

Cabinet

21 June 2017



Title	Contaminated Land Inspection Strategy		
Purpose of the report	To make a Key Decision		
Report Author	Tracey Willmott-French		
Cabinet Member	Councillor Nick Gething	Confidential	No
Corporate Priority	Clean and Safe Environment		
Recommendations	To adopt the Council's new 'Contaminated Land Inspection Strategy'		
Reason for Recommendation	Statutory guidance recommends that local authorities review and update their strategies every five years to take account of changes in legislation and statutory guidance. The proposed new contaminated land inspection strategy takes these changes into account.		

1. Key issues

1.1 Local authorities have a legal duty to inspect their areas for contaminated land¹. Where it is found the Council must identify the appropriate persons responsible for cleaning-up the contamination, to specify the works to be done and the periods within which the work has to be carried out.

1.2 The land use planning system is the Council's primary means of dealing with land affected by contamination, thereby ensuring that it is fit for its redeveloped use. This is the most cost-effective and sustainable means of dealing with land contamination. This will remain the Council's principal means of dealing with land affected by contamination.

Table 1 below provides details (dating back to May 2003) on the number of sites in the Borough which through the land redevelopment process have been examined by Environmental Health for the presence of land contamination and where found they have ensured that the contamination has been appropriately dealt with, thereby ensuring that sites are safe and fit for their intended use.

1.3 For land not undergoing redevelopment local authorities must take a strategic approach in carrying out its contaminated land duties. In doing so it must follow statutory guidance which explains how these duties are to be carried out. The approach must be rational, ordered and efficient, and reflect local circumstances.

¹ The physical presence of pollution within land does not necessarily mean that that land will be contaminated. For land to be legally classified as 'contaminated land' the pollution must present 'a significant possibility of significant harm to human health or non-human receptors, or a significant possibility of significant pollution of controlled waters'.

- 1.4 The Council must set out its approach in a written strategy, which must be formally adopted and published, and be reviewed and updated periodically.
- 1.5 The Council's existing 'Contaminated Land Inspection Strategy has recently been reviewed and updated. The proposed new strategy document:-
- a) sets out the Council's strategic approach for dealing with contaminated land for the next five years; until 2022.
 - b) sets out the Council's aims, objectives and priorities, taking into account the characteristics of the Borough.
 - c) an outline of the Council's programme of work with timescales for the strategy. Largely, this will involve carrying out a more in-depth review of information held about individual sites in the Borough that have been identified as being the most likely to meet the legal definition of 'contaminated land'.
- 1.6 It is intended that one preliminary risk assessment per year will be carried out of sites falling within the highest risk banding. Achieving this will be dependent on the complexity of the sites, the information available, and any unforeseen significant demands that require priority intervention and redirection of staff resources. Progression to detailed inspection (site investigation and risk assessment) will only be made if there is sufficient evidence to justify further work.

Table 1 - Land assessed and dealt with for contamination under Planning and Building Control regulations since 2003

	Building Control consultations	Planning Conditions Recommended	Planning Informatives Recommended
2003/04		64	55
2004/05		96	352
2005/06		131	225
2006/07		152	289
2007/08		166	247
2008/09	396	110	150
2009/10	321	88	174
2010/11	328	167	252
2011/12	316	156	225
2012/13	325	118	209
2013/14	348	75	234
2014/15	366	143	276
2015/16	375	137	276

2. Options analysis and proposal

- 2.1 The duties given to local authorities to identify contaminated land are set down in Part 2a of the Environmental Protection Act 1990 and the associated statutory guidance. The method of identifying contaminated land is outlined within the statutory guidance and established best practice.
- 2.2 In carrying out contaminated land duties officers need to adhere to statutory guidance and best practice. In doing so officers carry out their duties in the most effective manner likely to identify contaminated land in a cost effective way.
- 2.3 The proposed Contaminated Land Inspection Strategy has been determined in accordance with statutory guidance, taking into account best practice within the

subject field. Deviation from statutory guidance and best practice opens the Council to greater risk of challenge.

3. Financial implications

- 3.1 As outlined within the proposed strategy, historically the Council has successfully bid for funding against the central Government's 'Contaminated Land Capital Grant Programme' (CLCGP) in order to carry out several of its intrusive contaminated land site investigations, and also for the clean-up of one of these sites where contamination was found.
- 3.2 Central Government's 'Contaminated Land Capital Grant Programme' (CLCGP) closed on the 31 March 2017. Consequently, grant aid will not be given to local authorities to financially assist them in their statutory duties to identify and secure the clean-up land that is found to be 'contaminated land'.
- 3.3 In pursuance of its statutory duties, the Council must continue to identify the sites that need to be legally determined as 'contaminated land'. In doing so officers will ensure they maximise the information available to them thereby increasing their understanding of the site's history and the risks posed by the site. Where this information indicates that a site is likely be 'contaminated land' officers will need to undertake intrusive site investigation to make the determination. The information obtained in the earlier, non-intrusive part of an investigation will be used to fully inform the design of the intrusive investigation so that the cost of the investigation is minimised.

4. Other considerations

- 4.1 The primary means the Council takes in dealing with land affected by contaminated is to proactively ensure that land undergoing redevelopment is assessed for the presence of contamination, and where it is found to ensure that it is dealt with through the planning process so that the site is safe for its proposed new use. This is considered to be the most sustainable way of protecting people and the environment from the impacts of land contamination.
- 4.2 The application of the strategy will be applied equitably to land across the Borough with implementation being prioritised according to risk posed by the land identified.

5. Timetable for implementation

- 5.1 The strategy sets out a five year plan from date of adoption by the Council through to 2021.

Background papers: None

Appendices:

- Appendix 1 – The Contaminated Land Inspection Strategy
- Appendix 2 – Councillor briefing on land contamination