

- Submit a report on the risk estimation and assessment to Planning Services. Agree the Remediation Strategy and inform all relevant interested parties (Planning, Environmental Health, Environment Agency, Building Control/National House Building Council) and identify single point of contact at Borough Council for follow-up issues.
- Planning Services to decide if the submitted report is to be approved.
- After approval, proceed to next stage if necessary.

### Stage 3 – Remedial action

- Implement Remediation Strategy with regular updates to single point of contact including unforeseen work.
- Where appropriate, seek site visits from the Borough Council's staff.

### Stage 4 – Closure report

- Upon completion, produce a concise, documented evidence report of investigations, remedial action and validation undertaken to enable Planning Services to discharge any planning conditions.

### Notes

- Compliance with the Building Regulations is a separate issue and there should be close discussion in appropriate cases with the Council's Building Control Service or with the National House Building Council.
- Council staff will use the documented evidence referred to in Stage 4 to reply to all enquiries on a Land Charges Search.

### Contacts

Planning Services  
Tunbridge Wells Borough Council  
Town Hall, Royal Tunbridge Wells  
Kent TN1 1RS  
01892 526121  
[planningcomments@tunbridgewells.gov.uk](mailto:planningcomments@tunbridgewells.gov.uk)  
[www.tunbridgewells.gov.uk](http://www.tunbridgewells.gov.uk)

Environmental Protection Team  
Tunbridge Wells Borough Council  
Town Hall, Royal Tunbridge Wells  
Kent TN1 1RS  
01892 554235  
[envprotection@tunbridgewells.gov.uk](mailto:envprotection@tunbridgewells.gov.uk)  
[www.tunbridgewells.gov.uk](http://www.tunbridgewells.gov.uk)

Environment Agency  
Orchard House, Endeavour Park  
London Road, Addington  
West Malling  
Kent ME19 5JH  
08708 506506  
[enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)  
[www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

Further information about contaminated land investigation and reporting is available on the Environmental Protection web pages of the Council's website.

**If you require this information in large print, Braille, on audiotape or in any other format, please contact us on 01892 526121**

## Planning Services

# Land Affected By Contamination A Guide for Developers

This guidance explains what information should be submitted with a planning application to redevelop, or significantly change the use of land or buildings which could potentially be contaminated.

### Contamination

This is likely to arise from a previous use of a site, or an adjacent site, due to a previous industrial or waste disposal activity.

Contamination does not necessarily present an unacceptable risk. However, risk arises when a pathway is created between a contaminant and a vulnerable receptor. The contaminant may be chemical, biological, radioactive or physical. Development can create risk by introducing new pathways and also by introducing new receptors – for example where houses are built near the site of a former landfill site producing methane.

Where development introduces a particularly sensitive use, such as houses with gardens, schools, or allotments, the possibility of contamination should always be considered.

### Planning Applications

The presence of contamination is a material consideration when considering planning applications. Development must not create or allow the continuation of unacceptable risk. The standard of remediation to be achieved is the removal of unacceptable risk, making the site suitable for its new use and ensuring that it does not cause pollution of the wider environment.

An assessment of risk should always be carried out by the developer, before the planning application is submitted.

Appendix 1 to this leaflet sets out the stages for assessing risk, proposing a remediation strategy, and producing evidence that the work has been carried out satisfactorily.

Where land is affected, or likely to be affected by contamination, developers should submit a Stage 1a Study. This will include desk-based research, site reconnaissance and hazard identification.



A Stage 1a Study is the minimum requirement. It is advisable for the developer to liaise with the Council before submitting a planning application in order to discuss specific site details.

Where significant contamination is known or suspected, additional research and risk assessment may be needed before an application can be determined. If circumstances indicate possible unacceptable risk, then planning permission may be refused. All aspects of investigations into possible land contamination should follow the guidelines within CLR11 Model Procedures for the Management of Land Contamination, available at [www.tunbridgewells.gov.uk](http://www.tunbridgewells.gov.uk).

### Table 1

Examples of potentially contaminating uses:

- metal processing and finishing
- gasworks
- oil and petroleum storage
- manufacture of chemicals including paints and fertilisers
- timber treatment
- landfill sites
- scrap yards
- abattoirs
- railway or road haulage depots

### Use of Planning Conditions

There will be circumstances in which the past use of the land or buildings suggests the possibility of contamination. Examples might include buildings previously used for light industrial purposes or for agricultural use. In such cases the Council may impose a condition on the planning

permission. Such a condition would ensure that the site is investigated and any necessary remediation is carried out before development takes place.

Conditions may also be used where the Council is satisfied that the risks are understood and that there is a remediation option, but where not all the details have been resolved.

### Other Legislation

The planning process sets a minimum standard for cleaning land to ensure the property cannot be classed as contaminated under Part IIA of the Environmental Protection Act 1990. For details on Part IIA, please contact the appropriate Contaminated Land Officer.

Building Regulations approval may also be required and the applicant must ensure that the Building Control Officer is aware of contamination issues and that the appropriate requirements are met.

### Further Information

Planning Policy Statement 23: Planning and Pollution Control.

Appendix 2A includes details of relevant legislation and publications.

### Appendix 1

#### Stage 1 – Planning and Desk Study

All aspects of investigations should follow the guidelines within CLR11 Model Procedures for the Management of Land Contamination.

#### Phase 1a – Desk-based research, site reconnaissance, hazard identification

- Research site history to establish if previous uses could lead to contamination.
- Obtain information about previous uses and potential contaminants so as to highlight which areas of the site could be affected (including adjoining land where such risks exist). Ask Environmental Services for directions to any further land contamination guidance that the Council may have.
- Identify who and what is at risk (eg future occupants, buildings and environment) and the potential pathways for those risks – known as the Conceptual Site Model.
- Provide a report of the hazard identification to the Planning Officer when submitting the application. If required, discuss findings with relevant authorities, eg Borough Council and Environment Agency.
- The Planning Authority will then decide if the submitted report is to be accepted and whether there is a need to proceed to the next stage.

#### Phase 1b – Further desk-based research, exploratory site investigation, hazard assessment

- Using information from above, the applicant will need to undertake initial intrusive investigation. Note that monitoring for substances such as ground gas can take several months.
- Review Conceptual Site Model.
- Decide which risk assessment models are appropriate or need to be developed. Discuss and agree

with the Planning Authority. Submit a report of the hazard assessment to Planning Services. If required, discuss findings with the Borough Council and the Environment Agency.

- Planning Services will decide if the submitted report is to be approved and if there is a need to proceed to the next stage.

#### Stage 2 – Risk Estimation and Assessment

##### Phase 2a – Intrusive investigations

- The applicant will now need to determine what detailed intrusive work is required, and what monitoring/sampling techniques need to be used.
- Identify how many samples will be needed for confidence and take guidance from a laboratory providing appropriate Accreditation Service accredited analysis. Produce a methodology and timetable for carrying out the work. Carry out intrusive investigations.
- Use the estimation to inform a risk assessment and, if required, discuss findings with the Borough Council and the Environment Agency.

##### Phase 2b – Risk assessment

- Assess the risks by applying appropriate human health (following the CLEA methodology) and non-human health assessment criteria, as agreed during Phase 1b. Refer to CLR Report 11: Model Procedures for the Management of Land Contamination.
- Identify remediation options and develop a Remediation Strategy including a timetable.