

Decision Maker: PORTFOLIO HOLDER FOR ENVIRONMENT AND COMMUNITY SERVICES.

(Subject to pre-decision scrutiny by the PP&E PDS Committee)

Date: 21st June 2022

Decision Type: Non-Urgent Non-Executive Key

Title: CONTAMINATED LAND STRATEGY 2022

Contact Officer: Charlotte Hennessy, Environmental Health Officer
E-mail: charlotte.hennessy@bromley.gov.uk

Chief Officer: Assistant Director of Public Protection - Louise Watkinson
Head of Domestic Regulation – Sarah Newman

Ward: (All Wards);

1. Reason for report

Part 2A of the Environmental Protection Act 1990 deals with the identification, prioritisation, determination and remediation of contaminated land. The legislation places a statutory duty on local authorities to inspect their area for the purpose of identifying potentially contaminated sites and for the further inspection of such sites.

Under statutory guidance local authorities should take a strategic approach to the identification of land and inspection. The Authority has a published Strategy which was last reviewed and updated in 2010. The guidance confirms that local authorities should keep their strategies under periodic review to ensure it remains up to date.

The Bromley Local Plan, adopted in January 2019, emphasises that new development must be made suitable for its use and enables contaminated land to be brought back into beneficial use. This updated draft Strategy links to the Bromley Local Plan and takes account of the latest national guidance on contaminated land matters and updates the work programme.

2. RECOMMENDATION(S)

1. The Portfolio Holder authorises the Head of Domestic Regulation to commence a consultation with relevant bodies on the updated draft Contaminated Land Strategy attached at **Appendix 1** to this report; and

2. The Committee agrees that a further report be received following the conclusion of consultation where the Committee will be asked to approve the adoption of the Draft Contaminated Land Strategy 2022 incorporating any relevant amendments following the consultation.

Impact on Vulnerable Adults and Children

1. Summary of Impact: No direct impact, however children and adults with underlying health issues may be more susceptible to the impact of contaminated land where a contaminant linkage exists.
-

Corporate Policy

1. Policy Status: Existing Policy: This is an updated strategy; the last contaminated land strategy was updated in 2010
 2. BBB Priority: Quality Environment Safe Bromley Healthy Bromley Regeneration
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre: Environmental Protection
 4. Total current budget for this head: £231k
 5. Source of funding: Existing revenue budget 2022/23
-

Personnel

1. Number of staff (current and additional): The Pollution Control Team has 2.8 FTEs. This team is responsible for the regulation and enforcement of contaminated land, air quality, noise control and private water supplies. No additional staff are proposed for the implementation of this strategy.
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: N/A
-

Procurement

1. Summary of Procurement Implications:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

Background:

The Environmental Protection Act 1990 requires local authorities to produce a Contaminated Land Strategy (“the Strategy”) and to periodically review it. The Authority has a Strategy which was last reviewed in 2010.

The overarching objectives of the Government’s policy on contaminated land are:

- a) To identify and remove unacceptable risks to human health and the environment;
- b) To seek to ensure that contaminated land is made suitable for its current use; and
- c) To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principle of sustainable development.

The Authority has a duty under Part 2A of the Environmental Protection Act 1990 to:

- Inspect the area for contaminated land in accordance with statutory guidance;
- Determine whether any particular site meets the statutory definition of contaminated land;
- Act as enforcing authority for all contaminated land, unless the site meets the definition of a “Special Site”, for which the Environment Agency is the enforcing authority;
- Consult with the Environment Agency on the pollution of controlled waters;
- Ensure the remediation of contaminated land; and
- Maintain a Public Register of contaminated land remediation.

The Strategy:

The draft strategy details the relevant legislation and responsibilities of those involved in the identification and remediation of contaminated land. It sets out the characteristics and history of the London Borough of Bromley in relation to land use, ecology, geology and hydrology and emphasises how the authority will take a risk-based approach to the identification, prioritisation and site investigation of land.

The London Borough of Bromley has no Part 2A registered sites i.e. where there is an established source, pathway and receptor. The aim of the strategy is to ensure that the land within the Borough is safe and suitable for its current use. The Authority will undertake a review of its site prioritisation mapping to ensure that information is up-to-date and reflective of current conditions with land assigned an appropriate risk level.

The draft strategy presents a commitment to prevent future contamination of land through effective planning controls and pollution control regimes as well as requiring suitable remediation of sites through the planning regime.

Consultation:

The consultation on the revised and updated Draft Contaminated Land Strategy 2022 will engage directly with relevant agencies that have a role in the regulation of contaminated land. The consultees are The Environment Agency, Natural England, English Heritage and The Department for Environment, Food and Rural Affairs (DEFRA). It is proposed that the consultation period will take place for 6 weeks to allow for comments to be provided by these bodies.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

There is no direct impact on vulnerable adults and children.

5. POLICY IMPLICATIONS

Click here and start typing

6. FINANCIAL IMPLICATIONS

6.1 Existing service budgets fund day-to-day implementation of the strategy.

6.2 The strategy predominantly focuses on remediation through the planning process whereby the developer is responsible for any costs, alternatively the owner of the land is responsible for remediation costs. Any site investigation work undertaken for enforcement purposes, would potentially result in costs to the Council that would be funded from the department's budget. In addition to this, depending on whether the site is owned by the Council, this may have an impact on the relevant property revenue budget.

7. PERSONNEL IMPLICATIONS

None

8. LEGAL IMPLICATIONS

8.1. The Draft Contaminated Land Strategy outlines the Authority's approach to dealing with contaminated land within its area (in line with the 2012 statutory guidance) and how it will discharge its duties prescribed by Part 2A of the Environmental Protection Act 1990 (the Act).

8.2. The Environmental Protection Act 1990 is not included in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and can therefore generally be an executive decision. As such, this comes under the Executive Committee's remit (Environment and Community Service) in the London Borough of Bromley and thus presented to this PDS Committee for prior review (Executive Procedure Rules 1.8(c)).

8.3. The current matter is not to discuss the strategy in itself, although comments would be welcome at this stage, but to seek approval for consultation of the draft policy. Section 78B of the Act requires the Local Authority to inspect its area from time to time to identify contaminated land and decide if such land requires to be designated as a special site, and paragraph 2.3 to 2.7 of the Contaminated Land Statutory Guidance requires the Local Authority to have a written strategic approach to the carrying out of these inspections, hence the annexed Strategy.

8.4. Neither the Act or the Guidance require consultation in relation to the Strategy, but it is good practice to do so, especially as the Act requires notification to some agencies when land is identified as contaminated (s78B(3)).

8.5. Only "closed landfill sites" are included in the Borough's Air Quality Action Plan 2020-2025 (action point 19D), but dealing with contaminated land in general will improve air quality in the Borough, especially for neighbouring properties, and will play its part towards fulfilling the Action Plan.

8.6. As mentioned in the Air Quality Action Plan's effect of poor air quality (p5), "poor air quality disproportionately affects the health outcomes of the very young, the elderly, the ill and the poor". By tackling contaminated land and its possible effects on air quality, the Borough will further its Public Sector Equality duties under the Equalities Act 2010. The Public Sector Equality Duty will also need to be considered in the prioritisation of contaminated sites.

8. PROCUREMENT IMPLICATIONS

None from this report.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	<p>Contaminated Land Statutory Guidance Available: https://www.gov.uk/government/publications/contaminated-land-statutory-guidance</p> <p>Contaminated Land Strategy (revised 2010) Available: https://www.bromley.gov.uk/downloads/download/273/contaminated_land_strategy</p>