

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards	Mandatory/	(a) Be entirely within cabinet's powers to decide YES/NO		
	Discretionary /	(b) Need to be recommendations to Council YES/NO		
	Operational	(c) Be partly for recommendations to Council YES/NO and partly within Cabinets powers –		
Lead Member: Cllr I Devereux E-mail: cllr.ian.devereux@west-norfolk.gov.uk		Other Cabinet Members consulted: Cllr B Long ,All at Cabinet Briefing		
		Other Members consulted:		
Lead Officer: Dave Robson E-mail: dave.robson@west-norfolk.gov.uk Direct Dial: 01553 616302		Other Officers consulted: Geoff Hall, Fabia Pollard, Lorraine Gore, Matthew Henry, Dale Gagen, Ostap Paparega		
Financial Implications YES/NO	Policy/Personnel Implications YES/NO	Statutory Implications YES/NO	Equal Impact Assessment YES/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/NO

Date of meeting: 31st January 2017

BOROUGH COUNCIL CONTAMINATED LAND INSPECTION STRATEGY

Summary

The Contaminated Land Inspection Strategy has been updated following the issuing of revised DEFRA guidance and the decision to remove contaminated land grant

Recommendation

Adopt new and updated Contaminated Land Inspection Strategy

Reason for Decision

Ensure that the Contaminated Land Inspection Strategy follows best current guidance

1 Background

The Borough Council has a statutory duty to inspect its district for contaminated land under Part 2A of the Environmental Protection Act 1990. This piece of legislation was enacted in 2000 and it was a requirement that the Council adopt a strategy to inform how it would carry out this duty.

The inspection strategy has been updated in the past as and when required. This current update follows new DEFRA guidance and reflects the changes to central government funding for contaminated land investigation and remediation with the removal of the contaminated land grant scheme.

For a piece of land to be designated as "Contaminated Land" under the legislation there needs to be a "pollutant linkage" established.

We must identify:

- a source,
- a pathway, and;
- a receptor

A site may contain some form of contamination but if there is no pathway for the pollution to impact a receptor which could be either human health or another receptor such as “controlled waters” (i.e. ground water aquifer or the wider environment) then the site would not be classified as “Contaminated Land” under the Act.

2 Policy Implications

The Council’s current strategy is in need of review. The current strategy does not take in to account the new DEFRA guidance and removal of the Contaminated Land Grant scheme. The Environment Agency (EA) is a consultee under the DEFRA guidance and they have been sent a draft copy of the strategy for consideration. We have also consulted the draft Strategy with adjoining Local Authorities. We have received comments back from the EA and they have been incorporated in the final version of the strategy.

Following any inspection of potentially contaminated land a copy of the completed site investigation report will be sent to the site owner and then placed on to the Council’s website, unless there is a reason to exclude it under the Freedom of Information or Environmental Information Regulations.

3 Financial Implications

The removal of the contaminated land grant scheme will mean that there is no central government funding available for detailed site investigation or complete site remediation should a site be designated as “Contaminated Land”. The premise behind the regime is that most sites with contamination will be cleaned up and remediated through the planning development process as brown field sites come forward for redevelopment.

If a detailed site investigation is now required, a report will be sent to Management Team for them to consider and allocate funding if deemed necessary.

If a site is designated “Contaminated Land” then the Council would first contact the site owner or person reasonable for the contamination to agree voluntary remediation and if this cannot be agreed, a Remediation Notice to clean up the site would then be served. The main financial risk to the Council is where no owner or responsible person/ company can be found. In the cases of orphan sites, the Council could previously apply for grant to remediate the site.

This approach was taken with the Wisbech Canal investigation where grant funding was awarded and used to fund an intrusive investigation in partnership with Fenland District Council. The site was not considered to be “Contaminated Land”. However since contaminated land grant is no longer available these costs would now have to be borne by the Council.

If an orphan site was designated as “Contaminated Land” a report would be submitted to Management Team to consider the financial issues.

4 Staffing Implications

A number of sites that have previously been considered will need to be reviewed against the new guidance. No potentially contaminated sites to date have been designated as “Contaminated Land”. This workload will be carried out as part of the on-going routine work of the Environmental Quality Team. It is not anticipated that the previously reviewed sites will change designation that would lead them to being declared as “Contaminated Land”. The other main ongoing workload is providing advice during the planning development process which will not be affected.

5 Statutory Considerations

Under Part 2A of the Environmental Protection Act 1990, the Council has a statutory duty to inspect its district to identify contaminated land and if it designates any land so, it must then establish liability with the land owner/person responsible and enter voluntary remediation. If this fails then the Council would serve a remediation notice. If the site is orphaned and no responsible person can be identified, the Council would be responsible for the remediation.

No areas of land to date have been designated as “Contaminated Land”. Any land so designated would be included in the Council’s public register which is publically available on the Council’s website.

6 Equality Impact Assessment (EIA)

No equality issues have been highlighted as part of this review and therefore no EIA was completed.

7 Risk Management

No risk management issues have been highlighted, financial issues have been considered in section 3 above and Legal issues have been considered in section 5 above.

8 Background Papers

DEFRA Guidance

Environmental Protection Act 1990 (as amended)