



Executive
9th October 2006

**Report from the Director of
Environmental and Culture**

For Action

Wards Affected:
ALL

Implementing the Contaminated Land Strategy

Forward Plan Ref: **E&C- 06/07-001**

1.0 Summary

- 1.1 The Council has a statutory duty to inspect land in the Borough and identify potentially polluted land which could pose a risk to human health.
- 1.2 230 potentially contaminated sites have been identified as high priority sites requiring further investigation to determine the risk to health.
- 1.3 Current resources will enable us to undertake 7 intrusive site investigations per annum. At this rate it will take approximately 30 years to complete investigation of all high priority sites. Additional resources are sought to accelerate this process which is measured through Performance Indicators and reflect in the CPA and ensure adequate financial provision is made for potential legal costs. The request for additional resources budget will be subject to approval during the 2007/08 budget process.

2.0 Recommendations

- 2.1 That members note the content of the background paper in Appendix 1 and detailed information in Appendix 2.
- 2.2 Members agree one of the options for additional resources as detailed in section 4.6 subject to approval as part of the 2007/08 budget process.

3.0 Detail

- 3.1 Under Part IIA section 78B of the Environmental Protection Act 1990 the Council has a legal duty to inspect land in the Borough to identify contaminated land.
- 3.2 In Brent approximately 360 hectares of industrial land are associated with potentially contaminative use. The first phase of our investigative works resulted in the identification of 1604 sites, which were prioritised in accordance with the potential risk they pose to health. 230 high priority sites have been prioritised for further detailed assessment.
- 3.3 Current resources will enable us to conduct detailed assessment of 7 high priority sites per annum and take 30 years to complete. This timescale may be extended where complex sites are encountered as they can take longer to remediate and may divert resources from the remediation of other sites.

We have initiated intrusive sampling at 11 selected sites which are mainly allotment land but also include residential land and a school.

- 3.4 In April 2005, the Audit Commission introduced new Best Value indicators for the identification of contaminated land and the sufficiency of information, BV216a and BV216B respectively. These BVPI will contribute to the Council's overall Comprehensive Performance Assessment (CPA) rating from 2006/ 7. The lengthy timescale for sampling and remediation of high risk sites is likely to prejudice a level of performance which compares favourably with other Local Authorities. Current estimates, based on comparison with other Local Authorities suggests that a minimum of 10-15 sites per annum is required to achieve upper quartile performance.
- 3.5 Where land contamination may be an issue this is often perceived negatively by the public and the provision of contaminated land information must be managed to avoid anxiety and miscommunication. This will also include managing information regarding lists of sites created for prioritisation purposes and providing information in such a way as to avoid legal challenge.

An accelerated contaminated land programme magnifies the potential for ill-informed public concern unnecessarily raising fears about health effects and possibly leading to blight.

The onset of the Environmental information Regulations (EIR) 2004 and the Freedom of Information Act 2000 mean that authorities can no longer manage public concern through the timing and release of information.

To ensure that a consistent, transparent approach is applied to risk communication we will publish a strategy which will outline how we intend to communicate contaminated land issues to the public and other stakeholders.

The current service has no provision to resource the staff time, public meetings and publicity required for effective risk communication, nor for any legal issues that will inevitably arise.

4.0 Financial Implications

4.1 The Table in 4.6 illustrates the cost estimates of intrusive investigations based on an accelerated investigation schedule. Option 1 presents a 'do nothing' option and reflects the current status of the project. Where members select Option 1 additional resources are still required for legal support (10K).

4.2 Options 2-5 represent the level of resources required to investigate the 230 high priority sites in 16, 12, 8, and 4 years respectively.

None of the options outlined above include contingency costs for remediation of sites that may pose imminent risk to health. We have not identified any such sites to date.

4.3 Environmental Health will seek to identify and secure additional sources of funding such as Supported Capital Expenditure (Revenue) grants to conduct intrusive investigations and remediation or cover costs incurred where a 'polluter' claims hardship or a 'polluter' can not be identified.

4.4 The current budget is 1 FTE staff resource, 16K for site investigations, 2K for software upgrades and 0.5K for legal costs.

4.5 The table below illustrates various growth options for implementing the Contaminated Land Strategy.

4.6 Officers recommend Option 3 in the table below of 200K growth per annum. This growth has been included in the Environment & Culture Service Priority Growth bids for 2007/08 onwards. Members are requested to agree this option or select an alternative to be considered as part of the 2007/08 budget process.

Options	Additional Staff resource	Legal costs	Additional Site investigation costs	Completion Date for investigating high priority sites	Estimated No. of sites investigated per annum	Total funds requested per annum
1 –current project status	none	10K	20K	2030	10	10K
2	1FTE	15K	75K	2022	15	150K
3	1FTE	20K	100K	2017	25	200K
4	1FTE	30K	150K	2014	30	240K
5	1FTE	30K	300K	2010	60	450K

Table 1: Growth Options for Implementing the Contaminated Land Strategy
[Note: the above estimates are based on the unit cost of £5K per site investigation (excluding officer cost)].

5.0 Legal Implications

- 5.1 The council may be liable for remediation (wholly or in part) of contaminated sites it has previously owned.
- 5.2 The council may be required to bear significant legal costs as a result of enforcement action or legal disputes concerning liability or land blight which may affect land resale value.

6.0 Diversity Implications

- 6.1 There are no known diversity implications.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 See options for growth outlined in Table 1 above.
Growth for one member of staff at PO2 scale is required for Growth Options 2-5 are selected.

Background Paper

Appendix 1 – Background Paper for implementing the Strategy.

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Appendix 1: Background Paper – Implementing the Contaminated Land Strategy

Strategy Aim

The Council's Contaminated Land Inspection Strategy outlines the programme for identifying contaminated land in the Borough, how sites will be prioritised for investigation and the approach taken to determine liability for clean up.

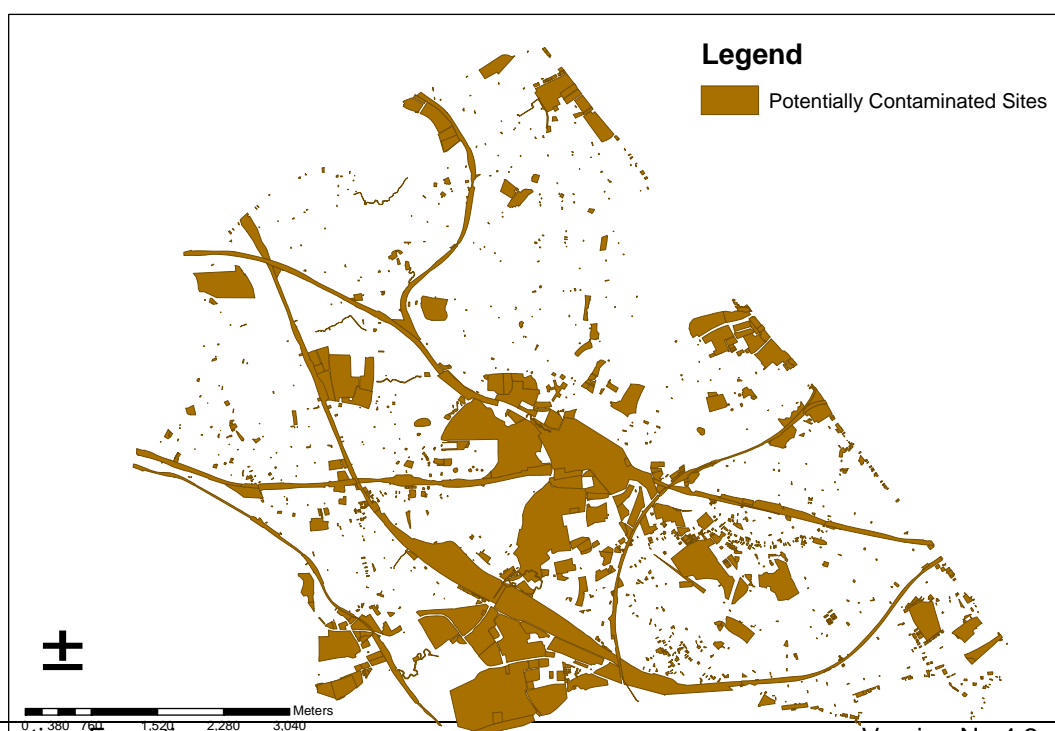
The principal objective of the Contaminated Land Strategy is to:

- protect human health and the environment from land contamination;
- provide a framework for proactive identification of all sites which could pose a threat to public health, controlled waters or ecological systems;
- set out a mechanism for prioritising sites and target resources on sites with the greatest potential of causing significant harm;
- identify polluters, apportion liability and initiate the 'clean up' of land;
- inform all stakeholders of the authority's progress in dealing with contaminated land (including tracking compliance with the Best Value Performance Indicator 216); and
- provide information to the Environment Agency for its report on contaminated land.

Implementing the Strategy.

The first stage of implementing the strategy was to collate all historical land information to identify all sites associated with a potentially contaminative use. The number of sites identified to date is 1604 and all sites have been mapped using Geographic Information Systems (GIS) linked to a database (see Figure 1 below).

The number of sites identified is above average in comparison to other West London Boroughs where sites identified range from 33 to 1670 (West London average 971).



Prioritisation of sites

Once identified each site is assigned a score in order to prioritise inspection. Scores are assigned to sites which are a source of contamination or may be affected by contamination (receptors) according to the level of risk to health: The source score is

Sources	Receptors
6 = Very high risk e.g. gas works	6 = Very high risk e.g. residential property with garden
5 = High risk e.g. dry cleaners	5 = High risk e.g. flats with garden
4 = Medium high risk e.g. milliner	4 = Medium high risk e.g. use not known
3 = Medium risk e.g. warehouse	3 = Medium risk e.g. canal embankment
2 = Medium low risk e.g. in-filled pond	2 = Medium low risk e.g. railway land
1 = Low risk e.g. dairy	1 = Low risk e.g. industrial/commercial use

multiplied by the receptor score and the sites are then ranked in order of risk.

Sites with the highest risk scores will be dealt with in order of risk unless an imminent risk requires immediate action to safeguard health.

Intrusive investigations

The initial intrusive investigation will involve soil sampling and analysis from high and medium high risk sites identified. This will determine levels of pollutants/ residual contamination and provide a further assessment of the potential risk.

No further action is required where little or no residual contamination is identified. More detailed sampling will be undertaken if pollutant levels analysed pose a potential health risk.

Liability for the cost of remediation

The council is required to identify all potentially liable parties for apportioning the cost of clean up (remediation). If the polluter cannot be located then the land owner will be responsible for costs and liability will be apportioned between them.

Where the council is likely to incur the cost of remediation (either as a polluter or liable party) an application will be made to Defra for Supplementary Credit Expenditure or similar funding streams.

Dealing with council-owned sites

13% of high or high medium priority sites are council owned. Some previously council owned sites may have been transferred to housing associations or similar 'arms length' bodies and the council is likely to be liable to bear some or all of the costs of remediating these sites where they are found to be contaminated.

Dealing with 'orphan' sites

The council may be required to carry out works in default where the liable parties are unable or unwilling to do so. The costs will initially be met by the Council and

recovered as a land charge although the timing of repayment would be outside the Council's control. The cost of remediating 'orphan' sites may also fall to the Council where the liable parties are unable to meet the costs

Enforcement costs

Significant costs are highly likely, in any case where the Council is seeking to hold landowners responsible for significant costs of remediating historic contamination. These costs may arise during enforcement stages and be the result of legal disputes, formal complaint against the Council, or disputed debt-collection.

List of sites for investigation in 2005/06

Site Number	Former Site Use	Current Use
1	Allotments	Allotments
2	Allotments	Allotments
3	Allotments	Allotments
4	Sewage works/ sewage farm	Residential with Gardens
5	Rifle range	School
6	Unspecified works	Residential with gardens
7	Allotments	Allotments
8	Agricultural	Allotments
9	Agricultural	Allotments
10	Agricultural	Allotments
11	Agricultural	Allotments

List of sites for investigation in 2006/07

Site Number	Former Site Use	Current Site Use
1	Dyers	Residential with Gardens
2	Garage	Residential with Gardens
3	Smiths	Residential with Gardens
4	Rifle Range	School
5	Dyers	Residential with Gardens
6	Dyers	Residential with Gardens
7	Dyers	Residential with Gardens
8	Metal Workers	School
9	Dyers	Residential with Gardens
10	Zinc & Sheet Iron	Residential with Gardens
11	Bottling Depot	Residential with Gardens
12	Dyer	Residential with Gardens
13	Chemical Company	Residential with Gardens
14	Dyer & Cleaner	Residential with Gardens
15	Zinc Worker	Residential with Gardens
16	Sheet Metal	Residential with Gardens
17	Electrical Engineers	Residential with Gardens
18	Dyers & Cleaner	Residential with Gardens
19	Dyers & Cleaners	School
20	Leadlight Co.	Residential with Gardens