Register.

If an appeal is made, the information will not appear on the Public Register whilst the appeal is pending.

Exclusions from the Public Register will generally lapse after a period of 4 years. Where a person considers that the information is still commercially confidential, a further application to have the information excluded can be made, using the same procedures as outlined above.

Data Protection Act 2018

The Data Protection Act 2018 [14] applies to all data that is processed automatically. For the purposes of the Act, almost all data held on computers is considered as being “processed automatically”. In addition, paper records are also now covered by the Act. The Data Protection Act seeks to provide some protection to persons (known as data subjects) with regard to 3 potential dangers:

- the use of personal information that is inaccurate, incomplete or irrelevant;

- the possibly of access to personal information by unauthorised persons; and

- the use of personal information in a context or for a purpose other than that for which the information is collected.

Personal data is defined as data consisting of information, which relates to a data subject who can be identified from the information, or from that and other information in the possession of the data user.

The Councils acknowledge and support the principles of the Data Protection Act 2018. The authority aims to protect the rights of data subjects and seeks to manage personal information in accordance with the legislation.

The councils will consider the implications of holding a GIS based database of information relating to its statutory duty for Contaminated Land. Appropriate action will be taken to ensure that the councils comply with the requirements of the Data Protection Act with respect to any personal data that it holds in relation to this duty.

The Freedom of Information Act 2000

If a request for information is neither environmental nor personal it may be accessed and dealt with under the Freedom of Information Act 2000 [15].

Whilst the Freedom of Information Act creates a right to request specific information held by public bodies, it also creates a number of exemptions from that right. These have the effect of permitting public authorities to withhold some or all the information requested, where that information fits the terms of one or more of the exemptions.

Many of the exemptions will only apply where pressing public interest arguments can be made for withholding the information. In other words, information which falls under a particular exception category, will nevertheless have to be disclosed unless it can be successfully argued that the public interest in withholding is greater than the public interest in releasing it. These exemptions are known as 'qualified' exemptions.

A few exemptions (known as 'absolute' exemptions) do not contain the above requirement. Where information falls within the terms of an absolute exemption, the Councils may withhold the information without considering any public interest arguments.

What is the public interest test?

If a public authority believes that the information is covered by a qualified exemption or exception it must apply the public interest test. The public interest test favours disclosure where a qualified exemption or an exception applies. In such cases, the information may be withheld only if the Councils consider that the public interest in withholding the information is greater than the public interest in disclosing it.

APPENDIX 3

CONTENTS OF THE PUBLIC REGISTER

Below is a summary of the contents of the Public Register. For the full legal text, refer to Schedule 3 of the Contaminated Land (England) Regulations 2006 [3]

Remediation Notices

- Details of the remediation notice:

1. who the Local Authority has served a notice on;

2. where the Contaminated Land the notice refers to is;

3. why the land is contaminated land, what the contamination is and where it came from (if not from the land in question);

4. what the Contaminated Land is currently used for;

5. details of what remediation each appropriate person has to do and when this has to be done by; and

6. the date of the notice.

Appeals Against Remediation Notices

- Details of any appeal against a remediation notice served by the Local Authority and any decision on such an appeal.

Remediation Declarations

- Any remediation declaration prepared and published by the Local Authority and for any such declaration, details of items 2-5 as detailed in 'Remediation Notices' above.

Remediation Statements

- Any remediation statement prepared and published by the responsible person or by the Local Authority and for any remediation statement, details of items 2-5 as detailed in 'Remediation Notices' above.

Appeals Against Charging Notices

- Any appeal against a charging notice served by the Local Authority and any decision on such an appeal.

Designation of Special Sites

- Details of any land in the local authority area of responsibility designated as a Special Site by the local authority or the Secretary of State and the reasons for this.

- Any notice given by the Environment Agency of its decision to adopt a remediation notice (the Environment Agency being the enforcing authority for special sites).

- Any notice given by or to the Local Authority terminating the designation of any land as a special site.

Notification of Claimed Remediation

- Any notification given to the Local Authority of remediation claimed to have taken place.

Convictions for Offences in relation to a Remediation Notice

- Any conviction of a person for any offence in relation to a remediation notice served by the local authority, including the name of the offender, the date of conviction, the penalty imposed and the name of the Court.

Guidance issued to the Local Authority by the Appropriate Agency

- Details of any guidance issued to the Local Authority for a particular site (by the Environment Agency in most cases).

Other Environmental Controls

- Where the Local Authority cannot issue a remediation notice because the powers of the appropriate agency (usually the Environment Agency) may be exercised instead:

    1. details of items 2-5 in 'Remediation Notices' above for the Contaminated Land; and

    2. any steps of which the Local Authority has knowledge, taken towards remedying any significant harm or pollution of controlled waters that causes the land to be Contaminated Land.

- Where the powers of the appropriate waste regulation authority or waste collection authority may be exercised instead (in relation to deposition of controlled waste which causes the land to be contaminated land) the Local Authority may not issue a remediation notice and may record the following details on the register:

    1. details of items 2-5 in 'Remediation Notices' above for the Contaminated Land; and

    2. any known steps taken to remove the waste, or reduce the consequences of its deposit, including steps taken by a waste regulation authority or waste collection authority and the name of the authority.

- Where the Local Authority cannot specify something by way of remediation in a remediation notice because this would impede or prevent a discharge to a water body for which a discharge consent is in force:

    1. details of the consent; and

2. details of items 2-5 in ‘Remediation Notices’ above for the Contaminated Land.

APPENDIX 4

DEFINITION OF A SPECIAL SITE

Extracted from: The Contaminated Land (England) Regulations 2006

Land required to be designated as a special site

2. —(1) Contaminated land of the following descriptions is prescribed for the purposes of section 78C(8) as land required to be designated as a special site—

(a) land affecting controlled waters in the circumstances specified in regulation 3;

(b) land which is contaminated land by reason of waste acid tars in, on or under the land;

(c) land on which any of the following activities have been carried on at any time—

(i) the purification (including refining) of crude petroleum or of oil extracted from petroleum, shale or any other bituminous substance except coal; or

(ii) the manufacture or processing of explosives;

(d) land on which a prescribed process designated for central control has been or is being carried on under an authorisation, where the process does not solely consist of things being done which are required by way of remediation;

(e) land on which an activity has been or is being carried on in a Part A(1) installation or by means of Part A(1) mobile plant under a permit, where the activity does not solely consist of things being done which are required by way of remediation;

(f) land within a nuclear site;

(g) land owned or occupied by or on behalf of—

(i) the Secretary of State for Defence;

(ii) the Defence Council,

(iii) an international headquarters or defence organisation, or

(iv) the service authority of a visiting force,

being land used for naval, military or air force purposes;

(h) land on which the manufacture, production or disposal of—

(i) chemical weapons,

(ii) any biological agent or toxin which falls within section 1(1)(a) of the Biological Weapons Act 1974 (restriction on development of biological agents and toxins), or

(iii) any weapon, equipment or means of delivery which falls within section 1(1)(b) of that Act (restriction on development of biological weapons),

has been carried on at any time;

(i) land comprising premises which are or were designated by the Secretary of State by an order made under section 1(1) of the Atomic Weapons Establishment Act 1991 (arrangements for development etc of nuclear devices);

(j) land to which section 30 of the Armed Forces Act 1996 (land held for the benefit of Greenwich Hospital) applies;

(k) land which is contaminated land wholly or partly by virtue of any radioactivity possessed by any substance in, on or under that land; and

(l) land which—

(i) is adjoining or adjacent to land of a description specified in any of sub–paragraphs (b) to (k); and

(ii) is contaminated land by virtue of substances which appear to have escaped from land of such a description.

(2) For the purposes of paragraph (1)(b), "waste acid tars" are tars which—

(a) contain sulphuric acid;

(b) were produced as a result of the refining of benzole, used lubricants or petroleum; and

(c) are or were stored on land used as a retention basin for the disposal of such tars.

(3) In paragraph (1)(d), "authorisation" and "prescribed process" have the same meanings as in Part 1 of the 1990 Act (integrated pollution control and air pollution control by local authorities) and the reference to designation for central control is a reference to designation under section 2(4) (which provides for processes to be designated for central or local control).

(4) In paragraph (1)(e), "Part A(1) installation", "Part A(1) mobile plant" and "permit" have the same meanings as in the Pollution Prevention and Control (England and Wales) Regulations 2000.

(5) In paragraph (1)(f), "nuclear site" means—

(a) any site in respect of which, or part of which, a nuclear site licence is for the time being in force; or

(b) any site in respect of which, or part of which, after the revocation or surrender of a nuclear site licence, the period of responsibility of the licensee has not come to an end.

(6) In paragraph (5), "nuclear site licence", "licensee" and "period of responsibility" have the meanings given by the Nuclear Installations Act 1965.

(7) For the purposes of paragraph (1)(g), land used for residential purposes or by the Navy, Army and Air Force Institutes must be treated as land used for naval, military or air force purposes only if the land forms part of a base occupied for naval, military or air force purposes.

(8) In paragraph (1)(g)—

"international headquarters" and "defence organisation" mean, respectively, any international headquarters, and any defence organisation, designated for the purposes of the International Headquarters and Defence Organisations Act 1964

"service authority" and "visiting force" have the same meanings as in Part 1 of the Visiting Forces Act 1952

(9) In paragraph (1)(h), "chemical weapon" has the same meaning as in subsection (1) of section 1 of the Chemical Weapons Act 1996 disregarding subsection (2) of that section.

APPENDIX 5 Risk assessment summary for non-contaminated land

Environmental Protection Act 1990, Part IIA
Potentially Contaminated Land
Site Inspection Summary

5 SITE DETAILS			
Site Ref			
Job No		Officer	
Inspection Date		Prioritisation Score	
National Grid Ref		Size (m^2)	
Site Name & Address			
Former Potentially Contaminative Use			
Landowner(s)			
- *Contact Name*			
- *Address (if different from the above)*			
- *Contact Telephone*			
- *Contact E-mail*			
Occupier(s)			
- *Contact Name*			
- *Contact Telephone*			
- *Contact E-mail*			
6 DESK STUDY			
Site History			
Geology			
- *Solid Geology*			
- *Drift Geology*			
Hydrogeology			
- *Groundwater Vulnerability*			
- *Depth to Groundwater Table*			
- *Source Protection Zone*			
- *Licensed Water Abstractions*			
Ecology			

Archaeological Status	
Effluent Discharge Consents, Waste Management Licences & other Permits	
Previous Work / Site Report	
SITE WALK OVER	
Date	
Current site use	
Descriptions of buildings and ground cover	
Location, type and condition of surface water / foul drainage	
Discharges to controlled waters	
Relevant names of adjacent buildings or roads	
Flow direction and appearance of streams and rivers, evidence of groundwater	
Location and type of tanks, underground storage tanks, bunds, pits, walls, fences, remaining buildings etc.	
Evidence of previous investigations (boreholes, backfilled trial pits etc)	
Level of ground in relation to adjacent areas and other parts of the site	
Signs of ground settlement or subsidence	
Geology / geomorphology / landscape / natural processes (landslips etc)	
Site access and any identifiable constraints for investigation of the site (including overhead services)	
Visibly contaminated areas or malodorous areas	
Signs of vegetation stress	
Visible evidence of foundations	
Present day potentially contaminative activities	
Any known contamination incidents	
Presence of underground services	
Site security	

Access for investigation plant and equipment						
Adjacent land conditions, uses, and nature of any businesses / activities						
Other observations						
MAIN FEATURES OF CONCEPTUAL MODEL						
Conceptual Model of Pollutant linkages	TPHs	Gases	PAHs	Metals	Inorganics	Asbestos
Human Health						
Ingestion of contaminated soil and household dust						
Ingestion of vegetables & soil attached to vegetables						
Inhalation of dust - indoor & outdoor						
Inhalation of indoor/outdoor vapours						
Dermal contact with soils and dusts						
Risk of fire/explosion associated with landfill gases						
Controlled Waters						
Migration of soluble or otherwise mobile contaminants into groundwater						
Migration of soluble or otherwise mobile contaminants into surface water bodies						
Uncontained surface run-off into surface water bodies						
Ecological Systems						
Potential adverse impact on SSSIs, sensitive habitats, special landscape designations etc.						
6.1.1.1 Crops & Animals						
Potential adverse impact on crops or domestically grown produce.						
Potential adverse impact on livestock, owned or domesticated animals, and wild animals subject to shooting / fishing rights.						
Building Materials & Services						
Potential adverse impact on building foundations						
Permeation through domestic water pipes						
Potential adverse impact on scheduled monuments						
INTRUSIVE INVESTIGATION NECESSARY?						
DETAILS OF INTRUSIVE INVESTIGATION						
Date						

Sampling Officer / Consultancy	
Number & Location of Sampling Points	
Depth	
Type of Sample	
Field Techniques	
Laboratory Analysis (list substances)	
FINDINGS OF INTRUSIVE INVESTIGATION	
DETAILS OF SUPPLEMENTARY INVESTIGATION	
Date	
Sampling Officer / Consultancy	
Number & Location of Sampling Points	
Depth	
Type of Sample	
Field Techniques	
Laboratory Analysis (list substances)	
FINDINGS OF SUPPLEMENTARY INVESTIGATION	
7 RISK ASSESSMENT - Consider SGVs, SSAC and significant pollutant linkages	
8 RECOMMENDATION Include Category	