

**ITEM**

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**Executive – 6 September 2007**

## **CONTAMINATED LAND STRATEGY UPDATE**

### **Report of Head of Environmental Health**

**Statutory Powers:** Environmental Protection Act 1990,  
The Environment Act 1995

**Financial Implications:** There are no immediate financial implications detailed in this report.

### **Purpose**

The purpose of this report is to update Members on progress with respect to the implementation of the Strategy for the Investigation and Remediation of Contaminated Land formally adopted on 21 June 2001 (revised July 2005).

### **Links to Council Priorities**

Identifying and remediating contaminated land directly supports the Council's priority to maintain a clean environment.

### **Recommendation**

**That the Executive RESOLVES to agree the updated strategy and requests the Environment Policy Development Group to undertake future reviews of the progress of this strategy.**

### **Background**

1. The industrial history of the UK has caused areas of land to become contaminated in various ways over many years. The ground around old factory and chemical sites, for example, may contain substances which can, in some cases, present a risk to people, animals, vegetation, rivers and streams, buildings and the groundwater system from which we obtain our drinking water. Old petrol stations, gasworks, tanneries and even dry cleaners have potential to contaminate. In addition some naturally occurring substances may represent a risk, for example, due to the geology of some areas of Devon, arsenic can be found in high levels even on previously undeveloped sites. As well as direct health or environmental problems, land contamination can cause economic and financial damage. Uncertainties about remediation requirements and liability can cause blight, deter development of brownfield land in favour of greenfield sites, and affect regeneration.
2. On 1 April 2000, the Contaminated Land Regulations came into force, implementing Part IIA of the Environmental Protection Act 1990. The

regulations place a duty on the local authorities to identify any contaminated land in their areas, and bring about its remediation. The regulations give councils (and in some cases the Environment Agency) powers to serve remediation notices requiring such remediation to be carried out.

3. As a result in June 2001 South Hams District Council produced and adopted a strategy to implement the legislation with the aim to bring about the identification, investigation and (where necessary) the remediation of such land in a systematic and efficient fashion.

The new duty to draft and implement the Contaminated Land Strategy was originally backed by additional funds within the standard spending assessment. This financed a two year part time post shared with Teignbridge District Council. The post holder, however, left before the end of the project and since then this work has proved difficult to progress as there is no spare capacity within the Control division of Environmental Health. As a result, as reported to the Executive in July 2005 (Min. E 35/05), progress on implementing the strategy had been slow.

However approval for a temporary (3 year) part-time Contaminated Land Officer was granted from April 2006 (Min. CNCL 76/05B) and an officer was recruited in November 2006.

### **Strategy Update**

4. A review and update of the strategy has now been completed and implementation of it is progressing well. Some technical issues based around the corporate Geographical Information System (GIS) and the site prioritisation software persist but with a dedicated resource these are now being overcome.

### **Progress to date**

5. The Geographical Information System (GIS) database of past and present land uses, hydrogeology and geology has been constructed. Initially an estimated 2,300 plus sites were identified. This included approximately 45 'high' risk sites mainly old gas works and military land. 972 'medium' risk sites varying from vehicle repair garages to sawmills with the remainder classified as 'low' risk. This prioritisation was based purely on the deemed risk associated with the historical land use and not the relationship with any subsequent development.
6. Further site-specific prioritisation has reduced the number to 1,220 and further refinement is planned to ensure that the sites representing the greatest potential risk are addressed first.
7. Once the prioritisation has been further refined the higher risk sites will then be subject to a desk top, phase one, investigation. This will include

looking at past planning history, more detailed maps and the presence or otherwise of a pollutant linkage.

8. The Council's own land and building assets have been identified and cross referenced with past land uses. The Property Services Manager is working with Environmental Health to assess any risks and/or liabilities that may exist.
9. Since the appointment of the Contaminated Land Officer, a robust procedure to identify contamination risks through the development control process has been set up. The comprehensive database of previous land uses detailed above enables all proposals to be screened either at the application stage or, preferably, in advance through pre-application discussion. Essentially where development is due to take place on or adjacent to land that is potentially contaminated, an assessment of the potential risk, based on future land use, is undertaken. Where necessary, usually via condition, a remediation scheme is agreed with the developer and validation approved at the end to ensure the site is 'cleaned' to a satisfactory level. This approach is in line with guidance set out in Planning Policy Statement 23: Planning and Pollution Control.

### **National Progress**

10. Implementation of the Government's Contaminated Land regime has been slow across the Country. This is due to numerous factors including the complexity of the subject, the lack of deadlines set by Government and the lack of funding.
11. In an attempt to speed the process up, in 2005 the Government introduced two linked Best Value Performance Indicators, BVPI 216a and 216b. The PI's were poorly drafted and as a result consensus on their implementation, locally, regionally and nationally has not been achieved. It is widely expected in light of the recent report from the 'Lifting the Burden Task Force' that the PI will be removed at the end of 2007/8.
12. The Council's performance against the PI has improved year on year. The PI consists of two parts; 216a is purely a figure representing the number of 'potentially contaminated land sites' and cannot therefore be considered a target. 216b records the number of these sites that the Council has gathered information on to determine whether it is or is not contaminated land. It does not, however, measure whether or not the land has actually been remediated.

### **Performance to Date**

	<b>Target</b>	<b>Actual</b>	<b>Target</b>	<b>Actual</b>	<b>Target</b>
<b>Year</b>	2005/6	2005/6	2006/7	2006/7	2007/8
<b>216a (total number of sites)</b>	2000 (estimate)	2266	2266	2263	1220

<b>216b (% of sites with adequate information)</b>	0.5%	0.03%	1%	48%*	1%
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\* the unusually high figure of 48% resulted primarily from the further prioritisation of sites (certain categories of low risk site originally included in the total were removed). Now that a more accurate number of sites of concern have been identified, it is predicted that a target of 1% is reasonable for 2007/8.

### **Future Progress**

13. The next part of the Strategy, Stage 2, includes Phase 1 desk-top investigation, followed by site walkovers, and will be resource intensive. If a site requiring detailed investigation is identified this may increase the resource implications. Intrusive sampling of soil, access and communication with land owners/residents may then follow should remediation be required. The full implications and resource requirements will not be clear until Phase 1 investigations have commenced.
14. The timetable for implementation of the Strategy is attached at Appendix 1. It is proposed to bring a further report to Members in September 2009.

### **Risk Assessment**

<b>Risk</b>	<b>Mitigation</b>
Health and Safety of public on contaminated land	Progressing the strategy is necessary to minimise any risk to the public.  Where a site posing immediate/unacceptable risk to the public is identified, immediate action would be taken.
SHDC liability on own land	Information on past land uses provided to Property Services. Assessment of risk and need for remediation is underway.

### **Conclusion**

15. Implementation of the Contaminated Land Strategy is now progressing well. Detailed prioritisation of sites is well underway, the Council's own assets have been identified, the strategy has been updated and a robust process for dealing with potential contamination at the planning stage introduced.

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6 September 2007  
 Executive

Ian Bollans

Head of Environmental Health

**Background Documents:**

Strategy for the Investigation and Remediation of Contaminated Land (SHDC  
June 21 2001 (as amended)).