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North Northamptonshire Council

Contaminated Land Strategy

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Executive Summary

Since April 2000, local authorities have had a duty to manage contaminated land issues within their areas. The duty was conferred by Part IIA of the Environmental Protection Act 1990 (“the Act”) and associated statutory guidance. The Act gives local authorities the lead role in dealing with contaminated land and requires each authority to publish a written strategy setting out how it will carry out its duties. This is the first inspection strategy published by North Northamptonshire Council (the council). The council came into being in April 2021 further to the merging of the former Northamptonshire County Council and the predecessor local authorities of Borough Council of Wellingborough, Corby Borough Council, East Northamptonshire Council and Kettering Borough Council.

This strategy reflects currant guidance and local characteristics of the former district/borough councils. This strategy explains how the council will implement the contaminated land regime, taking account of the latest guidance and the resources available to the council. This strategy is available both in hard copy and on the council’s web site.

The council recognises that decisions about contaminated land are not made on a purely technical basis. There will be a variety of regulatory, commercial, financial, legal and societal factors, which also affect how particular contaminated land issues should be addressed. The council also recognises that decisions about contaminated land need to be scientifically robust, proportionate and transparent.

The strategy takes a risk-based ‘suitable for use’ approach. This means assessing risks associated with land contamination in the context of the actual or intended use of a site. The principal objectives of the revised strategy are to:

- meet the statutory requirements to produce a strategy and review it;
- set out a strategic approach to the identification and remediation of contaminated and potentially contaminated land;
- adopt a systematic and robust approach for dealing with sites that appear to be contaminated;
- inform stakeholders of the council’s intentions and actions;
- set out how the council will liaise with the Environment Agency and other stakeholders;
- ensure appropriate records are kept in a Public Register;
- minimise burdens on individuals, businesses and the wider community;
- encourage the re-use of brownfield land

Wherever possible, these objectives will be achieved through voluntary remediation and / or the redevelopment or regeneration of sites. This approach aims to minimise burdens on individuals, business and the wider community while ensuring that unacceptable risks are dealt with effectively.

1 Introduction

In April 2000, the UK Government introduced a new duty on each local authority to inspect the land within its area and identify any areas that could be defined as "contaminated land". Where a local authority finds such land, it must ensure it is remediated to reduce or remove risks to people and the environment. The government set out its requirements for dealing with contaminated land within Part IIA of the Environmental Protection Act 1990 (“the Act”) and associated ‘Statutory Guidance’ documents.

1.1 What is Contaminated Land?

Contaminated land is defined in Part IIA of the Environmental Protection Act 1990 as any land, which appears to the local authority in whose area it is situated to be in such 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;]

"Significant harm is being caused or there is a significant possibility of such harm being caused, or pollution of controlled water is being or is likely to be caused."

"Harm" is defined as:

"Harm to the health of living organisms or other interference with the ecological systems of which they form a part, and in the case of man includes harm to his property."

The fact that a harmful substance is in, on or under a piece of land does not in itself mean that land is "contaminated land". The source of harm may be present but unless a possible route exists through which it is likely to cause harm to health, eco-systems or property or to cause pollution of controlled waters, the land is not contaminated within the meaning of the Act.

For there to be a 'significant possibility of significant harm' the above source–pathway-receptor linkage must be identified. Only once this 'pollutant linkage' has been established for a harmful substance can the land in question be designated as "contaminated land" under the Act.

1.2 The Statutory Regime

The statutory basis of the Government's contaminated land regime is to be found in Part IIA of the Environmental Protection Act 1990 (which was inserted by the Environment Act 1995). The Act gives local authorities the lead role in dealing with contaminated land issues within their area and requires each authority to publish a written strategy setting out its approach. Strategies can reflect the circumstances of an authority's area but must be written in accordance with statutory guidance issued by the Secretary of State for Environment, Food and Rural Affairs. Revised statutory guidance was published in April 2012 *(Environmental Protection Act 1990: Part 2A - Contaminated Land Statutory Guidance).*

The 2012 sets out the overarching objectives of Government policy on contaminated land and the Part IIA regime as follows:

(a) To identify and remove unacceptable risks to human health and the environment.

(b) To seek to ensure that contaminated land is made suitable for its current use.

(c) To ensure that the burdens faced by individuals, business and the wider community are proportionate, manageable and compatible with the principles of sustainable development.

The guidance explains how local authorities should implement the contaminated land regime, including how they should go about deciding whether land is contaminated land in the legal sense of the term. The guidance does not apply to radioactive contamination of land, which is covered by separate statutory guidance.

Enforcing authorities are required to use Part IIA only where no appropriate alternative solution exists. Alternatives include development of land under the planning system, during the building control process, or where action is taken independently by landowners. Other legislative regimes may also provide a means of dealing with land contamination issues, such as building regulations; the regimes for waste, water, and environmental permitting; and the Environmental Damage (Prevention and Remediation) (England) Regulations 2015.

1.3 A Strategic Approach

The guidance requires local authorities to take a strategic approach to carrying out its duties which should be rational, ordered and efficient, and reflect its local circumstances. Strategic approaches may vary between local authorities, but all authorities should set out their approach as a written strategy.
Strategies should include:

- Aims, objectives and priorities, considering the characteristics of the area
- A description of relevant aspects of the area
- The approach to strategic inspection of the area
- The approach to prioritising detailed inspection and remediation activity
- How the approach under Part IIA fits with broader approaches to land contamination, such as using the planning system to ensure land is made suitable for use when it is redeveloped
- How the authority will seek to minimise unnecessary burdens on the taxpayer, businesses and individuals

1.4 The Council's Strategy

The North Northamptonshire Council strategy replaces the contaminated land strategies produced by the former district/borough councils

- Borough Council Wellingborough
- Corby Borough Council
- East Northamptonshire Council
- Kettering Borough Council

This strategy references the 2012 statutory guidance. This strategy explains how the council will implement the contaminated land regime from 2022 onwards and takes account of the latest guidance, experience from the former borough/district councils and the resources available to the council at this time. The revised strategy is available both in hard copy and on the council's web site.

1.5 Management of the Strategy

Environmental Protection will act as lead service within the council for the purpose of managing the strategy.

Designated officers will have responsibility for dealing with enquiries and incidents relating to land contamination and generally implementing the strategy. The officer will also be the main contact for liaison with the Environment Agency, Natural England, English Heritage, DEFRA, landowners, agents, members of the public and other stakeholders concerning potentially contaminated land.

The designated officer will review the strategy at regular intervals of no less than 5 years or when statutory changes or new guidance require it.

2 Objectives and Priorities

The council recognises that decisions about contaminated land are not made on a purely technical basis. There will be a variety of regulatory, commercial, financial, legal and societal factors, which also affect how particular contaminated land issues should be addressed. The council also recognises that decisions about contaminated land need to be scientifically robust, proportionate and transparent.

The council is the lead regulator on contaminated land and will work in partnership with other organisations, particularly the Environment Agency and Natural England to resolve issues effectively.

2.1 General Approach of the Council

The council will take a risk-based approach to assessing whether land is contaminated. Risks will be assessed according to the suitable for use principle in accordance with statutory guidance. This means assessing risks associated with land contamination in the context of actual or intended use of a site.

In developing its strategic approach, the council has paid due regard to its local circumstances and information currently available. This has enabled consideration of the following aspects:

- available evidence that significant harm or pollution of controlled waters is actually being caused;
- the extent to which human and ecological receptors and controlled waters are likely to be distributed within different parts of the authority's area;
- the extent to which those receptors are likely to be exposed to a contaminant as a result of the use of the land or the geological and hydrogeological features of the area;
- the extent to which information on land contamination is already available;
- the history, scale and nature of industrial and military activities which may have contaminated the land in different parts of the district;
- the nature and timing of past redevelopment in different parts of the district;
- the extent to which remedial action has already been taken by the authority to deal with land-contamination problems or is likely to be taken as part of the council's Local Plan and Development Plan.

The council is also mindful that other regulatory provisions can be relevant to problems with land contamination. Overlaps with planning, water pollution and Environmental Permitting legislation are important examples. The council will seek to resolve problems using alternative provisions wherever this appears appropriate, with a view to minimising burdens on individuals, business and the wider community.

2.2 Objectives of the Strategy

The principal objectives of this strategy are to:

- meet the statutory requirements to produce a strategy and review it;
- set out a strategic approach to the identification and remediation of contaminated and potentially contaminated land;
- adopt a systematic and robust approach for dealing with sites that appear to be contaminated;
- inform stakeholders of the council's intentions and actions;

- set out how the council will liaise with the Environment Agency and other stakeholders;
- ensure appropriate records are kept in a Public Register;
- minimise burdens on individuals, businesses and the wider community;
- encourage the re-use of brownfield land

2.3 Aims and Priorities

In accordance with the requirement to take a strategic approach, a prioritised list of the council's aims has been devised to aid decision-making in a cost-effective manner. The council's prioritised aims in dealing with contaminated land will be to:

- protect human health;
- protect controlled waters;
- prevent damage to property; livestock and crops etc;
- protect designated ecosystems;
- prevent further contamination of land;
- encourage voluntary remediation; and
- encourage re-use of brownfield land.

Wherever possible, these aims will be achieved through voluntary remediation and/or the redevelopment or regeneration of sites. The approach aims to minimise the burden on individuals, business and the wider community while ensuring that unacceptable risks are dealt with effectively.

3 Characteristics of the North Northamptonshire Area

This section provides background information about North Northamptonshire Council's geographic area, with reference to issues relevant to land contamination.

3.1 Geographic and Demographic Setting

This section provides background information about North Northamptonshire Council's geographic area, with reference to issues relevant to land contamination and historic industrial use. A brief section has been prepared from the predecessor local authorities of Borough Council of Wellingborough, Corby Borough Council, East Northamptonshire Council and Kettering Borough Council.

3.2 Characteristics of the former Borough Council of Wellingborough area

The Wellingborough area (the former Borough Council of Wellingborough) is situated in the eastern half of Northamptonshire and covers an area of 163km2. The area is predominantly rural with some villages developing in association with the Boot and Shoe industry including Griggs of Wollaston (Dr Martins) and Barkers of Earls Barton.
Natural resources have been exploited in the area with Iron ore, clay, limestone and sands and gravels being quarried.

Historic iron ore quarrying led to the development of largescale iron works in the town and left several open quarry gullets in the rural area, some of which have subsequently been landfilled. Elevated naturally occurring arsenic and vanadium are associated with the Northampton Sand Formation from which the iron ore was extracted.

The River Nene runs from the south west to the north east and lies to the south of Wellingborough Town. Sand and gravels have been extensively extracted along the

length of the Nene floodplain, leaving behind large expanses of water, which are currently used for country parks and leisure facilities.

Wellingborough is currently enjoying an urban expansion and is well served by the A45 providing an east-west link with junctions 15/15A and 16 of the M1 and the A509 provides a north-south link between Kettering and junction 14 of the M1.

The Stanton Cross development to the East of Wellingborough is building 3100 residential dwellings on 370 hectares of land expanding the town of Wellingborough by 30% over the next 10 – 15 years. Approximately 35% of this land is potentially contaminated land and has been predominantly quarried and backfilled. To the North of the town, the Glenvale Park development is providing a further 3,000 residential dwellings. This development is largely on greenfield land.

Determined Contaminated Sites
One site has currently been determined as Contaminated Land in accordance with Environmental Protection Act 1990 part IIA. Irchester Landfill site was determined as Contaminated Land under Part 2A of the Environmental Protection Act 1990 because of the risks of landfill gas from the site and controlled water pollutant linkages. The site is currently under voluntary remediation and has an active landfill gas extraction system installed.

3.3 Characteristics of the former Corby Borough Council area

Corby District lies in the northeast of Northamptonshire and covers an area of 80km2. It is bounded by the Welland Valley to the north. The most prominent natural features include Thoroughsale and Hazel Woods, and remnants of Rockingham Forest, retained for game preservation rather than timber.

The village of Corby dates to the 8th Century when a group of Danish invaders, with their leader, Kori, settled there. It became known as Kori's settlement, or Kori's
Located in the centre of the Northamptonshire iron fields, the Corby area has been worked for iron-ore since pre-Roman times. In the 1870's, the building of the Kettering-Manton Railway prompted the development of the brick-making industry, as the local clay was ideal for brick making, initially for the railway, then as a continuing industry.
Brick working became the major source of employment for Corby in the 1880's. However, the railway excavations revealed the extent of the ironstone deposits and Corby was transformed from a small rural parish into a thriving industrial town with Europe's largest integrated steel-making plant and tube works during the 1930's. In 1934, unemployed steelworkers in Scotland flooded into Corby eager for work leading to the colloquial name of 'Little Scotland'.

The construction proposals of Stewart and Lloyd (the owners of the steel works) to significantly expand their steel making at Corby called for massive re-development of approximately 26,000 acres of land in the Borough. Rockingham Road was established as the main street of the growing town. Water for the works, as well as, for domestic supplies came from the construction of a dam on the Eye Brook, a tributary of the River Welland. Six million gallons of water per day were supplied, 4.3 million for the steelworks and 1 million for domestic use.

The Corby Works was heavily involved in World War II, demonstrating the importance of steel to the war effort, including Corby's best known contribution, construction of PLUTO

(Pipeline Under The Ocean) allowing fuel from a tanker on the Mersey to be pumped directly to Allied Armies as they advanced through Europe after D-Day.

The investment in steel making at Corby continued for two decades following the end of World War II and by 1952, the Corby steelworks occupied approximately 300 acres of land. In 1979, British Steel Corporation announced their intention to cease iron and steelmaking at its Corby Works by March 1980.

After steel production stopped Corby District Council took over the former steelworks sites along with the responsibility of clearing them. In 1981 the steelworks were razed to the ground and Corby District Council, one of the smallest in the country, became involved in one of the largest land reclamation and development projects in England. Since then a well-serviced industrial base has been developed on hundreds of acres of ex-British Steel property.

3.4 Characteristics of the former East Northamptonshire Council area

East Northamptonshire Council was in the central/eastern half of England and is one of the larger, based on area, former local authorities in Northamptonshire. The River Nene runs from the south west to the north east. Sand and gravels have been and still are being quarried along the length of the River Nene. This has created large expanses of open water. This attracts tourism and adds to the ecological diversity of the area. There are also several hard rock quarries in East Northamptonshire exploiting the local limestone.

The district is predominantly rural, with the main towns comprising Rushden, Higham Ferrers, Raunds, Irthlingborough, Oundle and Thrapston. The district comprises 510km2, and has a natural and built environment of high quality. This district is well serviced by the major roads of the A14 (M1-A1 link), A45, A46, A426, A6116 and A6.

Much of the district is used for arable farming and to a lesser degree dairy and livestock production. Farming is diversifying for example with the development of the renewable energy park near Chelveston being used for solar, wind and biomass electricity generation.
Woodland and forestry occupy large areas in the north of the district at Wakerley and Fineshade Woods. These areas, whilst of ecological importance also support tourism and have been further enhanced since the reintroduction of Red Kites to the area.

Due to the excellent road links the district has attracted major national and international companies to set up storage and distribution centres close to major road links. The district also benefits from the establishment of a large number and variety of companies, from multinationals to small businesses and self-employed individuals. Providing employment in the manufacturing, retail and service industries.

In comparison to many areas of England, East Northamptonshire has little in the way of heavy contaminative industry. However, a few potential sources of contamination may exist as a result of the industrial heritage. In particular Northamptonshire was the base for a large boot and shoe industry, including tanneries. The industry has declined significantly with few companies remaining. These old sites, usually located in towns, have mostly been developed for housing.

Other former land uses that have the potential to cause contamination in the district include gasworks, slaughterhouses, landfills, mines, quarries, rail industry, bus depots,

former Ministry of Defence land, sewage treatment plants, petrol filling stations and timber treatment yards.

3.5 Characteristics of the Former Kettering Borough Council Area

The former Borough of Kettering is at the heart of England, situated some 80 miles north of London, 45 miles west of Cambridge and 45 miles east of Birmingham. The Kettering Area was one of seven boroughs in the County of Northamptonshire. Situated in the north of the County, it is mainly rural, consisting of undulating farmland and scattered woodland. It covers approximately 234km2 hectares. and has a population of around 93,475. (These figures are all based on the Census of 2011)

The Kettering Area has four towns - Kettering Desborough Rothwell and Burton Latimer and the remainder made up from parishes of Ashley, Brampton Ash, Braybrooke, Broughton, Cranford, Cransley, Dingley, Geddington, Grafton Underwood, Harrington, Loddington, Mawsley, Newton and Little Oakley, Pytchley, Rushton, Stoke Albany, Sutton Bassett, Thorpe Malsor, Warkton, Weekly, Weston-by-Welland and Wilbarston.
Almost 87% of the Kettering Area is in some form of agricultural use. Approximately 13% is dedicated to urban usage and only 1% to industrial, concentrated mainly in 4 major industrial estates.

The extraction of ironstone in the area commenced in the late 19th century and continued until approximately 1980. For a short time thereafter, there was limited limestone extraction at one site. There are no longer any active ironstone or limestone extraction sites in the Kettering Area, although there are a number of dormant ones.
The Kettering Area owes its earliest prosperity to the lush pastureland around the Nene and Welland valleys, and the ancient fairs at Kettering and Rothwell. Later it was nationally known for its plush and silk weaving crafts but, by the nineteenth century, leather processing and boot and shoe manufacture were the main industries. Today, those industries have largely disappeared to be replaced with a more diverse trading, manufacturing and commerce base ranging from breakfast cereal manufacture to computer software generation located in and around business sites at Kettering Venture Park, Latimer Park, Telford Way Industrial Estate and Stoke Road, Desborough.

3.6 Geological Characteristics

The solid geology that underlies Northamptonshire forms part of a broad band of sedimentary Jurassic rocks that run from Dorset to Yorkshire. These rocks originated as sediments, which were deposited on land or in water 150 to 200 million years ago. Many of the beds are rich in fossils. Northamptonshire lies astride the Jurassic outcrop where the general dip of the rocks is to the southeast with the older rock, therefore appearing in the north and west of the county.

Many of the sedimentary rocks have been of economic importance, notably the limestones, which have provided crushed rock as well as building material. There are still a number of large quarries in the district exploiting the limestone at Ringstead, Wakerley and Collyweston. Also, the distinctive Collyweston Slate is mined from underground deposits in the village.

The Northampton Sand Formation comprises a layer of relatively coarse sandstone rich in iron compounds and is commonly referred to as ironstone. Of the four types of Jurassic ironstone found in the Midlands, the Northamptonshire Sand Formation is the richest in terms of iron content. It extends in a broad band from Lincoln to Towcester and has been worked for iron ore at points along its length through the district. It was upon this that iron

and steel works throughout the district were based. Of particular note the steelworks at Corby and the underground mining of ironstone by adits at:

- Willow Close mine to the east of Weston Underwood
- Church Mine near Islip
- Northampton Sands Ironstone Mine extending from Irthlingborough to north of Finedon

This has on occasion led to collapses in the old adits resulting in surface depressions in the land.

Most of the sedimentary rocks lie beneath drift deposits: boulder clay and sands and gravel deposited when ice sheets covered Northamptonshire 130,000 to 300,000 years ago. Post-glacial river terraces of sand and gravel are found in the Nene valley. These deposits have and still do attract great economic interest.

3.7 Water Resources

The district is bisected across the central area by the River Nene catchment. The River Nene runs from the south west to the north east through the district. Sand and gravel have been extensively extracted along the length of the floodplain, leaving behind large expanses of water. These are important locally and nationally for recreational use and ecology.
The River Ise flows from the north to the south and joins the main River Nene north of Irchester.

The River Welland generally flows easterly, forming a significant length of the district's northern boundary. It leaves the district at The A1 before flowing onto Stamford and Peterborough.

General abstractions for agricultural use, irrigation, mineral washing, and process water are licensed by The Environment Agency. There are no major potable water abstraction boreholes in the district. An area around Easton on the Hill extending to the north of Collyweston, in the north of the district, falls within a Zone III source protection zone, total catchment, for a public water supply from groundwater. There are a number of private water supplies in the area. These are risk assessed and monitored by a dedicated team.

3.8 Protected Buildings and Land

The area has numerous historical structures or monuments worthy of preservation and archaeological and ecologically sensitive areas. Should enquiries indicate that contamination is present at a site containing a scheduled monument, including their setting archaeological assets special care will be taken in order to preserve the site's historical value. It is possible for circumstances to arise in which contaminants present at a site actually form part of the archaeological interest of that site. If the council becomes aware of a need to remediate a site containing heritage assets, the council's archaeologist and Historic England will be consulted at an early stage.

Should enquiries indicate that contamination is present or there is a need to remediate a site in an ecologically sensitive area the council will consult with the Environment Agency and Natural England from the outset.

3.9 Redevelopment History and Controls

Under planning controls, development of land is subject to site investigation and remediation requirements where land contamination is likely to be an issue or requires treatment. Land that has been the subject of development since these controls were

introduced is therefore unlikely to constitute contaminated land in the future and should be suitable for its intended use.

3.10 Known Information on Contamination

The council holds information on potentially contaminated sites and on sites which have been remediated. This has been accumulated from various sources including submissions as part of the development control process; complaints from the public; premises subject to Environmental Permitting (e.g. the unloading of petrol into storage at a service station); landfill site records; and records of historical and current industrial uses.

3.11 Normal (Natural) Presence of Contamination

Normal levels of contamination in soil should not cause land to qualify as contaminated land. Normal levels may result from the natural underlying geological formation, for example the Northampton Sand and Ironstone for arsenic and vanadium, or from low level diffuse pollution and common human activity such as lead from car exhausts.
A number of potential sources of natural contamination are described within existing information published, for example, by the British Geological Survey (BGS). Such information will be considered when assessing any potentially contaminated sites.

4 Strategic Inspection

All local authorities are required to adopt a strategic approach to the identification of contaminated land in their area. The statutory guidance requires that the approach adopted should:

- be rational, ordered and efficient;
- take account of local circumstances.

The latest statutory guidance acknowledges that approaches will vary between local authorities.

4.1 The Strategic Approach

In the strategies of the former local authorities making up the council they detailed their strategic approach, which generally relates to the gathering of information about potentially contaminated land and the subsequent assessment and prioritisation of these sites. The approach involved a number of stages including the following:

1. A framework for inspection of sites requiring urgent attention
2. Collection of information on potentially contaminated sites
3. Compilation of a list of potentially contaminated sites
4. Risk-based assessment and prioritisation of sites
5. Initial assessment of potentially contaminated sites
6. Detailed inspection of high-risk sites from the priority list

At stage 2, information was gathered from a variety of data sources, including historical mapping and business directories. This information was then used to compile a list of locations where contaminated land could theoretically be present. Sites are added to the list where an information source indicates that a possible contaminative use or activity had, at some time, taken place at the location. In practice, it is very likely the vast majority (and possibly all) of these sites are not contaminated land as defined by the Act. Stages 6 has not been completed.

Having regard to the latest statutory guidance, experience of dealing with contaminated land issues and the resources available to the council, a different strategic approach is now considered appropriate.

In reaching this decision, account has been taken of the following factors:

- Many potentially polluting sites have already been remediated, redeveloped, or are still in active industrial use.
- Some brownfield sites have been or are due to be developed under planning controls which will ensure they are remediated where necessary.
- When the council has received reports or complaints related to land contamination these have been and will continue to be resolved as they arise.
- Determined Contaminated Sites
- One site has currently been determined as Contaminated Land in accordance with Environmental Protection Act 1990 part IIA.
- To date only one site has been determined as Contaminated Land under Part IIA of the Environmental Protection Act 1990. Irchester Landfill site was determined on the basis of the risks of landfill gas from the site and controlled water pollutant linkages.

The council must also consider the resources it has available and the need to target limited resources where they can be of most benefit. Undertaking a proactive assessment and prioritisation of “potentially contaminated” sites requires a specialist officer and geographical information system resources that are currently in place. However, resources are frequently diverted to other areas of Environmental Protection work. Therefore, such a task will take a considerable time to complete and would need to be followed by detailed investigation of the highest risk sites before any firm decisions could be reached on contamination.

The detailed inspection of individual sites can be an expensive, time consuming and potentially controversial task. Affected properties may suffer significant property blight during the process. While this would, of course, be justified for sites where significant risks to sensitive receptors have been identified, such information is unlikely to be available prior to detailed inspection unless the site is currently giving cause for concern.
The council considers that it can better prioritise its response to the risks of land contamination within its area by acting on information concerning the current status of sites. This approach would combine use of development control provisions for sites undergoing development, with a robust response to reports and complaints about potentially contaminated land. The revised strategic approach is set out below and in the next section.

4.2 Planning Controls

The council will make use of the planning system to address sites that may be affected by land contamination. It has been recognised that, generally, the most appropriate and efficient way to address the issues associated with contamination is through the planning process. The onus is placed on the developer to address potential contamination issues as part of the wider planning process, including providing detailed assessments produced by competent consultants where necessary.

Issues of land contamination are a material consideration as stated in the National Planning Policy Framework. Environmental Protection is consulted on relevant applications, which provides an opportunity for technical queries to be raised and additional information to be requested from applicants when necessary.

4.3 Reactive Investigations

Although the council's approach to identifying potentially contaminated land will principally be via the development control process, there may still be a need to investigate some sites, in particular where information is received that suggests a problem of land contamination is of current concern to one or more sensitive receptors.

If information comes to the attention of the council that indicates a site is causing concerns relating to contaminated land, the council will undertake any necessary investigation in accordance with the statutory and other relevant guidance. The detailed inspection of relevant sites is described in the next section.

4.4 Responding to Complaints

A complaint regarding contaminated land will be dealt with following the same procedure as currently used to deal with statutory nuisance complaints.

All complainants may expect:

- their complaint to be logged and recorded;
- to be contacted by an officer regarding their complaint within a reasonable amount of time; and
- to be kept informed of progress towards resolution.

Every effort will be made to resolve complaints quickly and efficiently and most complaints are likely to be resolved by the provision of information, or by agreeing voluntary action with the landowner.

Where complaints relate to land that appears to constitute contaminated land as defined under the Act the investigation is likely to take longer to resolve. Complainants will be advised of the key stages in the process as the investigation continues including the requirement to identify the following:

1. evidence of a viable pollutant linkage, possibly requiring a detailed site investigation, before a formal determination of contaminated land is permissible;
2. prior consultation with interested parties and other stakeholders;
3. a minimum of a three-month period between determination and serving of a remediation notice; and
4. the requirement for the enforcing authority to make every effort to identify the original polluter of the land (or "Class A" person).

The regulations allow conditions 2 and 3 to be waived in extreme cases, but not conditions 1 and 4. The decision-making process can therefore take many months to complete.

4.5 Budgetary Provision

The inspection and assessment of potentially contaminated land can be a complex and time-consuming activity. The cost of such activities varies enormously, making it difficult to anticipate budgetary pressures from one year to the next. Where the Council becomes aware of the need to inspect a site under Part IIA of the Act it will be important that appropriate budgetary provision is made to cover any necessary investigations.

The appropriate senior manager will assess the likely costs of Part IIA inspections as and when they arise, with a view to ensuring appropriate financial provisions are put in place. In addition to its inspection responsibilities, the council also has responsibilities as a landowner. Should any of its land be found to be contaminated land the council may need

to carry out remediation work or take other actions. Remediation can be very expensive, and the council is aware of the risks it potentially carries in this regard.

5 Detailed Inspection

If information comes to the attention of the council indicating a site is causing concerns relating to contaminated land, the council will investigate in accordance with the statutory and other relevant guidance.

The statutory guidance requires that:

> "If the local authority identifies land where it considers there is a reasonable possibility that a significant contaminant linkage (as defined in paragraphs 3.8 and 3.9) exists, it should inspect the land to obtain sufficient information to decide whether it is contaminated land, having regard to section 3 of this Guidance. The timing of such inspection should be subject to the authority's approach to prioritisation of detailed inspection."

The guidance also makes clear that, under Part IIA, the starting point should be that land is not contaminated land unless there is reason to consider otherwise.

All decisions about contaminated land will be made on the basis of a robust risk assessment, undertaken in accordance with the guidance.

5.1 Risk Assessment of Sites

PartIIA takes a risk-based approach to defining contaminated land. The statutory guidance defines "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.

For a significant risk to exist there needs to be one or more contaminant-pathway-receptor linkages – **"contaminant linkage"** – by which a relevant receptor might be affected by the contaminants in question. In other words, there must be contaminants present in, on or under the land in a form and quantity that poses a hazard, and one or more pathways by which they might significantly harm a sensitive receptor.

The receptors recognised as being potentially sensitive in Part IIA are:

- **Human Beings**
- **Ecological Systems or Living Organisms forming part of a System within certain Protected Locations**, including: Sites of Special Scientific Interest (SSSI), National Nature Reserves (NNR), Nature Reserves, Special Areas of Conservation (SAC), Special Protection Areas (SPA), Candidate SACs, RAMSAR sites, areas of special protection for birds, source protection zones, groundwater-private abstractions, groundwater-major aquifers.
- **Property in the Form of Buildings**, including heritage assets and their settings:
- **Property in other Forms**: Crops, Livestock, Home-grown produce, owned or domesticated animals, wild animals subject to shooting or fishing rights; and
- **Controlled Waters**: Surface waters (e.g. rivers, lakes, streams). Groundwater as defined in Section 4.36 of the Statutory Guidance. Drinking water abstractions as defined in the Water Resources Act 1991 Section 104.

Risks will be considered in relation to the current or likely future use of the land, in accordance with statutory guidance.

5.2 The Inspection Process

The inspection process will typically involve a number of incremental steps starting with a desk-based study. This may then be followed by a site visit and walkover; a generic quantitative risk assessment; and various stages of more detailed quantitative risk assessment as required. The process will normally continue until it is possible to decide:

(a) that there is insufficient evidence that the land might be contaminated land to justify further inspection and assessment; and/or

(b) that the land is or is not contaminated land.

For the inspection of land to proceed to the next stage of risk assessment there must be evidence that an unacceptable risk is reasonably likely to exist. If the council considers there is little reason to consider that the land might pose an unacceptable risk, inspection activities will normally stop at that point.

5.3 Receptor-Source-Pathway Model

Inspections will normally make use of a receptor–source-pathway model as a means for identifying any potentially significant pollutant linkages at the site. This approach aims to establish the presence and condition of the most sensitive receptors at an early stage in order to target resources at the highest risks.

In order to undertake the receptor-source-pathway analysis certain information must be established. The requirements are:

- current land use plans;
- locations of current and former landfills and other areas of filled ground;
- locations of groundwater abstraction wells, both public and private;
- identification of aquifer designation and vulnerability;
- current surface water classification under the Environment Agency's General Quality Assessment Chemical Grading for Rivers and Canals Scheme and the river ecosystem classification under the Surface Waters (River Ecosystem Classification) Regulations 1994;
- current processes authorised by the Environment Agency or Local Authority under the Environmental Permitting regulations.
- location of statutory and non-statutory sites of ecological importance;
- potential sources of contamination based on the industries listed in the DofE Industry Profiles; and
- the current and historical locations of these industries.

The further detailed inspection of relevant sites will be carried out in accordance with the DEFRA Guidance and other relevant guidance and standards.

5.4 Consultation with Interested Parties

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. Where the owner refuses access, or the landowner cannot be found, the authority may consider using statutory powers of entry, subject to statutory guidance and the particular circumstances of the case.

The council will also consider informing other interested parties (for example occupiers of the land and owners and occupiers of neighbouring land) and whether to publish a written statement.

5.5 Special Sites

If the local authority inspects land which it considers (if the land were to be determined as contaminated land) would be likely to meet one or more of the descriptions of a special site set out in the Contaminated Land (England) Regulations 2006, it will consult the Environment Agency and, subject to the Agency's advice and agreement, arrange for a joint approach to inspection of the land. The Agency will carry out any intrusive inspection of the land on behalf of the authority.

5.6 Deciding that Land is not Contaminated Land

Where the council inspects land under Part IIA and then decides it is not contaminated land it will issue a written statement to that effect to the landowner (rather than coming to no formal conclusion). The statement will make clear that on the basis of its assessment, the authority has concluded that the land does not meet the definition of contaminated land under Part IIA. The council will also keep a record of its reasons for deciding that land is not contaminated.

6 Determination and Remediation

The council has the sole responsibility for determining whether any land appears to be contaminated land although it can rely on information or advice provided by another body such as the Environment Agency, or a suitably qualified and experienced practitioner appointed for the purpose.

There are four possible grounds for the determination of land as contaminated land (non-radioactive contamination):

(a) Significant harm is being caused to a human, or relevant non-human, receptor.
(b) There is a significant possibility of significant harm being caused to a human, or relevant non-human, receptor.
(c) Significant pollution of controlled waters is being caused.
(d) There is a significant possibility of significant pollution of controlled waters being caused.

Where, following detailed inspection of a site, the council reaches a decision that land is "contaminated land" under the Act, it will proceed as follows and in accordance with the statutory guidance.

6.1 Determination Steps

Once an area of statutory contaminated land has been identified, there are three main stages that need to be completed prior to formal determination of land as contaminated land under the Act:

a) The council must have identified one or more significant contaminant linkage(s), and carried out a robust, appropriate, scientific and technical assessment of all the relevant and available evidence.
b) In the case of any land which, following determination as contaminated land, would be likely to meet one or more of the descriptions of a "Special Site" set out in the Contaminated Land Regulations 2006, the council will consult the Environment Agency before deciding whether or not to determine the land.
c) The council must have informed the owners and occupiers of the land and any other person who appears to the authority to be liable to pay for remediation, of its intention to determine the land (to the extent that the authority is aware of these parties at the time) unless the authority considers

there is an overriding reason for not doing so. Where appropriate, time will also be allowed to reach informal arrangements to deal with the problems.

Where possible, the following steps will also be completed prior to formal determination:

- decide what remediation is required and attempt to achieve remediation through a voluntary agreement if possible and appropriate;
- record appropriate information on the public register

6.2 Formal Determination of Contaminated Land

The council will prepare a written record of any determination that land is contaminated land. The record will include:

- a description of the particular significant pollutant linkage, identifying all three components of the pollutant, pathway and receptor;
- a summary of the evidence upon which the determination is based;
- an analysis of significant harm or significant pollution;
- a summary of the relevant assessment of this evidence; and
- a summary of the way in which the authority considers that the requirements of statutory guidance have been satisfied.

6.3 Issuing Determination Notices

Once the council has determined land as contaminated land, it will give notice of its decision to:

a) the Environment Agency;
b) the owner of the land;
c) any person who appears to the authority to be in occupation of the whole or any part of the land; and where identified:
d) each person who appears to the authority to be an appropriate person; in accordance with section 78B(3) of Part IIA.

6.4 Remediation of Contaminated Land

Once land has been determined as contaminated land, the council will consider how it should be remediated and, where appropriate, issue a remediation notice. If land is deemed to be a “special site” the Environment Agency takes on responsibility for remediation after determination.

The process of deciding who is responsible for remediation of contaminated land can be quite complicated and the council will have regard to the detailed statutory guidance in reaching its decisions.

The council will seek to recover its costs wherever possible, in accordance with the Act and statutory guidance.

7 Management of Communication

7.1 Management of the Strategy

Environmental Protection is the lead service within the council for the purpose of managing the strategy. A designated officer has responsibility for dealing with enquiries and incidents relating to land contamination and generally implementing the strategy. This officer is also the main contact for liaison with the Environment Agency, Natural England, DEFRA,

landowners, agents, members of the public and other stakeholders concerning potentially contaminated land.

Elected members will be informed at the earliest opportunity of any plans to determine an area of council-owned land, or where the council is the “appropriate person” and may be liable for remediation costs. Ward Councillors will be informed of any plans to determine land within their area.

The designated officer will review the strategy every 5 years and when statutory changes or new guidance require it.

7.2 Liaison and Communication

Effective liaison with other bodies is central to the implementation of this strategy. Statutory consultees for the 2015 Contaminated Land Strategy will be:

- Environment Agency
- Natural England
- Historic England
- DEFRA
- North Northamptonshire Joint Planning Unit
- Neighbouring local authorities
- Internal consultees

There is considerable scope for members of the public, businesses and voluntary organisations to make important contributions in dealing with contaminated land. The revised strategy will be published on the council’s website and the involvement of non-statutory consultees in the process of dealing with contamination land will be encouraged wherever appropriate.

The statutory definition of contaminated land requires that there must be a **significant possibility of significant harm to human health or non-human receptors** or **significant possibility of pollution of controlled waters.** The council recognises that the expectations of some members of the public will not be met by the powers the local authority may exercise under the Part IIA regime. Wherever possible, council officers will seek to explain matters in terms that can readily be understood by non-specialists.

7.3 Owners, Occupiers and Other Interested Parties

The council’s approach to its regulatory duties is to seek voluntary action before taking enforcement action. This approach has been adopted and used to good effect for issues of land contamination previously and recognises that in many cases, remediation can be achieved more effectively by agreement rather than by enforcement. This approach requires effective communication with owners, occupiers and other interested parties at all stages. The designated officer will keep owners, occupiers and other interested parties informed as necessary.

7.4 Powers of Entry

Under Section 108 (6) of the Environment Act 1995, the council has been granted powers of entry to carry out its investigations and inspections.
Before the council carries out an inspection using statutory powers of entry it will first attempt to liaise with owners and other interested parties with a view to avoiding the need to using such powers.

The council will not carry intrusive investigations at a site if:

- it has already been provided with detailed information on the condition of the land upon which the council can determine whether the land is contaminated; or
- a person offers to provide such information within a reasonable and specified time, and then provides such information within that time.

Where the council decides to carry out intrusive investigation it will be in accordance with appropriate technical procedures for such investigations (for example BS10175:2011+A2:2017 and BS5930: 1999).

7.5 The Public Register

Under the regulations, the council is required to maintain a contaminated land public register. The public register is available for viewing on the council's web site at:
Link to be provided when strategy adopted.
OR on enquiry to the Information Officer at the following:
https://www.northnorthants.gov.uk/your-council/make-freedom-information-foi-request

The regulations specify the information that can be recorded on this register, which will include:

- remediation notices;
- details of the site reports obtained by the authority relating to remediation notices;
- remediation declarations, remediation statements and notification of claimed remediation;
- designation of sites as "special sites";
- any appeals lodged against remediation and charging notices; and
- convictions.

The public register will not hold details of historic land use and other records used in the assessment and investigation of potentially contaminated land.

7.6 Provision of Information to the Environment Agency

The Environment Agency is required to prepare a report from time to time for the Secretary of State on the state of contaminated land in England and Wales. This report includes:

- a summary of local authority inspection strategies, including progress against the strategy and their effectiveness;
- the amount of contaminated land and the nature of the contamination; and
- measures taken to remediate land.

As local authorities are the lead regulators on contaminated land, the national survey is heavily reliant on information provided by local authorities. A memorandum of understanding has been drawn up between the Environment Agency and the Local Government Association that describes how information will be exchanged between the local authority and the Environment Agency. The council will seek to provide information to the Environment Agency in accordance with this guidance.

The local authority will also provide information to the Environment Agency whenever a site is determined as contaminated land, and whenever a remediation notice, statement or declaration is issued or agreed. The Environment Agency has provided standard forms allowing this information to be provided in a consistent format and the council will use these to fulfil its reporting requirements where appropriate.

8 Review Mechanisms

The Council will review its written strategy periodically to ensure it remains up to date. This will occur at least every 5 years and when statutory changes or new guidance require it. All decisions made with regard to contamination need to be made objectively, consistently, transparently, and with proper regard to uncertainty. One important aspect of managing contaminated land is the need to review decisions made about particular sites, to establish whether any material changes have occurred. Examples of factors which influence the decisions, and which have the potential to change include:

- site use
- use of adjoining land
- climatic or meteorological change
- change in physical characteristics e.g. the water environment
- legislative or internal or external policy changes
- technical standards or procedures
- actions taken by humans or other agents to reduce the effectiveness of remedial measures.

All decisions made under Part IIA will therefore be made and recorded in a consistent manner that will allow for effective review as and when circumstances require it.

9 References

Environmental Protection Act 1990. HMSO (1990)
The Environment Act 1995 HMSO (1995)
The Contaminated Land (England) Regulations 2006
DEFRA Contaminated Land Statutory Guidance, April 2012
Ministry of Housing, Communities & Local Government - National Planning Policy Framework, July 2021
British Standards Institute. Code of Practice for ground Investigations. BS5930:2015+A1:2020
British Standards Institute. Investigation of Potentially Contaminated Sites – Code of Practice. BS10175:2011+A2:2017
Environment Agency - Land contamination risk management (LCRM) 2021
Historic England – Land Contamination and Archaeology, February 2017
The Water Framework Directive (Standards and Classification)
Directions (England and Wales) 2015

10 Acknowledgments

North Northamptonshire Council acknowledges and thanks Environmental Protection at Torridge District Council for granting permission to base this strategy on their document titled ‘Contaminated Land Inspection Strategy’ dated April 2013.

Appendix - Radioactively Contaminated Land

The radioactive contaminated land regime covers land where radioactivity is present as a result of a past activity or as a result of the after-effects of an emergency. It does not apply to current practices and natural background radiation. Land containing radionuclides present only as a result of natural processes are therefore excluded from the provisions of the regulations (e.g. Radon). The radioactive
contaminated land regime only considers unacceptable risks to human health.

The objectives of the radioactive contaminated land regime under Part IIA are broadly the same as those of the non-radioactive contaminated land regime. Namely to provide a system for the identification and remediation of land where contamination is causing unacceptable risks.

There are two possible grounds for the determination of land as radioactive contaminated land:
(a) Harm is being caused to a human being.
(b) There is a significant possibility of harm being caused to a human being.

If land is radioactive contaminated land it will fall within the definition of a special site prescribed in regulation 2 of the Contaminated Land (England) Regulations and the Environment Agency will be the enforcing authority in respect of that land.

Historical contamination of land by radionuclides from anthropogenic activity has in many cases occurred due to a lack of understanding of the hazards posed by radioactive materials at the time. Radioactive substances have been used for a wide variety of purposes since the start of the twentieth century, but most have only been subject to regulation since 1963, the year in which the 1960 Radioactive Substances Act came into force. Industrial activities have involved the use of materials containing radioactivity in a variety of different contexts: (a) where radioactive materials have been employed for their radioactive properties (for example, luminising works); (b) where radioactive properties are incidental in materials that are used for their non-radioactive properties (for example, gas mantle production); and (c) where radioactive materials have been inadvertently handled, or escaped accidentally (for example, lead mining).

References

Department for Business, Energy & industrial Strategy – Radioactive Contaminated Land Statutory Guidance, June 2018

Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005

Contaminated Land (England) Regulations 2006

Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006