



WEST OXFORDSHIRE
DISTRICT COUNCIL

West Oxfordshire District Council

Contaminated Land Strategy 2019-2024

Required under the provisions of the
Environmental Protection Act 1990



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1 Introduction

1.1 Background

There is a substantial legacy of contaminated land in the United Kingdom, due to its long industrial heritage and historically poorly managed waste disposal practices. Although there are now various regimes in place to prevent new contamination occurring, the historic contamination which remains in the environment retains the potential to adversely affect people's health, damage quality of our waters, ecological systems and property. Where land is identified as unsuitable for its current use on the basis of actual harm or significant risk from contamination, the local authority has a responsibility to intervene and ensure that those risks are properly reduced to an acceptable level. This strategy sets out how West Oxfordshire District Council (the Council) intends to go about this process. It replaces the Council's previous Contaminated Land Inspection Strategy published in 2011.

1.2 Aims and Objectives

The Council originally published its Contaminated Land Strategy in 2001. The aim of the strategy is to set out in writing how the Council intends to implement its obligations under Part 2A of the Environmental Protection Act 1990, in accordance with statutory guidance issued in April 2012. The statutory guidance states that local authorities should adopt a strategic approach when inspecting their areas and this should:

- a) be rational, ordered and efficient;
- b) be proportionate to the seriousness of any actual or potential risk;
- c) seek to ensure that the most pressing and serious problems are located first;
- d) ensure that resources are concentrated on investigating in areas where the authority is most likely to identify contaminated land; and
- e) ensure that the local authority efficiently identifies requirements for the detailed inspection of particular areas of land.

The principal objectives of the inspection strategy are:

- i. to meet the statutory obligation placed on the Council to produce a written strategy under Part IIA
- ii. to provide a strategic framework which the Council will use to identify, inspect and determine contaminated land, and describe the measures that may be taken to remediate such land;
- iii. to describe how the Council will prioritise which sites it will consider first;
- iv. to inform the public, and improve communication with stakeholders, of the Council's intentions in relation to contaminated land;
- v. to ensure that the Council's corporate priorities and ambitions will be achieved by adopting this strategy.

This document updates the original strategy, itself updated in 2011, to align it with changes in legislation and planning practice since that time.

1.3 Integration with Council Priorities

The Contaminated Land Strategy will support the Council's priorities contained within "West Oxfordshire Council Plan 2016 – 2019". One of the three key priorities is "Protect the environment whilst supporting the local economy" whilst a key objective is to "Protect the natural and built Environment". Local authority's duties, undertaken as a consequence of the contaminated land regulatory system, will contribute to these by seeking to ensure that the land on which we live, water which we drink and air which we breathe does not pose any unacceptable risk to our health, property, lakes, rivers, groundwater and our ecological systems. The contaminated land regime pursued by the Council will also play a role in achieving a further objective of the Council which is to "support the quality of life and well-being of communities now and in the future (including strategic infrastructure, utilities and services).

1.4 Strategic Planning

The Council formally adopted the West Oxfordshire Local Plan 2031 on 27 September 2018. The Local Plan covers the 20-year period 1 April 2011 – 31 March 2031. The proposed housing requirement for West Oxfordshire in the period up to 2031 will be at least 15,950 homes. This comprises 13,200 homes in the period 2011 – 2031 to meet West Oxfordshire's own identified housing needs and a further 2,750 homes in the period 2021 – 2031 to assist with the unmet housing needs of Oxford City. Although some of this housing need will be made by development on "greenfield land" there will be development opportunities utilising previously developed (brownfield) land. Some, but not all, brownfield and greenfield sites may be contaminated. Development will see this contamination dealt with under the planning control regime. In fact it is envisaged that most contaminated land remediation will continue to be dealt with through the use of 'land quality' planning conditions and informatives.

The contaminated land regime complements the planning system. This Strategy is aimed at those sites where there is no imminent prospect of the site being addressed via the planning system. The regime aims to render land suitable for its existing or any proposed use.

1.5 Enforcement

1.5.1 General Approach

In accordance with the Council's Enforcement Policy, securing voluntary remediation is always a preferred option to taking formal enforcement action. The Council will assist in this process wherever possible by providing guidance, support and advice as necessary. Where a successful outcome is not reached voluntarily, or the timescale of a successful outcome is unacceptable, the Council will resort to enforcement action in accordance with those powers conferred to it by primary legislation, such as in relation to powers of entry, as described below.

1.5.2 Powers of Entry

For the purposes of identifying contaminated land, the Council are granted powers of entry to allow inspection of land, by section 108 of the Environment Act 1995. Any person authorised in writing by the Council may enter any premises at any reasonable time to make any examination or investigation as may be necessary and take samples or in the vicinity of the premises.

Where entry to premises is refused or, where the Council have reasonable grounds to believe that entry is likely to be refused or that force may be necessary to effect entry, then the Council may gain entry under the authority of a warrant issued by a magistrate. In all cases the Council will normally consult with the occupier prior to entry on to the premises.

In an emergency, the Council may exercise its powers of entry forthwith. For this purpose a case may be considered an emergency if it appears to the Council that:

- there is an immediate risk of serious pollution of the environment or of serious harm to human health; or
- circumstances exist which are likely to endanger life or health.

If individuals or companies obstruct officers or are not forthcoming with requested information, an application for a warrant may be made in order to allow officers to act effectively. The warrant will be used to facilitate Council Officers entry onto a site or residential premises for inspection purposes.

Remediation – the Council has a duty to serve a remediation notice on the appropriate person(s) where the clean-up of a site has not been secured on a voluntary basis or where no agreement is reached in relation to remediation action.

Where enforcement action is taken, the Council follows the following four key principles:-

- Transparency – we will aim to ensure that the nature of, and reasons for, enforcement action taken by the Council are explained in a clear manner.
- Fairness & objectivity – we will treat everyone equally and fairly, and will ensure that decisions are not influenced by the colour, race, nationality, ethnic or national origin, gender, religion, marital status, age, sexual orientation or disability of the offender, complainant or witness.
- Proportionality – we will aim to ensure that any action taken relates directly to the actual or potential risk to health, safety, welfare or the environment.
- Consistency – we will take consistent action to ensure that similar issues are dealt with in a similar way.

1.6 Equality and Human Rights

The Council is committed to fulfilling its roles as an employer, service provider, purchaser of goods or services and community leader without discrimination in terms of colour, culture or ethnic origin, nationality, religion or belief, gender, disability, age, sexuality, geographical location or any other status. All Members, employees and agents of the Council must seek to eliminate discrimination and promote equality and good relations within our districts communities.

In developing this Strategy, an equality impact assessment has been conducted. A second stage detailed equality impact assessment was not considered to be necessary, there being no specific adverse impacts on any particular group(s) within the community. Under the provisions of Article 8 of the Human Rights Act, everyone has the right to respect for their private and family life, their

home and their correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedom of others.

The three main principles that the Council will adhere to in order to comply with Article 8 during the course of its investigations into contaminated land are:

- a) The Council will only undertake actions which are securely authorised by law. The rule under law authorising those actions will be sufficiently accessible by the subject of the Council's actions and the manner of the exercise of those actions will have pre-determined limits to protect the public from arbitrary interference.
- b) The Council will only act for a prescribed purpose and its actions will be proportionate.
- c) The Council will only take action which it deems to be necessary in the interests of public safety, the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedom of others.

2 Key Concepts of the Contaminated Land Regime

2.1 Legislative background and Government policy

The Government's main policy statement on contaminated land is now contained within a DEFRA guidance document: Environmental Protection Act 1990, Part 2A: Contaminated Land Statutory Guidance, April 2012 ('the Statutory Guidance'). The principles of this have also been incorporated into the Communities and Local Government document "National Planning Policy Framework" as revised and published in February 2019.

UK policy on land contamination as set out in the Framework, as well as emphasising the Government's commitment to the environmental principles of "sustainable development" and "the polluter pays", requires that existing contamination which poses a threat to health or to the environment is controlled and treated within the "suitable for use" approach. The statutory basis of the regime is to be found in Part 2A of the Environmental Protection Act 1990 (which was inserted by the Environment Act 1995).

2.2 Part 2A objectives

The overarching objectives of the Government's revised policy on contaminated land are:

- (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, companies and society as a whole are proportionate, manageable and compatible with the principals of sustainable development.

2.3 The requirement for a strategic approach

All local authorities are required to take a strategic approach to the identification of land in their area that merits detailed individual inspection. The Statutory Guidance requires that the approach adopted should be rational, ordered and efficient and it should reflect local circumstances. The local authority should set out its approach as a written strategy, which it should formally adopt and publish and which should be reviewed periodically.

The Statutory Guidance details the elements which should be included in the strategy.

2.4 Definition of Contaminated Land

Section 78A(2) of the Environmental Protection Act defines contaminated land as follows:

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, either:

- Significant harm is being caused or there is the significant possibility of such harm being caused; or
- Pollution of controlled waters is being, or is likely to be, caused.

With respect to controlled waters, the Water Act 2003 amended the second limb of the definition so that it applies only where "**significant** pollution of controlled waters is being caused, or there is a **significant possibility** of such pollution being caused". This change in the legislation became effective as of 6th April 2012.

The presence of a contaminant in land does not of itself mean that it is contaminated land within the meaning of Part 2A. The Statutory Guidance refers to Contaminant Linkages where one or more **contaminant > pathway > receptor** linkages exist. Receptors are defined as, “... something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters.” Detailed definitions of the types of receptors are set out in Section 4 of the Statutory Guidance. The Statutory Guidance also refers to “significant contaminant linkages”, referring to those that give rise to a level of risk sufficient to justify a piece of land being determined as contaminated land.

The local authority has the sole responsibility for determining whether any land appears to be statutory contaminated land within its area.

Since the enactment of the contaminated land legislation, significant progress has been made in many technical areas of assessment and remediation of contaminated land.

2.5 The concept of a pollutant linkage

As indicated above, the definition of contaminated land includes the notion of ‘significant harm’ and the ‘significant possibility’ of such harm being caused. In determining what is significant, the Council will have regard to statutory guidance issued by the Secretary of State. The statutory guidance uses the concept of a ‘pollutant linkage’, i.e. a linkage between a source of contamination and a receptor by means of a pathway. Prior to determining that any land appears to be contaminated land on the basis that significant harm is being caused, or that there is a significant possibility of such harm being caused, the Council will identify a significant pollutant linkage comprising each of the following:

- a contaminant
- a relevant receptor
- a pathway by means of which either the contaminant is causing significant harm to the receptor or there is a significant possibility of such harm being caused

Pollutant linkages should be represented by a conceptual model for the site, which can either be in a diagrammatic form or tabulated, and shows the possible relationships between contaminants, pathways and receptors. The conceptual model (a diagram showing the relationship between sources, pathways and receptors for a site) is important throughout the whole process of risk assessment, and should be refined as more information is gathered about a site. The Council will also act in accordance with statutory guidance issued by the Secretary of State in determining whether pollution of controlled water is being, or is likely to be, caused. Prior to determining that any land appears to be contaminated on the basis that pollution of controlled waters is being, or is likely to be, caused, the Council will have identified a significant pollutant linkage where controlled waters constitute the receptor.

2.6 Risk assessment

In order to determine whether there is the possibility of significant harm being caused, local authorities must consider the nature, extent and duration of contamination and assess the susceptibility of nearby receptors.

The Council will carry out an appropriate scientific and technical assessment, following the Model Procedures for the Management of Land Contamination (CLR11), produced by the Environment Agency and Department for Environment, Food and Rural Affairs (DEFRA). This is a technical framework for structured decision-making, and reflects the Government's policy on how risks from land contamination should be managed. Other peer-reviewed scientific and technical guidance will be applied as appropriate.

The basic approach to risk assessment involves identifying the hazards (i.e. contaminant sources), assessing these in terms of pollutant linkages and the likely consequences, and then estimating the risk (i.e. predicting the magnitude and probability of those possible consequences). There are three tiers in the risk assessment process:

- a) Preliminary Risk Assessment (desk study, site history, conceptual site model, qualitative risk assessment)
- b) Generic Quantitative Risk Assessment (intrusive investigation, compare site data to generic assessment criteria, refine risk assessment)
- c) Detailed Quantitative Risk Assessment (derive site specific assessment criteria for key pollutant linkages, refine risk assessment further to determine remedial measures).

2.7 Categorisation of Contaminated Land

In deciding whether or not land is contaminated land on grounds of significant possibility of significant harm to human health, the Council will follow the system of categorisation in the Statutory Guidance. For each receptor, the guidance details four categories.

Categories 1 and 2 would encompass land that is capable of being determined as contaminated land on grounds of significant possibility of significant harm to human health. Categories 3 and 4 would encompass land which is not capable of being determined on such grounds. A further description of the categories will be found in Table 2.1.

Uncertainties arise in allocating land to Categories 2 and 3. The government recognised that regulatory authorities may have difficulties in assigning land to Categories 2 and 3 and has appointed, through DEFRA, a panel of experts from industry and local authorities to assist local authorities in making decisions with regard to these uncertainties. That panel is now disbanded but detailed decisions made by the panel in cases submitted to it have been made available.

Category 4 Screening Levels (C4SLs) were published in 2014 which have been developed to help decide when land is suitable for use and definitely not statutory contaminated land. Soil Guideline Values (SGVs) and other Generic Assessment Criteria (GACs) are well within Category 4 and present minimal risk. The C4SLs are set at the top of Category 4 and although still precautionary, their purpose is to speed up the decision making process for regulators. They are also very likely to act as a suitable remediation target for the development of brownfield land.

When considering whether significant harm is being caused, or there is a significant possibility of such harm being caused, to non-human receptors, Local Authorities should pay regard to Tables 1 and 2 of the Statutory Guidance.

Table 2.1 Categories that may be allocated to sites

Category 1	Site probably or certainly not suitable for present use and environmental setting. Contaminants probably or certainly present and likely to have unacceptable impact on key receptors. Urgent action needed in the short term.
Category 2	Site may not be suitable for present use and environmental setting. Contaminants probably or certainly present and likely to have unacceptable impact on key receptors. Action may be needed in the medium term.
Category 3	Site considered suitable for present use and environmental setting. Contaminants may be present but are unlikely to have unacceptable impact on key receptors. Action unlikely to be needed while the site remains in present use or otherwise remains undisturbed.
Category 4	Site considered suitable for present use and environmental setting. Contaminants may be present but are very unlikely to have unacceptable impact on key targets. No action likely to be needed while the site remains in present use or otherwise remains undisturbed.

2.8 Development of the Strategy

This Strategy has been reviewed with particular reference to the 2012 DEFRA guidance and the Council has adopted the following approach:

Environmental & Regulatory Services has been identified as the lead service within the Council for the purpose of the Strategy. The designated officer responsible for Contaminated Land (Senior Officer - SO) will work with and consult other services including Development Management, Planning Strategy/Policy teams, Building Control, Land and Property and Legal Services, as appropriate. The SO also has responsibility for liaising with, and providing information to, the Environment Agency, Natural England, DEFRA, land owners, agents and members of the public in accordance with the Environmental Information Regulations and the Freedom of Information Regulations taking into consideration the General Data Protection Regulations.

The Council's previous review and update of the Strategy was undertaken 2011. This revised strategy has been written in accordance with the 2012 DEFRA guidance and other amended legislation since 2011.

The SO will ensure that, as far as possible, land contamination is dealt with through the planning system or by voluntary remediation on the part of the current landowner. To date all sites have been dealt with in this way.

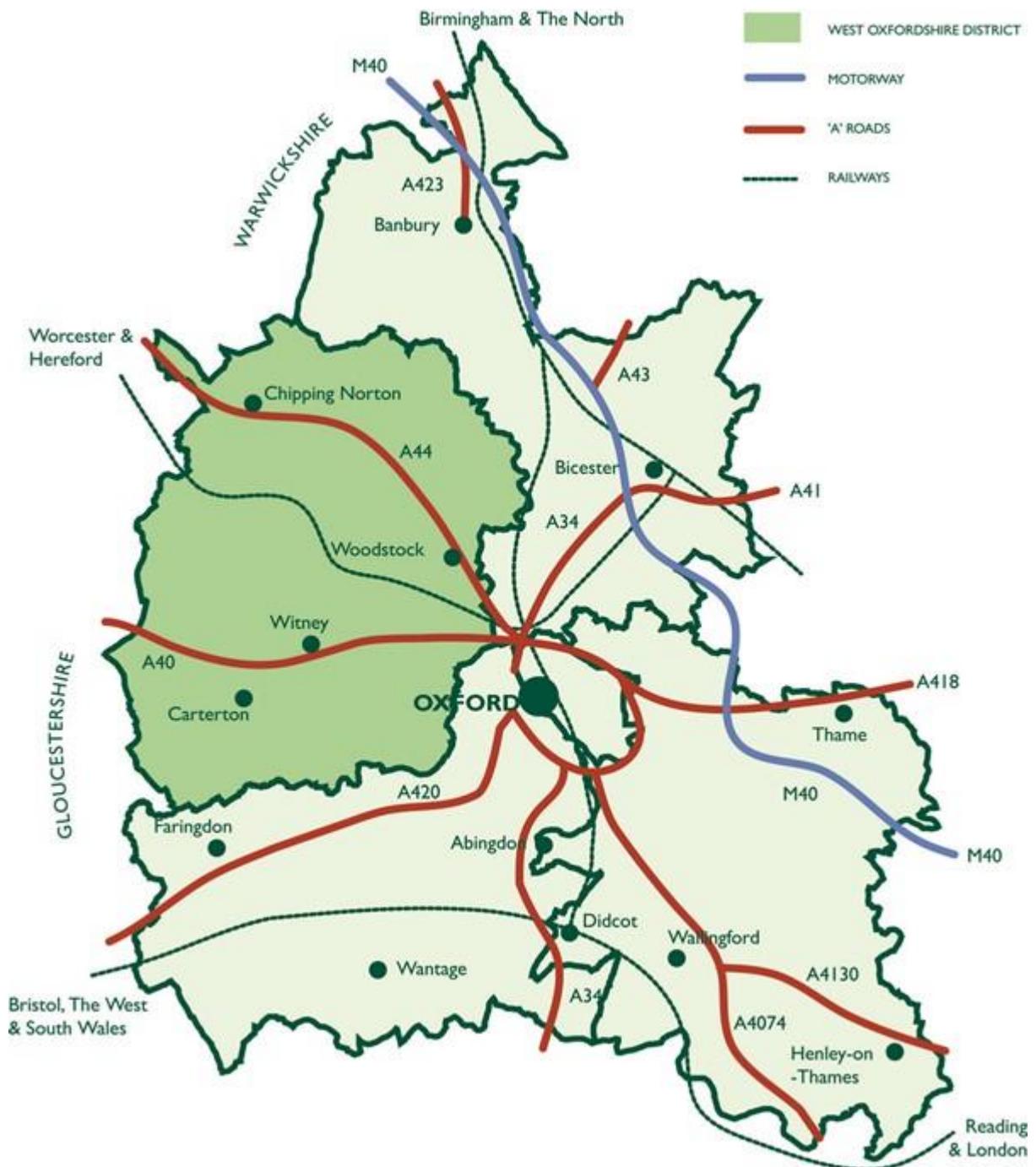
The SO will respond to requests for service and enquiries from members of the public regarding potentially contaminated land. An initial response to the enquiry will normally be conveyed within 3 working days, except where pollution incidents are occurring during normal working hours, in which case it will be responded to on the same day.

3. Characteristics of the West Oxfordshire District

3.1 Overview

West Oxfordshire is an area consisting of approximately 71,494 hectare and a population of 108,000 people. The district's population is spread out over a wide area, however it is mainly concentrated in the towns of Witney and Carterton. Other towns are Burford, Charlbury, Chipping Norton and Woodstock. Forty one percent of the total population live in the district's two largest towns - Witney (over 28,000) and Carterton (around 16,000).

Figure 3.1 West Oxfordshire District



The district is predominantly rural in character, with agriculture being the main land use. West Oxfordshire contains some extensive sand and gravel and limestone resources particularly in the southern half of the District, focused on the Lower Windrush Valley and the area is the main supplier of sand and gravel in Oxfordshire, with a number of quarries supplying limestone. It has seen extensive mineral extraction for a number of years.

Industry is concentrated in the main population centres. The main industries in the past have been centred around blanket production and engineering supplying the car industry. These traditional industries have declined to be replaced by hi-tech industries such as bio-technical, computing, motor racing. The service sector and tourism are also important elements of the local economy.

3.2 Key Water Resource Issues

Thames Water supplies the majority of West Oxfordshire District with mains drinking water. There are however approximately 500 properties are private water supplies drawing drinking water from surface water, springs, wells, and boreholes. Of these, around 50 are supplying commercial units such as restaurants, hotels and shops, 46 water supplies are shared between roughly 380 properties, and a further 133 are not on a shared supply and only use their private water supply for domestic purposes. All the figures are approximate.

3.3 Geology

The geology of West Oxfordshire District is dominated by rock formations from the Jurassic period. The district comprises of a geological series of Clays, Siltstones, Mudstones and Limestones that get progressively younger towards the south east of the district.

The oldest geological group to outcrop in West Oxfordshire is the Lower Jurassic Lias group, made up of the Upper, Middle and Lower Lias formations. The Lower Lias formation comprise of grey Mudstones with Limestones, entering the district in the north west following roughly the Evenlode Valley a broad shallow basin where the River Evenlode runs. The Lower Lias can also be found to the north east tip of the district. The Middle Lias formation comprise of micaceous mudstones, siltstones and sandy textured Limestones are found in the north west of the district again following the Evenlode River Valley and to the north of the district. Between the Middle and Upper Lias there is a thin band up to 5metres thick of Marlstone a shell fragmented Oolitic Limestone which historically was excavated as ironstone in Fawler and currently in Great Tew. The Lias groups mainly exposed in the north of the district are predominantly soft rocks are folded and cut through by rivers and streams to form a complex topography.

The Lias group is overlain with a hard, well cemented Oolitic Limestone group, a sedimentary rock composed of small ooids which are small spherical grains formed in concentric layers. The Inferior Oolitic Limestone is fairly soft, sandy texture and yellow in colour at the base of the formation and becomes harder the younger the formation becomes. The strata at the top of the formation becomes more fossiliferous, to the north east of the district alike to the Marlstone strata it has a high iron content which gives rise to the warm orange coloured stone which characterises buildings in the north of the district. The Inferior Oolite group occurs in localised outcrops along the edges of the Evenlode Valley and where the River Windrush enters the district in close proximity to Burford.

It is the thick bed of limestone of the Great Oolite group that dominates most of district and is composed of calcareous oolites and lithic fragments. The Great Oolite Limestones gives the Cotswolds its distinctive character in its building work and its use as an aggregate in industry. The Great Oolite group varies in sequence and soils overlaying this tend to be thin, well drained and calcareous, typically supporting medium grade arable farmland.

The Cornbrash strata, a thin band of up to 5metres thick marks the transition between the Great Oolite Group and the Oxford Clay formations. The Cornbrash is fine grained with shell debris containing limestone with thin bands of marlstone and mudstone horizons. The Cornbrash forms a series of low bluffs and hills, including the island of landform within the Windrush valley upon which the town of Witney was sited.

There are localised deposits of Oxford Clay, Kellaway Sand and Clay formations around Leafield, Ramsden and Combe, which create heavier soils and are typically under pasture or woodland. The Oxford Clay group is dominantly present in the south east of the district across the Upper Thames Clay Vale.

The limestone plateau is dissected by the main river valleys of the Windrush and the Evenlode with their alluvial superficial deposits predominantly under pasture. The low-lying flood plain landscape of the Upper Thames Clay Vale occupies extensive deposits of Oxford Clay soils which supports larger scale mixed farming. Large drifts of river gravels produce pockets of well-drained slightly elevated land, which supports more intensive arable farming in the district.

3.4 Hydrogeology

The Environment Agency Groundwater Vulnerability Maps provide information on the water beneath the land in the District. These indicate that there is a Principal Aquifer of high vulnerability running through the district approximately south west to north, through Burford and Charlbury, north of Witney to Chipping Norton.

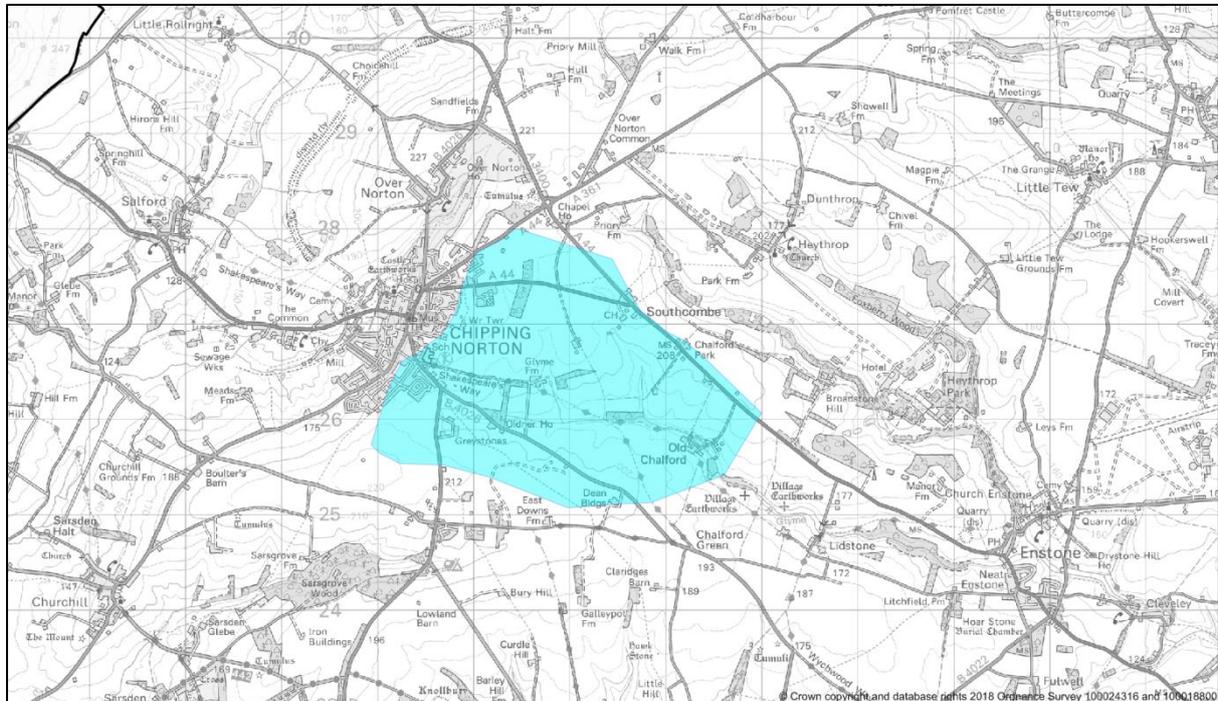
The high vulnerability major aquifers are found in the Oolite Limestone formations; the Inferior Oolite and Great Oolite. This formation has a medium porosity with grain sizes ranging from 0.5mm to larger grain and ooids which are cemented together under pressure over time. These provide high inter-granular and/or fracture permeability which can provide large amounts of water storage and high yield. They can support drinking water supply and/or river base flow on a strategic scale.

The superficial deposits in the West Oxfordshire District predominantly located within a 50m buffer zone surrounding the main rivers and tributaries, according to the Environment Agency, contain permeable layers capable of supporting water supplies at a local rather than strategic scale, and in some cases forming an important source of base flow to rivers and minor aquifers that can supply water on a local scale.

There are numerous private water supplies throughout the district, which benefit from the major aquifers in the area. Furthermore, there are a series of springs located in the district which supply not only private water supplies but also the small tributaries that feed the rivers of the district.

The important groundwater abstractions of the district for public drinking water supply are termed Source Protection Zones which are allocated by the Environment Agency. There is just one such area in the district and this can be found in the located in the area east of Chipping Norton. This is shown on the map below (Figure 3.2) in light blue.

Figure 3.2 Groundwater Source Protection Zone in West Oxfordshire district



3.5 Hydrology

There are three main rivers in the district: the River Evenlode, River Windrush and the River Thames.

River Evenlode enters the north west of the district just south of Kingham, then flows north of Sipton Under Wychwood to Charlbury, onto Woodstock, southwards to Bladon where it is joined by the River Glyme then flows south through Church Hanborough and Cassington, where it joins the River Thames.

River Windrush enters the district west at Burford travelling in an easterly direction towards Witney. From Witney River Windrush travels southeast to Standlake. From Standlake the river moves south to Newbridge where it joins River Thames, which borders the southern edge of the district.

There are numerous smaller tributaries which alike to River Windrush and River Evenlode that join River Thames south of the district or are smaller tributaries that feed the River Windrush and Evenlode. The rivers and lakes found in the south of the district are present due to the Oxford Clays and Kellaway beds and these formations low permeability, allowing the water to be contained.

3.6 Protected Locations

The District has a rich natural environment with around third of the district falling within the Cotswold Area of Outstanding Natural Beauty and 2% lies within the Green Belt surrounding Oxford

city. Land on the eastern edge of the District falls within the Oxford Green Belt and at Cassington Meadows there is a Special Area of Conservation (SAC) of European importance. There are also a number of Sites of Special Scientific Interest (SSSIs) areas of Ancient Woodland and Local Wildlife Sites.

The District has:

- 3,200 listed buildings
- 149 scheduled monuments
- 51 conservation areas and
- 16 registered historic parks and gardens of special historic interest.

Blenheim Palace at Woodstock has been designated as a World Heritage Site.

3.7 Current and Past Industrial History

West Oxfordshire was not an area of widespread heavy industry, contamination of land is not a major issue. Currently manufacturing has limited representation in West Oxfordshire although there is a high proportion of employment in manufacturing.

Potential contamination may be associated with the former blanket industry, centred around Witney (where the River Windrush was fundamental to Witney's blanket industry) and with the many former quarries within the district, some of which have been infilled over the years with wastes.

One of the largest areas of land in single employment use is the air base at Brize Norton, employing around 5,800 service personnel, 1,200 contractors and 300 civilian staff, together with those employed in local support services.

One reasonably ubiquitous small scale commercial activity across the District is garages and fuel filling stations. By the mid-20th century, most villages and towns had at least one vehicle repair garage which supplied fuel. At the turn of this century it was estimated there were around 13,000 filling stations in the UK, whereas at the end of 2018 the figure was 8394. The majority of those that have closed since 2000 are thought to be rural filling stations. Many of these redundant forecourts have been redeveloped because their central setting in existing communities makes them sought after for housing.

3.8 Land owned by the District Council

The Council owns or leases around 250 properties within the District. In specific instances, the Council may actively pursue the purchase of derelict land and redevelop this to improve the overall quality of an area.

4. Strategy Objectives, Milestones and Inspections

4.1 Aims of the Strategy

In accordance with the requirements of a strategic approach set out in Section 2.3, a prioritised list of the Council's aims has been devised to aid decision-making in a cost effective manner.

The Council's priorities in dealing with contaminated land will be to:

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

Wherever possible, the Strategy will look to achieve these priorities through voluntary remediation and the redevelopment or regeneration of sites.

4.2 Prioritisation

The Council has considered the following factors in determining its approach to complying with its obligations within the Contaminated Land Regime:

- The most likely polluting sites (based on information provided within the DOE Industry Profiles) have already been remediated or redeveloped, or are still in active industrial use. Many of the remaining brownfield sites have been, or are due to be, coming forward for development and are included in the Local Plan.
- Some of the original sites have been determined as very low risk and have been retained on the list as of interest only to existing and future landowners. Examples of this are smithies and small, minor infilled sites in rural areas.
- The number of sites to be investigated is around 1500. It is likely that most of the sites on the priority list will NOT be considered as 'Contaminated Land'.
- Only one site has been identified or reported where the Council considers that there is a reasonable possibility that a significant contamination linkage exists (as defined in the statutory guidance). This is described below.

The Council is required to direct its resources to those areas of the district which are most problematic and likely to require action under Part IIA. As a consequence of this statutory obligation, the Council undertook preliminary prioritisation of all known historical land uses within the district in 2007.

The prioritisation process undertaken by the Council assigns a risk based score based on the likely risk exhibited by former land-uses and the sensitivity of contemporary receptors present on the site.

This process allowed the Council to rank the 1500 sites within the district, ensuring that local and central resources are not squandered on low risk sites. This prioritisation is continually reviewed to maintain its relevance, with new sites added for inspection and prioritisation as required.

If the Council becomes aware of land which should be inspected, the following procedures will be followed. The inspection strategy will use the contaminant-pathway-receptor model as an indication of significant contaminant linkages.

A map-based land categorisation and prioritisation method using a risk model is used to enable the identification of minimum information requirements. These 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;
- 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 see section 4.4.5).
- location of statutory and non-statutory sites of ecological importance;
- potential sources of contamination based on the industries listed in the DOE Industry Profiles; and
- the current and historical locations of these industries.

The detailed procedures contained in the Statutory Guidance will be followed in all respects.

4.3 Part 2A inspections – progress to date

Detailed inspection by intrusive site investigation works have occurred on two sites to date.

4.3.1 Chalcroft Close, Witney Road, Ducklington

Prioritisation studies, coupled with observations of visible hydrocarbon contamination by one resident, showed that eight dwellings built in the late 1990s, prior to current contaminated land legislation coming into force, were constructed on a former petrol filling station. Site studies dated 1999, presumably at the time of development, reported the presence of waste oil tanks, underfloor fuel tanks (slurry filled in 1991) a vehicle repair shop and possible spray paint area.

Invasive site investigation noted some oily ground at depth. It was unclear whether a contamination planning condition attached with permission for redevelopment was complied with and discharged. Some records exist to suggest that the fuel tanks were removed and remediation verification information indicated that some oil-saturated soils were excavated and the soils taken off site.

The Council commissioned its own site exploratory investigations on the land in 2006 and 2008 after the Council was successful in applying for and being awarded a grant from Central Government in 2005. This included sampling of soils from the gardens of the properties.

In order for the land to be determined as statutory “contaminated land” the statutory guidance for Part 2a requires a specific decision that the intake of contaminants from the land is “unacceptable”, which in technical terms is an intake that would result in significant possibility of significant harm. The findings of the various studies concluded that on the balance of probabilities the concentrations of contaminants observed were unlikely to lead to an “unacceptable intake” in the context of continuing residential use of the land and as such the land would not qualify as statutory contaminated land under the Part 2a legislation.

The study concluded that underground fuel infrastructure associated with the former petrol station had been removed but some visually contaminated soils remained at site.

In conjunction with the Environment Agency it was decided that there was minimal risk to groundwater beneath the site or surface water.

4.3.2 RAF Brize Norton Bulk Fuel Installation 5

At the eastern area of the Brize Norton airfield was a series of fuel storage tanks. A series of invasive site investigations from c2002-2008 found that contamination of the subsoil had occurred, presumably through leakage or loss of the fuel stored there. The result was contamination of the underlying groundwater, with a “smear zone” of fuel where the groundwater levels had risen and fallen according to the seasons. Some of these investigations had indicated a significant thickness of free phase fuels on top of the groundwater, albeit that this was decreasing over time.

Although two fuel storage areas were investigated, known as Bulk Fuel Installation 3 (BFI3) and Bulk Fuel Installation 5 (BFI5) respectively, in 2006 the Council determined as statutory contaminated land the BFI5 facility at RAF Brize Norton. It was then designated as a Special Site in accordance with Section 78c(1) Environmental Protection Act 1990 on 27th November 2006, meaning that the Environment Agency became the lead regulator.

Investigations in 2008 determined that the free phase hydrocarbons were localised around one area of the facility. In 2009 a remedial works plan was put together that comprised:

- removal of the fuel tanks and associated pipework at both BFI3 and BFI5
- Excavation of suspect contaminated soils until it was confirmed by testing that all of the contaminated material was removed
- Backfilling of voids with clean material
- Treatment of contaminated material on-site to break down contamination by natural means - biodegradation by naturally occurring micro-organisms within the soil
- Treatment of groundwater arising.

This allowed recovery of soils for reuse on site and to minimise off-site disposal to local landfills. The outcome is that ground contamination has been removed and subsequent groundwater monitoring in the vicinity has shown a general decrease in hydrocarbon concentrations in line with expectations.

4.4 Overlapping Regulatory Functions

4.4.1 Overview

Part 2A should only be used to secure remediation of contaminated land where no appropriate alternative solution exists. There are several regulatory functions that provide local authorities with

legislative powers to deal with land contamination including planning, building control and Environmental Damage Regulations. Action under Part 2A may be precluded where action under these regimes results in a desirable outcome, however, these should be assessed on a case by case basis. In the commercial site example given in the previous section, the planning process took over dealing with land contamination excluding action under Part 2a.

4.4.2 Inspection and remediation via the Planning Process

In February 2019 the Government published its revised National Planning Policy Framework (NPPF) replacing the earlier version introduced in March 2012 and the revised version published in July 2018. The latest planning policy makes some reference to brownfield and contaminated land:

“Planning policies and decisions should:

....give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land...

Paragraph 118 of the NPPF

....contribute to and enhance the natural and local environment by:..... remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 170 of the NPPF

...ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

Paragraph 178 of the NPPF

Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 179 of the NPPF

It is important therefore that the CLO maintains close liaison with the planning department to ensure that, where land affected by contamination is to be developed, site investigation and, where necessary, remediation is carried out to the appropriate standard. The Contaminated Land Officer would provide technical assistance to the planning department in assessing planning applications and site investigation reports presented by developers.

The Council seeks to use the planning process to bring previously developed land into use as part of its sustainable development objectives.

At the time of writing, a number of sites which had the potential to be contaminated land under the Part 2A legislation have been or are being dealt with by the action of developers through the Planning process over the last 5 years, including the following:

- Removal of fuel contamination during renewal of underground storage tanks at a petrol station south of Witney, in 2016
- Investigation into ground conditions at a former petrol station in Carterton, now redeveloped
- Redevelopment of various redundant farm buildings for residential uses
- Development of land at former quarries and stone mines
- Urban extensions of Chipping Norton, Stanton Harcourt and Witney; and
- Development of several dwellings in garden areas.

Over 600 site investigation and remediation reports have been received and reviewed by the Council in connection with planning and building control applications within the last five years.

4.4.3 Building Control

Part C1 of Schedule 1 of the Building Regulations (2010, updated 2013) introduced the requirement for reasonable precautions to be taken to avoid danger to health and safety caused by contaminants on or in the ground covered, or to be covered by the building and any land associated with the building.

Technical guidance issued by the HM Government in the form of The Building Regulations 2010 Approved Document C – Site preparation and resistance to contaminants and moisture (2010, updated 2013), provides advice on site preparation and resistance to contaminants in order to mitigate the effects of contaminants, whilst recognising the connection between building control, planning and environmental protection.

The responsibility for securing a safe development rests with the developer and/or landowner, who should be made aware that actions or omissions on their part could lead to liability being incurred under Part 2A.

The building control function has an increasingly important role in securing a safe development with the rising number of developments being constructed using permitted development rights that do not require planning permission. Where contamination potential exists, restrictions on building approvals should be used to ensure developers undertake appropriate site assessments and address any unacceptable risk to human health and safety as part of the development.

4.4.4 Environmental Damage Regulations

The Environmental Damage (Prevention and Remediation) Regulations 2009 ('EDR Regulations') (S.I. 2009/153) as amended in 2015 and 2017 provide a mechanism to deal with environmental damage to land, water or ecosystems where this occurs to businesses after March 2009. They rely on the

polluter pays principle requiring operators of commercial activity to have in place measures to prevent environmental damage and take remedial action if it does occur.

The term 'environmental damage' has a specific meaning in the regulations and is damage that adversely affects land, surface or groundwater, marine waters, protected species or natural habitats or a site of special scientific interest. The Local Authority has enforcement responsibilities in relation to damage to land where this results in a significant risk of adverse effects on human health. Enforcement responsibility for damage to water is held by the Environment Agency, whilst damage to natural habitats or protected species or sites of special scientific interest is enforced by Natural England.

4.4.5 Environmental Permitting

The Environmental Permitting Regulations (England and Wales) 2016 (as amended) were introduced on 11th December 2016 replacing the 2010 regulations. These Regulations cover industrial processes, waste operations, water discharges, groundwater activities and radioactive substances and give the enforcing authority the ability to apply conditions to permits to control activities and discharges to land, air and water.

Operators holding an environmental permit are liable for the prevention and remediation of environmental damage under the EDR Regulations.

4.4.6 Other regulatory functions

The examples of overlapping regulatory functions provided above may not be exhaustive. Furthermore, environmental legislation and regulatory responsibilities do not remain static. The Council will ensure the impact of any new legislation implemented following publication of this strategy is taken into consideration when implementing the contaminated land regime.

4.5 Other contaminated land activities

Regular external liaison takes place with a number of other bodies including the Environment Agency (EA), Public Health England (PHE) and Health and Safety Executive (HSE).

A close working relationship is maintained with other Council Departments, including Planning, Building Control, Land and Property, Legal Services and IT/GIS.

A large number of land quality enquiries have been received since the original Strategy was produced, mainly by land search consultants and conveyancing solicitors. Many of these required a detailed written response. Furthermore, enquiries from the general public and local businesses were also regularly received, requesting advice and information. Work was undertaken in response to several urgent incident reports including:

- Several oil spills in the District at private homes; and
- Complaints about oil leak affecting drinking water in an area of Witney, in 2018;

The Council has produced its Brownfield Land Register in 2018, which provides an up to date record of previously developed land in West Oxfordshire that is suitable for housing development. This is available for public download on the Council's website.

4.6 Radioactive Contamination

The Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005 (SI 2005/3467) (as amended in 2010 and 2018) and the Radioactive Contaminated Land (modification of Enactments) (England) Regulations 2006 (S.I. 2006/1379) (as amended 2007-2018) make provision for Part 2A to be extended for the purpose of identification and remediation of radioactively contaminated land where this is causing harm to human health only.

5 Inspection Process

5.1 Introduction

The inspection process thus far carried out by the Council has identified sites for urgent action. These sites have been researched, and where appropriate inspected, with funding through the Defra Capital Grants allocation. A number of potentially contaminated sites have been and are being inspected and remediated through the planning process. In many cases, this has been done by site developers where the use of the site has been changed to introduce a more sensitive receptor, as in the case of a change from industrial to residential with gardens, for example.

The inspection process must reflect the requirements of primary legislation and relevant statutory guidance and be capable of identifying contaminated land.

5.2 Inspection Stages

The Council has adopted a strategic approach to inspection as required by Government. This is broken down into five process steps:

Stage 1a – District Survey

The purpose of this stage of the Strategy is to gather information on potentially contaminative land uses, receptors and pathways from a variety of sources, including historical maps and records, data sets published from authoritative sources including the Environment Agency, British Geological Survey and information held on public record.

Whilst there is an ongoing need to maintain and update information for the district, this stage of the inspection process is effectively complete, allowing progression to Stage 1b.

Stage 1b – Prioritisation of sites for detailed inspection

There is a statutory requirement for a risk based approach in prioritising sites with the greatest potential to cause significant harm, although a methodology to achieve this has not been defined by Government. The Council has applied a prioritisation methodology in line with systems used by other authorities but which makes use of existing corporate systems and data and is customisable to reflect local circumstances. This is shown in Appendix B.

Stage 2 – Site Walkover and Inspection of the site

During the initial site prioritisation some site visits may have taken place. However, it is only following the collation of a desk study that a targeted site walkover can be conducted, taking into account all previously identified sources, pathways and receptors. It may be necessary at this stage to inform the site owner, if known, that the site has been prioritised for inspection.

Stage 3 - Intrusive Investigations

The requirement for intrusive investigation will be determined based upon the Site Characterisation and risk assessment carried out in the previous stages. The Council may engage consultants to undertake the analysis of this data and preparation of the scope of investigation and a site investigation protocol.

A desk-based study may be sufficient to quantify the level of risk or it may be necessary to undertake an intrusive investigation to assess ground conditions and associated contaminant concentrations. The output from this inspection stage should provide sufficient information to categorise the site as required by statutory guidance.

Stage 4 – Determination

The local authority is responsible for determining whether land is contaminated land and has a duty to do so where:

- Significant harm is being caused to a human or relevant non-human receptor;
- There is a significant possibility of significant harm being caused to a human or relevant non-human receptor;
- Significant pollution of controlled waters is being caused; or
- There is a significant possibility of significant pollution of controlled waters being caused.

In fulfilling this role, the Council will act in accordance with relevant statutory guidance, seeking expert advice, if required.

For sites that are determined as contaminated land, following a thorough risk assessment, the Council will produce a risk summary, in a simple and easy to understand format, and this will form part of the record.

Stage 5 – Remediation

When land is determined as contaminated land, the local authority must secure the remediation of that land. The Statutory Guidance will be followed to ensure the significant pollutant linkages identified by the inspection process are removed or disrupted to such a level that they no longer present a significant risk.

Further information including a detailed outline of the processes to be completed in each stage is provided in the following sections.

5.3 Inspection Programme

The legislation and statutory guidance is not prescriptive in terms of how quickly the work on contaminated land needs to be completed, however, each local authority is required to set out in its Strategy the timescales for the inspection process. **Table 0.1** sets out the anticipated timetable for completion of each stage of the inspection process.

Table 0.1 Timetable for inspection process

Stage	Task summary	Target Completion Date
1	District survey	Completed
	Initial prioritisation	Completed
2	Detailed Inspection	Unknown, as urgent inspections arise
3	Determination	As required following detailed inspection
4	Remediation	Within 12 months of determination

Prioritisation is reviewed and updated from time to time as new information arises.

5.4 Reactive investigation

If the Council is made aware of any site not already listed on the database of potentially contaminated land that has the potential to be contaminated land under the Part 2A definition, then a process of investigation will be carried out in the same way as those sites already on the Council's database of potentially contaminated land. The site would be subjected to the same process of prioritisation as sites already listed. If the risk based assessment of the site, based on available information, indicates urgent action should be taken, a detailed inspection would follow.

If the status of a known site should change, as in the case of the introduction of a new receptor for whatever reasons, then the site would be reassessed in terms of risk to those receptors. If it seems to the Council that the risks now posed by the site are such that a detailed inspection should be carried out by the Council then this will be done with due regard to current best practice and published guidance.

Once a detailed inspection of the land in question has been completed and sufficient information has been gathered to indicate that regulatory action is necessary, land likely to be in Category 1: Human Health or Water in the Statutory Guidance, a risk summary will be produced as required under Section 3 of the Statutory Guidance. This summary will be communicated to all identified stake holders.

5.5 Information requests and the Public Register.

The Council receives a steady flow of requests for information on contaminated land from consultants undertaking environmental assessments to property vendors and purchasers and their solicitors. It is important, therefore, to maintain the database of sites so that responses can be made to these queries on the basis of up to date information.

The Council is required under Section 78R of Part 2A to maintain a register containing prescribed particulars of actions taken by the Council in relation to the determination of contaminated land. The register is available, at all reasonable times, for inspection by the public, free of charge. At the present time there is one entry on the Council's public register.

5.6 Strategy Review.

This Strategy will be reviewed in 5 years unless changes in legislation, statutory guidance or other factors dictate that the Strategy should be reviewed at an earlier date.

6. Determining Liability

6.1 Principles of Assigning Liability

It is the intention of Part 2A that the appropriate person, ideally the ‘polluter’, pays for the cost of remediation, as a result of voluntary or formal action.

The Council will carry out inspections and assessments as set out in the previous Chapter. It will then decide whether the land is statutory contaminated land and decide whose responsibility it is for managing the contamination.

As part of the process of determining that land is contaminated land the Council will have identified at least one significant pollutant linkage resulting from the presence of at least one significant pollutant: land may be declared contaminated upon the identification of one significant contaminant linkage. Full liability therefore, cannot be decided until all significant contaminant linkages have been identified. Only then can the procedure relating to the apportionment of liability commence.

The apportionment of liability has five distinct stages as follows:

- Identifying potential appropriate persons and liability groups
- Characterising remediation actions
- Attributing responsibility to liability groups
- Excluding members of liability groups
- Apportioning liability between members of liability group

These procedures are complex and will be undertaken in accordance with the statutory guidance.

6.2 Identifying Liable Parties

The Council is responsible for identifying relevant parties who are obligated to undertake remedial works.

The legal liability for remediating contaminated land follows a hierarchy: in the first instance the person caused the contamination would be liable, for example the original operator of the site or a subsequent developer who built houses on the land. If these parties cannot be found or no longer exist then liability passes to the current landowner. In some cases this might be the owner-resident of the site.

All appropriate persons with responsibility for any one linkage are a ‘liability group’. These may be Class A or Class B persons.

Appropriate persons – Class A

These are generally the polluters who caused the contamination in the first place but also include persons who ‘knowingly permitted’ the contamination. This includes developers who leave contamination on a site which subsequently results in the land being determined as contaminated.

Appropriate persons – Class B

Where no Class A person has been identified, liability reverts to the owner or occupier of the land. These are Class B persons, who were not responsible for causing the original pollution. Class B parties are only liable for remediation of contamination within the boundaries of their property and cannot be held liable for any pollution of controlled waters.

The Council will make all reasonable enquiries to identify the Class A persons before liability reverts to the current owner or occupier.

The matter of appropriate persons must be considered for each significant pollutant linkage. Therefore, where a site has had a series of contaminative uses over the years, each significant contaminant linkage will be identified separately and liability considered for each.

6.3 Orphan Sites and Orphan Linkages

A situation may arise where there is at least one significant contaminant linkage at a site and there is no Class A or Class B person found. Then the site would be termed an “orphan site” and the enforcing authority would bear responsibility for carrying out remediation of the land and bearing the cost of that remediation.

6.4 Apportionment of Costs

Usually the members of a liability group will have the total costs falling on the group as a whole apportioned between them. It may also be necessary to apportion the costs between liability groups. The Council will have regard to the Statutory Guidance in the application of the exclusion and apportionment tests.

6.5 Special Sites

The Council and the Environment Agency can both identify potential ‘Special Sites’ but a site cannot be designated a Special Site until the Council determines it as ‘Contaminated Land’.

If the Council requests an inspection of a potential Special Site, the Environment Agency will prioritise this site alongside its other potential Special Site inspection requests.

Once the Council is satisfied that a site has been determined as Contaminated Land and designated a Special Site, the Council will notify the Environment Agency of this fact in writing. If the Agency disagrees on the designation, it must notify the Council of that fact in writing within 21 days.

In cases where the Environment Agency and the Council disagree the matter will be referred to the Secretary of State who may confirm or reverse the Council’s decision with respect to all or part of the land. The Council will, in all cases, consult with the Environment Agency prior to giving formal notice.

If the Agency agrees or fails to inform the Council within 21 days, then the land will be designated a Special Site. The responsibility of securing remediation then passes to the Environment Agency although the Council must complete the formal notification process. This will involve the Council also notifying the owner, occupier and appropriate person with respect to that site or land.

7. Remediation

7.1 Purpose

Once the land has been identified as contaminated land and the relevant persons have been notified, a process of consultation begins to determine what remediation is required on that land.

The aim of remediation is to remove or take measures to remedy the identified significant contaminant linkages, or permanently to disrupt them to ensure they are no longer significant and that risks are reduced to an acceptable level, where the land would no longer qualify as contaminated land. Where this is not achievable, consideration should be given to remediation to a lesser standard to minimise risks as far as possible.

7.2 Definition of Remediation

Remediation is defined in s78A of the Environmental Protection Act 1990 as:

- a) The doing of anything for the purpose of assessing the condition of –
 - (i) The contaminated land in question;
 - (ii) Any controlled waters affected by that land; or
 - (iii) Any land adjoining or adjacent to that land;

- b) The doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or waters for the purpose-
 - (i) Of preventing, or minimising, or remedying or mitigating the effects of, any significant harm, or any significant pollution of controlled waters, by reason of which the contaminated land is such land; or
 - (ii) Of restoring the land or waters to their former state; or

- c) The making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or waters.

7.3 Remediation Notices

Following determination of contaminated land in its area, the Council has a duty to serve a remediation notice on the appropriate person(s) following a three month consultation period unless there are no viable remedial options, voluntary remediation is being or will be undertaken without the need for a notice, or there is a need for urgent action where there is imminent risk of serious harm. In considering whether the requirement to undertake the remediation is reasonable, the Council will consider:

- a) The practicability, effectiveness and durability of remediation including whether it is feasible for the appropriate person to complete the remediation specified within the timescale given, and whether this will remain a robust and effective solution for a sufficient length of time;

- b) The health and environmental impacts of the chosen remedial options including whether there are any direct or indirect health effects to workers or people affected by the works, or

potential for damage to the countryside, protected building and other sites of importance caused by the work;

- c) The financial cost which is likely to be involved at all stages of the process including preparation, remediation, monitoring, maintenance and value of the land; and
- d) The benefits of remediation with regard to the seriousness of the harm or pollution of controlled waters in question including increased land value following remediation and the likelihood of an occurrence or recurrence of pollution.

A remediation notice must specify what remediation is required and the timescales in which this must be done. When considering what remedial action is required, the Council will consult other regulatory bodies and have due regard for relevant technical guidance provided by regulatory, professional or technical organisations or act on the advice of a suitably qualified practitioner employed for that purpose.

A remediation declaration must be prepared in situations where the Council itself has caused or knowingly permitted the land to become contaminated land and is responsible for its remediation.

In accordance with the requirements of s78R of the Environmental Protection Act 1990, a copy of any remediation notices or remediation declarations prepared will be placed on the public register.

In the event that new information comes to light that alters the extent of remediation required or an alternative remediation scheme is proposed by the responsible person, it is possible to revise or revoke all or part of the notice.

7.4 Voluntary Remediation

The Council actively encourages voluntary remediation and will work with the appropriate person(s) during the consultation period to secure the informal remediation of contaminated land without the need for a formal notice.

Where voluntary remediation is considered appropriate, a remediation statement will be used in place of a notice to record the nature and extent of remediation required, the person responsible for the remediation and the delivery timescales. In accordance with the requirements of s78R of the Environmental Protection Act 1990, a copy of the remediation statement will be placed on a public register.

7.5 Financial Considerations

The cost of remediation of contaminated land can be considerable. The cost of remediation must be reasonable and proportionate to the seriousness of the harm or pollution to controlled waters. When considering the reasonableness of costs, the Council will take into consideration:

- a) Preparation costs including feasibility studies, remedial design and management
- b) Remediation costs including making good afterwards
- c) Land management costs including on-going monitoring and maintenance
- d) Relevant disruption costs

- e) Financial value and utility of the land as a result of remediation and who this affects.

The identity or financial standing of the appropriate person is not relevant when considering the remediation actions, although they may be relevant in deciding whether the cost of remediation can be imposed on such persons.

In making any cost recovery decision, the Council will have regard to the following principles:

- The authority should aim for an overall result which is fair and equitable as possible to all who may have to meet the costs of remediation, including national and local taxpayers; and
- The ‘polluter pays’ principle, by virtue of which the costs of remediating pollution are to be borne by the polluter. The local authority should therefore consider the degree and nature of responsibility of the Appropriate Person for creation, or continued existence, of the circumstances, which lead to the land in question being identified as contaminated land.

In general, this will mean that the Council will seek to recover, in full, its reasonable costs unless it waives or reduces the recovery of costs to:

- Avoid any hardship which the recovery may cause to the appropriate person; or
- To reflect one or more of the specific considerations set out in the Statutory Guidance.

7.6 Appeal Procedure

Remediation notices served by the Council will contain information on the right to appeal. The appeal period is twenty one days from service of the notice and any appeals must be made to the Secretary of State who could quash the notice or confirm it with or without modification.

7.7 Offences

Any person failing to comply with the requirements of a remediation notice is guilty of an offence and may be fined following successful prosecution.

7.8 Remediation by the Local Authority

If the Council considers that serving a remediation notice would not result in the remediation happening soon enough, it may decide to carry out the remediation itself. This may happen where:

- urgent action is required
- no appropriate person can be found (“orphan sites”)
- where persons are excluded on the grounds of hardship
- where persons responsible are in default of a remediation notice
- where an arrangement has been made whereby the council carries out the remediation on behalf of appropriate persons.

Urgent remediation will occur where the Council is satisfied that there is imminent danger of serious harm or serious pollution of controlled waters or serious harm attributable to radioactivity being caused as a result a significant pollutant linkage that has been identified. In all appropriate cases the Council will seek to recover costs of remediation works it has completed.

8. Liaison and Communication

8.1 Internal communication

Before any site is determined as contaminated land, relevant departments within the Council will be consulted for their views and a brief will be produced to inform senior management and Legal Services. Elected members, in whose area the site is located, will also be informed of the proposed statutory determination.

Members of the Cabinet will also be informed at the earliest opportunity of any plans to determine Council owned land where the Council might be considered the Appropriate Person and liable for remediation costs.

8.2 Communication with other statutory bodies

As a local authority, the Council is the primary regulator for dealing with land which is affected by contamination. The Environment Agency, as the national environmental regulatory body, compliments this role and thus it is important for both organisations to exchange and rely on information from each other. The Council will provide information to the Environment Agency as necessary to fulfil its duties under the contaminated land regime.

The Council will contact the Environment Agency on designation of a site as contaminated land and whenever a remediation notice, statement or declaration is issued or agreed.

The Environment Agency is also required to report annually to the Secretary of State on the state of contaminated land in England and Wales. This includes:

- A summary of local authority inspection strategies, including progress and effectiveness;
- The amount of identified contaminated land and the nature of contamination; and
- Measures taken to remediate contaminated land.

The Council will provide information, upon request, to the Environment Agency to allow it to fulfil its reporting obligations to the Secretary of State.

When considering determination of a potentially contaminated site, the Council will engage in consultation with any other organisations that might have an interest in the site or that might be able to provide help and assistance. Such organisations include other affected Local Authorities, Public Health England, the Foods Standards Agency (FSA), the HSE and DEFRA.

8.3 Communication with Stakeholders

The Council aims to proceed with the process of investigating sites in a transparent and open manner. It will act to keep interested parties informed and updated regarding progress with the site inspection, as required by the statutory guidance.

The Council is required to follow the procedures detailed in the statutory guidance when considering determination of a site as contaminated land. When requiring remediation of a contaminated site, the regulations provide an incentive for voluntary action. Also, voluntary remediation is often more

likely to achieve a higher level of improvement in comparison to the minimum that can be statutorily required.

The Council will, therefore, seek voluntary action wherever possible, only considering subsequent enforcement action if voluntary action is refused or considered unlikely to satisfactorily remediate the site.

8.4 Risk communication

Reference should be made to the publication *Communicating Understanding of Contaminated Land Risks - SNIFFER (May 2010)*. The Council will be involved in the assessment of risks associated with contaminated land and ensuring that unacceptable risks from contamination are appropriately managed.

Hence, there is a need to carefully assess how to anticipate and respond to the concerns, anxieties and expectations that may arise in response to land contamination. It is not possible or practical to eliminate each and every risk, i.e. it is not practical or financially viable to remove all risks from contamination, and in some cases it is not technically possible to do so. However, public perception and concerns are very real and should be addressed seriously and with sensitivity as part of the risk management programme.

Managing the potential conflict around the risk issues requires attention to the content of risk information, and to the appropriate procedures at relevant stages in the decision making process. The procedures should address the following:

- The need for two-way communication;
- Transparency to create trust in the regulatory role; and
- Openness to enhance the legitimacy of the overall process to the stakeholder.

Risk communication should include the overall rationale and methods behind the assessment and management process. Risk communication for a site should be flexible in terms of procedures and reflect the content and history around a particular contaminated site.

8.5 Consultation on the Inspection Strategy

Consultation on the original 'Contaminated Land Inspection Strategy (2001)' occurred with Council members, the Parish Councils, other Council departments, relevant organisations and the public. This included Officers from the County of Oxfordshire, DEFRA, Environment Agency, English Heritage, English Nature, Food Standards Agency, Gloucestershire County Council, Gloucestershire Health Protection Agency and Ministry of Agriculture, Fisheries and Foods.

This revised Strategy has also been circulated for consultation and the list of consultees for this strategy will be found in Appendix A.

8.6 Information Management

8.6.1 Maintaining a Public Register of Contaminated Land

The Council maintains a Public Register of Contaminated Land. This is a written record of any determination that particular land is contaminated. The public register will include information on the land after determination of the land as Contaminated Land, including all data and information used to support the designation of the land as contaminated land.

8.6.2 Data Storage and Requests for Access to Information

Information obtained and collated under this strategy is stored in both spreadsheet and GIS-based software.

An important development is that the information has been linked to the Council's information database (Idox-Uniform) so that the location of potentially contaminated sites can be accessed in relation to Development Control and Building Control, Environmental Health and Forward Planning activities.

The Council regularly receives requests for information on contaminated land. Most of these requests are in relation to land/property purchase and transfer and the Council's records may be inspected by other agencies, commercial concerns and private individuals in this respect.

The Council is subject to the requirements of the Environmental Information Regulations 2004, the Freedom of Information Act 2000, the Data Protection Act 2018 and General Data Protection Regulations and several other pieces of legislation governing the storing and provision of information, such as the requirements of Town and Country Planning. The Council will make the majority of information held by it relating to potentially contaminated land available in the public domain unless there is a good and legally valid reason not to do this.

Note that while records will be made freely available for inspection, it may not always be possible to provide or allow copies of this information as a result of copyright restrictions, or further copyright restrictions might apply to documents made available. There are occasional circumstances where information pertaining to land condition may be deemed commercially confidential (such as under the regulations governing environmental permitting (Environmental Permitting Regulations (England and Wales) Regulations 2016 (as amended)) and thus not made generally available. Information that if available would be prejudicial to national security or where disclosure might prejudice future legal proceedings will also be restricted.

The Council is aware that information on land contamination is a sensitive issue, as it can often contain terms and descriptions that are emotive, which if incorrectly handled would give rise to concern and blight. The Contaminated Land Officer can be contacted to provide advice and assistance with information of contamination.

The Council may make a reasonable charge for the supply of information, and for significant efforts to retrieve data.

8.6.3 Access to the Public Register

The public register will be made available free of charge at the Regulatory Services offices of the Council during office hours. Whilst it is not a requirement that an appointment is made, the availability of staff competent to answer any matters that may arise from inspection of the register cannot be guaranteed without prior notification.

8.6.4 Information to be withheld from the Public Register

As outlined in section 8.6.2, under certain circumstances the Council may not or cannot place information on the public register (or release in response to other requests). Circumstances where information is withheld include:

- a) where it is in the interests of national security; and
- b) where this is commercially confidential, or
- c) where data is subject to the Data Protection Act 2018 and the General Data Protection Regulations.

Where information has been excluded from the public register for reasons of commercial confidentiality, a statement will be included on the register to indicate this.

8.6.5 Response to enquiries

All enquiries relating to contaminated land will be directed to the Senior Officer within the Environmental & Regulatory Services team. An initial response to the enquiry will normally be conveyed within 20 working days, except where pollution incidents are occurring during normal working hours, in which case it will be responded to on the same day.

8.6.6 Environmental Information Regulations

Environmental searches are routinely undertaken by solicitors through property conveyancing. Where searches require further assessment or “certificates” cannot be provided by the search company, the Senior Officer can provide additional information at an hourly rate stipulated in the Councils fees and charges. The Council responds to specific written requests for information held by the authority on contamination, historic land uses and site investigation data. A disclaimer is added to the written response, making it clear that the information provided is to the best of the Councils knowledge, information and belief at that time.

This is consistent with the Environmental Information Regulations 2004. However, circumstances do exist where information is deemed confidential and will not be disclosed, (as described above).

8.6.7 Complaints

From time to time the the Council may receive a complaint relating to land contamination from a member of the public, business or community group. Interested residents may also voluntarily supply information relating to the condition of land that is not directly affecting them, their families or their properties. These complaints or acts of information provision have the potential to impact on the approach to inspection and so the procedures to be adopted are set out below.

A complaint regarding the quality of land will be dealt with as follows:

All complainants may expect:

- their complaint to be logged and recorded in the Council's database
- to be contacted by an officer regarding their complaint
- to be kept informed of progress towards resolution of the problem

Every effort will be made to resolve complaints quickly and efficiently. The legislative framework does, however, present a number of obstacles to the speedy resolution of problems:

- i. proof of a viable pollutant linkage before any formal designation as contaminated land is permissible, which might only be possible with detailed investigation.
- ii. prior consultation with interested parties before designation as contaminated land.
- iii. a minimum of a three month period between designation and serving of a remediation notice.
- iv. 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 ii) and iii) to be waived in extreme cases, but not conditions i) and iv).

All complainants will be asked to supply their names and addresses and, if appropriate, the address giving rise to the complaint. The identity of the complainant will remain confidential. The only circumstance in which this information might be made public would be in the case of a remediation notice being appealed in a court of law and an adverse effect on the complainant's health was an important reason for the original contaminated land determination. If a person or organisation provides information relating to land quality, which is not directly affecting their own health, the health of their families or their property, this will not be treated as a complaint. The information supplied will be recorded in the Council's database, allowing officers to exercise professional judgement as to which legislative regime or regulatory actions are best placed to facilitate resolution of the issue. Complaints and enquiries relating to Contaminated Land or land affected by contamination will normally be considered by the Senior Officer located within the Environmental and Residential Services team. There is no statutory obligation for the Council to keep the person or organisation informed of progress towards resolution, although it may choose to do so as a matter of good practice.

References

1. West Oxfordshire Council Plan 2016 – 2019
2. West Oxfordshire Local Plan 2031, Sept 2018
3. Department for Environment, Food and Rural Affairs: Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance April 2012
4. Environment Agency, Model Procedures for the Management of Land Contamination, Contaminated Land Report 11
5. West Oxfordshire District Council Enforcement Policy, March 2015.

Glossary

Appropriate Person	Defined in Section 78A(9) as 'Any person who is an appropriate person, determined in accordance with Section 78F, to bear responsibility for any thing which is to be done by way of remediation in any particular case'.
Brownfield Site/Land	A site that has been generally abandoned or underused where redevelopment is complicated by actual or perceived environmental contamination. Only a small proportion of brownfield sites will meet the definition of 'Contaminated Land'.
Contaminated Land	Any land which appears to the Local Authority in whose area it is situated to be in such a condition, by reasons of substances in, on or under the land that: (a) significant harm is being caused or there is a significant possibility of significant harm being caused; or (b) pollution of controlled waters is being or is likely to be caused.
Controlled Waters	These include (a) inland waters (rivers, streams, underground streams, canals, lakes, reservoirs); (b) groundwaters (any water contained in underground strata, wells or boreholes); (c) territorial waters (the sea within three miles of a baseline); and (d) coastal waters (the sea within the baseline up to the line of highest tide, and tidal waters up to the fresh water limit).
Environment Agency	a non-departmental public body, sponsored by the UK government's Department for Environment, Food and Rural Affairs (DEFRA), with responsibilities relating to the protection and enhancement of the environment in England.
GIS Geographic Information Systems.	A system of hardware and software used for storage, retrieval, mapping, and analysis of geographic data.
Hardship	In relation to recovery of the Council's costs, hardness of fate or circumstance or severe privation.
Part 2A	Part 2A of the Environmental Protection Act 1990.
Public Register	The register is kept by the enforcing Authority relating to contaminated land and details contaminated land that has been

remediated as well as any enforcement action undertaken by the Authority.

Radioactive

Elevated concentrations of radio-nuclides resulting in elevated Contaminated Land levels of radiation above a certain level.

Remediation Notice

Defined by Section 78E(1) of the EPA 1990 as a notice specifying what an appropriate person is to do by way of remediation and the periods within which he is required to do each of the things specified.

Risk Assessment

The study of
(a) the probability, or frequency, of a hazard occurring; and
(b) the magnitude of the consequences.

Site investigation

The process of undertaking investigation on land to determine the condition of that land. The staged approach usually includes a desk study including a review of historical data and a site reconnaissance, and an intrusive investigation which includes trial pitting or drilling works, soil sampling, risk assessment and remediation works.

SGV Soil Guideline Values (SGVs) are published by DEFRA and the EA and represent a minimal level of risk and depend on the current use of the land. They do not represent significant possibility of significant harm).

Special Site

Contaminated Land which meets one of the criteria laid out in the guidance for regulation by the EA.

Appendix A

List of Consultees

The following consultees were consulted on the draft of this Strategy.

Cherwell District Council

Bodicote House
Bodicote
Banbury OX15 4AA

Cotswold District Council

Trinity Road
Cirencester
Gloucestershire GL7 1PX

Stratford-on-Avon District Council

Elizabeth House
Church Street
Stratford-upon-Avon
Warwickshire CV37 6HX

Vale of White Horse District Council

135 Eastern Avenue
Milton Park
Milton OX14 4SB

Oxfordshire County Council

Petroleum Officer
Trading Standards Service
Graham Hill House
Electric Avenue
Ferry Hinksey Road
Oxford OX2 0BY

Environment Agency

Planning - Thames Sustainable Places Team
Red Kite House
Wallingford, OX10 8BD

Appendix B

Prioritisation Methodology

Preliminary prioritisation was undertaken to assess sites for future inspection and was achieved through the use of a scoring system. Scores were given for highly contaminative land uses (Hazard scores) and for highly sensitive receptors (Vulnerability scores).

The protection of human health will be the main priority of the strategy, however, sites which are located on land above Source Protection Zones (SPZ) or where ecosystems may be impacted upon, will also be considered. Therefore, it is anticipated that where the potential for contamination exists, more detailed investigation of sites will take place in the following order of priority according to the current land use:

- residential property;
- schools;
- allotments;
- public open space and playing fields;
- other open space;
- woodland;
- offices and retail;
- warehouses and commercial premises;
- industrial land; and
- other areas.

The Vulnerability scores reflect the land uses above and take into account the sensitivity of the receptor to allow for the prioritisation of sites to be established.

An overall combined risk was calculated by multiplying the Hazard score (1-20) with the Vulnerability score (1-10) using the information available to the Council at the time of writing. The highest scores represent the highest potential risk to receptors and at this initial stage, no consideration is given to land ownership or liability issues or the number of receptors potentially affected. Council owned land will be included within this process and will not be treated differently to any other land.

If further information becomes available pertaining to the sites highlighted in the priority list, the scoring will be adjusted to reflect the changes in circumstances.

Hazard Scores

Land Use Type	Score
Airports	15
Air Shafts¹²	12
Animal & Animal Waste Products Processing Works	13
<i>Burial Pit</i>	10
<i>Slaughterhouse / Rendering</i>	8
<i>Tannery</i>	14
Asbestos Works	19
Cement Works / Brickworks / Asphalt Works	14
Charcoal Works / Coal Depots	10
Chemical Works	18
<i>Coatings Works (Inks / Paints / Dyeworks)</i>	15
<i>Cosmetics Works (Soap / Detergents / Toiletries)</i>	15
<i>Disinfectant Works</i>	15
<i>Explosives Works (Ordnance / Fireworks / Flammables)</i>	15
<i>Fertiliser Works</i>	15
<i>Fine Chemicals Works</i>	15
<i>Inorganic Chemicals Works</i>	15
<i>Linoleum / Bitumen Works</i>	15
<i>Glue Works (Mastics / Adhesives / Sealants)</i>	15
<i>Organic Chemicals Works</i>	15
<i>Pesticides Works</i>	15
<i>Pharmaceuticals Works</i>	15
<i>Rubber Works (Tyre Works)</i>	15
Coal Mines	18
Dockyards	12
Dry-Cleaners	14
Engineering Works	13
<i>Aircraft Manufacturing Works</i>	15
<i>Electrical / Electronic Manufacturing Works</i>	13
<i>Railway Engineering Works</i>	14
<i>Shipbuilding / Boatbuilding Works</i>	14
<i>Smithy</i>	10
<i>Vehicle manufacturing Works</i>	14
Electricity sub-stations	14
Excavation (Pit / Reservoir / Canal / Well etc)	20
Food Industries	8
<i>Malthouse</i>	8
Gasworks / Cokeworks / Coal Carbonisation	20
Glassworks	18
Graveyard (Cemetery/ Burial Ground / Plague Pit) & Hospitals	12
Laundry	11
Metal Works and Processing	13
<i>Electroplating and Finishing Works (Anodising and Pickling)</i>	13
<i>Iron / Steelworks</i>	15
<i>Lead Works</i>	18
<i>Non-Ferrous Metal Works</i>	15
<i>Precious Metal Works</i>	12

<i>Processing Works (Stamping / Forming / Rolling)</i>	12
<i>Scrap Yards</i>	13
Military Sites (Airfields / Barracks / Depots)	20
<i>Military Office</i>	10
Mineral Workings (Sand / Gravel / Clay Pits)	15
Oil Refineries / Bulk Oil Storage	18
<i>Small Oil Storage Tanks</i>	15
Paper Mills and Works (inc Pulpworks)	18
Power Stations (all Thermal Combustion)	20
Printing Works / Bookbinders	11
Quarries	15
Railway Land	14
<i>Railway Depots</i>	14
<i>Railway Station</i>	11
<i>Tracks – Rail</i>	13
<i>Tracks – Tram</i>	5
Road Vehicle Facilities	12
<i>Petrol Filling Station</i>	18
<i>Road Vehicle Depot</i>	12
<i>Road Vehicle Haulage Centre</i>	12
<i>Road Vehicle Repair Garage</i>	15
Sewage Works (Filter Beds and Sludge Lagoons)	15
Substations / Transformers	14
Textile Works / Clothes Manufacturing	11
Timber Works	13
<i>Timber Manufacturing Works / Sawmills / Timber Yards</i>	13
<i>Timber Treatment Works</i>	17
Waste Operations and Disposal	17
<i>Drum & Tank Cleaning & Recycling Works</i>	17
<i>Hazardous Waste Treatment Plants</i>	17
<i>Landfill (engineered site)</i>	20
<i>Landfill (made ground and non-engineered site)</i>	20
<i>Solvent Recovery Works</i>	17
<i>Waste Transfer Station</i>	17
Water Treatment Works	13

Vulnerability Scores

Property Type	Score
Housing with gardens	10
Allotments	7
Schools	7
Houses without gardens	5
Public open space and playing fields	4
Vacant Land	3
Woodland	3
Offices and retail	2
Warehouses and commercial	2
Industrial land	1

Appendix C

Table A – Categories of Significant Harm

	Type of Receptor	Description of Harm to that Type of Receptor that is to be Regarded as Significant Harm
1	Human beings	<p>Death, disease, serious injury, genetic mutation, birth defects or the impairment of reproductive functions.</p> <p>For these purposes, disease is to be taken to mean an unhealthy condition of the body or a part of it and can include, for example, cancer, liver dysfunction or extensive skin ailments. Mental dysfunction is included only insofar as it is attributable to the effects of a pollutant on the body of the person concerned.</p> <p>In this Chapter, this description of significant harm is referred to as a "human health effect".</p>
	<p>Any ecological system, or living organism forming part of such a system, within a location which is:</p> <ul style="list-style-type: none"> • an area notified as a Site of Special Scientific Interest - SSSI) under section 28 of the Wildlife and Countryside Act 1981; • any land declared a national nature reserve under section 35 of that Act; • any area designated as a marine nature reserve under section 36 of that Act; • an Area of Special Protection for Birds, established under section 3 of that Act; • any European Site within the meaning of regulation 10 of the Conservation (Natural Habitats etc) Regulations 1994 (ie Special Areas of Conservation and Special Protection Areas); • any candidate Special Areas of Conservation (see Scottish Office Circular 6/1995) or potential Special Protection Areas given equivalent protection; • any habitat or site afforded policy protection (ie candidate Special Areas of Conservation, potential Special Protection Areas and listed Ramsar sites); • any nature reserve established under section 21 of the National Parks and Access to the Countryside Act 1949; or 	<p>For any protected location:</p> <ul style="list-style-type: none"> • harm which results in an irreversible adverse change, or in some other substantial adverse change, in the functioning of the ecological system within any substantial part of that location; or • harm which affects any species of special interest within that location and which endangers the long-term maintenance of the population of that species at that location. <p>In addition, in the case of a protected location which is a European Site (or a candidate Special Area of Conservation or a potential Special Protection Area), harm which is incompatible with the favourable conservation status of natural habitats at that location or species typically found there.</p> <p>In determining what constitutes such harm, the local authority should have regard to the advice of Scottish Natural Heritage and to the requirements of the Conservation (Natural Habitats etc) Regulations 1994.</p> <p>This description of significant harm is referred to as an "ecological system effect".</p>

	<ul style="list-style-type: none"> any National Park designated under the National Parks (Scotland) Act 2000. 	
	Type of Receptor	Description of Harm to that Type of Receptor that is to be Regarded as Significant Harm
3	<p>Property in the form of:</p> <ul style="list-style-type: none"> ☑ crops, including timber; ☑ produce grown domestically, or on allotments, for consumption; ☑ livestock; ☑ other owned or domesticated animals; ☑ wild animals which are the subject of shooting or fishing rights. 	<p>For crops, a substantial diminution in yield or other substantial loss in their value resulting from death, disease or other physical damage. For domestic pets, death, serious disease or serious physical damage. For other property in this category, a substantial loss in its value resulting from death, disease or other serious physical damage.</p> <p>The local authority should regard a substantial loss in value as occurring only when a substantial proportion of the animals or crops are dead or otherwise no longer fit for their intended purpose. Food should be regarded as being no longer fit for purpose when it fails to comply with the provisions of the Food Safety Act 1990. Where a diminution in yield or loss in value is caused by a pollutant linkage, a 20% diminution or loss should be regarded as a benchmark for what constitutes a substantial diminution or loss.</p> <p>In this Chapter, this description of significant harm is referred to as an "animal or crop effect".</p>
4	<p>Property in the form of buildings. For this purpose, "building" means "any structure or erection, and any part of a building including any part below ground level, but does not include plant or machinery comprised in a building".</p>	<p>Structural failure, substantial damage or substantial interference with any right of occupation.</p> <p>For this purpose, the local authority should regard substantial damage or substantial interference as occurring when any part of the building ceases to be capable of being used for the purpose for which it is or was intended.</p> <p>Additionally, in the case of a scheduled Ancient Monument, substantial damage should be regarded as occurring when the damage significantly impairs the historic, architectural, traditional, artistic or archaeological interest by reason of which the monument was scheduled.</p> <p>In this Chapter, this description of significant harm is referred to as a "building effect".</p>

Table B - Significant Possibility of Significant Harm

	Descriptions of Significant Harm (as Defined in Table A)	Conditions for there Being a Significant Possibility of Significant Harm
1	Human health effects arising from ☐ the intake of a contaminant, or ☐ other direct bodily contact with a contaminant (exposure).	<p>If the amount of the pollutant in the pollutant linkage in question: ☐ which a human receptor in that linkage might take in,</p> <p>or</p> <p>☐ to which such a human might otherwise be exposed, as a result of the pathway in that linkage, would represent an unacceptable intake or exposure, assessed on the basis of relevant information on the toxicological properties of that pollutant.</p> <p>Such an assessment should take into account: ☐ the likely total intake of, or exposure to, the substance or substances which form the pollutant, from all sources including that from the pollutant linkage in question; ☐ the relative contribution of the pollutant linkage in question to the likely aggregate intake of, or exposure to, the relevant substance or substances; and ☐ the duration of intake or exposure resulting from the pollutant linkage in question. ☐ The question of whether an intake or exposure is unacceptable is independent of the number of people who might experience or be affected by that intake or exposure.</p> <p>Toxicological properties should be taken to include carcinogenic, mutagenic, teratogenic, pathogenic, endocrine-disrupting and other similar properties.</p>
2	All other human health effects (particularly by way of explosion or fire).	<p>If the probability, or frequency, of occurrence of significant harm of that description is unacceptable, assessed on the basis of relevant information concerning: ☐ that type of pollutant linkage, or ☐ that type of significant harm arising from other causes.</p> <p>Such an assessment should take into account the levels of risk which have been judged unacceptable in other similar contexts.</p>
3	All ecological system effects.	If significant harm of that description is more likely than not to result from the pollutant linkage in question, taking into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.
4	All animal and crop effects.	If significant harm of that description is more likely than not to result from the pollutant linkage in question, taking into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.
5	All building effects	If significant harm of that description is more likely than not to result from the pollutant linkage in question during the expected economic life of the building (or, in the case of a scheduled Ancient Monument, the foreseeable future), taking into account relevant information for that type of pollutant linkage.