

## **CONTAMINATED LAND - UPDATE**

### **1 SUMMARY**

- 1.1 To update Members on current progress in implementing the Council's Contaminated Land Strategy, the joint countywide initiative of the Essex Contaminated Land Consortium and the new Best Value Performance Indicator for Contaminated Land.

### **2 INTRODUCTION**

- 2.1 The statutory contaminated land regime, under Part IIA of the Environmental Protection Act 1990 (the Part IIA regime), came into force on 1 April 2000.
- 2.2 Rochford District Council's Statutory Contaminated Land Strategy was formally adopted at the Transportation & Environmental Services Committee in July 2001 (Minute 122/01).
- 2.3 Rochford District Council's Statutory Contaminated Land Strategy (the Strategy) sets out the way in which the Local Authority must search for land that has the potential to be both a source of contamination and have sensitive receptors. Where there is good reason to believe that both of these exist, a formal risk assessment must be carried out, in accordance with established scientific principles, in order to establish whether there is the potential for them to come together and cause harm or pollution. In such cases, action must be taken to ensure that risk is reduced to an acceptable level, at minimum cost, and that the land is suitable for use.
- 2.4 To ensure that the most significant problems are identified and quantified first, the Strategy sets out the way that potentially contaminated land within Rochford District must be listed and categorised according to a preliminary assessment of risk. These preliminary assessments are made on a limited amount of incomplete information and, as more knowledge of a site is obtained, they may be revised. Detailed inspection of the sites on this prioritised list is now underway, in accordance with the proposed timetable set out in the Strategy. Further sites are being added to the list when information indicates their potential to be contaminated land.
- 2.5 A joint initiative, consisting of the Essex Environmental Protection Study Group and Essex County Council, was set up to develop the contaminated land regime strategies and was supported by the Transportation & Environmental Services Committee in June 2000 (Minute 191/00). The group subsequently developed protocols to enable Local Authorities to implement their contaminated land strategies. Licensing issues with regard to historic maps were also overcome, realising considerable savings to each Local Authority.

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- 2.6 In May 2003, a sub-group of the Essex Environmental Protection Study Group, the Essex Contaminated Land Consortium, was formed by officers who regularly deal with contaminated land under the Part IIA regime.
- 2.7 The Office of the Deputy Prime Minister introduced a new Best Value Performance Indicator for Contaminated Land (BV 216) for the financial year 2005/6 in statutory guidance issued in February 2005.

### **3 THE PRESENT POSITION**

#### **National Progress**

- 3.1 In England and Wales a total 304 formal determinations of land as contaminated land have been made under Part IIA to date. None have been determined within the Rochford District.
- 3.2 In 2004, the Office of the Deputy Prime Minister released "*Planning Policy Statement 23: Planning and Pollution Control*", which sets out the Government's core policies and principles on land use planning, including advice on land affected by contamination (cancelling *Planning and Policy Guidance Note 23: Planning and Pollution Control* published in 1994). This aims to ensure that after carrying out any development, the land should not be capable of being determined as contaminated land under the Part IIA regime.
- 3.3 In 2004, the Office of the Deputy Prime Minister also published "*Approved Document C, Site Preparation and resistance to contaminants and moisture*", which replaces the 1992 edition and includes advice on requirements of Building Regulations with respect to contaminated land.
- 3.4 Contaminated Land Report 11 "*Model Procedures for the Management of Land Contamination*" has finally been produced by the Department for Environment, Food and Rural Affairs and the Environment Agency. This is a key technical framework for applying the risk management process to land affected by contamination.
- 3.5 The Department of the Environment, Transport and the Regions Contaminated Land Supplementary Credit Approval programme, which, under certain circumstances, the Council could seek approval for funding of certain costs in relation to the investigation and/or remediation of contaminated land has now been replaced by the Department for Environment, Food and Rural Affairs' Contaminated Land Capital Projects Programme. For the current year, relevant information can be found in Contaminated Land Advice Note 1/05.
- 3.6 The Part IIA regime does not currently apply to radioactive contamination, but regulations to do this are currently under consideration.
- 3.7 Section 86 of the Water Act 2003 will amend the definition of contaminated land. It is being commenced in stages; the first stage defined "ground waters"

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and took effect in 2004; the definition of contaminated land is to be amended in relation to “controlled waters”, but has not yet been fully commenced. Contaminated Land Advice Note 5/04 sets out the current position.

### **Contaminated Land Strategy**

- 3.8 Since implementation of Rochford District Council’s Contaminated Land Strategy, a total of 312 Sites of Previously Potentially Contaminative Use have been identified for investigation, following their dissemination to individual Authorities by the Essex Environmental Protection Study Group in June 2002.
- 3.9 These sites have been categorised according to a preliminary assessment of the seriousness of the potential risk and, beginning with the most pressing potential problems, 23 sites have now been subjected to a ‘Phase 1’ detailed desktop investigation in order to establish whether they would be significant under the Part IIA regime.
- 3.10 As a result of these investigations, 21 sites have been considered not to require further risk management action at this time. Additional information will need to be obtained in order to decide whether the remaining two sites are contaminated land or not.

### **The Essex Contaminated Land Consortium**

- 3.11 The Essex Contaminated Land Consortium was formed in May 2003, consisting of officers who deal regularly with contaminated land under the Part IIA regime, from all 14 Essex Local Authorities.
- 3.12 The Essex Contaminated Land Consortium is represented on the Standing Conference on Land Contamination, a national forum established by the Chartered Institute of Environmental Health to discuss matters of concern with the Government, Department for Environment, Food and Rural Affairs, and the Environment Agency.
- 3.13 Achievements of the Essex Contaminated Land Consortium to date have included:
- Production of a guide on how to deal with land contamination – “Land Affected by Contamination. Technical Guidance for Applicants and Developers” in 2004, a copy of which has been placed in the Members’ Library.
  - Negotiation of reduced rate membership of the Local Authority Contaminated Land Network run by Construction Industry Research and Information Association.

- A number of low-cost contaminated land training sessions have been organised for the Essex Contaminated Land Consortium, facilitated by Rochford District Council.

3.14 Work in progress includes:

- Working towards the production of standard planning conditions in relation to contaminated land.
- Working towards using the “Essextranet,” a secure network to transfer data between all Councils in Essex, to host historic Ordnance Survey maps of all Districts. This is expected to represent a considerable cost saving to the Council when compared to purchase of the same maps by individual Authorities.
- Pressure on Government through the Standing Conference on Land Contamination to speed up the publication of more Soil Guideline Values for specific contaminants (only 9 have been produced to date) to enable Local Authorities to evaluate whether sites are suitable for use.

**Best Value Performance Indicator BV216**

3.15 The Office of the Deputy Prime Minister has issued a new Best Value Performance Indicator for contaminated land (BV216), which came into effect on 1 April 2005. This is split into two, linked, parts:

- BV216a Identifying Contaminated Land
- BV216b Information on Contaminated Land

3.16 These indicators require statistical information to be gathered for sites that have been dealt with under the Part IIA regime, but additionally require information on contamination that has been addressed through other regimes, in particular, those sites that have been dealt with in connection with the grant of planning permission.

3.17 The Head of Planning Services will be required to log all sites where contamination has been dealt with under the planning regime, in order to fully populate the information required for BV216.

**Other Contaminated Land Work**

3.18 Local Land Charge Enquiries relating to contaminated land are answered on request.

3.19 All planning applications on the weekly planning list are checked to ensure that there are no known issues relating to contaminated land, for each site and its proposed use.

3.20 Copies of the technical guidance “Land Affected by Contamination. Technical Guidance for Applicants and Developers” are sent out to all developers making a planning application for a new development, to ensure its suitability for use.

- From January 2005, the Environmental Information Regulations 2004 (the Regulations) superseded the 1992 regulations. These regulations were introduced to bring them in line with the Freedom of Information Act 2000, which came into effect at the same time. To ensure that requests for environmental information relating to contaminated land are processed in compliance with the Regulations, an internal procedure, flow chart and set of standard letters has been developed, to ensure that information can be provided proactively, promptly and economically. A copy of these documents has been placed in the Members’ Library.

#### **4 ENVIRONMENTAL IMPLICATIONS**

4.1 The remediation of contaminated land and, where appropriate, its utilisation for development will improve the natural environment of the District and reduce pressure on land within the Green Belt.

#### **5 LEGAL IMPLICATIONS**

5.1 The contaminated land regime is a statutory function of the Local Authority.

#### **6 RECOMMENDATION**

6.1 It is proposed that the Committee **RESOLVES**

That progress with implementation of the Contaminated Land Strategy be noted and a further progress report be made in two years.

Graham Woolhouse

Head of Housing, Health and Community Care

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**Background Papers:-**

“Best Value Performance Indicators: 2005/06”. Office of the Deputy Prime Minister, February 2005.

“Land Affected by Contamination. Technical Guidance for Applicants and Developers”. Essex Contaminated Land Consortium, 2004.

“Requests for Environmental Information”. Housing Health and Community Care; Environmental Protection Unit, April 2005.

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