

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Operational Services Cabinet Committee

Date: 24 November 2022

Reporting officer: Mark Lees, Regulatory Services Manager
Deborah Wilders, EP Team Leader

Subject: Contaminated Land Strategy Review

Purpose and summary of report:

To present Members with a draft of the revised Contaminated Land Strategy and the proposed consultation methodology.

Recommendations:

1. Members to consider the draft Strategy for consultation and advise on relevant amendments.
2. Members to note and provide any comments on the consultation process as outlined and agree to officers proceeding with the same.
3. Following any amendments made to the Strategy following public consultation, the Portfolio Holder will formally approve the revised Contaminated Land Strategy without further need to report back to the Cabinet Committee.
4. The council continues to progress its revised Contaminated Land Strategy as approved.

Key Implications:	
Item	Implications
Legal	Section 57 of the Environment Act 1995 created Part 2A of the Environmental Protection Act 1990 ("Part 2A") which establishes a legal framework for dealing with contaminated land in England. Accompanying Statutory Guidance issued by the Department for Environment, Food and Rural Affairs ("Defra") was last published in April 2012 in accordance with section 78YA of the Environmental Protection Act 1990 and explains how local authorities should implement the regime.
Finance and Value for Money	Completion of the tasks set out in the proposed Strategy would require consultancy support due to the specialist nature of them and resources required. Fee estimates for task 1 to 4 (inc.) have been provided by Leap Environmental Ltd, totalling £15,285 (excluding VAT). G302/34102 is an established 'Consultancy Fees' budget within the Environmental Protection cost centre, intended for engaging such services. The current £18,630 budget is unlikely to be sufficient to cover the cost of delivering all of the

	proposed strategy objectives within a single financial year, as well as the ad-hoc reactive consultancy support required to support the council's environmental protection and planning development functions, and therefore the objectives would be delivered over two or more financial years in order to spread the costs and work within existing budgets.
Corporate Plan	The publication of a Contaminated Land Strategy and progression of the tasks set out within in directly support Objective #1 People – in particular the commitment to improve the local environment. Because of the intrinsic link contaminated land has with development, it also supports a number of other development-related commitments within both Objective #1 and Objective #2 Place, as well as seeking to support digital innovation within Objective #3 Progress.
Climate Change	Before developments which aim to support carbon reduction schemes can progress, land must first be safe for its intended use which is in part reliant on an efficient contaminated land function underpinned by an effective Strategy.

1. Background

- 1.1 England has a considerable legacy of historical land contamination involving a very wide range of substances. On all land there are background levels of substances, including substances that are naturally present as a result of varied and complex geology and substances resulting from human pollution. On some land there are greater concentrations of contaminants, often associated with industrial use and waste disposal. In a minority of cases there may be sufficient risk to health or the environment for such land to be considered contaminated land.
- 1.2 Part 2A of the Environmental Protection Act (EPA) 1990, which came into force in April 2000, establishes a legal framework for dealing with contaminated land in England. Its main purpose is to provide an improved system for the identification of land that poses unacceptable risks to health or the environment and for securing remediation where such risks cannot be controlled by other means.
- 1.3 It places a duty on local authorities to cause their areas to be inspected with a view to identifying contaminated land, and to do so in accordance with Statutory Guidance published by Defra in April 2012 which explains how local authorities should implement the regime.
- 1.4 The Guidance clarifies that local authorities adopt a “strategic approach” to inspecting their areas, prioritise land most likely to pose the greatest risk to human health and the environment, and publish this information within a formally adopted written Strategy.
- 1.5 Specific mention is made within the Guidance of local authorities using the planning system to ensure land is made suitable for use when it is (re)developed and this has, and continues to be, the main mechanism in the identification and management of land affected by contamination in Gravesham.
- 1.6 The Environmental Protection team, with support from specialist contaminated land consultants, work closely with Planning Officers to ensure the appropriate (re)development of land by imposing planning conditions on developers requiring them to carry out contamination assessments and, where applicable, remedial work.

2. Contaminated Land Strategy

2.1 The Council published its first written Strategy in 2002 with revisions published in 2009 and 2013. The current Strategy is published on the council's website and available to view at:

<https://www.gravesham.gov.uk/downloads/file/124/contaminated-land-strategy>

- 2.2 Each Local Authority is required to keep their written strategy under periodic review to ensure it remains up to date. Whilst the review period is at the local authorities' discretion, a five-year period is considered to be good practice.
- 2.3 A further review of the council's Strategy has not been required to date as there have not been any changes to legislation, Statutory Guidance, nor the council's primary approach to identifying and remediating contaminated land through the planning process since the adoption and publication of the current policy.
- 2.4 Whilst this remains the case, updates and improvements are now required to processes and mapping data in order to be able to support our statutory duty to inspect and prioritise contaminated land, which cannot be delivered in-house due to the lack of specialist Contaminated Land or Geographical Information Systems (GIS) officers, such that a review of the Strategy is now required.
- 2.5 The council's appointed contaminated land consultants, Leap Environmental Ltd, were engaged in helping to develop the draft strategy, which clearly reflects the steps proposed and is attached to this report at Appendix 1.
- 2.6 Completion of the proposed Strategy tasks will assist officers in providing reliable responses to contaminated land enquiries and land searches, and levying a charge wherever possible, which is currently hindered by the lack/unreliability of available data.

3. Consultation and Publication

- 3.1 It is proposed to consult with the following:
- Environment Agency
 - English Heritage
 - Natural England
 - Defra
 - Borough Councillors
 - Parish Councils
 - Kent County Council
 - Kent and Medway Councils, via the Kent and Medway Environmental Protection Steering Group
 - Members of the public through the council's website
- 3.2 A consultation of at least four weeks is proposed. Methods of consultation will be via the council's website and by email.
- 3.3 All incoming responses will be collated and entered onto a grid for consideration.
- 3.4 Officers will conduct an evaluation of each response, seeking specialist advice from contaminated land consultants where required, and give a recommendation

as to whether or not to amend the Strategy. This will be presented the Portfolio Holder for formal adoption.

3.5 The revised Contaminated Land Strategy will then be published.

4. Appendices

4.1 The following documents are to be published with the report:

4.1.1 Draft Contaminated Land Strategy 2022

5. Background Documents

5.1 There are no background documents.

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Secondary Implications	
Risk Assessment	It is a requirement for a Local Authority to have a contaminated land strategy and for this to be review periodically. This document sets out how the Authority intends to inspect its area for the purpose of identifying contaminated land and how it will go about securing remediation of that land formally determined as contaminated. It documents transparently what the authority's aims are and how it is dealing with contaminated land. The Strategy reduces the opportunity for challenge through the Courts that the Council is failing to meet its commitments in this area of work.
Data Protection Impact Assessment	<i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i>
	a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data ? A definition of each type of data can be found on the Information Commissioner's Office website via the above links. No
	b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A
	c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk . N/A
Equality Impact Assessment	a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No

	<p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer.</p> <p>No</p>
	<p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>
Crime and Disorder	N/A
Digital and website implications	Web-content will need to be updated as part of the consultation and in re-publishing a revised Strategy document.
Safeguarding children and vulnerable adults	N/A