

## LOCAL PLANNING GUIDANCE NOTE NO. 23

It is not possible to cover all of the issues associated with land contamination in this note. Therefore applicants and agents are advised to follow the further guidance provided by the booklet entitled '[Development of Land Affected by Contamination: A Guide for Developers](#)' prepared by the Welsh Local Government Association & Environment Agency Wales 2012.

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*Available in alternative formats*

### Development of Sites with Land Contamination

This is one of a series of local planning guidance notes which amplify local planning policies regarding development of land. It provides a guide to the supplementary information that is required for planning applications which involve the development of sites that may be contaminated. It aims to ensure that any potential contamination is adequately dealt with so that the land is made suitable for its new use without risk to the environment - ensuring there is no danger to the health and safety of people likely to be working or living on or visiting the site.

The steps needed when considering the potential for land contamination will vary widely. The first step will be to consider whether there is likely to be a history of land uses which might have resulted in contamination, for example a former petrol station. Even if there is no longer any direct evidence on site of contamination, it is dangerous to make any assumptions. You might find useful information on old maps, in the title deeds of the property or through local knowledge. Although the Housing, Public Protection & Environment Department at the Council do not have a complete database of potentially contaminated sites, they may still be contacted for advice.

Before making a decision on a planning application on land where there may be contamination, the Council will need a preliminary risk assessment in order to judge whether the site can be safely developed. Such a report should be made available as part of your planning application if the decision is not to be delayed. Where the assessment recommends that further investigations are required, it is advisable to carry out these works prior to submitting your planning application.

Depending upon the seriousness of the contamination, the Council may ask for further information as to how the site is to be cleaned up. In extreme cases, planning permission may have to be refused, although it is more likely that remedial works are possible and that conditions may be imposed on any planning permission granted. Conditions for further investigation works and/or remediation requirements may be imposed on any planning permission. The best advice is to obtain expert advice at the earliest possible time.

Land can be affected by contamination in the form of chemicals or gases in the soil, water, buildings or any other material on a site. Such sites are usually brownfield sites i.e. those which have been previously developed, often for commercial or industrial use.

Part 2A of the Environmental Protection Act 1990, the Contaminated Land (Wales) Regulations, 2006 (as amended) and regulations associated with radioactivity on contaminated land, deal with the legacy of land contamination to ensure that land is suitable for its current use. If land is the subject of a planning application and/or Building Regulations application, Part 2A does not apply. However, re-development of a site must still be carried out to the standard required under Part 2A.



**It is important to note that all contamination investigations must be carried out on a site specific basis, since no one site is the same as any other.**

**In some cases contamination may not be significant – appropriate site investigations will determine what is or is not acceptable for a site and its proposed use.**

Under Part 2A of the EPA, 1990, contaminated land is:

*“any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that-*

*(a) significant harm is being caused or there is a significant possibility of such harm being caused; or*

*(b) significant pollution of the water environment is being caused or there is a significant possibility of such pollution being caused..”*

Further details as to how any of the following investigations should be carried out are provided in the booklet:

'Development of Land Affected by Contamination: A Guide for Developers' prepared by the Welsh Local Government Association & Environment Agency Wales 2012.

Copies of all contamination investigation reports should be sent to the Local Planning Authority and Housing and Public Protection Department at the Council so they can judge whether further works may be required.

**First phase: Preliminary Risk Assessment**

A preliminary risk assessment of the site and land within influencing distance of the site should be carried out. It should comprise at least the following:

- *current and former uses of the site and surrounding area and potential contamination hazards;*
- *geology (superficial deposits and solid rock);*
- *hydrology (surface water);*
- *hydrogeology (groundwater); and*
- *pollution incidents on and within influencing distance of the site.*



Assessment of this information will identify whether contamination may be an issue at the site.

If the study indicates that contamination has occurred or is suspected, the developer should commission further site investigation works.

**Second phase: Site investigations/quantitative risk assessment**

The second phase of an investigation may be intrusive i.e. excavating trial pits or drilling holes in the ground to assess ground conditions. This may involve collecting samples (soil, water, leachate, gas) for analysis and /or undertaking short or long term monitoring of the groundwater environment or gases. These works will identify the actual presence, or otherwise, of contaminants in the ground and their extent and concentration. The consultant will then carry out a risk assessment and, where necessary, design remediation works.

To prevent inadequate or incomplete consideration of potential contamination issues at a site, the Council will normally require that the objectives, scope and execution of this stage of investigations are agreed prior to the works commencing.

The design, methods and procedures available for this stage of investigation works are varied and entirely site specific and should be based on the findings of the desk study investigation. The design, methods and procedures available for this stage of investigation works are varied and entirely site specific and should be based on the findings of the preliminary risk assessment.

**Third phase: a remediation works**

Depending on the seriousness of the contamination, the consultant may recommend that remediation works are required. In some circumstances, remediation treatments may be applied which may require planning permission. The remediation works will require the submission of:

- a remediation options appraisal, identifying the objectives required to mitigate the risks posed by the contamination and the benefits and failings of the remediation methods available; and
- a remediation strategy detailing how the chosen option(s) will be instigated and will mitigate the contamination risks.

The Council will assess all of the Consultants' reports, and either find them adequate (but possibly subject to some verification of remediation works) or inadequate and require

further assessment works.

**Fourth phase: Verification**

The Council will require that any remediation works are carried out by a suitably qualified company and that all works are fully documented and suitably verified in terms of health and safety and quality assurance. A means for demonstrating compliance will also need to be agreed with the Council in advance.

All investigation works must be carried out by a suitably qualified person, for example an environmental consultant.

Details of qualifications, experience, the need for professional indemnity insurance etc... are described in the more detailed booklet entitled 'Development of Land Affected by Contamination: A Guide for Developers' prepared by the Welsh Local Government Association & Environment Agency Wales 2012.



**For further information on contamination issues please contact the:**

**Head of Housing, Public Protection & Environment, Public Protection Service, Ruthin Road, Wrexham, LL13 7TU  
Telephone: 01978 315300  
E-mail: [contact-us@wrexham.gov.uk](mailto:contact-us@wrexham.gov.uk)**

**For further information on planning issues please contact:**

**Head of Community, Wellbeing & Development, 16 Lord Street, Wrexham, LL11 1LG**

**Telephone: (01978) 292016  
E-mail: [planning@wrexham.gov.uk](mailto:planning@wrexham.gov.uk)**

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