

CONTAMINATED LAND INSPECTION STRATEGY

Revised Edition
April 2012

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TABLE OF CONTENTS

EXECUTIVE SUMMARY	4
GLOSSARY OF TERMS	5
1 BRACKNELL FOREST BOROUGH COUNCIL'S CORPORATE AIMS	
1.1 One of the Council's Principal Objectives	8
1.2 The Borough Council's Aims in respect of Contaminated Land	8
1.3 Development of the Strategy	8
1.4 Internal Consultation on the Strategy	8
1.5 External Consultation of the Strategy	9
1.6 The Contaminated Land Strategy and Other Council Strategies	9
1.6.1 Bracknell Forest Biodiversity Action Plan.....	9
1.6.2 Bracknell Forest Parks and Open Spaces Strategy	9
1.6.3 Bracknell Forest Rights of Way Improvement Plan	9
1.6.4 Waste Local Plan for Berkshire	10
1.6.5 Berkshire Structure Plan	10
1.6.6 Bracknell Forest Borough Local Plan	10
1.6.7 Bracknell Forest Borough Council Core Strategy	10
1.7 Interaction with Other Regulatory Regimes	11
1.7.1 Town and Country Planning Act 1990	11
1.7.2 Environmental Permitting	11
1.7.3 Waste Management Licensing	11
1.7.4 Water Pollution	11
2 CONTAMINATED LAND – THE LEGAL FRAMEWORK	
2.1 Underlying Principles and Objectives of the New Regime	12
3 REGULATORY CONTEXT	
3.1 Bracknell Forest Borough Council's Regulatory Role in Respect of Contaminated Land	14
3.2 Regulatory Role of the Environment Agency	14
3.3 The Statutory Definition of 'Contaminated Land'	15
3.4 The Statutory Definition of 'Harm'	15
3.5 Amendments to Contaminated Land Regulations and Statutory Guidance 2012....	15
3.6 The Principles of Pollutant Linkages	16
3.7 The Principles of Risk Assessment	16
3.8 Strategic Approach to Inspection	16
3.9 Powers of Entry	17
3.10 Determination of Contaminated Land	17
3.11 Identifying and Notifying Responsible Persons	17
3.12 Liability of the Remediation of Contaminated Land	18
3.13 Remediation and Remediation Notices	18
3.14 Appeals Against the Remediation Notice	18
3.15 Non-Compliance with Remediation Notice(s)	19
4 CHARACTERISTICS OF THE BOROUGH OF BRACKNELL FOREST	
4.1 Geographical Location	20
4.2 Brief Description/History	20
4.3 Population Distribution	21
4.4 Land Owned by the Borough Council	21
4.5 Current Land Use Characteristics	21
4.6 Protected Location	21
4.7 Key Property Types	22
4.8 Key Water Resource/Protection Issues	22

4.9	Known Information on Contamination	22
4.10	Current and Past Industrial History	22
4.11	Broad Geological Characteristics	23
4.12	Broad Hydro-Geological Characteristics	24
4.13	Specific Local Features	24
4.14	Development History	24
5	PROCEDURES	
5.1	Internal Management Arrangements for Inspection and Identification	25
5.2	Local Authority Interests in Land	25
5.3	Evaluation of Information	25
5.3.1	Information Held by the Council	26
5.3.2	Information Obtained	27
5.4	Information and Complaints	27
5.4.1	Dealing With Enquiries	27
5.4.2	Confidentiality	27
5.4.3	Dealing With Anonymously Provided Information	27
5.5	Information Management	27
5.6	Assessment of Risk	28
5.6.1	SGVs	28
5.6.2	Risk Assessment for Other Substances	28
5.6.3	Risk Assessment Models	28
5.6.4	Risk Assessment for Controlled Waters	28
5.6.5	Potential Special Sites	28
5.6.6	The Historic Environment	29
5.7	Fundraising for Contaminated Land Remediation	29
6	GENERAL LIAISON AND COMMUNICATION STRATEGIES	
6.1	External Consultation in Respect of Land Determined to be Contaminated Land .	30
7	REVIEW MECHANISMS	
7.1	Triggers for Reviewing Inspections and Inspection Decisions	31
7.2	Review of the Inspection Strategy	31
7.3	Audit of Inspection Procedures	31
8	INFORMATION MANAGEMENT AND ADMINISTRATION	
8.1	Public Registers	32
8.2	Disclosure of Environmental Information	32
8.3	Provision of Information to Other Council Departments	33
8.4	Provision of Information to the Environment Agency	33
9	CONTACT POINTS	
9.1	Contact Points Within Bracknell Forest Borough Council	34
9.2	Other Relevant Contact Points	34
	REFERENCE AND BIBLIOGRAPHY	36
	APPENDICES	
1	Risk Assessment – Guidance Documents	37
2	The Environment Agency’s Strategy for Contaminated Land.....	38
3	Priority actions and timescales	40
4	Action to date	42

EXECUTIVE SUMMARY

The contaminated land regime has been introduced as a means of dealing with the legacy of contaminated land which has mainly arisen from a wide range of historical, industrial, mining and waste disposal activities.

Bracknell Forest Borough Council has two specific roles: firstly, to undertake an assessment of its area for contaminated land through a strategic approach and, secondly, where contaminated land posing an unacceptable risk to health/environment is identified, to ensure the contamination is remediated to reduce that risk to an acceptable level.

This document seeks to detail the Council's approach for dealing with contaminated land issues. Taking a strategic approach has enabled the Council to identify in a rational, ordered and efficient manner where land contamination is more likely to be found. Then, by using what is known about those areas from a variety of sources, to risk rate them. By identifying and ranking potentially contaminated land in this way, resources can be initially focused on those areas which merit individual inspection.

The Borough Council's Contaminated Land Inspection Strategy firstly provides background to the issues and also details the key characteristics that make up the Borough. The strategy provides clear priority actions and details the proposed inspection programme and timescales, which will be adjusted according to the findings as the work progresses.

Addressing the issues of contaminated land is not a short-term project and the Borough Council has looked to ensure that a holistic and rational long-term approach is adopted. The history of industry and development in the Borough does not lend itself to the creation of numerous high-risk sites of contaminated land. However, through the approach detailed in this strategy document the Borough Council is committed to ensuring that all potentially contaminated sites receive a clear, efficient and all-encompassing assessment.

The strategy document confirms the mechanisms for review of both the Borough Council's approach and indeed, the document itself. It is clearly an evolving process and the on-going review process is a crucial aspect of the Council's strategic approach. Further documentation and updates will continue to be published in the future, illustrating the evolving picture and highlighting areas of concern or requiring additional actions and/or resources.

GLOSSARY OF TERMS

The Act	Environmental Protection Act 1990
The Regulations	The Contaminated Land (England) Regulations 2006 The Contaminated Land (England) (Amendment) Regulations 2012
The Guidance	Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance – April 2012
Apportionment	As defined by the Act, means: Any determination by the enforcing authority under section 78F(7) (that is, a division of the costs of carrying out any remediation action between two or more appropriate persons).
Appropriate Person	As defined by section 78A(9) of the Act, means: Any person who is an appropriate person, determined in accordance with section 78F of the Act, to bear responsibility for anything which is to be done by way of remediation in any particular case.
Class A Person	As defined by paragraph D.5(a) of the Guidance, is a person who is an appropriate person by virtue of section 78F(2) (that is, because he has caused or knowingly permitted a pollutant to be in, on or under the land).
Class B Person	As defined by paragraph D.5(c) of the Guidance, is a person who is an appropriate person by virtue of section 78F(4) or (5) (that is, because he is the current owner or occupier of the land in circumstances where no Class A person can be found with respect to a particular remediation action).
CLEA	A set of generic guidelines, and a risk assessment model – The Contaminated Land Exposure Assessment published by DEFRA.
Contaminant	As defined by paragraph 3.8 of the Guidance, is a substance that is in, on or under the land and which has the potential to cause significant harm, or to cause significant pollution of controlled waters.
Controlled Waters	As defined by section 78A(9) by reference to Part III (section 104) of the Water Resources Act 1991, which includes territorial and coastal waters, inland fresh waters, and ground waters.
Enforcing Authority	For land not designated as being a ‘special site’, the enforcing authority within the Borough of Bracknell Forest is the Council. For land designated as being a ‘special site’, the enforcing authority is the Environment Agency.
Exclusion	Any determination by the enforcing authority under section 78F(6) (that is, that a person is to be treated as not being an appropriate person) <i>Paragraph D.5(d)</i> .
Local Authority	Bracknell Forest Borough Council
Owner	As defined by section 78A(9) of the Act as being: “a person (other than the mortgagee not in possession) who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or where the land is not let at a rack rent, would be so entitled if it were so let.”
Part IIA	Means Part IIA of the Environmental Protection Act 1990.
Pathway	As defined by paragraph 3.8 of the Guidance, is one or more routes or means by, or through, which a receptor is or might be affected by a contaminant

Precautionary Principle	<p>Article 130 of the “Treaty on European Union” places the basis for environmental protection upon the ‘Precautionary Principle’. Where, in the absence of firm scientific evidence regarding the effects of a particular substance or activity, the protection of the environment should be the first concern. Furthermore, there is no need for scientific proof before preventative action is taken.</p> <p>In summary, the reduction of risks to the environment by taking avoiding action before any serious problem arises.</p>
The Polluter Pays Principle	<p>Article 130 of the “Treaty on European Union” looks to ensure that the costs of environmental damage caused by polluting activities are borne in full by the person responsible for such pollution (the polluter).</p> <p>The principle accepts that: (i) the polluter should pay for the administration of the pollution control system; and (ii) the polluter should pay for the consequences of the pollution (e.g. compensation and remediation).</p>
Receptor	As defined by paragraph 3.8 of the Guidance, is something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem or controlled waters.
Register	The public register maintained by the Council under section 78R of the Environmental Protection Act 1990.
Remediation	<p>As defined by section 78A(7) of the Act, means:</p> <p>The doing of anything for the purpose of assessing the condition of: (i) the contaminated land in question; (ii) any controlled waters affected by that land; or (iii) any land adjoining or adjacent to that land;</p> <p>The doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or waters for the purpose: (i) of preventing or minimising, or remedying or mitigating the effects of, any significant harm, or any pollution of controlled waters, by reason of which the contaminated land is such land; or (ii) of restoring the land or waters to their former state; or the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or waters.</p> <p>Cognate expressions shall be construed accordingly.</p>
Remediation Action	As defined by paragraph D.5(f) of the Guidance, is any individual thing that is being, or is to be, done by way of remediation.
Remediation Package	As defined by paragraph D.5(g) of the Guidance, is all of the remediation actions, within a remediation scheme, which are referable to a particular significant pollutant linkage.
Remediation Scheme	As defined by paragraph D.5(h) of the Guidance, is the complete set or sequence of remediation actions (referable to one or more significant pollutant linkages) to be carried out with respect to the relevant land or waters.
Risk	As defined by paragraph A.9 of the Guidance, is the combination of (a) the probability, or frequency, of occurrence of a defined hazard (e.g. exposure to a property of a substance with the potential to cause harm), and (b) the magnitude (including the seriousness) of the consequences.
Special Site	Land that has been designated as such by virtue of sections 78C(7), 78D(6), or 78Q(4) of the Act, and that further defined within regulations (2), (3), and schedule (1) of the Regulations.
Substance	As defined by section 78A(9) of the Act, means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour.

<p>Suitable for Use</p>	<p>The 'suitable for use' approach, as defined by the Statutory Guidance, consists of 3 elements:</p> <ol style="list-style-type: none"> 1. Ensuring that land is suitable for its current use through the identification of land where contamination is causing unacceptable risks to human health and the environment, assessed on the basis of the current use and circumstances of the land, and returning the land to a condition where such risks no longer arise. The new contaminated land regime provides the mechanism to achieve this. 2. Ensuring that land is made suitable for any new use, as planning permission is given for that new use. This is achieved by assessing the potential risks from contamination, on the basis of the proposed future use and the circumstances, before official permission is given for the development and, where necessary to avoid unacceptable risks to human health and the environment, remediating the land before the new use commences. The Town and Country Planning and Building Control regimes provide the mechanism to achieve this. 3. Limiting requirements for remediation to the work necessary to prevent unacceptable risks to human health and the environment in relation to the current use or future use of land for which planning permission is sought.
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1 BRACKNELL FOREST BOROUGH COUNCIL'S CORPORATE AIMS

1.1 One of the Council's priorities is:

'Protecting and enhancing our environment ' which is supported by the medium term objective of keeping Bracknell Forest clean and green

1.2 The Borough Council's Aims in Respect of Contaminated Land

In respect of the contaminated land strategy specifically by:

- Preventing the creation of new contaminated land.
- Identifying land within the area of Bracknell Forest that is causing an unacceptable risk to human health, controlled waters, or the environment. Ensuring that, where present, the most urgent problem land is identified first, taking into consideration the seriousness of any actual or potential risk.
- Ensuring that contaminated land is returned to beneficial use.
- Ensuring that all land owned by the Council is inspected for contamination, and ensuring that the risk of harm to human health, controlled waters, or the environment is minimised.
- Ensuring that contaminated land is given due consideration in all land development, redevelopment and acquisition decisions.
- Ensuring that all Borough Council Departments take a holistic and consistent approach in addressing issues relating to contaminated land.
- Ensuring that the Council's method of handling information, and its consultation and involvement with relevant organisations and agencies are open, transparent, consistent, and comprehensive.
- Enabling all problems resulting from contamination to be handled as part of the same process (previously separate regulatory action was needed in respect of human health and the water environment), thus ensuring consistency in the approach taken in the treatment of contaminated land within the Borough.
- Ensuring that the Borough Council provides information to the Environment Agency for its report on contaminated land.
- To periodically review the Borough Council's strategy for the identification of contaminated land.

1.3 Development of the Strategy and Action to Take

The purpose of this strategy is to set out the approach the Council has adopted in the inspection of Bracknell Forest for 'contaminated land'. The methodology adopted is designed to ensure that the Borough Council fulfils its responsibilities in respect of the contaminated land provisions set down by the Environmental Protection Act 1990 (as amended), The Contaminated Land Regulations 2006 as amended in 2012 and in so doing meets the requirements of the Statutory Guidance as amended in April 2012. To facilitate the initial strategy development, the DETR document entitled "Contaminated Land Inspection Strategies - Technical Advice for Local Authorities" was used.

1.4 Internal Consultation on the Strategy

The Statutory Guidance states "Contaminated land is an archetypal example of our failure in the past to move towards sustainable development". In order to ensure that the best approach for Bracknell Forest is being taken in overcoming the problems associated with any contaminated land that may be present within the Borough,

through the development of a 'contaminated land working group', the advice of pertinent staff within all departments was sought in the development of this Strategy.

1.5 External Consultation on the Strategy

The opinion of the following external regulatory organisations was sought in the development of this strategy:

The Environment Agency
English Heritage
English Nature
Department of Environment, Food and Rural Affairs (DEFRA)
The Food Standards Agency

1.6 The Contaminated Land Strategy and Other Council Strategies

1.6.1 Bracknell Forest Biodiversity Action Plan

The Bracknell Forest Biodiversity Action Plan (BFBAP) is at the end of its valid period. The existing plan has been reviewed and the new plan for 2012 to 2017 is currently being written it will be subject to consultation and then Council approval. It is expected to be published in June 2012. The aim of the BFBAP is to conserve and enhance biological diversity within the Borough. This will be achieved by: proactive policies on planning and conservation of habitats and species; positive management of sites owned or managed by the Council; comprehensive monitoring of species and habitats; and effective communication between partners, landowners and the general public.

1.6.2 Bracknell Forest Parks and Open Spaces Strategy

The Bracknell Forest Parks and Open Spaces Strategy (BFPOSS) deals with the provision, management and future development of parks and open spaces across the Borough, including sites managed by the Borough Council and by Town and Parish Councils. The BFPOSS considers both the quantity and quality of parks and open spaces in the Borough, and provides strategic direction for future management and development of these spaces.

1.6.3 The Bracknell Forest Rights of Way Improvement Plan)

The Bracknell Forest Rights of Way Improvement plan (ROWIP) is a 10-year strategic document covering the entire borough, and sets out how Bracknell Forest Borough Council as the Highway Authority intend to improve the management, provision and promotion of our rights of way network.

Our Vision is to provide a public rights of way network:

- on which up-to-date information is readily available by a variety of means;
- that is physically accessible for all where practicable;
- which meets the needs of a wide variety of users for both recreation and access.

The Countryside and Rights of Way Act 2000 requires that all local authorities must produce a ROWIP and review these within 10 years. Our mid-term review examines how well targets and actions are being achieved half way through the 10-year period and re-evaluates the existing agreed priorities for the remainder of the plan.

1.6.4 **Waste Local Plan for Berkshire**

The Waste Local Plan for Berkshire was prepared under the Town and Country Planning Act 1990 and adopted following a public inquiry that took place in 1995/96. It provides:

- A framework for the development and use of land for waste management facilities consistent with the objectives and policies of the Waste Management Strategy and with national, regional and local planning policies.
- A selection of identified sites to ensure that enough sites are available to accommodate the facilities required to put the Waste Management Plan into effect.
- A detailed policy framework for deciding individual planning applications.
- A framework that aims to minimise the harm to the environment caused by the development of waste management facilities.

The Waste Management Strategy for Berkshire is based on waste minimisation, re-use and recycling, and was prepared alongside the Waste Local Plan.

1.6.5 **Berkshire Structure Plan**

The Structure Plan contains land use planning policies, which give a countywide framework for managing development locally. The Plan reflects Government and regional requirements and policies, including providing enough land for new housing in Berkshire. This framework is used by local Authorities when they prepare their Local Plans – the detailed plans used to manage development in an area.

The Berkshire Structure Plan runs from 2001 to 2016 and protects large areas of Berkshire from development, and contains policies on the environment, housing, business, transport, recreation and minerals. It also contains 6 waste policies on the following topics:

- Balancing the need for waste disposal with other interests
- Minimising and recycling waste
- Phasing out landfill
- Assessing proposals for waste management and land-filling
- Control of waste disposal by land-raising

1.6.6 **Bracknell Forest Borough Local Plan**

The Bracknell Forest Borough Council Local plan is prepared in the framework of national and regional planning advice, and the strategy statement of the Structure Plan. It seeks to enable development to take place whilst minimising its effect on the environment, and provides the opportunity to translate the principles of sustainability into practice at the local level. The local plan has its own strategy to guide land use policies and proposals, and thereby development in the Borough. The Local Plan was adopted in January 2002. The Council needs to review the Plan to ensure that it remains up to date

1.6.7 **Bracknell Forest Borough Council Core Strategy**

The Bracknell Forest Borough Council Core Strategy is a development plan document that sets out the broad locations for delivering housing and other major development needs in the Borough such as employment, retail and transport. It does not deal with site-specific issues. Every other planning document will build on the principles it sets out.

1.7 Interaction with Other Regulatory Regimes

In the fulfilment of its many functions, the Council also deals with contaminated land using other regulatory actions as detailed within sections 1.7.1 to 1.7.4 below.

1.7.1 Town and Country Planning Act 1990

In its function as the Local Planning Authority, the Council must consider the implications of land contamination in the development of its Local and Structural Plans. Furthermore, it is a material consideration in the determination of individual development applications submitted for planning permission. Many contaminated sites have already been dealt with through the application of planning controls during redevelopment. It is anticipated that the redevelopment of brownfield sites and derelict land within Bracknell Forest will continue to remain the primary mechanism for dealing with contaminated land. Any remediation agreed as a planning condition will be dealt with under planning controls and not under Part IIA of the Environmental Protection Act 1990.

Within the Environment, Culture and Communities Department, the section roles have developed a working relationship to ensure that where redevelopment of land takes place within the Borough, the planning process deals effectively with any contamination so that the land is suitable for its intended use.

1.7.2 Environmental Permitting

Site operators of industrial processes regulated under the IPPC regime are required to carry out a site survey to ascertain the baseline conditions of the land before being granted an operator's licence. Should the operator cause contamination of the site by breaching the conditions of his licence, the operator is required to remediate the land so that it is returned to its original baseline condition. This regime is enforced by the Environment Agency for A1 processes and the Borough Council for A2 processes. This Borough currently has no A2 processes and only one A1 process.

1.7.3 Waste Management Licensing

Where contamination of land has been caused through waste disposal activities and resulted from a breach of an operating licence, the Council cannot seek the remediation of that land by the service of a Remediation Notice. However, powers are available under the Waste Management Licensing Provisions of the Environmental Protection Act 1990 for dealing with the contamination of that land.

1.7.4 Water Pollution

Section 161 of the Water Resources Act 1991 gives the Environment Agency powers to take action to prevent or remedy the pollution of controlled waters. There is considerable overlap between the Water Resources Act and Part IIA in respect of dealing with contaminated land that has the potential to pollute controlled waters. However, it has been determined that where contaminated land is causing or has the potential to pollute controlled waters then remediation will be brought about under Part IIA by the Council, through consultation with the Environment Agency.

Where there is historical pollution of groundwater, but where Part IIA does not apply, remediation will be carried out by the Environment Agency under the Water Resources Act. This may occur, for example, where the pollutants are entirely contained within the relevant body of groundwater or where the 'source' site cannot be identified.

2 CONTAMINATED LAND – THE LEGAL FRAMEWORK

Widespread land contamination is a legacy of the United Kingdom's early industrialisation. Land contamination in Britain is estimated to account for up to 200,000 hectares of land (equivalent to a city larger than Greater London). For the last 20 years, a methodology of dealing with this legacy has been sought so that inner city and urban areas can be brought back into beneficial use, thereby enabling the regeneration of land and communities, whilst simultaneously relieving the pressure to build on 'greenfield land'.

After extensive consultation, on 1 April 2000, the contaminated land regime under Part IIA of the Environmental Protection Act 1990 came into force. The regime made provision for ensuring the remediation of historically contaminated land by imposing retrospective liability for historical contamination of land. It is intended that Part IIA complements the planning regime in that contaminated land can still be dealt with by the use of planning conditions as part of the redevelopment process. However, Part IIA now allows local authorities and the Environment Agency to deal proactively with land that is not actively undergoing redevelopment, but is posing unacceptable risks to humans, controlled waters or the wider environment. This legislation is consistent with the 'Polluter Pays Principle' in that it seeks to place the cost burden of dealing with contamination on the polluter where they can be found, or the landowner/occupier where the polluter no longer exists.

Until Part IIA came into force, the public health implications of contaminated land were covered by Statutory Nuisance legislation. Historically these nuisance provisions originate from Public Health Acts ranging back to the 19th century, but are today contained within the Environmental Protection Act 1990. Section 79 of this Act introduced the definitions of nuisance. Statutory nuisance provisions place a duty on local authorities to inspect their area, from time to time, to identify any nuisances and to investigate any complaints of nuisance. Where the local authority is satisfied that a nuisance exists, or is likely to occur or reoccur, it must serve an Abatement Notice requiring that action be taken to remedy the nuisance. Where the notice is not complied with the authority can take action itself and institute 'works in default' to abate the nuisance, and then seek to recover its costs from the responsible person or persons. The contaminated land provisions of the Part IIA regime are modelled on the existing statutory nuisance provisions of the Environmental Protection Act 1990.

2.1 Underlying principles and objectives of the regime

The principal objective of the regime is to provide an improved system for the identification and remediation of land where contamination is causing unacceptable risks to human health, or the environment, assessed in the context of the current use and circumstances of the land. Other objectives include:

- To ensure urgent and real problems are dealt with first, but in an orderly and controlled fashion in which the economy at large, individual businesses and landowners can cope with.
- To ensure that the procedure of risk assessment is used to determine if land is categorised as 'contaminated', as defined by the Act.
- To ensure that the 'suitable for use' approach is taken, such that remediation of land is carried out to a standard where contamination no longer poses unacceptable risks to human health or the environment, taking into account the use of the land and its environmental setting.
- To return contaminated land to beneficial use.

- To prevent or minimise further contamination through enforcement of existing statutory provisions which include: Parts I and II of the Environmental Protection Act 1990; the new Pollution Prevention and Control (England) Regulation 1999; and the Town and Country Planning Act 1990; the Water Resources Act 1991.
- To ensure that the 'Polluter Pays Principle' is used in the determination of liability for remediation costs.
- To ensure that the process is reasonable, effective and transparent, ensuring that a strategic approach is taken in respect of dealing with the problems of land contamination.
- Provide a more tailored regulatory mechanism, including liability rules, better able to reflect the complexity and range of circumstances found on individual sites.
- Encourage voluntary remediation by site owners.

3 REGULATORY CONTEXT

3.1 Bracknell Forest Borough Council's Regulatory Role in Respect of Contaminated Land

Section 78 of the Environmental Protection Act 1990 (as amended) gives the Borough Council a series of duties. In carrying out these responsibilities the Council shall:

- Prepare, publish and adopt a formal written strategy setting out the approach the Council will use in identifying contaminated land within the area of Bracknell Forest. The strategy must be kept under periodic review.
- Cause the Borough of Bracknell Forest to be inspected in order to identify contaminated land, and to prepare reports on local contamination.
- Determine whether any particular site within the area of Bracknell Forest is contaminated land, as defined by the Act.
- Act as the enforcing authority for all contaminated land within the area of Bracknell Forest that is not designated a 'special site'.
- Establish who may be the appropriate person/s to bear responsibility for remediation of contaminated sites.
- After consultation with appropriate person/s and other statutory bodies and organisations as necessary, decide what remediation might be required in any individual case.
- Ensure that such remediation takes place, either through agreement with the appropriate person, or by serving a remediation notice if necessary, or carrying out the work themselves.
- Determine who should bear what proportion of the liability for meeting the costs of the work where a remediation notice is served, or where the authority itself carries out the work.
- Record information on a public register about their regulatory actions.

3.2 Regulatory Role of the Environment Agency

The Environment Agency has four principal roles with respect to contaminated land under Part IIA, namely:

- To assist the Council in identifying contaminated land, especially where water pollution is involved. To this effect, where the Council is of the opinion that a site may be contaminated, it will consult with the Environment Agency.
- To provide site-specific information and technical guidance.
- To act as the enforcing authority for land designated as a 'special sites'. Special sites are the most complex and dangerous contaminated sites. They include defence and nuclear sites, and some sites involving water pollution (e.g.: where drinking water is affected).
- Responsibility for enforcement on these sites belongs to the Environment Agency. The designation of contaminated land as a special site is made by the Council, or in cases of dispute, by the Secretary of State. Where the Council considers that any particular contaminated land might be a special site, the Council will seek the advice of the Environment Agency prior to designation.
- Designation as a special site can only take place after the Borough Council has formally identified the site as contaminated land, and if the site's contaminants match the descriptors detailed within regulations 2 and 3 of the Contaminated Land Regulations 2000. Also, see Glossary of Terms for further details.
- To periodically publish reports on contaminated land.

3.3 The Statutory Definition of 'Contaminated Land'

Section 78A(2) of the Environmental Protection Act 1990 gives the statutory definition of contaminated land as being:

"...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 significant possibility of such harm being caused; or
- (b) significant pollution of controlled waters is being or is likely to be caused.

In determining whether any land appears to be such land, the local authority shall act in accordance with guidance issued by the Secretary of State”.

3.4 The Statutory Definition of 'Harm'

'Harm' is defined by the Act as meaning "harm to the health of living organisms, or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property".

If there is no harm, land cannot be classified as being 'contaminated land' within the meaning of the Act, despite the presence of harmful matter. However, land can only be deemed 'contaminated' if the harm, or risk of harm to the non-aquatic environment “is significant”, or there “is a significant possibility of such harm being caused”. On the other hand, land is to be classified as 'contaminated' if there is a likelihood of it causing pollution to controlled waters, however small.

3.5 Amendments to Contaminated Land Regulations and Statutory Guidance 2012

DEFRA recently reviewed the contaminated land regime in England for the first time since its introduction in 2000. The purpose was to consider whether improvements could be made to the regime, taking into account the experience of nearly ten years of delivery and the latest scientific evidence. The review found the primary legislation (Part 2A of the Environmental Protection Act 1990) remained fit for purpose, and there was a strong need to keep it. However there were flaws in the accompanying Statutory Guidance which had undermined the effectiveness of the regime and created considerable regulatory uncertainty. Following on from this review a joint public consultation was conducted by DEFRA and the Welsh Assembly Government on proposals for changes to the contaminated land regime.

Following the review of the contaminated land regime in April 2012 including public consultation, revised Statutory Guidance has now been issued under Part 2A of the Environmental Protection Act 1990. This revised Statutory Guidance while still taking a precautionary approach, allows regulators to make quicker decisions about whether or not land is contaminated under Part 2A preventing costly remediation operations being undertaken unnecessarily. It also offers better protection against potential health impacts by concentrating on the sites where action is actually needed. A new four-category test has been developed to clarify when land does and does not need to be remediated. Ministers have argued that by reducing regulatory uncertainty, this policy aims to make the regime target higher risk land more efficiently. The changes will be supported by technical tools, which will be developed by the land contamination sector to increase consistency over time. The new guidance is available from the DEFRA website www.defra.gov.uk/publications/2012/04/10/pb13735contaminated-land/

3.6 The Principles of Pollutant Linkages

For land to be designated as statutory 'contaminated land', three criteria must be met. Namely, there must be an identified contaminant, an identified receptor that is likely to be harmed by the contaminant should the two come into contact, and a feasible pathway by which the two can connect. Together these three criteria form what is known as a 'significant pollutant linkage' (SPL), as shown in figure 1 below.



3.7 The Principles of Risk Assessment

To ensure that any potentially serious risks are not overlooked, and that available resources are effectively targeted on those sites most in need of action to reduce or control unacceptable risks to health and/or the environment, the Council will adopt a four stage approach in the identification of contaminated land within the Borough. The four stages of risk assessment are:

Hazard Identification – Identification of contaminant sources, pathways and receptors (pollutant linkages), taking into account the actual or intended use of the site and environmental setting.

Hazard Assessment – Consideration of the plausibility of pollutant linkages and determination of the potential for health and environmental risks.

Risk Estimation – Estimation of the risk(s) that the identified receptor(s) will suffer harm under defined conditions.

Risk Evaluation – Evaluation of the need for risk management action (i.e. risk reduction or control measures) having regard to the nature and scale of actual or anticipated risks, any uncertainties associated with the assessment process and where further action is required, the broad costs and benefits of that action.

The carrying out of these procedures will be assisted by reference to a wide range of published guidance documents. Key guidance documents for each phase of the above risk assessment procedures can be found referenced at Appendix 1.

3.8 Strategic Approach to Inspection

The statutory guidance requires that a strategic approach be taken in the identification of land that merits detailed individual study. In developing its strategic approach, Bracknell Forest Borough Council consulted with the Environment Agency and other appropriate public authorities.

The Council set out its approach as a written strategy, which it adopted and first published in July 2001. A copy of the strategy was sent to the Environment Agency. The strategic approach must:

- Be rational, ordered and efficient.
- Be proportionate to the seriousness of any actual or potential risk.
- Seek to ensure that the most pressing and serious problems are located first.
- Ensure that resources are concentrated on investigating in areas where the authority is most likely to identify contaminated land.

- Ensure that the local authority efficiently identifies requirements for the detailed inspection of particular areas of land.
- Take into account local circumstances of receptor types, geology, hydrogeology, available information on contamination, potentially contaminative industries, past redevelopment and remediation, interests of other regulatory authorities.

3.9 Powers of Entry

Section 108 and Schedule 18 of the Environment Act 1995 give the Council authority to enter land so that it may fulfil its duties in respect of contaminated land. Unless it is considered that the land may present an imminent risk of serious harm to human health, or pollution of the environment, or such that it may be a danger to life or health, at least seven days' written notice of the proposed entry will be given to the person seemingly in occupation of the land in question.

Where land is determined to be a 'special site', detailed investigation of that land will be carried out by the Environment Agency on behalf of the Council. As such, the Council will authorise a person nominated by the Environment Agency to exercise the above powers on its behalf.

3.10 Determination of Contaminated Land

Where land appears to meet the statutory definition of being 'contaminated land', the Council will prepare a written statement of the fact that the land is contaminated. The Guidance requires that information contained within the statement includes, by reference to other documentation if necessary:

- A description of the particular significant pollutant linkage, identifying all three components of pollutant, pathway and receptor.
- A summary of the evidence upon which the determination is based.
- A summary of the relevant assessment of this evidence.
- A summary of the way in which the authority considers that the requirements of the Guidance have been satisfied.

3.11 Identifying and Notifying Responsible Persons

For any land classified as being 'contaminated land', acting on the best information available at the time, the Council will, wherever possible, establish:

- Who is the 'owner' of the land?
- Who appears to be in occupation of all or part of the land?
- Who appears to be an 'appropriate person' to bear responsibility for any remediation action that might be necessary?

The Council will then give written notification to the above identified person(s), and the Environment Agency, that the land has been determined to be contaminated. The Council will also provide to the above identified person(s) and the Environment Agency, as appropriate, the following information:

- A copy of the written record of the determination made by the authority that the land appears to be 'contaminated land'.
- Information on the availability of site investigation reports, with copies of the full reports being available on request.
- An indication of the reason why particular person(s) appear to the authority to be 'appropriate person(s)'; and
- The names and addresses of other persons notified at the same time or

previously, indicating the capacity in which they were notified (e.g.: owner, or appropriate person).

- Information relating to the ‘tests of exclusion’ from, and ‘apportionment of liabilities. This information will enable those persons as identified above to know what information they need to provide to the Council, in order to make a case for their ‘exclusion’ from liability, or for a particular ‘apportionment’ of liability.

3.12 Liability of the Remediation of Contaminated Land

‘Liability’ as described within this strategy is the bearing of responsibility for any particular thing required to be done by way of remediating contaminated land. As such, liability for the remediation of contaminated land is generally aligned with the ‘appropriate person(s)’. In most instances the appropriate person is the person, or person(s), who knowingly caused or knowingly permitted the substance/s, by reason of which the land is considered to be ‘contaminated’. Such an appropriate person is classified as being a ‘class A’ person. Where after reasonable enquiry a ‘class A’ person/s cannot be found, then the owner or occupier of the contaminated land is liable for remediation, as a ‘class B’ person.

Once the Council has determined that a site is contaminated, and has specified what must be done by way of remediation, the Council will then determine who is liable for the remediation and what proportion they must contribute. In doing so, the Council will observe all relevant advice given in Statutory Guidance, which has established a complex structure for the apportionment of liability and cost.

3.13 Remediation and Remediation Notices

Unless remediation of contaminated land is required urgently (see section 7.0 of this document), the Borough Council will encourage the appropriate person/s to remediate contaminated land through voluntary means wherever possible.

However, where agreement cannot be reached, or where suitable remediation action is not being carried out, the Council will serve a remediation notice on the appropriate person(s). The notice will specify what is to be done to remediate the land, and the times by when the remedial measures must be completed. Where there are two or more appropriate persons, the remediation notice will state the proportion of costs which each of the persons are respectively liable to pay. The Council will determine the amount payable in respect of individual liabilities using procedures set down within the Statutory Guidance.

When specifying what must be done by way of remediation, the Council will require only those things that it considers to be reasonable, having regard to the cost likely to be involved, and the seriousness of the harm, or pollution of controlled waters being caused. In doing so, the Council will ensure that a transparent and consistent assessment of the costs and benefits of the available remediation options is carried out.

3.14 Appeals against the Remediation Notice

Section 78L(1) of the Act makes provision for appeal against a Remediation Notice. To appeal against the service of a Remediation Notice, the person served has 21 days from the first day of its service to appeal to the Magistrates’ Court. Where an appeal has been made, the Notice is suspended until the Court determines the outcome of the appeal, or the appeal is abandoned.

The Court may quash the Notice if there is a ‘material defect’ in it, or it may modify or

confirm the Notice. Appeals against remediation served by the Environment Agency in respect of 'special sites' are made to The Planning Inspectorate (for contact details see section 9).

3.15 Non-Compliance with Remediation Notice(s)

Unless there is a 'reasonable excuse', section 78M of the Act, makes it an offence for appropriate person(s) not to comply with the requirements of a Remediation Notice. Where a Remediation Notice is not complied with, where appropriate, the Borough Council will:

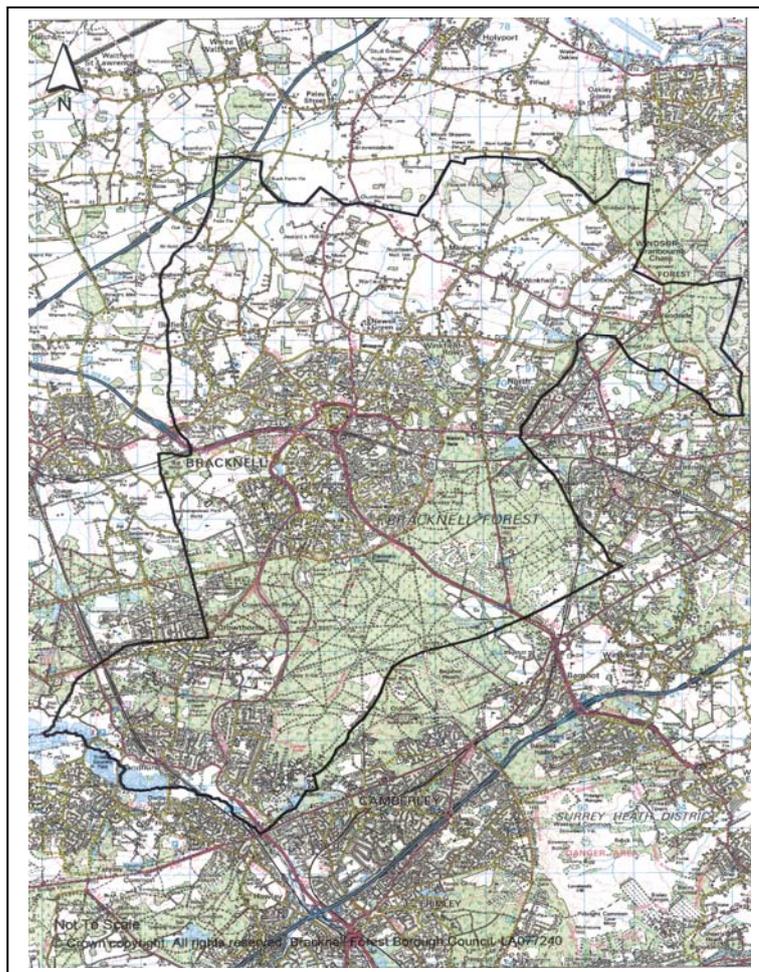
- Prosecute those served with the Notice - a person found guilty of the offence on summary conviction (i.e.: within the Magistrates' Court) is liable to a fine of up to £5,000, plus an additional fine of up to £500 for each day after conviction that the action is not carried out. Where the site is an industrial, trade or business premises, the fine may be up to £20,000, plus an additional fine of up to £2,000 per day. The Council may choose to take proceedings within the High Court if it is of the opinion that such measures are necessary to secure an effectual remedy; and
- Carry out the remediation action itself and recover the costs incurred in doing so (Sections 78N and 78P of the Act refers).

4 CHARACTERISTICS OF THE BOROUGH OF BRACKNELL FOREST

4.1 Geographical Location

The Borough of Bracknell Forest is located in the South East of England between Reading to the West and London to the East and is bound by the M3 to the South and M4 to the North. The Borough of Bracknell Forest covers an area of 10,941 hectares or 42.2 square miles.

Centred on NGR: SU 487 169.



4.2 Brief Description/ History

Today, a high proportion of forest-park, which supports a diverse range of wildlife and recreational activity, breaks up the townscape of Bracknell Forest.

The inhabitants of Bracknell Forest have historically exploited the natural resources of the area particularly for its brick-making materials (clay). In the mid 1800s to early 1900s the brick-making industry grew considerably with the Thomas Lawrence Brickworks becoming world famous.

4.3 Population Distribution

Based on the figures from the 2001 Census, Bracknell Forest has a total population of 109,617. The majority of the population live in Bracknell itself. The remainder live in the surrounding 5 towns and parishes:

Parish	Population
Binfield	7,820
Bracknell	52,240
Crowthorne	6,520
Sandhurst	21,700
Warfield	8,660
Winkfield	15,640

Numbers may not be exact due to rounding

4.4 Land owned by the Borough Council

The amount of land owned by Bracknell Forest Borough Council is 1,074 hectares (this figure is approximate and can change).

Within the above figure, Bracknell Forest Borough Council's manages 80 parks, recreation grounds, open spaces, play areas and nature reserves through its Countryside Service. This area of land totals approximately 500 hectares, amounting to 3.3% of the Borough area. Most of these sites are situated within the town and in the urban fringe.

The Countryside Service also has the responsibility for the administration and management of 48 miles of Public Rights of Way.

4.5 Current Land Use Characteristics

The main use of the land in the Borough, other than for residential use is for agriculture which is predominantly in the North of the Borough covering approximately 24%. In addition recreational open space including a high level of forestry covers about 20% of the Borough.

4.6 Protected Location

It is important to have protected locations identified in this document to ensure they are not at risk from a contaminative source. Some such protected sites may be found to be at increased risk of contamination which may in turn threaten the natural habitat or any number of endangered species residing on the land.

A large percentage of the Borough has been recognised as being of high wildlife value. In some cases, a form of designation protects the wildlife areas of the Borough.

Bracknell Forest boasts 80 Wildlife Heritage sites including 10 Sites of Special Scientific Interest (SSSIs), 3 local Nature Reserves and 5 sites listed on the Historic Parks and Gardens register. Seventeen of the 83 sites are owned and managed by BFBC, 7 are owned and managed by the Crown Estate, MOD or Forestry Commission and 59 are privately owned. The number of Wildlife Heritage sites varies from time to time meaning the number on the register will change.

4.7 Key Property Types

Bracknell Forest, although known as a new town, has a number of listed buildings, Ancient Monuments and Conservation Areas, in addition to having a number of areas of archaeological interest.

4.8 Key Water Resource/Protection Issues

South-East Water supplies the majority of the Borough's drinking water and approximately 5% are supplied by Three Valleys. Water supplies for much of the Borough are abstracted from ground sources via boreholes at Hurley with the remaining being abstracted from the River Thames and stored in the large reservoirs around Staines.

4.9 Known Information on Contamination

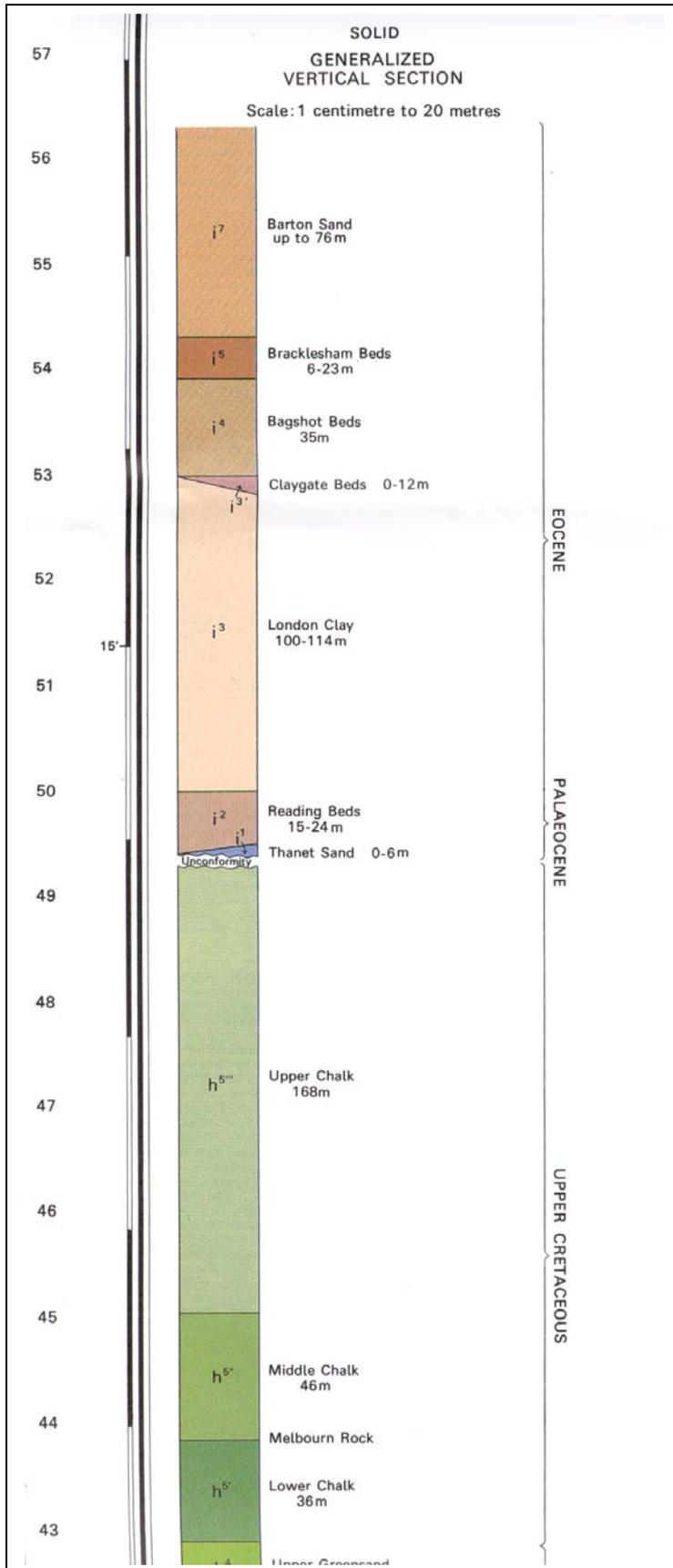
The Council holds some information on land contamination in the Borough primarily submitted as part of the development control process. The Council has also purchased data regarding potentially contaminated sites.

4.10 Current and Past Industrial History

The Borough of Bracknell Forest is not rich in raw materials such as coal, iron ore etc; thus there is little heavy industry apparent in the historical make up of the Town. Today the current employment activity is generally in the high technology field. However, Bracknell Forest has been home in the past to a number of industries whose processes have the potential to contaminate land. These include:

- Breweries
- Brickworks
- Chemical works
- Gasworks
- Landfills
- Metal finishers
- Paper and printing works
- Petrol stations
- Scrap yards
- Sewage works and sewage sludge treatment

4.11 Broad Geological Characteristics



There is a change in the geology from north to south across the Borough. The north of the Borough is predominantly London Clay. As you move towards the south of the Borough; Barton Sands, Bracklesham Beds and Bagshot Beds become more dominant. There are out crops of plateau gravel, which covers the high ground around Bagshot and Crowthorne.

Soil is the upper layer of the ground consisting of weathered rock that supplies mineral particles, together with humus. The soil layer rests on a base layer of London Clay and/or the Barton/Bagshot/Bracklesham Beds.

The diagram to the left shows how various soils have been deposited.

4.12 Broad Hydro-Geological Characteristics

The hydrogeology of the Borough is greatly affected by the geology. The North of the Borough is a non-aquifer meaning it is negligibly permeable and has formations that are generally regarded as containing insignificant quantities of groundwater. However groundwater flows through such rocks, although mostly impermeable, does take place and needs to be considered in assessing the risk associated with some pollutants.

The remainder of the Borough falls into a minor aquifer category meaning it is variably permeable. This includes the areas covered by geological strata known as the Barton Beds, Bracklesham Beds, Bagshot Beds, Reading Beds, alluvium and Gravel deposits. These minor aquifers will seldom produce large quantities of water for abstraction although they are important for local supplies and in the supplying of base flow to the two rivers that run through the Borough of Bracknell Forest. The Cut runs through the north of the Borough and the Blackwater River forms the Borough's southern boundary.

The extreme north of the Borough is covered by a source protection zone where the catchment of a borehole on the Boundary draws on the ground water reserves of the Borough. This area encroaches on the Chalk Aquifer of the Thames region. Chalk is the most important aquifer for the Berkshire area. Within Bracknell Forest the Chalk is confined by the London Clay formation (a non-aquifer) which acts as a protective layer as London Clay has low permeability.

Bracknell Forest has areas of High Leaching potential. This is where areas of the Borough, particularly the south, straddle gravels, sands and other alluvium deposits. High leaching potential means that soils can transmit a wide range of pollutants. The Borough is also home to soils that readily transmit liquid discharges because they are shallow or susceptible to rapid by-pass flow directly to rock, gravel or ground water. The north of the Borough has the ability to attenuate absorbed pollutants due to its clay structure.

4.13 Specific Local Features

The Bagshot Beds that cover much of the Borough are naturally acidic, therefore the water likely to be held by the Bagshot Beds may have the potential to enhance solubility and migration of certain pollutants.

4.14 Development History

In 1949 Bracknell and its surrounding area was designated as one of eight new towns to be built within a 30-mile radius of London. Bracknell has expanded rapidly since the 1960s and the development and enhancement of Bracknell Forest is still under way today.

5 PROCEDURES

5.1 Internal Management Arrangements for Inspection and Identification

The Director of the Environment, Culture and Communities Department has responsibility for the implementation of Part IIA of the Environmental Protection Act 1990. The Environmental Protection team, as a sub-section of the Department, carries out the implementation.

The designated lead officer for Contaminated Land co-ordinates the routine implementation of the strategy and reports to the Environmental Protection Team Manager.

Should remedial works need to be carried out on sites identified as being contaminated, suitably qualified environmental consulting agents may be appointed to work in conjunction with the designated case officers.

5.2 Local Authority Interests in Land

Bracknell Forest Borough Council has had many interests in land and property over time. This land is, or has been owned or controlled by various departments throughout the Council. Such departments include Social Care and Learning and Environment, Culture and Communities. In respect of their potential liabilities, the Council will consider all:

- Sites that are or have been owned by the Council;
- Sites that are or have been occupied by the Council;
- Sites that it may own or occupy in the future.

To facilitate managing any Council owned, occupied or controlled land found to be contaminated, and to action the procedures in the event of land determined as being contaminated, an internal team will be set up. Named team members will be drawn from various departments throughout the Council, fulfilling the necessary skills and experiences required by the Council to satisfactorily resolve the situation. Where appropriate, the services of a contaminated land consultant will be sought to assist the Council in the remediation of the identified site.

Where land is determined to be 'contaminated land' by the Environment, Culture and Communities Department (Environmental Health Section) and is found to be owned, occupied, or controlled by the Council, the Director of the Department having control over that land will be immediately informed.

5.3 Evaluation of Information

The detection of contaminated land involves the identification of potential sources, pathways and receptors for contamination, through the study of historical land use and other environmental information that often dates back to the middle of the 19th century. The risk a contaminant represents on a site is dependent upon the use of the land. This is because the use determines who and what may be at risk, and the routes by which they may become exposed. Therefore, information identified within this section will be evaluated to:

- (i) Determine the potential presence of contaminants, receptors and pathways.
- (ii) Assess the significance of any contamination sources, the receptor(s), and the linking pathway(s) between them.
- (iii) Assess the significance of any actual harm or pollution of controlled waters.
- (iv) The effectiveness of previous remedial action or regimes in preventing or dealing with contamination.
- (v) Identify gaps in information and how these are to be remedied.
- (vi) Identify sites that may be classified as 'Special Sites'.

5.3.1 Information held by the Council

May 1999 and June 2000, Survey of Borough

In May 1999 and June 2000, a survey was carried out by Babi and Lawgibb respectively to identify sites within, and up to 250m beyond, the boundary of Bracknell Forest Borough Council that may be contaminated due to past or present land use. The survey identified some 2,500 potentially contaminated sites within the Borough, a summary of this survey can be found at section 4.10 of this document. Information sources referenced within the survey included:

Ordnance Survey maps (1870-2000)

1870 - County Series - 25 inch
 1899 - County Series - 25 inch
 1912 - County Series - 25 inch
 1933 - County Series - 25 inch
 1939 - County Series - 25 inch
 1960 - National Grid Series - 1:2500
 1970 - National Grid Series - 1:2500
 1980 - National Grid Series - 1:2500
 1990 - National Grid Series - 1:2500

Trade directories (1883-2000)

Trade directories typically detail the names and addresses of individuals and trades. They were used within the survey to infer the processes taking place at sites/premises marked on maps as '*Works-use*' (i.e.: unknown use). This was done by comparing the given addresses of industries with the streets in which grid references fell. Dates that companies were in operation, according to trade directories, were compared to the dates which sites had been identified on the maps as being in existence. (This process of inference has limitations as some of the companies may have erroneously been omitted from or incorrectly recorded in the trade directories.) In some instances it has not been possible to match an unknown site use.

Other information

Various departments within the Council hold a variety of information relevant to the identification of contaminated land. In addition, the Environment Agency has submitted information held by them to the Council. Such information includes:

- Aquifer locations and characteristics
- Surface and ground water quality
- Surface and groundwater resources – including pollution incidents
- Abstraction licences
- Location and type of discharge consents and ground water regulations

- Location (current and historic) of Integrated Pollution Control authorised sites including brief details on authorised processes/substances
- Location of licensed nuclear sites and sites where radioactive substances are regulated
- Location of closed landfill sites and waste management licensed sites – including brief details on types of waste deposited/waste management activity
- Listed buildings and archaeological sites and buildings
- Historical information relating to site investigation reports and remediation actions undertaken on land which has been subject to ‘Development Control’
- Derelict land
- Allotments
- Schools and nurseries
- Playing fields and parks
- Various strategies and action plans held by the Council (e.g.: the Local Plan, the Minerals Local Plan, the Waste Management Plan, and the Biodiversity Action Plan)
- Heritage Land Statistics

5.3.2 Information obtained

- Geological Maps have been bought from the British Geological Society. These maps provide information relating to the solid and superficial geology underlying the Bracknell Forest area.
- Groundwater Vulnerability Maps (1:100,000 series) (West London Sheet 39) prepared by the Environment Agency.
- Information relating to ecology was obtained from English Nature and the Council’s own Environment, Culture and Communities Department.

5.4 Information and Complaints

5.4.1 Dealing with enquiries

Members of the public can make an enquiry as to the condition of any piece of land within the Borough in accordance with The Freedom of Information Regulations by contacting the councils Information Compliance Officer. Requests will be responded within 20 working days. The first day of the 20 is the first working day after the request was received, unless it is considered that a more urgent response is required.

5.4.2 Confidentiality

Whilst names and addresses will be requested from persons providing the Council with information about potentially contaminated sites, their identities will, as far as is practicable, remain confidential.

5.4.3 Dealing with anonymously provided information

The Environment, Culture and Communities Department uses its discretion when determining whether action will be taken in respect of anonymously provided information.

5.5 Information Management

Information used for the assessment of contaminated land is stored electronically using a geographical information system, and associated data management system designed

specifically to aid the compilation of a comprehensive database of all potentially contaminated sites. The data management system is also designed to allow the prioritisation of sites according to the potential risk they pose to various receptors. Some information will also be held in a paper format.

5.6 Assessment of Risk

Information on contaminants will be evaluated in the first instance using current government guidelines, or by use of prescribed risk assessment models.

5.6.1 SGVs

A set of soil guidelines values (SGVs) have been produced by DEFRA and the Environment Agency that gives acceptable levels of contaminants in soils depending on the land use (residential with gardens for example).

5.6.2 Risk Assessment for other substances

SGVs are not given for all substances; in such instances risk assessment will be made by reference to authoritative sources of information, and generic guidelines adopted by other countries. Where guidelines from other countries are referred to, it is important to bear in mind the significant differences in remediation standards that exist between the United Kingdom and other countries, and also what assumptions or reference standards may have been made or used in developing these standards. Bracknell Forest Borough Council have purchased data from WS Atkins that gives guideline values for some of the contaminants that have not yet had official guidelines published.

5.6.3 Risk assessment models

Whilst SGVs will be used in the first instance, to further define the risk, a risk assessment model will be used. CLEA will be the preferred option. However, other risk assessment models that adopt either deterministic or probabilistic methods of deriving the risk will also be considered.

5.6.4 Risk assessment for controlled waters

Where controlled waters are potential receptors in a particular pollutant linkage, then the advice of the Environment Agency will be sought. It is anticipated that risk assessments and remediation will be carried out in accordance with Environment Agency guidance as set out in "Methodology for the Derivation of Remedial Targets for Soil and Groundwater to Protect Water Resources" (EA. 1999) (see Appendix 2).

5.6.5 Potential Special Sites

As discussed in section 3.2, special sites are the most complex and hazardous contaminated sites. Where the Council considers that any particular contaminated land might be a special site, the Council will seek the advice of the Environment Agency. Once the Council has, in consultation with the Environment Agency, determined that a site is classified as a special site, it will give written notification of the fact to the Environment Agency; the owner of the land; any person who appears to be in occupation of all or part of the land; and each person who appears to be an appropriate person. The Environment Agency may also consider sites that should be designated as 'Special Sites', should it so determine that a site be designated a 'Special Site', it must notify the Council of this fact. If the Council disagrees with the Environment Agency, the Secretary of State will designate the site as appropriate.

5.6.6 The Historic Environment

English Heritage is the Government's statutory adviser on all aspect of the historic environment, including historic buildings and areas, archaeology and the historic landscape. English Heritage has a duty to promote public understanding and enjoyment of these.

The statutory guidance for contaminated land identifies scheduled ancient monuments as one of the receptors that could be subject to harm by contaminated land. In carrying out its duty to identify contaminated land, the Council will consult with the Sites and Monuments Records Office to identify all known archaeological sites, including scheduled ancient monuments. Furthermore, where the Council determines an archaeological site to be contaminated it will consult with the County's Archaeological Curator.

5.7 Funding for Contaminated Land Remediation

DEFRA runs the Contaminated Land Capital Projects Programme to help local authorities in England cover the cost of implementing contaminated land legislation.

The Programme helps local authorities fund intrusive investigation projects on land which is potentially *contaminated*, and remediation projects on sites which are *contaminated*. Money paid under the Programme is for capital expenditure. The Programme exists primarily to help authorities carry out duties under contaminated land legislation (Part 2A of the Environmental Protection Act 1990).

Credit approval may be available for two categories of works:

- a) Intrusive Investigations – site inspections and risk assessments involving 'intrusive investigations' carried out for the purpose of deciding whether any land falls within the definition of 'contaminated land'; and
- b) Remediation – works carried out on contaminated land which meets the definition of 'remediation' as defined within the Act. Such works can include:
 - "assessment actions" such as detailed investigations carried out for site characterisation purposes;
 - "remedial treatment actions" intended to remove or manage risks caused by contamination; and
 - "monitoring actions" intended to keep the condition of any contaminated land that has been remediated under review.

Further details on the "Contaminated Land Capital Grants Programme can be found at <http://www.defra.gov.uk/environment/quality/land>

6 GENERAL LIAISON AND COMMUNICATION STRATEGIES

6.1 External Consultation in Respect of Land Determined to be Contaminated Land

The Council recognises that decisions made about contaminated land involve not just regulatory issues for the protection of human health and the environment, but involve considerations that are of a commercial, financial, legal and societal nature. As such, it is the Council's full intention to deal with all issues relating to contaminated land in an appropriately open and consistent manner. To achieve this, it will operate an open communication strategy, whereby it will consult with and keep informed those stakeholders and interested parties who may be affected by a contaminated site. Such stakeholders and interested parties may include:

- Owners and occupiers of the land designated as being contaminated
- Appropriate person(s)
- The Environment Agency
- Thames Water (where potential pollution linkage includes a public water supply source as a receptor)
- Other statutory bodies such as appropriate, any one or more of these may be consulted where, for example, the site in question may be contaminated by an 'ecological system effect', 'animal or crop effect', etc (see Appendix 2, Table A). Contact details of these organisations can be found at section 11 of this document.
 - Department of Environment, Food and Rural Affairs
 - The Food Standards Agency
 - English Nature
 - English Heritage
- The local community and pressure groups where appropriate
- Town and Parish Councils
- Ward Members

The policy the Council will adopt is to be based upon that outlined within the Environment Agency's R&D Technical Report P142 entitled "Communicating Understanding of Contaminated Land Risks (1999) "developed in partnership with SNIFFER. This has now been updated in May 2010, document reference UKLQ13. This guidance enhances and updates the previous SNIFFER publication.

7 REVIEW MECHANISMS

On occasions, it may be necessary to review and update any assumptions made, and any information previously used to assess potential problems in different areas, and managing new information.

7.1 Triggers for Reviewing Inspections and Inspection Decisions

It may be necessary to carry out inspections in respect of potentially contaminated land outside the general strategic framework. Additionally, in certain circumstances it may be necessary to review routine inspection findings in respect of sites as appropriate. The following circumstances may act as triggers for both of these inspection reviews:

- Proposed changes in the use of surrounding land.
- Unplanned changes in the use of land (e.g.: persistent, unauthorised use of land by children).
- Unplanned events (e.g.: localised flooding/landslides; accidents/fires/chemical spillage where consequences cannot be addressed through other relevant environmental protection legislation).
- Reports of localised health effects that appear to relate to a particular area of land.
- Verifiable reports of unusual or abnormal site conditions received from business, members of the public, or voluntary organisations.
- Responding to information from other statutory bodies.
- Responding to information from owners or occupiers of land, and other relevant interested parties.

7.2 Review of the Inspection Strategy

The strategy is regularly reviewed to ensure that it is effectively meeting all of its objectives. It may be necessary for the strategy to be reviewed sooner than the programmed annual review. Such action may be triggered by, for example, the introduction or amendment to legislation or the development of new knowledge. The Head of Environmental health undertakes the review of the strategy.

7.3 Audit of Inspection Procedures

The Council, through the Head of Regulatory Services and the designated lead officer for Contaminated Land, will conduct regular audits of the procedures for the identification and inspection of Contaminated Land. The audit will look to ensure that the procedures are effective in meeting the legal requirements of the contaminated land regime, whilst at the same time constituting the most effective use of resources. Where an audit identifies a shortfall in the strategies ability to meet any of its aims, for whatever reason, the strategy will be subsequently reviewed and the procedures altered to overcome the identified shortfall.

8 INFORMATION MANAGEMENT AND ADMINISTRATION

Most information held in respect of contaminated land may be subject to the controls under the Environmental Information Regulations 1992 (SI 1992/3240 as amended). In such instances the Council will provide such information when requested to do so. Currently all information requests are dealt with through the Freedom of Information Regulations. The Council may make a reasonable charge in respect of the costs involved in providing such information.

8.1 Public Registers

So as to provide a permanent record, and to make information readily available to the public and to those with an interest in land, the Council maintains a register of all regulatory action in respect of the remediation of contaminated land. The register includes specified details about the condition of the land, and the remediation actions carried out. Specifically, Schedule 3 of the Environmental Information Regulations requires information to be kept on the register in respect of:

- Remediation notices
- Appeals against remediation notices
- Remediation declarations
- Remediation statements
- Appeals against charging notices
- Designation of special sites
- Notification of claimed remediation
- Convictions for offences under section 78M of the Act
- Guidance issued under section 78V(1) of the Act
- Other matters prescribed by Regulations

The public register may be viewed Monday to Friday during normal office hours at:

Environment, Culture and Communities Department
Bracknell Forest Borough Council
Time Square
Market Street
Bracknell
Berkshire
RG12 1JD

Tel: 01344 352000

There is no charge for accessing the public register. However, the photocopying of

8.2 Disclosure of Environmental Information

From time to time, the Council may be asked to provide information to interested parties (e.g.: in connection with property purchases) it has gathered about areas of land. Such requests for information are subject to the controls of the Environmental Information Regulations 1992 (SI 1992/3240 as amended).

The Environmental Information Regulations 1992 (as amended) place a duty on all public authorities with responsibilities for the environment to make available to anyone

on request, the environmental information (as defined by note 2 of the Environmental Information Regulations) that body holds. Where a request for information in respect of contaminated land is made to the Council, procedures as laid down within Public Environmental Services Practice Note G4 (Disclosure of Environmental Information) will be followed.

Such requests are currently dealt with through the Freedom of Information Request Regulations.

In providing such information, the Council may make a reasonable charge in respect of the costs involved.

8.3 Provision of Information to Other Council Departments

Information held within the contaminated land database will be made available to departments throughout the Council on request. The information will then be released subject to the reason for the request, and the intended use of the information.

8.4 Provision of information to the Environment Agency

The Environment Agency is charged with the responsibility of preparing and publishing a report on the state of contaminated land in England and Wales; that is on the nature, extent, and distribution of contaminated land, the level of remediation, and regulatory activity taken under Part IIA. To facilitate the Environment Agency in this activity, all local authorities within England and Wales are to provide the Environment Agency with the information necessary to produce the report.

The Council will provide the following requested information, in the agreed suggested formats, to the Environment Agency:

- A copy of Bracknell Forest Borough Council's Contaminated Land Inspection Strategy.
- Information on each site determined as contaminated land.
- Information on remediation activity for each site determined as being contaminated land. Information is to include details of remediation notices, and details of the remediation statement or declaration; and
- Information on all regulatory activity at the end of each financial year.

9 CONTACT POINTS

9.1 Contact Points within Bracknell Forest Borough Council

Environmental Protection Team Manager
Environment , Culture and Communities Department
Bracknell Forest Borough Council
Time Square
Market Street
Bracknell
Berkshire
RG12 1JD
Tel: 01344 352000
Fax: 01344 351190

E-mail: environmental.health@bracknell-forest.gov.uk

9.2 Other Relevant Contacts

The Environment Agency
South East Regional Office
Kings Meadow House
Kings Meadow Road
Reading
RG1 8DQ

Tel: 0370 8506506

English Heritage
Eastgate Court
195-205 High Street
Guildford
Surrey
GU1 3EH

Tel: 01483 252000

The Scheduled Ancient Monuments Records Office
The Babbie Group
School Green
Shinfield
Reading
Berkshire
RG2 9HL

Natural England
6th Floor
Northgate House
21-23 Valpy Street
Reading
RG1 1AR

Tel: 0845 600 3078

DEFRA
Information Resource
Centre Lower Ground Floor
Ergon House
c/o Nobel House
17 Smith Square
London

Tel: 08459 335577

SW1P 3JR
Thames Water
Environment and Quality
Gainsborough House (RBH2)
Manor Farm Road
Reading
RG2 0JN

Tel: 0118-959-3720/3302

The Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Tel: 0117-372-8000

The Food Standards Agency
Room 707C
Aviation House
125 Kingsway
London
WC2B 6NH

Tel: 0207-276-8726

REFERENCES AND BIBLIOGRAPHY

The following documents have been used in the preparation of this strategy document:

1	The Environmental Protection Act 1990
2	The Water Resources Act 1991
3	The Environment Act 1995
4	Environmental Protection, England, The Contaminated Land (England) Regulations 2000 (SI 2000 No 227)
5	The Contaminated Land (England) (Amendment) Regulations 2012
6	DETR, Circular 2/2000, Environmental Protection Act 1990: Part IIA – Contaminated Land
7	DETR, Contaminated Land Inspection Strategies: Technical Advice for Local Authorities (Draft for comment: April 2000)
8	Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance
9	Interdepartmental Committee on Redevelopment of Contaminated Land (ICRCL), 1987, <i>Guidance on the assessment and redevelopment of contaminated land (59/83)</i> , 2 nd Edition
10	SNIFFER, 1999, Communicating Understanding of Contaminated Land Risks, Environment Agency R&D report P142
11	Environment Agency, Policy and Practice for the Protection of Groundwater: Thames Region
12	Municipal Year Book (pg 436)
13	Bracknell Forest Borough Council, Countryside & Heritage, June 2000
14	Bracknell Forest Borough Council in conjunction with BBONT, A Review of Wildlife in Bracknell Forest Borough, March 1998
15	Bracknell Forest Borough Council, Official Guide, designed by Paul King of the British Publishing Company 1999
16	London Research Centre, Population in Berkshire 1999, Review: Joint Strategic Planning
17	Natural Environment Research Council, British Geological Society, Geology of the Windsor and Bracknell District, 1999
18	Contaminated Land Supplementary Credit Approvals 2001-02 – A Guide for English Local Authorities, DEFRA, 2001

APPENDIX 1

Risk Assessment - Guidance Documents

Published Sources of Technical Guidance

DoE, 1994, A framework for assessing the impacts of contaminated land on groundwater and surface water (CLR.1)

DoE, 1994, Guidance on preliminary site inspection of contaminated land, (CLR.2)

DoE, 1994, Documentary research on industrial sites, (CLR.3)

DoE, 1994, Sampling strategies for contaminated land, (CLR.4)

DoE, 1994, Information systems for land contamination, (CLR.5)

DoE, 1994, Prioritisation and categorisation procedure for sites that may be contaminated (CLR.6.)

DoE, (various dates), *Industrial Profiles*, BRE

MAFF, 1998, *The Code of Good Agricultural Practice for the Protection of Soil*, London, UK

Sources of Technical Guidance

DEFRA, Assessment of Risks to Human Health from Land contamination: An Overview of the Development of Soil Guideline Values and Related Research (CLR.7)

DEFRA, Potential contaminants for the assessment of land (CLR.8)

DEFRA, Contaminants in soils: Collation of toxicological data and intake values for humans. Consolidated main report, (CLR.9)

DEFRA, Contaminants in soils: Collation of toxicological data and intake values for humans [Various substances]. (CLR.9 TOX series)

DEFRA, The Contaminated Land Exposure Assessment Model (CLEA); technical basis and algorithms, (CLR.10)

DEFRA, Guideline values for (various substances) contamination in soils, (CLR10 SGV series)

Sources of Procedural Guidance

DEFRA, Model procedures for the management of contaminated land: Introduction and overview, (CLR.11)

DEFRA, Model procedure for risk assessment, (CLR.11 MP1)

DEFRA, Model procedure for evaluation and selection of remedial measures, (CLR.11 MP2)

DEFRA, Model procedure for risk management action, (CLR.11 MP3)

DEFRA, 1997, A quality approach for contaminated land consultancy, (CLR.12)

Environment Agency, 1996, A methodology to derive groundwater clean-up standards, (R&D Technical Report 12)

Environment Agency, 1996, A methodology to determine the degree of soils clean-up required to protect water resources, (R&D Technical Report 13)

Environment Agency, 1999, Methodology for the Derivation of Remedial Targets for Soil and Groundwater to protect water resources, (R&D Technical Report 20)

APPENDIX 2

THE ENVIRONMENT AGENCY'S STRATEGY FOR CONTAMINATED LAND

Groundwater and Contaminated Land Issues

Land Quality Part IIA Documents

The Part IIA process documentation sets out, within the Agency's Integrated Management System (IMS), how the Agency intends to carry out its responsibilities under Part IIA of the Environmental Protection Act 1990, which came into force in England on 1 April 2000.

Users of the Part IIA process documentation should first refer to the Part IIA Process Handbook to obtain a clear understanding of the activities involved in the Part IIA regime, and with which Agency officer responsibility for particular tasks lies. The Procedures support the individual activities, and provide detailed step-by-step guidance on the necessary tasks. Many of these tasks are similar to tasks carried out by Agency staff under other regulatory regimes; however, some are unique to the Part IIA regime and require detailed advice to ensure that they are completed appropriately. This detailed advice is provided in the Agency's Part IIA Standards. Other relevant advice is provided in Agency guidance documents and technical publications, and in authoritative technical material published by others including the Department of the Environment, Transport and the Regions.

Users are required to ensure that they refer to the current version of the process documentation at all times. When carrying out regulatory activities under the Part IIA regime, users will need to make reference to the primary legislation which is set out in section 57 of the Environment Act 1990, the Contaminated Land (England) Regulations 2000, and the Statutory Guidance.

INTRODUCTION TO PART IIA PROCESS DOCUMENTATION

Part IIA of the Environmental Protection Act (1990) [EPA], which is introduced by section 57 of the Environment Act 1995, requires an overall risk-based approach to dealing with contaminated sites, which is consistent with the general good practice approach to managing land contamination. The regulatory regime set out in Part IIA is based on the following activities:

- identify the problem-- assess the risks
- determine the appropriate remediation requirements
- consider the costs
- establish who should pay
- implementation and remediation

Part IIA provides a statutory definition of contaminated land that is applicable for sites in respect of their current condition and usage. Where a change in use of a site is planned, as for example where redevelopment is planned, any necessary remedial action would be carried out under planning and development control rather than under the Part IIA regime.

Enforcement action under Part IIA may also not be applicable where authorisations are in place under other legislation, such as Integrated Pollution Control (Part I EPA), the Waste Management Licensing regime (Part II EPA), or where other legislation such as that to prevent pollution of controlled waters is relevant. In addition to the primary legislation, the Part IIA regime is implemented through Regulations, and through Statutory Guidance that covers:

- local authority inspection strategies
- identification and designation of contaminated land
- remediation requirements
- exclusion from, and apportionment of liability
- cost recovery

APPENDIX 3

PRIORITY ACTIONS AND TIMESCALES

Action already taken to deal with land contamination

In the past land contamination issues have been tackled under the existing planning regime. Whenever development of a site is applied for, consideration of the implications of contamination either from the site in question or from neighbouring sites is undertaken. Remediation is carried out to satisfy imposed planning conditions intended to render the site 'suitable for its intended use'. To date no action to remediate contamination has been taken under 'statutory nuisance' legislation.

Prioritisation for the Inspection of Potentially Contaminated Land

To ensure that the requirements as detailed in section 3.8 of this document are met, the Council has adopted a risk-based approach to the prioritisation of potentially contaminated land that requires further detailed inspection in order to determine if it is to be designated as contaminated land. To aid this prioritisation process, and to ensure that a consistent approach is taken to the assignment of risk rating, the computer program CAPS is to be used. CAPS has been programmed to assess the source-pathway-receptor approach, with risk-based site prioritisation being centred upon:

- Contaminated Land Report No 6 (Prioritisation and Categorisation Procedure for Sites which may be contaminated)
- Guidance for the safe development on land affected by contamination (Environment Agency/NHBC) and
- Industrial Profiles

Overall, all potentially contaminated sites will be ranked in order of risk of harm to any of the sensitive receptors, such that the most pressing and serious problems are located first. The Council's priorities are:

- The protection of human health
- The protection of controlled waters
- The protection of designated ecosystems and
- The prevention of damage to property

Detailed Inspection of Potentially Contaminated Land

The prioritisation process and risk rating process has taken place and we are currently inspecting sites across the whole Borough. Sites will be inspected in order of priority, based upon the risk rating assigned by CAPS.

Where contaminated land sites are identified, they will be determined in accordance with statutory requirements. Sites which are found to be in a contaminative state, but do not constitute contaminated land, will only be inspected further if the status of the land changes; for example, new advances in technological knowledge determines that a substance within the land presents a risk to human health.

Urgent Remediation Action

If at anytime, the Council determines, or is advised by the Environment Agency, that there is an imminent danger of serious harm, or serious pollution of controlled waters being caused by an identified pollutant, urgent remedial action will be required. This situation may arise at any

stage in the procedure for dealing with contaminated land as new information becomes known. Such urgent action will be reasonable, and will therefore likely be only a part of the total remediation scheme eventually undertaken.

Where urgent action is required, the Council may secure remediation by serving a Remediation Notice immediately, bypassing the 3-month consultation period normally required. Moreover, if the Borough Council considers that serving a Remediation Notice will not resolve the problem soon enough, the Council will carry out the required remediation and recover its costs from the appropriate person(s).

APPENDIX 4

ACTION TO DATE

All areas of land determined as high risk priority have been assessed and none were found to be contaminated.

1813 number of sites have been assessed through desk studies and on site inspections (as of 31.03.12)

726 number of sites are requiring an assessment (as of 31.03.12)

The annual target for inspections is 450

Planning methods continue to be used to assess and deal with land contamination.