

ENVIRONMENT & ECONOMY OVERVIEW & SCRUTING COMMITTEE

Date of Meeting	12th 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

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.
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2.00	RESOURCE IMPLICATIONS
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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
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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.
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3.02	Before seeking Cabinet approval, the Inspection Strategy will be considered by Environment & Economy Overview and Scrutiny Committee on 12 th December 2023.
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4.00	RISK MANAGEMENT
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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:								
	<table border="1"> <tr> <td>Long-term</td> <td>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.</td> </tr> <tr> <td>Prevention</td> <td>No impact identified</td> </tr> <tr> <td>Integration</td> <td>No impact identified</td> </tr> <tr> <td>Collaboration</td> <td>No impact identified</td> </tr> </table>	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
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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	1) Contaminated Land Inspection Strategy – 2023 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 includes both the revenue budget and capital programme and any authorised amendments to them.