

# **Development of Potentially Contaminated Land – Guidance for Developers, Consultants and Agents**



April 2015 (3<sup>rd</sup> Edition)

## **Introduction**

In common with many urban areas, Stroud District Council Planning Department receives an increasing number of planning applications for developments on previously developed land where the potential for contamination exists.

This information sheet is designed to assist developers, planning agents and other professionals who are involved with the redevelopment of potentially contaminated land. This information sheet does not comprise comprehensive guidance, however, and careful consideration should also be given to the other enclosed references.

## **Stroud's Heritage**

Like many areas in the UK, the Stroud District has a long history of industrial activity. The basis of the District's heritage was the wool and textile industry, along with associated processes e.g. the manufacture of dyes. In addition the District was host to a wide variety of other industrial uses including brickworks, gasworks, lime burning, quarrying, wire manufacture, fellmongery and tanning, board manufacture, fireworks, artificial manure and land filling operations.

These industrial activities often resulted in contamination of the land, and many of these former industrial sites have since been developed for residential use.

## **The Developer's Responsibilities**

The developer is responsible for ensuring that a development is safe and that it is suitable for its intended use, or can be made so through remediation.

Potential contamination of any land subject to development is a material planning consideration. This means that the planning authority has to consider the potential implications of contamination both when developing its local plan and when considering individual planning applications. The planning process deals with the land contamination for future uses, whilst Part 2A of the Environmental Protection Act 1990 addresses contamination for the land's current use.

According to the National Planning Policy Framework (NPPF) planning policies and decisions should ensure that:

- The site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from the remediation;
- After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990; and
- Adequate site investigation information, prepared by a competent person, is presented.

## **The Local Planning Authority's Responsibilities**

The Local Planning Authority has a duty to take account of all material planning considerations, including potential contamination, when considering an application.

Usually where there is reason to believe land may be contaminated, or the proposed development is of particular sensitivity (such as housing with gardens or a school) a full assessment may be required in advance of planning approval being issued. On other sites a planning condition requiring assessment of possible contamination may be applied to the approval notice.

Where significant contamination issues are anticipated on a development, developers are encouraged to undertake pre-application consultation with the Contaminated Land Officer (and the Environment Agency where it meets their statutory requirements). Submission of a desk study report or other supporting information with the application may assist the decision making process.

Stroud District Council's Contaminated Land Officer and the Environment Agency will act as consultees to the Local Planning Authority regarding risks to human health and controlled waters.

## **The Role of Other Organisations**

**The Environment Agency** is a statutory consultee for many planning applications where development is proposed on potentially contaminated land. The Environment Agency has a duty to protect groundwater and surface waters and the developer will need to ensure that any concerns of the Environment Agency are satisfied prior to development.

**The Building Control Inspector** will also need to be satisfied that any risks to the development from potential contamination have been adequately addressed. The Building Regulations 2000 require that builders demonstrate that hazards from potential contamination have been properly assessed and appropriate measures put in place to address any risk.

## **Reporting Requirements**

It is vital that redevelopment of potentially contaminated land is undertaken with a sufficient degree of transparency and openness. This will maintain public confidence in the development and minimise any potential for blight. Maintaining a comprehensive set of records will assist regulators and ensure that any future enquiries about the development can be answered effectively.

When submitting a planning application the applicant should provide information on whether the site might be contaminated.

Where a developer is proposing to develop land suspected of being contaminated, it is strongly advised they contact the Council's Contaminated Land Officer before submitting an application, as the Council may hold additional information that may be of importance.

The scope of work undertaken and subsequent reports should reflect the size and complexity of the site, the nature of the development and the likely contamination risks.

Assessment, investigation and remediation of a potentially contaminated site can be considered as containing four key steps, or phases. The tables below give an overview of these phases and what should be included in the reporting of each stage of work.

**These tables provide an overview only and should not be considered to represent an exhaustive list of requirements or comprise comprehensive or definitive guidance.**

<b>Phase 1 Report - including Desk Top Study</b>	
a	Purpose and aims of the study
b	Plans of site location and layout
c	Assessment of the site's Environmental Setting <ul style="list-style-type: none"> <li>• Geology, hydrogeology, hydrology</li> <li>• Information from the EA – pollution incidents, abstractions, discharges etc</li> <li>• Information from SDC – potentially contaminated land, previously submitted reports</li> </ul>
d	Review of historic mapping
e	Assessment of current and proposed site use
f	Review of previous site investigation reports and information
g	Findings of site walkover
h	Initial risk assessment <ul style="list-style-type: none"> <li>• Development of conceptual model for the development</li> <li>• Assessment of possible pollution linkages</li> </ul>
i	Assessment and recommendations <ul style="list-style-type: none"> <li>• Proposals for intrusive investigation, if required</li> </ul>

Should the Phase 1 Assessment indicate that no contamination concerns exist then no further action is necessary, though it is necessary to submit the report to the Planning Department who will confirm this with the Contaminated Land Officer before proceeding.

<b>Phase 2 Report (including Intrusive Site Investigation)</b>	
a	Reference to the Phase 1 Report and any other relevant reports
b	Aims and objectives of the investigation
c	Site Investigation methodology <ul style="list-style-type: none"> <li>• Methods of investigation</li> <li>• Plan showing investigation locations, with justification</li> <li>• Sampling and analytical strategy</li> </ul>
d	Factual results and findings <ul style="list-style-type: none"> <li>• Details of ground conditions</li> <li>• Details of chemical testing results</li> </ul>
e	Development of conceptual model for the development
f	Risk Assessment <ul style="list-style-type: none"> <li>• Considering all potential linkages identified in the conceptual model</li> <li>• Comparison of results against generic screening values</li> <li>• Further assessment of results as necessary</li> <li>• Any risk assessment to be justified and the approach documented</li> </ul>
g	Assessment and Recommendations <ul style="list-style-type: none"> <li>• Proposals for remediation/mitigation, if required</li> </ul>

Similarly should the Phase 2 investigation findings indicate that no contamination concerns exist then no further action is necessary, though again it is necessary to submit the report to the Planning Department who will confirm this with the Contaminated Land Officer before proceeding further.

<b>Remediation Strategy</b>	
a	Aims and objectives of the remediation
b	Details of the remedial proposals <ul style="list-style-type: none"> <li>• Works to be undertaken</li> <li>• Details of the contamination to be remediated</li> <li>• Plan showing details of remedial works</li> <li>• Details of programme, timescales and phasing of works</li> </ul>
c	Details of control procedures/method statements <ul style="list-style-type: none"> <li>• Control of dust, noise and odour</li> <li>• Control of surface run-off</li> <li>• Traffic management and health and safety measures</li> </ul>
d	Details of all required consents, authorisations and licenses
e	Details of how any necessary variations will be dealt with <ul style="list-style-type: none"> <li>• Notification of the Local Authority/Environment Agency</li> </ul>
f	Details of how the remedial works will be validated <ul style="list-style-type: none"> <li>• Proposed remediation standards</li> <li>• Monitoring strategy and objectives</li> <li>• Details of validation timescales and phasing</li> </ul>

The remedial strategy should be submitted to the Planning Department, who will consult with the Contaminated Land Officer and if necessary, the Environment Agency, for approval before proceeding to undertake the remedial work.

<b>Completion Report (including Validation Report)</b>	
a	Details of how remedial work was undertaken <ul style="list-style-type: none"> <li>• With reference to a to f (above) set out in the remedial strategy</li> </ul>
b	Details of who carried out the work
c	Details and justification for any variations from the strategy
d	Details of waste treatment/processing or disposal; including transfer notes
e	Validation testing and monitoring results and assessment
f	Final confirmation that the remedial objectives have been achieved

A more detailed description of the various stages of investigation of a potentially contaminated site can be found in CLR11: The Model Procedures, published by DEFRA 2004.

All reports should be prepared by a competent person (appropriately qualified professionals) and comply with considered current good practice. A short list of selected good practice guidance documentation is included at the end of this guidance note.

Accredited drillers and laboratories should be employed for all investigation and analysis and copies of the full laboratory results should be appended. Sampling methodologies, chain of

custody information, all borehole logs and risk assessment calculations should also be included.

### **Submission Guidelines**

It is strongly encouraged that draft copies of reports be issued to the Contaminated Land Officer as part of the ongoing discussions. This is often useful for the purposes of seeking an informal view on findings or proposals before proceeding to formal submission.

Formal submission of reports should be made via an application for discharge of condition direct to the Planning Department. Copies can be cc'd directly to the Contaminated Land Officer, if desired, to aid timely consideration; however, the Planning Officer should be made aware that this is the case.

Applicants are strongly encouraged to submit reports in an electronic format.

### **Access to Environmental Information**

Information held by Stroud District Council is governed by the requirements of the Environmental Information Regulations 2004, Freedom of Information Act 2000 and Data Protection Act 1998.

The Town and Country Planning Acts also require that all information submitted in support of a planning application be placed on the Planning Register and be publicly available, unless certain restrictive circumstances apply.

It should therefore be routinely assumed that all information submitted to the Council will be available for public inspection.

Intellectual property rights will however be respected and duplicate copies of material subject to copyright laws will not be made or allowed.

### **Environmental Impact Assessment**

Certain applications may fall within the scope of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Where this is the case an Environmental Statement will be required to support the planning application, as stipulated by these regulations. It is likely; however, that additional information concerning land quality will be required to fully assess applications on potentially contaminated sites, in addition to the consideration contained in a typical Environmental Impact Assessment.

## **Selected Recommended Guidance, Websites & Contact Details**

- 1 British Standard BS10175: Code of Practice for Investigation of Potentially Contaminated Sites, BSI (2011).
- 2 The Building Regulations: Site Preparation and Resistance to Contaminants and Moisture, Approved Document C, ODPM (2004)
- 3 CLR 7 – 10 Contaminated Land Reports, DEFRA and the Environment Agency (2002+)
- 4 CLR11 Model Procedures for the Management of Land Contamination DEFRA and the Environment Agency (2204)
- 5 National Planning Policy Framework, Department for Communities and Local Government (2012)
- 6 Publication 66: Guidance for the Safe Development of Housing on Land Affected by Contamination, Environment Agency and NHBC (2008)
- 7 R&D Technical Report P5-066: Secondary Model Procedures for the Development of Appropriate Soil Sampling Strategies for Land Contamination, Environment Agency (2004)
- 8 SP1010: Development of Category 4 Screening Levels for Assessment of Land Affected by Contamination, DEFRA (2013)

### **DEFRA**

[www.defra.gov.uk](http://www.defra.gov.uk)

### **Environment Agency**

[www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

**Stroud District Council Contaminated Land Officer** 01453 754469

Email [katie.larner@stroud.gov.uk](mailto:katie.larner@stroud.gov.uk)

**Stroud District council Planning Department** 01453 754442

Email [planning@stroud.gov.uk](mailto:planning@stroud.gov.uk)

**Stroud District Council Building Control** 01453 754516

Email [building.control@stroud.gov.uk](mailto:building.control@stroud.gov.uk)

**Environment Agency – National Switchboard** 03708 506 506

Email [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)