

Slough Borough Council

Report To:	Cabinet
Date:	15 April 2024
Subject:	Contaminated Land Strategy 2024-2030
Lead Member:	Councillor Gurcharan Manku, Lead Member for the Environment, Environmental Services and Open Spaces
Chief Officer:	Pat Hayes, Executive Director Housing, Regeneration and Environment
Contact Officer:	Jason Newman, Group Manager Carbon, and Sustainability
Ward(s):	All
Key Decision:	YES
Exempt:	NO
Decision Subject to Call In:	NO
Appendices:	Appendix 1. Contaminated Land Strategy 2024-2030 Appendix 2. Priority List

1. Summary and Recommendations

1.1.1. This report seeks to obtain Cabinet approval of the updated version of the Contaminated Land Strategy. The Strategy needs to be approved by the Cabinet. The strategy outlines the Council's approach to determining if land is contaminated and the measures to be taken to remediate the land to ensure it does not pose a risk to human health or the environment.

1.2. Recommendations:

1.2.1. Cabinet is recommended to:

- a) Adopt and approve the Contaminated Land Strategy 2024 - 2030 (see Appendix 1)
- b) Approve the review of the Priority List (see Appendix 2), and delegate authority to the Executive Director of Housing, Regeneration and Environment to amend this as appropriate, following the review.

1.2.2. **Reason:** The Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance, dated April 2012, the local authority should keep its written strategy under periodic review to ensure it remains up to date. It is for the authority

to decide when its strategy should be reviewed, although as good practice it should aim to review its strategy at least every five years. The existing strategy was last reviewed 6 years ago. At the same time, the Priority List needs to be updated, as development works could help improve the risk rating of some of the sites already on the list, thus helping expedite the planning approval process.

1.3. Commissioner Review

This report has been reviewed by Commissioners and there are no specific comments to add.

2. Report

2.1. Introductory paragraph

- 2.1.1. The Strategy offers an insight into the process the Council will follow, where a site is identified as potentially contaminated, and how that affects the development of the site. This will ensure the human health of any future residents is considered. Thus, the Strategy will support the Slough Joint Wellbeing Strategy 2020-2025 (SJWS) and the Corporate Strategy by aiding in achieving strategic priority 3 of a cleaner, healthier, and more prosperous Slough.

2.2. Options considered

- 2.2.1. There are three options:

Option 1: Undertake an in-house expert review of the strategy, legislation, and priority list and update the strategy. This is required to keep up with the latest legislation, update risk rating on site likely to undergo development and gauge the amount of resource required to bring such a site to the appropriate safety standard.

Option 1 Recommended: it is the most cost-effective approach to updating the strategy and according with good practice; also, the most time effective.

Option 2: Undertake an external expert review of the strategy, legislation and priority list and update of the strategy.

Option 2 is not recommended, as it will add a cost burden to the Council's limited finances and require time and officer resources to procure the expert review.

Option 3: Do nothing, continue to use the existing contaminated land strategy. This option, whilst appealing, it does not deal with the risk of offering advice to developers based on dated legislation and potentially over or underestimating the number of resources required. Thus, risking a backlash of complaints, and other legal and regulatory implications.

2.3. Background

- 2.3.1. It is the responsibility of the Council to produce, maintain and update a Contaminated Land Strategy. The Strategy outlines the approach used by SBC to meet its statutory duties of dealing with potentially contaminated land in the borough. The legal and scientific methods and practices behind the Slough Borough Council Strategy are compliant with the Contaminated Land Statutory

Guidance, April 2012 (DEFRA). Another key piece of guidance is the updated Land Contamination Risk Management (LCRM); this builds on the previous CLR11 which sets out a detailed, risk-based approach for dealing with contaminated land.

2.3.2. Contaminated land is defined as: '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:

1. Significant harm is being caused or there is a significant possibility of such harm being caused; or
2. Significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused.'

2.3.3. The contaminated land regime was enacted by Part 2A of the Environmental Protection Act 1990 (Part 2A) on 1st April 2000. The overarching objectives of the Government's policy on contaminated land and the Part 2A regime are:

1. To identify and remove unacceptable risks to human health and the environment.
2. To ensure that contaminated land is made suitable for its current use.
3. To ensure that the burdens faced by individuals, companies and society are proportionate, manageable, and compatible with the principles of sustainable development.

2.3.4. Contaminated land risk assessment is based upon the Source-Pathway-Receptor model. All three parts of the chain must be present to create what is known as a contaminant linkage.

Source: A substance, which is in, on or under the land and which has the potential to cause significant harm to a relevant receptor, or to cause significant pollution to controlled waters.

Pathway: A route by which a receptor is or might be affected by a contaminant.

Receptor: Something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters. All three elements of a contaminant linkage must exist in relation to land before the land can be contaminated land under Part 2A.

2.3.5. The current review of the Contaminated Land Strategy consists of an update of the latest legislation referenced, risk assessment procedures and the overall appearance to align with the current Slough Council Strategy template. Also, an update of its appendices and referencing to most up to date Slough Borough Council Strategies relevant to this document.

2.3.6. Back in 2001, when the first strategy was published, and as part of the process of identifying potentially contaminated sites, a risk Priority List (Appendix 2) was created. This consisted of sites known to have had a historic contaminative land use and could pose a risk to human health. Over the years this list has undergone changes, and risk ratings changed based on the betterment provided via the planning system. The latest update was undertaken by Atkins in 2009, and it reviewed the risk ranking of 31 high risk sites (report available on request).

- 2.3.7. At the time the Priority List was created, various sources were consulted, such as current and historical Ordnance Survey mapping, Trade Directory entries, aerial photographs, environmental health records, petroleum licensing register, disused fuel register and planning records which identified potentially contaminated sites, that were scored and subsequently risk ranked as low, medium, or high. This ranking has been used since to inform the advice given to developers and owners, through the planning system, with the goal to achieve site betterment and minimum residual risk for the proposed human health receptors.
- 2.3.8. A periodic review of the Priority List is necessary as this will influence the advice given to developers and the amount of work, time and money that needs to be spent on a potentially contaminated site and can influence its viability and the speed with which a development can be completed.
- 2.3.9. The review and scoring update will take place according to the Risk Prioritisation Strategy as outline in Appendix A, of the Contaminated Land Strategy (Appendix 1). This will take place every 5/6 years, and it will be triggered by the review of the Contaminated Land Strategy, as per the Guidance. Previously, the Priority List review was undertaken by an external environmental consultancy. Following a significant change in legislation in 2006, Atkins was seconded to undertake a considerable review of the sites and update the Priority List at the time. However, the review needed on this occasion requires a desk study review of multiple sources and recalculating the scoring, and thus it is the responsibility of the in-house Contaminated Land Officer.

3. Implications of the Recommendation

3.1. *Financial implications*

- 3.1.1 The main financial implication of producing a Contaminated Land Strategy is the officer time and the software licenses required for maintaining the database and mapping system and these existing costs are already budgeted and therefore present no additional financial pressure on the Council.
- 3.1.2 In addition to this, there are the financial implications on the owner/developer for dealing with any potential contamination before any development can take place, and as such, there is the potential effects on the value of the land and its viability. These issues can be better managed, and the risk anticipated, by maintaining the Contaminated Land Strategy and a Potentially Contaminated Land Sites / Priority List.

3.2 *Legal and Statutory implications*

- 3.2.1 Because the Strategy describes, but does not change, the Council's responsibilities, there are minimal legal implications related to this report, if at all.
- 3.2.2 It is a requirement of the Statutory Guidance for local authorities to identify and prioritise land most likely to pose the greatest risk to human health and the environment. The priority list of potentially contaminated land sites discharges the above statutory duty by providing the best advice to landowners and developers interested in investing in the town or elsewhere in the Borough.

- 3.2.3 Armed with having such up-to-date information regarding land contamination, the Council can effectively manage risk from any development encountering issues via the planning process coupled with due diligence so that there are no legal repercussions for the Council.

3.3 *Risk management implications*

- 3.3.1 The strategy is a statutory requirement for all local authorities, and the Regulations recommend a review at least every 5/6 years.
- 3.3.2 The Council is directed by the Statutory Guidance to use its judgement to strike a balance between the risks raised by contamination and the potential burdens of regulation intervention on people affected including cost, health, and property blight.
- 3.3.3 The Council's principal mechanism for dealing with land affected by contamination is to ensure that land is fit for purpose when being redeveloped under the planning system. This is the most cost-effective and sustainable way forward.
- 3.3.4 The Carbon & Sustainability Team has active discussions with the interested parties regarding changes in legislation and how that affects development. Also, the team responds to numerous Environmental Enquiries disclosing the procedures and practices employed by the Council when dealing with land contamination.
- 3.3.5 Thus, by having an up-to-date Contaminated Land Strategy and Priority List, we can help de-risk some of the site managing their development via development control.

3.4 *Environmental implications*

- 3.4.1 The environmental implications of not updating our existing Contaminated Land Strategy will be the inability to address land contamination issues proactively and efficiently by enabling the planning process to ensure development is sustainable. The development process ensures sites are assessed, remediated, and validated in accordance with the latest Environmental Guidance to reduce potential harm to end users.
- 3.4.2 It is vital to continue working with the planning officers, applicants, developers, and consultants, and respond to planning consultations and environmental enquiries, advising on matters relating to land contamination according to the latest regulations and good practice.

3.5 *Equality and Human Rights implications*

- 3.5.1 There are no equalities implications because of this report.
- 3.5.2 The Strategy is not considered to affect any individual's human rights as it primarily concerns property rather than individuals.

3.6 *Procurement implications*

- 3.6.1 There are potential procurement implications related to exercising the Council's responsibilities to produce, maintain and update a Contaminated Land Strategy. This includes and is not limited to procurement and use of contaminated land database and mapping licences. A business case for any procurement project will

be developed, which will consider the most appropriate procurement route according to the Council's contract procedure rules, UK Procurement regulations and will need to follow public procurement principles of value for money, equality of treatment, transparency, and proportionality.

3.7 *Workforce implications*

3.7.1 There are no workforce implications because of this report.

3.8 *Property implications*

3.8.1 The Council's Assets List has been consulted; and whilst there are a few sites overlapping with the Council's Priority List of potentially contaminated land sites, the implications are minimal. This status shall be revealed on any environmental search report, should the property be sold, or proposed for redevelopment, and any residual risks associated with this shall be dealt with via the Planning system.

4. Background Papers

None.