



# **Development of Potentially Contaminated Land**

## **Guidance Note for Developers, Agents and Consultants**





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

### **Introduction**

This guidance note is issued to assist developers, agents, consultants and other professions involved in the development of land that may be contaminated as a result of historical land use. Previously developed land is often termed a 'brownfield' site. Although the terms "brownfield" and "contaminated land" are not interchangeable, most brownfield development sites are contaminated.

Government Policy is to develop land on a "suitable for use" basis, and local planning authorities will attach conditions to planning permissions to address the following contaminated land policy aims:

- to deal with actual or perceived threats to health, safety or the environment
- to keep or bring back such land into beneficial use
- to minimise avoidable pressures on greenfield sites

Under the Town and Country planning system the responsibility for providing information on whether a site is contaminated rests primarily with the developer. You should also be aware that the responsibility for safe development and secure occupancy of the site lies with the developer.

The Government considers that contaminated land is a material part of the planning process. Government policy is set out in: Planning Policy Statement 23: Planning and Pollution Control.

### **Investigation and remediation of contaminated land - background**

There are three phases of contaminated land investigation and management that may be undertaken dependent upon the condition of the site, these are:

- Phase I, Desk study, site walkover and human health and environmental risk assessment.
- Phase II, Intrusive investigation and further human health and environmental risk assessment.
- Phase III, Remediation and/or risk management

In the sections overleaf guidance is given to indicate the objectives and work to be undertaken in each phase, and the required output. The information listed in each section provides a guide to what is required by the local planning authority, and when the submission should be made. Reports

submitted at each stage should be fully referenced and signed by a suitably qualified person.

The information listed is not intended to be comprehensive or exhaustive in content. In each phase the greater the information provided, and the earlier this is made available to the local planning authority, the sooner the scope and cost of any further investigation or remediation that may be required can be established. If, at any point in the process the identified risks are shown to be acceptable, then the condition attached to the planning permission may be discharged.

A list of contacts and preferred guidance and references is provided below.

### **Phase I - Desk Study, site walkover and risk assessment**

**Objective** - To obtain a good understanding of site history, setting, current and proposed use. Draw up a conceptual model to establish any significant pollutant linkages in the source-pathway-receptor for human health and environmental risk assessment. Identify if further investigation or remediation is required.

#### **Work to be undertaken**

- **Desk Study** - To establish/detail the site location and setting, historical land use, from maps, directories, types of contaminant that may be present, consultation with regulators and other sources. Soils and underlying geology, groundwater, surface water, location of waste sites, abstraction and discharge licences. Review previous reports, contact statutory undertakers and regulatory bodies. Outline proposed development.
- **Walkover** - View condition of site, soils and vegetation. Condition of structures and compliance with regulation, for example fuel storage. Consult current owner/occupier and also consider the design of the intrusive investigation if necessary. Undertake surface sampling of soil and water if appropriate.
- **Environmental and Human Health Risk Assessment** - Consider all possible sources of contamination, the receptors on site, and brought to site as a consequence of development, and the pathways that exist and may be created. Produce a conceptual model to confirm if further investigation or remediation is required. Detail proposed further work, which might include, for example, intrusive ground sampling.

**Required output** - Presentation of Phase I report to local planning authority for approval presenting the information gathered and conclusions drawn from the above listed exercises. The Phase 1 report may indicate no contamination concerns exist at the property, nevertheless the report should still be submitted as confirmation of these circumstances.

## Phase II Intrusive Investigation and risk assessment

**Objective** - To provide detailed site-specific information on substances in or on the ground, geology and groundwater, and investigate more fully/confirm any possible source-pathway-receptor significant pollutant linkages identified in Phase I.

### Work to be undertaken

- Design of investigation - By a suitably qualified person to referenced guidance, accounting for any risks created by the investigation activities and approved by the local planning authority. Basis of sampling strategy and range on contaminants tested. Reference back to Phase I, specifically addressing the risks identified.
- Intrusive investigation - Appropriate supervision, measures to prevent cross contamination, adequate sampling and testing, chain of custody and accreditation for sample testing, trial pit logs and photos, groundwater observations and sample point location and levels. Confirmation the site has been left in a safe and secure state. Some non-intrusive investigation may be undertaken, using for example geophysical techniques.
- Environmental and Human Health Risk Assessment - Re-examine the risk assessment performed in Phase I, utilising new information to refine the conceptual model.

**Required outputs** - Phase II report, including all information from the Phase II exercise, and recommendations relating to the actions required on site to make "suitable for use" (manage risk) derived from the environmental and human health risk assessment. As at Phase 1 stage the report may indicate that there are no contamination concerns, but the report should be submitted anyway to confirm this.

## Phase III Remediation and/or risk management

**Objective** - To reduce the unacceptable environmental and human health risks identified in Phase I and Phase II to an acceptable level, in a managed and documented manner to best practice and current technical guidance.

### Work to be undertaken

- Remediation strategy statement - a document prepared by a suitably qualified person and approved by the local planning authority (and the Environment Agency, particularly where risks to controlled water are being addressed) **before** work commences. This will present details of how the remediation will be undertaken, what methods will be used and what is to

be achieved. The statement will describe the works to be undertaken, control measures to manage nuisance, details of necessary consents and licences and proposed remediation standards. It will also include a contingency plan in the event that unexpected contamination is found during the work. A clear end point of the remediation should be stated, such as site contaminant levels or a risk management action, and how this will be verified as completed.

- Remediation - Physical works undertaken on site to be confirmed by management records and all certificates and correspondence with local planning authority and other regulators. Supervision and reporting by suitably qualified persons, notification of conditions and actions that were not documented in Remediation Statement. Approval must be sought from the local planning authority in such circumstances before these works are undertaken. Details of materials taken from, and brought to the site (fill and topsoil), including waste classifications and transfer notes (as may also be required by the Site Waste Management Plan).
- Verification - A completion report will be provided to the local planning authority for approval upon completion of the works. This will reference the earlier reports and contain a summary of the risks that are being managed. The remediation statement will be included, all details of the remediation exercise, management documentation, and any variation in conditions encountered on site. Details of work, and approvals that may not have been included in the original remediation statement should also be presented in the report.

**Required output** - Completion report and a Certificate **signed by the developer** to confirm that the work has been undertaken in accordance with the remediation statement and completion report. An example certificate is included overleaf.

### **Presenting Information To Swindon Borough Council**

Presentation of material to this authority should always be done in a timely manner so as not to delay approvals and thus development programmes. It is advisable to submit draft copies of reports informally to the Contaminated Land Officer as part of the ongoing discussions. This will allow the possibility of early resolution of details or seeking a view on findings or proposals before formal submission to the Planning Authority.

Where formal submission of reports is required, these should be sent directly to the Planning Officer. It may be necessary to send additional copies to planning process statutory consultees, such as the Environment Agency and the Building Control Inspector.

Applicants are encouraged to also submit electronic format reports by CD-ROM, in addition to printed hardcopy reports.

## **DISCHARGE OF CONDITIONS**

Upon receipt of a satisfactory Phase I Desk-Study Report or a Phase II investigation report indicating no further investigation or remediation is necessary, or a satisfactory Completion Report following successful remediation, the Planning Officer will proceed to discharge any outstanding contaminated land conditions. This will actually be implemented in a phased basis, as specified by the condition.

If required a completed Certificate of Completion will be endorsed by the Contaminated Land Officer, detailing the information submitted to the Local Planning Authority for the purpose of achieving discharge of the relevant planning conditions.

This certificate has no legal status other than documenting the discharge of the relevant planning conditions for the development. It does not confirm that the site to be free from contamination, or that it might not, at some later date, be determined to be Contaminated Land (as per Part IIA of the Environment Act), or offer any kind of guarantee against other future regulatory action or enforcement.

## Contacts

### Local Authority –

[customerservices@swindon.gov.uk](mailto:customerservices@swindon.gov.uk)

(01793) 445500

### Environment Agency -

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

08708 506 506 (General enquiries)

## Preferred guidance and references

- British Standards. BS10175:2001 Investigation of potentially contaminated sites - Code of practice.
- Environment Agency and National House Building Council (NHBC), 2008. R & D Publication 66. Guidance for the Safe Development of Housing on Land Affected by Contamination.
- CIRIA. Remediation Treatment of Contaminated Land, 12 Volumes, SP101-112. Comprehensive guidance on all aspect of managing contaminated land.
- Department of the Environment. Industry Profiles. (Wide range of industrial activities and potential contaminants listed)
- Planning Policy Statement 23: Planning and Pollution Control.
- CLR: Contaminated Land Published Research Reports.
- Statutory Instrument 2008 No. 314 The Site Waste Management Plans Regulations 2008.

Contamlinks Website - [www.contamlinks.co.uk](http://www.contamlinks.co.uk)

CIRIA Contaminated Land Website: - [www.contaminated-land.org](http://www.contaminated-land.org)

Department of Environment, Food and Rural Affairs (DEFRA) -  
[www.defra.gov.uk](http://www.defra.gov.uk)

*N.B. This guidance note is for information purposes only and does not form a specification or part of the Local Authority planning process*

### Remediation Verification Certificate

This is to certify that the scheme of decontamination and reclamation at the site known as ..... (grid reference ..... ) (in relation to planning application ..... ) was carried out between the dates of ..... and ..... And was completed in accordance with the specification detailed in the document reference ..... entitled ..... (Completion Report)..... , and plan numbers ..... which were designed to afford protection from contamination\* on the site to all known receptors\*.

\* 'Contamination' and 'receptor' to have the same definition as in Part IIA of the Environmental Protection Act 1990

Signed ..... This ..... Day of .....2009  
The Developer of the Site  
(typed name, company address and position)

I confirm that the following reports describing the verification of contaminated land management at the above site have been received and have been used as a basis for recommending discharge of the contaminated land condition imposed on the grant of planning permission for this development. (No other warranty of indemnity from future regulatory action is intended by this certificate).

Signed ..... This ..... Day of .....2009  
The Contaminated Land Officer, Swindon Borough Council  
(typed name, company address and position)

One copy of the Certificate to be returned to each of:

**Development Control Officer:**

Development Control  
Swindon Borough Council  
1<sup>st</sup> Floor Premier House  
Station Road  
Swindon  
SN1 1TZ  
Email: sbcdc@swindon.gov.uk

**Contaminated Land Officer:**

David Rudland  
Environmental Enforcement Team  
Swindon Borough Council  
3<sup>rd</sup> Floor Premier House  
Station Road  
Swindon  
SN1 1TZ  
Email: drudland@swindon.gov.uk