



**Regulatory Committee**

**Tuesday 10<sup>th</sup> December  
2019**

**Subject: Contaminated Land Strategy**

Report by:

Executive Director of Resources

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Purpose / Summary:

To provide an updated contaminated land  
strategy and seek approval for this.

**RECOMMENDATION(S):**

**Elected Members are asked to:**

- a) Approve the Contaminated Land Strategy Review 2019 – 2024 as attached at appendix 1.**

## IMPLICATIONS

### **Legal:**

Under Part 2A, Section 78 of the Environmental Protection Act 1990, which came into force on the 1st April 2000. The Act introduced a duty for all local authorities to identify and remediate land where contamination is causing an unacceptable risk to human health or the wider environment. The duties were implemented by the Contaminated Land (England) Regulations 2006, and is supported by Contaminated land Statutory Guidance.

The Government's key objectives driving the contaminated land regime is to

- Identify and remove unacceptable risk to human health and the environment
- Seek to ensure that contaminated land is made suitable for its current use (Part 2A Regulations) and proposed use (planning regime).
- Ensure that the burdens faced by individuals, companies and society as a whole are proportional, manageable and compatible with the principles of suitable development

### **Financial : FIN/127/20/SL**

There are no immediate financial implications arising from this report.

Staff training due in December 2019 will be covered by existing training budget.

For the prioritisation of the sites within the strategy, an additional resource will be required in order to do this effectively. This is for a desk based, but intensive exercise, in which all sites are reviewed and then prioritised in line with the strategy. There will be a financial implication in regards to this and a separate report will be brought to Management Team specifically relating to this in the future. Any proposals will be better informed by the first stage of works that will be undertaken in December 2019, which will provide an estimation of the number of sites that will need prioritisation.

### **Staffing :**

The existing staff do have a level of experience in regards to contaminated land. It is proposed that following on from the intensive prioritisation exercise that the ongoing work in relation to this could be covered within the existing staff resource available.

### **Equality and Diversity including Human Rights : NONE**

### **Data Protection Implications :**

**Climate Related Risks and Opportunities :**

**Section 17 Crime and Disorder Considerations :**

**Health Implications:**

Reduces risks to human health and protects wider environment and pressures on development of greenfield sites.

**Title and Location of any Background Papers used in the preparation of this report:**

**Risk Assessment :**

There is a statutory duty to revise and update as necessary failure to do is contrary to the regulatory obligations. In addition, there is a fundamental link with Planning Services to ensure safe redevelopment of contaminated sites. If a revised strategy is not published, the Authority could face a legal challenge if decisions are based on an outdated strategy or if specific sites are not considered.

**1 Introduction**

- 1.1 In 2014 Defra withdrew the capital grant funding that was made available to Local Authorities for the remediation of contaminated land for orphan sites or where landowners (generally residents) would face undue hardship. This has left the Authority with no capital funding to inspect or remediate sites of this nature. Nonetheless, if contaminated land is identified within the District then this may present a financial burden to the Local Authority.
- 1.2 The Authority has identified the majority of potentially affected sites within the District, and these sites now need to be prioritised and subsequently assessed to ascertain if they meet the statutory requirement of contaminated land. This prioritisation is a risk based assessment.
- 1.3 The implementation of a strategy and the Authority's lack of an updated strategy were identified in the audit that related to environmental protection in 2018.

- 1.4 As a result, Management Team agreed to fund a review of the strategy, which has been carried out by Delta Simons, an environmental consultancy. This reviewed strategy is shown in Appendix 1.

## **2 Obligations**

- 2.1 In order for the Authority to fulfil its obligations it is required to do the following:

- Complete the prioritisation of the Potential Contaminated Land Sites (PCLS) within the District;
- Establish an information management system for the digital storage of information related to the PCLS;
- Encourage, where appropriate, the regeneration and redevelopment of brownfield sites and known contaminated sites;
- Raise awareness of land contamination issues amongst landowners, conveyancing solicitors and potential polluters and to encourage a willingness to undertake voluntary remediation.

- 2.2 Two areas of legislation will provide powers to deal with contaminated land but it is expected in practice that the Planning process will be most used in connection with the redevelopment of contaminated land. The powers for remediation under the Environmental Protection Act are only likely to be used on a case by case basis, and more often associated with orphan sites. In 2018 the Authority incurred a cost of circa £2,500 to carry out work relating to an orphan site for which there was no known or available information on.

## **3 Background**

- 3.1 The Authority adopted its first Contaminated Land Strategy in 2001, at which time a full-time Contaminated Land Officer was employed. A considerable reduction in available resources since this time and the loss of the capital funding has seen the priorities in the previous strategy left uncompleted. There was also a separate software package for contaminated land called GeoEnviron, which has not been subscribed to for a number of years and the data within it is not recoverable.

- 3.2 This provides a risk to the Authority and this risk has not been addressed until such time that an audit within the work area was carried out in 2018.

- 3.3 Currently, within Environmental Protection there are two full time Environmental Protection Officers, and one Senior Environmental Health Officer, whose time is split between Environmental Protection and Food Safety. Consideration will need to be given in the future to ensure that the Authority is able to resource its obligations in relation to this.

- 3.4 This work will commence internally in December 2019, as per section 5 of the report. As a result, a small number of staff members will be able to prioritise sites. Longer term, the intention is that the prioritisation exercise commences in July 2021 and will take around 12 months to complete. At this stage there is no indication as to the number of sites

that will need prioritising; this will be understood when the mapping exercise is completed.

#### **4 Consultation**

- 4.1 During September the draft strategy was provided to the Environment Agency and internally to the Council's Property Services Team. Comments provided have been incorporated into the strategy. There were no major amendments made.

#### **5 Timescales**

- 5.1 Page 32 of the strategy sets out the key timescales and actions that relate to the implementation of the strategy. In the short term, initial training of staff will commence in December 2019, followed by a series of programmed activities scheduled up until 2024. These actions will deliver the priorities set out within the strategy.
- 5.2 The initial work in December 2019 will mainly be based on ensuring that the Authority's systems are up to date and can effectively enable the prioritisation work. This will result in a procedure being developed to enable the prioritisation of sites to be undertaken. Initial conversations with IT Services suggest that the Authority's existing systems can undertake this work and act as a mapping system.