

Pecyn Dogfen Gyhoeddus

Gareth Owens LL.B Barrister/Bargyfreithiwr

Chief Officer (Governance)

Prif Swyddog (Llywodraethu)



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Dydd Mercher, 13 Rhagfyr 2023

Annwyl Gynghorydd,

RHYBUDD O GYFARFOD HYBRID
PWYLLGOR TROSOLWG A CHRAFFU'R AMGYLCHEDD A'R ECONOMI
DYDD MAWRTH, 19EG RHAGFYR, 2023 2.00 PM

I gwblhau busnes cyfarfod y Pwyllgor ar 12 Rhagfyr 2023, a ohiriwyd oherwydd problemau technegol.

Yn gywir

Steven Goodrum
Rheolwr Gwasanaethau Democraidd

Sylwch: Gellir mynychu'r cyfarfod hwn naill ai wyneb yn wyneb yn Siambr Cyngor yr Arglwydd Barry Jones, Cyngor Sir y Fflint, Yr Wyddgrug, Sir y Fflint neu ar-lein.

Bydd y cyfarfod yn cael ei ffrydio'n fyw ar wefan y Cyngor. Bydd y ffrydio byw yn dod i ben pan fydd unrhyw eitemau cyfrinachol yn cael eu hystyried. Bydd recordiad o'r cyfarfod ar gael yn fuan ar ôl y cyfarfod ar <https://flintshire.publici.tv/core/portal/home>

Os oes gennych unrhyw ymholiadau, cysylltwch ag aelod o'r Tîm Gwasanaethau Democraidd ar 01352 702345.

R H A G L E N

1 YMDDIHEURIADAU

Pwrpas: I dderbyn unrhyw ymddiheuriadau.

2 DATGAN CYSYLLTIAD (GAN GYNNWYS DATGANIADAU CHWIPIO)

Pwrpas: I dderbyn unrhyw ddatganiad o gysylltiad a chynghori'r Aelodau yn unol a Hynny.

3 STRATEGAETH TIR HALOGEDIG (Tudalennau 3 - 74)

Adroddiad Prif Swyddog (Cynllunio, Amgylchedd ac Economi) - Aelod Cabinet Cynllunio, Iechyd y Cyhoedd a Gwarchod y Cyhoedd

Pwrpas: Bod Aelodau'n cymeradwyo'r Strategaeth Archwilio Tir Halogedig ddiwygiedig.

4 RHEOLIADAU AILGYLCHU'R GWEITHLU (Tudalennau 75 - 80)

Adroddiad Prif Swyddog (Stryd a Chludiant) - Dirprwy Arweinydd y Cyngor a'r Aelod Cabinet Gwasanaethau Stryd a'r strategaeth cludiant rhanbarthol

Pwrpas: Derbyn y wybodaeth ddiweddaraf am Reoliadau Ailgylchu'r Gweithlu.

5 COFEBION ANNIOGEL MEWN MYNWENTYDD (Tudalennau 81 - 90)

Adroddiad Prif Swyddog (Stryd a Chludiant) - Dirprwy Arweinydd y Cyngor a'r Aelod Cabinet Gwasanaethau Stryd a'r strategaeth cludiant rhanbarthol

Pwrpas: Derbyn y wybodaeth ddiweddaraf.

6 DIWEDDARIAD AR YR ADOLYGIAD O RWYSTRAU MYNEDIAD (Tudalennau 91 - 138)

Adroddiad Prif Swyddog (Cynllunio, Amgylchedd ac Economi) - Aelod Cabinet Cynllunio, Iechyd y Cyhoedd a Gwarchod y Cyhoedd

Pwrpas: Cytuno ar gyflwyniad gwelliannau i fynediad ar Lwybr Arfordir Cymru

Sylwch, efallai y bydd egwyl o 10 munud os yw'r cyfarfod yn para'n hirach na dwy awr.

Eitem ar gyfer y Rhaglen 3



ENVIRONMENT & ECONOMY OVERVIEW & SCRUTING COMMITTEE

| | |
|------------------------|--|
| Date of Meeting | Tuesday 19 th December 2023 |
| Report Subject | Updated Contaminated Land Inspection Strategy |
| Cabinet Member | Cabinet Member for Planning, Public Health and Public Protection |
| Report Author | Chief Officer (Planning, Environment & Economy) |
| Type of Report | Strategic |

EXECUTIVE SUMMARY

On 1st July 2001, legislation requiring land contamination to be inspected and addressed was enacted in Wales. The legislation is known as Part 2A of the Environmental Protection Act 1990 and it introduced a detailed way by which land contamination should be regulated. It charges each Local Authority with a statutory duty to identify and inspect land where there are reasonable grounds to suspect that land to be affected by contamination. It also requires Local Authorities to secure the remediation of land contamination where necessary.

This statutory duty is imposed regardless of the ownership of the land.

The Contaminated Land Inspection Strategy describes how Flintshire County Council is required by Part 2A of the Environmental Protection Act 1990 to identify and inspect land within its administrative control and explains the steps that the Council will take to investigate the land to secure the remediation of contamination.

Flintshire County Council's Contaminated Land Inspection Strategy has been updated in 2023 to reflect current Council policies, objectives and the replacement of a principal piece of regulatory guidance relating to the assessment of land contamination.

This report explains the purpose of the Strategy and the updates made.

RECOMMENDATIONS

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| 1 | That Members endorse the updates to the Contaminated Land Inspection Strategy. |
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REPORT DETAILS

| | |
|-------------|--|
| 1.00 | Contaminated Land Inspection Strategy |
| 1.01 | Flintshire County Council has a statutory duty to identify and inspect any land within Flintshire where there is reasonable ground to suspect that land to be affected by contamination and to secure the remediation of Contaminated Land in accordance with Part 2A of the Environmental Protection Act 1990. |
| 1.02 | The principal activities of the contaminated land function are to discharge the Council's statutory duty in accordance with Part 2A of the Environmental Protection Act 1990, to publish and implement a Contaminated Land Inspection Strategy and to support the Council's Planning Service to secure, through enforcement where necessary, the assessment and remediation of land contamination across Flintshire. |
| 1.03 | In addition to enforcement and regulatory responsibilities, the Contaminated Land Function provides advice and information to individuals, residents, developers, and businesses to make them aware of their rights and obligations and to enable them to improve and safeguard public health and the natural and built environments across Flintshire. |
| 1.04 | The Contaminated Land Inspection Strategy has a clear aim to promote, support and complement legislative requirements, UK Government, Welsh Government and the Council's own policies and priorities to protect and improve public health and the environment. |
| 1.05 | The implementation of the Strategy has been progressing through a programme of inspections and many sites have either been assessed or have been identified for assessment. |
| 1.06 | A principal regulatory guidance document relating to how land contamination assessments are expected to be carried out has been withdrawn. It is expected that the Council, as primary regulator for Part 2A of the Environmental Protection Act 1990, adheres to the same regulatory guidance as the commercial sector when undertaking assessments. |
| 1.07 | The Contaminated Land Inspection Strategy has been updated to remove references to the withdrawn guidance and to include reference to the new guidance. |
| 1.08 | A summary of the changes made to the document can be found in the table below: |

| 2017 Version | 2023 Version |
|--|--|
| Page 2 | Update address to Ty Dewi Sant |
| Page 2 | Update portfolio name |
| Page 3 | Change 'investigations' to 'assessments' |
| Page 3 (and Pages 49, 50, 51, 52 & 54) | Update terminology relating to stages of assessment - 'desk study' to 'preliminary risk assessment' and 'intrusive investigation' to 'detailed risk assessment'. |
| Page 3 | Amend text to align references to stages of assessment. |
| Page 3 | Update terminology – replace 'remove or reduce those risks to acceptable level' with 'address those risks'. |
| Page 5 | Update terminology – replace 'investigate' with 'inspect' or 'assess' |
| Page 6 | Add bullet point 'To enhance and protect the natural environment and biodiversity' |
| Page 6 | Add bullet point 'To take account of the effect of climate change on the lifespan of remediation measures' |
| Page 6 | Update bullet point with references to current corporate plans and policies. Remove outdated and replace with current. |
| Page 6 | Update terminology. Replace 'investigate' with assess. |
| Page 7 | Add 'where there is reasonable ground to suspect' to 4.1. |
| Page 7 (and Pages 35, 37, 40 & 41) | Update terminology – change Contaminated Land Strategy to Contaminated Land Inspection Strategy. |
| Page 8 (and Pages 41 & 42) | Clarify purpose of Public Register – add 'specific' to 'actions'. |
| Page 8 (and Page 40) | Add reference to (Part 2A of) Environmental Protection Act 1990 in 5.0 |

| | | |
|------|--|--|
| | Page 8 | Add 'professionally accredited' |
| | Page 14 | Update references to corporate plans and policies. Replace outdated with current in 6.0 |
| | Page 14 (and Pages 38 & 43) | Update terminology – replace 'investigate/investigated' with 'assess/assessed'. |
| | Page 15 | Update portfolio name on map legend (FCC N Wales context map) |
| | Page 21 | Include reference to NRW |
| | Page 21 | Add reference to new legislation – 'Conservation of Habitats and Species Regulations as the many of the designated environmental conservation sites including the River Dee, are sensitive to the presence of phosphates'. |
| | Page 22 | Amend reference – replace 'Environment Agency' with NRW |
| | Page 23 | Updated figures for numbers of listed buildings, historical landscapes, scheduled ancient monuments and conservation areas. |
| | Page 32 | Updated reference to Deeside Industrial Park to reflect Northern Gateway development in 7.11 |
| | Page 33 | Updated figures to reflect number of planning applications and number of sites assessed through Part 2A. |
| | Page 34 (and Pages 38, 39 & 41) | Updated portfolio name. |
| | Page 55 | Removed Table 3 – timescales neither applicable nor relevant to on-going work or required by Statutory Guidance. |
| | Appendix 1 | Updated addresses to Ty Dewi Sant |
| | Appendix 2 | Updated list of basic references |
| | report. | |
| 1.09 | As outlined in paragraph 1.08, the changes to the document are not extensive, but reflect organisational changes and amended guidance during the intervening period. | |

| 2.00 | RESOURCE IMPLICATIONS |
|------|---|
| 2.01 | Flintshire County Council has an annual revenue budget to fund the assessments which is held within the portfolio budget. In addition to this, the Planning, Environment and Economy Portfolio employs a specialist Contaminated Land Officer (full-time) to lead on and deal with land contamination related work, projects and programmes of work. The Contaminated Land Officer also supports the work of the wider Planning, Environment and Economy Portfolio. |
| 2.02 | Capital funding set aside by Welsh Government from a capital programme, is currently suspended as that programme undergoes a review. |
| 2.03 | The continued progression of the Contaminated Land Inspection Strategy ensures that Flintshire is in a strong position to apply for funding. Competitive applications for funding will continue to be made when the Welsh Government restore their capital programme. |
| 2.04 | One of the key objectives of the Strategy is to minimise the unnecessary burden of cost to the taxpayer, business, and individuals. |
| 2.05 | The 'Polluter Pays' principle applies to Part 2A of the Environmental Protection Act 1990, and the responsibility for land contamination rests with those who caused or knowingly permitted it or, with the owner or occupier of the land. The Council will make reasonable enquiries to identify and trace those responsible for the contamination and for each individual link between contamination and receptor and will offer them an opportunity to carry out remedial works voluntarily. |
| 2.06 | Where the works cannot be secured voluntarily, appropriate enforcement action will be taken. |

| 3.00 | CONSULTATIONS REQUIRED / CARRIED OUT |
|------|--|
| 3.01 | Formal consultation is not required for non-material changes to the Contaminated Land Inspection Strategy. However, consultation on this latest version has been undertaken with all Members, Town and Community Councils and Welsh Government, and has also been shared with all Chief Officers and the Welsh Land Contamination Working Group. This Group comprises of technical specialists from across Wales, including Natural Resources Wales. The Strategy was also shared with the All Wales Contaminated Land Group. This consultation period was 21 July 2013 to 15 September 2023. No adverse comments were received. |
| 3.02 | Before seeking Cabinet approval, the Inspection Strategy will be considered by Environment & Economy Overview and Scrutiny Committee on 12 th December 2023. |

| 4.00 | RISK MANAGEMENT |
|------|---|
| 4.01 | Flintshire County Council has a statutory duty under Part 2A to identify, assess and secure the remediation of contaminated land. |
| 4.02 | Both private and public land is included, along with any land that the Council may own itself. The Council also has a responsibility to ensure that the Council's assets and liabilities and any legacy obligations from activities which took place in the past, are appropriately assessed from due diligence and environmental liability perspectives. |
| 4.03 | The assessment and remediation of land affected by contamination ensures that public health and the environment are protected, that land is brought back into beneficial use. |
| 4.04 | Addressing land contamination transforms the natural environment and by turning derelict land into green space, transforms communities into healthier human environments by providing space for recreation and exercise. |
| 4.05 | The continued progression of the Contaminated Land Inspection Strategy also addresses 4 of the 6 goals set out in the Well Being of Future Generations Act (Wales) 2016; 'a more resilient Wales', 'a globally responsible Wales', 'a prosperous Wales' and 'a healthier Wales'. |
| 4.06 | The financial and human resources provisions made by the Council enable these duties and responsibilities to continue to be fulfilled. |

| 5.00 | IMPACT ASSESSMENT | |
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| 5.01 | Through the Integrated Impact Assessment process, the following was identified: | |
| | Long-term | Positive: The Contaminated Land Inspection Strategy does not have a direct impact on the Climate Change Target, however any remediation work undertaken could potentially have a positive impact. For example, through reducing the volume of gas emitted from historical landfill sites. |
| | Prevention | No impact identified |
| | Integration | No impact identified |
| | Collaboration | No impact identified |
| | Involvement | No impact identified |

| Well-being Goals Impact | |
|--------------------------------|---|
| Prosperous Wales | Positive |
| Resilient Wales | Positive |
| Healthier Wales | Positive: Compliance with our statutory land contamination duties will have a positive impact on public health. |
| More equal Wales | No impact identified |
| Cohesive Wales | No impact identified |
| Vibrant Wales | No impact identified |
| Globally responsible Wales | Positive |

| 6.00 | APPENDICES |
|-------------|--|
| 6.01 | Appendix 1 – Contaminated Land Inspection Strategy – 2023 Appendix 2 – Summary of updates |

| 7.00 | LIST OF ACCESSIBLE BACKGROUND DOCUMENTS |
|-------------|---|
| 7.01 | Contact Officer: Rachael Davies Telephone: 01352 703400 E-mail: rachael.davies@flintshire.gov.uk |

| 8.00 | GLOSSARY OF TERMS |
|-------------|--|
| 8.01 | Remediation: a term used to refer to the steps taken to either remove unacceptable levels of land contamination or to reduce it to an acceptable level. |
| 8.02 | Financial Year: the period of 12 months commencing on 1 April. |
| 8.03 | Revenue: a term used to describe the day-to-day costs of running Council services and income deriving from those services. It also includes charges for the repayment of debt, including interest, and may include direct financing of capital expenditure. |
| 8.04 | Capital: a term used to describe the money set aside by the Council to ensure that there is enough money for a particular activity or service to go ahead. |
| 8.05 | Budget: a statement expressing the Council's policies and service levels in financial terms for a particular financial year. In its broadest sense it |

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| | includes both the revenue budget and capital programme and any authorised amendments to them. |
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Contaminated Land Inspection Strategy

Revision 6 | October 2023

Foreword

This Contaminated Land Strategy describes how Flintshire County Council is required to identify sites within its administrative control that may be affected by land contamination. ~~The document~~ It also explains the statutory guidance, legislative provisions, processes, and procedures that the Council will follow in order to investigate those sites, to identify ~~statutory~~ Contaminated Land where necessary and to remediate Contaminated Land.

The Council last published its Contaminated Land Strategy in February 2013 ~~2019~~. Since then a number of ~~investigations to assess~~ land contamination ~~assessments~~ have been carried out and significant changes to legislation and guidance documents have taken place.

This revision of the Strategy has taken these changes into account and amendments have been made where necessary.

This revision of the Strategy replaces all previous revisions of Flintshire County Council's Contaminated Land Strategy.

Commented [RD1]: Updated date

Commented [RD2]: Updated terminology

Flintshire County Council

Community & Business Protection

Pollution Control

Ty Dewi Sant

Ewloe

Flintshire CH5 3FF

Commented [RD3]: Updated address & portfolio name

Executive Summary

Land can be affected by contamination in the environment as a result of human activity and as a result of natural processes. The presence of contamination may cause harm or present risks to health, animals, buildings or the environment. However, just because contamination is present does not mean that the land is Contaminated Land or that there is a problem.

On 1st July 2001, legislation requiring land contamination to be investigated and addressed was enacted in Wales. The legislation is known as Part 2A of the Environmental Protection Act 1990 and it introduced a detailed way by which land contamination could be regulated. It charges each Local Authority with a duty to identify and investigate land which may be affected by contamination. It also requires Local Authorities to secure the remediation of land contamination where necessary.

The investigation and identification of land which may be affected by contamination is to be carried out in an ordered manner and each Local Authority, including Flintshire County Council, is required to publish a Contaminated Land Strategy to explain how this will be done.

A large number of sites may be identified as potentially affected by land contamination and Part 2A of the Environmental Protection Act 1990 requires the Council to investigate each one in a prioritised manner. This means that sites where the greatest harm is or is more likely to be taking place are to be investigated first. The prioritisation process takes into account the individual circumstances at each site and it will take place in 3 stages.

When the prioritisation process is complete, each site will be investigated in turn to understand the relationships, if any, between contamination and receptor.

Land contamination investigations **assessments** and the assessment of risk are carried out in phases. There are usually 4 phases.

1. Desk Study (preliminary risk assessment) **Preliminary Risk Assessment**
2. Intrusive Investigation (detailed risk assessment) **Detailed Risk Assessment**
3. Remediation
4. Verification

The outcome of the assessments carried out at each stage will determine if it is necessary to progress to the next stage. For example, if the Desk Study **stage 1** finds that there are likely to be unacceptable levels of contamination present then it will be necessary to carry out an **intrusive investigation stage 2**. If the intrusive investigation **stage 2** finds that there are unacceptable risks to receptors as a result of the presence of the contamination then **remedial works to remove or reduce those risks to acceptable level** **address those risks** will be necessary and the site may formally be determined as Contaminated Land.

The 'Polluter Pays' principle applies to Part 2A of the Environmental Protection Act 1990, and the responsibility for land contamination rests with those who caused it, the owner or occupier of the land or the person developing the land. The Council will make reasonable enquiries to identify and trace

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Commented [RD8]: Updated terminology

Commented [RD9]: Updated terminology

those responsible for causing the contamination and each individual link between contamination and receptor and will offer them an opportunity to carry out remedial works voluntarily.

Land contamination at some sites may be found to be affecting Controlled Waters such as Rivers, Lakes, Streams and Groundwater. These sites are known as Special Sites and will be referred to Natural Resources Wales.

If the remedial work will not be carried out voluntarily, the Council and in the case of Special Sites Natural Resources Wales, may decide to take formal action against those responsible to secure the work.

A significant number of sites identified as a result of the prioritisation process will be put forward for development and investigated through the planning process.

The Council's development control and planning function already plays a key role in many aspects of pollution prevention and control.

Land contamination is a material planning consideration and so it must be taken into account by the Council when assessing an application for planning permission and when deciding whether or not to grant planning permission.

Many applications are received for sites that may be affected by land contamination and the presence of contamination in the ground can present not only risks to health, structures and the environment but can also adversely affect or restrict the use of the land. The development of the land offers an opportunity to investigate and address those risks and to restore the beneficial use of the land.

The Council has produced an advisory guide 'The Development of Land Affected by Contamination – Reports to Support Planning Applications' to complement this Strategy.

Where there is a possibility that the site intended for development is affected by contamination, the developer will be required to demonstrate that contamination present at the site may will reasonably be addressed and that once developed, the site is suitable for the use proposed and is incapable of being formally determined as statutorily Contaminated Land in accordance with the provisions of Part 2A the Environmental Protection Act 1990.

The Council will carry out regular reviews of its the Contaminated Land Strategy and each site that the prioritisation process has identified. If the circumstances at a site have changed, its priority may

change and it may be inspected for the first time or it may be inspected again.

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1.0 | Introduction

Land can become affected by contamination as a result of human activity, a previous use of the land or natural processes which leave behind contamination that may or may not reduce or disappear over time.

Wales has a long and varied industrial history. Industrial activities, pollution and waste disposal have left Wales with a legacy of contamination.

It is not only Wales' industrial past that has contributed to land contamination, some natural process have also played their part. The varied and complex geology that underlies Wales is rich in minerals and metals which over time have found their way into shallower ground and it is common to find high levels of some in the soil.

In some cases, the levels of contamination present may be capable of causing unacceptable risks of harm to human health or the environment and be sufficient for the land to be considered Contaminated Land.

Every Local Authority, including Flintshire County Council, has a duty imposed on **upon** it by Part 2A of the Environmental Protection Act 1990, to identify and investigate **inspect** land **that may be affected where there is reasonable ground to suspect that it may be affected** by contamination. A large number of sites may be identified as potentially contaminated and the legislation requires that these sites are investigated **assessed** in a prioritised manner. Sites where the greatest harm is occurring or is likely to occur are investigated **assessed** first.

This Contaminated Land Strategy describes how Flintshire County Council is required to identify sites within its administrative control that may be affected by land contamination and it explains the steps that the Council will take to investigate **assess** the land and secure the remediation of contamination.

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2.0 | Objectives

This Strategy has a clear aim to promote, support and complement legislative requirements, Government, Welsh Government and the Council's own policies and priorities to protect and improve Public Health and the environment in which we live.

The key objectives of the Strategy are;

- To identify and remove unacceptable risks to human health and the environment reduce the amount of land contamination in Flintshire,
- To ensure compliance with legislation, regulations and guidance,
- To ensure that enforcement action is taken if necessary,
- To encourage the redevelopment of previously developed land and to promote the principles of sustainable development,
- To ensure that where redevelopment takes place, land contamination is addressed,

- To explore and address the Council's own liabilities,
- To minimise new liability to the Council from the sale and purchase of land,
- To minimise unnecessary costs of dealing with land contamination to taxpayers, businesses and individuals.
- To enhance and protect the natural environment and biodiversity
- To take account of the effect of climate change on the lifespan of remediation measures
- The objectives of the Strategy support not only the themes, improvement objectives and priorities within the Council's Corporate Plan Council Plan 2019-2023 and Well Being Objectives 2017 but also deliver the Welsh Government's Enforcement Priorities for Wales, National Well Being Goals as set out in the Well Being of Future Generations Act 2015, the Environment Act Wales 2016, and the Flintshire Public Service Board's Well Being Assessment and shared priorities.

Commented [RD18]: Align language with other relevant documents

3.0 | Regulatory Context

On 1st July 2001, Part 2A of the Environmental Protection Act 1990, statutory guidance and

Regulations (The Contaminated Land (Wales) Regulations 2001) associated with it were enacted in Wales to replace Section 79 of the Environmental Protection Act 1990 to provide Local Authorities and the Natural Resources Wales with a means of identifying and addressing unacceptable risks to health or the environment from land contamination.

Before Part 2A was enacted, the provisions of Section 79 of the Act were very limited and meant that action could only be taken where land contamination was found to be causing a statutory nuisance in terms of human health.

There was little known about how land contamination could cause a statutory nuisance and as a result, action was rarely taken.

The introduction of Part 2A meant that action could be taken where land contamination was found to be a risk to human health, the natural or the built environment and it encourages the remediation of land to make it suitable for use and avoids unnecessary blight.

In April 2012, new statutory guidance (Welsh Government (2012), Contaminated Land Statutory Guidance) was published by the Welsh Government to replace the previous statutory guidance which was published to support the introduction of Part 2A in 2001.

Investigations Assessments may be carried out in accordance with the provisions of Part 2A where there is reasonable ground for the Council to suspect that the land may be affected by contamination, where there is no other identifiable breach of other pollution prevention controls and where there is no other appropriate alternative solution or where the land has not been put forward for development.

Commented [RD19]: Update terminology

There are other regulatory controls in place which complement Part 2A and prevent new contamination from being caused.

Other regulatory regimes such as the Environmental Damage (Prevention and Remediation) Regulations 2009 and the **regulatory** regimes for water resources, waste and environmental permitting also provide a means of addressing some land contamination issues.

Commented [RD20]: Insert word 'regulatory'

Changes were made to Part 2A in Wales in 2006, to extend it to include radioactive contamination of land (The Radioactive Contaminated Land (Modification of Enactments) (Wales) (Amendment) Regulations 2007). Further changes were made in 2007, to include radioactive contamination from nuclear installations.

Although legislative provision has been made for action to be taken it is considered unlikely that many sites satisfying the criteria that it sets out will be found.

4.0 | Role of the Regulator

Land contamination is a highly complex interdisciplinary field involving the analysis of chemical, physical, biological and legal interactions between soil, rocks, water, nature and society.

The Council fulfils the primary regulatory role for Part 2A and is responsible above any other for ensuring that the requirements of Part 2A are met and where appropriate, enforced.

Land contamination at some sites may be found to be affecting Controlled Waters such as Rivers, Lakes, Streams, the Sea and Groundwater. These sites are known as Special Sites and will be referred to Natural Resources Wales, the Regulator responsible for the regulation of Special Sites.

As Local Planning Authority (LPA), the Council is required to ensure that land contamination is given due consideration where land is put forward for development. The development of land is discussed in more detail in Section 7.1.2 of this Strategy.

4.1 | The Council's Role

As primary regulator, the Council has a duty to identify and inspect land in Flintshire that **where there is reasonable ground to suspect that it** may be affected by contamination and to secure **remedial remediation** works to address unacceptable risks that this may present.

Commented [RD21]: Update terminology

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Part 2A requires the Council to;

- Produce and publish an inspection strategy (Contaminated Land **Inspection** Strategy)
- Implement and review the Contaminated Land **Inspection** Strategy
- Identify and inspect land which may be affected by contamination
- Decide what, if any, remediation is required
- Identify and trace those who should bear responsibility for remediation
- Ensure that remediation is carried out
- Take enforcement action for all Contaminated Land sites that are not Special Sites
- Refer Special Sites to Natural Resources Wales

Commented [RD23]: Insert word

Commented [RD24]: Insert word

- Keep, maintain and publish a Public Register of **specific** regulatory actions

Commented [RD25]: Insert word

The Council's Public Protection **Community and Business Protection** service employs a **full-time** Contaminated Land Officer to lead on and deal with land contamination issues.

Commented [RD26]: Update name of service area

Commented [RD27]: Insert hyphen

4.2 | Natural Resources Wales Role

Natural Resources Wales is responsible for the protection of Controlled Waters such as Groundwater, River, Lakes and Streams.

Land contamination at some sites may be found to be affecting Controlled Waters. These sites are known as Special Sites and will be referred to Natural Resources Wales by the Council.

Part 2A requires Natural Resources Wales to;

- Assist the Council where the pollution of Controlled Waters is a concern
- Provide advice to the Council where the pollution of Controlled Waters is a concern
- Take enforcement action for Special Sites
- Publish periodic reports on the condition of the environment

Natural Resources Wales employs a Contaminated Land and Groundwater **specialist** team.

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5.0 | Definitions and Principles

Land may only be considered as statutorily Contaminated Land if it meets the definition given in Part 2A **of the Environmental Protection Act 1990.**

Commented [RD29]: Insert full name of primary legislation.

The principles of risk assessment are applied when considering whether or not the definition has been met. This means that the probability and frequency of the exposure to the contamination are assessed with the magnitude and seriousness of the consequences.

To make a decision as to whether or not land meets the statutory definition, the person charged with responsibility for land contamination must understand not only the investigation process but also the scientific principles involved. They must also understand the complex risks associated with land contamination assessments and so to carry out the assessment itself, that person must be appropriately qualified, **professionally accredited** and competent to undertake the work and have sufficient expertise and relevant experience.

Commented [RD30]: Update terminology

5.1 | Pollutant Linkages

In the context of land contamination, there are 3 elements to any risk but the risk may only be considered to be present if each of the 3 elements is present.

The 3 elements are

1. Contaminant (or source of contamination) – a substance that is in, on or under the land that has the potential to cause harm or to cause pollution of controlled waters (for example rivers, streams, lakes, groundwater)
2. Pathway – a route or way in which a receptor could be exposed to, or affected by a contaminant.
3. Receptor – Something or someone that could be affected by a contaminant.

Where all 3 elements are present, this is known as a pollutant linkage. There may be more than one pollutant linkage present at a site and some pollutant linkages may be connected. For example, one contaminant may affect more than one receptor along more than one pathway.

Once the potential contaminants, pathways, receptors and potential pollutant linkages have been identified, these are used to put together a Conceptual Site Model.

The Conceptual Site Model is a compilation of all the potential pollutant linkages. It is a very important part of the land contamination assessment process and although it can be expressed as a table, a diagram or both, it is important that it is presented in a format that can be easily followed through and back through each phase.

It is used to understand and identify potential pollutant linkages and interactions between them, to design the intrusive investigation, to inform the detailed risk assessment and to design and verify remedial works.

5.1.1 | Managing Risks from Land Contamination

To make a judgement and decide whether or not the risk posed by the presence of land contamination at a site is acceptable, a number of factors are taken into account.

The purpose of each phase of the land contamination assessment process is to provide the information required to inform this decision and to provide an explanation of how the decision has been reached.

It is important to understand what the risks are, if any, that could be caused by contamination and whether or not those risks are acceptable.

It is not always either reasonable or practicable to clean up contamination completely but by the time that the assessment process is complete, risks should have been identified, anticipated and assessed and one or more solutions to remove or reduce unacceptable risks to acceptable levels should have been identified.

5.2 | Definition of Contaminated Land

Land can be affected by contamination in the environment as a result of human activity and as a result of natural processes. The presence of contamination may cause harm or present unacceptable risks to health, animals, buildings or the environment. However, just because a piece of land has been developed in the past does not mean that it is contaminated and just because contamination is present does not mean that the land is Contaminated Land or that there is a problem.

Some sites that are affected by contamination are affected to the extent that the receptors are being affected or that risks to the receptors are too great. This land could be considered **statutorily** Contaminated Land as defined by Part 2A of the Environmental Protection Act 1990.

Commented [RD31]: Remove word

The definition of Contaminated Land is given in Section 78A(2) of the Environmental Protection Act 1990 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 –

(a) significant harm is being caused or there is a significant possibility of such harm being caused; or (b) pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused;....”

5.3 | Harm

When deciding whether or not land contamination found to be present is capable of causing an effect on receptors, the Council will consider the categories and forms of harm that are illustrated in the statutory guidance.

5.3.1 | Harm to Non-human Receptors

The term ‘harm’ is explained in Section 78A(4) and it means harm to the health of a living organism or organisms or other interference with the ecological systems of which they form part and, in the case of humans, includes harm to their property.

The effects of contamination on non-human receptors are explained in Table 1 and Table 2 as follows;

Table 1: Ecological system effects

| Relevant types of receptor | Significant harm | Significant possibility of significant harm |
|--|--|---|
| <p>Any ecological system, or living organism forming part of such a system, within a location which is:</p> <ul style="list-style-type: none"> • a site of special scientific interest (under section 28 of the Wildlife and Countryside Act 1981) • a national nature reserve (under s.35 of the 1981 Act) • a Marine Conservation Zone* • an area of special protection for birds (under s.3 of the 1981 Act) • a “European site” within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2010 • any habitat or site afforded policy protection | <p>The following types of harm should be considered to be significant harm:</p> <ul style="list-style-type: none"> • harm which results in an irreversible adverse change, or in some other substantial adverse change, in the functioning of the ecological system within any substantial part of that location; or • harm which significantly affects any species of special interest within that location and which endangers the long-term maintenance of the population of that species at that location. | <p>Conditions would exist for considering that a significant possibility of harm exists to a relevant ecological receptor where the local authority considers that:</p> <p>Significant harm of that description is more likely than not to result from the contaminant linkage in question; or</p> <p>there is a reasonable possibility of significant harm of that description being caused, and if that harm were to occur, it would result in such a degree of</p> |

* Marine Conservation Zones upon commencement of Part 5 of the Marine and Coastal Access Act 2009

Table 2: Property Effects

| Relevant types of receptor | Significant harm | Significant possibility of significant harm |
|---|--|--|
| <p>Property in the form of:</p> <ul style="list-style-type: none"> • crops, including timber; • produce grown domestically, or on allotments, for consumption; • livestock; • other owned or domesticated animals; • wild animals which are the subject of shooting or fishing rights. | <p>For crops, a substantial diminution in yield or other substantial loss in their value resulting from death, disease or other physical damage. For domestic pets, death, serious disease or serious physical damage. For other property in this category, a substantial loss in its value resulting from death, disease or other serious physical damage. The local authority should regard a substantial loss in value as occurring only when a substantial proportion of the animals or crops are dead or otherwise no longer fit for their intended purpose. Food should be regarded as being no longer fit for purpose when it fails to comply with the provisions of the Food Safety Act 1990. Where a diminution in yield or loss in value is caused by a contaminant linkage, a 20% diminution or loss should be regarded as a benchmark for what constitutes a substantial diminution or loss. In this Chapter, this description of significant harm is referred to as an “animal or crop effect”.</p> | <p>Condition would exist for considering that a significant possibility of significant harm exists to the relevant types of receptor where the local authority considers that significant harm is more likely than not to result from the contaminant linkage in question, taking into account relevant information for that type or contaminant linkage, particularly in relation to the ecotoxicological effects of the contaminant.</p> |

| | | |
|--|--|--|
| <p>Property in the form of buildings. For this purpose, “building” means any structure or erection, and any part of a building including any part below ground level, but does not include plant or machinery comprised in a building or, buried services such as sewers, water pipes or electricity cables.</p> | <p>Structural failure, substantial damage or substantial interference with any right of occupation. The local authority should regard substantial damage or substantial interference as occurring when any part of the building ceases to be capable of being used for the purpose for which it is or was intended. In the case of a scheduled Ancient Monument, substantial damage should also be regarded as occurring when the damage significantly impairs the historic, architectural, traditional, artistic or archaeological interest by reason of which the monument was scheduled. In this Chapter, this description of significant harm is referred to as a “building effect”.</p> | <p>Conditions would exist for considering that a significant possibility of significant harm exists to the relevant types of receptor where the local authority considers that significant harm is more likely than not to result from the contamination linkage in question during the expected economic life of the building (or in the case of a scheduled Ancient Monument the foreseeable future), taking into account relevant information for that type of contaminant linkage.</p> |
|--|--|--|

5.3.2 | Harm to Human Health

So far as human health is concerned, there is no absolute set of circumstances in which or thresholds above which land is considered Contaminated Land and so making an informed decision is highly complex.

Health effects that will always be considered as causing significant harm are;

- life-threatening diseases such as cancers,
- diseases that are likely to have a serious impact on health,
- serious injury caused by chemical and biochemical properties of a substance but not its physical properties for example, if it is hard or sharp, birth defects, impairment of reproductive function and death.

Other health effects that may be considered as causing significant harm are;

- physical injury,
- gastrointestinal disturbances,
- effects on the respiratory tract,
- effects on the cardio-vascular system,
- skin ailments,
- effects on the central nervous system,
- effects on the organs
- a range of other impacts on health.

Explanations of what should be taken into account in reaching a decision on what is 'significant harm' and what is the 'significant possibility of such harm' are provided in Section 4 of the statutory guidance.

6.0 | The Council's Policies

The Council has a large number of policies, strategies and plans which affect the way in which the Council carries out its business and which shape the way in which it provides services. ~~to its customers.~~

A number of those policies, strategies and plans have relationships and synergies not only between each other but also with the Contaminated Land **Inspection Strategy including,**

- ~~The 'County Vision' and Community Strategy 2009-2019~~
- ~~Flintshire County Council Annual Improvement Plan 2019-2023~~
- ~~Flintshire Unitary Development Plan~~
- ~~Public Protection **Community and Business Protection** Enforcement Policy~~
- ~~Public Protection Service **Community and Business Protection** Strategy and Action Plan **Strategic and Operating Plan**~~
- ~~Flintshire Biodiversity Action Plan~~
- ~~Environment Directorate **Community and Business Protection** Plan~~
- Flintshire Regeneration Strategy

There are also direct relationships with Government policies and the Contaminated Land **Inspection** Strategy has particular regard to the following Welsh Government policies;

- Welsh Government, Local Better Regulation Office, National Enforcement Priorities for Wales
- Welsh Government, Environment Strategy for Wales
- Priority 2: Ensuring the safety and quality of the food chain to minimise risk to human and animal health
- Priority 4: Improving the local environment to positively influence quality of life and promote sustainability
- National Well Being Goals, Well Being of Future Generations Act 2015.

The Contaminated Land Strategy has been produced in consideration of relevant policies and plans.

7.0 | Characteristics of Flintshire

As this Strategy explains, land contamination assessments will be carried out in an ordered manner and individual sites will be ~~investigated~~ **assessed** according to their priority. The process that will be followed to prioritise sites is explained in Section 9.3.

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Commented [RD34]: Align language with other documents.

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To begin to identify and organise the sites which may need to be assessed, it is important to understand the particular natural and man-made features and history of the County so that each can be taken into account.

It is important to understand where people live, where they work, what they have built, what they have used, what happened in the past and what may have been left behind as a result.

7.1 | Geographical Location

The County of Flintshire is situated in north east Wales and is one of the 6 unitary authorities of North Wales. It is shown on the map below.

Commented [RD37]: Map legend updated

The County of Denbighshire and the Clwydian Range are found at Flintshire's western border and the County of Wrexham is found to the south.

The English County of Cheshire is found at Flintshire's eastern border and the northern area of Flintshire is bordered by the tidal estuary of the River Dee and the Irish Sea.

The English counties of Wirral and Merseyside are found across the Estuary.



7.2 | History

Until the Welsh Local Government Reorganisation that took place in 1996, Flintshire was a part of the North Wales County of Clwyd and 2 councils; Delyn Borough Council and Alyn and Deeside District Council, were primarily responsible for its administration.

Clwyd County Council was formed in 1974 and incorporated most of the original County of Flintshire. The current extent of Flintshire is very different to the ancient County of Flintshire.

Before 1974, Flintshire was one of few counties in Britain to retain exclaves. Exclaves are detached areas of a County, surrounded entirely by other Counties. The administrative area of Flintshire comprised the borough of Flint, the urban districts of Buckley, Mold and Connah's Quay, the rural and urban districts of Holywell, the rural district of Hawarden, the district of Rhuddlan and the exclave rural district of Maelor.

During the reorganisation, the district of Rhuddlan was incorporated into Denbighshire and the rural district of Maelor was incorporated into Wrexham.

Since 1996, Flintshire has been a unitary authority and is administered by Flintshire County Council.

7.3 | Population Size and Distribution

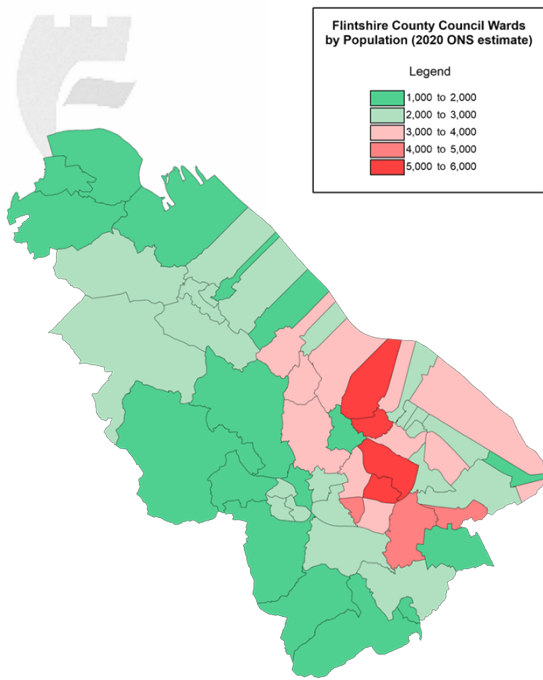
Flintshire covers an area of 43,464 hectares. Including the River Dee Estuary, it covers an area of 49, 891 hectares.

According to the Office for National Statistics, the population of Flintshire was c157,000 in 2020.

Commented [RD38]: Updated statistic

There are 9 principal settlements in Flintshire and residential areas are concentrated along the coastal areas of the County. Most residents live in and around the towns of Connah's Quay, Shotton, Queensferry, Mold, Buckley, Holywell, Bagillt and Hawarden.

The map below illustrates the way in which the population of Flintshire is distributed.



A large area of Flintshire is rural and there are many smaller settlements and villages dispersed across the County, a number of which include environmental conservation areas, listed buildings and scheduled ancient monuments

Commented [RD39]: Added descriptions

7.4 | Geology

The geology of Flintshire is complex and varied as it is comprised from a succession of rocks from the

Silurian (the period from about 444 to 420 million years ago) to the Triassic (the period from about 250 to 200 million years ago) age. Many of its features have been exploited to support local mines and quarries over centuries.

The high moorlands of the Clwydian Range are formed from Silurian grits and shales and the upland area of Halkyn Mountain is formed of Carboniferous Limestone deposits.

The outcrop of limestone is about 4 miles wide in the North and narrows to about 1 ½ miles wide as it approaches Flintshire's border with Denbighshire at Loggerheads.

The limestone deposits continue to be quarried today and are crossed by many metalliferous and calcite veins which have been extensively mined in the past.

Several lead and zinc and lead and silver mines were operated where the veins are present, particularly in the area of Halkyn Mountain.

The limestone is overlain by Millstone Grit; coarse-grained sandstones and Holywell Shales; sometimes called 'black limestone', which outcrop from the north to the south, immediately east of the Limestone at Halkyn Mountain and Nercwys Mountain.

In most areas, the Millstone Grit is formed from silica sandstone but towards the north it is formed by chertstone, a fine-grained rock containing silica and quartz. These features have also been quarried over time.

The eastern area of Flintshire is underlain by coal measures known as the Flintshire Coalfield, which ranges from Point of Ayr in the north to Caergwrle in the south.

The Flintshire Coalfield is made up from many different seams and has been mined extensively in the past. Some seams are present in the north, some are present in the south and some are present across the whole area and some extend underneath the River Dee Estuary.

Where the land lies below approximately 600ft above sea level, the bedrock is overlain by other deposits such as glacial boulder clay, sands and gravels.

These deposits have been widely exploited and used to support local industries, particularly brick and pottery making. Sand and gravel deposits continue to be quarried today.

Triassic rock formations, including sandstones are found toward Higher Kinnerton in the south east.

More recent geological deposits such as tufa, a type of limestone, are found at Caerwys.

7.5 | Hydrology

Flintshire has a variety of rivers, streams and pools including the River Dee and its estuary, the River Wheeler, the River Alyn and the River Terrig.

The flow and path of the rivers are strongly influenced by mine spoil, workings and drainage tunnels, and other features such as caverns within the limestone.

7.5.1 | River Dee and River Dee Estuary

The River Dee rises in Dduallt in the Snowdonia National Park in Gwynedd. It flows through Snowdonia to and through Bala Lake and to Llangollen in Denbighshire. It then flows to the east of Wrexham and along the border between England and Wales. It flows into England and through Chester until passing through Cheshire's border with Flintshire and back into Wales at Saltney.

It then flows on through Sealand and Queensferry before reaching its estuary with the Irish Sea at Connah's Quay.

The lower section of the River Dee is influenced by the tide.

A stretch of the River Dee has been canalised and flows along a manmade channel which alters its natural course.

Before the River was canalised it flowed past Parkgate and followed the west shore of the Wirral Peninsula. After it was canalised, it followed the North Wales Coast and the areas of Sealand, Shotton and Queensferry were reclaimed from the Estuary.

The River Dee was especially important historically as it provided an inexpensive means of transporting products from local industries and producers. It also provided access to the Irish Sea and made the Docks at Liverpool, Ellesmere Port and Manchester easily accessible creating opportunities for world trading.

Today **More recently**, the River Dee is **has been** used to transport A380 aircraft wings on a barge from the Airbus factory at Broughton to the Port of Mostyn.

Commented [RD40]: Substitute words

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The River Dee Estuary is of great environmental importance internationally and its extensive salt marshes are especially important to waterfowl, birds and other wildlife. It is a designated Site of Special Site of Scientific Interest (SSSI) and Ramsar site.



7.5.2 | River Alyn

The River Alyn rises at the southern end of the Clwydian Range and flows in a southerly direction through the Alyn Valley, part of the Clwydian Range Area of Outstanding Natural Beauty (AONB).

It flows through carboniferous limestone from Halkyn Mountain, through the Alyn Gorge between Loggerheads and Rhydymwyn and toward and through Loggerheads at Flintshire's border with Denbighshire, it then flows through Mold to Cefn y Bedd where it meets and joins the River Dee just over Flintshire's border in Wrexham.

During the summer, the River Alyn flows underground through subterranean caves and potholes that have been formed in the limestone as a result of the flow of water over time. For several months a year, the river bed is dry in places.

The flow of water over the limestone surface has also caused many swallowholes to be formed.

The flow in the River Alyn is affected by drainage from historical metal mines, in particular the Milwr Tunnel which was built to drain water from and prevent flooding in mine workings in Halkyn Mountain centuries ago.

The Milwr Tunnel diverts water away from the River Alyn catchment and carries it directly to the River Dee where it discharges into the River Dee Estuary at Bagillt.

A stretch of the River Alyn in Rhydymwyn was canalised just before the Second World War broke out to allow for the construction of the Valley Works, a munitions storage and manufacturing complex. More information about this site can be found in Section 7.10.7 of this document.

7.5.3 | River Terrig

The River Terrig rises at Llyn Cyfynwy in Denbighshire, a short distance from the place where the River Alyn rises, and flows north and east toward Flintshire and between the Flintshire villages of Treuddyn and Nercwys. It eventually joins the River Alyn at Pontblyddyn.

7.5.4 | River Wheeler

The River Wheeler rises a short distance from Afonwen and flows in a northerly direction through Ysceifiog and Melin y Wern before it flows across Flintshire's border with and into Denbighshire toward the River Clwyd before flowing into the Irish Sea at Rhyl.

7.6 | Hydrogeology

Hydrogeology involves the study of the distribution and movement of groundwater (water found in soil pore spaces and in geological layers), in the soil, underlying geological layers, features and aquifers.

An aquifer is made up of underground layers of water-bearing geological features such as rock, gravel and sand from which groundwater can be abstracted using a well or a borehole.

Groundwater is a valuable source of water, provides flow to rivers and is very vulnerable to pollution.

Groundwater moves slowly through the ground and does not necessarily follow the direction or topography of the ground at the surface. The movement of groundwater is often dependant on pressure gradients which means that in the ground, water does not always flow downhill and can flow uphill.

In April 2010, the Environment Agency and Natural Resources Wales made changes to the aquifer designations in their Groundwater Vulnerability Maps to make them consistent with the Water Framework Directive. Major and minor aquifers are now called principal and secondary aquifers respectively.

Commented [RD42]: Insert 'Natural Resources Wales'

There are 4 secondary aquifers in Flintshire, found within the following geological features:

- Kinnerton Sandstone Formation
- Carboniferous Limestone
- Sandstones in the Halkyn Formation
- Sandstones in the Westphalian Strata

The most important aquifer in Flintshire is the Kinnerton Sandstone Formation which is used to support public drinking water supplies.

The second most important aquifer in Flintshire is the Carboniferous Limestone. The movement of groundwater in this aquifer is restricted to fissures and natural features which have been created by the movement of water through the rocks. It is also influenced by mine workings from historical lead mines and drainage tunnels serving the mines.

The soils which overly the aquifers are different and range from soils with a high leaching potential, where contamination can move through the ground easily, to those with a low leaching potential, where contamination does not move quite so easily through the ground.

Aquifers overlain by soils with a high leaching potential are more vulnerable to pollution than those with lower leaching potentials.

Areas which are particularly vulnerable to pollution and at risk of contamination are protected by zones imposed by the Environment Agency. Natural Resources Wales. Industrial operations and activities which could potentially cause pollution are subject to restrictions and pollution prevention measures to minimise risks to the groundwater, wells, springs, boreholes and water supplies. There are 5 Groundwater Source Protection Zones in Flintshire. Large areas of Flintshire are also protected by the Conservation of Habitats and Species Regulations as the many of the designated environmental conservation sites including the River Dee, are sensitive to the presence of phosphorous.

Commented [RD43]: Insert 'Natural Resources Wales'

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7.7 | Water Resources

The River Dee is an important source of drinking water. Three water companies take water from the River at 3 abstraction points above the weir in Chester. Water for drinking water is only abstracted above the weir as the stretch of the River below it is tidal and the water brackish.

The water, once it has been treated and made potable (suitable to drink), is distributed to northeast Wales, Cheshire and Merseyside. The demand for drinking water in Merseyside is greater than local supplies can support and water from the River Dee is used to meet the demand.

Water is not only taken from the River for drinking water but is also taken to be used by industry. Industries which abstract water from the River Dee include a papermill, Connah's Quay Power Station and the Shropshire Union Canal (British Waterways).

A large amount of water is taken from the River Dee and during the summer months the flow of the River is reduced. Water accumulated and stored in reservoirs in Denbighshire and Gwynedd during the winter is released into the River to support the abstractions.

The abstraction of water from the River is very closely regulated by the Environment Agency **Natural Resources Wales** and a consortium of water companies in accordance with the River Dee Regulation Scheme. The Scheme includes the management of abstractions, flow, water quality monitoring and pollution alerts.

Groundwater is another very important source of drinking water in many areas. It is found deep underground and can be used for large scale public supplies and for smaller private supplies.

There are 132 **around 150** private water supplies in Flintshire. Most of these are used by people in rural areas.

Water companies are required by law to test the water that they supply to ensure that it is safe to drink but those people that use a private water supply do not have to test the water that they use in the same way and so it is very important that any potential sources of contamination such as oil leaks or spills are reported.

Groundwater for public drinking water supplies is abstracted from 2 boreholes drilled deep into the aquifer in the sandstone between Bretton and Kinnerton in the southern area of Flintshire.

The River Dee is also an important fishery. The Estuary supports large Cockle beds and Salmon and Sea Trout can be found along its entire length.

The River has a high amenity value and is a popular place for coarse fishing, sailing and bird watching.

7.8 | Protected Habitats and Areas of Conservation

There are many common place and rare plant and animal species which can be found in Flintshire and there are an increasing number of designated wildlife and conservation sites in place to protect them.

Commented [RD45]: Insert 'Natural Resources Wales'

Commented [RD46]: Updated statistic

In Flintshire, there are 25 [28](#) sites Special Sites of Scientific Interest (SSSI), 6 Special Areas of Conservation (SAC), 1 Ramsar (Ramsar Convention – Wetland of International Importance) site, 1 Outstanding Area of Natural Beauty (AONB). 4 [2](#) Special Protection Areas and several more potential sites for designations.

Commented [RD47]: Updated statistic

More information about designated conservation sites is available from Natural Resources Wales and more information about protected species is available from the County Ecologist.

Where land contamination assessments are required at any of these sites, Flintshire County Council will have regard to and will take account of the designation and features of each one and will consult Natural Resources Wales.



7.9 | Sites of Historic Importance

Flintshire is rich in natural resources which have been exploited since at least the Roman era and have supported local industries for hundreds of years.

This has rewarded the County with distinctive landscapes ranging from the beaches and sand dunes at Talacre, the shores and coastal salt marches of the River Dee Estuary, Common Land, woodlands, rolling farmland and the Clwydian Range. Most of these areas are designated conservation sites.

Historical activities have also given Flintshire an abundance of historical features and buildings and archaeological remains such as Iron Age hill forts, Roman remains, mine workings, castles and ancient pilgrimage sites.

There are 34 [32](#) conservation areas; areas of special architectural or historic interest, the character of which it is desirable to preserve and enhance, 868 [1032](#) listed buildings, 400 [133](#) scheduled ancient monuments and many sites where there may be archaeological remains and [1 Landscape of Outstanding Historical Interest](#) in Flintshire.

Commented [RD48]: Updated statistics

7.10 | What types of Contamination may be found?

The types of contamination that are likely to be found depends on the activity that took place on the land. Different substances are used by different industry and the type of contamination likely to be found is usually associated with the particular substances that were used, stored and produced.

Some materials, substances and wastes are commonly associated with particular processes and are more likely to be found at a site than others.

When assessing land contamination, it is very important to understand what to look for, where to look for it and why. It is important to carry out a thorough and detailed assessment of the processes which took place at a site including what was used, stored and produced and where.

Practices and processes can change over time and it is important to take this into account too as changes like this can affect the type of contamination that is likely to be found.

Flintshire has a long and varied industrial past and so there are many types of contamination that could be found.

Not all land contamination is caused by industrial activity. Some comes as the result of natural processes, such as the weathering of rocks and mineral veins in the ground, and takes place over a long time.

It is common to find elevated levels of lead and other metals in the soil around the lead mines and in areas where lead veins are present in underlying geological features.

Flintshire's industrial past follows its geological and geographical features. Industrial areas were concentrated, as they are today, around areas where minerals can be found and the River Dee and its Estuary.

Road and rail links with the rest of the Country- **Wales and the UK** were well developed and the River Dee allowed local products to be transported by river and sea to docks in Liverpool, Ellesmere Port and Manchester and made World trade possible.

The principal industries which have taken place in Flintshire are discussed in more detail in Sections 7.10.1 to 7.10.9 and it is likely that the land contamination assessments that will be carried out will be focussed in the areas where industrial processes have taken place.

Commented [RD49]: Insert specific reference to Wales

7.10.1 | Lead Mining

Lead is a heavy metal, an element which has metallic properties and which is usually toxic. It has a blue white colour which tarnishes to a dull grey when exposed to the air. When molten, it has a shiny, chrome like appearance.

Lead is also malleable and can be hammered or rolled into a thin sheet. It is this property which makes it particularly useful. It is commonly used in roofing products, bullets and shot, solders, radiation protection and batteries. Historically, it was commonly used to line coffins and storage tanks, in cosmetic products, as fishing line weights and as a fuel additive.

It is also toxic, causing damage to the nervous system and the brain and can accumulate in plant and animal tissues and the environment. For this reason, it is no longer used in many products.

Lead ore is found in metalliferous veins in limestone and lead deposits are often associated with deposits of zinc and silver.

The lead mines were concentrated in areas where limestone is present. The majority of Flintshire's lead mines were concentrated around the areas of Halkyn Mountain and Brynford.

In some areas of Flintshire, particularly around Trelawnyd and Pantybuarth, lead bearing veins can be seen in limestone outcrops at the surface of the ground.

Archaeological evidence shows that lead deposits in Flintshire have been exploited since the Roman era and historical records show that lead was mined in Flintshire from the early 13th Century, during the reign of King Edward 1st.

The lead in Flintshire was of particularly good quality and the lead mining industry in Flintshire boomed during the 1720s. To meet demand, skilled workers were brought from lead mines across the British Isles, in particular from the Peak District, Derbyshire and Cornwall to work under close supervision in Flintshire's lead mines.

The industry eventually went into decline during the late 19th Century as cheap lead and lead products became available from South Wales and international markets.

At this time, new industry prospered and a new Alkali factory in Flint opened offering employment to hundreds of local workers.

As the lead mines were extended deeper and deeper under the ground they became plagued by flooding. The industry was rejuvenated when a sea-level drainage tunnel was constructed to drain excess water from the mines beneath Halkyn Mountain.

The tunnel has been extended over time and reaches from Bagillt, by the River Dee Estuary to Cadole, close to Flintshire's border with Denbighshire. It is known as the Milwr Tunnel.

The original sea-level tunnel was extended by the Halkyn District United Mines Limited; an amalgamation of 9 mining companies and 2 drainage companies, to drain excess water from a number of lead mines to allow the mines to continue to operate and to allow them to be deepened to exploit ore contained in deep veins.

The tunnel intercepts a number of caverns, including a large cavern called Powell's Lode, formed naturally in the limestone by water beneath Halkyn Mountain. The caverns are popular with cavers and potholers and still contain some of the equipment that was used in the mines.

Today, the Milwr Tunnel is maintained by 2 water companies, United Utilities and Dwr Cymru (Welsh Water).

Evidence of Flintshire's lead industry is abundant today and although few structures remain on the surface, the landscape in some areas, particularly those around Halkyn Mountain is strongly influenced by abandoned mine shafts, spoil heaps and tailings.

Tailings are made up of the left over materials after the valuable part of the ore has been separated from the materials with little value.

Spoil heaps are piles of overburden and other wastes. They are not the same as tailings.

Overburden is term used to describe the rock and soil overlying the ore that is to be mined.

Lead mining has left behind not only physical evidence of past times but also a legacy of land contamination.

Land can be affected by contamination in the environment as a result of human activity and as a result of natural processes. The presence of contamination may cause harm or present risks to health, animals, buildings or the environment. However, just because contamination is present does not mean that the land is contaminated or that there is a problem.

If there is no way for the contamination to reach receptors (something or someone that would be sensitive to or whose health could be adversely affected by the presence of contamination) then there would be no way for the receptors to be affected.

It is very likely that some sites will be found to be affected by contamination to the extent that receptors are being affected or that risks to the receptors are too great. This land could be considered statutorily Contaminated Land as defined by Part 2A of the Environmental Protection Act 1990.

The revised Statutory Guidance, published in 2012, allows regulators to take 'normal' levels of contamination into account in their assessment of a site.

It is common to find elevated levels of lead and other metals in the soil around the lead mines and in areas where lead veins are present in underlying geological features.

This does not mean that the land is Contaminated Land nor does it mean that the levels are acceptable, may be dismissed or that there is no potential risk to receptors. Detailed assessments or investigations in these areas will be necessary.

In some of these areas, concentrations of lead and other metals are exceedingly high and are capable of causing adverse health effects.

To assess the potential extent of land contamination associated with lead mining activities, the Council is in the process of carrying out a detailed study and preliminary risk assessment. This will be used to develop and implement a supplementary strategy to assess, prioritise and investigate sites in and around the former lead mining areas. This will complement the Contaminated Land Strategy.

7.10.2 | Coal Mining

Coal is abundant across the World and was formed during the Carboniferous period (approximately 360 million years ago), the same period which saw the evolution of early reptiles.

It is a sedimentary rock formed over time from prehistoric vegetation which has become buried, heated and compressed.

The Ancient Greeks and Romans are known to have used coal and archaeological evidence shows that coal was used as a fuel by Romans in Britain.

Coal was not used extensively as a fuel until the industrial revolution and the invention of the steam engine which meant that coal was easier to mine.

Until then, coal was dug by hand from shallow bottle-shaped holes called Bell Pits and was brought to the surface using a bucket and chain on a hand-operated winding mechanism. Bell Pits can still be found in some areas of Flintshire including Ewloe.

The steam engine meant that large amounts of coal could be brought to the surface from deep in the ground. This turn meant that large mines could be extended to reach deep coal seams.

Coal mined from deep underground was brought through the mine on sledges or in small trucks pulled or pushed along roads and rails inside by miners or mules to be lifted to the surface up a shaft by a winding mechanism powered by an engine.

Historical records show that coal was being mined in Flintshire as early as the 13th Century, around the time that Flint Castle was built for King Edward 1st in 1277 and continued until the ~~open-cast~~ coal mine at Point of Ayr closed in 1996.

Over time, coal mines became established in Flint, Bagillt, Greenfield, Buckley, Mold, Pontblyddyn, Point of Ayr at Ffynnongroyw, Hawarden, Oakenholt, Leeswood and Coed Talon.

The coal mining industry in Flintshire was also important to its lead mining industry. Coal extracted from mines around Bagillt was used as fuel to heat the many lead smelters nearby.

The chimney from the lead works at Llanerch y Mor can still be seen. Its buildings have long been restored and are occupied by a haberdashery and craft centre.

7.10.3 | Clay, Pottery and Brick making

Areas of Flintshire, particularly around Ewloe, Buckley and Padeswood, are rich in high quality clays which have been extensively quarried and used to supply many brick works and potteries. The fireclays of Buckley were of exceptionally high quality and the town is famous for its brick and pottery products.

The first clay products were made commercially in Buckley during the 17th Century. The industry gradually grew over the years and boomed during the industrial revolution when engine power meant that large volumes of clay could be extracted from the ground and larger kilns could be operated.

As the industry grew, tramways were replaced with main gauge rail lines providing links with the rest of Wales, Chester and the docks along the River Dee. The canalisation of the River Dee in 1737 allowed products to be transported by river and sea to docks in Liverpool, Ellesmere Port and Manchester and made World trade possible.

The clay was used to make firebricks, tiles, kitchenware, drainage pipes and fittings, acid resistant bricks and silica bricks which were used as a lining in kilns, high temperature furnaces and metal smelters.

Quarrying the clay from the ground left behind enormous depressions in the ground. Some of these have filled with water and are used as fishing ponds and are protected wildlife sites. The remaining pits have been used as landfills to dispose wastes.

The last pottery operating in Buckley closed in 1946 and the last brickworks in 2003.

Many of the features of the historical brick works and potteries can still be seen along the Buckley Heritage Trail.

7.10.4 | Steel

Steel is an alloy made from iron, carbon and other materials such as titanium, chromium, manganese and vanadium.

At its time, the steel industry was one of the largest industrial processes operating in Flintshire. The Hawarden Bridge Steel Works was built by J. Summers and Co. Limited in 1896 and began producing steel in 1902. The company increased in size to such an extent that during the 1930s, it produced the greatest quantity of steel sheets in the country.

The works produced high grade steel sheets, steel sheets for vehicle bodies and corrugated roofing sheets. The company was eventually absorbed into British Steel.

Steel making in Shotton ceased in 1980, which saw 6,500 employees made redundant in one day.

The office building from the Hawarden Bridge Steel Works is still present and is a listed building.

British Steel was taken over by Corus in 1999 and continued to manufacture steel products.

The steelworks in Shotton is now operated by Tata steel and produces galvanised products, coated roofing and cladding products and other speciality items.

Smaller works operating at the time manufactured products including steel cables and chains, ferromanganese, spiegeleisen (a ferromanganese alloy with a distinctive rainbow colouring), window frames and tin plated products.

7.10.5 | Textiles

In 1777, a cotton spinning industry was founded in Holywell. The Yellow Mill was the first to open and the 2 more mills, the Upper and Lower Mills were constructed very soon afterwards during the 1780s. The Crescent Mill was opened shortly after in 1790.

The mills in Holywell prospered for a while but were unable to compete with larger mills in Manchester and Lancashire and as a result went into liquidation around 1841.

In 1848, the Crescent Mill was taken over and Wales' first power loom was installed there and was used to weave flannel.

The Welsh Flannel Manufacturing Company operated both the Crescent and Upper Mills and continued to produce flannel into the 1980's.

During the early 1900s, artificial silk was being produced by the British Glanzstoff Manufacturing Company at its factory in Flint. The factory was purchased and taken over by Courtaulds in 1917 and became the Aber Works.

Courtaulds manufactured viscose rayon from cellulose (a fibre found in the cell walls of green plants and algae), at the Aber Works and expanded production in Flint following the purchase of the old Muspratt Alkali Works by Flint Castle.

The Courtaulds Castle Works began producing viscose rayon in 1922.

Courtaulds also purchased the Holywell Textile Mill in Flint, which became the Deeside Mill and was used to produce yarn.

The viscose rayon industry in Flintshire was expanded further by Courtaulds when 2 more factories, Number 1 and Number 2, were constructed and opened in Greenfield.

The manufacture of viscose rayon ceased in Flintshire when Courtaulds factories in Greenfield closed in 1978.

The wastes from the factories were disposed at landfill sites close by. Since then, the landfills have been used to dispose other wastes too.

Extensive site investigations to assess the condition of the landfill sites that were used by Courtaulds to dispose wastes have been carried out in accordance with the provisions of Part 2A of the Environmental Protection Act 1990. None of the sites were found to be statutorily Contaminated Land.

7.10.6 | Quarries

There is an abundance of mineral resources in Flintshire which have been exploited for centuries.

Sands, gravels, clays, chert and limestone have been quarried extensively to be used in products including pottery, bricks, road stone, building materials and cement.

There are many quarries operating in Flintshire today recovering sands, gravels and limestone to be used as road stone, in tarmac, building materials, lime and cement products.



7.10.7 | Munitions

During the First World War, a munitions factory was established in Queensferry. The factory operated between 1915 and 1918 and manufactured Guncotton (a type of explosive) and TNT to be used in ammunition to be used by the armed forces.

The factory continued to operate on a smaller scale when the War was over. When the Second World War began, a second factory was built at Sandycroft.

In 1939, the Government's Ministry of Supply instructed a factory and storage facility for weapons to be built. The site was called Valley Works and was constructed in some of the tunnels left behind as a result of lead mining in Rhydymwyn. Some new tunnels were also excavated by Halkyn District and United Mining Company who were chosen to carry out the work as they had a great deal of experience of constructing local lead mines and had the equipment required to do the job.

The factory was used to manufacture mustard gas and the extensive tunnels were adapted so that ammunition, weapons and weapons filled with mustard gas could be safely stored inside. Mustard gas manufacture ceased in 1945.

A national and military secret at the time, the tunnels also included a specially adapted section where gold from the Bank of England could be evacuated to and kept safe during times of conflict.

The tunnels no longer contain any weapons or mustard gas and the site is managed by DEFRA and the Ministry of Defence - Defence Estates.

During the years between 1942 and 1945, the site was also used to research the potential for atomic weapons to be produced commercially to be used during WWII and for the development of atomic weapons and atomic power. The work was code named 'Tube Alloys'. Research into atomic technology continued into the 1990's. Some of the atomic scientists' notes and calculations can still be read from writing on the walls of some of the buildings remaining at the site.

The site is now protected and includes a wildlife refuge. It has a visitor and education centre and its buildings and tunnels can be visited by arrangement.

7.10.8 | Aircraft

There is a long history of aircraft manufacture in Flintshire which extends from the around the time of the Second World War to the present day.

An aircraft factory was built at Broughton to manufacture the Wellington Bomber between 1937 and 1945. After this time, aircraft manufacture was suspended and the factory was used to build prefabricated aluminium housing to help recover after the War was over.

Aircraft manufacture was resumed in 1948 and continues today.

The factory is now operated by Airbus and is used to manufacture the wings for all Airbus civil aircraft, including the A380. The wings for the A380 are so large that they, unlike the wings for other aircraft, cannot be transported by air. Instead, the A380 wings are transported from the factory along the River Dee on a specially constructed barge to the docks at Mostyn where they are loaded onto ferries to be transported to other factories by sea.



7.10.9 | Other Industries

Many other industries have played their part in Flintshire's history, including soap manufacture, chemical manufacture, meat processing, gas works, oil works, brass manufacture, paper production and recycling and ship building.

Historical maps are a useful and interesting record of what took place and how the landscape looked in the past.

7.11 | Current Uses of Land

Flintshire is predominantly rural and approximately 80% of the County is within the rural area and the majority of land is used for agriculture.

A number of sand, gravel and limestone quarries operate in the rural areas of Flintshire, including Halkyn Mountain, Cadole and Hendre.

Industrial activity in Flintshire continues to take place in along the coastal areas of the County as it has in the past. Large scale industrial processes are concentrated along the River Dee and its Estuary, including Airbus, Tata Steel, ~~United paper mills~~ at Shotton, Toyota and Connah's Quay Power Station.

There are a number of industrial parks in Flintshire including Flint, Mold, Buckley and Deeside.

Deeside Industrial Park is the largest industrial park in the County and is of national importance. ~~Proposals to extend~~ **Extensions to** Deeside Industrial Park ~~to include~~ **including** areas of the former RAF Sealand military base ~~have recently been approved~~ **are currently underway.**

Commented [RD50]: Amended industry name

Commented [RD51]: Updated tense

Commented [RD52]: Substitute word

Commented [RD53]: Updated tense

7.12 | Development History and Controls

In developing a site, it is the responsibility of the developer to demonstrate that contamination present at the site may reasonably be addressed and that once developed, the site is suitable for the use proposed and is incapable of being formally determined as statutorily Contaminated Land in accordance with the provisions of Part 2A of the Environmental Protection Act 1990.

Where there is a possibility that the site put forward for development is affected by contamination, usually as a result of something that has taken place on or next to the site in the past, land contamination assessments may be required to determine the nature and extent of and the degree of risk associated with land contamination.

This is particularly important where the proposed development would introduce something or someone that would be sensitive to or whose health could be adversely affected by the presence of contamination.

Developing a site may introduce changes to a site that could result in land being considered Contaminated Land, where that land would not be considered Contaminated Land if the development did not take place.

Many applications are received for sites that may be affected by land contamination and the presence of contamination in the ground can present not only risks to health, structures and the environment but can also adversely affect or restrict the use of the land. The development of the land offers an opportunity to investigate and address those risks and to restore the beneficial use of the land.

The Council's development control and planning function ~~already~~ plays a key role in many aspects of pollution prevention and control. Land contamination is a material planning consideration and so it must be taken into account by the Council when assessing an application for planning permission and when deciding whether or not to grant planning permission. The Public Protection Service is consulted by the Planning Department over applications for planning permission and the discharge of planning conditions.

Commented [RD54]: Removed word

Since the last revision of the Contaminated Land Strategy was published in 2013 ~~2019~~, the Council has received approximately 6500 applications for either planning permission or for planning conditions to be discharged. Approximately 1300 of those applications have resulted in land contamination assessments and approximately 1300 of the planning permissions granted have included conditions requiring land contamination assessments or remediation works to be carried out.

Commented [RD55]: Updated statistics

By comparison, over the last 5 years, approximately 250 sites, including 5 historical landfill sites, have been formally investigated ~~inspected~~ or remediated as a direct result of this Strategy and Part 2A.

Commented [RD56]: Updated statistics

Commented [RD57]: Updated terminology

Once the development is complete or is occupied, unacceptable risks associated with land contamination should have been removed or reduced to an acceptable level and the land should not be capable of being determined as Contaminated Land in accordance with Part 2A of the Environmental Protection Act 1990.

Involving the Contaminated Land Officer as early as possible and continuing discussions as the application progresses creates an excellent opportunity to provide the Council with as much good quality information as possible in support of the application. It also provides an opportunity for the Council to provide you with as much information and advice as possible and can minimise delays and other problems at later stages. It can reduce the number of conditions imposed on the planning permission and can reduce the time it takes the officers dealing with the application to provide you with a response.

A guidance document has been prepared to ~~provide those~~ assist anyone applying for planning permission or those with planning permission with conditions requiring land contamination assessments and their representatives with an explanation of the information that the Council requires when considering applications for planning permission and the discharge of planning conditions.

Commented [RD58]: Substituted words

It also provides a summary of the information that is likely to be required, checklists and the answers to some frequently asked questions.

Commented [RD59]: Insert word

The document is available to download free of charge ~~in the Contaminated Land pages of the Council's website.~~ www.flintshire.gov.uk

Commented [RD60]: Updated reference to website

Practices and processes can change over time and it is important to take this into account too as changes like this can affect the type of contamination that is likely to be found.

8.0 | Who deals with land contamination at the Council?

The Councils Environment Directorate **Community and Business Protection service** is responsible for ensuring that the Councils duty to identify, inspect and secure the remediation of land contamination is fully discharged.

Commented [RD61]: Update service area name

8.1 | Public **Community and Business** Protection

The Councils Public **Community and Business** Protection service is a part of the Environment Directorate **Planning, Environment and Economy portfolio** and is directly responsible for **dealing with land contamination related work**. This includes duties imposed on the Council by Part IIA **2A** of the Environmental Protection Act 1990 and other land contamination related legislation such as the Environmental Damage and Liability Regulations 2009 and the Environmental Permitting Regulations 2010.

Commented [RD62]: Update service area name

Commented [RD63]: Update service area and portfolio names

Commented [RD64]: Replace 'Part IIA' with 'Part 2A'

Land contamination is a highly complex interdisciplinary field involving the analysis of chemical, physical, biological and legal interactions between soil, rock, water, nature and society.

This is reflected in both statutory and non-statutory guidance which require that land contamination assessments are carried out by competent, accredited specialists. This means that land contamination assessments are specialist pieces of work and so the Public **Community and Business Protection service** employs a Contaminated Land Officer to lead on and direct land contamination issues.

Commented [RD65]: Update service area name

The Environment Directorate **Community and Business Protection service** and wider Council have a large number of policies, strategies and plans which have relationships and synergies not only between each other but also with the Contaminated Land **Inspection** Strategy.

Commented [RD66]: Update service area name

The Contaminated Land Officer works on the Contaminated Land **Inspection** Strategy, **including dealing with land contamination through the planning system** full-time, is responsible for the projects that are undertaken and provides specialist advice to other services within the Environment Directorate **Planning, Environment and Economy portfolio** and the wider Council.

Commented [RD67]: Insert word

Commented [RD68]: Insert reference to planning system

Commented [RD69]: Update portfolio name

None of the guidance or reference material applicable to land contamination provides a definitive test or value that may be applied to decide when risks are significant or when land may be considered as Contaminated Land.

The decision as to whether or not the possibility of significant harm being caused is significant is a regulatory decision to be made only by the Local Authority. It cannot be made by consultants, **agents** or any other person acting on its behalf.

Commented [RD70]: Insert word

Contact details for Environment Directorate **the Planning, Environment and Economy portfolio**, including the Contaminated Land Officer can be found in Appendix 1.

Commented [RD71]: Update portfolio name

8.2 | Planning

The Council's development control and planning function **already** plays a key role in many aspects of pollution prevention and control. Land contamination is a material planning consideration and must be taken into account when assessing an application for planning permission. For this reason, the Contaminated Land Officer works closely with the Councils Planning Service.

Commented [RD72]: Remove word

8.3 | Building Control

The potential for land to be affected by contamination and the measures required to protect developments and their occupiers against the adverse effects of land contamination are taken into account by Building Inspectors when assessing plans and inspecting construction work.

Specific conditions requiring work to be carried out can be imposed when passing building regulations plans.

9.0 | How will the Council deal with land contamination?

There are many organisations outside Flintshire County Council and many service areas within the Council whose work is directly affected by the Contaminated Land **Inspection** Strategy. This includes:

Commented [RD73]: Insert word

- Environment Agency
- Natural Resources Wales
- Welsh Government
- Cadw: Welsh Historic Monuments
- Clwyd-Powys Archaeological Trust (CPAT)
- North Wales Wildlife Trust
- Welsh Water
- Food Standards Agency
- Other Local Authorities

To ensure that the implementation of the Contaminated Land **Inspection** Strategy is consistent and effective, the Council has a number of established procedures and agreements in place which assist with the following tasks:

Commented [RD74]: Insert word

- Consultation
- Information Collection

- Prioritisation of site inspections
- Individual site inspections
- Reviews

9.1 | Consultation

9.1.1 | Consultation with Public Bodies

It is important that those with an interest in the Strategy are given opportunity to express their views and provide information.

Consultation with organisations affected by the implementation of the Strategy is important and close working relationships have become established with each one since the original strategy was first published in 2002.

9.1.2 | Consultation with private organisations and individuals

It is not only public organisations that are affected by the Contaminated Land Strategy. Many areas of land that may be affected by contamination are privately owned.

Land contamination has the potential to affect people's health and well-being, properties and financial situation and it is very important that this is understood. Changes to the Contaminated Land Statutory Guidance have been made so that regulators may take this into account when making their decisions.

Different people have different circumstances and different concerns. Their concerns are often based on their personal situations and perceived risks driven by fear, rather than actual risks. There are usually competing priorities between interested parties and each is likely to have a different perception of risk as a result of their own individual situation. For these reasons and others, no two site investigations are ever the same and communicating about land contamination, the investigation process and solutions can be emotionally charged and very complex.

The Council will have particular regard to this when assessing land contamination and individual strategies to direct how risks will be communicated to interested parties will be devised for each investigation.

Privately owned sites that have been identified for further inspection will be discussed with the individual owners who will be provided with detailed information and kept fully informed by the Contaminated Land Officer at every stage.

Those with an interest in a particular site will be notified of the Councils intention to investigate at the earliest opportunity. Early discussions will allow all parties to exchange information. This may resolve a number of issues raised by the prioritisation process and any desire to investigate or remediate the site voluntarily will be supported.

Consideration will only be given to securing the remediation of the land formally through the enforcement of Part 2A where it becomes apparent that necessary works will not be carried out voluntarily or within agreed timescales.

9.1.3 | Consultation with other service areas within the Council

The work of many of the service areas within the Council is affected by the Contaminated Land **Inspection** Strategy, particularly those responsible for land management and the maintenance of land including:

Commented [RD75]: Insert word

- Property and Estates
- Valuation and Assets
- Planning strategy
- Planning enforcement
- Development Control
- Regeneration
- Housing
- Waste management
- Legal
- Conveyancing
- Ecology and conservation
- Countryside Services

Communication between the individual service areas is essential as each one may be able to provide important information to another and a number of service areas may be involved when an investigation is planned and during an assessment.

The work of one service area may have implications for the Strategy and the conversely the Strategy may have implications for the work and future work of other service areas.

The Contaminated Land Officer meets regularly with representatives from other service areas to discuss on-going and planned work in each of their work areas.

9.1.4 | Council owned property

Flintshire County Council owns large areas of land and many buildings and other assets which may be affected by the Contaminated Land Strategy.

The Public **Community and Business** Protection service is not responsible for the management of Council owned land or property.

Commented [RD76]: Update name of service area

The Strategy will be applied impartially and sites in the Council's ownership will be considered in the same way that other sites will be.

It is likely that the Council will be responsible to bear the cost of any investigative or remedial work required at its own sites. The Council should also bear the cost of remedial works required at 'orphan' sites, where liability for land contamination cannot be attributed or apportioned to anyone else.

The cost of site investigations **land contamination assessments** and remediation depends on a number of factors including the size of the area affected and the type of contamination present and so can vary greatly from one site to another.

Commented [RD77]: Updated terminology

Private companies, individuals and property owners wishing to carry out voluntary assessments and voluntary acts of remediation will be encouraged and supported to do so, to **both** assist them and to reduce financial burdens on the taxpayer.

Commented [RD78]: Insert word

9.2 | Collection of information

A great deal of information has been gathered and recorded since the introduction of Part 2A of the Environmental Protection Act 1990 in 2001 and since the Contaminated Land **Inspection** Strategy was first published in 2002.

Commented [RD79]: Insert word

The information has been used to identify historical, natural and geological features, past land uses, areas which do not require any further assessment and some areas which will require further consideration.

The information has been gathered from a number of sources including:

- Historical maps
- Geological maps and memoirs
- Hydrogeological maps
- Coal authority records
- Local Authority records
- Environment Agency records
- Natural Resources Wales records
- Flintshire Record Office and County Archives
- Records of previous land uses
- Site plans
- Assessment of previous land uses
- Assessment of current land use
- Assessment of proposed land use

- Review of any previous investigations
- Anecdotal records
- Photographs
- Aerial photographs

The information is used to identify potential contaminants, pathways and receptors so that individual sites can be prioritised and subsequent stages of investigation can be planned and investigations to assess the potential pollutant linkages can be designed.

Some sites were investigated many years ago and some remedial works were carried out at others. In some cases, the information may be sufficient and in other cases it may not. It is important to remember that legislation, guidance, best practice and industry standards are updated and changed frequently. This means that investigations and reports from some time ago may be out of date and may need to be reviewed to make sure that they are up to date and consistent with current standards. If the report is very old, the information in it may be so out of date that it can't be used and the investigation may need to be started again from scratch.

9.2.1 | Complaints to the Council

The Council regularly receives complaints concerning land contamination and pollution. Most complaints concern escapes of fuel and domestic heating oil and some concern pollution caused by commercial premises or industry.

A guidance document explaining what to do if an oil leak is suspected is available free of charge on the Council's contaminated land webpages or from the Contaminated Land Officer.

In cases where land contamination has taken place at a point in the past or has recently taken place but does not continue, the Contaminated Land Officer may, after investigating the complaint, decide to take action in accordance with Part 2A of the Environmental Protection Act 1990.

In cases where land contamination has taken place and is continuing, the Contaminated Land Officer may, after investigating, decide to take action in accordance with other legislation for example, the Environmental Damage and Liability Regulations 2009 or other sections of the Environmental Protection Act 1990.

In any case, any person wishing to make a complaint will be asked to provide their name, address and telephone number, in accordance with the Public **Community and Business** Protection Enforcement Policy. This information will not be disclosed unless exceptional circumstances require it to be.

The Public **Community and Business** Protection Service does not accept or investigate anonymous complaints for a number of reasons not least that it reduces to reduce the number of malicious complaints that are received and . The Contaminated Land Officer cannot investigate allegations of statutory nuisance **relating to land contamination** where there is nobody identifiable for a nuisance to affect.

Commented [RD80]: Update name of service area

Commented [RD81]: Update name of service area

Commented [RD82]: Insert word

Commented [RD83]: Insert description

9.2.2 | Information volunteered to the Council

The Council uses a variety of sources to find information to use to inform land contamination assessments.

Sometimes, useful and important information is not revealed by these sources and sometimes the most useful information is held by other organisations and individuals.

Anecdotal and photographic information can provide context that other sources cannot. It is often information held by individuals who live and have lived and worked in a particular area and can remember important detail about a particular site, provide photographs and recall stories, memories and other informative and fascinating details.

One of the objectives of the Contaminated Land **Inspection** Strategy and the Part 2A regime is to provide a means of addressing unacceptable risks posed by land contamination to health and the environment.

Investigations will only be carried out where, following an assessment of risk, there is reasonable ground to suspect that unacceptable risks exist.

Any assessment or other action that the Council takes as a result of the implementation of the Contaminated Land **Inspection** Strategy and Part 2A will seek to ensure that the burdens faced by individuals, industry, commerce and society as a whole as a result are proportionate, manageable and compatible with the principles of sustainability and sustainable development.

Current and past owners and occupiers of land are able to carry out investigations voluntarily and the Contaminated Land Officer will encourage and support voluntary assessments and voluntary acts of remediation.

Commented [RD84]: Insert word

Commented [RD85]: Insert word

9.2.3 | How will the Council manage the information it collects?

Since the introduction of Part 2A **of the Environmental Protection Act 1990** in 2001, an extensive amount of information has been gathered and generated as a result of the prioritisation process, development of land, investigations and remedial work. The information includes historical maps, reports, records, photographs, paper and electronic records.

The management, storage, recording and disclosure of the information is coordinated and directed by the Contaminated Land Officer.

Storage of information

Historical information such as plans, maps, anecdotes and photographs, site investigation reports, engineering plans and notes are usually retained as paper records. Some of the information held includes copies of records available at the County Record Office in Hawarden.

Contemporary and historical maps are stored electronically on a Geographical Information System (GIS).

Commented [RD86]: Insert full title of primary legislation

Some of the information held in paper records and gathered as a result of the prioritisation of sites is also recorded on the GIS. The information is recorded as points on the maps, for example closed landfill sites and historical features, with annotations, for example a grid reference or an explanation of the type of waste disposed, where necessary. The annotations do not include and personal, private or commercially sensitive data.

Each piece of information recorded on the GIS can be retrieved, overlain and compared with other information recorded on the GIS. The GIS is used to assist the prioritisation process and to identify and assess any potential pollutant linkages.

Access to information at the Council

Access to the information recorded on the GIS in connection with the Contaminated Land Strategy is restricted and can only be edited and updated by the Contaminated Land Officer and the GIS manager.

Information stored on the GIS may be viewed, but not edited or changed, by a small number of officers working in other service areas within the Environment Directorate. For this reason, personal, sensitive and confidential information is not recorded on the GIS.

Other information about land contamination, including complaints is recorded in a separate electronic database that is used by Public **Community and Business** Protection. There are restrictions imposed on the database to limit who has access to the information that has been stored. Access to view and edit the information is limited to the Contaminated Land Officer and Pollution Control Officers and their administrative support staff who are aware of the requirements and implications of data protection legislation.

Some of the information held in paper records is confidential, commercially sensitive or legally privileged.

Access to this information is restricted to the Contaminated Land Officer and the Council's legal representatives.

Information stored on the GIS may be viewed, but not edited or changed, by a small number of officers working in other service areas within the Environment Directorate **Community and Business Protection service**. For this reason, personal, sensitive and confidential information is not recorded on the GIS.

Any requests to view paper or electronic records held in respect of land contamination and as a result of any stage of the implementation of the Contaminated Land **Inspection** Strategy will be directed to the Contaminated Land Officer. Personal, sensitive or confidential information will not be disclosed except in circumstances where there is a legal obligation to do so.

Access to information by the Public

The Council has a duty to keep a Public Register of Contaminated Land which the public can view.

The Public Register includes information about land which has been investigated **specific regulatory actions, including land** formally determined as Contaminated Land and remediated. **The Register is**

Commented [RD87]: Update name of service area

Commented [RD88]: Update name of service area

Commented [RD89]: Insert word

Commented [RD90]: Update terminology

not a list of land where there is reasonable ground to suspect that land may be affected by contamination. It can be viewed free of charge on the Councils contaminated land web pages or at County Hall in Mold at www.flintshire.gov.uk or by appointment at Ty Dewi Sant, Ewloe between the hours of 9am and 5pm by making an appointment with the Contaminated Land Officer.

Commented [RD91]: Insert updated address

For reasons of national security or commercial confidentiality, Part2A of the Environmental Protection Act 1990 sets out restrictions on the information that can be placed on the Public Register of Contaminated Land.

Other information is also available from the Council, for example environmental information which is not held on the public register. Any requests for the provision of information should be made in writing to the Council FOI@flintshire.gov.uk. Where possible and to avoid disappointment, delays and requests for further information, requests should include as much information about a site as possible for example, grid reference, address and specific questions. It is not necessary to explain; and the Council should not ask, why the information has been requested. There is not normally a charge for this service.

Commented [RD92]: Insert email address

It is important to understand that some information, as explained in the Environmental Information Regulations 1992 and the Freedom of Information Act 2000 will not be disclosed. The reasons why information has not been disclosed will be given.

Buying and selling property and conveyancing

Commented [RD93]: Insert heading

When buying, selling or re-mortgaging a property, it is common to request information and to make enquiries about aspects of its history, events and features of its surroundings which may have or have had an effect on it.

Environmental searches usually rely on information such historical maps and trade directories to find out what the land has been used for in the past but without assessing risks to health or the environment.

Whilst during the sale or purchasing process, vendors or purchasers may be keen to secure a mortgage or please mortgage lender, it is important to remember that these issues may be raised again when the property comes to be sold or re-financed in future.

The Council can't tell someone whether to buy a property or not. The Council can provide factual information but not an opinion. Having done their research it'll be up to purchasers and vendors and their legal advisors to make such decisions.

The law in respect of land contamination, Part 2A of the Environmental Protection Act 1990, came into force in Wales in July 2001. This law introduced a detailed way by which land contamination could be regulated.

If a property was purchased before then, it is unlikely that the environmental searches carried out by a Solicitor would have included a search for potentially contaminated land.

If a property has been bought or sold since then and the purchaser or vendor was not told about any potential land contamination during the conveyance process or if the results of the environmental searches were not brought to their attention, they choose to contact a Solicitor for advice.

9.3 | Prioritisation

A large number of sites will be identified as land that may be affected by contamination. This does not mean that the land is affected by contamination or that the land may be considered as statutorily Contaminated Land.

Each site that is identified as potentially affected by land contamination will be considered for investigation in a prioritised manner to ensure that sites that pose the greatest risk to receptors are investigated first.

The prioritisation process will be followed to organise sites into the order that they are to be investigated **assessed** in. The process is flexible and allows for amendments to be made as the process is applied and develops. It also allows for sites to be investigated **assessed** as a matter of urgency should there be evidence that land contamination is causing actual harm. This applies to all sites regardless of their position in the prioritisation process. ~~and the list of prioritised sites.~~

Commented [RD94]: Updated terminology

Commented [RD95]: Updated terminology

Commented [RD96]: Remove end of sentence.

The prioritisation process will be carried out in 2 stages:

- Primary Prioritisation
- Secondary Prioritisation (Detailed Inspection)

At the end of the prioritisation process the sites that present the greatest potential risk to receptors will have been identified, risk assessed, scored and organised into an order for more detailed inspection so that sites with the highest risk are ~~investigated~~ **assessed** first.

Commented [RD97]: Update terminology

9.3.1 | Primary Prioritisation

At this stage, potential sources of contamination and potential receptors will be identified and the proximity of the receptors to the site will be considered.

The receptors will be organised into 3 categories:

- Terrestrial receptors
- Surface waters
- Groundwater

The terrestrial receptor group includes residential properties, allotments, schools, playgrounds, nursing homes, commercial and industrial properties, crops, livestock, non-aquatic ecosystems, domesticated animals and pets, wild animals subject to shooting or fishing rights and buildings of archaeological importance.

The surface waters group includes drains, streams, ponds, pools, canals, rivers and aquatic ecosystems.

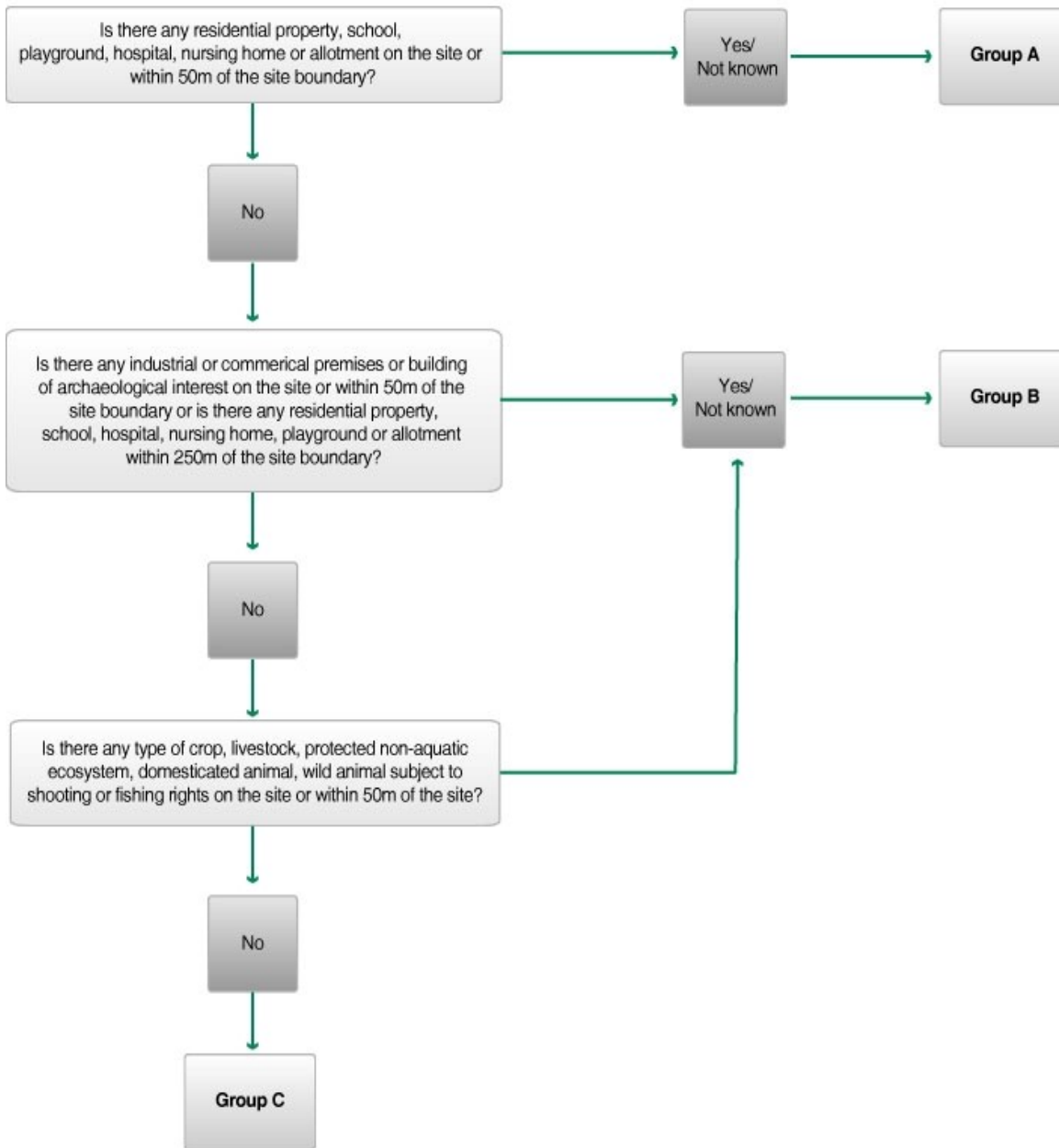
The groundwater group includes aquifers and source protection zones.

Other receptors may be taken into account at a later stage in the assessment process.

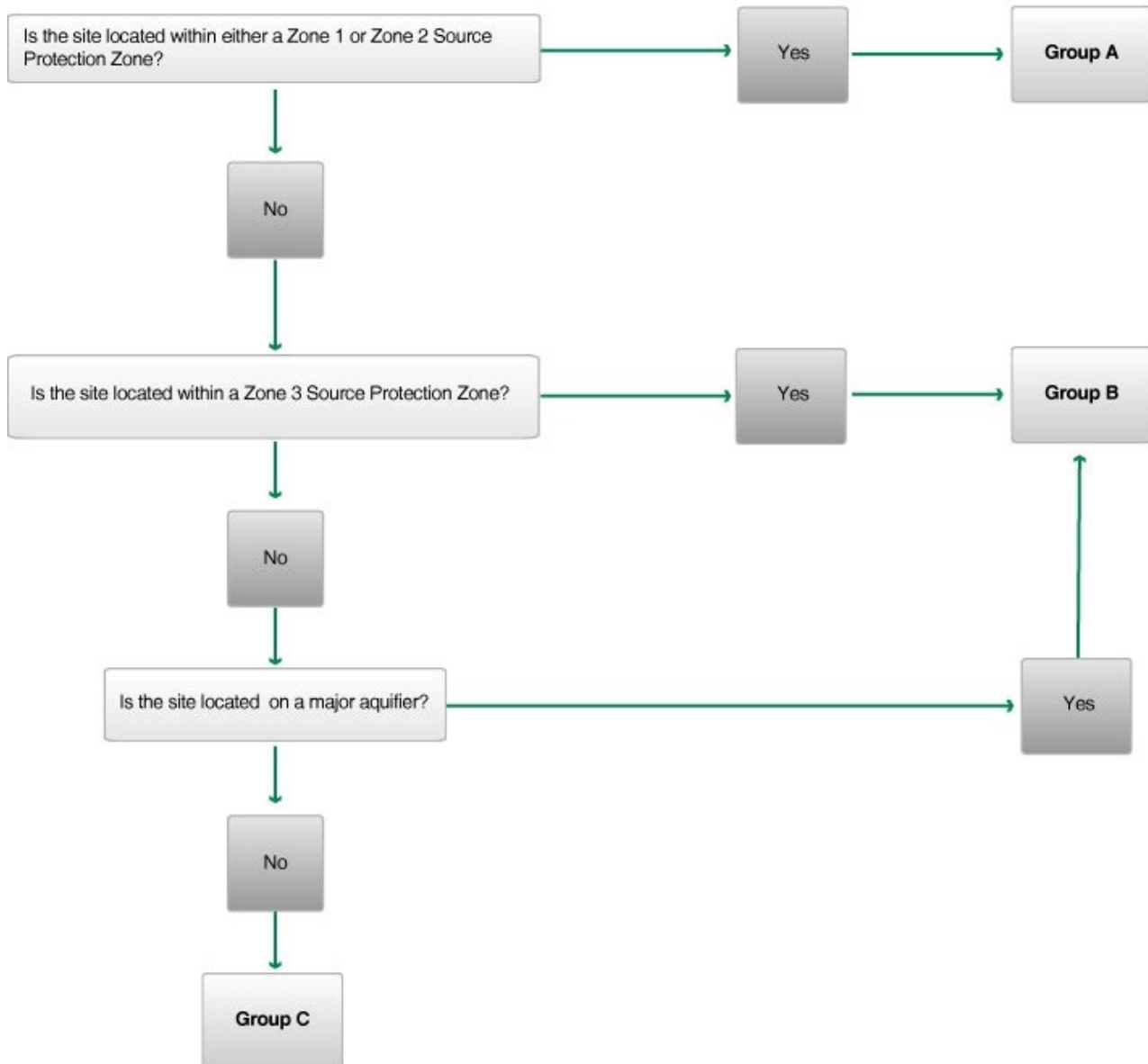
The following diagrams explain how the proximity of the receptors will be considered and how this stage of the process will organise the sites into groups to be considered at the next stage.

For the purpose of the prioritisation process, where the answer to the questions is not known or is uncertain, the worst case will be assumed. Where the process places a site into one group for one category of receptor and into a lower group for another, the site will be placed into the higher priority group.

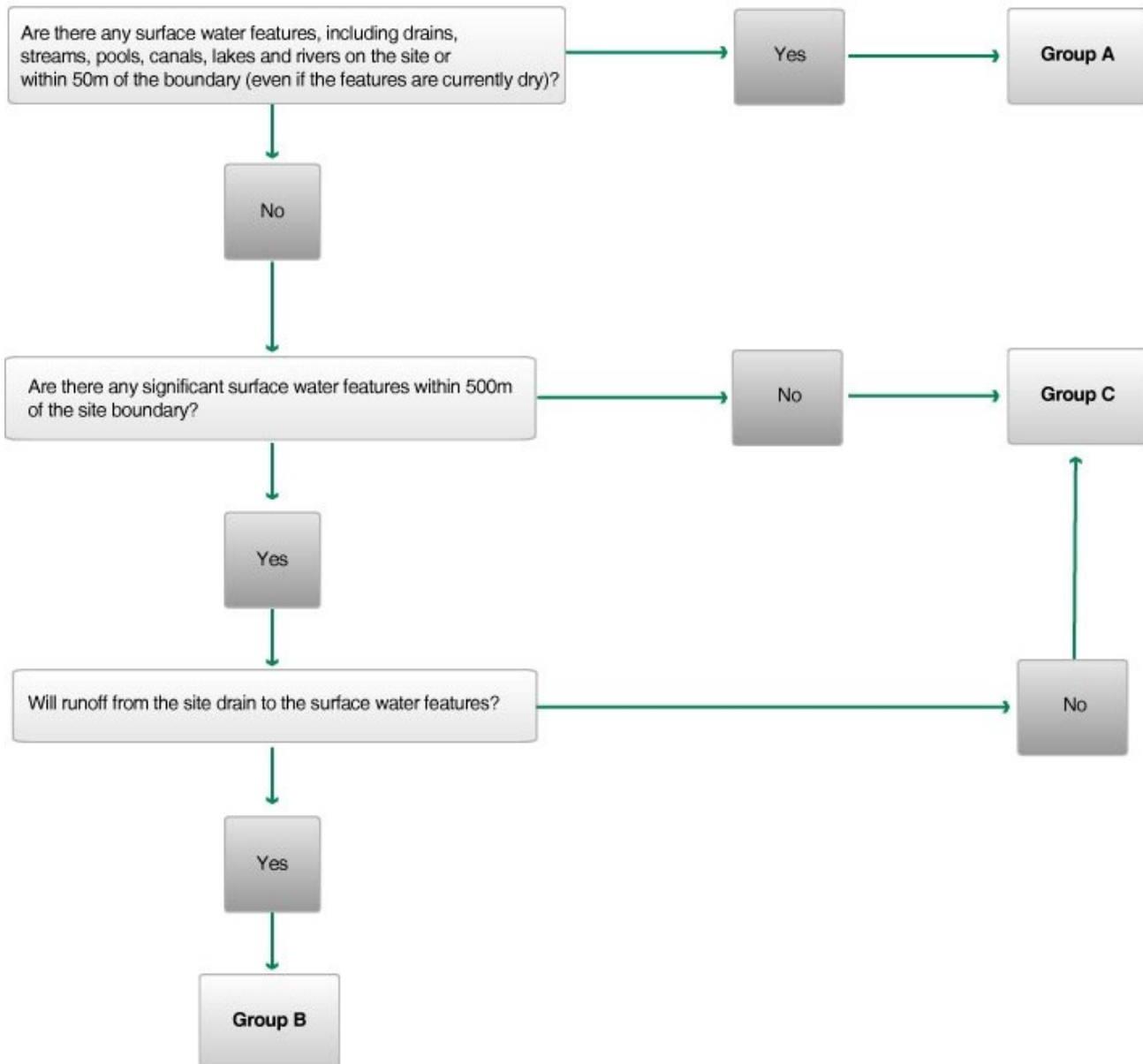
Primary Prioritisation - Terrestrial Receptors



Primary Prioritisation - Groundwater



Primary Prioritisation - Surface Water



9.3.2 | Secondary Prioritisation (Detailed Inspection)

At this stage a more detailed assessment will be carried out.

Land contamination investigations and the assessment of risk are carried out in phases. There are usually 4 phases.

1. Desk Study (preliminary risk assessment)
2. Intrusive Investigation (detailed risk assessment)
3. Remediation
4. Verification

The outcome of the assessments carried out at each stage will determine if it necessary to progress to the next stage. For example, if the Desk Study finds that there are likely to be unacceptable levels of contamination present then it will be necessary to carry out an intrusive investigation. If the intrusive investigation finds that there are unacceptable risks as a result of the presence of the contamination then it will be necessary to carry out remediation.

The purpose of this phase of the assessment is to use a variety of sources of information to identify potential contaminants, pathways and receptors so that each site can be assessed and assigned a score depending on the significance of the receptors and an intrusive investigation can be designed to investigate the potential pollutant linkages.

Sources of information include for example;

- Historical maps
- Geological maps and memoirs
- Hydrogeological maps
- Coal authority records
- Local Authority records
- Environment Agency records
- Natural Resources Wales records
- Flintshire Record Office and County Archives
- Records of previous land uses
- Site plans
- Assessment of previous land uses
- Assessment of current land use
- Assessment of proposed land use
- Review of any previous investigations

Each individual site will be considered on its own merits. The individual characteristics and combinations of characteristics will be taken into account, including the significance of the receptors.

Most of the more highly populated areas of Flintshire are found around the same area as industry and it is likely that sites with greater potential risks to receptors will be found in these areas.

Surface waters and groundwater are valuable sources of potable water and are important to the economy. Surface waters also have economical importance and are valuable to leisure and amenity.

Protected ecosystems, wildlife and habitat sites, livestock, crops and wild animals subject to shooting or fishing rights are usually found in rural areas and areas away from settlements and industry. In some cases plants, animals and ecosystems themselves are reliant on the

contaminants in the ground. Some of the protected sites in the lead mining areas of Flintshire have been awarded protection because of the plants that grow there are rare and depend on elevated levels of lead and metals in the soil to thrive.

This has been taken into account and the following order of significance will be applied when considering receptors:

- Humans, pets, buildings, schools, allotments and playgrounds
- Controlled Waters – surface water and groundwater
- Protected ecosystems, crops, wild animals subject to shooting and fishing rights, livestock, and ancient monuments.

9.4 | Detailed inspection of individual sites

When the prioritisation process has been completed and an organised list of sites requiring more detailed inspection has been compiled; investigations to look into the potential risks to receptors can begin.

Detailed investigations and the assessment of risk will be carried out in stages. There will usually be 2 stages.

1. ~~Desk Study (preliminary risk assessment)~~ Preliminary Risk Assessment
2. ~~Intrusive Investigation (detailed risk assessment)~~ Detailed Risk Assessment

The outcome of the assessments carried out at each stage will determine if it necessary to progress to the next stage. For example, if the ~~Desk Study~~ preliminary risk assessment finds that there are likely to be unacceptable levels of contamination present then it will be necessary to carry out an ~~intrusive investigation~~ a detailed risk assessment. If the ~~intrusive investigation~~ detailed risk assessment finds that there are unacceptable risks as a result of the presence of the contamination then it will be necessary to consider whether or not the land will be formally determined as Contaminated Land and it may be necessary to carry out remediation.

Commented [RD98]: Update terminology

Once the detailed inspection is complete the Council will have sufficient understanding of the risks to receptors attributable to the presence of land contamination to be able to make regulatory decisions.

9.4.1 | Desk Study (preliminary risk assessment)

The purpose of this phase of the investigation is to use a variety of sources of information to identify potential contaminants, pathways and receptors so that the intrusive investigation can be designed to investigate the potential pollutant linkages.

Sources of information include for example:

- Historical maps
- Geological maps and memoirs
- Hydrogeological maps
- Coal authority records
- Local Authority records
- Environment Agency records
- Natural Resources Wales records
- Flintshire Record Office and County Archive
- Records of previous land uses
- Site plans
- Assessment of previous land uses
- Assessment of current land use
- Assessment of proposed land use
- Review of any previous investigations

At this stage, a visual inspection of the site will also take place. Features on the surface of the ground can often be indicative of features and areas of contamination present under the surface for example:

- Areas of dead, dying or stressed vegetation
- Presence of plant species tolerant of particular substances
- Discolouration and staining of the ground
- Discolouration of water
- Abandoned structures
- Pipes
- Tanks
- Unusual odours
- Waste heaps

This phase of the investigation also provides an opportunity to identify any constraints or restrictions that may affect subsequent phases for example:

- Access points and emergency access
- Location of drains

- Location of water pipes
- Location of gas mains
- Nature and extent of concrete hard standings
- Old foundations
- Conservation designations such as SSSI, RAMSAR and SAC
- The presence of protected species, geology or archaeology
- Highway limitations or height restrictions
- Occupation of the site

Once the potential contaminants, pathways, receptors and potential pollutant linkages have been identified, these are used to put together a Conceptual Site Model.

The Conceptual Site Model is a compilation of all the potential pollutant linkages. It is a very important part of the land contamination assessment process and although it can be expressed as a table, a diagram or both, it is important that it is presented in a format that can be easily followed through and back through each phase.

It is used to understand and identify potential pollutant linkages and interactions between them, to design the intrusive investigation, to inform the detailed risk assessment and to design and verify remedial works.

9.4.2 | ~~Intrusive Investigation~~ Detailed Inspection

It is expected that an ~~intrusive investigation~~ a Detailed Inspection will be carried out when the preliminary risk assessment has found that there are potential pollutant linkages and potentially unacceptable risks present.

Phase 1 of the assessment must be sufficient to show that the potential risks have been thoroughly understood and this means that a high level of confidence in the preliminary risk assessment is required to demonstrate that any other outcome is acceptable.

The ~~investigation~~ inspection itself will be designed on a site specific basis, taking into account the individual characteristics and relationships between them to look into the potential pollutant linkages and discover whether or not they exist.

Depending on the level of detail and risk assessment required, it may be necessary to carry the investigation out in phases. Some types of contaminants, for example gasses and vapours, are affected by temperature and weather conditions and so some investigations will also need to be carried out over many months to take account of seasonal variations in groundwater levels, air pressure, rainfall and temperature.

The scope of the investigation will depend on the contamination suspected to be present and the scale may range from the collection of a few shallow samples of soil to the continuous analysis and monitoring of potentially explosive vapours in boreholes drilled deep into the bedrock.

Commented [RD99]: Update terminology

Commented [RD100]: Update terminology

In any case, samples will be taken and sent to a suitably accredited laboratory for analysis. Depending on the type of contamination that the investigation **Inspection** is looking for, samples of soil, rock, made ground, water, gasses and vapours may be taken. All samples will be collected using the most appropriate technology or method. In some cases it will be necessary to use specialist equipment such as drilling rigs, probes and analysers to recover samples and install equipment such as monitoring wells. Where necessary, the services of specialist consultants with the equipment necessary will be purchased. The cost and availability of specialist equipment will be taken into account by the Contaminated Land Officer when designing the investigation **Inspection**.

Commented [RD101]: Update terminology

All samples will be handled, transported, stored and preserved correctly so that the quality of the samples and ultimately the results of the analyses performed on them are not compromised.

Commented [RD102]: Update terminology

Land contamination assessments at every stage, including the intrusive investigation stage, will be carried out in accordance with current UK guidance and best practice. See Appendix 2.

Current and past owners and occupiers of land are able to carry out investigations voluntarily and the Contaminated Land Officer will encourage and support voluntary assessments and voluntary acts of remediation.

9.4.3 | Powers of Entry

Privately owned sites that have been identified for further **Detailed** inspection will be discussed with the individual owners or occupiers who will be provided with detailed information and will be kept fully informed by the Contaminated Land Officer at every stage.

Commented [RD103]: Update terminology

In the event that an investigation **Inspection** will not be undertaken voluntarily or a landowner or occupier will not cooperate with the Council or refuses to allow access to their property, the Council will consider using formal means of carrying out the investigation **Inspection**.

Commented [RD104]: Update terminology

Commented [RD105]: Update terminology

The Environment Act 1995 (Section 108), allows the Council statutory Powers of Entry to enter property for the purpose of undertaking visual and intrusive site investigations **this**.

Commented [RD106]: Simplified sentence

The Council will consider using the powers of entry when other reasonable attempts to access a site have been unsuccessful and when,

- There is reasonable ground to suspect or where it is known that a pollutant linkage exists at the site,
- It is likely that the contaminant is present,
- The receptor is actually present or is likely to be present as a result of the current use of the land.

The powers of entry will not be considered when,

- Detailed information concerning the condition of the land has already been provided and the Council can make a decision as to whether or not the land meets the statutory definition of Contaminated Land,

- Information is offered and provided to the Council within a reasonable and specified time.

9.4.4 | Risk Summaries

Once the ~~detailed assessment~~ **Detailed Inspection** of a site is complete, the Council may decide to produce a risk summary to explain the outcome of the assessment and the Councils understanding of the risks to receptors and any other issues associated with the site that are considered to be relevant.

Commented [RD107]: Update terminology

The risk summary will not be a technical document. It will be written so that the Councils understanding of the pollutant linkages and risks associated with the presence of contamination, the potential impacts and likelihood that the impacts may take place, the times over which the impact and risk may take place, an explanation of anything that the Council is uncertain about, an explanation of the context of the risks and an explanation of the potential solutions are set out and can be understood by the layperson.

The Council is unlikely to produce a risk summary where:

- The land will not be determined as ~~statutorily~~ Contaminated Land
- Land for which the prioritisation process has identified detailed inspection will be necessary but which has not yet been assessed
- Contaminated Land determined as such before the Contaminated Land Statutory Guidance 2012 was introduced.

Further information about land which has been ~~investigated~~ **inspected**, formally determined as Contaminated Land and remediated is recorded in the Councils Public Register of Contaminated Land. The Public Register can be viewed free of charge ~~on the Councils contaminated land web pages~~ **at www.flintshire.gov.uk** or by making an appointment with the Contaminated Land Officer.

Commented [RD108]: Update terminology

Commented [RD109]: Update website link

9.4.5 | Special Sites

Land contamination at some sites may be found to be affecting Controlled Waters such as Rivers, Lakes, Streams and Groundwater. These sites are known as Special Sites and will be referred to Natural Resources Wales.

If during any part of the prioritisation or assessment process it becomes apparent that a site may be considered a Special Site, the Council will notify Natural Resources Wales.

If it is the case that the site is considered a Special Site, the Council will make arrangements with Natural Resources Wales for Natural Resources Wales to proceed with the assessment of the site.

9.4.6 | What happens when a contamination affects another County?

Flintshire shares its boundary with Cheshire, Wrexham, Denbighshire and Wirral. It is possible that the prioritisation process will identify sites that are at, cross or are very close to the border with other Counties.

If a detailed inspection of a site at, across or close to the boundary with another Local Authority is found to be necessary, Flintshire County Council will notify the Local Authority responsible for the area in which the affected receptor is located.

In the event that during the course of an assessment, pollutant linkages affecting receptors on both or either side of the boundary are found, Flintshire County Council will notify the Local Authority responsible for the area in which the affected receptor is located.

If it is the case that urgent investigations **assessments** are required, Flintshire County Council will notify the appropriate Local Authority without undue delay.

Commented [RD110]: Update terminology

In any case, the local authorities, including Flintshire County Council will cooperate and agree a mutually acceptable scope for each stage of the investigation **assessment** and where found to be necessary, for remedial works. Each local authority will identify and agree each of their individual responsibilities.

Commented [RD111]: Update terminology

For the purpose of regulation and enforcement, the Local Authority responsible for the area in which the contaminant is present will assume the role of regulator and enforcing authority, in agreement that the arrangement is without prejudice to statutory guidance, legislation and any legal advice received.

The same will apply to sites at, crossing or very close to Flintshire's border with Cheshire and Wirral. Although the Part 2A regimes and Contaminated Land Regulations and statutory guidance are separate for England and Wales the principles and processes are fundamentally and effectively the same.

In the unlikely event that there is a dispute, the Welsh Government will be asked to intervene. In the unlikely event that there is a dispute with a local authority in Cheshire or Wirral, the Welsh Government or the Secretary of State will be asked to intervene.

9.5 | How will the process be reviewed?

The implementation of the Contaminated Land **Inspection** Strategy is a continuous process and over time it is likely that some of the factors that were considered during the prioritisation process will change for some sites.

Commented [RD112]: Insert word

Where any changes are considered relevant to the Strategy and to the priority of the site, they will be taken into account and a review of the prioritisation of the site will be carried out.

The changes that may affect the priority of a site include:

- Proposed or actual changes to the use of the surrounding land
- Proposed changes, including development, to the use of the site
- Unforeseen events such as accidents, spillages, leaks and flooding
- Reports of health effects which could be connected with the site

- Verifiable reports of unusual or abnormal conditions on a site
- New information that comes to light about a site

In accordance with Part2A of the Environmental Protection Act 1990, the Council has a duty to make occasional inspections of the Flintshire area to identify land which may be affected by contamination.

The implementation of the Contaminated Land **Inspection** Strategy, including the prioritisation process is therefore continuous and will be reviewed at regular intervals to ensure that:

Commented [RD113]: Insert word

- Changes to legislation and guidance are taken into account
- The Strategy and procedures comply with legislation
- The prioritisation process is effective
- The objectives of the Strategy are met
- Any improvements that could be made are identified
- A satisfactory level of service is provided to customers

If a review finds that changes are necessary then the Council will publish a revised Contaminated Land **Inspection** Strategy to reflect them.

Commented [RD114]: Insert word

10.0 | When will this take place?

The implementation of the Contaminated Land Inspection Strategy is an on-going process and as new information becomes available or the circumstances at a particular site change, the priority awarded may also change.

During the prioritisation process, many sites will either be developed or investigated voluntarily and the list of prioritised sites will evolve.

For these reasons, it is not possible to state a date by which all sites will have been considered by the prioritisation process, investigated or remediated.

The following table explains how long it is anticipated that the most important stages of the Strategy will take to complete.

Commented [RD115]: Remove table to align with guidance

Table 3: Tasks and Timescales

| What will be done? | By when? |
|--|------------------------|
| Consultation — revision of Contaminated Land Inspection Strategy | March 2019 — Completed |
| Adoption and publication of Strategy | June 2019 |

| | |
|--|---|
| Review Public Register of contaminated Land and publish risk summaries where appropriate | June 2019 |
| Identification of land which may be affected by contamination | On-going |
| Record data on GIS | On-going |
| Review Strategy | March 2019 |
| Report to Cabinet | April 2019 |
| Primary Prioritisation | Under review 2019 |
| Secondary Prioritisation | Under review 2020 |
| Site Investigations | On-going |
| Investigate sites posing imminent risk | On-going |
| Publish risk summaries | Within 3 months of completion of assessment |
| Review strategy and prioritisation process | On-going 2019-2020 |

To assist the planning process and to minimise delays in deciding whether or not planning permission may be granted, the Pollution Control section will respond to every consultations received from the Planning Department **service** within 19 working days.

Complaints alleging land contamination will be responded to within 1 working day **5 working days** and will be investigated in accordance with the Public Protection **Service Community and Business Protection** Enforcement Policy.

Commented [RD116]: Substitute word

Commented [RD117]: Substitute of number

Commented [RD118]: Update name of service area

Appendix 1 | Useful Contacts

| Contaminated Land Strategy Contacts | |
|-------------------------------------|---|
| Principle Contact: | Contaminated Land Officer |
| Address: | Pollution Control Flintshire County Council Ty Dewi Sant Ewloe Flintshire CH5 3FF |
| Telephone: | 01352 703400 |
| Email: | pollution.control@flintshire.gov.uk |

| | |
|-------------------------------------|--|
| Contact: | |
| Address: | Community and Business Protection Pollution Control Section Flintshire County Council Ty Dewi Sant Ewloe Flintshire CH5 3FF |
| Telephone: | 01352 703330 |
| Email: | pollutioncontrol@flintshire.gov.uk |
| Planning Department Contacts | |
| Contact: | Development Control General Enquiries |
| Address: | Flintshire County Council Ty Dewi Sant Ewloe Flintshire CH5 3FF |
| Telephone: | 01352 703234 |
| Contact: | Planning Strategy General Enquiries |
| Address: | Flintshire County Council Ty Dewi Sant Ewloe Flintshire CH5 3FF |
| Telephone: | 01352 703213 |
| Building Control Contacts | |
| Contact: | Building Control General Enquiries |
| Address: | Building Control Flintshire County Council Ty Dewi Sant Mold Flintshire CH5 3FF |
| Telephone: | 01352 703647 |

Appendix 2 | Reference material and Standards

None of the guidance or reference material applicable to land contamination provides a definitive test or value that may be applied to decide when risks are significant or when land may be considered as Contaminated Land.

The following list indicates a number of useful reference documents. The list is not exhaustive.

- British Standards Institution (2011) Investigation of Potentially Contaminated Sites, Code of Practice, BS: 10175:2011
- British Standards Institution (2010) Amendment 2: Code of Practice for Site Investigation, BS5930:1999+
- British Standards Institution (2007) Specification for Topsoil and Requirements for Use, Code of Practice, BS: 3882:2007
- British Standards Institution (2002) Soil Quality, Sampling. Guidance on sampling techniques, Code of Practice BS: 10381:2002
- CIRIA Report C665 (2007) Assessing Risks Posed by Hazardous Ground Gases to Buildings
- CL:AIRE (2011) Definition of Waste: Development Industry Code of Practice.
- Department of the Environment (1995) Industry Profiles
- Environment Agency (2010) Guiding Principles for Land Contamination
- Environment Agency (2004) Model Procedures for the Management of Land Contamination (CLR 11)
- Environment Agency (2006) Remedial Targets Methodology, Hydrogeological Risk Assessment for Land Contamination
- Environment Agency (2010) Petroleum Hydrocarbons in Groundwater: Supplementary Guidance for Hydrogeological Risk Assessment
- Environment Agency (2002) Technical Advice to Third Parties on Pollution of Controlled Waters for Part IIA EPA 1990
- Environment Agency (2005) Science Report P5-080/TR3, The UK Approach for Evaluating Human Health Risks from Petroleum Hydrocarbons for Soil

- Environment Agency (2003) MCERTS Performance Standards for Laboratories Undertaking—Chemical Testing of Soil
- Environment Agency (2009) Science Report SC050021/SR2, Human Health Toxicological Assessment of Contaminants in Soil, Background to the CLEA Model
- Environment Agency (2009) Science Report SC050021/SR3, Updated
- Environment Agency (2009) CLEA Software Handbook Version 1.04
- Environment Agency, National House Building Council (2008) Guidance for the Safe Development of Housing on Land Affected by Contamination, R&D Publication 66:2008
- Health and Safety Executive (1991) Protection of Workers and the General Public during the Development of Contaminated Land
- Health and Safety Executive (2012) Lead and You—Working Safely with Lead
- Raybould JG, Rowan DL & Barry DL, 1995, CIRIA Report C150, Methane Investigation Strategies
- Welsh Assembly Government (2012) Statutory Guidance on Contaminated Land
- Wilson S, Oliver S, Mallett H, Hutchings H & Card G, 2007, CIRIA Report C665, Assessing Risks Posed by Hazardous Ground Gases to Buildings
 - British Standards Institution (2013) Guidance on Investigations for Ground Gas. Permanent Gases and Volatile Organic Compounds (VOCs), BS: 8576:2013

- Welsh Government (2012) Statutory Guidance on Contaminated Land
- Welsh Government (2021) Planning Policy Wales edition 11
- Department of the Environment (1995) Industry Profiles
- Environment Agency (2020) Land Contamination Risk Management Guides 1-4 (as applicable to Wales and Natural Resources Wales specification for the use of these documents in Wales). British Standards Institution (2017) Investigation of Potentially Contaminated Sites, Code of Practice, BS: 10175:2011+A2
- British Standards Institution (2020) Amendment 2: Code of Practice for Site Investigation, BS5930:2015+A1:2020
- CIRIA Report C735 (2014) Good practice on the testing and verification of protection systems for buildings against hazardous ground gases
- CL:AIRE (2020) Professional Guidance: Comparing Soil Contamination Data with a Critical Concentration

- CL:AIRE (2021) Good Practice for Risk Assessment for Coal Mine Gas Emissions
- Department of the Environment (1995) Industry Profiles
- Environment Agency (2010) Guiding Principles for Land Contamination
- Environment Agency (2021) Land Contamination Risk Management (LCRM)
- Environment Agency (2004) Guidance on the management of landfill gas
- Environment Agency (2006) Remedial Targets Methodology, Hydrogeological Risk Assessment for Land Contamination
- Health and Safety Executive (1991) Protection of Workers and the General Public during the Development of Contaminated Land

Commented [RD119]: Updated references list

Glossary

Hydrology is the name given to the study of the movement and distribution of water around the World including, rivers, lakes, streams, seas and oceans. It is also a term used to describe surface water features and the way in which they move.

Hydrogeology is the name given to the study of water beneath the ground in soil and rocks and in aquifers. It is also a term used to describe groundwater features and the way in which water moves under the ground and in aquifers.

Aquifer is the name given to water-bearing layers of rock under the ground from which groundwater can be extracted. Aquifers can be classified according to their properties and how important a source of drinking water they are.

Groundwater is the name given to water found in layers of rock under the ground and in the tiny gaps between particles in the soil, called soil pore spaces.

Tailings are made up of the left over materials after the valuable part of the ore has been separated from the materials with little value.

Spoil heaps are piles of overburden and other wastes. They are not the same as tailings.

Overburden is the term used to describe the rock and soil overlying the ore that is to be mined.

Remediation is the process of addressing unacceptable risks associated with the presence of contamination. ~~The purpose of remediation is to either remove the risks or reduce them.~~

Mae'r dudalen hon yn wag yn bwrpasol

Summary of updates to Contaminated Land Inspection Strategy

| 2017 | 2023 |
|--|--|
| Page 2 | Update address to Ty Dewi Sant |
| Page 2 | Update portfolio name |
| Page 3 | Change 'investigations' to 'assessments' |
| Page 3 (and Pages 49, 50, 51, 52 & 54) | Update terminology relating to stages of assessment - 'desk study' to 'preliminary risk assessment' and 'intrusive investigation' to 'detailed risk assessment'. |
| Page 3 | Amend text to align references to stages of assessment. |
| Page 3 | Update terminology – replace 'remove or reduce those risks to acceptable level' with 'address those risks'. |
| Page 5 | Update terminology – replace 'investigate' with 'inspect' or 'assess' |
| Page 6 | Add bullet point 'To enhance and protect the natural environment and biodiversity' |
| Page 6 | Add bullet point 'To take account of the effect of climate change on the lifespan of remediation measures' |
| Page 6 | Update bullet point with references to current corporate plans and policies. Remove outdated and replace with current. |
| Page 6 | Update terminology. Replace 'investigate' with assess. |
| Page 7 | Add 'where there is reasonable ground to suspect' to 4.1. |
| Page 7 (and Pages 35, 37, 40 & 41) | Update terminology – change Contaminated Land Strategy to Contaminated Land Inspection Strategy. |
| Page 8 (and Pages 41 & 42) | Clarify purpose of Public Register – add 'specific' to 'actions'. |
| Page 8 (and Page 40) | Add reference to (Part 2A of) Environmental Protection Act 1990 in 5.0 |
| Page 8 | Add 'professionally accredited' |

| | |
|---------------------------------|--|
| Page 14 | Update references to corporate plans and policies. Replace outdated with current in 6.0 |
| Page 14 (and Pages 38 & 43) | Update terminology – replace ‘investigate/investigated’ with ‘assess/assessed’. |
| | |
| Page 15 | Update portfolio name on map legend (FCC N Wales context map) |
| | |
| Page 21 | Include reference to NRW |
| Page 21 | Add reference to new legislation – ‘Conservation of Habitats and Species Regulations as the many of the designated environmental conservation sites including the River Dee, are sensitive to the presence of phosphates’. |
| | |
| Page 22 | Amend reference – replace ‘Environment Agency’ with NRW |
| | |
| Page 23 | Updated figures for numbers of listed buildings, historical landscapes, scheduled ancient monuments and conservation areas. |
| | |
| Page 27 | 7.10.2 removed words ‘open cast’. |
| | |
| Page 32 | Updated reference to Deeside Industrial Park to reflect Northern Gateway development in 7.11 |
| | |
| Page 33 | Updated figures to reflect number of planning applications and number of sites assessed through Part 2A. |
| | |
| Page 34 (and Pages 38, 39 & 41) | Updated portfolio name. |
| | |
| Page 55 | Removed Table 3 – timescales neither applicable nor relevant to on-going work or required by Statutory Guidance. |
| | |
| Appendix 1 | Updated addresses to Ty Dewi Sant |
| | |
| Appendix 2 | Updated list of basic references |

Eitem ar gyfer y Rhaglen 4



ENVIRONMENT AND ECONOMY OVERVIEW AND SCRUTINY

| | |
|------------------------|---|
| Date of Meeting | Tuesday, 19 th December 2023 |
| Report Subject | Workplace Recycling Regulations |
| Cabinet Member | Deputy Leader of the Council and Cabinet Member for Streetscene and Regional Transport Strategy |
| Report Author | Chief Officer (Streetscene and Transportation) |
| Type of Report | Operational |

EXECUTIVE SUMMARY

From 6 April 2024, new Welsh Government legislation will come into force requiring all non-domestic premises to separate recyclable materials from all other waste. This will require all workplaces, such as businesses, public sector, and charities to separate their recyclable materials in the same way that our households already do. The aim of this change is to improve the quality and quantity of commercial recycling collected and separated across Wales.

Natural Resources Wales (NRW) will be responsible for making sure that materials are being separated and collected correctly, and that the ban on recycling going to incineration and landfill is being followed. Local authorities will be responsible for making sure that the ban on food waste going to sewer is followed.

This report provides an overview of the new legislative requirements and outlines the potential impact on the Council and actions required to achieve compliance.

RECOMMENDATIONS

| | |
|---|---|
| 1 | That Scrutiny notes the changing legislation and the potential impact on Council services. |
| 2 | That Scrutiny supports the option to explore opportunities to develop non-domestic recycling collections and disposal services. |

REPORT DETAILS

| | |
|------|--|
| 1.00 | WORKPLACE RECYCLING REFORMS |
| 1.01 | <p><u>Background and Context</u> From 6 April 2024, new Welsh Government legislation will come into force requiring all non-domestic premises to separate recyclable materials from all other waste. This will require all workplaces, such as businesses, public sector, and charities to separate their recyclable materials in the same way that our households already do. The aim of this change is to improve the quality and quantity of commercial recycling collected and separated across Wales.</p> |
| 1.02 | <p>There are three sets of regulations that will be implemented, they set out:</p> <p>1) The separation requirements:</p> <ul style="list-style-type: none"> • Require the occupiers of non-domestic premises (including businesses, charities and public sector bodies) to present specified recyclable materials for collection separately from each other and separate from residual waste; • Require those that collect the specified recyclable materials to collect them separately from other recyclable materials; and • Require those separately collected recyclable materials to be kept separate and not mixed. <p>2) Incineration and landfill bans, specifically to:</p> <ul style="list-style-type: none"> • Ban specified separately collected recyclable materials from non-domestic and domestic premises from incineration and landfill; • Ban all wood waste from non-domestic and domestic premises to landfill; and <p>3) A ban on the disposal of food waste to sewer, specifically to:</p> <ul style="list-style-type: none"> • Commence a ban on disposal of food waste to sewer from non-domestic premises. |
| 1.03 | <p>The legislation sets out the recyclable materials that will need to be separated, which are much like those currently done in domestic properties. These all need to be separated for collection by the customer and it is the responsibility of the contractor to collect them separately and keep them separate after collection. The waste types are:</p> <ul style="list-style-type: none"> • glass • paper and card • metal, plastic, and cartons and other fibre-plastic composite packaging of a similar composition • food waste from premises producing 5kg of food waste and more/week. • unsold small waste electrical and electronic equipment (sWEEE) • unsold textiles |
| 1.04 | <p>Natural Resources Wales (NRW) will be responsible for making sure that materials are being separated and collected correctly, and that the ban on recycling going to incineration and landfill is being followed. Local authorities will be responsible for making sure that the ban on food waste going to sewer is followed.</p> |

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| 1.05 | <p>The law applies to all businesses, charities and public sector organisations will need to separate their waste. This includes:</p> <ul style="list-style-type: none"> • Agricultural premises • Hospitality and tourism - restaurants, bars, pubs, bed and breakfasts, hotels, campsites and caravan parks, holiday accommodation, and licensed premises • Showgrounds • Service stations and petrol stations • Entertainment and sports venues including leisure centres • Transport - bus stations, railway stations, seaports, airports, and heliports • Care and nursing homes • Pharmacies, GP surgeries, dental surgeries, and other primary care settings • Construction sites • Factories and warehouses • Car garages • Education - universities, colleges, and schools • Garden centres • Heritage buildings • Libraries and museums • Offices and workshops • Places of worship • Prisons • Outdoor markets and festivals <p>The only workplaces that have an additional two years to comply is NHS hospitals and private hospitals.</p> |
| 1.06 | <p><u>Communications</u></p> <p>Welsh Government have begun their national campaign to raise awareness of the upcoming changes to businesses. This campaign includes:</p> <p>Phase 1: August – September: warm up campaign (complete)</p> <ul style="list-style-type: none"> • Launch of website – www.gov.wales/workplacerecycling • General guidance published. • Explainer film produced. • Digital and social campaign across Facebook, Twitter, LinkedIn, and Google Search • Stakeholder bulletin issued with links to communication assets here: Welsh Government Communications Services Digital Toolkit <p>Phase 2: October - November: 6-month countdown</p> <ul style="list-style-type: none"> • National campaign live week commencing 9th October with advertising on TV, radio, digital and social. • Direct mail to all workplaces • Assets available in range of languages and accessible formats • WRAP led webinars with workplaces underway. • Survey with businesses to check awareness, understanding and support. |

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| | <p>Phase 3: January – March: get ready.</p> <ul style="list-style-type: none"> • Next burst of national campaign activity to mark 3 months to go to include TV, radio, out of home, digital and social advertising. • More specific targeting for sectors including webinars. • Engagement through PR and stakeholder communications • Reminder direct mail to all workplaces <p>Phase 4: April onwards: law has now changed.</p> <ul style="list-style-type: none"> • National advertising continues. • Continued engagement through PR and stakeholder communications. • Business and public survey post-campaign to measure awareness, understanding and support. <p>As a Council, we will be expected to support and promote the national campaign to raise awareness of the upcoming legislative changes using the tool kit provided.</p> |
| 1.07 | <p><u>Trade Waste Collection Services</u></p> <p>Section 47 of the Environmental Protection Act 1990 states <i>A waste collection authority may, at the request of any person, supply him with receptacles for commercial or industrial waste which he has requested the authority to arrange to collect and shall make a reasonable charge for any receptacle supplied unless in the case of a receptacle for commercial waste the authority considers it appropriate not to make a charge.</i> This stipulates that there is a legal duty on the local authority to organise a waste and recycling collection service to any business, on request.</p> <p>We currently provide a business waste collection service to our public buildings, schools, and charities (on request). All businesses receive a residual waste collection service, which is chargeable, and a recycling collection service, which is free.</p> <p>Those businesses currently in receipt of our collection services will have to comply with the new legislation too and adapt to a revised service model and potentially liable for the associated charges. Work is ongoing to model the potential future charges to ensure full cost recovery.</p> <p>Currently, we are not permitted to accept trade waste / commercial waste at any of our household recycling centres (HRCs); however, work is ongoing to explore the option of designating one site for trade waste in the future on a chargeable basis and ensure full cost recovery.</p> |
| 1.08 | <p>The early indications are that a charge may be levied for any service provided to achieve full cost recovery; however, the business base and demand for collections is not yet fully established so financial support to prepare for increased service demand is required.</p> <p>Welsh Government capital funding may be available to support with the procurement of infrastructure, vehicles etc., The funding is only considered contingency funding and is only available in instances where additional collection capacity is being generated and not for subsidising an existing business base. This funding will not extend to containers as it is expected waste producers will fund these through hiring or purchasing the receptacles.</p> |

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| 1.09 | <p><u>Opportunities</u></p> <p>With the introduction of the new legislation, there may be an opportunity to review the provision of recycling services for businesses, such as extending our trade waste collection service on a chargeable basis.</p> <p>One other option currently being explored could involve designating a single waste disposal facility (i.e. HRC site) for the receipt of other chargeable recyclable materials (wood, soil, rubble, green waste etc) from businesses.</p> <p>This would require additional back-office support to ensure compliance with waste duty of care for producing, carrying, keeping, disposing of, treating, importing, or having control of waste in England or Wales. The law requires anyone dealing with waste to keep it safe, make sure it's dealt with responsibly and only given to businesses authorised to take it. This means that the environmental permit for the HRC site would also need to be varied, a process that could take between 6-12 months. The intention is to build this option into the future Resource and Waste Strategy.</p> |
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| 2.00 RESOURCE IMPLICATIONS | |
| 2.01 | Local Partnerships and WRAP Cymru are currently commissioned by Welsh Government to support us with several workstreams relating to our Resource and Waste Strategy. The preparedness and implementation of workplace recycling services is one of those workstreams and work will commence later this year. |
| 2.02 | Modelling work on the potential charges for full cost recovery is ongoing and will depend on the demand for collections and resources required to deliver. |
| 2.03 | Charges for the collection services and containers will need to be included in the annual review of fees and charges. |

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| 3.00 IMPACT ASSESSMENT AND RISK MANAGEMENT | |
| 3.01 | Commercial waste collectors are preparing for the legislative change, and it is likely that local authorities will become a “collector of last resort” meaning that only non-profitable or non-viable services requests will be made to the authority e.g. more difficult to access locations or rural areas. |
| 3.02 | Any waste collected from businesses will be included in the Local Authority Recovery Targets (LARTs). If the recycling yield from businesses is low, then this may adversely affect the authority’s performance. |
| 3.03 | Capacity with current waste disposal contractors may be compromised if collected tonnages increase significantly, which may in turn require local authorities to support and provide collection services as a last resort. |
| 3.04 | Waste generated from businesses could find its way into the household collection service (i.e. business owner takes the waste home), town centre / local litter bins or be fly-tipped if businesses seek to avoid complying with the new legislation. |

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| 3.05 | Should some, or all, of the contingency assets funded through this mechanism end up being utilised to generate income for the LA then Welsh Government will look to recover the funding to a degree that is proportionate to their use and that minimises the risk of any Subsidy Control issues arising. |
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| 4.00 | CONSULTATIONS REQUIRED/CARRIED OUT |
| 4.01 | Deputy Leader of the Council and Cabinet Member for Streetscene and Regional Transport Strategy |
| 4.02 | WRAP & Local Partnerships |
| 4.03 | Existing business waste customers |
| 4.04 | Natural Resources Wales |
| 4.05 | Employees and Trade Unions |
| 4.06 | Environment & Economy Overview & Scrutiny Committee (this report) |

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| 5.00 | APPENDICES |
| 5.01 | N/A |

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| 6.00 | LIST OF ACCESSIBLE BACKGROUND DOCUMENTS |
| 6.01 | Workplace Recycling Regulations website www.gov.wales/workplacerecycling |

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| 7.00 | CONTACT OFFICER DETAILS |
| 7.01 | Contact Officer: Ruth Tulley, Regulatory Services Manager Telephone: 01352 704796 E-mail: ruth.tulley@flintshire.gov.uk |

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| 8.00 | GLOSSARY OF TERMS |
| 8.01 | N/A |

Eitem ar gyfer y Rhaglen 5



ENVIRONMENT AND ECONOMY OVERVIEW AND SCRUTINY

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| Date of Meeting | Tuesday, 19 th December 2023 |
| Report Subject | Unsafe Memorials in Flintshire Cemeteries |
| Cabinet Member | Deputy Leader of the Council and Cabinet Member for Streetscene and Regional Transport Strategy |
| Report Author | Chief Officer (Streetscene & Transportation) |
| Type of Report | Operational |

EXECUTIVE SUMMARY

Bereavement Services currently manage 15 cemeteries and 8 closed church yards located throughout Flintshire. Within these cemeteries, the council undertakes approximately 400 interments annually, both full body and cremated remains.

The service is responsible for approximately 20,000 memorials of varying shapes and sizes. To comply with the Local Authorities Cemetery Order 1977 (LACO) and under the Ministry of Justice guidance on “Managing the safety of Burial Ground Memorials”, Flintshire County Council (FCC) has a duty to maintain its burial grounds in good and safe order.

To ensure compliance, we currently test all memorial gravestones (“memorials”) within our cemeteries once every three years to ensure safety and stability. Unsafe memorials are gravestones that have become loose or unstable and pose a risk of injury to visitors or our employees and any memorials that fail the testing process are temporarily supported by wooden stakes and the grave owners are contacted (where known) to request that they undertake a permanent repair.

A combination of the absence of records and/or absence of surviving family members willing to undertake the repairs and maintenance on memorials has resulted in approximately 700 memorials within Flintshire’s cemeteries being deemed to be structurally unsafe. Whilst these memorials continue to be supported by wooden stakes, a permanent solution has yet to be implemented. In addition to unsafe memorials, kerb sets within the council’s older cemeteries are also falling into disrepair, resulting in potential trip hazards.

The purpose of this report is to seek support and approval for an alternative and permanent method of making the memorials safe, if the memorial is not repaired by the registered grave owner, as well as the making safe of any kerb sets that have become detached from the main structure of the grave.

RECOMMENDATIONS

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| 1 | That Scrutiny supports the proposal to adopt the “digging in” method to stabilise those memorials deemed to be structurally unsafe when the grave owners cannot be traced. This approach will address the ongoing health and safety risk associated with unsafe memorials that only currently receive a temporary short-term fix. |
| 2 | That Scrutiny supports the proposal to address unsafe kerb sets by repositioning all kerb sections within the structure of the grave – either above or below the surface depending on the presence of a concrete slab foundation. |

REPORT DETAILS

| 1.00 | EXPLAINING THE BACKGROUND TO SAFETY CONCERNS FOR MEMORIALS IN FLINTSHIRE CEMETERIES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--------------------------|---|----------|--------------------|---------|----------------------|--------------------------|------------------------|---------|------------------------|---------------------|--------------------|----------------------|---------------------|-----------------|-----------|-----------------|---------------------|---------------|----------------------|---------------|--|----------|--|--------------------|--|------------|--|------------|--|-------|--|----------|--|
| 1.01 | Bereavement Services currently manage 15 cemeteries and 8 closed church yards located throughout Flintshire. In addition, the service also has 2 gardens of remembrance located at Hawarden and Kelsterton, a dedicated child and baby memorial at Kelsterton cemetery and a woodland / natural burial area also located at Kelsterton cemetery. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1.02 | <p>Within the cemeteries, the council undertakes approximately 400 interments annually, both full body and cremated remains. A list of burial locations has been provided below for information: -</p> <table border="1"> <thead> <tr> <th>Cemetery</th> <th>Closed Churchyards</th> </tr> </thead> <tbody> <tr> <td>Bagillt</td> <td>Ddol Chapel, Afonwen</td> </tr> <tr> <td>Bryn Road, Connah’s Quay</td> <td>Ffordd y Llan, Cilcain</td> </tr> <tr> <td>Buckley</td> <td>Old Churchyard, Halkyn</td> </tr> <tr> <td>Flint - London Road</td> <td>St James, Holywell</td> </tr> <tr> <td>Flint - Northop Road</td> <td>St Peters, Holywell</td> </tr> <tr> <td>Greenfield No 1</td> <td>Trelawnyd</td> </tr> <tr> <td>Greenfield No 2</td> <td>Tyddyn Street, Mold</td> </tr> <tr> <td>Hawarden No 1</td> <td>Vownog Road, Sychdyn</td> </tr> <tr> <td>Hawarden No 2</td> <td></td> </tr> <tr> <td>Holywell</td> <td></td> </tr> <tr> <td>Hope - Bryn y Grog</td> <td></td> </tr> <tr> <td>Hope - Old</td> <td></td> </tr> <tr> <td>Kelsterton</td> <td></td> </tr> <tr> <td>Rhewl</td> <td></td> </tr> <tr> <td>Treuddyn</td> <td></td> </tr> </tbody> </table> | Cemetery | Closed Churchyards | Bagillt | Ddol Chapel, Afonwen | Bryn Road, Connah’s Quay | Ffordd y Llan, Cilcain | Buckley | Old Churchyard, Halkyn | Flint - London Road | St James, Holywell | Flint - Northop Road | St Peters, Holywell | Greenfield No 1 | Trelawnyd | Greenfield No 2 | Tyddyn Street, Mold | Hawarden No 1 | Vownog Road, Sychdyn | Hawarden No 2 | | Holywell | | Hope - Bryn y Grog | | Hope - Old | | Kelsterton | | Rhewl | | Treuddyn | |
| Cemetery | Closed Churchyards | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bagillt | Ddol Chapel, Afonwen | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bryn Road, Connah’s Quay | Ffordd y Llan, Cilcain | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Buckley | Old Churchyard, Halkyn | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Flint - London Road | St James, Holywell | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Flint - Northop Road | St Peters, Holywell | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Greenfield No 1 | Trelawnyd | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Greenfield No 2 | Tyddyn Street, Mold | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hawarden No 1 | Vownog Road, Sychdyn | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hawarden No 2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Holywell | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hope - Bryn y Grog | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hope - Old | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Kelsterton | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Rhewl | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Treuddyn | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1.03 | The management of cemeteries is, in the main, covered by the Local Authorities Cemetery Order 1977 (LACO). Whilst there is no statutory duty placed upon the authority to provide burial space for any specific community or religious group, if the council exercise its powers to provide burial space, the LACO and the Ministry of Justice guidance on “Managing the Safety of Burial Ground | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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| | <p>Memorials” places a duty upon the authority to maintain its burial grounds in a good and safe condition. According to the Ministry of Justice, the risk of any injury from an unsafe memorial is extremely low, but it should be managed in a sensible and proportionate way.</p> |
| 1.04 | <p>Some of the factors that can cause memorials to become unsafe include weathering, vandalism, ground movement, poor installation historically, and age. Burial ground operators have a legal responsibility to ensure the safety of their premises, and they can inspect and test memorials for stability using various methods. However, they should also act with sensitivity and respect towards the bereaved families and the historical and environmental value of the cemeteries.</p> |
| 1.05 | <p>In 2001, the Health and Safety Executive (HSE) launched a campaign named “Be Respectful, Be Safe” to try to improve the safety of cemeteries and churchyards following the recording of 21 serious accidents, including seven fatalities involving unsafe memorials over a 10-year period across the UK. This placed a requirement upon local authorities to regularly inspect all memorials under their responsibility, for which a minimum inspection standard of once every five years was stipulated.</p> |
| 1.06 | <p>To ensure compliance, we currently test all memorial gravestones (“memorials”) within our cemeteries once every three years to ensure safety and stability. If a memorial is found to be unsafe, Bereavement Services will try to contact the owner or the next of kin and ask them to arrange for repairs. If the owner cannot be traced or does not respond, we can take temporary measures to make the memorial safe, such as laying it flat, supporting it with wooden stakes or cordoning off the area. Currently, we have taken the approach of wooden stakes, as it was felt that laying the gravestone flat or cordoning it off would introduce additional risks, such as slips, trips and falls.</p> <p>A combination of the absence of records and/or absence of surviving family members willing to undertake the repairs and maintenance on memorials has resulted in approximately 700 memorials within Flintshire’s cemeteries being deemed to be structurally unsafe. Whilst these memorials continue to be supported by wooden stakes, a permanent solution has yet to be implemented. In addition to unsafe memorials, kerb sets within the council’s older cemeteries are also falling into disrepair, resulting in potential trip hazards.</p> |
| 1.07 | <p>In addition to the above requirement for routine inspection and testing, the National Association of Memorial Masons (NAMM) is an organisation that represents those involved in the memorial masonry industry and provides training and guidance on memorial masonry matters, such as the NAMM Code of Working Practice and the BS8415 Standard, which is recognised as the industry accepted standard for memorials in the UK.</p> <p>The BS8415 is a British Standard that specifies the minimum structural design criteria and performance requirements for new and reinstated memorials within burial grounds and memorial sites. It also applies to existing memorials that are repaired or re-fixed. The standard was first introduced in 2005 and has been revised several times, most recently in 2018. The aim of the standard is to ensure that the memorials are of good lasting quality and fit for purpose, requiring as little structural maintenance as possible.</p> |

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| | <p>The standard is intended to support the memorial mason in complying with current guidance and to provide the customer with a memorial that meets their expectations and respects the dignity of the deceased. It also introduced a requirement in 2005 for all new or refixed gravestones to possess a ground anchor system that complies with the British Standard BS8415. The purpose of the ground anchor system is to prevent a memorial from suddenly toppling over. Although a memorial may still become loose over time, the headstone will not fail its safety inspection as the anchor system will prevent the stone from falling.</p> |
| 1.08 | <p>Whilst all headstone memorials installed after 2005 should no longer be of concern in terms of stability, we do need to be mindful that any memorial installed prior to this date will <u>not</u> possess a ground anchor system and may therefore pose a risk of toppling and potentially result in serious or catastrophic consequences.</p> |
| 1.09 | <p><u>Memorial Safety Programme</u></p> <p><u>Testing:</u></p> <p>Within the 15 cemeteries and 8 closed churchyards managed by the Council, there are approximately 20,000 memorials of varying shapes, sizes, condition and age.</p> <p>To comply with the duties stipulated within the LACO, the council adopted a memorial safety programme in 2008. Although the HSE recommends a minimum requirement for inspection once every five years, given the potential risk to the public associated with unsafe memorials, the council chose, at that time, to implement a more stringent testing regime with each memorial being both visually and hand tested for stability once every three years.</p> <p><u>Process of making safe & repair:</u></p> <p>Those memorials that fail the testing process and are deemed to be unsafe, are then temporarily supported via the installation of wooden stakes placed at the rear of the headstone to prevent them from toppling, which are then banded (secured) to the memorial.</p> <p>Every effort is then made to contact the registered grave / memorial owner to inform them that the headstone has been tested and deemed to be unsafe and they are then requested to arrange a permanent repair to the headstone.</p> <p>Given that the majority of the stability test failures involve older memorials, we are finding more and more often that the registered grave / memorial owner cannot be traced or the named owner has either been interred within the identified grave or is of an age whereby the organising of a repair may not be possible.</p> <p>In such instances, the headstone will remain staked indefinitely; however, it is important to note that 'staking' is only a temporary repair and will not permanently address the highlighted health and safety risk – especially given the potential for wooden stakes to degrade within the ground over time.</p> |

1.10 To provide an indication of the scale of the problem in Flintshire, the following table has been created to show the number of memorials within our cemeteries that are currently supported with wooden stakes.

| Cemetery | Memorials currently staked for over 12 months |
|----------------------|---|
| Buckley | 26 |
| Hawarden No 2 | 65 |
| Bagillt | 26 |
| Flint - London Road | 156 |
| Flint – Northop Road | 10 |
| Connahs Quay | 108 |
| Greenfield No 1 | 24 |
| Hawarden No 1 | 28 |
| Hope Old | 30 |
| Holywell | 64 |
| Hope - Bryn y Grog | 85 |
| Rhewl | 20 |
| Kelsterton | 0 |
| Treuddyn | 8 |
| Greenfield No 2 | 0 |
| TOTAL: | 650 |

** The above table does not include Monolith (one-piece) Memorials which are often reported as potentially being unsafe. Whilst they may be leaning away from the perpendicular and may visually cause concern, such memorials in the main show no movement when tested given the continuation of the headstone below ground level, thus acting as an anchor system. They may, however, require straightening for aesthetic purposes.*

1.11 To address the risk of unsafe memorials, it is essential that the Council takes action to remove the hazard and prevent an instance of harm occurring, both to the public and the council’s own workforce. Whilst the most obvious solution for repairing the council’s unaddressed defective headstones (implemented pre-2008) would be to implement a ground anchor system in accordance with British Standard BS8415, this option would be considered cost prohibitive given the scale of the existing problem and current financial climate. Therefore, only the following options were considered and evaluated: -

Option 1: Removal of unsafe memorials.

All headstones that are deemed to be unsafe and cannot be repaired following liaison with the registered grave owner (when known and where possible) could be removed from the cemetery, thus addressing the health and safety risk. That said, not only could this approach be deemed as insensitive and disrespectful to the deceased, but it could also result in a high reputational risk for the authority, as well as implications for the storage and/or disposal of removed headstones.

For the reasons stipulated above, this approach is not considered to be an acceptable solution.

Option 2: Laying flat unsafe memorials.

All headstones that are deemed to be unsafe and cannot be repaired following liaison with the registered grave owner (when known and where possible) could be laid flat on the ground or on top of the existing burial plot. Whilst again, this approach could be deemed as insensitive and disrespectful to the deceased and could result in a high reputational risk for the authority, it could also introduce a new safety risk for slips, trips and falls within the cemeteries.

For the reasons stipulated above, this approach is not considered to be an acceptable option.

Option 3: Digging In Method

All headstones that are deemed to be unsafe and cannot be repaired following liaison with the registered grave owner (when known and where possible) could be addressed via the “digging in” method. The digging in method is a process whereby the memorial is moved from its location at the head of the grave, a hole approximately 18 inches in depth is dug and part of the headstone including its “shoe” is buried in the hole. The hole is then backfilled with excavated soil, thus making the memorial stable again. This method allows the majority if not all of the inscriptions on the headstone to be visible whilst creating a proven natural ground anchor system, similar to that utilised by Monolith (one-piece) Memorials.

This approach is considered to be the most reasonable option and can be easily achieved at a relatively low cost and minimal reputational risk to the authority.

1.12

Broken Kerb Sets

In addition to the risk caused by unsafe headstones, kerb sets (lengths of stone that surround the perimeter of memorials) are also posing a safety concern within the council’s older cemeteries. Whilst the installation of kerb sets is no longer permitted practice in Flintshire, kerb sets were previously introduced in those cemeteries that were not designated “lawned cemeteries.”

Kerb sets are contained within the following council cemeteries: -

- Flint Northop Road
- Hope old cemetery
- Holywell
- Connah’s Quay
- Greenfield No 1 cemetery
- Hawarden No 1 cemetery
- Rhewl

Given the age of the memorials where kerb sets have been installed, it is understandable that many of the graves are no longer tended by family members and, as such, a high percentage of kerb sets have sadly fallen into a state of disrepair or are broken.

In many instances, the edges of the kerb sets are becoming separated from the main structure of the memorial and are falling into the walkways between graves and partially sinking into the ground, resulting in a trip hazard for visitors and cemetery staff, which may not be easily observed.

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| 1.13 | <p>Whilst the exact number of graves with unsafe kerb sets has yet to be accurately determined, we are aware that it is a substantial problem. It is therefore essential that the Council takes action to remove the hazard and prevent an instance of harm occurring, both to the public and the council's own workforce. Unlike headstones, the method to address unsafe kerb sets is slightly more complex given the appropriate method of remedy will be dependent upon whether the grave in question has a concrete slab in situ.</p> <p>The following options were considered for further investigation: -</p> <p><u>Option 1: Removal of unsafe kerb sets.</u></p> <p>All kerb sets that are deemed to be unsafe and cannot be repaired following liaison with the registered grave owner (when known and where possible) could be removed from the cemetery, which would address the health and safety risk. However, this approach could be deemed to be insensitive and disrespectful to the deceased and could result in a reputational risk for the authority. Consideration would also need to be given to the costs, storage and/or disposal of the defective kerb sets.</p> <p>For the reasons stipulated above, this approach is not considered to be an acceptable option.</p> <p><u>Option 2: Unsafe kerb sets on concrete slab foundation graves.</u></p> <p>In the event that a kerb set has become detached from the concrete slab foundation and cannot be repaired following liaison with the registered grave owner (when known and where possible), the kerb sets could be laid centrally on top of the slab, which would address the health and safety risk whilst also preserving the structure of the grave in the event that a relative may wish to undertake a repair at a later date.</p> <p>This approach is considered to be a reasonable solution for concrete foundation graves and can be easily achieved at relatively low cost and with minimal reputational risk to the authority.</p> <p><u>Option 3: Proposed mitigation for earth graves (no concrete foundation).</u></p> <p>In the event that a kerb set has become detached from the concrete slab foundation and cannot be repaired following liaison with the registered grave owner (when known and where possible), the kerb sets could be buried six inches below the surface of the grave, which would address the health and safety risk whilst also preserving the structure of the grave in the event that a relative may wish to undertake a repair at a later date.</p> <p>This approach is considered to be a reasonable solution for earth graves and can be easily achieved at relatively low cost and with minimal reputational risk to the authority.</p> |
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| 2.00 | RESOURCE IMPLICATIONS |
| 2.01 | Revenue: There could be potential revenue implications for the proposals. |

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| | Should approval not be given for the “digging in” method, then each of those memorials currently supported with wooden stakes would require re-staking every two to three years to ensure that the stakes were still fit for purpose and hadn’t degraded. The current cost for having memorials staked via the appointed contract including materials is £9 per memorial. Therefore, the current revenue costs would be approximately £5,850.00 every two to three years. This cost will increase as more unsafe headstones are identified and not repaired by family members or next of kin. |
| 2.02 | Capital: There are no implications for the approved capital programme for either the current financial year or for future financial years. |
| 2.03 | Human Resources: In order to address the number of memorials and broken kerb sets currently identified, a team consisting of two operatives (Streetscene Level 2 and Streetscene Level 1) would need to be established to deal with the current backlog. It is estimated that this would take approximately 4 months to complete at a cost of approximately £17,000. Once the backlog has been cleared, any further identified unsafe memorials would be dealt with by the existing Bereavement Services team within current resource allocations. |
| 2.04 | Some initial equipment purchase may be required, such as lifting gantry for heavier memorials at a cost of approximately £1k, and “porters” trolleys at a cost of approximately £100 each, which could be purchased from within the existing revenue budget allocated for plant and equipment. |

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| 3.00 | IMPACT ASSESSMENT AND RISK MANAGEMENT |
| 3.01 | Impact assessment is not required as this is an operational report, which seeks to remove an existing health and safety risk within the councils’ cemeteries. The purpose of bringing the report to Cabinet is due to the sensitivity around memorials and potential reputational risks. |
| 3.02 | The lack of support or approval for either recommendation would potentially have a major reputational risk to the authority if it was deemed to have not taken appropriate action to address a known health and safety risk. |
| 3.03 | Whilst our current approach addresses the identified risk on a temporary basis and is currently in line with the service’s risk assessments, support and approval of the stated recommendations would remove this risk. |

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| 4.00 | CONSULTATIONS REQUIRED/CARRIED OUT |
| 4.01 | Consultation will be carried out with the local elected members and town / community councils, subject to approval. |
| 4.02 | A communications plan will need to be drafted and delivered, subject to approval and would involve publication and notification of the change in approach being publicised on the authority’s website, social media platforms and within each cemetery. |

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| 5.00 | APPENDICES |
| 5.01 | None. |

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| 6.00 | LIST OF ACCESSIBLE BACKGROUND DOCUMENTS |
| 6.01 | None. |

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| 7.00 | CONTACT OFFICER DETAILS |
| 7.01 | <p>Contact Officer: Anthony Stanford, Transportation Manager Telephone: 01352 704817 E-mail: anthony.stanford@flintshire.gov.uk</p> <p>Contact Officer: Richard Blake, Bereavement Services Manager Telephone: 01352 703360 E-Mail: richard.blake@flintshire.gov.uk</p> |

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| 8.00 | GLOSSARY OF TERMS |
| 8.01 | <ol style="list-style-type: none"> (1) The National Association of Memorial Masons (NAMM) –recognised industry body for the acceptable standard for which memorials should be fixed in the UK. (2) Local Authorities Cemeteries Order 1977 (LACO) - gives burial authorities wide ranging powers of management to do what is considered necessary or desirable for the management, regulation and control of the cemeteries. (3) Ministry of Justice Guidance on “Managing the safety of Burial Ground Memorials – sets out a risk-based approach to help operators develop a proportionate approach to managing the risks associated with memorials that is based on good practice. (4) Kerb set – A Grave Space that has a Headstone and stone or granite borders around its edges. The centre of these graves and also have chippings placed in them or sometimes have a solid granite or marble plinth. (5) Monolith Memorial – A one piece memorial with approximately one third of its height being sunk into the ground for stability. (6) Digging in method - process whereby the memorial is moved from its location at the head of the grave, a hole approximately 18 inches in depth is dug and the memorial including its shoe is placed in the hole. The hole is then backfilled, thus making the memorial stable again. (7) Laying flat memorials – Headstones that are laid flat on the surface of the grave due to concerns of structural stability. (8) Concrete slab foundation graves – burial plots that possess a concrete slab foundation for which a memorial is mounted. |

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| | (9) Natural earth graves – burial plots that do not have a concrete slab foundation but consist of natural earth only. |
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Eitem ar gyfer y Rhaglen 6



ENVIRONMENT & ECONOMY OVERVIEW & SCRUTING COMMITTEE

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| Date of Meeting | Tuesday 19 th December 2023 |
| Report Subject | Wales Coast Path Access Barrier Review Update |
| Cabinet Member | Cabinet Member for Climate Change and Economy |
| Report Author | Chief Officer (Planning, Environment and Economy) |
| Type of Report | Operational |

EXECUTIVE SUMMARY

Flintshire County Council appointed a consultant to undertake a review of the existing access control measures in place on a section of the Wales Coast Path (WCP) between Chester and Queensferry.

The recommendations from the consultant study were discussed at Flintshire Local Access Forum, Environment Overview & Scrutiny Committee and Cabinet in July 2023. The resolution of Cabinet was to gain further feedback from users and stakeholders when implementation designs were proposed.

A plan and specification were drawn up for access points to the Wales Coast Path around the Saltney footbridge area and sent out for feedback during October. A summary of responses is detailed.

The option presented highlights the opportunities and risks to the Authority.

RECOMMENDATIONS

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| 1. | That Members note the feedback on the proposed access improvements and the potential risks to the Authority. |
| 2. | Members agree to the proposed improvements to the access points in the Saltney Footbridge areas detailed in the plan and specification. |

REPORT DETAILS

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| 1.00 | EXPLAINING THE ACCESS BARRIER REVIEW UPDATE |
| 1.01 | <p>Flintshire County Council appointed a consultant to undertake a review of the existing access control measures in place on a section of the Wales Coast Path (WCP) between Chester and Queensferry.</p> <p>The study reviewed the background context, legislations, barrier dimensions and user constraints in order to put forward recommendations for all 14 access points from Chester to Deeside.</p> |
| 1.02 | <p>The access control barriers are in place to protect users of the WCP against the risks posed by illegal vehicle access to the path, however, the existing barriers can cause access issues to users of some mobility scooters & unconventional cycles. Recommendations to improve access are balanced against any impact of such amendments on illegal vehicle accessibility.</p> |
| 1.03 | <p>It is important to note that improving access for all legitimate users of the path will necessitate the widening of existing openings or removing the barriers altogether, which in turn reduces the effectiveness of the access control measure in preventing illegal access.</p> <p>As such, it will not be possible for access for all legitimate users to be improved entirely whilst still retaining the same level of access control to prevent use for vehicles such as cars & motorcycles.</p> |
| 1.04 | <p>North Wales Police have highlighted significant concerns regarding the removal of the barriers, however they understand the need for adjustments. Their concerns are for the safety of the public and to prevent the use of off-road motorbikes along the coastal path. They report seeing an increase in "County Lines" (drug selling) along the coast path which they are working on methods to prevent. They also state that the barriers are reducing/preventing any accidents by slowing pedal cycles/preventing motor bikes from accessing the area. Therefore, they are requesting that they are not removed and that they are adjusted to enable any disability groups access to the Coastal Path but also stopping any illegal bikes.</p> |
| 1.05 | <p>The Equality Act 2010 provides legal protection to people from discrimination based on a range of characteristics including disability, age, race, sexual orientation.</p> <p>The Act requires service providers to make reasonable adjustments for disabled persons so as they are not disadvantaged either directly or indirectly from using services and facilities when compared to those without disabilities.</p> |
| 1.06 | <p>In 2022 Flintshire Legal Team advised that each individual public path should be considered separately with regard to the necessity of installing a barrier in terms of its own community users and a balance sought between the requirement for barriers on a right of way (e.g. in terms of public safety) whilst considering the needs of certain disability access</p> |

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| | within that community. The Council only has to do what is reasonable. The Local Authority is encouraged to consult with the local disabled people in the area to decide what reasonable adjustments may be needed in that area. |
| 1.07 | Following the recommendations of the consultant's study, and endorsement at Cabinet a plan and specification was drawn up to improve accessibility in the Saltney footbridge area by amending the current access point to include a radar lockable gate, (Appendix 1). Feedback was invited on this scheme from the community, disabled users and stakeholders. (Appendix 2) |
| 1.08 | The scheme does allow for improved access for those with a Radar key who currently cannot access the A frame barriers and it retains control of illegal ingress of motorbikes. However, feedback indicates this option will still present access problems in terms of key operation and manoeuvrability. Other issues highlighted include the ease in which non-disabled people can obtain a radar key and if the gate was left open or the lock was vandalised. |
| 1.09 | The proposed scheme, once installed, will be reviewed after six months to understand its effectiveness for control of illegal access and problems encountered by legitimate users. |
| 1.10 | An Equalities Impact Assessment has been carried out on the proposed scheme. (Appendix 3) |

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| 2.00 | RESOURCE IMPLICATIONS |
| 2.01 | The Review was funded by Natural Resources Wales WCP grant fund. |
| 2.02 | An application for funding from Natural Resources Wales WCP grant has been made to implement recommendations within this pilot area. |

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| 3.00 | CONSULTATIONS REQUIRED / CARRIED OUT |
| 3.01 | North Wales Police and Natural Resources Wales (NRW) were consulted on the consultant's study and their views fed into the recommendations and are supportive of the approach. The study was also shared with individual members of the disability community who have expressed an interest or concern in accessing the WCP. |
| 3.02 | The Environment and Economy Overview and Scrutiny Committee and Flintshire Local Access Forum (LAF) discussed the report 11 th July 2023. The Committee and forum supported the recommendations in principle subject to further consultation with appropriate user groups. |
| 3.03 | Users and stakeholders were asked for feedback on the plan and specification for improvements at Saltney footbridge during October. Summary of responses included in Appendix 2. |

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| 4.00 | RISK MANAGEMENT |
| 4.01 | There is a risk of a discrimination claim being made against Flintshire County Council under the provisions of the Equality Act (2010) as the proposed scheme still inhibits some disabled users. |
| 4.02 | Transport for Wales (who award Active Travel Transport Grant on the Welsh Government's behalf) have indicated that having barriers that do not conform to the Active Travel Act or the Equalities Act may be a risk to future funding, however, it is interpreted that this relates to new schemes which form an application for funding and not existing provision. |
| 4.03 | If Flintshire County Council remove or widen the access to the path there may be an increase in illegal motorbike incursion, and it may lead to an increase in crime associated with County Lines and motorbikes present a public safety risk to all legitimate users of the path. |

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| 5.00 | APPENDICES |
| 5.01 | Appendix 1 – Proposed plan and specification of access improvement at Saltney footbridge area. Appendix 2 – Summary of feedback from users and stakeholders Appendix 3 – Equality Impact Assessment |

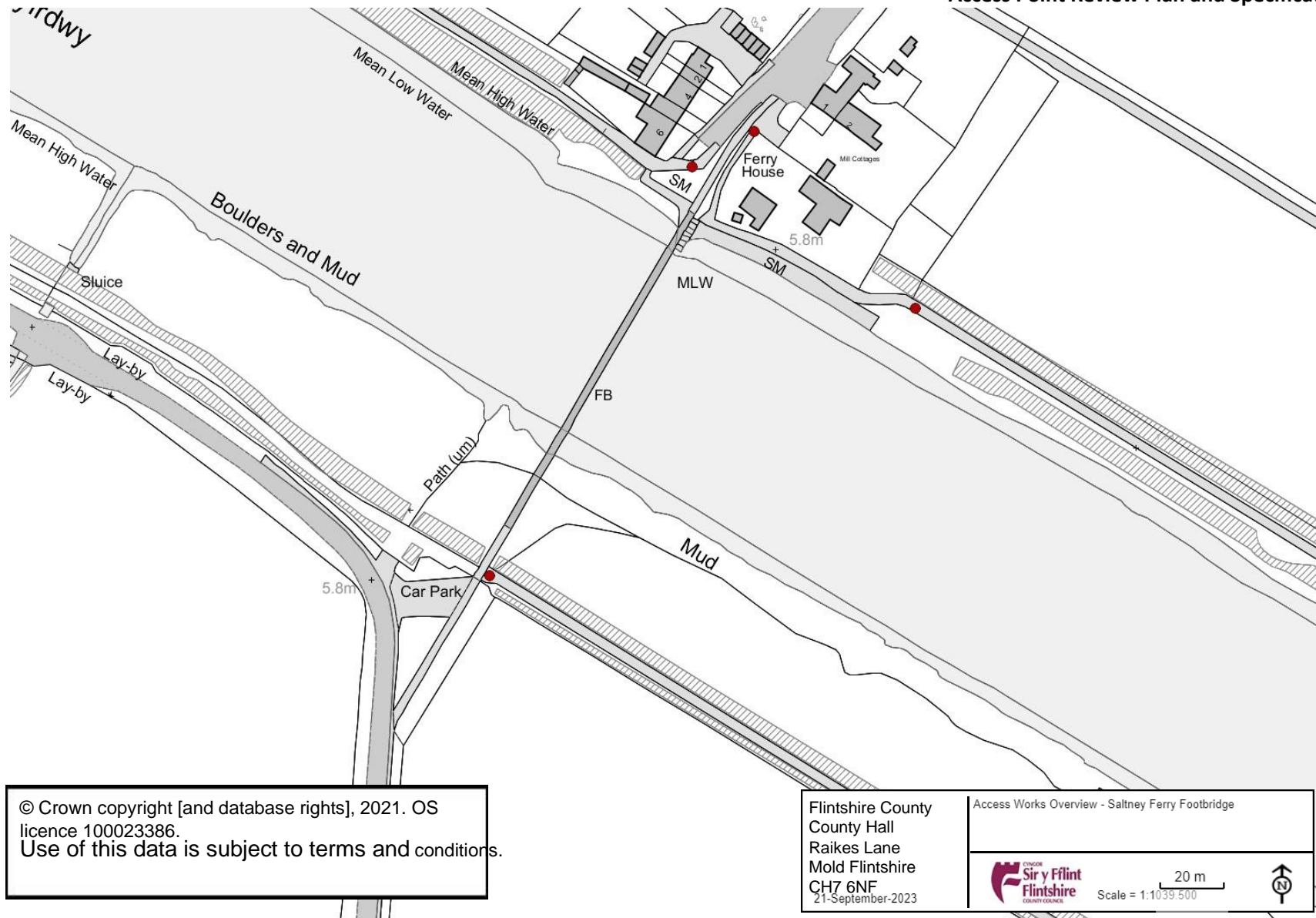
| | |
|-------------|---|
| 6.00 | LIST OF ACCESSIBLE BACKGROUND DOCUMENTS |
| 6.01 | Contact Officer: Tom Woodall, Access & Natural Environment Manager Telephone: 01352 703902 E-mail: tom.woodall@flintshire.gov.uk |

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| 7.00 | GLOSSARY OF TERMS |
| 7.01 | Wales Coast Path National walking route covering 870miles of the Welsh Coast |
| 7.02 | Natural Resources Wales Natural Resources Wales is the largest Welsh Government Sponsored Body, formed in April 2013, largely taking over the functions of the Countryside Council for Wales, Forestry Commission Wales and the Environment Agency in Wales |
| 7.03 | Local Access Forum (LAF) The Local Access Forum is a statutory, independent advisory body of 12-20 volunteers, giving informed strategic advice to the Rights of Way and |

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| | Countryside Service. The primary objective is to improve access and open air recreation to the countryside for everyone. |
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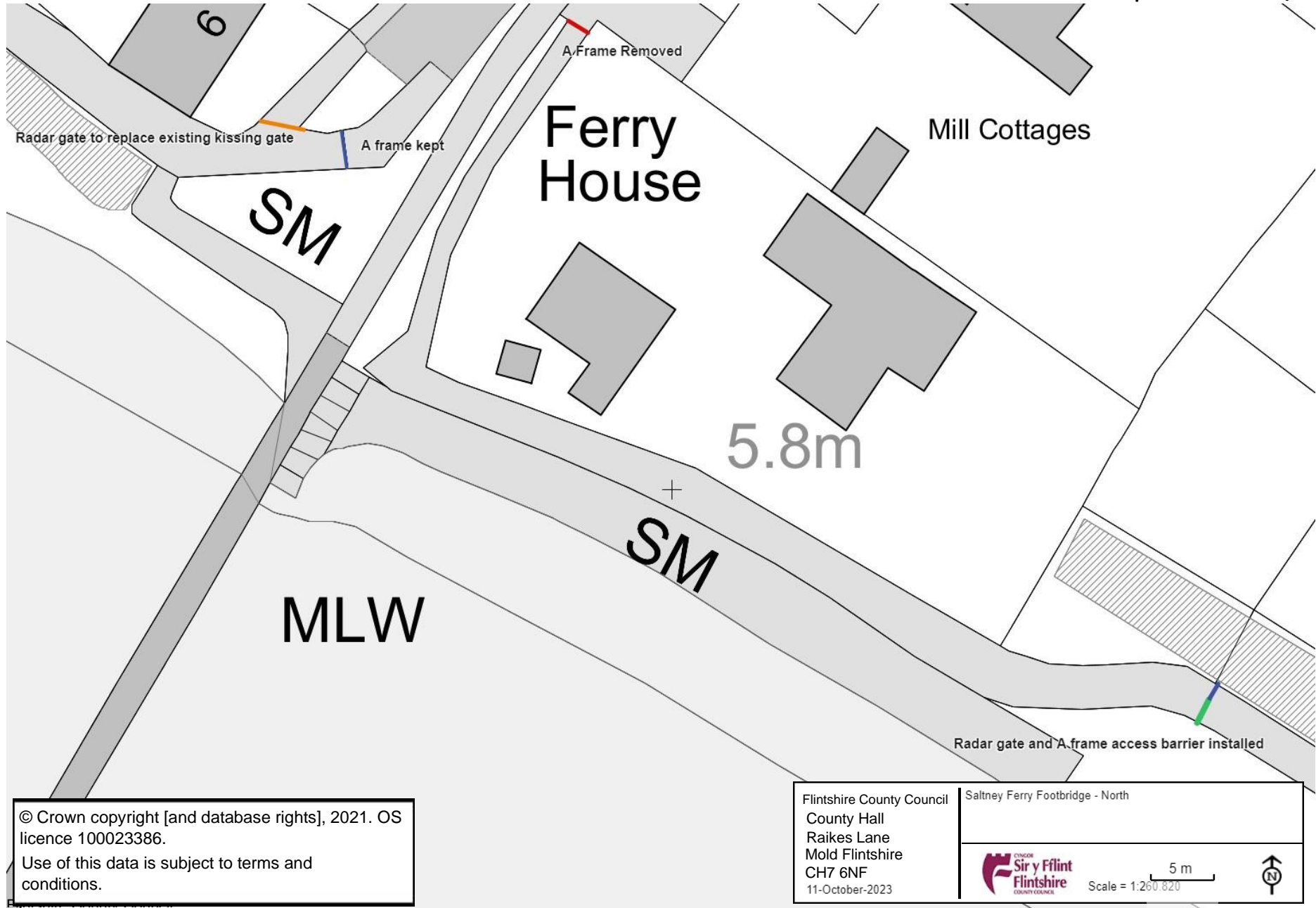
Mae'r dudalen hon yn wag yn bwrpasol

Tudalen 97



Map 1 – Overview of work locations.

Tudalen 98



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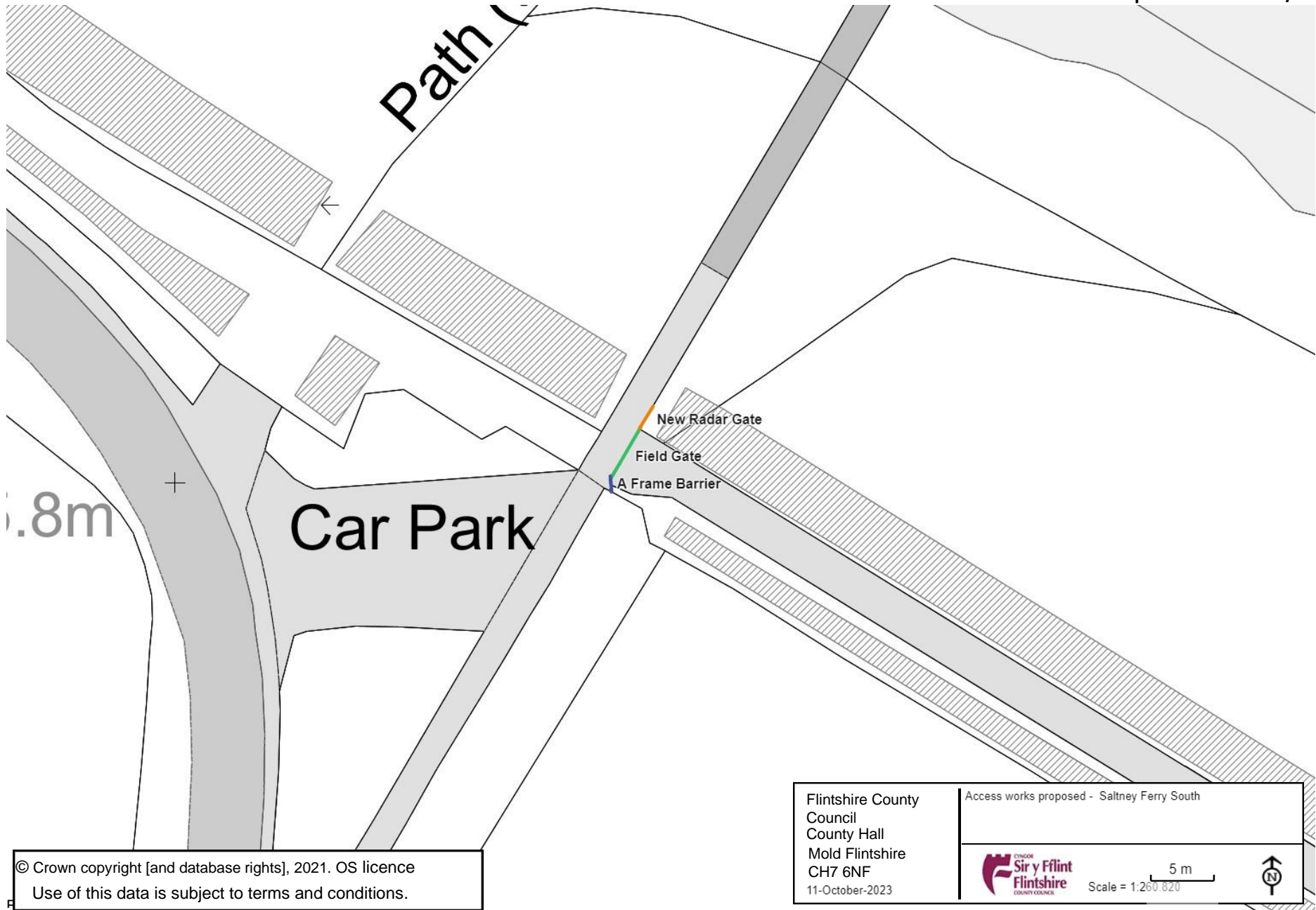
Flintshire County Council | Saltney Ferry Footbridge - North
 County Hall
 Raikes Lane
 Mold Flintshire
 CH7 6NF
 11-October-2023

Sir y Fflint Flintshire
 COUNTY COUNCIL

Scale = 1:260 820

Map 2. Proposed works Saltney Ferry North


Tudalen 99




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Flintshire County
 Council
 County Hall
 Mold Flintshire
 CH7 6NF
 11-October-2023

Access works proposed - Saltney Ferry South



Scale = 1:260.820



Map 3. Proposed works Saltney Ferry South

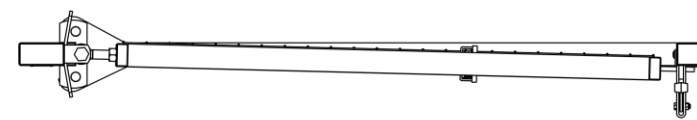
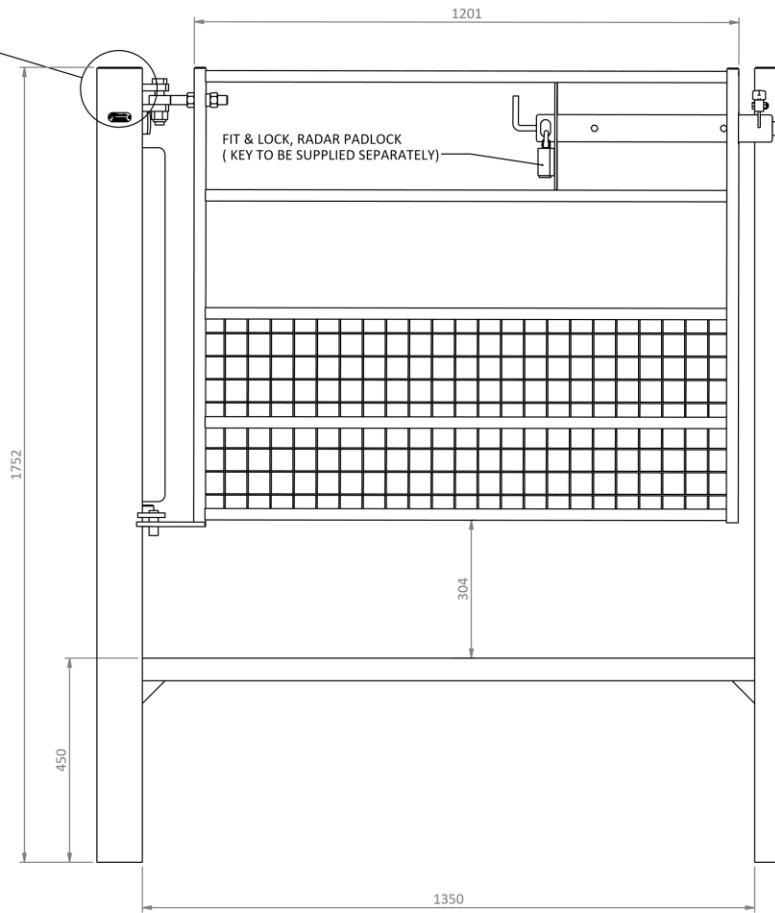
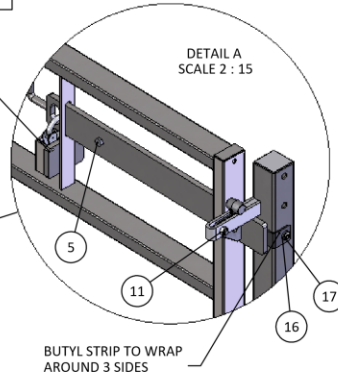
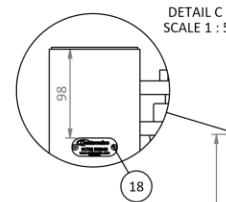
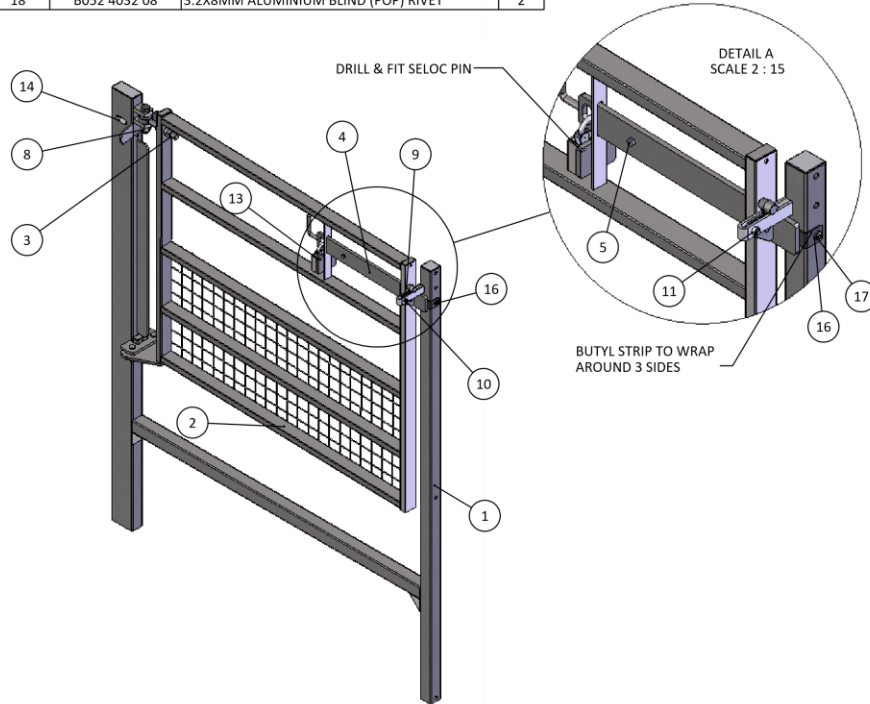
Radars Gate Specification

F010 2002 12



| ITEM NO. | PART NUMBER | DESCRIPTION | QTY. |
|----------|--------------|--|------|
| 1 | D010 2001 16 | 1500X1750 MARLOW 2 WAY GATE 'H' FRAME | 1 |
| 2 | D010 2001 14 | 1.2 PRT/MSH 2WAY MARLOW GATE C/W RADLOCK | 1 |
| 3 | B104 1220 42 | M20X6in EYEBOLT GALV | 1 |
| 4 | F010 2002 54 | MARLOW RADLOCK SLIDING BOLT | 1 |
| 5 | B001 3080 20 | M8 X 20 SETSCREW BZP | 2 |
| 6 | B040 3002 08 | M8 FULL NYLOC NUT TYPE T BZP | 2 |
| 7 | B003 2200 90 | M20X90 BOLT GLV | 1 |
| 8 | B040 2002 20 | M20 NYLOC NUT TYPE T | 1 |
| 9 | B106 0001 01 | GATE CATCH PAWL (BARREL TYPE) GLV | 1 |
| 10 | B001 2080 30 | M8 X 30 SETSCREW GALV | 1 |
| 11 | B040 2002 08 | M8 FULL NYLOC NUT TYPE T GLV | 1 |
| 12 | B113 0005 01 | RADAR PADLOCK TYPE A (2 LEVER) GALV | 1 |
| 13 | B051 3050 32 | 3/16 X 1 1/4in SELLOC PIN BZP | 1 |
| 14 | B111 0020 10 | BADGE "CENTREWIRE" (50X20MM) | 1 |
| 15 | B117 8233 01 | 120 X 30 X 3mm BUTYL RUBBER STRIP | 1 |
| 16 | B021 3550 00 | G16 BONDED WASHER (5.5mm DRILL SCREW) | 2 |
| 17 | B052 3148 11 | 4.8X12 LARGE FLANGE STEEL RIVET 1-6MM | 2 |
| 18 | B052 4032 08 | 3.2X8MM ALUMINIUM BLIND (POP) RIVET | 2 |

Tudalen 100



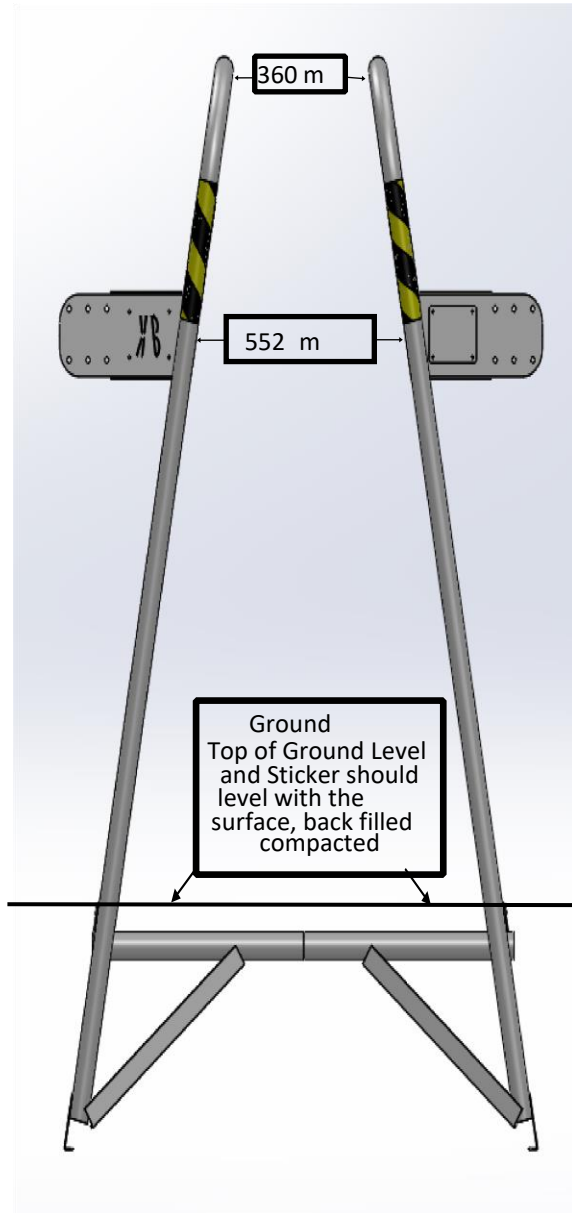
TITLE 1.2 PRT/MSH 2WAY MARLOW GATE C/W RADLOCK

PART No. F010 2002 12 Rev. A

| | | | | | |
|---|--------------------------|---|---------|--|--------------|
| GENERAL NOTES 1.REMOVE ALL BURRS & SHARP EDGES 2.ALL THREADS TO BE ISO METRIC COARSE | | GENERAL TOLERANCES (UNLESS OTHERWISE STATED) BOUGHT IN 0 - 100 +/-0.25 100 - 500 +/-0.5 500 + +/-1 ANGULAR +/-0.5* | | MADE IN HOUSE REFER TO IAE TOLERANCE STDS | |
| WELDING NOTES 1.FULLY WELD (UNLESS OTHERWISE STATED) 2.ALL WELDS TO BE FREE OF SPIKES & SPATTER | | ALL DIMENSIONS ARE IN MILLIMETRES | | | |
| MATERIAL | Material <not specified> | A3 | SCALE | 1:20 | DO NOT SCALE |
| FINISH | HOT DIP GALV | DRAWN | martinf | DATE | 24/02/2011 |
| EST.NATURAL WEIGHT(kg.) | 47.60 | SHEET | 1 OF 1 | IF IN DOUBT - ASK! | |

| | | | |
|-----|-------------|-----|------------|
| A | FIRST ISSUE | MM | 24/10/2011 |
| REV | DESCRIPTION | ECR | INT DATE |

Tudalen 101



Mae'r dudalen hon yn wag yn bwrpasol

Feedback summary in response to the proposed access improvements in Saltney Footbridge Area

Suitability of radar locks

It was noted that some disabled people such as those with motor neuron difficulties and amputees may not be able to open the lock. It was also stated that Radar locks are not accessible to the majority of disabled users.

Gap width

It was highlighted that the width of the proposed A frame restricts movement of larger mobility aids through them. A request was made to install the most accessible A frames.

There are suppliers of A frames that can be installed with a different gap width, widening the gap would also allow motorbike access.

One user stated that his tricycle has a track width of 780mm and overall width of 830mm and a wider rickshaw type bike was also used with a width of 900mm and a length of 2300mm.

Respondents highlighted that the minimum width permitted at physical constraints is 1.5m within the Active Travel Guidance. Comments also highlighted the need for a 4m minimum external turning radius, 10kph minimum design speed for the Cycle Design Vehicle (rigid quad cycle 2.8m long by 1.2m wide)

It was requested the removal of all A frames from designs and all closing gates including RADAR locking gates from designs, except for existing vehicle access gates where these can be retained.

It was requested that locking bollards spaced with minimum 1.5m air gaps and straight approaches where vehicle access needs to be maintained were installed.

Unauthorised Use by Vehicles

Concerns were raised that unauthorised vehicle users will also be able to gain access through the radar gates. Radar keys are easily purchased over the internet and therefore pose the risk that unauthorised vehicles will be able to use them.

It was suggested that CCTV is used at known access points and liaison with local police to establish monitoring and enforcement and signage to promote considerate shared use.

It was also commented that there was open access in this area from Bumpers Lane and Sealand Road at the other end of the path making the proposal ineffective in controlling unauthorised use by vehicles.

One response noted that as far as they were aware, the replacement of the old barriers at the Mickle Trafford end of the Millennium Greenway has not led to an increase in Motorcycle use.

Path Safety

Local members felt that the proposals would result in improving access whilst also providing a level of control on unauthorised use by motorbikes. Safety concerns were highlighted regarding the speed of electric bikes travelling along the path.

Landscape Impact

Concerns were raised about the impact on the new structures on the skyline.

Equalities Act 2010

Respondents felt that the proposals was in breach the [Equality Act \(2010\)](#) and may give rise to discrimination claims. Legal action has been started against Newcastle City Council by the owner of a recumbent bike as he is unable to get through the chicanes installed to prevent unauthorised motorbike accesses on a cycle path.

Future Funding Impact

Transport for Wales (who award Active Travel Transport Grant on the Welsh Government's behalf) have indicated that by having barriers that do not conform to the Active Travel Act or the Equalities Act, future funding for Active Travel within the county could be jeopardised.

Specific Feedback received to the Access Improvements in the Saltney Footbridge Area

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| Respondent 1 | <p>What types of disabled access are radar keys usually used for ...? My experience of them is for accessible toilets which are able to be opened one handed with a radar key. I am concerned that what you are proposing will be difficult for anyone with motor skills issues.</p> <p>Also re the current A frames, which we all know are not best practice in terms of size (if they were, we wouldn't be where we are now), why aren't you fitting the most accessible ones that you can rather than replacing like for like?</p> <p>Re asb, I think you may be under estimating those who indulge in asb what have the police said re radar key access to stop asb? Ironically that cohort of users will probably be quicker through the access than I will be!!</p> <p>Re this work, are you actually listening to any users with disabilities and working closely with them to ensure that precious public money actually makes a difference here?</p> <p>What testing of equipment has been done with disabled users to ensure that what is proposed is fit for purpose?</p> <p>Although I have been talking to various people in Flintshire for the last 3 years, it does not feel like people are really listening</p> |
| Respondent 1 – questions | <ul style="list-style-type: none"> • can the radar key gates be unlocked by a person with one hand? • is the radar gate wide enough for a trike to pass through? • it looks like there is a lip to get over on the radar gate design eg a lower bar across, is that correct? • is it step free access through the radar gates? • what if asb users have radar keys which are readily available? • are the new A frames wider than the current ones? |
| Respondent 2 | <p>Out of medical necessity I am now a tricycle rider in the 60+ age demographic.</p> <p>I cannot gain passage through the A frame barriers at Saltney Ferry bridge or immediately adjacent at either side of Ferry Lane.</p> <p>My tricycle has a track width of 780mm and overall width of 830mm.</p> <p>My disabled wife and I also use a a tricycle best described as rickshaw like, its width is even wider at 900mm and 2300mm length meaning that passage through both the various A frames and chicanes on route is equally not possible. The turning circle</p> |

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| | <p>of closely set together chicanes is the problem. Handling of the trike is not possible given it is just shy of 60kg without my wife passenger.</p> <p>I would welcome any solution that provides passage through these many obstacles, upon the path and via the access points onto the Wales coast path alongside the River Dee linking to the Greenway.</p> <p>I enclose three images of my tricycle at the A frame unable to leave the path at Ferry Lane from Hawarden bridge direction.</p> |
| Respondent 3 | <p>I have looked at the amendments to the A frame and radar gates but can't find any significant change to the height and width of the A frame to allow access for all terrain wheelchairs and mobility scooters most suitable for the outdoors. I did talk about the issues disabled people have managing radar locks and have attached the detailed information I sent to Tom Woodall. I have asked other disabled groups such as wheels for all to send comments to you directly.</p> <p>Info and resources I have gathered with regards response to the barriers review report.</p> <p>Design Guidance and recommendations from several sources including Active travel Wales, the DDA, Equality act, Sustrans, disabled cyclists and groups (Wheels for Wellbeing and Chester cycling campaign access officer) providing evidence and reasons to show : *Radar gate locks are not accessible for the majority of disabled cyclists and mobility aid users.</p> <p>* Staggered gates must be fitted to minimum requirements for turning radius using a swept analysis.</p> <p>*The type of bollard to use, but ONLY when proved absolutely necessary, to prevent motor vehicle access.</p> <p>Key points</p> <ol style="list-style-type: none"> 1. A swept path analysis is required with 4m minimum external turning radius, 10kph minimum design speed for the Cycle Design Vehicle (rigid quad cycle 2.8m long by 1.2m wide) for any proposed barriers to be installed or altered. 2 Many Disabled people aren't able to use Radar locks due to limb deformities, amputations, restricted movement which makes any kind of gate or lock inaccessible to a significant proportion of Disabled people, and is therefore discriminatory 3 Radar keys are available on the internet, anyone can buy them and radar gates would be open to abuse. |

4 All of the A frames and barriers listed in the report are identified as being below the compliance standards measurements recommended by Sustrans and have potential to disadvantage disabled users according to the Equality act.

5 Any cyclist who is not disabled using a larger bike with panniers, basket or trailer etc is at present unable to fit through the A frames (which measure 900mm) without difficulty because they are below minimum standard widths of 1.5 so they are causing major obstruction to many people.

Attached are the guidance sheets provided by Wheels for wellbeing, the London disabled cycling group who emphasise - 'installing barriers of any kind in narrow locations is not a user safety measure – it's dangerous to obstruct access in an isolated location and at a point where Disabled users are unlikely to be able to turn around should they be unable to get through the barrier that may already be restricted by broken glass, fallen branches etc. – obstructing narrow access points is really dangerous !

Staggered gates are absolutely not in line with LTN 1/20 or Welsh guidance. They will definitely be inaccessible to a significant proportion of potential path users. The only barrier they could use would be paired bollards, and ONLY where prevention of cars and larger vehicles entering a space is required.

Guidance from the Welsh Active Travel https://www.gov.wales/sites/default/files/consultations/2020-02/active-travel-guidance_1.pdf :

12.12.5 "...any one-way cycle lane or track should be at least 1.5m wide, or it will risk excluding some types of user. The use of chicanes or gates aimed at restricting unauthorised access to paths (e.g. by motorcycles) may also obstruct these users, and therefore must not be used unless in EXCEPTIONAL circumstances."

12.18.4 "A minimum width of 1.5m is required between bollards, chicane barriers or at gates to accommodate the full range of cycles and mobility scooters. Kissing gates should not be used on cycle tracks."

14.36.6 "Restrictive access controls, vegetation growth that encroaches on the track surface, poor or inadequate lighting, poor sightlines or poorly maintained track surfaces will deter users"

18.12.4 "A single bollard, and clear sight lines will be effective in many locations. Double rows of bollards, with a minimum spacing of 1.50m can reduce cycle speeds and prevent motor vehicle access, whilst retaining better permeability for users than chicane barriers."

Minimum turning circles radii are given in table 3-3 with 3.4m minimum external turning radius.

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| | <p>To conclude Minimum clear straight-line access widths at access controls are 1.5m in England and Wales</p> <p>A simple and effective solution is to replace vehicle access gates (where these are present) with lockable bollards spaced with min 1.5m air gaps to allow emergency, maintenance and special access.</p> <p>Bollards below 1.65m will stop any modern car (that's the axle width of a Smart car). Most cars will be unable to get through a gap less than 1.8m. Larger SUVs etc are over 2m wide.</p> <p>Signage is required regarding rules of shared path use, speed, illegal vehicle access, penalties. Path users can help by reporting if they see anti social.</p> |
| Respondent 4 | <p>I have seen the proposals for modifications to the modifications to access to and from the cycle path at Saltney Ferry</p> <p>Whilst I welcome the removal of one of the A-Frame barriers, I am appalled that the plan is to install another (on the East side of the northern bank of the river). This is contrary to all the guidance embodied in "Gear Change" and LtN 1/20. There seems to be a failure to look at the issues holistically (the existing chicanes on the path which already slow cyclists are not shown) and of keeping 'allowing access for all' in mind..</p> <p>A-Frames are a significant barrier to cyclists, particularly those using non-standard cycles and trikes or pulling a children's trailer or Tag-a-Long. They are also a significant barrier to those or those using mobility aids (trikes and scooters), frequently denying them access altogether.</p> <p>It is not at all clear why these barriers are considered to be necessary – if for the exclusion of motorcycles (the usual reason given) - then it cannot work as there is open access from Bumpers Lane and Sealand Road at the other end of the path. As far as I am aware, the replacement of the old barriers at the Mickle Trafford end of the Millennium Greenway has not led to an increase in Motorcycle use. It is also well documented that the more that such paths are used by walkers and cyclists, the less the likelihood of motor cycle abuse.</p> <p>I hope that the proposal can be redesigned in order to make it more user friendly and to be less discriminatory in terms of access.</p> |
| Respondent 5 | <p>Good idea. Will do. Pleased to see one A-frame removed, which has caused me problems with the trailer before (it did just about fit through with some cajoling).</p> |

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| | <p>However, as the proposed new A-frame in the other location is to be 360 metres wide at its narrowest point, I think most bikes should be able to get through fine. We should probably be concerned about the impact of this structure on the skyline.</p> |
| Respondent 6 | <p>One of our supporters has brought your Wales Coast Path scheme designs to our attention. We are very disappointed and concerned to see that your designs include the installation and retention of A frames and RADAR gates. These barriers will be impassable for many Disabled cyclists, users of mobility scooters, wheelchair users and others using larger cycles such as family cycles or cargo trikes. The installation and retention of these barriers is likely to breach the Equality Act (2010) and may give rise to successful discrimination claims.</p> <p>Please see the following guidance sheets Wheels for Wellbeing have produced to help authorities understand the reasons these barriers are discriminatory, and to provide alternative options to ensure equitable access to active travel: Guide to inaccessible barriers Guide to RADAR locking barriers Guide to vehicle access restriction bollards</p> <p>The Welsh Active Travel Guidance 2022 is clear that the barriers you propose to install will prevent access by Disabled people. It appears entirely unreasonable to us to consider large stretches of national active travel infrastructure as “exceptional circumstances” where preventing Disabled access to an important traffic-free route is an acceptable response to concerns about use by motorcycles and quad cycles. From the Welsh active travel guidance: 9.3.2 “Disabled people may need to use mobility scooters, wheelchairs, adapted or nonstandard cycles (such as tricycles, quadricycles or hand cycles), which require the careful design of facilities to make sure that their greater width and turning space requirements can be accommodated.” 9.3.4 “Disabled people are not a homogenous group, and it is important that the full range of diverse needs is considered and accounted for in the design process.” 9.9.2 “Designs should meet the needs of everyone who cycles at any age or physical condition. Cycle routes should cater for a wide spectrum of people with different levels of confidence and experience; and those who use adapted cycles (see section 9.3 and figure 9.4).” Table 9.8 shows absolute minimum widths permitted at physical constraints are 1.5m. Since many Disabled people cannot open gates and pass through them with their mobility aid, all gates which must be opened manually therefore can be considered as having a minimum width of 0m. 9.17.10 “A minimum width of 1.5m is required between bollards, chicane barriers or at gates to accommodate the full range of cycles. Gates should be avoided on cycle routes and ‘kissing gates’ must not be used.” 15.3.2 “Designers should start with a presumption against the use of any form of access control, installing only in response to evidence of actual problems of abuse of cycle</p> |

and pedestrian facilities, and never simply in response to perceived problems.”

15.3.3 “Access controls can cause difficulties to many legitimate users and can render routes inaccessible to people who rely on mobility aids.”

15.3.5 “A single bollard, and clear sight lines will be effective in many locations”

Minimum turning circles radii are given in table 9.3, with 3.4m minimum external turning radius to provide access for the Cycle Design Vehicle, which is 2.8m long and 1.2m wide.

Inaccessible barriers which make access to public spaces (including cycle paths and footways) more difficult for Disabled people than non-Disabled people are discriminatory under the Equality Act (2010).

The Equality Act requires public authorities including councils to alter and remove physical features which would otherwise exclude or significantly disadvantage Disabled people (Section 20) and to advance equality of opportunity for Disabled people by actively enabling Disabled people to participate in public life and activities (Section 149, Public Sector Equality Duty).

There is a risk of successful discrimination claims being made against Flintshire County Council under the provisions of the Equality Act (2010) if active travel routes are inaccessible, even if causing or retaining inaccessibility was not the intention of this project.

However, it will be not be difficult or have significant cost implications to remedy the situation at this stage. We suggest that to be fully compliant with the Equality Act (2010) and Welsh active travel infrastructure guidance if the following action is taken:

1. Alter designs to ensure clear straight-line access of minimum 1.5m at all proposed vehicle access restriction locations.

a. Remove all A frames from designs;

b. Remove all closing gates including RADAR locking gates from designs, except for existing vehicle access gates where these can be retained

while enabling sufficient straight-line cycle access;

c. Install locking bollards spaced with minimum 1.5m air gaps and straight approaches where vehicle access needs to be maintained.

2. Where there is a history or significant risk of inconsiderate path use, consider adding signage to encourage considerate shared use, for example

“pedestrian priority, cycles slow” and “please keep dogs on short leads”.

3. Where there is a significant history of illegal path use including by motorised vehicles, liaise with local police to establish monitoring and enforcement options, including use of CCTV at known access points.

We would be grateful if you could respond to us indicating that you will alter your designs to enable equitable access for Disabled path users, including a timescale by which these alterations will take place.

We would appreciate you sharing your designs with us, so that we can ensure Disabled people living in and visiting Flintshire will be able to enjoy your active travel routes equitably.

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| Respondent 7 | This will hopefully be an improvement to allow disabled access and prevent the use of motor bikes. Not sure, but will it stop that electric bike that's travels at 40/50 mph down the pedestrian cycle path? |
| Respondent 8 | This looks like an improvement. |
| Respondent 9 | <p>Further to the email below and our team's concerns around potential reputational damage for the Authority as a result of the barriers, I thought it might be useful to let you know about this recent legal challenge against Newcastle City Council as it would appear to be a situation that we could possibly find ourselves in.</p> <p>We would welcome an opportunity to discuss Fiona's and our team's concerns and have the opportunity to have an input into your recommendations to Members.</p> <p>https://www.google.com/amp/s/www.bbc.com/news/uk-england-tyne-66818217.amp</p> <p><i>As a result of campaign groups escalating the issue with the barriers, TfW (who award Active Travel Transport Grant on the Welsh Government's behalf) have been in touch to say that, by having barriers that do not conform to the Active Travel Act or the Equalities Act, we could jeopardise future funding for Active Travel. Their comments can be seen in the extract below.</i></p> <p>Access Barriers <i>Just wanted to flag an early risk in relation to Active Travel Fund support on routes which include non-compliant access barriers, as appreciate these are in place on a number of routes on Flintshire's Active Travel Network Map of future aspirations - which might otherwise be eligible for capital funding support through the programme.</i></p> <p><i>The funding guidance states: Funding for active travel schemes will only be granted where scheme design reflects the Active Travel Act Guidance.</i></p> <p><i>Section 15.3 of the Active Travel Act Guidance Active Travel Act guidance (gov.wales) covers advice in relation access controls.</i></p> <p><i>As an example, the current frames in place on sections of the proposed network (such as those in and around the Deeside area) do not comply with the guidance, as they would prevent legitimate users of certain cycles (e.g. cargo, adapted, recumbent) and users of certain mobility aids (e.g. mobility scooters, certain wheelchairs) from accessing the route.</i></p> <p><i>Further advice on design considerations is available here: Sustrans greenways design guide: 9. Accessibility to routes - Sustrans.org.uk</i></p> |

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| | <p><i>And case studies relating to the some of the issues they cause to legitimate users (and risks to the local authority in relation to duties under the Equality Act 2010) available here:</i></p> <p>Why barriers on cycle routes stop me from cycling independently: Amanda's story - YouTube Barriers on cycle paths Cycling UK</p> <p><i>Just a final note as a reminder that the current ATF grant advice states applications can be made for use of the core allocation for removal or redesign of non-compliant access barriers (Annex 3).</i></p> |
| Respondent 10 | <p>We have been made aware you are currently planning changes to access controls in several locations along the All Wales Coastal Path and NCN Route 5 in Deeside and note the cabinet decision to approve RADAR gates and chicanes, retaining the existing extremely restrictive A frames.</p> <p>We are of the view from many years of experience with developing and maintaining the NCN across the UK that these types of barriers simply exclude many legitimate users, especially those in mobility scooters and using adapted or non-standard cycles, whilst having a very limited effect in preventing anti-social behaviour, particularly from motorbikes, given the ability for these to find alternative access points and does nothing to address this behaviour at source. Larger vehicles can be prevented from access through agreed designs, such as bollards or very wide chicanes which would be compliant with current guidance.</p> <p>Whilst RADAR gates might seem an effective solution for those with disabilities, we know that many disabled people cannot use them effectively and any need to open multiple gates along a relative short stretch of route will deter all but the most determined users from accessing the path, whilst actively restricting the ability for the path to cater for a wider range of users particularly local residents and tourists. The message this sends is plainly wrong and does nothing to attract visitors to the area, or those accessing the route without extensively planning their journey first.</p> <p>Wheels for Wellbeing, an organisation specifically supporting wheeled users with disabilities has issued guidance on RADAR gates ICI Guide which makes their position clear.</p> <p>Further, we have doubts if the radar key operated gates proposed are compliant with the Equality Act, and we are not aware that an equality impact assessment has been carried out for these sites. If complaints are received and upheld, we believe that Flintshire County Council may face a further financial liability. For example, in the past year, we are aware that RADAR key operated gates have been replaced by Natural Resources Wales due to a single complaint about access for one specific type of mobility scooter.</p> <p>We are disappointed that Sustrans was not consulted at an earlier stage, before the “Access Barrier Review – Wales Coast Path” report was considered by Cabinet on 18th July 2023. We founded and are the custodians of the National Cycle Network, receive funding from the Welsh Government to maintain and improve it and, following an audit of all access controls on the National Cycle Network in Wales completed last year, our assessment information on access controls forms the basis of the Welsh Government’s Active Travel Act Guidance.</p> |


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| | <p>Several Local Authorities in Wales have already acted on this guidance and removed or amended many access controls on the NCN in their areas to make the network much more accessible to all users. This is a far more inclusive approach and has proved that barriers can be removed without any significant adverse effects from greater levels of anti-social behaviour.</p> <p>We strongly urge that in the future, Sustrans must be offered the opportunity to bring our considerable expertise on access controls to the process, or at the very least be consulted at an early stage, on all active travel routes and particularly along the coastal National Cycle Network in Flintshire.”</p> <p>I trust the above makes Sustrans’ position clear. We would be happy to engage further on the matter if this would be helpful.</p> |
| Respondent 11 | <p>I have significant concerns regarding the removal of the barriers however I understand the need to adjust. My concerns are for the safety of the public to prevent the use of off road motorbikes along the coastal path. We have seen an increase in county lines (drug selling) along the coast path which we are working on methods to prevent. Also, the barriers are reducing/preventing any accidents by slowing pedal cycles/preventing motor bikes from accessing the area. Therefore, I am requesting that they are not removed and that they are adjusted to enable any disability groups access to the coastal path but also stopping any illegal bikes.</p> |

Mae'r dudalen hon yn wag yn bwrpasol

Equality Impact Assessment (EqIA) (including Welsh Language & Socio-economic Duty)

November 2021

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|---|---|---------------------------------|-------------------------------|
| Name of Policy or Practice | Access barrier improvements – Saltney footbridge access to Wales Coast Path | | |
| Responsible Officer / Head of Department (responsible for the Policy or Practice) | Andrew Farrow, Chief Officer for Planning, Environment and Economy | | |
| Service / Department | Planning, Environment and Economy | Start Date of Assessment | 1 st November 2023 |

| Name of officer(s) (and partners) completing the EqIA | | |
|--|--------------------------------------|---|
| Name(s) | Job Title(s) | Signature(s) |
| Tom Woodall | Access & Natural Environment Manager |  |
| Helen Mrowiec | Sites Team Leader | |
| | | |

*Consider including only job titles when publishing

| Document Version | Revision Date | Briefly Describe the Changes |
|-------------------------|----------------------|-------------------------------------|
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| EqIA Approved by Responsible Officer / Head of Department / Service / Committee | |
|--|--|
| Date EqIA Concluded | |
| Name | |
| Job Title | |

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| Signature | |
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Introduction

This document is a multi-purpose tool ensuring the appropriate steps are taken to comply with the [Public Sector Equality Duty](#) Equality Impact Assessment legislation and to demonstrate that we have shown due regard to the need to reduce inequalities of outcome resulting from socio-economic disadvantage when taking strategic decisions under the [Socio-economic Duty](#) It also ensures that we take appropriate steps to comply with the requirements of the [Welsh Language Standards](#) (Section 44: Welsh Language Measure (Wales) 2011) to consider the impact of strategic and policy decisions on the language.

When we plan to introduce a new, or revise an existing, policy or practice, make changes or cuts to a service or make strategic decisions, we are required to consider if the decision would have a disproportionate impact on people sharing one or more [protected characteristic](#) or whether it could create inequalities of outcome around socio-economic disadvantage. Where this is likely to be the case, we must take appropriate action. The EqIA process is not intended to prevent us doing things but to ensure we have considered the impact. It helps us focus on the actions we can take to remove and/or mitigate any disproportionate or discriminatory impact and introduce measures to advance equality of opportunity.

To comply with the [General Duty](#) and [Socio-economic Duty](#), we must have 'due regard' (or consciously consider the need) to: eliminate discrimination, advance equality of opportunity and foster good relations and to the need to reduce the inequalities of outcome resulting from socio-economic disadvantage. The greater the relevance and potential impact, the higher the regard required by the duty. The General Duty will be more relevant to some functions than others and they may also be more relevant to some protected characteristics than others. Our duty must be exercised with rigour, an open mind and considered at a time when it can make a difference to our decisions. Policies with high relevance, such as strategic budgetary decisions, grant-making programmes, changes to service delivery (including withdrawal or reorganisation of services), and recruitment or pay policies should always be subject to an assessment for impact. For further guidance see [EHRC Assessing Impact Guidance](#) and [Socio-economic Duty Code of Practice](#). Our duty to comply with this legislation cannot be delegated.

This template should demonstrate the steps taken to carry out the assessment including relevant engagement/consultation, the information taken into account, the results of the assessment and any decisions taken in relation to those results. The EqIA should be published where it shows a substantial (or likely) impact on our ability to meet the General Duty.

Benefits of undertaking an EqIA:

- Gain a better understanding of those who may be impacted by the policy or practice
- Better meet differing needs and become more accessible and inclusive
- Enable planning for success – identifies potential pitfalls and unintended consequences before any damage is done
- Enable improved planning that will make decisions proactive rather than reactive, avoid having to reverse decisions which could have cost and reputational implications

- Demonstrate decisions are thought through and have taken into account the views of those affected
- Enable us to manage expectations by explaining the limitations within which we are working (eg, budget)
- Help avoid risks and improve outcomes for individuals
- Remove inappropriate or harmful practices and eliminate institutional discrimination
- Ensure we put Welsh and English Language on an equal footing and that decisions are made that safeguard and promote the use of the Welsh language

Whilst this document may seem lengthy, as well as containing the necessary steps in the process, it also contains guidance notes in the key areas to assist you in undertaking the EqIA. Additional links to further information are also included for assistance. Further information can be found on NHS/ WLGA PSED/ EIA [here](#).

Equality and Welsh Language Impact Assessment Steps

- Step 1 - Identify the Main Aims and Objectives of the Policy or Practice
- Step 2 - Data, Engagement and Assessing the Impact
- Step 3 - Procurement and Partnerships
- Step 4 - Dealing with Adverse or Unlawful Impact and Strengthening the Policy or Practice
- Step 5 - Decision to Proceed
- Step 6 - Actions and Arrangements for Monitoring Outcomes and Reviewing Data
- Step 7 - Publishing the Equality Impact Assessment

Important Note to Completing Officer(s):

It is important that the EqIA is completed when the policy or practice is being developed so that the findings from the EqIA can be used to influence and shape the policy or practice. It is recommended as a minimum, it is completed by a lead officer who is responsible for the policy or practice, a subject matter expert and a critical friend with at least one who has received formal EqIA training. This document needs to be presented to the decision makers along with the draft policy or practice as part of the decision making process.

Where you are developing a high level strategy or plan that does not contain sufficient detail to show how it will impact on individuals or groups (ie, where there will be plans and actions sitting beneath the strategy that will determine this), you should still undertake the full Equality Impact Assessment. You may also need to complete additional EqIA(s) on the plans and actions beneath the high level strategy. This will ensure you demonstrate that you have shown due regard to complying with the [General Duty](#), the [Public Sector Equality Duty](#), the [Welsh Language Standards](#) and the [Socio-economic Duty](#).

If your policy or practice is as a result of a UK, Welsh Government or Local Authority wide directive, you should still assess the impact of this locally to identify any differential impact due to local difference.

You should consider whether other events, eg, Covid-19, Brexit, Black Lives Matter, etc, have highlighted or exacerbated inequalities that need to be addressed as you work through the EqIA

STEP 1 – Identify the Main Aims and Objectives of the Policy or Practice

1. What is being assessed? (Please double click on the relevant box(es) (X) and select 'checked' as appropriate)

- New and revised policies, practices or procedures (which modify service delivery or employment practices)
- Service review or re-organisation proposals which affect the community and/or staff, eg, early years provision, care, education
- Efficiency or saving proposals, eg, resulting in a change in community facilities, activities, support or employment opportunities
- Setting budget allocations for new financial year and strategic financial planning
- Decisions affecting service users, employees or the wider community including (de)commissioning or revised services
- New project proposals affecting staff, communities or accessibility to the built environment, eg, new construction work or adaptations to existing buildings, moving to on-line services, self-service, changing location
- Large Scale Public Events
- Local implementation of National Strategy/Plans/Legislation (refer to any national EqIA and consider local impact)
- Strategic directive and intent, including those developed at Regional Partnership Boards and Public Service Boards which impact on a public bodies functions
- Medium to long term plans (for example, corporate plans, development plans, service delivery and improvement plans)
- Setting objectives (for example, well-being objectives, equality objectives, Welsh language strategy)
- Major procurement and commissioning decisions
- Decisions that affect the ability (including external partners) to offer Welsh language opportunities and services
- Other please explain in the box below:

2. What are the overall aims, objectives and intended outcomes of the policy or practice?

To improve accessibility to the Wales Coast Path in the Saltney footbridge area.

3. Who are the main consultative groups (stakeholders)?

Note: Consider communities of interest or place (where people are grouped together because of specific characteristics or where they live)
Town/Community Council
County members

North Wales Police (NWP)
Natural Resources Wales (NRW)
Sustrans
Individual service users from the disability sector
Flintshire Local Access Forum

4. **Is the policy related to, influenced by, or affected by other policies or areas of work (internal or external), eg, strategic EqlAs if this is an operational EqlA and vice versa?**

Note: Consider this in terms of statutory requirements, local policies, regional (partnership) decisions, national policies, welfare reforms.

Highways Act 1980
Wales Coast Path
Active Travel guidance
Rights of Way Improvements Plan
Illegal and antisocial behaviour
Equalities Act 2010

STEP 2 - Data, Engagement and Assessing the Impact

When completing this section, you need to consider if you have sufficient information with which to complete your EqlA, or whether you need to undertake a period of engagement/consultation before continuing. The legislation relating to the EqlA process requires you to **engage and involve people who represent the interests of those who share one or more of the protected characteristics and with those who have an interest in the way you carry out your functions**. The socio-economic duty also requires us to **take into account the voices of those in the community including those with lived experience of socio-economic disadvantage**. You should undertake engagement with communities of interest or communities of place to understand if they are more affected or disadvantaged by your proposals so that you can address inequalities of outcome. This needs to be proportionate to the policy or practice being assessed. Remember that stakeholders can also include our own staff as well as partner organisations.

Before carrying out particular engagement activities, you should first look to data from recent consultations, engagement and research. This could be on a recent related policy or recent assessments undertaken by colleagues or other sources, eg, [Is Wales Fairer?](#), [North Wales Background Data Document](#), InfoBase Cymru, WIMD¹. This can help to build confidence among groups and communities, who can see that what they have

¹ Wales Index of Multiple Deprivation

said is being acted on. If you have very little or no information from previous engagement that is relevant to this EqIA, you should undertake some engagement work with your stakeholders and with relevant representative groups to ensure that you do not unwittingly overlook the needs of each protected group. It is seldom acceptable to state simply that a policy will universally benefit/disadvantage everyone, and therefore individuals will be affected equally whatever their characteristics. The analysis should be more robust than this, demonstrating consideration of all of the available evidence and addressing any gaps or disparities. Specific steps may be required to address an existing disadvantage or meet different needs.

The Gunning Principles, established from past court cases, can be helpful in ensuring we apply fairness in engagement and consultation:

- Principle 1: Consultation must take place when the proposals are still at a formative stage. You must not have already made up your mind.
- Principle 2: Sufficient reasons must be put forward to allow for intelligent consideration and response. Have people been given the information and opportunity to influence?
- Principle 3: Adequate time must be given for consideration and response. Is the consultation long enough bearing in mind the circumstances?
- Principle 4: The product of consultation must be conscientiously taken into account when finalising the decision.

5. Have you complied with the duty to engage as described above and are you sufficiently informed to proceed?

Yes No *(please cross as appropriate X)*

If Yes, what engagement activities did you undertake and who with?

Consultants review of access barriers shared with NWP, NRW, Flintshire Local Access Forum and service users.
 Specific designs consulted with Service users, Sustrans NRW, NWP and relevant town and community and county councillors

7. If No, you may wish to consider pausing at this point while you undertake (further) engagement activities which you can include in the action plan below. Please incorporate any information obtained from this additional activity in the boxes in question 8.

| Action | Dates | Timeframe | Lead Responsibility | Information added to EqIA (✓) |
|--------|-------|-----------|---------------------|-------------------------------|
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Tuesday 12/11

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8. **What information do you hold about the impact on each of the following characteristic and statutory considerations / duties from your experience of current service delivery and recent engagement or consultation?** Include any additional relevant data; research and performance management information; surveys; Government, professional body or organisation studies; Census data; Is Wales Fairer? (EHRC² data); information from initial screening; complaints/compliments; service user data and feedback; inspections/ audits; socio-economic data including WIMD³ data. You may wish to include sub-headings showing where each element of your data has come from, eg, national data, local data, organisation data, general or specific engagement exercises, etc. Remember to consider Intersectionality issues, that is, the relationship between overlapping social identities (or socio-economic groups) and protected characteristics.

Consider any positive or negative impact including trends in data, geography (urban or rural issues), demography, access issues, barriers, etc. Also include any areas where there are inequalities of outcome resulting from socio-economic disadvantage or other relevant issues identified by communities of interest or communities of place (ie, where stakeholders, service users, staff, representative bodies, etc. are grouped together because of specific characteristics or where they live) and any issues identified for people living in less favourable social and/or economic circumstances.

Tudalen 22

| Protected Characteristic Group | Relevant Data | Positive and / or Negative Impact | Prompts (not an exhaustive list) Consider: |
|--|---------------|-----------------------------------|--|
| Race | | No impact | How does your proposal take account of: Ethnicity Nationality Gypsies / Travellers Refugee / Asylum Seekers Migrants Barriers to accessing services Cultural issues Dietary requirements Language: interpreter provision Positive Action |
| <small>² Equality and Human Rights Commission</small> | | | |

³ Wales Index of Multiple Deprivation

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| | | | <p>Co-production Awareness events United Nations Convention on the Elimination of All Forms of Racial Discrimination (UNCERD) Consider intersectionality issues</p> |
| <p>Disability</p> <p>Tudalen 123</p> | <p>Access Barrier Review Document.</p> | <p>Positive impact of project, although users of some mobility aids will be negatively affected.</p> | <p>How does your proposal take account of the social model of disability? Consider barriers re Mobility / Dexterity Blind or Visually impaired Deaf or Hearing impaired Mental Health Learning difficulties Dementia Neurological difference / Autism Co-production Barriers to accessing service/ buildings/ facilities Communication methods Digital inclusion Carers Other Long Term Health Conditions United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) Consider intersectionality issues</p> |

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| <p>Sex</p> <p>Tudalen 124</p> | | <p>No impact</p> | <p>How does your proposal take account of Men / Women</p> <p>Gender Identity</p> <p>Toilet facilities/baby changing</p> <p>Childcare</p> <p>Gender Pay Gap</p> <p>Sex workers</p> <p><u>United Nations Convention on the Elimination of All Forms of Discrimination against Women (UNCEDAW)</u></p> <p>Consider intersectionality issues</p> <p>Co- production</p> |
| <p>Age</p> <p>Tudalen 124</p> | | <p>No impact</p> | <p>How does your proposal take account of age?</p> <p>consider</p> <p>Older People</p> <p>Children</p> <p>Young People</p> <p>Working Age People</p> <p>Young Families</p> <p>Demographics</p> <p>Digital inclusion</p> <p>Co-production</p> <p>NB: Where children / young people are affected</p> <p>complete the <u>Childrens Rights Checklist</u></p> <p><u>United Nations Convention on the Rights of the Child (UNCRC)</u></p> <p>Caring responsibilities</p> |

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| | | | Consider intersectionality issues |
| Religion & Belief | | No impact | How does your proposal take account of religion, belief and non-belief? Consider Faith Communities Non Beliefs Dietary requirements Vegetarianism/Veganism Other philosophical beliefs Dress code/uniforms Religious festivals/activities Co-production Consider intersectionality issues |
| Sexual Orientation Stratford 125 | | No impact | How does your proposal take account of sexual orientation? Gay Lesbian Bi-sexual Heterosexual Terminology Confidentiality about sexuality Consider intersectionality issues Same sex couples Next of Kin Co-production |
| Gender Reassignment | | No impact | How does your proposal take account of the trans community? A person who proposes to, |

| | | | |
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| | | | <p>starts or has changed their gender identity</p> <p>Transgender</p> <p>Appropriate language use, i.e. appropriate pronouns</p> <p>Gender neutral changing facilities and toilets</p> <p>Gender neutral language within policy</p> <p>Consider intersectionality issues</p> <p>Co-production</p> |
| <p>Marriage & Civil Partnership</p> | | No Impact | <p>Marital status</p> <p>Civil Partnership status</p> <p>Consider intersectionality issues</p> <p>Co-production</p> |
| <p>Pregnancy & Maternity</p> | | No impact | <p>Pregnant mothers</p> <p>Those entitled to maternity and paternity leave</p> <p>Foster/Adoption</p> <p>Breastfeeding mothers</p> <p>Gender neutral language within policy</p> <p>Consider intersectionality issues</p> |
| <p>Welsh Language</p> | | No impact | <p>Ensuring equal status of both Welsh and English languages.</p> <p>Availability of and access to services, activities and information.</p> <p>Technology</p> <p>Rights of individuals to ask for WL services.</p> <p>Impact on Welsh speaking</p> |

| | | | |
|---|--|------------------|--|
| | | | <p>communities, including: Positive / negative effects on opportunities to use the Welsh Language. Possible changes to number/percentage of Welsh speakers Migration Job opportunities / Staffing changes. Training needs and opportunities Availability of Welsh medium education Consider intersectionality issues</p> |
| <p>Socio Economic Considerations Mynyddalen 127</p> | | <p>No impact</p> | <p>People living in less favourable social and economic circumstances than others in the same society. Disadvantage may be exacerbated by many factors of daily life, not just urban or rural boundaries. Consider 'Intersectionality' issues - where identity compounds socio-economic status, e.g. single parents (often women), disabled people, some ethnic minority groups. Consider that the impact can be in a number of domains, for example: Inequalities in Education, Health, Living Standards.</p> |

| | | | |
|--|--|--|---|
| | | | Work, Justice and Security and Participation. Examples https://gov.wales/socio-economic-duty-examples-inequalities-outcome |
|--|--|--|---|

| | | | |
|-----------------------------|--|-----------|---|
| Human Rights | | No impact | See Human Rights Articles . Consider intersectionality issues |
| Other (please state) | | No impact | Eg, Modern Slavery, Safeguarding, Other Covid effects, Carers, Ex-offenders, Veterans, Care Leavers, Substance Abuse, Homeless Consider intersectionality issues |

| | | |
|------------------------------|---|---|
| Human Rights Act 1998 | <ul style="list-style-type: none"> • Article 2 Right to life • Article 3 Freedom from torture and inhuman or degrading treatment • Article 4 Freedom from Slavery and forced labour • Article 5 Right to liberty and security • Article 6 Right to a fair trial • Article 7 No punishment without law | <ul style="list-style-type: none"> • Article 8 Respect for private life, family, home and correspondence • Article 9 Freedom of thought, belief and religion • Article 10 Freedom of expression • Article 11 Freedom of Assembly and association • Article 12 Right to marry and start a family • Article 13 Right to access effective remedy if rights are violated • Article 14 Protection from discrimination |
|------------------------------|---|---|

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Are there any data or information gaps and if so what are they and how do you intend to address them?

None

Note: If it is not possible to obtain this information now, you should include this in your action plan in Step 6 so that this information is available for future EqlAs.

10. If this EqlA is being updated from a previous version of a similar policy or practice, were the intended outcomes of the proposal last time achieved or were there other outcomes? (Please provide details, for example, was the impact confined to the people you initially thought would be affected, or were other people affected and if so, how?)

N/A

11. What does your proposal include to demonstrate you have given due regard to the Public Sector Equality Duty (to advance equality of opportunity; help to eliminate unlawful discrimination, harassment, or victimisation and foster good relations and wider community cohesion; as covered by the 3 aims of the General Duty in the Equality Act 2010)?

We have recognised the existing problems cause by A frame access barriers to some mobility aids and commissioned a report to understand the constraints and opportunities that can be employed to improve access. This resulted in recommendations to improve access with a radar lockable gate to improve access whilst still retain control and management of illegal vehicle use which does protect the wider community in terms of safety.

12. **How does your proposal demonstrate you have given due regard to the need to address inequalities of outcome as a result of socio-economic disadvantage? (Please note that this is about closing inequality gaps rather than just improving outcomes for everyone.)**

N/A

13. **How does your proposal ensure that you are working in line with the requirements of the Welsh Language Standards (Welsh Language Measure (Wales) 2011), to ensure the Welsh language is not treated less favourably than the English language, and to ensure people can use the Welsh Language when accessing public services. Also how to operate to ensure that every opportunity is taken to promote the Welsh language (beyond providing services bilingually) and to increase opportunities to use and learn the language in the community?**

N/A

14. **What is the cumulative impact of this proposal on different protected groups when considering other key decisions affecting these groups made by the organisation? (You may need to discuss this with your Service Head or Cabinet Member to consider more widely if this proposal will affect certain groups more adversely because of other decisions the organisation is making, eg, financial impact/poverty, withdrawal of multiple services and whether this is disadvantaging the same groups, eg, disabled people, older people, single parents (who are mainly women), etc)**

This proposal does impact people with disability due to the control measure employed to combat illegal vehicle access. There is no access infrastructure which restricts illegal motorbike users whilst allowing legitimate users of mobility aids larger than a Class 2 mobility aid.

15. **How does this proposal meet with the 7 goals of the Well-being of Future Generations (Wales) Act 2015 including to create a More Equal Wales? (Summarise findings if you may have already considered this as part of the screening process)**

For more information, please see: [Wellbeing of Future Generations \(Wales\) Act 2015](#)

The proposal seeks to balance maximising accessibility as far as possible, whilst also seeking to manage anti-social behaviour and the risk to public safety public safety.

A Prosperous Wales – the project supports improvements to the Wales Coast Path which has been calculated to be worth £18.3m to the economy

A Resilient Wales – the project provides a level of resilience against antisocial behaviour.

A More Equal Wales – provides improvement to provide improved accessibility, although it may not be able to accommodate all requirements due to public safety concerns.

A Healthier Wales – will provide the opportunity for the majority of users to enjoy the Wales Coast Path providing health and well being benefits.

A Wales of Cohesive Communities – the scheme seeks to balance the need for access in addition to public safety

A Wales of Vibrant Culture & Thriving Welsh Language – any signage that might be installed in the future will embrace the Welsh language.

A Globally Responsible Wales – the Wales Coast Path provides the opportunity for people to walk and cycle rather than use vehicles, making a positive contribution to reducing emissions linked to climate change.

16. **Describe any intended negative impact identified and explain why you believe this is justified** (for example, on the grounds of advancing equality of opportunity or fostering good relations between those who share a protected characteristic and those who do not or because of an objective justification¹ or positive action²)

It is important on the grounds of public safety for the wider community, to retain the barriers to illegal vehicle access, this does have a negative impact on those with disability who need to use wide mobility aids. The proposed works have a positive effect in that it increases the number who can access the path through the radar locked gates, although some will find it difficult.

Note¹: Objective Justification - gives a defence for applying a policy, rule or practice that would otherwise be unlawful direct or indirect discrimination. To rely on the objective justification defence, the employer, service provider or other organisation must show that its policy or rule was for a good reason – that is 'a proportionate means of achieving a legitimate aim'. A **legitimate aim** is the reason behind the discrimination which must not be discriminatory in itself and must be a genuine or real reason, eg, health, safety or welfare of individuals. If the aim is simply to reduce costs because it is cheaper to discriminate, this will not be legitimate. Consider if the importance of the aim outweighs any discriminatory effects of the unfavourable treatment and be sure that there are no alternative measures available that would meet the aim without too much difficulty (proportionate) and would avoid the discriminatory effect.

Note²: Positive Action - The Equality Act 2010 allows for positive action towards a specific group if there is sufficient evidence of need. For example, where an employer takes specific steps to improve equality in the workplace to address any imbalance of opportunity, lessen a disadvantage or increase participation in a particular activity, by, say, increasing the number of disabled people in senior roles where they are under-represented by targeting specific groups with job adverts or offering training to help create opportunities for certain groups. The public sector is expected to consider the use of positive action to help them comply with the Public Sector Equality Duty.

17. Could any of the negative impacts identified amount to unlawful discrimination but are perceived to be unavoidable (eg, reduction in funding)?

Yes No Not Sure (Please double click on the relevant box (X) and select 'checked' as appropriate)

18. If you answered Yes or Not Sure to question 17, please state below, which protected group(s) or other groups this applies to and explain why (including likely impact or effects of this proposed change)

Disability
To protect the wider community on the grounds of public safety due to the ongoing threat of illegal motobikes being used as part of 'county lines' drug routes into Wales.

19. If you answered No to question 17, are there any barriers identified which amount to a differential impact for certain groups and what are they?

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STEP 3 - Procurement and Partnerships

The Public Sector Equality Duty (PSED) requires all public authorities to consider the needs of protected characteristics when designing and delivering public services, including where this is done in partnership with other organisations or through procurement of services. The Welsh Language Standards also require all public authorities to consider the effects of any policy decision, or change in service delivery, on the Welsh language, which includes any work done in partnership or by third parties. We must also ensure we consider the Socio-economic Duty when planning major procurement and commissioning decisions to consider how such arrangements can reduce inequalities of outcome caused by socio-economic disadvantage.

When procuring works, goods or services from other organisations (on the basis of a relevant agreement), we must have due regard to whether it would be appropriate :

- for the award criteria for that contract to include considerations to help meet the General Duty (to eliminate discrimination, promote equality of opportunity and foster good relations);
- to stipulate conditions relating to the performance of the contract to help meet the three aims of the General Duty.

This only applies to contractual arrangements that are "relevant agreements" which means either the award of a 'public contract' or the conclusion of a 'framework agreement', both of which are regulated by the Public Sector Directive (Directive 2004/18/EC) which regulates the specified EU thresholds. Further information can be found [here](#).

We must consider how such arrangements can improve equal opportunities and reduce inequalities of outcome due to protected characteristics and caused by socio-economic disadvantage, particularly on major procurement and commissioning decisions. The PSED applies to the work that private sector organisations undertake when delivering a public function on our behalf. We therefore need to ensure that those organisations exercise those functions by ensuring our procurement and monitoring of those services complies with the General Duty under Section 149 of the Equality Act 2010. In the same way, the Welsh Language Standards applies to any work undertaken on behalf of, and in the name of, public bodies that are themselves subject to the Standards, and so consideration should be given to how these requirements are monitored and communicated through the procurement documents. The Socio Economic Duty does not pass to a third party through procurement, commissioning or outsourcing. Therefore when we work in partnership with bodies not covered by the Socio Economic Duty, the duty only applies to us as the relevant public body.

20. Is this policy or practice to be carried out wholly or partly by contractors or in partnership with another organisation(s)?

Yes No (Please double click on the relevant box (X) and select 'checked' as appropriate)

If No, please proceed to Step 4

21. If Yes, what steps will you take to comply with the General Equality Duty, Human Rights and Welsh Language Legislation and the Socio-Economic Duty in regard to procurement and/or partnerships? Think about :

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Procurement

- Setting out clear equality expectations in Tendering and Specification documentation, showing how promotion of equality may be built into individual procurement projects
- On what you based your decisions in the award process, including consideration of ethnical employment and supply chain code of practice
- Ensure that contract clauses cover the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 and socio-economic requirements as well as Welsh Language Duties (remember that any duties from the Welsh Language Measure 2011 and Welsh Language Standards are also applicable to services provided on your behalf under contract by external bodies).
- Performance and Monitoring measures are included to monitor compliance, managing and enforcing contracts

Partnerships

Be clear about who is responsible for :

- Equality Monitoring relevant data
- Equality Impact Assessments
- Delivering the actions from the EqIA
- Ensuring that equality, human rights and Welsh Language legislation is complied with by all partners
- Demonstrating due regard to the Public Sector Equality Duty and the Socio-Economic duty

STEP 4 - Dealing with Adverse or Unlawful Impact and Strengthening the Policy or Practice

22. **When considering proportionality, does the policy or practice have a significantly positive or negative impact or create inequalities of outcome resulting from socio-economic disadvantage?** (Please give brief details)

| Significantly positive impact | Significantly negative impact |
|---|--|
| There is a positive impact as the amended access point design allows better accessibility for those less able. The access point retains control over ingress of motorbikes and therefore wider public safety. | There is still a residual negative impact to some with disability who cannot access through a radar lockable gate. |

23. **It is important that you record the mitigating actions you will take in developing your final policy/practice draft. Record here what measures or changes you will introduce to the policy or practice in the final draft which could reduce or remove any unlawful or negative impact or disadvantage and/or improve equality of opportunity/introduce positive change; or reduce inequalities of outcome resulting from socio-economic disadvantage?** (This could also inform the Action Plan in Q34)

| Unlawful or Negative Impact Identified | Mitigation / Positive Actions Taken in the Policy/Practice | Completed (✓) |
|---|--|---------------|
| Access issues through radar lockable gate | Review the situation and issues for a 6 month period | |
| | | |
| | | |

24. **Will these measures remove any unlawful impact or disadvantage?**

Yes No (Please double click on the relevant box (X) and select 'checked' as appropriate)

25. **If No, what actions could you take to achieve the same goal by an alternative means?**

| |
|-----------------|
| None identified |
|-----------------|

26. **What other measures or changes could you include to strengthen or change the policy/practice to demonstrate you have given due regard to the Public Sector Equality Duty?** (To advance equality of opportunity; help to eliminate unlawful discrimination,

harassment or victimisation; and foster good relations and wider community cohesion; as covered by the 3 aims of the General Duty in the Equality Act 2010)

None identified.

27. What other measures or changes could you include to strengthen or change the policy/practice to demonstrate you have given due regard to the need to reduce inequalities of outcome as a result of socio-economic disadvantage?

None identified.

28. What other measures or changes could you include to strengthen or change the policy/practice to demonstrate you have given due regard to the need to increase opportunities for people to use the Welsh language, to ensure the Welsh language is not treated less favourably than the English language as set out in the Welsh Language (Wales) Measure 2011 and to reduce or prevent any adverse effects that the policy/practice may have on the Welsh language?

T/A

29. Do you have enough information to make an informed judgement?

Yes No (Please double click on the relevant box (X) and select 'checked' as appropriate)

30. If you answered Yes, please justify:

Independent consultants review
Feedback received from users and communities affected

31. If you answered No, what information do you require and what do you need to do to make a decision?

(Note: Should data collection be included in the action plan (Step 6)?)

[You may need to stop here until you have obtained the additional information]

T/A
Total
135

STEP 5 - Decision to Proceed

32. Using the information you have gathered in Steps 1 – 4 above, please state on the table below whether you are able to proceed with the policy or practice and if so, on what basis?

(Please double click on the relevant box (X) and select 'checked' as appropriate)

| Decision | |
|---|---|
| <input checked="" type="checkbox"/> Yes | Continue with policy or practice in its current form |
| <input type="checkbox"/> Yes | Continue with policy or practice but with amendments for improvement or to remove any areas of adverse impact identified in Step 4 |
| <input type="checkbox"/> Yes | Continue with the plan as any detrimental impact can be justified |
| <input type="checkbox"/> No | Do not continue with this policy or practice as it is not possible to address the adverse impact. Consider alternative ways of addressing the issues. |

33. Are there any final recommendations in relation to the outcome of this Equality Impact Assessment?

None

STEP 6 - Actions and Arrangements for Monitoring Outcomes and Reviewing Data

The EqIA process is an ongoing one that doesn't end when the policy/practice and EqIA is agreed and implemented. There is a specific legal duty to monitor the impact of policies/practices on equality on an ongoing basis to identify if the outcomes have changed since you introduced or amended this new policy or practice. If you do not hold relevant data, then you should be taking steps to rectify this in your action plan. To review the EHRC guidance on data collection you can review their [Measurement Framework](#).

34. Please outline below any actions identified in Steps 1-5 or any additional data collection that will help you monitor your policy/practice once implemented:

| Action | Dates | Timeframe | Lead Responsibility | Add to Service Plan (✓) |
|--------|-------|-----------|---------------------|-------------------------|
| | | | | |

| | | | | |
|--|--|--|--|--|
| | | | | |
| | | | | |

35. Please outline below what arrangements you will make to monitor and review the ongoing impact of this policy or practice including timescales for when it should be formally reviewed:

| Monitoring and Review arrangements (including where outcomes will be recorded) | Timeframe & Frequency | Lead Responsibility | Add to Service Plan (✓) |
|---|-----------------------|---------------------|-------------------------|
| Monitor the installation and review in 6 months | 30 th June | Tom Woodall | |
| | | | |
| | | | |

STEP 7 - Publishing the Equality Impact Assessment

Please arrange for this completed EqIA to be agreed by your Head of Service/Department and arrange for translation and publishing with a copy sent to the Equality Officer -Fiona Mocko. fiona.mocko@flintshire.gov.uk .

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Mae'r dudalen hon yn wag yn bwrpasol