



Contaminated Land Inspection Strategy

Warwick District Council

Update of Contaminated Land Strategy June 2001

Prepared by
Environmental Sustainability Manager
Health and Community Protection
Riverside House
Milverton Hill
Royal Leamington Spa
CV32 5HZ

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Introduction

Section 57 of the Environment Act 1995 created Part 2A of the Environmental Protection Act 1990 ("Part 2A") which establishes a legal framework for dealing with contaminated land in England. Part 2A defines contaminated land as

- any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land that
 - (a) significant harm is being caused or there is a significant possibility of such harm being caused; or
 - (b) significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused. (Section 78A(2)).

"Harm" means harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property (Section 78A(4)).

Under Part 2A the Secretary of State issues Statutory Guidance on how local authorities should determine which land is contaminated land. In April 2012 revised Statutory Guidance was published which supersedes the previous guidance which was published as Annex 3 of Defra Circular 01/2006. The aim of the new guidance is to simplify the contaminated land regime and provide greater clarity to regulators in deciding whether land is or is not contaminated land.

Land which has been determined can be further designated as a Special Site, from which point regulation becomes the responsibility of the Environment Agency. A Special Site is defined in the Contaminated Land (England) Regulations 2008 as one which is affecting controlled waters in certain specific circumstances, or where a particular range of activities have caused the contamination.

The Statutory Guidance also provides further information on the duty of local authorities to inspect their areas with a view to identifying contaminated land. It describes two broad types of "inspection" –

- (a) strategic inspection, for example collecting information to make a broad assessment of land within an authority's area and then identifying priority land for more detailed consideration; and
- (b) carrying out the detailed inspection of particular land to obtain information on ground conditions and carrying out the risk assessments which support decisions under the Part 2A regime relevant to that land.

Warwick District Council ("the Council") first published a Contaminated Land Inspection Strategy in June 2001. This document has been updated and simplified to reflect current guidance and context. In it, the Council sets out:

- its aims, objectives and priorities, taking into account the characteristics of its area;
- the relevant aspects of the Warwick district;
- its approach to strategic inspection, the prioritisation of detailed inspection and remediation activity;
- how Part 2A fits with its broader approach to dealing with land contamination, using other legislation, voluntary remediation or as part of wider regeneration work; and
- how in its approach to Part 2A and land contamination, the Council will seek to minimise unnecessary burdens on the taxpayer, businesses and individuals where it is reasonably practicable to do so.

In producing this strategy, the Council has consulted with the following bodies:

- Environment Agency;
- Natural England;
- Warwickshire County Council;
- Warwickshire Public Health;
- Public Health England CRCE;
- Stratford upon Avon District Council;
- Rugby Borough Council;
- Nuneaton and Bedworth Borough Council;
- North Warwickshire Borough Council;
- Coventry City Council.

The strategy will be reviewed again following any significant changes to legislation or guidance.

Source–Pathway–Receptor Terminology

Assessment of contaminated land requires recognition of three main components

- the **source** ie. the hazardous substances on, in or under the ground,
- the **receptor** ie. the specified entity which is vulnerable, or could be vulnerable, to the adverse effects of the hazardous substances,
- the **pathway** ie. the means by which a hazardous substance is able to come into contact with a receptor.

On any individual site there may be one or more of each of these components. However all three must be present with a clear relationship or linkage between them for a risk to exist. The degree of risk and whether it is sufficiently serious to warrant action depends primarily on the nature of the relationship between these components.

A risk-based “suitable for use” approach using the concept of source-pathway-receptor linkage reflects national policy on contaminated land. Under the Planning and Building Control legislative regimes, risk assessment is based on “suitable for next use” (eg. a change from industrial to residential and therefore a change in receptors). Under the contaminated land legislative regime, and the statutory definition of contaminated land, the risk assessment is based on “suitable for current use”.

The receptors recognised as being potentially sensitive in Part 2A are:

- human beings
- ecological systems or living organisms forming part of a system within certain protected locations
- property in the form of buildings
- property in other forms (eg. crops, livestock, etc)
- controlled waters (eg. rivers, lakes, streams, etc)

Warwick District Council's Aims, Objectives and Priorities

The Council's vision for Warwick District (which we share with our partners), as set out in the Sustainable Community Strategy is **"to make Warwick District a Great Place to Live, Work and Visit"**.

The Council and its partners are trying to deliver this vision together through the Sustainable Community Strategy. This sets out the approach to address 5 key priorities:

- Safer Communities
- Health and Wellbeing
- Housing
- Prosperity
- Sustainability

In support of these key priorities, the aims and objectives of this Contaminated Land Inspection Strategy are therefore:

- **To identify and remove unacceptable risks to human health and the environment**

The Council's starting point will be that land is not contaminated unless there is reason to consider otherwise. Only land where unacceptable risks are clearly identified after a risk assessment has been carried out in accordance with the Statutory Guidance, will be considered as meeting the Part 2A definition of contaminated land.

The Council may need to decide whether and how to act in situations where such decisions are not straightforward, and where there may be unavoidable uncertainty underlying some of the facts of the case. In so doing, the Council will use its judgement to strike a reasonable balance between:

- (a) dealing with risks raised by contaminants in land and the benefits of remediating land to remove or reduce those risks; and
- (b) the potential impacts of regulatory intervention including financial costs to whoever will pay for the remediation (including the taxpayer where relevant), health and environmental impacts of taking action, property blight, and burdens on affected people.

- **To seek to ensure that contaminated land is made suitable for its current use and all reasonable likely future uses of the land that would not require a new or amended planning permission.**

The Council will take a precautionary approach to the risks raised by contamination, whilst avoiding a disproportionate approach given the circumstances of each case. The aim will be to consider the various benefits and costs of taking action with a view to ensuring that the intervention produces net benefits, taking account of local circumstances in each case.

- **To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principles of sustainable development**

The Council will take a strategic approach to carrying out its inspection duty. This approach will be rational, ordered and efficient, and it will reflect local circumstances in the Warwick District. This Strategy, which has been formally adopted, will be kept under review to ensure it remains up to date, especially in the event of changes to the Statutory Guidance.

The Council will seek to minimise unnecessary financial burdens; for example by encouraging voluntary remediation to deal with land contamination issues as far as it considers reasonable and practicable. This will involve taking a broader approach to dealing with land contamination particularly through the planning (development control) system. The Council will seek to use Part 2A only where no appropriate alternative solution exists.

A Description of Relevant Aspects of Warwick District Council's Area

The Warwick District covers an area of 282 square kilometres lying in the heart of England, bounded by Solihull MBC and Coventry City Council to the north, Rugby Borough Council to the east, and by Stratford Upon Avon District Council to the south and west. The character of the district is inexorably linked to the character of the land, being predominantly rural with four main towns of Warwick, Kenilworth, Royal Leamington Spa and Whitnash. There are comparatively few sites of historic heavy industrial use and smaller scale sites where minerals have been exploited are scattered throughout the district.

Known former land uses that have the potential to cause contamination include gasworks, foundries, railway land, landfill sites, petrol filling stations and timber treatment yards.

'Background' and 'Normal' Levels of Contamination

Natural geology and common human activities have resulted in levels of contamination which can be considered as 'normal' or 'background' for a certain area. The British Geological Survey's project on Normal Background Concentrations of Contaminants suggests that the district is unlikely to contain areas of naturally metal enriched soils due to the solid geology underlying the district.

Pathways

Contamination pathways by which contamination can move in the subsurface are affected by the underlying soils, geology and hydro-geology. In the Warwick district, the geology can be broadly divided into:

- i. solid geology comprising sedimentary rocks ranging from Carboniferous to Jurassic in age;
- ii. superficial drift deposits comprising glacial and post-glacial clays, sands and gravels.

The rocks forming the solid geology generally dip at a shallow angle towards the southeast, the older rocks therefore being exposed in the north of the District. The drift deposits occur across most of the District and are generally fairly thin.

The oldest rocks belong to the Carboniferous Upper Coal Measures Tile Hill Mudstone Formation. These are overlain by Permian rocks of the Kenilworth Sandstone and Ashow Formation, although the precise age of the latter is uncertain. These rocks are generally found in the north-west of the District around Kenilworth and extend north towards Coventry. Following the deposition of the Carboniferous and Permian rocks, the region underwent a period of folding and faulting resulting in the formation of a syncline, gently plunging south-eastwards. A period of erosion followed before the deposition of Triassic and Jurassic rocks.

The Triassic rocks underlie the majority of the District and comprise the Sherwood Sandstone, Mercia Mudstone and Penarth Groups. The Jurassic rocks of the District comprise rocks of the Lower Lias and are only found as an isolated fault bound block just to the south-east of Whitnash.

The general deposition of superficial deposits consists of boulder clays predominating on higher ground and sands and gravels, river gravels and alluviums in the river valleys.

The Warwick District lies almost wholly within the catchment of the River Avon, which ultimately drains into the River Severn. Only the extreme north-western part of the District drains to the River Blythe, a tributary of the River Tame. The River Leam drains the eastern part of the District, whilst the remainder is drained by the River Avon and numerous small tributaries.

The Environment Agency's Groundwater Vulnerability Map for the area provides information on the groundwater beneath the District. This indicates that the majority of the District is underlain by non-aquifers, with much of the remainder classified as a minor aquifer with low to high vulnerability. There are, however, two small areas with major aquifer status within the District. Both of these comprise the exposed Triassic Sherwood Sandstone, just west of Kenilworth and a strip running north-east from Warwick to Bubbenhall and then north through Baginton towards Coventry.

Receptors

The main use of land in the District other than for residential use is for agriculture. Current industrial activity is generally restricted to a number of small-medium size estates.

Many uses of land are the responsibility of the Council, such as housing (approximately 6,000 properties) and open spaces. However, both the County Council and the District Council have limited land holdings in the District.

There are 2146 listed buildings (27 of which are listed as Grade 1), 41 scheduled ancient monuments and 29 designated conservation areas in the District. The District's biodiversity is also one of its major natural assets including

- 7 Sites of Special Scientific Interest (SSSI's)
- 50 Local Wildlife Sites
- 8 Regionally Important Geological sites
- 11 Registered Parks and Gardens (covering 4% of the district)

Severn Trent plc is responsible for supplying the majority of the District's drinking water but there are approximately 50 properties served by private supplies. The parts of the aquifers which are considered to form the catchments to public water supplies and certain private supplies have been defined as Source Protection Zones (SPZ's). All private supplies are regulated and

maintained in accordance with the Private Water Supply Regulations 2009 and, where relevant, have been subjected to risk assessments.

Sources

The Council holds some information on contamination in the District, primarily data submitted as part of the planning process but also records of some old landfill sites. If development is proposed on an area of land where past use may have resulted in contamination, the Council will request a site investigation as part of the planning conditions.

Future Development, Planning Context and Sustainable Development

The Council submitted its new Local Plan in January 2015 to the Secretary of State for examination. The Plan maps out the spatial vision for how the Warwick District will develop until 2029, seeking to maximise use of brownfield sites and only bring forward greenfield sites in sustainable locations. For example, strategic policy DS3 (Supporting Sustainable Communities) includes regenerating areas in need of improvement.

The new Local Plan makes provision for 12,860 new homes to be built between 2011 and 2029 and provide for 66 hectares of employment land to meet local need during the same period. When considering development proposals, the Council will take a positive approach that reflects presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF). The Council will work proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Local Plan Policy NE5 – Protection of Natural Resources provides a planning policy basis for addressing contamination and pollution locally.

Health and Economic Status

Warwick District has a growing, ageing, ethnically diverse and highly skilled population. 90% of the 137,000 residents (2011 Census) live in the main urban areas of Kenilworth, Warwick, Whitnash and Royal Leamington Spa. The population has grown from 124,000 in 2000 – an 11% increase – and is forecast to continue to grow with potentially a 17% growth over the next 15 years. Relative to the West Midlands as a whole, the District has a strong local economy with higher than average levels of productivity and earnings compared with regional and national averages.

The District's relative prosperity masks some significant areas of deprivation. In particular, Lillington lies within the most deprived 20% of Super Output Areas nationally. Further, the changing needs of business means that some of the District's traditional industrial areas require regeneration, with many of these

areas located alongside the Grand Union Canal in Warwick and Royal Leamington Spa.

Strategic Inspection

Strategic inspection involves collecting information to make a broad assessment of land within the District and then identifying priority land for more detailed consideration. The Council will prioritise land which it considers most likely to pose the greatest risk to human health, or the environment, recognising that all soils contain substances which could be harmful to receptors, but in the significant majority of cases the level of risk is likely to be very low. For this purpose, “risk” will be taken to mean a combination of

- (a) the likelihood that harm, or pollution of water, will occur as a result of contaminants in, on or under the land; and
- (b) the scale and seriousness of such harm or pollution if it did occur.

If the Council identifies land where it considers there is a reasonable possibility of unacceptable risk, it will undertake a detailed inspection of the land to obtain sufficient information to decide whether it is contaminated land, subject to the Council’s prioritisation of sites for detailed inspection.

If at any stage the Council considers, on the basis of information obtained from inspection activities, that there is no longer a reasonable possibility that a significant contaminant linkage exists on the land, it will not carry out any further inspection in relation to that linkage. In some cases the process of strategic inspection, including prioritisation of detailed inspection activities, may give rise to property blight issues. The Council will seek to minimise or reduce such potential blight as far as it is considered reasonable. Notwithstanding the above, strategic inspection of sites will be reviewed where appropriate in the event of significant changes to legislation or guidance, or relevant new information becoming available.

When undertaking strategic inspection, the Council will consider potential sources, pathways and receptors in a rational, ordered and efficient manner. A repeatable, transparent and risk-based methodology will be used, based upon any identified pollution linkages and having regard to good practice guidance. Strategic inspection will form part of a robust decision-making process which complies with Part 2A and the Statutory Guidance. GIS systems will be used to document the process.

However the Council will not investigate potentially contaminated land solely using Part 2A. It is envisaged that the planning and building control systems will be used in the majority of occasions to ensure land is made suitable for use when it is redeveloped, and/or to encourage land owners to deal with problematic land as part of wider regeneration work. This broader approach may include encouraging developers of land affected by contamination to deal with the problems without the need for Part 2A to be used directly, for example through the use of planning conditions.

Progress with Strategic Inspection since Publication of the 2001 Strategy

Over the last 14 years, some 600 potentially contaminated sites were identified on the basis of their former land use. Desktop assessments resulted in 172 of these sites being prioritised for strategic investigation, the remainder either having already been remediated or noted as minor significance.

Strategic Inspection 2015 – 2020

There is a continued need to seek further information on potential pollutant linkages, in order to refine the prioritisation of sites for detailed inspection, until the point where it becomes clear that land is not contaminated. The Council will progress this work, in accordance with the principles outlined above, during the next five years.

Detailed Inspection and Remediation Activity

The Council will, directly or indirectly, undertake detailed inspection of land to obtain information on ground conditions and to carry out risk assessments to support decisions under the Part 2A regime. As with strategic inspection, the Council will focus on land which might pose an unacceptable risk and consider risk as the combination of:

- (a) the likelihood that harm, or pollution of water, will occur as a result of contaminants in, on or under the land; and
- (b) the scale and seriousness of such harm or pollution if it did occur.

The Council will use risk assessment to make robust decisions, having regard to good practice guidance and based on information which is:

- (a) scientifically-based;
- (b) authoritative;
- (c) relevant to the assessment of risks arising from the presence of contaminants in soil; and
- (d) appropriate to inform regulatory decisions in accordance with Part 2A, the Statutory Guidance and local circumstances.

The timing of detailed inspection will be subject to the Council's prioritisation following strategic inspection. If at any stage the Council considers, on the basis of information obtained from inspections, that there is no longer a reasonable possibility that a significant contaminant linkage exists on the land, it will not carry out any further inspection in relation to that linkage.

Where the Council carries out any intrusive investigation, it will do so in accordance with appropriate good practice technical procedures for such investigations.

When deciding whether a site meets the definition of Contaminated Land, the Council will also have regard to the financial costs to whoever will pay for remediation (including the taxpayer where relevant), health and environmental impacts of taking action, property blight, and burdens on affected people. All decisions made will be rational, ordered, efficient and fully documented.

Liaison with Landowners and Powers of Entry

The Council will consult the landowner before inspecting the land unless there is a particular reason why this is not possible, for example because it has not been possible to identify or locate the landowner. The Council will be open to moves by the landowner (or some other interested party) to help resolve the status of the land themselves. For example, the Council may decide that the land is, or is not, contaminated land on the basis of information provided by the landowner or other interested party, provided the Council is satisfied with the robustness of the information.

Where the owner refuses access, or the landowner cannot be found, the Council will consider using statutory powers of entry. Before doing so, the Council will first satisfy itself that there is a reasonable possibility that a significant

contaminant linkage may exist on the land and will comply with the requirements of the legislation and the Statutory Guidance.

Special Sites and Detailed Inspection by the Environment Agency

If the Council identifies land which it considers (if the land were to be determined as contaminated land) would be likely to be designated as a special site, it will consult the Environment Agency. Subject to the Agency's advice and agreement, the Council will arrange for the Agency to carry out any intrusive inspection of the land on its behalf. If necessary, the Council will authorise a person nominated by the Agency to exercise the powers of entry conferred by section 108 of the Environment Act 1995. The Agency will be expected to carry out any intrusive investigations in accordance with appropriate good practice technical procedures for such investigations.

It should be noted that where the Environment Agency carries out an inspection on behalf of the Council, the Council's regulatory functions under Part 2A and the Statutory Guidance remain the Council's sole responsibility. The Agency should advise the Council of its findings in order to enable the Council to carry out these responsibilities.

Using External Expertise during Detailed Inspection

The process of detailed inspection and risk assessment in complex cases may raise issues which are beyond the expertise of Council officers in which case the Council will consider whether to bring in external expertise. Selection of an appropriate consultant will depend on the circumstances of the land and the expertise required, and could include experienced practitioners from other local authorities, Natural England or specialist consultants from the private sector. The Council will endeavour to ensure that the person consulted is appropriately qualified and competent to carry out the work.

The Council will be mindful that although external experts may advise on regulatory decisions under the Part 2A regime, the decisions themselves remain the Council's sole responsibility.

Normal Levels of Contamination

The Statutory Guidance is clear that normal levels of contamination in soil should not be considered to cause land to qualify as contaminated land, unless there is a particular reason to consider otherwise. Therefore, if it is established that land is at or close to normal levels of particular contaminants, it should usually not be considered further in relation to the Part 2A regime. The Council will have regard to the relevant paragraphs of the Statutory Guidance when considering normal levels of contamination and local circumstances.

Recognising and Handling Uncertainty

The Council understands that all risk assessments of potentially contaminated land will involve uncertainty, for example scientific uncertainty over the effects of substances, or assumptions about exposure to substances. When undertaking

detailed inspection, the Council will recognise uncertainty and seek to minimise it as far as is relevant, reasonable and practical. Despite this, uncertainty is likely to remain and the Council will be aware of the assumptions and estimates that underlie the risk assessment, and the effect of these on its conclusions.

The Statutory Guidance states that:

'the uncertainty underlying risk assessments means there is unlikely to be any single "correct" conclusion on precisely what is the level of risk posed by land, and it is possible that different suitably qualified people could come to different conclusions when presented with the same information. It is for the [Council] to use its judgement to form a reasonable view of what it considers the risks to be on the basis of a robust assessment of available evidence in line with this Statutory Guidance'.

Remediation Activity

During detailed inspection, and when deciding whether land meets the definition of 'contaminated land', the Council may consider the likely direct and indirect health benefits and impacts on remediation. This could include any risks from contaminants being disturbed during the works, stress-related health effects, and whether the benefits would outweigh the social, financial and economic costs. The Statutory Guidance explains that such an assessment does not need to be a quantified or detailed cost-benefit or sustainability analysis. Rather the Council should make a broad consideration of factors it considers relevant to achieving the aims of Part 2A, the Statutory Guidance and this Strategy.

Once land has been determined, the Council must consider how it should be remediated and, where appropriate, issue a remediation notice to require such remediation. (If the land is deemed to be a 'special site', this action becomes the responsibility of the Environment Agency.)

The Council will have regard to the relevant provisions of Part 2A, the Statutory Guidance and its own aims and objectives within this Strategy when it is:

- (a) deciding what remediation action it should specify in a remediation notice;
- (b) satisfying itself that appropriate remediation is being, or will be, carried out without the service of a notice; or
- (c) deciding what remediation action it should carry out itself.

Progress with Detailed Inspection and Remediation since Publication of the 2001 Strategy

One site has been determined as 'contaminated land' and subsequently designated as a "special site". This has now been fully remediated, although there are several others which have been subject to works by the land owners, in consultation with the Council.

The majority of detailed inspections and, where necessary, remediation have been conducted as part of the planning (development control) process. Consultation on such sites certainly makes up the significant proportion of the contaminated land workload.

Detailed Inspection and Remediation 2015 – 2020

Based on current knowledge and evidence, the Council has no specific plans to undertake further detailed inspections. However, the Council will continue to review detailed assessment and remediation works undertaken voluntarily or through the planning (development control) process.

If at any stage the Council considers, on the basis of information obtained from inspection activities, that there is no longer a reasonable possibility that a significant contaminant linkage exists on the land, it will not carry out any further inspection in relation to that linkage. Notwithstanding the above, detailed inspection of sites will be reviewed where appropriate in the event of significant changes to legislation or guidance, or relevant new information becoming available.

Risk Summaries, Communication and Procedures

Part 2A Documentation

Part 2A and the Statutory Guidance require local authorities to produce a range of notices, documents and information at various stages in the process of dealing with land contamination. The Council will comply with these requirements when taking any action under Part 2A in consultation with Legal Services.

The most common piece of documentation, which was introduced by the 2012 revision to the Statutory Guidance, will be the Risk Summary. This must be produced for any land which, on the basis of a risk assessment, the Council may be likely to determine and must be understandable to the layperson. Risk Summaries are not required for land which will not be determined as contaminated land or land which has been prioritised for detailed inspection but which has not yet been subject to risk assessment. Notwithstanding this, the Council will seek to ensure that all decisions made on land contamination are accurately recorded and described. Risk Summaries should as a minimum include:

- (a) a summary of the Council's understanding of the risks, including a description of the contaminants involved, the identified contaminant linkages, the potential impacts, the estimated possibility that the impacts may occur, and the timescale over which the risk may become manifest;
- (b) a description of the Council's understanding of the uncertainties behind its assessment;
- (c) a description of the risks in context, for example relative to other risks that receptors might be exposed to in any case; and
- (d) a description of the Council's initial views on remediation

Consultation with Landowners

The Council will consult the landowner before inspecting any land unless there is a particular reason why this is not possible. In accordance with the aims of this Strategy, the Council will seek to ensure that Risk Summaries and all other information is produced in a timely fashion and bearing in mind the potential impacts of regulatory involvement including health impacts, property blight, and burdens on affected people. Specialist advice will be sought where necessary on the communication of risks and detailed technical information to the public.

Complaints and Notifications from Third Parties

The Council may also receive information about sites from interested parties other than the landowner, for example by complaints from neighbours, etc. Complaints will be dealt with in accordance with the Council's standard procedures for public health nuisances. It is normal Council policy that anonymous complaints will not be investigated. However in the case of contaminated land any information received will be recorded and evaluated to determine the need for further investigation.

Contaminated Land and Development Control

Officers from Health & Community Protection screen all planning applications that are received and validated by Development Services. Where an application relates to a site where contamination is known, or suspected, or is for a sensitive end use, officers will make appropriate comments to the planning officer. This could include requesting additional information prior to determination, proposing a suitable condition for any planning consent, or commenting on submitted reports. In accordance with the NPPF, officers will ensure that the development control process delivers sites that are suitable for their new use and, where appropriate, provides opportunities to incorporate features which are beneficial to wildlife and biodiversity. However responsibility for securing a safe development rests with the developer and/or landowner.

Contaminated Land Register

The contaminated land public register is held by the Environmental Sustainability section. The information placed on the register will be maintained in accordance with the legislation and the Statutory Guidance.

Providing Information to Third Parties

The Council receives enquiries from third parties requesting information about individual sites, or sites within a small radius (<500 metres) of a certain address. The Council will respond to any such written enquiries with any information available and in accordance with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The Council charges a set fee for these enquiries and the fee is reviewed annually.

For further advice please contact the Environmental Sustainability section at:

Warwick District Council
Health and Community Protection
Riverside House
Milverton Hill
Royal Leamington Spa
CV32 5HZ

Tel. 01926 456724

Email environment@warwickdc.gov.uk

Glossary

This document uses a number of terms which are defined in Part 2A of the Environmental Protection Act 1990 or in the DEFRA Contaminated Land Statutory Guidance (April 2012). The meanings of the most important of these terms are detailed below and, where appropriate, a reference to the relevant section of Part 2A has been included.

Contaminant	A substance which is in, on or under the land and has the potential to cause significant harm or significant pollution of controlled waters.
Contaminant Linkage	The relationship between a contaminant, a pathway and a receptor.
Contaminated Land	<p>Defined in section 78(A)2 as:</p> <p>'Any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land that:</p> <ul style="list-style-type: none">a) significant harm is being caused or there is a significant possibility of such harm being caused; orb) significant pollution of the water environment is being caused or there is a significant possibility of such pollution being caused.' <p>OR with respect to radioactive contamination it is defined as:</p> <p>'Any land which appears to the local authority in whose area the land is situated to be in such a condition, by reason of substances in, on or under the land, that:</p> <ul style="list-style-type: none">a) harm is being caused; orb) there is a significant possibility of harm being caused.'
Controlled Waters	Has the same meaning as in Part III of the Water Resources Act 1991, and includes relevant territorial waters, coastal waters, inland freshwaters and ground waters. Except that 'ground waters' does not include waters contained in underground strata but above the saturation zone.
Current Use	<p>Defined in the Statutory Guidance as:</p> <ul style="list-style-type: none">• The use which is being made of the land currently

	<ul style="list-style-type: none"> • Reasonable likely future uses of the land that would not require a new or amended grant of planning permission • Any temporary use to which the land is put, or is likely to be put, from time to time within the bounds of current planning permission • Likely informal use of the land, for example children playing on the land, whether authorised by the owners or occupiers, or not • In the case of agricultural land, the current agricultural use should not be taken to extend beyond the growing or rearing of the crops or animals which are habitually grown or reared on the land.
Detailed Inspection	This refers to obtaining information on ground conditions of particular land and carrying out the risk assessments which support decisions under Part 2A relevant to that land.
Ecological Systems	<p>Only the following ecological systems can be considered for the purposes of Part 2A:</p> <ul style="list-style-type: none"> • A site of special scientific interest • A national nature reserve • A marine nature reserve • An area of special protection for birds • A "European site" within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2010 • Any habitat or site afforded policy protection on nature conservation • Any nature reserve established under section 21 of the National Parks and Access to the Countryside Act 1949.
Harm	<p>Defined in section 78A(4) as:</p> <p>'Harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property'.</p> <p>OR with respect to radioactive contamination is defined as:</p> <p>'Lasting exposure to any person being resulting from the after effects of a radiological emergency, past practice or past work activity'.</p>
Intrusive Investigation	An investigation of land (for example by exploratory

	excavations) which involves actions going beyond simple visual inspection of the land, limited sampling or assessment of documentary information.
Orphan Linkage	A significant contaminant linkage where no appropriate person can be found, or where those who would otherwise be liable are exempted by one of the relevant statutory provisions.
Pathway	A route by which a receptor is or might be affected by a contaminant.
Possibility of Significant Harm	<p>As it applies to human health, the risk posed by one or more relevant contaminant linkages relating to the land. It comprises:</p> <ul style="list-style-type: none"> a) the estimated likelihood that significant harm might occur to an identified receptor, taking account of the current use of the land in question b) the estimated impact if the significant harm did occur.
Property	<p>Only the following property can be considered for the purposes of Part 2A:</p> <ul style="list-style-type: none"> a) property in the form of buildings. For this purpose, "building" means any structure or erection, including any part of a building below ground level, but does not include buried services (sewers, water pipes, cables, etc) b) property in the form of: <ul style="list-style-type: none"> i) crops, including timber; ii) produce grown domestically, or on allotments, for consumption; iii) livestock; iv) other owned or domesticated animals; v) wild animals which are the subject of shooting or fishing rights.
Receptor	Something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters.
Remediation	Removing identified significant contaminant linkages, or permanently disrupting them, to ensure that they are no longer significant and the risks are reduced to an acceptable level.
Risk	A combination of the probability/frequency of

	occurrence of a defined hazard and the magnitude (including the seriousness) of the consequences.
Source Protection Zones (SPZ)	<p>Zone 1 – The 50 day travel time from any point below the water table to the source.</p> <p>Zone 2 – The 400 day travel time from a point below the water table.</p> <p>Zone 3 – The area around a source within which all groundwater recharge is assumed to be discharged at the source.</p>
Special Site	This generally refers to sites where controlled waters are affected by contamination or where there is radioactively contaminated land.
Statutory Guidance	Issued by the Secretary of State for Environment, Food and Rural Affairs in accordance with section 78YA of the Environmental Protection Act 1990 and published in April 2012. The Guidance is legally binding on enforcing authorities and replaces Defra Circular 01/2006.
Strategic Inspection	This refers to collecting information to make a broad assessment of land within an authority's area and then identifying priority land for more detailed consideration.
Suitable for Use	<p>This approach recognises that the risks presented by any given level of contamination will vary greatly according to the use of the land. The 'suitable for use' approach consists of three elements:</p> <ul style="list-style-type: none"> a) ensuring that the land is suitable for its current use; b) ensuring that land is suitable for any new use before official permission is given for the development; and c) limiting requirements for remediation to the work necessary to prevent unacceptable risks to human health or the environment.
Unacceptable Risk	A risk of such a nature that it would give grounds for land to be considered contaminated land under Part 2A.