
Meeting Planning and Development Committee
Portfolio Area Environment and Performance
Date 23 May 2024

ADOPTION OF THE REVISED CONTAMINATED LAND INSPECTION STRATEGY

NON-KEY DECISION

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1 PURPOSE

1.1 To review and adopt the Council's revised Contaminated Land Inspection Strategy.

2 RECOMMENDATIONS

2.1 That the Planning and Development Committee approves the adoption of the Contaminated Land Inspection Strategy 2024-2029, having completed external statutory consultation.

3 BACKGROUND

3.1 Section 78B(1) of Part 2A of the Environmental Protection Act 1990 (EPA 1990) places a duty on local authorities to inspect their areas to identify contaminated land and confers regulatory powers to deliver against that duty.

3.2 Contaminated Land Statutory Guidance produced by the Department for Environment, Food and Rural Affairs (DEFRA) in 2012 sets out how local authorities should meet these duties, including the need to have a written

strategy setting out their strategic approach. The proposed Contaminated Land Inspection Strategy 2024-2029 attached at Appendix A is intended to meet this requirement and provides a brief overview of the contaminated land regime, its aims and objectives.

- 3.3 Any Part 2A inspection undertaken by the Council must be at its own expense and by its nature can consist of numerous phases under the supervision of environmental consultants.
- 3.4 Where contaminated land assessments conclude that there are unacceptable risks, as per Statutory Guidance, the Council must ensure these are addressed, typically through the completion of remedial works. Such works could comprise excavation of contaminated ground and sending to landfill, encapsulating the ground or cleaning the soil in situ.
- 3.5 Where no responsible party can be identified (e.g. landowner, developer, polluter), the cost may fall to the Council. Such costs have the potential to escalate to seven figure sums.
- 3.6 However, it is important to note that while Part 2A gives the Council powers to proactively deal with contaminated land, in almost all cases such land is assessed and dealt with through the development control system.

4 DISCUSSION

- 4.1 The refreshed draft strategy, was brought before this Committee on 7 December 2023 when, following due consideration, it was approved for release to statutory consultation. The consultation subsequently opened on 4 March and closed on 14 April 2024.
- 4.2 A total of four responses were received which are summarised in the paragraphs which follow below. Where agreed, the amendments and changes that have been suggested have been incorporated into the attached version of the draft strategy at Appendix A to this report.
- 4.3 SBC Development Management team provided updates on references in the document to the National Planning Policy Framework (NPPF) and the Local Plan.
- 4.4 The Environment Agency expressed support for elements of the Risk Prioritisation approach described in Section 6 of the strategy while providing some helpful operational information relating to local Source Protection Zones and Surface Water Safeguard Zones. Updates to legislative references were also suggested.
- 4.5 Hertfordshire County Council Planning (Minerals and Waste Policy) shared very detailed operational information about the location of historical landfill sites in the Borough but had no comment on the content of the draft strategy.
- 4.6 Hertfordshire County Council Public Health made a number of suggestions:
 - Updating the reference to the NPPF
 - A modification of the wording of SBC Local Plan Policy FP5 which is quoted in the draft strategy. As the Local Plan has been formally adopted the policy wording cannot be amended at this stage.

- The inclusion of additional risk criteria in the risk prioritisation methodology described in the strategy. Officers' view is that these concerns have been adequately addressed in Section 6.2. pages 12-13 of the strategy where table A accounts for industrial history, table B accounts for sensitive and less sensitive land uses and tables C and E account for geology and groundwater, table D accounts for other water resources and table G accounts for planning/development driven remediation.
- The identification of links between adverse health risks and specific industrial risks. Officers consider that this is impractical, given the range of potential activities (see pages 25-26 and 29-30 of the strategy) and the range of likely contaminants associated with each land use set against the range of potential health impacts associated with each contaminant. Describing specific examples of contamination in the suggested level of detail is beyond the scope and purpose of the strategy.
- Additional reference to the risks associated with the historic landfilling of waste. Waste disposal, including landfill is listed in Appendix 3 of the strategy and landfills are identified as being within the highest classification of probability of contamination in Table A on page 27 and page 12. In the opinion of officers this topic is already adequately addressed in the strategy.
- Inclusion of a reference to the economic and financial damage that land contamination can cause.

4.7 Having now completed external statutory consultation, members are asked to approve the adoption of the proposed Contaminated Land Inspection Strategy 2024-2029.

5 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

5.1 The Statutory Guidance directs that a local authority sets out its approach as a written strategy, which it should formally adopt and publish to a timescale to be set by the authority.

5.2 Further, the authority must keep its strategy under periodic review to ensure that it remains up to date. As good practice it should aim to review its strategy at least every five years.

6 IMPLICATIONS

Financial Implications

6.1 There are no direct financial implications arising from the policy or the report. The legislation already provides that in certain exceptional circumstances a situation might occur however where the responsibility for investigating or remediating a site could fall to the Council.

Legal Implications

- 6.2 The Council has a statutory duty to produce a Contaminated Land Inspection Strategy under Part 2A of the Environmental Protection Act 1990.

Risk Implications

- 6.3 Failure to adopt an up-to-date Contaminated Land Inspection Strategy exposes the authority to risk of challenge from landowners and developers as a result of lack of clarity in how the authority will discharge its inspection duty.

Policy Implications

- 6.4 The Contaminated Land Inspection Strategy will accord with and supplement policies in the adopted Stevenage Borough Local Plan (2019).

Planning Implications

- 6.5 The Contaminated Land Inspection Strategy will add to and complement the Development Plan for Stevenage and will be a material consideration for planning applications.

Environmental Implications

- 6.6 The Contaminated Land Inspection Strategy will assist in enabling the remediation of contaminated land to be effected in a sustainable manner, minimising the environmental impact of operations.

Climate Change implications

- 6.7 No direct implications.

Equalities and Diversity Implications

- 6.8 None.

Community Safety Implications

- 6.9 None.

BACKGROUND DOCUMENTS

- BD1 Environmental Protection Act 1990: Part 2A
- BD2 Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance; April 2012

APPENDICES

- A Draft Contaminated Land Inspection Strategy 2024-2029