



Report to: Cabinet Meeting - 10 December 2024  
 Portfolio Holder: Councillor Emma Oldham - Climate and the Environment  
 Director Lead: Matt Finch, Director - Communities and Environment  
 Lead Officer: Jenny Walker, Business Manager – Public Protection, Ext. 5210

Report Summary	
<b>Type of Report</b>	Open Report, Key Decision
<b>Report Title</b>	Revised Contaminated Land Strategy
<b>Purpose of Report</b>	The report sets out the purpose and revision of the Contaminated Land Strategy. This strategy is a legally required document which details how land will be inspected for contamination across the district.
<b>Recommendations</b>	To approve the Contaminated Land Strategy as set out in Appendix 1 to the report.
<b>Alternative Options Considered</b>	Not appropriate, the existing strategy is out of date and not in line with current statutory guidance.
<b>Reason for Recommendations</b>	This is a legally required strategy that must be in place to set out how contaminated land is identified across the district.

## 1.0 Background

- 1.1 Under Part IIA of the Environmental Protection Act 1990, which came into force in April 2000, Local Authorities in England are given responsibilities for regulating contaminated land. There are two main parts to the local authority’s duties under Part IIA – an inspection function and an enforcement function.
- 1.2 The Contaminated Land Strategy is principally concerned with the inspection of the district to determine whether any land may be contaminated land as defined by the regulations. The definition of contaminated land from the Environmental Protection Act 1990, Part IIA, Section 78A (2) is: “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) pollution of controlled waters is being, or is likely to be, caused.”

- 1.3 The identification of contaminated land should be carried out in an ordered fashion to ensure that the most pressing and serious problems are addressed first. This strategy gives an overview of the methodology to be used to prioritise sites for further inspection. It does not cover the inspection of land and the apportionment of liability with respect to investigation and remediation. This area of the contaminated land function is laid out in regulations and statutory guidance.
- 1.4 The main regulators of the contaminated land legislation are local authorities however under certain circumstances the Environment Agency may take on this role pursuant to their statutory duty. Where a site is declared as being contaminated land, the Council has four main tasks:
- (a) To establish who should bear responsibility for the remediation of the land (the “appropriate person” or persons). Normally this will be the person(s) responsible for the pollution or, if they cannot be found, the site owners;
  - (b) To decide, after consultation, what remediation is required in any individual case and to ensure that such remediation takes place, either through agreement with the appropriate person, or by serving a remediation notice on the appropriate person if agreement is not possible or, in certain circumstances, through carrying out the work themselves;
  - (c) Where a remediation notice is served, or the authority itself carries out the work, to determine who should bear what proportion of the liability for meeting the costs of the work; and
  - (d) To record certain prescribed information about their regulatory actions on a public register.
- 1.5 The Contaminated Land Strategy is a necessary requirement in terms of the contaminated land regime. Without a Strategy the Council would have difficulty undertaking inspection, enforcement and in making decisions on appropriate persons and recovering the costs of remediation.
- 1.6 A consultation of the revised strategy has taken place. The document was directly shared with the Environment Agency, The UK Health Security Agency and Nottinghamshire County Council and no comments were received. It was also made available on our website for public comment, of which none was received.

## **2.0 Proposal/Details of Options Considered**

- 2.1 The new Contaminated Land Strategy provided in Appendix 1 has undergone a full review, taking into account the most up to date statutory guidance available on assessing contaminated land. The strategy also recognises that DEFRA no longer funds contaminated land investigation and remediations. The majority of contaminated land assessments and remediation is now completed via the planning process through land redevelopment.
- 2.2 It is possible that we could undertake an investigation of contaminated land outside of the planning application process, however this would be in exceptional circumstances. Any investigation would seek to identify the persons responsible for the contamination and therefore any required remediation would be based on the polluter pays principle.

2.3 It is proposed that Cabinet approve the adoption of the new Contaminated Land Strategy to ensure that we meet our statutory obligations.

### **3.0 Implications**

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

#### **3.1 Financial Implications - FIN24-25/6868**

There are no financial implications arising from this report.

#### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

None.