

## REPORT TO CABINET

<b>Open/Exempt</b>		Would any decisions proposed:			
<b>Any especially affected Wards</b> ALL	Mandatory/ <b>Discretionary / Operational</b>	Be entirely within Cabinet's powers to decide Need to be recommendations to Council	YES/NO YES/NO		
		Is it a Key Decision		YES/NO	
Lead Member: Cllr P Kunes E-mail: cllr.paul.kunes@west-norfolk.gov.uk			Other Cabinet Members consulted: none		
			Other Members consulted: none		
Lead Officer: Dave Robson E-mail: dave.robson@west-norfolk.gov.uk Direct Dial: 01553 670566			Other Officers consulted: Fabia Pollard, Sarah Dennis, Michelle Drewery		
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	Environmental Considerations YES/NO

Date of meeting: 2 August 2022

## CONTAMINATED LAND STRATEGY

### **Summary**

The attached Strategy sets out how the Borough Council will fulfil its statutory duty to inspect the district for Contaminated Land. This is an update of the existing Strategy following the issue of new national guidance.

### **Recommendation**

Adopt the updated Contaminated Land Strategy

### **Reason for Decision**

So that the Borough Council can fulfil its statutory duty to investigate the district for Contaminated Land.

## **1 Background**

1.1 The Council has a legal duty under Part 2A of the Environmental Protection Act 1990 to inspect its district for contaminated land. The Contaminated Land Strategy sets out how this function will be carried out. This is a separate process to planning applications where development on brown field sites may require some form of clean up to be completed for its new land use.

## **2 Options Considered**

2.1 The Contaminated Land Strategy was last updated in 2016 following the issuing of new statutory guidance by DEFRA. This document updates that Strategy incorporating new guidance and best practice.

- 2.2 This is a periodic review to ensure the strategy follows best practice.
- 2.3 Under the statutory guidance the Environment Agency (EA) peer review local authority Strategies. The EA have reviewed and agreed this Strategy.

### **3 Policy Implications**

- 3.1 None identified. The Strategy follows national guidance and best practice and has been peer reviewed by the Environment Agency.

### **4 Financial Implications**

- 4.1 The staffing resources are fully funded.
- 4.2 An annual sampling budget is provided which allows staff to take a small number of near surface soil or water samples. A reserve fund exists that would be used for more detailed works.
- 4.3 If more extensive sampling is required, such as use of a drilling rig or larger number of surface samples, or works to remediate the site were required, then a bid to Management Team for extra resources would be made.
- 4.4 If a site is determined to be Part 2A Contaminated Land and works are required, then this would normally fall to the site owner or person(s) responsible to pay for the remediation.
- 4.5 If neither the site owner or person responsible can be identified, then the cost for the remediation for any orphaned site would fall to the Borough Council. There is no longer any contaminated land grant available to deal with any Part 2A Contaminated Land orphaned sites requiring remediation.

### **5 Personnel Implications**

- 5.1 The Environmental Health Manager – Environment oversees the work of the Environmental Quality Team which deals with Contaminated Land, Air Quality, LAPPCC and Environmental Enquiries. The Scientific Officer takes the lead role for Contaminated Land matters with support from the Contaminated Land Officer and input for the Environmental Health Admin Team.
- 5.2 The work in the whole area accounts for 2 FTE staff and no extra resources are being sought.

## **6 Environmental Considerations**

6.1 The Part 2A regime will primarily protect human health but other receptors under the legislation also include drinking water aquifers and agricultural land.

6.2 The Part 2A regime has focused on historical land use and identified a number of sites where previous uses may have led to contamination.

6.3 Whilst separate to the Part 2A regime, the planning application process ensures that existing brown-field sites can be brought back in to use and cleaned up as the same time. The Part 2A guidance notes that most brown field sites will be remediated through the planning process rather than through Part 2A. The Scientific Officer and Contaminated Land Officer review planning applications to ensure that any contaminated land issues are identified and remediated correctly. This forms a large piece of their day-to-day workload.

## **7 Statutory Considerations**

7.1 The Council has a statutory duty under Part 2A of the Environmental Protection Act 1990 to investigate its district.

7.2 The latest statutory guidance is dated April 2012. New technical guidance, 'Land Contamination Risk Management' (LCRM), was published in October 2020, setting out current best practice. The guidance is used under the planning process and under the Part 2A contaminated land regime site investigation, risk assessment, remediation, and assessing liabilities. The Environment Agency expects LCRM to be followed when managing the risks from land contamination.

7.3 The Strategy follows the basic principle, that the site and its contamination can only be classified as "Contaminated Land" if "significant possibility of significant harm (SPOSH)" exists. If the site in question does not meet the SPOSH criteria it will not fall within the legal definition of "Contaminated Land".

## **8 Equality Impact Assessment (EIA)**

(Pre screening report template attached)

8.1 An EIA has been completed. No adverse impacts have been identified.

## **9 Risk Management Implications**

9.1 This area of work is a statutory duty. The Council could be subject to legal challenge if it did not discharge this function in an effective manner.

9.2 If the Council did not investigate a contaminated land site, for example a contaminated water supply to a house, then the occupiers may suffer impacts to their health. This could result in legal challenge.

9.3 The Council could receive negative publicity if Part 2A sites were not investigated in suitable manner. The Strategy sets out how an investigation would be carried out. Officers have routinely investigated a number of potential Part 2A sites with involvement with local residents and Parish Councils. Following the approach in the Strategy has demonstrated that perceived risk and blight can be mitigated and not lead to negative publicity.

## **10 Declarations of Interest / Dispensations Granted**

10.1 None

## **11 Background Papers**

Contaminated Land Strategy

Non-Technical Summary

Borough Council website [https://www.west-norfolk.gov.uk/info/20138/contaminated\\_land](https://www.west-norfolk.gov.uk/info/20138/contaminated_land)

Land Contamination Risk Management

<https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>

## **Pre-Screening Equality Impact Assessment**

Borough Council of  
**King's Lynn &**  
**West Norfolk**



Name of policy/service/function	Contaminated Land Strategy				
Is this a new or existing policy/service/function?	New/ Existing (delete as appropriate)				
Brief summary/description of the main aims of the policy/service/function being screened.	The main aim is to set out how the Borough Council will review and investigate land to consider if it meets the criteria as "Contaminated Land".				
Please state if this policy/service is rigidly constrained by statutory obligations	The Council has a statutory duty to investigate and follows statutory guidance, industry best practice and case law.				
Question	Answer	Positive	Negative	Neutral	Unsure
<b>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups <b>according to their different protected characteristic</b>, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</b>					
Please tick the relevant box for each group.	Age			X	
NB. Equality neutral means no negative impact on any group.	Disability			X	
	Gender			X	
	Gender Re-assignment			X	
	Marriage/civil partnership			X	
	Pregnancy & maternity			X	
	Race			X	
	Religion or belief			X	
	Sexual orientation			X	
	Other (eg low income)			X	

<b>Question</b>	<b>Answer</b>	<b>Comments</b>
<b>2.</b> Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favouring a particular community or denying opportunities to another?	Yes / No	None identified
<b>3.</b> Could this policy/service be perceived as impacting on communities differently?	Yes / No	None identified
<b>4.</b> Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?	Yes / No	None identified
<b>5.</b> Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions?  If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section	Yes / No	<p><b>Actions:</b></p> <p>.....</p> <p><b>Actions agreed by EWG member:</b></p> <p>.....</p>
<b>If 'yes' to questions 2 - 4 a full impact assessment will be required unless comments are provided to explain why this is not felt necessary:</b>		
<b>Decision agreed by EWG member:</b> .....		
<b>Assessment completed by:</b>  <b>Name</b>	<b>Dave Robson</b>	
<b>Job title</b>	<b>Environmental Health Manager</b>	
<b>Date</b>	<b>22.02.2022</b>	