

## ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1. **Meeting:** Cabinet Member and Deputy for Housing and Environmental Services.
2. **Date of Meeting:** 2 July 2001.
3. **Title:** Adoption of Statutory Contaminated Land Framework Document.
4. **Originating Officer:** Tim Simpson.
5. **Issue:** To formally adopt the above document, as required by statute.
6. **Summary:** The Framework Document details how the Council will inspect its land for contamination, and ensure that action is taken for any “contaminated land” found. The strategy has to be adopted by the Council, published and implemented.
7. **Clearance/Consultation:** The draft document has been sent to 14 external consultees, including neighbouring local authorities and the Environment Agency and 28 internal consultees. The draft has been posted on the Council's Web Page and a copy has been provided in all libraries, together with press coverage.
8. **Timing:** The legislation requires formal adoption of the strategy by the Council within 15 months of 1<sup>st</sup> April 2000, i.e. 1<sup>st</sup> July 2001. It is estimated that gathering all necessary land use data will take existing staff resources 12 months to complete, following which the prioritisation programme will be operated. Implementation and completion of the work required will be carried out by a site prioritisation system which may entail site investigation until April 2006.
9. **Background:** Local authorities have been required to prepare a strategy detailing how they are to investigate and remediate land contamination in their area. The statutory scheduling now requires adoption of the strategy. Development of the strategy has utilised draft Environment Agency guidance but not until last month some 14 months into the preparation time-scale has a final version of the guidance been published.

The Strategy proposes using a risk based approach, both in the initial screening process and during detailed inspection of sites, in order to identify contaminated land. The initial work programme involves gathering data on all current land uses in the Borough and all past land uses that may have given rise to contamination. This information will be managed via a computer package, which will be used to rank how likely and how serious a potential risk may be, where the past and current land uses are spatially similar. At this stage, all data gathered is “desk top”, and not based on actual site investigations.

Once all necessary “desk study” information is collected and analysed, an inspection programme will commence, starting with those sites that appear from the “desk top” information to be likely to present the greatest risk, to determine if the land is statutorily contaminated. To be designated as contaminated, a local authority must be satisfied that, by reason of substances in, on or under the land, that (a) significant harm is being caused or there is significant possibility of such harm being caused; or (b) pollution of controlled waters is being, or is likely to be, caused.” Statutory guidance prescribes the “receptors” (human health, water

resources, some buildings and livestock and some prescribed ecological systems) to which "harm" etc may be caused. From the legislative definition it is, therefore possible to envisage that there will be some land which is found to be polluted but will not be classed as being "contaminated".

Local authorities and the Environment Agency in specific cases have power to require remediation of contaminated land to be undertaken, by the person responsible, if possible. The legal interpretation and requirements to determine liability are extremely complex. The Council is also required to publish a public register of land designated as statutorily contaminated and enforcement action.

10. **Argument:** The proposed strategy is based on the statutory guidance, and follows the Council's existing five key themes as part of its strategic framework, particularly creating a clean, safe and healthy environment, working in partnership to regenerate Rotherham and community well-being. The strategy will also supports the corporate vision, and priorities laid in the current Draft Corporate Plan.
11. **Risks and Uncertainties:** It is quite possible that the implementation of the strategy requirements will result in information being obtained which shows that Council Service Areas are responsible for contaminated land, and must instigate further investigations and remediation themselves. It may also reveal other liabilities, such as for land that has now been sold, or from persons who live/work etc on Council owned land that is contaminated. Conversely, the obtaining of detailed information regarding contamination may be a useful resource for a number of Service Areas, for example, Planning Services etc. It is recognised that existing staff will require training and development to ensure competent implementation of the strategy.
12. **Finance:** The draft Service Delivery Plan prioritises a 12 month land use desk top study ahead of specific site investigations. This computer based programme could be delivered more quickly by the procurement of an "off the shelf" software package (£17,000) but this is outside the scope of the service's base revenue budget. Any subsequent detailed on-site investigations that are required will carry an investigative cost (sample analysis etc.) This will vary from site to site (simplest around £2,000). The Council could also be responsible for remediating contaminated sites – as owner or "polluter", such work is complex, and can cost in excess of £20,000 per site. Supplementary Credit Approvals may be sought.
13. **Sustainability:** One of the aims is to minimise environmental pollution, without undertaking excessive remediation work that is not robustly justified, and also to encourage redevelopment of brown field sites for suitable development.
14. **Wards Affected:** All.
15. **References:** Draft Statutory Contaminated Land Strategy Framework Document, Environmental Protection Act 1990, Environment Act 1995, The Contaminated Land (England) Regulations 2000, Circular 2/2000, Minute K646 of 25<sup>th</sup> February 1999, Cabinet Minute B29; 23<sup>rd</sup> May 2000.
16. **Presentation:**  
The process of investigating and remediating land will ensure that all land in the Borough is suitable for the use it is put to, and does not pose unacceptable risks to people, the environment, water and property.

- 17. Recommendation:**  
**That the Contaminated Land Strategy be adopted by the Council, and its requirements implemented in accordance with the document.**

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