



Contaminated Land – A Guide for Developers

Introduction

In 2000, the Government set a target that 60% of new housing should be built on previously developed land, with the aim of reducing the pressures on the development of green belt land. Due to this Government initiative, local authorities are dealing with an increasing number of planning applications for developments on previously used land. Many of these sites are affected by the presence of contamination due to previous industrial uses. Examples of industry types that are common throughout Derbyshire include tanneries, coal mining, former town gas sites, foundries, quarries and cottage industries such as textiles.

The purpose of this factsheet is to make developers aware of what information Chesterfield Borough Council will require in order to assess an application for planning permission on land which may be affected by the presence of contamination. This guide is not an exhaustive list of requirements, although it includes minimum requirements for desk studies and site investigations. Developers are encouraged to speak with the Council's Environmental Protection Team regarding land contamination issues.

The Council's Approach

Under both environmental and planning legislation, landowners and developers have the responsibility for establishing the extent of any potentially harmful contaminants on their sites. All councils have a duty to ensure that landowners and developers carry out the necessary site investigations and, where applicable, ensure that landowners and developers devise suitable remediation strategies so that any contamination is dealt with in a responsible and effective manner. It is the responsibility of the developer to ensure that the site is suitable for its proposed use.

Definition of 'suitable for use'

Clean-up or remediation of contaminated sites must be carried out with due consideration to the risk posed by the site. UK policy is that sites should be remediated based on the 'suitable for use' principle. This principle allows a decision to be made as to whether there are unacceptable risks to people or to specific parts of the wider environment, including property, from the actual or intended use of the site. Each case will be assessed on a site-specific basis. This site investigation and risk assessment process can then be used to determine the extent of the remedial works needed.

Redevelopment of previously contaminated sites is encouraged since this lessens the need for development on green-field or previously undeveloped land and improves the environment as a whole. Developers should not be put off remediation for fear that they will be required to do more work that is required under current

legislation; for example, clean-up to residential development standards would not be required if an industrial development was proposed.

In the event that a more sensitive end use would be required in the future, more stringent controls would be applied at the time of the application and further remedial works may be required. Therefore some developers may choose to carry out further work at the start of a project as this may prove the most cost-effective long-term solution for the site. However, this is a judgement that only the person responsible for the site can make.

Investigation Process

The site investigation process can be split into four phases (Phase I/desk study, Phase II/site investigation, Phase III/remediation and Phase IV/validation and verification. The process will identify potential contamination and areas that may require remedial works in order to make the site suitable for its proposed end use. The reports generated for each phase should make reference to the relevant technical guidance that is available, see:

<https://www.gov.uk/government/collections/land-contamination-technical-guidance>

Minimum requirements for Chesterfield Borough Council

In keeping with the CLR 11 guidelines, Chesterfield Borough Council's Environmental Protection Team has set minimum requirements for the site investigation process. Sections 1 to 4 below specify the requirements for each stage of the investigation process and form the detail to the standard planning condition. A checklist to help with this is available, upon request from the Environmental Protection Team at Chesterfield Borough Council.

Sections 5 and 6 describe the information required for additional parts of the process - specific to specific sites.

Section 1

- Phase I/desk study

A desk study shall be carried out to identify and evaluate all potential sources of contamination and the impacts on land and / or controlled waters, relevant to the site. The desk study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works / quantitative risk assessment (or state if none required).

This report shall be submitted without delay to the Local Planning Authority prior to commencement of development. Development cannot commence until this report has been submitted and approved in writing by the Local Planning Authority.

Section 2

- Phase II/intrusive site investigation

If identified as being required following the completion of the desk study, an intrusive site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and / or pollution of controlled waters. It shall specifically include a risk assessment that adopts the contaminant-pathway-receptor principle, in order that any potential risks are adequately assessed taking into account the site's existing status and proposed new use.

Where samples are taken they shall be analysed in a laboratory that is accredited under the 'MCERTS Chemical Testing of Soil Scheme' for all parameters requested (where this is available).

This report shall be submitted without delay to the Local Planning Authority prior to commencement of development. Development cannot commence until this report has been submitted and approved in writing by the Local Planning Authority.

Section 3

- Phase III/remediation

A written method statement detailing the remediation requirements for land contamination and / or pollution of controlled waters affecting the site shall be submitted to and approved by the Local Planning Authority (LPA), and all requirements shall be implemented and completed to the satisfaction of the LPA. No deviation shall be made from this scheme without the express written agreement of the LPA.

If, during the development, any contamination is identified that has not been considered in the remediation method statement, then additional remediation proposals for this material shall be submitted to the LPA for written approval. Any approved proposals shall thereafter form part of the remediation method statement.

As part of the remediation process, should it be necessary to remove soils from site, appropriate methods of disposal must be undertaken and considered in the Remediation Method Statement. From 16th July 2005, Waste Acceptance Criteria (WAC) applies to all hazardous waste going to landfill. Where samples are taken for WAC analysis they shall be analysed in a lab that is accredited under the MCERTS chemical testing of soils scheme. Results of the WAC testing shall be forwarded into the LPA.

This report shall be submitted without delay to the Local Planning Authority prior to commencement of development. Development cannot commence until this report has been submitted and approved in writing by the Local Planning Authority.

Section 4

- Part IV/Validation and verification

Prior to occupation of the development (or parts thereof) an independent verification/validation report must be submitted, demonstrating that the works have been carried out satisfactorily, and remediation targets have been achieved. This report shall be produced by a suitably qualified and accredited independent body (independent of the developer). The report shall provide verification that the remediation works have been carried out in accordance with the approved method statement(s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met.

This report shall be submitted without delay to the Local Planning Authority to ensure that there is no delay in the sale of a property.

A separate factsheet is available upon request for validation/verification from the Environmental Protection Team at Chesterfield Borough Council.

Section 5

- Importation of soil onto site

In the event that it is proposed to import soil onto site in connection with the development, the proposed soil should be verified at source to establish suitability as clean cover. However, the soil must be tested for contamination in situ, after it has been imported and analysed in a laboratory that is accredited under the MCERTS

Chemical testing of Soil Scheme, for all parameters requested (where this is available under MCERTS), the results of which shall be submitted to the LPA for consideration. Information shall be submitted in a timely manner to ensure that there are no delays for the site/sign off of conditions.

As a minimum, the following determinants and parameters should be tested: arsenic, boron, cadmium, chromium, copper, lead, mercury, nickel, selenium, zinc, cyanide, phenol, sulphate, sulphide, pH, speciated PAHs and carbon-banded TPHs.

Please note that vendor certificates of the physical and nutrient properties of the matrix are not accepted in place of actual in situ sampling of the soil for the appropriate physio- chemical properties.

Section 6

- Ground gas monitoring

Monitoring at the site for the presence of ground or landfill gas (as appropriate) and a subsequent risk assessment must be carried out in accordance with a scheme to be agreed with the LPA. All gas monitoring must comply with best practice as described in CIRIA C665. The results of the monitoring shall be submitted to the LPA as soon as they are available.

If the presence of ground / landfill gas is confirmed, or there is evidence that migration of ground / landfill gas is likely to occur, development shall not commence until satisfactory remedial measures have been taken to control and manage the gas and to monitor the effectiveness of these measures. All such measures need to be agreed in writing by the LPA

Should you have any queries or wish to make a complaint you can contact us

- In person at Chesterfield Borough Council, Revenues Hall, New Square, Chesterfield, Derbyshire, S40 1AH
- By letter to Chesterfield Borough Council, Environmental Protection Team, Town Hall, Rose Hill, Chesterfield, Derbyshire, S40 1LP
- By telephone to main switchboard on 01246 345345
- Via email/through website www.chesterfield.gov.uk