

Arun District Council

REPORT TO:	Environment Committee – 19 March 2024
SUBJECT:	Contaminated Land Strategy
LEAD OFFICER:	Nat Slade, Group Head of Technical Services
LEAD MEMBER:	Councillor Sue Wallsgrove
WARDS:	All
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION: <ul style="list-style-type: none">• Improving the wellbeing of Arun• Supporting our environment to support us	
DIRECTORATE POLICY CONTEXT: <p>Contaminated land responsibilities within Arun principally rest with the Environmental Health service. The service vision within the Growth Directorate Plan July 2023 is: <i>to protect public health by focusing our work on the quality of what we eat, where we live and work, the air we breathe and the land on which we stand.</i></p>	
FINANCIAL SUMMARY: <p>No additional expenditure has been identified as a result of this report.</p>	

1. PURPOSE OF REPORT

- 1.1 To seek adoption of the revised contaminated land strategy for Arun.

2. RECOMMENDATIONS

- 2.1 That Committee adopts the revised contaminated land strategy.
- 2.2 That authority is given to the Group Head of Technical Services to make minor and administrative amendments to the strategy.

3. EXECUTIVE SUMMARY

- 3.1 Local authorities have specific statutory obligations in relation to contaminated land, including a requirement to publish a contaminated land strategy. The current strategy was published in 2001 and has not been substantially reviewed since.
- 3.2 This report seeks adoption of a revised contaminated land strategy for Arun.

4. DETAIL

- 4.1. Contaminated land is regulated by Part IIA of the Environmental Protection Act 1990 and requires local authorities to prepare, implement and review a contaminated land strategy. Sites which are determined as contaminated are required to be published in a public register.
- 4.2. The Council's current strategy was originally published in 2001 and has not since been substantially reviewed. There have been number of significant changes since 2001, including publication of new statutory guidance (Defra 2012), amendment to Part IIA, removing a previous exemption concerning radon impacted land and creation of the South Downs National Park.
- 4.3. Due to the time that has passed since publication of the current strategy, the changes that have occurred in this period and the need to ensure that the strategy remains current and meets statutory obligations, a detailed review has been carried out and a revised strategy is presented at Appendix 1.
- 4.4. Contaminated land is defined by the above legislation and means any land which is in such a condition that due to substances in or under land either:
 - significant harm is being caused or there is significant possibility of such harm being caused; or
 - pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused

When land is contaminated, it may pose a risk to people or the environment.

- 4.5. Defra Statutory Guidance (April 2012) explains how local authorities should implement the contaminated land regime, including the contents of the written strategy. This guidance is legally binding on local authorities and has been duly considered in conducting the review and preparing the revised strategy.
- 4.6. The statutory guidance requires the council to continue to identify and prioritise sites that may be potentially contaminated, followed by conducting detailed inspections of sites where the need for further investigation has been identified.
- 4.7. The revised strategy details how the council intends to meet its statutory duties to inspect its area for contaminated land, the main aims of which are:
 - identify potential and actual contaminated sites within the district using rational, ordered and efficient investigation
 - remove unacceptable risks to human health and the environment
 - seek investigation and remediation through the planning system
 - carry out detailed inspection of urgent sites where there is, or likely to be, significant possibility of significant harm occurring
 - prevent the creation of new contaminated sites
 - reinforce a 'suitable for use' approach
 - ensure that burdens faced by individuals, companies and the community are proportionate, manageable and compatible with the principles of sustainable development.

- 4.8 The Council has already identified and prioritised numerous potentially contaminated sites, the majority of which are low or medium risk commercial sites which will not be further investigated unless redeveloped.
- 4.9 Environmental Health routinely comment on planning consultations, including in relation to contaminated land and this will continue to be the chief mechanism for managing contaminated land risks. Environmental Health will continue to provide information on potentially contaminated sites through Environmental Information Requests (for which a fee applies) and maintain a public register of contaminated land.
- 4.10 The existing contaminated land database requires an extensive review to ensure all information is migrated to the Environmental Health database and is available in the corporate mapping system. Once completed, the reprioritising and associated investigation of sites will be conducted.
- 4.11 Detailed investigations will be carried out according to a risk-based priority, starting with the highest risk sites. The Council will continue to provide support for those commissioning investigations on private land. The council will work with residents to ensure that they are informed of any site investigation and remediation that affects them.
- 4.12 The Council will try to hold previous polluters and or developers accountable and responsible for any remediation. Where this is not possible, residents will be required to contribute. A hardship policy may be used to ensure this is as proportionate and as fair as possible. Reports of potentially contaminated land will be investigated and the appropriate action will be taken.
- 4.13 The main changes to the Strategy include updating procedures to ensure the policy is complimentary with current legislation and guidance such as Defra revised statutory guidance, and the changing landscape (e.g. the creation of a national park). In addition, the revised strategy outlines how the council intends to implement the contaminated land regime through utilisation of the planning process and by promoting a risk-based approach.
- 4.14 The revised Contaminated Land Strategy is provided at Appendix 1 and is recommended for adoption.

5. CONSULTATION

- 5.1 Consultation has taken place with internal stakeholders including Arun Planning and Property and Estates, and with external stakeholders, including West Sussex Public Health, South Downs National Park Planning Authority, Environment Agency, neighbouring Local Authorities and United Kingdom Health Security Agency (UKHSA). No objections or adverse comments were received.

6. OPTIONS / ALTERNATIVES CONSIDERED

- 6.1 Not to adopt the revised Contaminated Land Strategy. This means continuing to operate with an out-of-date strategy which could be subject to challenge and may not fulfil our statutory obligations.

7. COMMENTS BY THE GROUP HEAD OF FINANCE/SECTION 151 OFFICER

- 7.1 No financial impact, officers time is met by existing budgets.

8. RISK ASSESSMENT CONSIDERATIONS

- 8.1 Adopting a revised Strategy ensures Arun meets its obligations under Part IIA of the Environmental Protection Act 1990 and importantly sets out the actions that will be taken manage contaminated land within Arun.

9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

- 9.1 There are no specific legal implications

10. HUMAN RESOURCES IMPACT

- 10.1 There are no direct human resource impacts arising from the proposals.

11. HEALTH & SAFETY IMPACT

- 11.1 Contaminated land can be associated with a number of adverse health impacts. This strategy sets out priorities and actions for managing contaminated land within Arun, and as such will have a positive impact on health and safety.

12. PROPERTY & ESTATES IMPACT

- 12.1 Any property owned or managed by Arun will be subject to the adopted strategy.

13. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

- 13.1 An Equalities Impact Assessment has been carried out and is provided at Appendix 2 of this report. Decisions concerning contaminated land are made based on the levels and type of contaminated irrespective of protected characteristics and should therefore overall have positive impacts.
- 13.2 Children are more at risk from the effects of contaminated land and implementation of the strategy will offer positive impacts to this group.
- 13.3 By determining land as contaminated, the appropriate person will be required to fund remediation; where possible this will be the polluter or the developer. However, remediation costs could be significant depending on the levels of type

of contamination and have the greatest impact on those at a socio-economic disadvantage.

14. CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

14.1 There are direct links between contaminated land and environmental impacts, therefore managing contaminated land will also have positive environmental impacts.

15. CRIME AND DISORDER REDUCTION IMPACT

15.1 There are no direct impacts to crime and disorder from the proposals.

16. HUMAN RIGHTS IMPACT

16.1 There are no direct human rights impacts from the proposals.

17. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

17.1 There are no direct freedom of information or data protection impacts from the proposals. It is a legal requirement for the council to maintain a public register of contaminated sites, which must include details of any remediation notices served.

17.2 Contaminated land reports and information held by the Council may be subject to information access requests and any release of information will be subject to the requirements of the relevant legislation, including Environmental Information Regulations 2004 and Freedom of Information Act 2000.

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BACKGROUND DOCUMENTS:

Appendix 1 – Revised Contaminated Land Strategy 2024

Appendix 2 – Equality Impact Assessment

[Current Contaminated Land Strategy](#)

[Environmental Protection Act 1990: Part 2A - Contaminated Land Statutory Guidance \(publishing.service.gov.uk\)](#)