

Planning Advice Note for Developments on Land Potentially Affected by Contamination



1.0 Introduction

Planning Policy Statement 23: Planning and Pollution Control (Annex 2: Development on Land Affected by Contamination) sets out national guidance on the handling of land contamination issues in the planning system, including information regarding the submission of planning applications. This Government guidance recognises that potential land contamination is a material planning consideration and that the development phase is the most cost effective time to deal with problems associated with a sites historical use.

Planning legislation and guidance places the responsibility on owners and developers to establish the extent of any potentially harmful material on their site(s). The Council's duty is to ensure that owners/developers carry out the necessary investigations and approve proposals for dealing with any contamination in a responsible and effective manner.

Having received this document with your application pack means that the Local Authority has concerns about the site you propose to develop and considers it as potentially contaminated. Further investigations must be undertaken prior to the granting of planning permission in order to assess the sites risk. This document provides information to assist in submitting a satisfactory investigation.

2.0 How is Land Contamination Identified?

Land may have been contaminated by a variety of previous land uses such as fuel filling stations, gas works, industrial sites etc. Such land may pose risks to current or future site users, buildings and/or the environment. These risks must be identified early in the development process to ensure that appropriate mitigation measures are taken. In order to do this it is necessary to establish whether or not a pollutant linkage exists or is likely to exist as a result of the development of a site. A pollutant linkage exists where there is the presence of a source, a pathway and a receptor at a site. A source is any substance

that can or could cause harm. A pathway is the existing or potential route by which a receptor is exposed to or affected by a source. A receptor can be a human or an aspect of the environment such as groundwater. The pollutant linkage must be broken to ensure that a risk is not posed to current or future receptors, this for example, can be achieved through treating or removing contaminated material.

3.0 Investigating Potential Land Contamination

In order to establish the risks that a site poses, it is necessary for that site to be investigated and where necessary remediated to reduce the risk to an acceptable level. The investigation and remediation of sites should be carried out by a competent and suitably experienced consultant in accordance with current best practice guidance and standards. Companies specialising in such work can be found under 'site investigations' in the yellow pages or you can use the environmental consultancy directory on the ENDS website - www.endsdirectory.com/search

There are a number of elements that need to be addressed as part of the land contamination investigation process to ensure that a site no longer presents a risk to current and future receptors. A brief description of each element is provided in section 5.0 of this document and should be referred to when reporting to the Local Authority, whether this is as part of a planning application or to comply with a contaminated land condition attached to the application after it has been granted. These requirements follow the risk-based framework adopted in the Government guidance document Model Procedures for the Management of Land Contamination (CLR 11), which can be found on the Environment Agency's website.

Please note that the Local Authority will reject reports or require further information to be submitted should work not have been carried out in accordance with current best practice guidance or if it fails to establish confidence in the findings and conclusions reached.

4.0 Submitting an Application for a Site that is Potentially Contaminated

PPS23 requires that an assessment of risk is carried out by the applicant where development is proposed on land that is, or may be, affected by land contamination. This assessment must form part of the planning application for consideration by the Local Planning Authority, before the application is determined.

As a minimum, the applicant should provide a desk study and site walkover report with their planning application.

Planning applications for sites which are considered to be potentially contaminated and are not accompanied by the minimum of a desk study/preliminary risk assessment report will be recommended for refusal by the Environmental Health Department and/or the Environment Agency.

The desk study and site walkover will assist in determining the need for and scope of further investigation, the problems that may require remediation and whether remediation can be secured by means of planning conditions. Further investigations and risk assessment will be needed unless this initial assessment clearly and reliably demonstrates that the risk from contamination is acceptable.

Where potential pollutant linkages are identified by the desk study, further investigation and any remediation required will be secured through the addition of the Local Authorities contaminated land condition to the planning application. Only when this condition has been complied with to the satisfaction of the Local Authority and/or the Environment Agency will the condition be discharged.

5.0 Reporting Requirements

5.1 Desk Study / Preliminary Risk Assessment

The main activity in undertaking a preliminary risk assessment is the collection of information required to identify all possible pollutant linkages at the site and prepare an outline conceptual model. Information that must be presented in this report includes all the sites previous uses, the potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination at the site. A site walkover survey may also be undertaken to verify data and obtain further information.

Should any potential pollution linkages be identified, the applicant may chose at this stage to submit a site investigation scheme detailing proposed further investigation that will be undertaken at the site to assess the risks posed to all the receptors identified in the conceptual model. The approval of such a scheme would represent compliance with part II of the contaminated land condition.

5.2 Site Investigation, Quantitative Risk Assessment and Remediation Strategy

Quantitative risk assessment should be undertaken when preliminary risk assessment identifies potential pollutant linkages at the site. It is anticipated that quantitative risk assessment will be required in most cases where contamination is known or suspected to be present at a site, that is, unless the preliminary risk assessment can demonstrate otherwise with a high degree of confidence.

Further information on the presence and extent of contaminants, pathways and receptors as well as other site characteristics required for the quantitative risk assessment may need to be gathered through intrusive investigations. As a result of this work, the conceptual model should be refined and pollutant linkages confirmed or refuted as a result of the site investigations. The risks associated with those linkages should then be evaluated using authoritative generic and/or site specific assessment criteria.

A remediation strategy should establish the most appropriate approach to remediating all of the identified pollutant linkages presenting an unacceptable risk at the site. It will be necessary for site remediation criteria to be presented for approval and detail how the remedial work will be delivered.

5.3 Validation Report

Once site remediation is complete, a validation report will be required to demonstrate that the agreed site remediation criteria have been achieved. This report should provide a full record of all remediation activities carried out at the site and data collected to demonstrate that all the remediation meets the site remediation criteria agreed upon.

6.0 Some Recognised Authoritative Guidance

- CLR 11 Model Procedures for the Management of Land Contamination
- Guidance for the Safe Development of Housing on Contaminated Land
- BS 10175 Code of Practice on the Identification of Potentially Contaminated Land and its Investigation
- EA Secondary Model Procedures for the Development of Appropriate Soil Sampling Strategies for Land Contamination
- EA Guidance on Requirements for Land Contamination Reports

7.0 Useful Contacts

Environmental Health Department

Worthing Borough Council, Portland House,
Richmond Road, Worthing, West Sussex, BN11 1HS
Tel: 01903 239999 E-mail: ep@worthing.gov.uk

Environment Agency (Sussex Region)

Saxon House, Little High Street, Worthing, West
Sussex, BN11 1DH
Tel: 08708 506506