

Contaminated Land Inspection Strategy 2018 - 2023

Environmental Health

August 2018

Ref: STEMS-03-ST1

Contents

Version Control	2
Approvals.....	2
Associated Documentation	2
Documentation location	2
1.0 Introduction and Regulatory Context.....	3
2.0 Local authority inspection duties	6
3.0 Determination and prioritisation methodology	9
4.0 Implementation, review, and links to sustainable development	11

Version Control

Version	Description of version	Effective Date
1	First revision	September 2018
2	Revision following internal EMS audit	8 Jan 2020

Approvals

Approved by	Date
Environment & Development Service Committee	27 th Sept 2018

Associated Documentation

Description of Documentation
Contaminated Land Inspection Strategy 2018 -2023 Appendix

Documentation location

Description of Documentation
S:\Health\Contaminated Land\Inspection Info\Strategy Documents\2018 Contaminated Land Strategy
https://www.south-derbys.gov.uk/our-services/environment/pollution/contaminated-land

1.0 Introduction and Regulatory Context

1.1 Introduction

The last 150 years has seen a massive growth in the UK's industrial sector. This has brought with it huge wealth and economic development, but also detrimental effects, which have manifested in recent years with an increase in land being identified as potentially contaminated. Land despoiled by contaminative uses such as gas works, old unlicensed landfill sites, foundries or tanneries, where high levels of heavy metals, phenols, solvents, acids, or alkalis may be found, is an unfortunate legacy of our industrial heritage.

It is not known how much land in the UK is contaminated; this can only be discovered through wide-ranging and detailed site investigation and risk assessment. The Government has therefore introduced legislation to identify and "clean up" contaminated land. Its objectives are:

- To identify and remove unacceptable risks to human health and the environment.
- To seek to ensure that contaminated land is made suitable for its current use.
- To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and economically sustainable.

These objectives underpin the "suitable for use" approach that has been adopted by the Government. This approach focuses on the risks caused by contaminated land, requiring action in cases where the contamination poses actual or potential unacceptable risks to health or the environment; and where there are appropriate and cost effective means available to carry out remedial action, taking into account the actual or intended use of the site. The suitable for use approach, taken together with tough action to prevent new contamination, and wider initiatives to promote the reclamation of previously developed land, will help to bring about progressive improvements in the condition of the land.

The purpose of this document is to outline the Council's updated strategy for implementing the Part 2A regime dealing with contaminated land in line with the current legal requirements.

1.2 Existing Legislation

Part 2A of the Environmental Protection Act 1990 – inserted into that Act by section 57 of the Environment Act 1995 – provides a regulatory scheme for the identification and remediation of contaminated land. The Act is supported with detailed regulations for its administration in the Contaminated Land (England) Regulations 2000 (as amended in 2012). Current guidance on fulfilling the requirements of the Part 2A regime is contained in April 2012's revision of Defra's Contaminated Land Statutory Guidance (the statutory guidance).

1.3 Regulatory Roles of Local Authorities and the Environment Agency

Local authorities (usually district, borough and unitary councils) have been given the primary regulatory role under the Part 2A regime, mainly because they have historically had responsibility for dealing with statutory nuisances caused by land contamination and other planning issues.

The Environment Agency has a secondary regulatory role in assisting local authorities, providing site-specific guidance, dealing with “special sites” and publishing periodic reports on the state of the land contamination nationally. The EA acts as the enforcing authority for special sites (a description of special sites is provided in Appendix A).

The primary objective of these responsibilities is to ensure that contaminated land can be brought back into beneficial use at reasonable cost with no unacceptable risk to human health or the environment.

Enforcing authorities should seek to use Part 2A only where no appropriate alternative solution exists. The Part 2A regime is one of several ways in which land contamination can be addressed. For example, land contamination can be addressed when land is developed (or redeveloped) under the planning system, during the building control process, or where action is taken independently by landowners. Other legislative regimes may also provide a means of dealing with land contamination issues, such as building regulations; the regimes for waste, water and environmental permitting; and the Environmental Damage (Prevention and Remediation) Regulations 2015.

1.4 What is Contaminated Land?

Part 2A of the 1990 Act defines “contaminated land”, and provides for the Secretary of State to issue guidance on how local authorities should determine which land is contaminated land and which is not. Relevant sections of the Act and accepted principles of what constitutes contaminated land are provided in Appendix B.

In practice the process of determination is a complex and subjective matter; 2012’s statutory guidance revised the fundamental risk assessment elements of determining land as contaminated. Though the highest risk examples remain those where significant harm to human health are present (see Appendix B), in situations where significant possibility of significant harm to defined receptor types exist; the statutory guidance has introduced a category system for determination.

1.4.1 Receptor types and categories

Receptors are defined as 3 broad types, outlined below; with categories of impact or risk also defined by the statutory guidance (see Appendix C for a full list of receptor types and categories).

- **Human Health (HH)-** Included in the category of factors affecting human health are land used for allotments, residences with gardens, schools and nurseries, recreational parks, playing fields and recreational open spaces.
- **Non-Human Receptors (NHR)- Ecological systems & property-** Within this category fall Sites of Special Scientific Interest (SSSIs), National Nature Reserves, areas of special protection for birds, European Special Areas of Conservation and Special Protection Areas and nature reserves. Within this category are included crops, livestock, homegrown produce, owned or domesticated animals and wild animals subject to shooting or fishing rights. These could be found on agricultural land, allotments and gardens, forestry areas or other open spaces. Within this category are ancient monuments and other important buildings such as heritage sites.
- **Controlled Waters (CW)-** Section 104 of the Water Resources Act 1991 defines controlled waters as being relevant territorial waters, inland fresh waters, coastal water and ground

waters. Within this category are major aquifers, surface waters, Source Protection Zones (SPZs – designated areas around groundwater abstractions from aquifers), groundwater used for private abstractions and drinking water abstractions, as well as agricultural usage.

These 2012 risk assessment elements have been taken into consideration in the Council's determination (and prioritisation) methodology, which is described in Section 3.

2.0 Local authority inspection duties

2.1 Inspection Types

The statutory guidance recognises two board types of “inspection” which the Council is required to undertake:

2.1.1 Strategic Inspection

The Council has been fulfilling this requirement since the adoption of the original version of this strategy in 2001. This contained the original assessment methodology which has now been revised in line with the 2012 statutory guidance. As a result of the work to support the commitments in the original strategy the Council has developed a substantial geographic information system (GIS) database. This database has been used to determine the risk of contamination across the whole district and is being used to incorporate the statutory guidance’s category system by receptor type, to aid determination.

2.1.2 Detailed Inspection

From the inception of the 2001 strategy, the Council has encouraged the detailed inspection of potentially contaminated land when it enters the planning process. Further information on the outcomes of this strategy is provided in section 2.2.1.

We recognise that land blight can result from uncertainties about the risk of potential land contamination and this can act as a brake on local economic growth. In order to support the Council’s Corporate Aims to “Work to attract further inward investment” and “Unlock development potential and ensure the continuing growth of vibrant town centres” we propose to implement the following:

Contaminated Land Inspection Strategy Action Point 1
<p>Following the adoption of the revised strategy, we will aim to undertake 4 Council directed investigations (Phase 1 Studies) per year. Sites will be selected and prioritised using the methodology laid out in Section 3 and with consideration given to;</p> <ul style="list-style-type: none"> • The highest risk sites not currently subject to redevelopment and remediation; • Council owned land (to reduce liability to the Council), and; • Sites which a detailed investigation would aid or encourage redevelopment (in line with the Local Plan). <p>The decision to pursue this aim will be made on an annual basis. The specific commitment as to whether to deliver four studies in a given year will be contained in the relevant annual service plan.</p>

This commitment to actively inspect and assess sites builds on work originally carried out following the inception of the previous Council’s Contaminated Land Inspection Strategies. Allowing the Council to both fulfil its requirements under Part 2A and add additional value in the form of reducing

potential barriers and financial burden on land owners, thus encouraging sustainable development and remediation.

2.2 Inspection activity to date

As described the Council has had in place a contaminated land inspection strategy since July 2001, a solid foundation on which to build and take forward the aims of this current version. The original GIS and contaminated land datasets has allowed a complex series of factors to be considered and sites prioritised on their risk. This section describes the outcomes of the strategy to date:

2.2.1 Initial assessment as part of the planning process

Where redevelopment is undertaken on or in the proximity of brownfield sites, the Planning and Development Control service, following consultation with the Environmental Health service, will determine whether the developer is required to undertake a site investigation to address potential contaminated land issues. This is in line with National Planning Policy Framework, Planning Practice Guidance – Land Affected by Contamination and Approved Document C & D of the Building (Approved Inspectors etc.) Regulations 2010. The planning and building control process ensures that any contamination identified is suitably remediated in line with current guidelines.

Environmental Health is notified of the requirement for any site investigations required by the planning consent. The relevant Environmental Health staff member then takes ownership of the case in order to review all supplied technical reports and either steer the developer through the works necessary to discharging the condition or advise planners of a failure to comply with the condition.

To date over 4600 planning applications have been subject to contaminated land consultation responses from the Environmental Health Department. As a result an estimated 1150 site investigations have been undertaken and an estimated 500 sites have been the subject of remediation to make them fit for use.

2.2.2 Reactive inspection

Evidence of contamination or environmental incidents are commonly reported to the Environmental Health Department. Examples of such incidents include serious petrol spills, chemical leaks, fires in commercial and industrial premises, hazardous flytips and discoveries of unidentified buried tanks. On average five to ten cases such as these are dealt with each year. As a result of the investigation evidence is gathered, advice / support given and any potential remedial action taken. All relevant information from these incidents will be considered and added to the determination and prioritisation methodology.

2.2.3 Contaminated land search service

The Council has a statutory duty to comply with the requirements of the Environmental Information Regulations 2004 when dealing with requests for disclosure of information. These regulations require local authorities to make any environmental information they hold available on request.

We have ample evidence that uncertainty or fear of liabilities associated with contamination causes conveyancing deals to fail, prevents house sales and inhibits redevelopment. We have therefore

developed an enhanced service, well above our statutory obligations for a fee of just £50 to provide a faster and more detailed response to land quality enquiries. This provides a small additional income stream for the Council (circa £1000 per year) but more importantly builds confidence about land contamination risks in the property market.

3.0 Determination and prioritisation methodology

3.1 Background and relevant aspects of the district

A risk assessment process referred to as the Council's determination and prioritisation methodology has been in place since the inception of the strategy. The current version of this methodology takes in to account the relevant aspects of the district and arrives at Council defined risk categories, which considers these relevant aspects and the statutory guidance defined receptor types and categories. These relevant aspects of the district include:

A predominantly rural area with one main town of Swadlincote, many villages and towns such as Melbourne and Repton are of historic value and have close links to the agricultural heritage of the area. Sites of historic industry, particularly mining and pottery are to be found throughout the district. Covering an area of approximately 34,000 hectares (340 sq. km) and providing home to an estimated 102,400 residents. The district boasts twenty-two conservation areas and six Sites of Special Scientific Interest (SSSI). There are also Local Nature Reserves at Elvaston Castle and Drakelow.

The main watercourse passing through the district is the River Trent, from its confluence with the River Tame east of Alrewas, downstream beyond its confluence with the River Dove at Newton Solney to its confluence with the River Derwent east of Shardlow. Groundwater quality varies across the district according to aquifer type and adjacent land uses. The background quality of groundwater may be poorer in the presence of dissolved natural minerals, as is the case in the coal producing areas.

Carboniferous rocks containing the coal seams that gave rise to the mining industry in South Derbyshire dominate the southern part of the district. Mercia Mudstones typify the northern area and can be identified by the reddish clay soils across the lowland areas of the Trent. The older Triassic sandstones support well-drained sandy soils, outcrops of which occupy parts of the Mease lowlands in the east of the district. Thick surface deposits are also widespread throughout the area, with sand and gravel surface deposits found in the Trent Valley.

The aquifer status (major, minor or non-aquifer) of each of the superficial and solid geological units in the district has been identified and their relative importance as receptors for contaminants determined.

In brief, the district's dominant geological type, Mercia Mudstone, is classified by the Environment Agency as non-aquifer. Non-aquifers are formations with negligible permeability that are not generally regarded as containing significant quantities of groundwater, although small groundwater yields are obtainable where sandier layers (called skerry bands) are encountered.

These aspects have been considered and reflected in the Council's determination and prioritisation methodology.

3.2 Determination and prioritisation

In cases where imminent risk of serious harm or serious pollution of controlled waters has been confirmed, the Council will authorise urgent action. This will involve serving a remediation notice without necessarily consulting or waiting for the end of the consultation period. If the Council

considers that serving a notice in this way would not result in the remediation happening soon enough, it may decide to carry out the remediation itself – known as carrying out works in default – and recover the costs from the appropriate person(s).

It is important to note that contaminated land can only be defined as such if it poses a significant risk of causing significant harm.

In all other cases land on the district is subject to determination and prioritisation using the Council's GIS determination and prioritisation methodology. Sites of known contamination have an "area of concern" score applied to them and all parts of the district have a determination profile applied to them. This details where the site fits in line with statutory guidance receptor types and categories, which in turn is calculated into a simple determination score to define the site risk category.

3.3 Determination methodology calculation

A determination score based on the most recent statutory guidance and the Council's current level of land quality understanding is applied to all land within the district. This score is generated by considering the potential exposure of the 3 receptor types described in the statutory guidance.

The risk assessment score is calculated by the cumulative risk to all receptors. The scores for the level of risk are based on the categories of risk described in Section 4 of Defra "Contaminated Land Statutory Guidance" April 2012.

The risk scores for each of the three receptor groups are as follows:

- Human Health (HH) – Scores between 1 (highest risk) and 4 (lowest risk).
- Non-Human Receptor (NHR)- Scores either -5 (Designated site) or 0 (non—Designated site)
- Controlled Waters (CW)- Scores between 1 (highest risk) and 4 (lowest risk)

$HH + NHR + CW = \text{Determination Score}$

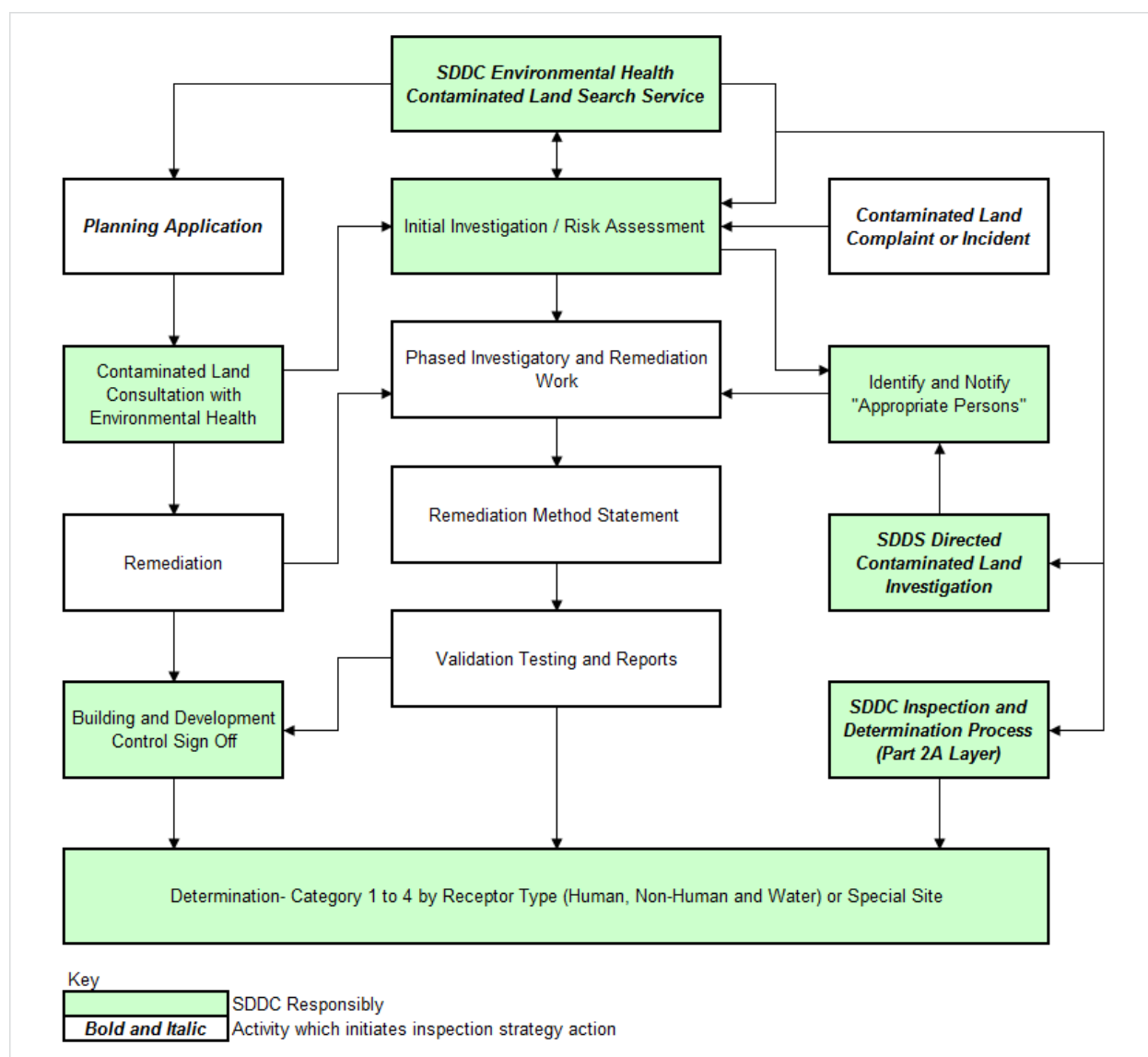
Based on this score, land will be classified simply as either Red, Amber, Yellow or Green, based on its determination score as below:

- Red- High Risk (= -3 to 5) Immediate remediation action required.
- Amber- Medium Risk (= 6) Will require investigatory and remediation work prior to redevelopment.
- Yellow- Medium / Low Risk (= 7) May require investigatory and remediation work prior to redevelopment.
- Green- Low Risk (= 8) No immediate contaminated land concerns.

4.0 Implementation, review, and links to sustainable development

4.1 Inspection and Determination Methodology Process Flow

The following process flow diagram describes the steps taken in responding to and ensuring compliance with the Contaminated Land Inspection Strategy; the core of this being the role of the planning system in investigation and remediating land affected by contamination.



The strategy seeks to recognise the constraints placed on “Building and Development Control sign off” through development sites on the district not using Local Authority Building Control. In cases such as this, the determination process will be finalised as and when the discharge of contaminated land planning conditions is reached and through on-going consultation with involved parties during a site’s remediation.

4.2 Reviewing the Inspection Strategy

The Council is under a duty to periodically review the strategy, guidance suggest at every 5 years. As it is a working document, it will be subject to amendment from time to time. The periodic review of the strategy will incorporate any changes in legislation, risk assessments or information from other external sources such as the Environment Agency.

4.3 Strategy output sharing

Outputs of recent contaminated land development work and revisions to the Council's determination and prioritisation methodology will be shared with key Council departments who can ensure maximum value is created. Data reported can add value in the following forms:

- Directing and informing planning policy and potential developers of the technical and financial implications of development sites.
- Understanding and reducing Council liability in relation to potentially contaminated Council owned sites.

In both of these forms outcomes can be considered mutually beneficial in that strategic contaminated land data will allow positive benefits to the business community and economy while removing risk to the environment, residents and public funds.

Obtaining alternative versions of this document- If you would like this document in another language, or if you require the services of an interpreter, please contact us. This information is also available in large print, Braille or audio format upon request.

Phone: 01283 595795

E-mail: customer.services@south-derbys.gov.uk

Jeśli chcieliby Państwo otrzymać ten dokument w innym języku lub potrzebują Państwo usług tłumacza, prosimy o kontakt. Informacje te są również dostępne na życzenie w wydaniu dużym drukiem, w alfabecie brajla lub w wersji audio.

如果你需要这份文件的中文翻译·或者需要传译员的帮助·请联系我们。这些数据也备有大字体印本、盲人点字和录音带，欢迎索取。

ほかの言語でこの文書をご希望の場合、もしくは通訳サービスをご希望の場合はご連絡ください。

またこの情報は、ご要望により大きなプリント、点字版、また音声形式でも承っております。

यदि आपको ये दस्तावेज किसी दूसरी भाषा में चाहिये, या किसी दुभाषिये की सेवाओं की जरूरत है तो हमें सम्पर्क करने की कृपया करें। ये जानकारी माँग करने पर बड़े अक्षरों, ब्रेल या आडिओ के रूप में भी उपलब्ध करवाई जा सकती हैं।

ਜੇ ਤੁਹਾਨੂੰ ਇਹ ਦਸਤਾਵੇਜ਼ ਕਿਸੇ ਦੂਸਰੀ ਭਾਸ਼ਾ ਵਿਚ ਚਾਹੀਦਾ ਹੈ, ਜਾਂ ਕਿਸੇ ਦੁਭਾਸ਼ੀਏ ਦੀਆਂ ਸੇਵਾਵਾਂ ਦੀ ਲੋੜ ਹੈ ਤਾਂ ਸਾਡੇ ਨਾਲ ਸੰਪਰਕ ਕਰਨ ਦੀ ਕ੍ਰਿਪਾ ਕਰੋ ਜੀ ਇਹ ਜਾਣਕਾਰੀ ਮੰਗ ਕਰਨ ਤੇ ਵੱਡੇ ਅੱਖਰਾਂ, ਬ੍ਰੇਅਲ ਜਾਂ ਆਡਿਉ ਦੇ ਰੂਪ ਵਿਚ ਵੀ ਉਪਲੱਬਧ ਕਰਵਾਈ ਜਾ ਸਕਦੀ ਹੈ।

اگر آپ یہ ڈاکیومنٹ کسی اور زبان میں چاہتے ہیں، یا اگر آپ کو کسی ترجمان کی خدمات درکار ہوں، تو براہ کرم ہم سے رابطہ کریں۔ درخواست کرنے پر یہ معلومات بڑے پرنٹ، بریل یا آڈیو فارمیٹ میں بھی دستیاب ہیں۔