



Mansfield District Council

Working for the future

Contaminated Land Inspection Strategy

Environmental Protection Act 1990 Section 78B

First revision October 2002

Operational Services Directorate

Environmental Health

SUMMARY OF KEY POINTS

Mansfield District Council has a statutory duty under Part IIA of the Environmental Protection Act 1990 to inspect all land in its area to identify contamination. It must also enforce this legislation for all 'contaminated land' identified.

This inspection strategy has been published after wide consultation, both internally (through a corporate group) and externally. All external consultation responses are attached as Appendix VIII. The strategy provides a systematic, ordered, transparent and Best Value approach to the inspection process. It will be reviewed after a minimum of one year and the inspection process will take at least four years to complete. Inspection will be carried out on a ward-by-ward basis, taking account of current knowledge of polluted areas and those of high population density. It is recognised that some sites requiring urgent attention may be identified outside this general approach. These will be dealt with as they arise.

For land to be declared contaminated, a source of contamination must be identified and a pathway for this contamination to reach a target receptor must be confirmed.

A semi-quantitative risk prioritisation process will be used, followed, where appropriate, by a detailed site-specific risk assessment. The approach will ensure that all land with the possibility of causing significant harm in the Mansfield District is identified as 'contaminated land'.

Mansfield District Council's priority in this process will be to protect human health, controlled waters, eco-systems and property, to prevent further land contamination and to encourage voluntary remediation and re-use of brownfield land.

The Council regards the formation of partnerships with others, and particularly with the Environment Agency, as critical to the success of this strategy.

A public register of all regulatory action taken by the Council will be set up and maintained.

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1.0 INTRODUCTION

1.1 General policy of Mansfield District Council

1.1.1 Environmental issues

National objectives

The UK has a legacy of land contamination arising from past industrial development, which has led to possibly harmful substances being in or on land. The previous regulatory system for dealing with contaminated land led in some instances to over-prescriptive and costly remediation being demanded and as a result emphasised the need for a new system of regulation, where 'suitable for use' was the major consideration. In response to this, the UK Government, through the establishment of various policies and the introduction of legislation, has provided a framework that will endeavour to prevent future contamination and ensure that appropriate action is taken to deal with existing land contamination where it poses unacceptable risks to human health or the environment at present or from any future development.

The new regime is entirely new, based upon a set of principles which include a *risk-based* approach to the assessment of contamination, *suitable for use* standards of remediation, the *polluter pays principle* for allocating liability, and *sustainable development*.

The national objectives are summarised as follows:

- To identify and remove unacceptable risks to human health and the environment
- To bring back into beneficial use land that has been subjected to possible contaminative uses, and
- To ensure that the cost burdens faced by individuals, companies and society as a whole are reasonable, proportionate, manageable and economically sustainable.

These three objectives underlie the *suitable for use* approach to the remediation of contaminated land, which the Government considers is the most appropriate approach to achieving sustainable development¹. This means reconciling the aims of safeguarding standards of living and quality of life with those of safeguarding natural resources and protecting and enhancing the environment. The supply of land is limited and the demand for new development places severe pressure on our environment. Redeveloping areas where the previous use has come to an end not only contributes to the social and economic regeneration of the local communities but is also an important force in achieving environmental improvement. 'Planning for Communities of the Future'² outlines various initiatives that aim to increase recycling of land or brownfield sites. Although the term *brownfield* covers all land that has been subject to some previous development or use, a significant proportion of it may be affected by contamination and may therefore fall within this new contaminated land regime.

Local Objectives

Under the new contaminated land regime as detailed in Part IIA of the Environmental Protection Act 1990³, every Local Authority must 'cause its area to be inspected from time to time for the purpose of identifying contaminated land' (section 78B). When contaminated land is identified, the Local Authority must ensure that it is managed in an appropriate manner. Statutory Guidance⁴ has been issued to Local Authorities to take a 'strategic approach' to inspecting their areas and to describe and publish findings in a written strategy.

This strategy outlines how Mansfield District Council plans to approach the issue of contaminated land and implement its inspection duties under the Act.

This strategy details:

- Inspection arrangements and procedures which ensure compliance with and enforcement of the Act, and
- Justification for and transparency in all this Council's decisions in relation to the inspection of its area for contaminated land.

Historically Mansfield has been associated with various types of industrial activity that have the potential to cause land contamination and for this reason the District Council needs to focus on the identification and remediation of contaminated land within its district. The contaminated land inspection strategy will have important links to several other key corporate, regional and county strategies and will provide support to the District Council's 'Mission, Values and Priorities' Strategy⁵. It will make an increasingly significant contribution to sustainable development within the District. The strategy forms an important element of the Council's Local Agenda 21 Community Programme. Targets established for managing contaminated land are established in this programme (set out in Mansfield's Local Agenda 21 Strategy⁶) and progress on these will be reported to the District Council and the Mansfield Area Strategic Partnership Board.

At a regional level, the strategy will complement the work of the Nottinghamshire Agenda 21 Strategy⁷, which is to inform key decision makers of the worst polluted sites in the region and develop a strategy for dealing with these.

1.1.2 Enforcement

Mansfield District Council's approach to enforcement reflects the responsibilities laid upon it by the various pieces of legislation it enforces, and we have produced a Guide to Fair Enforcement Practice⁸ based on the Government's recommended Concordat of Good Enforcement. Depending on circumstances, the District Council may use a variety of means to ensure that all affected individuals meet their responsibilities. These methods may progress through education, advice and guidance to warning letters, remediation notices and prosecutions. Mansfield District Council will generally reserve prosecution for the more serious offences. Prosecution is regarded as a last resort when all other options have failed.

1.1.3 Land contamination in general

Contaminated land is a classic example of our failure in the past to move towards sustainable development. The first priority for the Government's policy on land contamination is to prevent the creation of new contamination and as a result a range of regimes have been or are being developed to prevent new contamination of land, e.g. Integrated Pollution Prevention and Control (IPPC) and Waste Management Licensing⁹.

The purpose of the new contaminated land regime is to deal with the substantial legacy of land that has been contaminated by past industrial activity and waste disposal. It is not known in detail how much land is contaminated. The Statutory Guidance issued by the Secretary of State says that the identification of contaminated land is to be carried out on the basis of a risk assessment methodology using the *contaminant-pathway-receptor* approach (explained later in this strategy). Before a Local Authority determines that land appears to be contaminated it should be satisfied that a contamination pathway and a receptor have been identified. Without the identification of all three elements of a pollutant linkage land will not

be classified as ‘contaminated’.

The Environment Agency has estimated that there may be some 300,000 hectares of land in the UK affected to some extent by industrial or natural contamination. However, experience suggests that only a small proportion of potentially contaminated sites are likely to pose a threat to human health and the environment as defined by the Act.

1.1.4 Public access to information

The handling and release of information regarding sites with contaminative uses will be carefully managed to prevent unnecessary blight and public concern. People’s perception of contamination in the local environment, whether it has been proven or is suspected, may impact on their finances, their livelihood and even affect their use of the land. Mansfield District Council will adopt, when published, the new Environmental Information Regulations, which are currently in consultative draft form.

1.1.5 Consultation and involvement of community groups and businesses

Once the Corporate Contaminated Land Committee has endorsed the strategy, information will be sought from the local community. Copies of the strategy will be sent to parish councils, business associations and other local groups, and will be available for inspection in the libraries and Council reception. In addition the strategy will be included on the District Council’s website and a public notice will be prepared outlining the main details and function of the strategy and the locations where it can be viewed.

1.2 BACKGROUND TO THE LEGISLATION

Historical

The Government in its response to the 11th report of the Royal Commission on Environmental Pollution in 1985¹⁰ announced that the Department of the Environment was preparing a circular on the planning aspects of contaminated land. The draft of the circular stated that ‘even before a planning application is made, informal discussions between an applicant and the local planning authority are very helpful. The possibility that the land might be contaminated may thus be brought to the attention of the applicant at this stage, and the implications explained.’

In 1988 the Town and Country Planning (General Development) Order¹¹ required Local Planning Authorities to consult with Waste Disposal Authorities if development was proposed within 250m of land that had been used to deposit refuse within the last 30 years.

In January 1990 the House of Commons Environment Committee published its first report on contaminated land¹². This document expressed concern that the Government’s suitable for use approach ‘may be underestimating a genuine environmental problem and misdirecting effort and resources’. The committee produced 29 recommendations, including:

- The Department of the Environment should concern itself with all land that has been so contaminated as to be a potential hazard to health or the environment regardless of the use to which it is to be put, and
- Local Authorities should be given a statutory duty to seek out and compile registers of contaminated land.

Immediately following the House of Commons report, the Environmental Protection Act 1990³ had, in section 143, a requirement for Local Authorities to compile ‘Public Registers of

Land which may be contaminated’. If enacted this would have required Local Authorities to maintain registers of land that was or may have been contaminated as a result of previous specified uses. In March 1992 the concern about the blighting effect of such registers resulted in the Secretary of State delaying the introduction of section 143 stating ‘the Government were concerned about suggestions that land values would be unfairly blighted because of the perception of the registers.’

Subsequently, draft regulations¹³ were released in July 1992 which significantly reduced the categories of contaminative uses ‘to those where there is a very high probability that all land subject to those uses is contaminated unless it has been appropriately treated’. It was estimated that land covered by the registers would be only 10 to 15% of the area previously envisaged. Subsequently, on 24 March 1993, the Secretary of State announced that the proposals for contaminated land registers were to be withdrawn and a thorough review of land pollution responsibilities was to be undertaken.

This resulted in the Department of the Environment consultation paper, *Paying for our Past* (March 1994)¹⁴, which elicited no less than 349 responses. The outcome of this was the policy document, *Framework for Contaminated Land*¹⁵, published in November 1994. This useful review emphasised a number of key points:

- The Government was committed to the ‘polluter pays principle’ and ‘suitable for use’ approach
- Concern related to past pollution only, as there were effective regimes in place to control future sources of land pollution
- Action should only be taken where the contamination poses actual or potential risks to health or the environment and there are affordable ways of doing so, and
- The long-standing statutory nuisance powers had provided an essentially sound basis for dealing with contaminated land.

It was also made clear that the Government wished to encourage redevelopment of contaminated land. The proposed new legislation was first published in June 1995 in the form of section 57 of the Environment Act¹⁶ which amended the Environmental Protection Act 1990 by introducing a new Part IIA. After lengthy consultation on statutory guidance this came into force in April 2000.

1.2.1 Regulatory role of the Local Authority under Part IIA

The primary regulators in respect of these new powers are the Local Authorities. In Mansfield the strategy will be under the control of the Head of Environmental Health and steered by the Corporate Contaminated Land Group. It should be noted that this is a complex and demanding enforcement role that will be carried out in accordance with the District Council’s enforcement policy⁸ and the Concordat of Good Enforcement¹⁷ (March 1998).

The statutory guidance states that ‘the Local Authority has the sole responsibility for determining whether any land appears to be contaminated land.’ This is a significant responsibility, which augments existing Local Authority duties under the statutory nuisance regime³ and Town and Country Planning¹¹ development control. The role includes:

- Inspecting the area to identify potentially contaminated sites
- Determining whether any particular site is contaminated by definition
- Determining whether any such land should be designated a Special Site
- Acting as enforcing authority for contaminated land not designated as a Special Site
- Assessing the risks of identified contaminated land

- Determining appropriate remediation requirements
- Considering costs
- Establishing who should pay, and
- Remediating where necessary.

1.2.2 Regulatory role of the Environment Agency

Part IIA of the Act requires that Local Authorities and the Environment Agency work together to share the regulatory duties under this regime. Although Local Authorities have the sole responsibility for the identification of land that meets the statutory definition, the Environment Agency has a duty to provide information and advice, in addition to carrying out inspection at Special Sites on behalf of the Local Authority.

The Environment Agency therefore has four main roles:

- To act as enforcing authority for designated Special Sites
- To advise Local Authorities on matters relating to the pollution of controlled waters
- To provide site-specific advice to Local Authorities on other areas of contaminated land on request, and
- To publish periodic reports on contaminated land.

1.2.3 Definition of Contaminated Land under Part IIA

Contaminated land is defined 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:

- Significant harm is being caused or there is a significant possibility of such harm being caused, or
- Pollution of controlled waters is being, or is likely to be caused.’

Controlled waters include inland freshwater, groundwater and coastal waters (see Appendix III). The various categories of harm are described in section 78A(4) of the Statutory Guidance⁴. ‘Harm’ is defined as ‘harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property’.

Local Authorities should regard as ‘significant’ only harm to the types of receptor listed in Table A of the Statutory Guidance (see Appendix I) and within the description of harm specified for those receptors in that table. Local Authorities should not regard harm to any other type of receptors as being significant, e.g. harm to ecological systems outside the descriptions in the table should be disregarded. Additionally, Local Authorities should not regard any other type of harm to receptors mentioned in Table A as being significant.

In deciding whether there is a ‘significant possibility’ of significant harm being caused, the following factors should be taken into account:

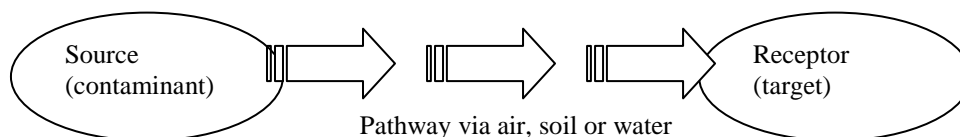
- The nature and degree of harm
- The susceptibility of the receptors to which the harm might be caused, and
- The timescale within which the harm might occur.

In considering the timescale, Local Authorities should take into account any evidence that the current use of the land will cease in the foreseeable future. Local Authorities should regard as ‘a significant possibility’ anything that meets the conditions set out in Table B of the Statutory Guidance (see Appendix II).

Local Authorities have the sole responsibility for determining whether any land appears to be contaminated land; they cannot delegate this. This applies even where the Environment Agency has carried out an investigation on behalf of a Local Authority.

1.2.4 Principles of pollutant linkages

Before land can be declared contaminated by definition, a *significant pollutant linkage* must be identified. A pollutant linkage is defined as a completed sequence of contaminant (hazard) *plus* pathway (via air, soil or water) *plus* receptor (target). Unless all three elements of a pollutant linkage are identified, land cannot be considered contaminated as defined by the Act.



In summary, for contaminated land to exist the following are prerequisites:

- One or more contaminant substances
- One or more specified receptors
- At least one plausible pathway between contaminant and receptor, and
- A good chance that the pollutant linkage will result in significant harm to one of the specified receptors or pollution of controlled waters.

1.2.5 Principles of risk assessment

The Statutory Guidance⁴ establishes a risk-based approach to dealing with potentially contaminated land. The aim is to protect human health and the environment without unnecessary remediation costs. The need for and extent of any remediation is determined from an assessment of the risks posed to human health and the environment, taking into account the intended use of the site.

The *suitable for use* approach consists of three key elements:

- **Ensuring that land is suitable for its current use**

The identification of any land where contamination is causing unacceptable risks to human health or the environment, assessed on the basis of its current use, character and circumstances, and returning such land to a condition where these risks no longer arise (remediation).

- **Ensuring that land is made suitable for any new use given by planning permission**

The assessment of the potential risks from contamination on the basis of the proposed use and circumstances before development permission is given, to avoid unacceptable risks to human health or the environment, and the remediation if necessary of the land before any new use commences.

- **Limiting requirements for remediation of land to those works necessary to prevent unacceptable risks to human health or the environment in relation to the current or imminent use of the land**

The risks from contaminated land can only be satisfactorily assessed in the context of specific uses of the land (whether current or proposed) and any attempt to predict future needs may result in unnecessary or uneconomic work.

This *suitable for use* approach acknowledges that the risk presented by any level of contamination will be largely dependent upon the use of the land, in addition to factors such as the geology, the character of the site, any protected species that may be present, etc. Consequently risks need to be assessed on a site-by-site basis.

Potentially contaminated land will, prior to detailed investigation, be listed and categorised according to a **semi-quantitative risk assessment**¹⁸. The method used will take account of the probability of harm occurring, the likely severity of that harm, and the frequency of contributing factors occurring. A team of at least three people will carry out the preliminary assessment of risk.

It must be understood that any assessments at this preliminary stage may have been made on a limited amount of information, such as old surveys, maps, geological data, etc. As more knowledge of the sites is obtained, these assessments will be reviewed and may be revised.

1.2.6 Requirements of strategic approach

In developing its strategic approach Mansfield District Council will consider:

- The history, scale and nature of potentially contaminative uses (see Appendix IV)
- The location of sensitive water receptors, sensitive property receptors, relevant ecological receptors and all existing human receptors
- Relevant geology, hydrogeology and hydrology, and
- That there are no existing pollution control regimes already in place.

Consideration will also be given to the existence of sites that would be designated Special Sites as defined by the Act.

1.2.7 Situations where the Act may not apply

There are several situations where existing pollution control legislation may apply to control possible land contamination.

a) Integrated Pollution Control and Integrated Pollution Prevention and Control (*Environmental Protection Act 1990 Part 1, Prescribed Processes and Substances Regulations 1991 Schedule 1 Part A*). Under these regulations, there are certain processes prescribed for pollution control regimes known as Integrated Pollution Control (IPC) and Integrated Pollution Prevention and Control (IPPC). IPPC will fully supersede IPC by 2009. Section 27 of the Act gives the Environment Agency power to take action to remedy harm caused by a breach of IPC controls, including land contamination. Under IPPC, Local Authorities will also have the responsibility to control pollution of land from certain processes.

b) Waste Management Licensing (*Environmental Protection Act 1990 Part II*). All waste disposal and processing sites, including scrap yards, should be subject to licensing. Contamination causing harm or pollution of controlled waters should be dealt with as a breach of the conditions of the licence. In circumstances where the problem arises from an unlicensed activity, it is possible that Part IIA could apply. Where there has been illegal tipping of controlled waste (fly tipping) this should be dealt with under Section 59 of the Environmental Protection Act 1990 Part II.

c) Pollution of Controlled Waters not arising from land (*Water Resources Act 1991*

section 161). Where a pollution incident has occurred and the pollutant has been discharged directly into the body of water, or it has left land and is entirely in the body of water (i.e. the land is no longer causing pollution), the Water Resources Act 1991 will apply.

d) **Discharge Consents** (*Water Resources Act 1991 Part III*). Discharge of process waters is very often consented by the Environment Agency. No remediation notice can therefore be served under the Act on such discharges.

e) **Change of Land Use**. Where land becomes a risk to potential new receptors as a result of a change of use, the Town and Country Planning Development Control regime may apply in conjunction with the provisions of the Act.

f) **Risk of Harm to Employees**. Where persons at work are at risk of harm from land contamination, this should be dealt with under the Health and Safety at Work, etc, Act 1974. The enforcing authority will be either the Health and Safety Executive or the District Council depending on the nature of the work activity.

g) **Risk of Harm following an incident at a COMAH Site** (*Control of Major Accident Hazard Regulations 1999*). Where there has been a release, explosion or other major incident that has caused land contamination, the remediation should be carried out as part of the COMAH on-site/off-site emergency restoration plan.

h) **Contaminated Food** (*Food Standards Act 1999*). Part 1 of the Food and Environment Protection Act 1985 gave Ministers emergency powers to prevent the growing of food on 'contaminated land'. Following the establishment of the Food Standards Agency this power is now vested in the Secretary of State. Where Mansfield District Council suspects crops may be affected by contaminated land to such an extent that they may be unfit to eat, it will consult the Food Standards Agency and the Ministry of Agriculture, Fisheries and Food to establish if an emergency order is necessary. It should be noted, however, that any remediation of the site would be carried out through the new powers in Part IIA of the Act.

i) **Radioactivity**. Part IIA does not apply to contamination caused by radioactivity, but the Secretary of State has the power to make regulations to that effect. Until such regulations are created and brought into force, Mansfield District Council will liaise with the Environment Agency where radioactive contamination is suspected or confirmed.

j) **Organisms**. Part IIA does not apply to contamination caused by organisms such as bacteria, viruses or protozoa, as they do not fall within the definition of 'substances'. This could affect land contaminated with anthrax spores, E. coli, etc. The policy of this Council will be to liaise with the Environment Agency and the Ministry of Agriculture, Fisheries and Food on these sites.

k) **Statutory Nuisance** (*Environmental Protection Act 1990 Part III*). The relationship between Part IIA and statutory nuisance is unclear. If land is declared 'contaminated land' it cannot be considered a statutory nuisance, which ensures there is no duplication or confusion between the two regimes. However, if land is declared 'land in a contaminated state' (defined as land where there are substances in, on or under the land which are causing harm, or there is a possibility of harm being caused), it is also not considered a statutory nuisance. Where land is causing a nuisance from smell it could be considered a statutory nuisance as before.

1.3 DEVELOPMENT OF THE STRATEGY

1.3.1 Overall approach

The framework for the Mansfield District Council strategy has been developed through the Nottinghamshire Contaminated Land Sub-Group (part of the Nottinghamshire Pollution Working Group) and the Corporate Contaminated Land Group.

1.3.2 Internal team responsible

Mansfield District Council's contaminated land team is based within the Environmental Protection Division of the Environmental Health Department under the Head of Environmental Health. The project management role is to be undertaken by the Environmental Protection Officer, who will be assisted by Technical Officer support.

The project manager is responsible for overseeing the content of the strategy, and ensuring that it complies with the Statutory Guidance. S/he will also ensure that the strategy is completed within set timescales and that both internal and external liaison is carried out. The team will be responsible for the preparation of the strategy, ensuring information is managed correctly, overseeing any subsequent inspection and remediation work and processing enquiries. Consultants may be engaged to carry out detailed site investigations where these are required.

1.3.3 Internal liaison

Liaison with all relevant District Council departments has taken place through the Corporate Contaminated Land Steering Group. Formal links have therefore been formed with the following departments:

- Chief Executive's Department, with regard to Local Agenda 21
- Legal Services, for formal review of the draft strategy and advice on possible litigation
- Planning and Building Control, in respect of applications for development, for the development of the Local Plan and regarding sustainable development
- Technical Services, regarding highway and drainage issues
- Economic Development, for the management of land owned by the District Council
- Urban Regeneration, to encourage new businesses into the area
- Personnel and Performance Management, for safety issues
- Finance, with regard to financial contingency plans, and
- Community Services, for relevant information on Housing and Leisure holdings.

1.3.4 External liaison

The existing liaison with the Local Authority Liaison Officer of the Environment Agency will continue both formally and informally. Consultation will be carried out broadly in accordance with the Memorandum of Understanding¹⁹ as far as is reasonably practicable and taking into consideration the limitations on both parties.

The Nottinghamshire Contaminated Land Sub-Group will establish formal liaison links with the following organisations:

- English Nature
- the Department of the Environment, Food and Rural Affairs (DEFRA) (the former DETR and MAFF)
- English Heritage
- Nottinghamshire County Council

- East Midlands Development Agency
- East Midlands Regional Local Government Association
- Food Standards Agency

It will be Mansfield District Council's policy to expand these links on a local basis and ensure communication is maintained with all stakeholders.

1.3.5 Consultation with other organisations and the local community

Mansfield District Council values the views of other interested parties and will formally consult such groups on the draft strategy. These will include:

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- Adjacent Local Authorities who are not members of the Nottinghamshire sub-group
- Warsop Parish Council
- Mansfield Area Strategic Partnership
- Local community groups
- Local business groups
- Landowners and their agents
- The public
- Developers and their agents.

The consultation procedure is detailed in section 1.1.5.

1.4 OBJECTIVES OF STRATEGY DOCUMENT

The Act states at section 78B(1) that 'every Local Authority shall cause its area to be inspected from time to time for the purpose of:

- Identifying contaminated land, and
- Enabling the Authority to decide whether any such land is land which is required to be a Special Site.'

In addition, section 78B(2) states that Local Authorities must act in accordance with the guidance issued by the Secretary of State. Statutory Guidance has been published within the Department of the Environment, Transport and the Regions (Circular 02/2000, 20 March 2000)⁴. Specific technical guidance on the drafting of inspection strategies was circulated in draft form for consultation on 7 April 2000.

The Statutory Guidance makes clear that in order to carry out this duty Local Authorities must produce a formal contaminated land strategy document which clearly sets out how land which merits detailed individual inspection should be identified in an ordered, rational and efficient manner, and in what timescale.

This strategy has been completed, formally adopted by Mansfield District Council and published within a period of fifteen months from the publication of the guidance (i.e. by 1 July 2001). In this process, statutory consultation has taken place, particularly with the Environment Agency and the local community and businesses, the latter being by the Mansfield Area Partnership, which has developed a plan for Mansfield²⁰. It should be made clear that there is no formal mechanism in place for the approval of Local Authority contaminated land inspection strategies. This document is the first formal review of the Strategy, which will continue to be carried out annually.

In order to satisfy the objectives of the new regime it will be necessary to investigate land

throughout the whole of the District and collate significant volumes of information. This will enable the District Council to make decisions relating to the condition of land, the risks it presents and who may be liable for it at law. The production of this strategy document is the commencement of that process.

National objectives of the new regime

The first priority has been specified by the Government as the prevention of new contamination via the existing pollution control regimes. The second is to use the *suitable for use* approach, which recognises that risk can only be satisfactorily assessed in the context of a specific use with the aim of maintaining an acceptable level of risk at minimum cost, thereby 'not disturbing social, economic and environmental priorities'.

The specific objectives of the new regime are:

- To improve the focus and transparency of the controls, ensuring Local Authorities take a strategic approach to problems of land contamination
- To enable all problems resulting from contamination to be initially handled by one regulatory authority (previously separate regulatory bodies dealt with human health and the water environment)
- To increase the consistency of approach taken by different Local Authorities, and
- To provide a better-defined regulatory mechanism, including liability rules, able to reflect the complexity and range of circumstances found on individual sites.

The Government hopes that the improved clarity and consistency of the new regime will encourage voluntary remediation. Companies responsible for contamination should assess the likely requirements of regulators and plan remediation in advance of regulatory action. There will also be a significant incentive to undertake voluntary remediation as the right to exemption from Landfill Tax will be removed once enforcement action has commenced. (The cost of taking contaminated waste to landfill is currently £12 per tonne.) There are other Landfill Tax exemptions, which are detailed in the Landfill Tax (Contaminated Land) Order 1999²¹. Where land is Council-owned, additional monies will be able for investigation and remediation through Supplementary Credit. Applications for this money are judged on individual merit.

The Government also considers the new regime will assist developers of contaminated land by reducing uncertainties about so-called 'residual liabilities'; in particular it should:

- Reinforce the suitable for use approach, encouraging developers to use appropriate and cost-effective remediation schemes. (A Contaminated Land Guidance document for developers has now been produced by and for all Authorities in Nottinghamshire and is being distributed to applicants in the Mansfield District).
- Clarify the circumstances in which future regulatory intervention might be necessary, and
- Set out the framework for statutory liabilities to pay for any further remediation, should that be necessary.

Local objectives

Mansfield District Council welcomes the introduction of Part IIA of the Environmental Protection Act 1990 which complements the District Council's own corporate aims and objectives⁵.

The **Mansfield Corporate Strategy (2001)** ('Mission, Values and Priorities')⁵ identifies

three key themes – Social, Economic and Environment – all of which are relevant to this strategy document. The environmental priority is ‘to protect, conserve and enhance the natural and built environments’.

The **Mansfield District Local Plan (1998)**²² identifies 10 key themes, one of which (Derelict Land, Waste and Minerals) is particularly relevant. The objectives here are:

- To improve derelict, despoiled or contaminated sites to bring them back into beneficial use
- To secure the full and proper restoration of past and present mineral workings, and
- To identify and encourage appropriate after-uses for restored land.

This section states that planning permission will be granted for developments to reclaim sites, provided that they meet certain criteria, including having regard to ground conditions, undertaking any necessary remedial treatment, and not causing or leading to increased pollution threat to nearby land or watercourses.

The **Mansfield Area Partnership Plan (1999)**²⁰ lists key measures and actions across social, economic, environmental and learning issues and provides a strategic focus to create a better quality of life in the District. It seeks to integrate individual plans and actions.

The **Local Agenda 21 Community Programme (2000)** (‘A Better Quality of Life for Mansfield District’)⁶ states in Chapter 6, Managing and Protecting Our Environment, that ‘the aim for a sustainable society is to limit pollution to levels which do not damage the natural environment’. Improving soil and land is one of the six key strategic aims, and one of the main targets is ‘to produce a contaminated land strategy’.

The **Nottinghamshire Structure Plan Review (1996)**²³ features ‘the conservation of natural resources’ and ‘the need to control pollution’. The key section, however, is number 12, Waste Management and Land Reclamation, which includes Policy 12.2 – ‘the reclamation of derelict and degraded land to suitable after-uses will generally be supported, particularly in priority areas as defined in Policy 1.4’.

The priority areas are the inner areas and outer estates of Nottingham City, the traditional coal-mining areas, and areas suffering high levels of social need.

The **Nottinghamshire Minerals Local Plan (1997)**²⁴ includes several policies concerned with reclamation of former minerals working sites. In particular, chapter 4 is specifically about reclamation of sites and features 13 detailed policies, including:

- Filling the site with various substances
- Interim measures
- Choice of end use, e.g. woodland, recreation, agriculture, and
- Aftercare.

The **Strategy for Economic Development 2001 – 2006** is the District Council’s economic development plan providing an overview of its planned intervention to regenerate the local economy.

The identification and re-use of sites that have had contaminative uses therefore plays a key part in the sustainable and economic redevelopment of the area.

1.4.1 Summary of strategy requirements

Mansfield District Council is required by statute to produce a contaminated land strategy and formally publish it by 1 July 2001. Subsequently it must maintain a register of regulatory action taken under Part IIA of the Act, which must be made available for public inspection at all reasonable times.

1.4.2 Strategic approach to inspection

Under section 78B(1), Local Authorities should take a strategic approach to the identification of land that merits detailed individual inspection. This approach should:

- (a) Be rational, ordered and efficient;
- (b) Be proportionate to the seriousness of any actual or potential risk;
- (c) Seek to ensure that the most pressing and serious problems are located first;
- (d) Ensure that resources are concentrated on investigating in areas where the authority is most likely to identify contaminated land; and
- (e) Ensure that the Local Authority efficiently identifies requirements for the detailed inspection of particular areas of land.

This approach will reflect local circumstances, be open and transparent and site investigations will be kept under periodic review.

1.4.3 Informing stakeholders of the District Council's intentions

When a site has been inspected for contamination, the outcome will be conveyed to all interested parties. In this process of transparency it is hoped that voluntary remediation will be encouraged.

If a site is subsequently designated as 'contaminated land', a formal notification procedure will be followed and consultation will begin on what type of remediation is most appropriate. To assist with this process, Mansfield District Council will provide interested parties with all relevant information concerning the site and, where available:

- A copy of the written record of determination
- Copies of site investigation reports (or details of their availability)
- An explanation of the selection of 'appropriate persons', and
- Details of all other parties notified.

1.4.4 Providing information to the Environment Agency for its report on contaminated land

The Environment Agency has produced State of Contaminated Land report forms for Local Authorities to complete. Mansfield District Council will complete these on an annual basis. The forms are site-specific and very detailed. The District Council will also be required to collate these individual returns into an annual summary. These forms are separate from the Land Condition Record²⁵ forms.

2.0 THE LOCAL AUTHORITY'S AREA

2.1 Brief description and statistics

The Mansfield District is situated in the northwest of Nottinghamshire, on the Derbyshire border. Its Local Authority neighbours are Bassetlaw, Newark and Sherwood, Ashfield, and Bolsover. The district occupies some of the highest land in the county – averaging 135 metres above sea level – with two small rivers, the Maun and the Meden, flowing through it from southwest to northeast. It is 7,692 hectares in size with a population of 99,300, making Mansfield the smallest district in the county in population terms. Most of the population live in the conurbation of Mansfield, Mansfield Woodhouse and Forest Town in the south of the area, with a smaller centre at Market Warsop in the north. The District is split into 18 wards (see map on following page).

Some 40% of land is used for urban purposes, another 40% is agricultural, and the remainder is divided between woodland, grassland and heath.²⁶ Up to 5% of land and 9,000 properties (out of a total of 40,000) are owned by the District Council, making them a major landlord/landowner. A significant proportion of the District Council-owned non-housing land is used as public parks and allotments. Details of all Council-owned land are held in the Property Services and the Environmental Health Departments.

2.2 Geology

The geology of the district can be divided roughly into two areas, the Magnesian Limestone of the north and west and the Sherwood Sandstone of the south and east. The sandstone is a major aquifer, running under most of the district, and the majority of the soils are classified as of high leaching potential.²⁷ There are two major parallel faults in the southwest of the district. A small number of properties on the Derbyshire border may be affected by naturally occurring radon gas from the underlying Dolomitic Limestone.

2.3 Protected sites

Mansfield District contains a variety of protected sites. These are:

- 7 Ancient Woodlands covering 66 hectares, all but one in the northwest of the area
- 6 Sites of Special Scientific Interest covering 171 hectares and situated in the northwest and southeast of the area
- 3 Local Nature Reserves and 57 other sites, almost all small, of local geological or biological significance
- 22 Tree Protection Orders covering hundreds of trees
- 10 Building Conservation Areas
- 243 Listed Buildings, and
- 4 Ancient Monuments.

2.4 Water resources and hydrological characteristics

The whole district is in a Water Source Protection Zone, as 80% of Nottinghamshire's water is extracted from the Sherwood Sandstone.²⁸ There are two covered reservoirs in the district, at Berry Hill and Abbott Road. There are also 32 licensed water abstraction points, the majority of which are for irrigation of farmland. Only four of these abstraction points are for public supply. The district is also classed as a Nitrate Vulnerable Zone, where the Environment Agency requires farmers to put nitrate management practices in place. Two local industries use water from their own abstraction points for manufacturing beer and soft drinks. These supplies are regulated by Mansfield District Council under the Private Water Supply Regulations 1991. The British Geological Survey has identified 124 former wells; it

is not known how many of these have been filled in or the depth that many of them reached. Extensive underground workings from coal mining run under Mansfield; if water in these ceases to be pumped out, there could be implications for groundwater and surface water quality.

2.5 Industrial information

Local industry since 1900 was centred on the three coalmines at Mansfield (Crown Farm) Colliery, Sherwood Colliery and Warsop Main Colliery. The last of these was just outside the district but was a large employer of people in the Warsop area. Although Nottinghamshire is noted for coal mining, a wide range of other trades existed. Important ones in Mansfield are or were:

- Metal box manufacturing – an industry which started in the early 19th century and still continues today
- Textile and related industries such as fulling and dyeing – now centred on two large factories but once a widespread cottage industry
- Foundries – there are now only two working iron and steel foundries, one of which has been in operation for 200 years, but 15 former foundries have been identified
- Quarrying – Mansfield Sand is one of the best in the country for foundry mould-making and Mansfield/Mansfield Woodhouse stone was used in building the Houses of Parliament. Only two working quarries, one for sand extraction, the other for stone, exist today, and a further worked-out quarry has recently been used for landfill of inert material
- Tanning – 5 former tanneries have been identified, all near the River Maun in the town centre
- Brewing – the brewery has been in existence since the 1850s, and
- Shoe making – the one working factory now operates on a much-reduced scale but once produced some 25,000 pairs a week.

As in all towns, many shops of various kinds manufactured their own goods for sale in a workshop at the rear during the 19th and early 20th centuries. The vast majority of these workshops had closed by the 1940s. Many of the larger industries, including all three coalmines, have also closed during the past twenty years, to be replaced with smaller units on purpose-built industrial parks. The former colliery sites have been cleared of buildings and the spoil heaps have been re-graded and planted with grass or trees. There are plans to develop these tipped areas for recreational purposes.⁹ Mansfield has no processes classed as Part A under the Environmental Protection Act 1990 but it does have 36 Part B processes including two foundries and four cement batching plants. 23 petrol stations have been authorised to date under the same Act. There have been known leakage problems at three of these.

In the 1940s and 50s it appears to have been District Council policy to buy worked-out stone and sand quarries to use for landfill. Their advantage, apart from being ready-made excavations, was that they were out of the built-up areas. The development of the town has meant that most are now within the urban setting. Many of these landfills were re-graded, capped and grassed and made into public parks in the 1970s. Very few details are known about most of the 15 private landfills identified, many in operation prior to licensing in 1974 and including an area of approximately 8 hectares, close to the River Maun with five metres of fill, and several sites which took material said to be ‘inert’.

A municipal incinerator was constructed at the Hermitage Lane Council Depot in 1973 and

was used for twenty years. Following its closure all waste collected by the District Council has gone out of the district, to landfill. The incinerator is being demolished and there could be heavy metals and other contaminants in the area. This process has received close attention from Mansfield District Council and the County Council to ensure that no further contamination to the surrounding area takes place during the demolition. It is the County Council's intention to remediate the land to a standard proved suitable for residential use.

2.6 Redevelopment history and remediation

The Local Plan²¹ identifies numerous brownfield sites and gives a high priority to their reclamation or redevelopment, mostly for retail or office uses but including residential development in certain areas. However, there are existing buildings on sites used for contaminative purposes in the past, where redevelopment is unlikely to take place in the foreseeable future and where the extent of remediation, if any, is unknown. All 'contaminated land' redeveloped recently has been dealt with through Planning controls. This includes two large sites developed for housing; one was heavily contaminated with tar wastes and the other was a former landfill with five metres in depth of domestic and industrial waste.

This brief description indicates the main contaminative uses, past and present, in the district and the main receptors. The strategy developed for Mansfield is designed to deal with any existing problems and to prioritise them in terms of the implications of possible adverse impact.

3.0 MANSFIELD DISTRICT COUNCIL'S STRATEGY – OVERALL AIMS

The aims of the strategy must be in line with the District Council's Mission, Values and Priorities⁵, the Mansfield District Local Plan²¹, and the Local Agenda 21 Strategy⁶ as detailed in section 1.4. For the purposes of this strategy the relevant paragraph (2.5.3) of the Mansfield District Local Plan is reproduced below.

'Primarily the overriding strategic objectives of the Local Plan will fall within three main categories. These are:

- Economic Growth and Development: Objectives are aimed at accommodating residential, industrial and commercial development and at encouraging enterprise, investment and the creation of jobs.
- Quality of Life: Objectives are aimed at ensuring provision for retailing, leisure and countryside recreation, to maintain and enhance accessibility to protect residential amenity and to meet social and community needs.
- Conservation of Environmental Resources: Objectives are aimed at protecting and enhancing the environment including Listed Buildings, archaeological sites, ancient monuments, designated sites of nature conservation value, the countryside, best agricultural land, natural habitats and to protect the best features of Mansfield's built environment.'

The principal aims of the contaminated land strategy are as follows:

- To identify the location of potentially contaminated sites. This will be achieved by a ward-by-ward examination of site history from maps, trades directories and any other available source, which will then be transferred to a Geographical Information System. This assessment will be as complete and detailed as possible. The impact of the forthcoming ward boundary changes in 2003 will be taken into account in the next review of the strategy. It is intended to provide a comprehensive picture by 2005.
- To identify from the above those sites that are contaminated or potentially contaminated within the meaning of the Act. Identification of those sites that are contaminated within the definition may need specific analysis by consultants.
- To remediate as soon as possible any Council-owned land identified as contaminated within the meaning of the Act. It is important that the District Council takes a leading role in remediation, especially where neighbouring or nearby land not in District Council ownership has also been identified as contaminated. This is because it would be inappropriate to pursue other owners whilst District Council land remains unremediated.
- To ensure that where a change of use takes place, remediation to make the land fit for its new use is undertaken where necessary, in line with the Act. All planning applications are currently reviewed by the Environmental Health Department but those with suspected contamination will be passed to the Contaminated Land Team for assessment.
- To make available appropriate land history information to prospective developers, owners, etc. Mansfield District Council will make a charge for such information, in line with their charging policy.

- To generate market confidence in the redevelopment of brownfield sites and to promote their use in preference to greenfield sites, in line with paragraphs 2.9.5 and 2.9.7 of the Local Plan. (2.9.5 – ‘Priority will be given towards the reuse or recycling of vacant or redundant sites and suitable schemes for the reuse or restoration of derelict land will be encouraged.’ 2.9.7 – ‘Protection will be afforded to the open countryside and its amenity value and recreation potential will be enhanced.’)

Additionally paragraphs 10.6 to 10.8 of the Local Plan identify specific derelict sites (former collieries, sand quarries and limestone quarries) that the District Council wishes to be brought back into use. Thus once District Council-owned sites have been identified and remediated, these sites become priority for a more thorough investigation so that suitability and/or appropriate remediation levels can be assessed.

3.1 AIMS OF THE STRATEGY

Mansfield District Council’s priority must be to safeguard the environment for its residents. This means protecting people, possessions, buildings and water from significant harm or potential significant harm. The inspection process must be rational, ordered and efficient. It must be proportionate to the seriousness of any actual or potential risk. It should ensure that resources are concentrated efficiently and effectively, particularly when investigating areas where contaminated land is most likely to be found.

3.1.1 Priorities relating to the potential problem

The priorities relating to specific problems in the District are still not clear. No specific land contamination relating to ill-health effects has been recorded, although evidence of ground and surface water pollution has been found in the past. Mansfield District Council’s priorities must be to protect its residents from ill-health effects and to protect controlled waters, but we are mindful that too onerous remediation requirements may have an adverse effect on land values and on the redevelopment of contaminated land. The priority to protect the residents has been demonstrated in the decontamination and demolition of the municipal incinerator.

3.1.2 Priorities relating to work the District Council has already done

It is essential that the work already done is examined, validated and documented. Mansfield District Council can take some credit in ensuring that all site investigations undertaken in the past have been completed and land it owns has been remediated.

3.2 OBJECTIVES AND MILESTONES

Every effort will be made to complete the District inspection by 2005. Where necessary, a detailed risk assessment will be carried out at all potentially contaminated sites. The whole of the Council’s area will be covered by this assessment on a ward-by-ward basis, taking into account the proposed ward boundary changes in 2003.

3.2.1 Completion of assessment of land for which the District Council may be the ‘appropriate person’

Where land owned by the District Council is found to be ‘contaminated land’ there will be no enforcing authority unless it is a Special Site. The District Council will however carry out its duties as though it were the enforcing authority, undertake the same consultations and assessments and seek appropriate remedial works as necessary.

To this end, a formal relationship will be maintained between the Department responsible for

enforcement of the new regime and that responsible for District Council-owned land. All information relating to the identification, assessment and remediation of Council-owned land will be fully reported to satisfy the needs for transparency. All Council-owned land will be identified and should be recorded on the GIS by June 2002. This land will be assessed in line with the procedure detailed in section 4.1.

3.2.2 Evidence of actual harm or water pollution

The two National Health Service bodies that cover Mansfield District Council's area (the North Nottinghamshire Health Authority and the Central Nottinghamshire Healthcare Trust) will be consulted on any available information concerning actual harm to human health. It should be noted that such harm might be very difficult to identify and quantify. The Environment Agency and possibly the Water Authority will be contacted concerning evidence of water pollution. This will be assessed in line with the procedures and timescales detailed in section 4.1 and 4.2.

3.2.3 Identification of possible receptors

Where possible contamination is found, receptors as detailed in Table A (see Appendix I) will be identified for each site. 500 metres from the centre of a contaminated site will be taken as the radius to be searched for all receptors except groundwater, where a radius of 2 kilometres will be considered. The geology within this radius will also be taken into account where this is likely to affect or dictate contaminant distribution and pathways.

3.2.4 Identification of possible risk to those receptors

Each site will be assessed in accordance with section 1.2.4 to identify possible risks to receptors. Detailed consideration will be given to every identified plausible pathway. These will be assessed in line with the timescales detailed in section 4.2.

3.2.5 Evaluation of information on possible presence of contamination

Mansfield District Council has considerable expertise in evaluating information on the possible presence of contamination. All assessments of such information will be open and transparent and will clearly indicate the conclusions drawn. Such information will be assessed in line with the timescales detailed in section 4.2.

3.2.6 Establishing liaison and information exchange internally and with other parties

This strategy is considered to be a corporate policy document and as a consequence all the departments of the District Council listed in 1.3.3 have been involved in the compilation of this strategy and its effective and efficient operation. The need for close corporate team working to ensure the efficient and effective implementation of the strategy cannot be overstressed.

Regarding external liaison, procedures identified in sections 1.3.4 and 1.3.5 will be followed.

3.2.7 Justification for inspection of particular areas

Whilst Mansfield District Council will follow a ward-by-ward approach to inspection, the history, scale and nature of industrial or other activities will be evaluated in each ward as a priority, to maximise use of resources and ensure that all possible sites with contaminative uses have been evaluated. Sites that are subject to development or disturbance by the utilities will take overall priority, but by commencing in the Oakham ward the Council will take account of any contamination that may have occurred from the former municipal incinerator.

A number of ex-coalfield sites have already been remediated and redeveloped or are in the process thereof. Consequently the Council has considerable experience and will concentrate on any remaining sites. This Council also has experience of residential redevelopment of former landfill and industrial sites.

The Environment Agency is already in close contact with this Authority concerning sites with a likelihood of harm being caused to particular receptors or controlled waters. These sites will be actioned as a matter of priority.

3.2.8 Checking assumptions and inspection priorities

The inspection priorities will be continually reviewed and whilst we have indicated a rational, ordered and efficient approach, we will immediately respond to any areas of concern. In addition, all site assessments will be re-evaluated in the light of any new information or changes in land use or legislation.

4.0 PRIORITY ACTIONS AND TIMESCALES

The overall priority of Mansfield District Council is to carry out the inspection of contaminated land in the District in the most efficient and cost-effective manner in line with the principles of Best Value Criteria.

4.1 Priorities

The history of possible contaminative land uses in the Mansfield District has been detailed in section 2.0 of this strategy. The main contaminative processes identified were coal mining, foundries, quarrying, tanning, textiles, metal box manufacturing and shoe making.

The aim of the District Council is to carry out a risk-based assessment at each site of possible contamination in line with the procedures detailed in sections 1.2.4 and 1.2.5 of this strategy. The objective is to identify the risk of potential harm from these sites and prioritise them in order of their likely environmental impact and the harm they may cause.

It is not our initial intention to set overall timescales for the assessment of different wards in the District. The process will start with Oakham where the incinerator was located. This will be followed by the densely populated wards in the centre of Mansfield and then working outwards to the outlying wards. The proposed order for assessing the wards is to be:

- Oakham
- Titchfield
- Ladybrook
- Eakring
- Oak Tree
- Forest Town
- Ravensdale
- Sherwood
- Broomhill
- Cumberlands
- Pleasley Hill
- Northfield
- Manor
- Leeming
- Meden
- Birklands
- Lindhurst
- Berry Hill

The proposed ward boundary changes will be taken into account but should not significantly affect the above order. A few ward name changes may occur.

Our view is that this process should be influenced by both local and wider consultation therefore we intend to include local or other concerns in any ward prioritisation process. This systematic and detailed approach will however be subject to the priority assessment of sites where development or other ground works are to take place.

4.2 Timescales

It is extremely difficult to assess the timescale to complete each individual ward but it is envisaged that the whole process of assessing the District will take no longer than four years.

In relation to the assessment of sites where development or other ground works are taking place, these will be dealt with as soon as possible, and in any event within six weeks.

In the process of assessing the District, specific arrangements will be made to:

- Identify land in Council ownership or for which it has responsibility
- Evaluate information on actual harm or pollution to groundwater that may be occurring
- Identify receptors and if they could be affected by any contamination
- Collate and evaluate any existing information on the possible presence of contamination and its effects
- Liaise with, and respond to information from, other statutory bodies including the Environment Agency, English Nature, the Food Standards Agency and the Ministry of Agriculture, Fisheries and Food
- Respond to information or complaints from the public, businesses and voluntary organisations, and
- Carry out a semi-quantitative risk assessment at each site of possible contamination at which a pollutant pathway has been identified, to establish the probability, frequency and severity of harm occurring from that contamination.

The whole process will be continually reviewed and updated at least annually, or as new information or guidance becomes available.

All relevant information and records will be managed and recorded on a sophisticated Geographical Information System.

The process will therefore confirm and record whether or not land is contaminated as described by the definition in section 1.2.3. In addition to this process a decision will be made whether or not the site is deemed a Special Site as defined in section 7.1.4 of this report.

5.0 PROCEDURES

5.1 Internal arrangements for inspection and identification

The Council has given the responsibility for the assessment of contaminated land in the District to the Head of Environmental Health²⁹. A Contaminated Land Team has been formed, consisting of the Environmental Protection Officer and two Technical Officers, based within the Environmental Protection Division. Details of the project management are given in section 1.3.2.

The power to take decisions regarding contaminated land within the District will reside with the Cabinet in consultation with the Head of Environmental Health and the Head of Legal and Administration.

5.2 LOCAL AUTHORITY INTERESTS IN LAND

5.2.1 Inspection and assessment of land where the Council has an interest

Where the District Council has an interest in land, this land will be inspected and assessed to ensure that all areas where the District Council is the ‘appropriate person’ as defined in Part IIA of the Act are dealt with as a matter of priority.

5.2.2 Identification, inspection and assessment of former Council land and other areas where the Council may be the ‘appropriate person’

At this time we are not aware of any former Council land where we have caused or knowingly permitted contamination to occur. If any such land is identified during the process described in this strategy, it will be prioritised for inspection following liaison with the current owner.

5.3 INFORMATION COLLECTION

Mansfield District Council’s policy will be to seek as much information as possible about a suspected site without causing unnecessary alarm. This may involve detailed inspection of all historical data in its possession and consultation with others who may possess relevant information, such as:

- Environment Agency
- Ministry of Agriculture, Fisheries and Food
- Food Standards Agency
- Health and Safety Executive
- Developers
- Utilities
- Previous occupiers and owners, and
- Any other relevant persons.

5.3.1 Actual harm or pollution of controlled waters

The two National Health Service bodies that cover Mansfield District Council’s area (the North Nottinghamshire Health Authority and the Central Nottinghamshire Healthcare Trust) will be consulted on any available information concerning actual harm to human health. It should be noted that such harm might be very difficult to identify and quantify. The Environment Agency and possibly the Water Authority will be contacted concerning evidence of water pollution.

5.3.2 Receptors

A key element in making the assessment of the presence of contaminated land is the accurate identification of receptors. These can take various forms, as listed below:

Human

The present population of the District is 99,000, mainly distributed among the three main population centres of Mansfield, Mansfield Woodhouse and Warsop. The potential for persons living on or frequenting a potentially contaminated site will be considered in every case, but priority will be given to sites with infants or the elderly.

Buildings

All buildings, and underground services within the footprint of the building, are potential receptors and will be considered in every case where contamination and buildings co-exist.

Ancient Monuments

These will be specifically identified as part of the strategy and the potential impact of contaminants considered. The extensive list of scheduled Ancient Monuments is available as Appendix 2 of the Mansfield District Local Plan 1998²¹. In addition, sites of industrial archaeological interest that are not scheduled may be found during the inspection process. These will be subject to assessment prior to any necessary remedial work being undertaken. The advice of English Heritage and the County Archaeologist will be sought in all such cases and the procedures set out in Planning Policy Guidance 16 (Archaeology and Planning) will be adhered to.

Agricultural and horticultural crops

Whilst Mansfield District Council is a semi-rural Authority, it is not our intention to detail crop-growing areas. However, agricultural land will be considered in the systematic approach where there may be evidence of possible previous contamination or successive poor crop yields. The Agricultural Land Classification surveys carried out by the former MAFF will be consulted in such cases. Information on the specific receptor will need to be obtained to evaluate possible contaminant uptake.

Timber crops

There are no regions of commercial timber growing in the District. Trees have been planted on former colliery spoil heaps as part of remediation schemes but it is considered unlikely that they will be adversely affected.

Homegrown produce

Many hectares of allotments have been identified in the District and their potential for contamination will be considered as a result of previous uses or activities. Similarly any domestic garden areas with previous possible contaminative uses will be identified and assessed.

Agricultural livestock, game and other owned animals

The presence of livestock in the rural parts of the District will not be specifically identified but will be taken into consideration where possible contact with contaminated agricultural land is occurring. It should be noted that livestock might take up contaminants both through the plants they eat and through soil on the roots of those plants.

Ecological receptors (see Table A, Appendix I, for definitions)

All such receptors will be identified as part of the inspection strategy. Whilst contamination is unlikely, all areas will be thoroughly examined to ensure that any risks are quantified. English Nature and the Environment Agency will be consulted as indicated in section 1.3.4.

Aquifers

The principal aquifer in the area is the Sherwood Sandstone. All aquifers will be specifically identified with their location, depth and vulnerability according to cover. Potential risks from sources of contamination will be considered with the Environment Agency, who has already identified aquifer pollution in certain areas of the District.

Public water supplies

All public water supply abstraction points will be identified with their location, depth, strata they draw from, and quality and volume of supply. Close liaison with the Environment Agency and Severn Trent Water will be made to ensure the accuracy of this data.

Private water supplies

There are three private water supplies in the District that are drawn from boreholes. One is used for the manufacture of soft drinks, one for beer, and one in textile manufacturing. The District Council already monitors the first two supplies as part of its duties under the Private Water Supplies Regulations 1991, and keeps a register of the results of the analysis.

Other authorised abstraction points

All authorised abstraction points have been identified, such as those for agricultural or recreational use. These will be evaluated periodically to ensure there is no risk of water and land contamination through this process.

Other specified water receptors

All other water receptors such as rivers, reservoirs, lakes, etc, have been identified as part of the inspection strategy.

Once the type and location of receptors has been identified, the possible presence of contaminants will be evaluated, as detailed below.

5.3.3 The possible presence of contaminants

Industrial history

A comprehensive list of potentially contaminative uses is given in Appendix IV. The first step in the process of identifying potentially contaminated sites will be to examine historical data in the form of old Ordnance Survey maps, various trades and town directories, etc. These will be obtained from the District Council's archives and those of the local library. Some past industry will be within recent memory so local knowledge may also be helpful at this stage.

Current industry

The present industrial areas of the district may be potential sources of contamination and these will be inspected in accordance with the Statutory Guidance⁴ to establish whether contamination exists, and if it does, whether it is controlled by another agency or regime. We do, however, consider that the current mechanism for regulating industry is satisfactory in preventing any further land or water contamination.

Environmental Protection Act 1990 Part 1

There are currently no 'Part A' processes authorised by the Environment Agency under the IPC regime in the District. Close liaison with the EA will be made to ensure the successful application of these controls, both in the short- and long-term.

There are currently 52 processes 'Part B' processes authorised by the District Council for air pollution control (LAPC). There is a very wide range of processes authorised under LAPC, ranging from concrete batching plants to petrol stations. Some of these processes could also have the potential to pollute the land.

Hazardous Substances

Mansfield District complies with the requirements of the Planning (Hazardous Substances) Act 1990³⁰ and the Planning (Hazardous Substances) Regulations 1992³¹. This legislation requires consent to allow the presence on land of hazardous substances above a specified quantity. These regulations were recently amended by the Planning (Control of Major Accident Hazards) Regulations 1999³² to take account of the new COMAH Regulations (see below). There are currently no authorised sites in the District. The Planning Officer maintains a register for this purpose.

COMAH sites

The Planning (Control of Major Accident Hazards) Regulations 1999³² are enforced by the Environment Agency and the Health and Safety Executive (joint competent authorities) to control both on- and off-site risks from industries with a high potential for disaster from dangerous substances (flammable, toxic or explosive). COMAH sites are held on the Hazardous Substances Register. There are currently no sites in the Mansfield District.

NIHHS sites

All sites notified to the HSE under the Notification of Installations Handling Hazardous Substances Regulations 1982³³ are held on the Hazardous Substances Register. There are currently no sites within the District.

Explosives

These are controlled by the Health and Safety Executive under the Explosives Act 1875³⁴. Any licensed sites will be identified and assessed to ascertain the risk of land or water contamination.

Current landfill and waste processing sites

There are no operating landfills in the District. Landfill is licensed by the Environment Agency under the provisions of Part II of the Environmental Protection Act 1990. Details of waste processing sites and waste transfer stations have already been provided by the EA. A risk assessment will be applied at all known sites.

Closed landfill sites

All closed landfills in the District have been identified but the majority ceased operation some 40 years ago and are therefore considered to constitute a minimal risk. However, their association with any specified receptors will be considered in detail.

Sewage works and land used for the disposal of sewage sludge

Land used for the disposal of sewage sludge is notified to the Environment Agency under the Sludge (Use in Agriculture) Regulations 1989³⁵. This land, together with all operating and

redundant sewage works, will be identified and assessed.

Mines and mineral extraction

The geology of the District has resulted in large areas being used for the extraction of minerals, particularly coal, sand and limestone. Many of these quarries were filled with refuse or other materials following closure. All past quarrying and mining sites will be assessed for the risks they may present.

Waste or derelict land

This is often owned by the utilities, railways or Local Authorities. It is left seemingly abandoned because it has no particular use or is difficult to access. Such areas have often been used for illegal disposal of waste. All derelict land will be identified and assessed for potential contamination risks, and the records will be updated annually.

Ministry of Defence land

There is no land occupied by Defence Agencies. The land used by the Territorial Army on Bath Street will be investigated in accordance with the Statutory Guidance⁴.

Previously developed contaminated sites

The inspection of the District may identify potentially contaminated sites that have already been redeveloped. The methods and extent of remediation may be unknown. Such sites will be re-assessed in line with the Statutory Guidance.

5.4 INFORMATION AND COMPLAINTS

All information, from whatever source, will be recorded and investigated to assess its validity. Where the level of concern is considered to be high, the opinions of the Environment Agency or other relevant agencies will be sought.

Complaints regarding fly tipping, accumulations of refuse, and possible land contamination should be directed to the Environmental Health Department and will be investigated in accordance with existing policies. In accordance with the Council's Best Value Performance Plan³⁵, service requests made by telephone must be acknowledged within 5 working days and written service requests within 10 days, in line with performance indicators. If action is required, the circumstances will be evaluated to establish which enforcement process would be most appropriate. Following the receipt of a service request, further sites previously put to contaminative uses may be found and these will be recorded.

Complaints may also be received about the fact that a particular site has been identified for further investigation. Landowners may seek an early investigation to clarify their position, especially where a potential sale has failed as a direct result of the suggestion that the land may be contaminated. Such requests for priority inspection will, where resources allow, be dealt with sympathetically. This is also considered in section 9 on data handling and access to information.

Computerised procedures, using a service request management system, are in place to:

- Record that information or a service request has been received
- Demonstrate that an appropriate officer has been designated to deal with the request
- Record the request, response and resolution, and
- Ensure appropriate records are maintained.

If a member of the public feels that District Council services do not meet acceptable standards, they have a right to criticise them. An official complaints procedure has been drawn up which ensures that residents' complaints about the Council are dealt with promptly and efficiently, in line with corporate policy.

5.4.1 Further information gathering by the Authority

The source of any information given to the Council will be checked and, where necessary, supporting information will be requested from the appropriate agencies.

5.4.2 Confidentiality

All information on the state of land and the source of complaints will be kept confidential by the District Council. Information on land may be released, subject to the conditions set out in section 9.6. All requests for information will be dealt with according to Section 9.7.

5.4.3 Anonymously provided information

This will be treated with some caution due to the likelihood of malicious acts. However, all such information will be investigated thoroughly to establish its validity and the possible seriousness of its implications.

5.5 INFORMATION EVALUATION

Obviously, the success of this or any other strategy is going to be the accurate evaluation of the information to be assessed. It is very important that the following considerations are assessed in some detail.

5.5.1 Contaminant sources –v- receptors

The evaluation of the contamination source and the receptor pathway is a key element to the accurate assessment of contaminated land as defined by the Act. This is described in some detail in section 1.2.4.

If a pollutant linkage does not exist, or, if it does, it is not significant, then the investigation of a site will cease. It may be, however, that circumstances will be identified whereby a significant pollutant linkage could occur at some time in the future. Arrangements will be made to keep such a situation under annual review. Similarly, inspection may identify contamination that would form a significant pollutant linkage should new receptors be introduced. In such circumstances the site will be re-assessed before the introduction of any relevant new receptors. Forms to be used for the practical implementation of this procedure are given in Appendix X.

Situations may arise where it is not possible to determine on the information available whether a pollutant linkage is significant. In such a case Mansfield District Council will determine that on the balance of probabilities the land does not fall within the statutory definition of contaminated land, but the situation will be kept under continual review.

5.5.2 Information on actual harm or water pollution

All such information will be evaluated in the light of additional local data and circumstances. The degree of actual harm or pollution of water will be assessed in terms of its frequency, probability and severity, as detailed in section 1.2.5.

5.5.3 Effectiveness of previous actions or regimes in preventing or dealing with

contamination

This Council is confident that mechanisms previously in place have, in the main, been effective in minimising contamination of land and water. As a major part of our evaluation, previous actions with regards to site investigations and particularly remediation will be revisited to ensure that appropriate measures were taken. The current policy whereby all planning applications are submitted to Environmental Health for assessment for all environmental concerns is to be complemented with a specific evaluation of possible contamination where appropriate.

5.5.4 Key geographical areas

Although the District is roughly split into the limestone region to the west and the sandstone region to the east, this does not appear to indicate any specific differentiation in terms of possible land contamination. However, in the river valleys, alluvial material containing sands or gravels may be of some concern due to their tendency to act as pathways and therefore areas where such alluvium occurs will be given priority.

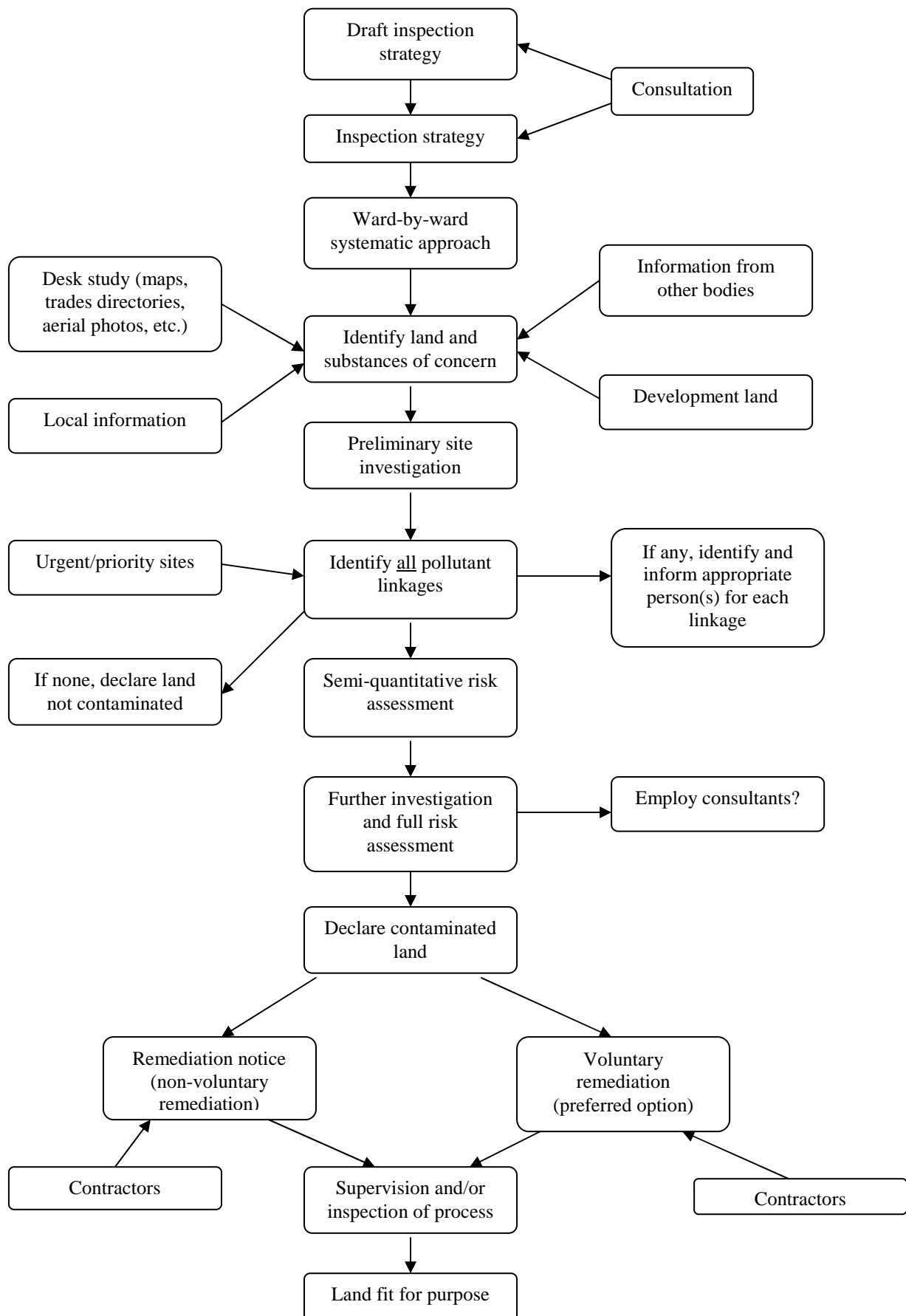
5.5.5 Specific potential pollutant linkages

Where any specific pollutant linkage has been confirmed, a semi-quantitative risk assessment will initially be carried out as described in section 1.2.5. If this process suggests that imminent action is required, a more detailed risk assessment will then be carried out at the site. It may be necessary to use consultants in this process. Arrangements for carrying out more detailed site investigations are dealt with in section 7.1.

5.5.6 Gaps in information and their remedies

Where there is a lack of information on a particular site or process, further research and possible intrusive investigation will be carried out to enable assessments to be made in line with Part IIA of the Act³. Any additional information obtained via these routes will be used to help determine if the site is 'contaminated land'.

Flow chart of the inspection process



6.0 GENERAL LIAISON AND COMMUNICATION STRATEGIES

This section details the contact points, consultation and liaison arrangements between Mansfield District Council, other statutory bodies, owner/occupiers, other interested parties and the wider community. This consultation allows stakeholders to give their views and to direct the District Council to areas that may concern them. It also allows the Council to notify interested parties of the need to exchange information and invite active involvement in the review and assessment process.

6.1 Other statutory bodies

The draft strategy has been sent for consultation to the following organisations:

- Environment Agency
- Nottinghamshire County Council
- East Midlands Development Agency
- Food Standards Agency
- English Nature
- English Heritage, and
- Ministry of Agriculture, Fisheries and Food.

Continuing dialogue and liaison with these agencies is regarded as essential in producing a successful outcome from the on-going process of implementing the strategy.

6.2 Owner/occupiers and other interested parties

In addition to the statutory consultees the District Council will consult with owner/occupiers and other interested parties. It will circulate the document to:

- Owners, developers and occupiers of land likely to be affected
- Warsop Parish Council
- Forest Town Community Council
- Mansfield Area Strategic Partnership
- Local Area Forums
- Local Area Assemblies, when operative
- Local Business Forum(s)
- All other Local Authorities in Nottinghamshire
- Adjacent Local Authorities not in Nottinghamshire, and
- Relevant environmental groups.

As part of this liaison and communication process, the Nottinghamshire Contaminated Land Sub-Group has been formed, consisting of officers from the District Councils and the Environment Agency. This group provides a forum for consistency of approach and close liaison between neighbouring Nottinghamshire Authorities. Such a group enables consultation and liaison between neighbouring Authorities over issues such as cross-border sites.

6.3 The wider community

The District Council will also consult the local community. This will involve lodging a copy of the document at local libraries, posting a copy on its website, and issuing a public notice or press release informing the public of the existence of the draft inspection strategy. If public concerns in certain areas are so great as to warrant further publicity and information exchanges, public meetings may be arranged.

7.0 PROGRAMME FOR INSPECTION

Mansfield District Council's programme for inspection is detailed in section 4.1. However, this programme, as indicated previously, may be modified to take account of local consultation and in the light of any new information that becomes available during the inspection process.

7.0.1 Local issues

In following our programme of ward-by-ward inspection, the following local sources will receive particular attention:

- Industrial areas close to the River Maun
- Industrial areas overlying aquifers
- Minerals extraction and associated landfills
- Landfills in operation prior to licensing
- Industrial sites where known pollution incidents have occurred
- Railway land
- Former foundry sites
- Textile industry
- Sewage slurry spreading

Possible linkages associated with these local sources will be risk-evaluated in line with Part IIA of the Act³.

7.0.2 Criteria for selecting areas and individual sites

As indicated previously, areas will be assessed on a ward-by-ward basis as outlined in section 4.1. Within the wards, sites will be selected for detailed investigation based on local knowledge, site investigations, and research from historical maps and information held in various archives. Sites that are to be developed or where ground works are to take place will be given priority within Mansfield District Council's programme of inspection.

7.0.3 Activities

Day-to-day activities within the initial programme for inspection will be orchestrated by the Contaminated Land Team in Environmental Health. Any policy decisions will be agreed through the Corporate Contaminated Land Committee before being placed before the Leader, the Cabinet Member with the Environmental Portfolio and the Head of Environmental Health for Council approval.

7.0.4 Timetable

Below is Mansfield District Council's proposed timetable for the implementation of Part IIA of the Act.

| Activity | Year |
|---|---------------------------------------|
| Internal consultation on draft strategy | May 2001 – COMPLETED |
| External consultation on draft strategy | May/June 2001 – COMPLETED |
| Publication of statutory contaminated land strategy | By 1 July 2001 –COMPLETED |
| Inspection of District on ward-by-ward basis | 2001 – 2005 (to be kept under review) |

| | |
|---|---|
| Detailed inspection and assessment of development sites | As soon as possible after they become known to the Contaminated Land Team, and in any case within six weeks of that date. |
|---|---|

7.1 Arrangements for carrying out detailed inspections

The first element of carrying out a detailed inspection must be to establish the presence of a pollutant on or in the land, or in controlled waters. In establishing the presence of contamination, all documentary information and/or information from other bodies will be collated.

The mechanism for this procedure is the completion of Contaminated Land Form 1, which lists all relevant information necessary to make a decision on whether further action is required or not. If further action is required, Form 2 will be completed, which will involve assessment of current and past uses of the site, current and past possible contaminative uses of the site, and possible pollution linkages. A decision will be made at this stage whether a preliminary risk assessment, as detailed in Contaminated Land Form 3, needs to be carried out. If action is still required, then more detailed investigation may be carried out as detailed below. (All three forms are given in Appendix X).

These may include visual inspections and limited surface sampling of particular sites. Where considered appropriate, intrusive investigations (e.g. exploratory excavations) may be carried out. In all cases where intrusive investigations are required, as much notice as is practicably possible will be given to residential occupiers and to occupiers of land. Where it is considered that there is immediate possibility of significant harm or pollution of controlled waters, a maximum of seven days' notice will be given. Consent to enter land will be sought from the occupier in the first instance, or failing that a warrant will be obtained under Schedule 18 of the Act.

Under Section 108 of the Environment Act 1995¹⁶, named officers of Mansfield District Council will be authorised in writing to exercise specific powers of entry. These powers will be approved by the District Council's solicitor prior to their use. The powers that a person may be authorised to exercise include:

- To enter at any reasonable time (or in urgent cases, at any time and if need be by force) any premises or land to make examinations and investigations believed necessary, and
- To take samples and photographs, install monitoring equipment and carry out tests or other procedures considered necessary.

Before any statutory powers are invoked, Mansfield District Council will ensure that it is confident there is a significant possibility of harm being caused or pollution of controlled waters. The District Council will not use these powers to obtain information about the condition of land where it can obtain it from third parties without the need for entering the site, or if a person provides the information within a reasonable and specified time.

Schedule 18 of the Environment Act 1995¹⁶ makes clear the circumstances when a Local Authority must pay compensation for loss or damage as a result of the use of these powers. Mansfield District Council will therefore ensure that only appropriate technical procedures are used, the utmost care is taken at all times, and the conditions carefully recorded before, during and after completion of the works.

The Council will also ensure that it takes all reasonable precautions to avoid harm, water pollution or damage to natural resources or features of historical and archaeological interest, which might be caused as a result of any intrusive investigation. Before carrying out any such investigations in Areas of Special Scientific Interest, Mansfield District Council will consult with English Nature on any action that, if carried out by the owner or occupier, would require a consent under Section 28 of the Wildlife and Countryside Act 1981³⁷. For Scheduled Ancient Monuments, the Council will consult with English Heritage for actions that may require a Consent under the Ancient Monuments and Archaeological Areas Act 1979.

The detailed investigation of contaminated land will be terminated as soon as it is clear that no significant pollutant linkage exists, and the appropriate forms will be signed off by the Environmental Protection Officer. The forms will be kept on file for inspection at any reasonable time. Where one significant pollutant linkage has been identified, the District Council will declare the land contaminated. In such cases, action will be taken as soon as practically possible to break the pollutant pathway. Further investigation of other possible pollutant linkages will be carried out to ensure all linkages have been assessed and, if necessary, broken, and that all appropriate persons have been identified for those linkages.

In cases where imminent risk of serious harm or serious pollution of controlled waters has been confirmed, the District Council will authorise urgent action. The procedures identified in the Statutory Guidance⁴ will be followed, which may involve the forced entry into the premises. The terms ‘imminent’ and ‘serious’ are not defined therefore Mansfield District Council will use the accepted meaning of these words. The Statutory Guidance does define what may constitute ‘seriousness’ when assessing the reasonableness of remediation.

The District Council have set up a contingency policy to enable it to undertake remediation in urgent cases if it is of the opinion that the risk would not be mitigated in an acceptable time by the statutory enforcement procedure. In such cases every effort will be made to recover monies in relation to the works carried out. In addition and where appropriate, applications for Supplementary Credit Approval would be sought²⁹.

In non-urgent cases where the Council is the enforcing authority, a remediation notice is necessary and all the required consultations have been completed, the notice will be served on the appropriate person(s) no sooner than three months after the site has been declared contaminated land. The notice may specify further investigation of the site, which may identify more remediation requirements and appropriate persons.

In the case of a Special Site the District Council will declare the land to be contaminated land in accordance with the statutory procedure and notify the Environment Agency, who will then be responsible for the site.

In relation to all site investigations, regard to Health and Safety procedures will be paramount and consequently a safe working Code of Practice will need to be produced by all contractors/developers and agreed with this Authority before the commencement of any works.

7.1.2 Site-specific liaison

Mansfield District Council will ensure that site-specific liaison will occur where appropriate with owners, Environment Agency, English Nature, English Heritage, Food Standards Agency and any other appropriate persons. This will ensure transparency of the whole

process and refute possible allegations of a bureaucratic and uncaring organisation. The spirit of openness in relation to Part IIA of the Act³ is paramount to its successful implementation.

7.1.3 Methods of inspection

It may be necessary to visit all sites where a pollution linkage may exist to ascertain if there are any signs of problems on the ground. Where evaluation of all available data suggests a significant pollutant linkage may exist, it will be necessary to carry out further detailed analysis of the site. This will always be carried out by a 'suitable person' appointed by the Council. Considerable time and resources are currently being expended to train and equip Mansfield District Council staff in efficient methods of inspection as described in Part IIA.

All intrusive investigations will be carried out in accordance with appropriate technical procedures to ensure:

- They are effective
- They do not cause any unnecessary damage or harm, and
- They do not cause pollution of controlled waters.

To ensure the most appropriate technical procedures are employed the District Council will have regard to the most up-to-date Government Guidance available.

7.1.4 Potential Special Sites

Once Mansfield District Council has identified land as contaminated land by definition under the Act, it must consider whether the land falls into the category of a Special Site. The definition of Special Sites is given in the Contaminated Land (England) Regulations 2000³⁸. They include land:

- Polluting controlled waters (in certain circumstances - see Appendix III)
- On sites subject to Integrated Pollution Control (Environmental Protection Act 1990 Part I - Prescribed Processes and Substances Regulations 1991, schedule 1, part A)
- Containing waste sulphuric acid tar lagoons (on sites used for refining benzole, used lubricants or petroleum)
- Used as an oil refinery
- Used to manufacture or process explosives
- Used to manufacture or dispose of atomic, chemical or biological weapons (non-biological contamination only)
- Used for other nuclear purposes, and
- Owned or occupied by a defence organisation for naval, military or air force purposes (not off-base housing/NAAFI).

Contaminated land beyond the boundary of these premises but contaminated by them also forms part of the Special Site.

In cases where an area of contaminated land is considered a Special Site the Council will inform the Environment Agency. The Agency will then consider whether it agrees that the land should form a Special Site. If it does not agree it will notify the District Council and the Secretary of State within 21 days with a comprehensive statement explaining its reasons. The District Council will then refer the decision to the Secretary of State. The responsibility for land designated a Special Site passes to the Environment Agency, though the District Council must complete the formal notification process.

7.1.5 Arrangements for appointment of consultants and contractors

Neither the Act nor the Guidance considers what may constitute a ‘suitable person’ for the purposes of the investigation and assessment of contaminated land. There is no list of approved consultants, no professional training organisation and no recognised qualification.

Ultimately, the responsibility for determining what land may and may not be declared contaminated by definition lies with the District Council, taking the advice of the Contaminated Land Team. It will therefore be the responsibility of the Team to ensure the competency of any consultants or contractors that are engaged on their behalf.

Mansfield District Council will follow its recognised procedures in the appointment of consultants and contractors for work under Part IIA of the Act³.

7.1.6 Risk communication strategy

Mansfield District Council will be using a risk-based approach to the identification of contaminated land. It will therefore possess large amounts of risk-based data on land and water throughout the District. Such information could be very sensitive to owners and potential developers, but it will be the policy of this Council to supply this information on request subject to the exclusions detailed in paragraph 9.7.

In communicating any information regarding risks and their assessment, the District Council will ensure that:

- The methods used are relevant to the group requesting the information
- They are clear, consistent and concise
- They are not overly technical where this is unnecessary
- They allow all parties equal access to information
- Officers are available for discussions, meetings, etc
- All relevant stakeholders are included
- Information, comments and other feedback will be invited, and
- Information will be communicated objectively and its sources will be identified.

The procedures outlined above, further detailed in ‘Communicating Understanding of Contaminated Land Risks’³⁹, will be adopted by Mansfield District Council.

7.1.7 Frequency of inspection

It is anticipated that when the strategy is complete the process of inspection will be continuous, particularly when new information becomes available or a change of land use is proposed. A formal, documented annual inspection review will be carried out. This frequency of inspection procedure will be critically appraised at the first annual review.

7.1.8 Format of information resulting from inspection

Data is to be stored and manipulated through a Geographical Information System (GIS), a digital system that integrates databases and maps to produce a tool for managing land-use and ground information in order to help identify pollutant linkages, assess risks, make decisions and communicate outcomes. However, Mansfield District Council’s policy is still to maintain hard copies of appropriate inspection data in the Environmental Health Department.

8.0 REVIEW MECHANISMS

Whilst the District Council has a duty to inspect the District 'from time to time' to identify contaminated land, the frequency of inspection is not prescribed.

8.1 Assumptions and information

Mansfield District Council's aim is to review assumptions and information as required, and particularly in the light of:

- New information
- Change of use of surrounding land
- Introduction of new receptors
- The potential for pollutant linkages to become significant or urgent as a result of unplanned events (e.g. flooding, subsidence, spillages) or a change in circumstances, and
- Identification of a localised effect that could be associated with the land.

The Council will also endeavour to respond as a matter of urgency to specific requests to review assumptions.

8.2 Strategy document

The District Council's policy will be to aim to continually review its strategy. Initially the whole document will be reviewed in July 2002, at which time the whole review procedure will be evaluated. In particular, the matters that will be reviewed may include:

- The content of the strategy in the light of its use over the first year
- Changes to the strategy necessitated by any relevant new guidance
- Priorities for further investigation of potentially contaminated sites
- The enforcement process, and
- Progress of its implementation.

As part of the review mechanism, any proposed changes will be agreed with the Council's Corporate Contaminated Land Working Group and ratified by the Leader and Cabinet.

8.3 Audit of inspection procedures

The Government has stated the DETR will be developing performance indicators to assess overall progress in the task of identifying and remediating contaminated land. No indicators have been developed to date.

Mansfield District Council will audit the strategy and procedures as part of the Best Value Review Programme³⁶ of the Environmental Protection Division of Environmental Health, scheduled for 2003/4. In addition, the Council will give serious consideration to the possibility of establishing countywide audit procedures for the assessment of contaminated land as part of its continuing review mechanism.

9.0 INFORMATION MANAGEMENT

9.1 General principles

The management and disclosure of information regarding the environment is covered under the Environmental Information Regulations 1992⁴⁰, whilst Part IIA of the Environment Protection Act³ requires certain information be placed on Public Registers of Contaminated Land. The actual contents of these registers are specified in schedule 3 of the Contaminated Land (England) Regulations 2000³⁸. 'Information' for the purposes of the Environmental Information Regulations includes records, registers, reports, returns, and data held on computers.

9.2 Information content

A large amount of information, collation and storage will be required to enable the District Council to undertake its inspection duties. This data will come from a variety of sources and in many different formats.

A public register has been created to record where notices have been served, or a formal remediation statement has been prepared in line with section 78R of the Act, for sites identified as contaminated land. The register will be kept at the District Council offices and is available for viewing, free of charge, during normal office hours. The charges to be made for providing copies of register entries are:

- Single notice, £7
- All notices, £25.50.

If interpretation or consultation is required on any register entry, this will be charged as officer time. In line with the Environmental Information Regulations the objective of the Council will be to recover reasonable costs. All charges will be reviewed annually in line with Council policy.

9.3 Storage systems

Relevant information relating to potential sources of contamination will be held on GIS-linked databases. The process of identifying any potential contaminative uses and entering data has commenced, and will be completed by June 2002. In addition, any new information will be evaluated and where appropriate used to update and improve the information held on the GIS.

The specific benefits of GIS are its ability to:

- Generate a variety of thematic maps from several individual datasets, and
- Overlay historic land-use maps onto the current one to determine areas that have had previous contaminative uses.

Mansfield District Council regards the use of a GIS data-handling facility as an essential requirement for the successful implementation of the strategy for the inspection of land in the District.

9.4 Administration

The day-to-day administration of all matters relevant to information management will be carried out within the Environmental Health Department of Mansfield District Council. All matters relevant to contaminated land should be directed to the Head of Environmental Health for the attention of the Contaminated Land Team.

9.5 Use by other Local Authority Departments

Mansfield District Council considers that the new Contaminated Land regime will have an impact on the majority of its Departments. Exchange of information is to be carried out through the Corporate Contaminated Land Group. With formation of this group, day-to-day Departmental contacts have been set up for the exchange of information and expertise. Some effort has already gone into ensuring that relevant information, especially digitised and GIS material, can be accessed by other Departments where possible.

9.6 Confidentiality

The Environmental Information Regulations 1992⁴⁰ outline those circumstances where information **may** be classed as confidential as being:

- Relating to international relations, national defence, or public security
- Subject to legal proceedings
- Relating to confidential deliberations or internal communications of the organisation
- Unfinished documents, and
- Commercial or industrial confidentiality.

Those circumstances where requested information **must** be treated as confidential are given as:

- Contravening or breaching any statutory agreement
- Personal information where disclosure has not been consented to
- Volunteered information where disclosure has not been consented to, and
- Potentially damaging to the environment.

The Data Protection Act 1998⁴¹ applies to all personal data that is processed automatically. The Act gives some protection to persons in respect of three potential dangers:

- The use of personal information that is inaccurate, incomplete or irrelevant
- The possibility of access to personal information by unauthorised persons, or
- The use of personal information in a context or for a purpose other than that for which it was collected.

It should be noted that almost all information held on computers is considered as being 'processed automatically' for the purposes of the Act. The status and any disclosure of information relating to potentially contaminated land and the persons associated with that land and that contamination would be agreed with the District Council's solicitor.

9.7 Access to information

The policy of Mansfield District Council will be to comply with the requirements of the Environmental Information Regulations 1992⁴¹ (currently (2002) under revision) when dealing with requests for disclosure of information. These Regulations require Local Authorities to make any environmental information they hold available on request, subject to certain exemptions, as detailed in section 9.6.

9.8 Requests for information

In line with its obligations under the Environmental Information Regulations 1992⁴⁰ (currently (2002) under revision), the Environmental Health Department will continue to respond to specific requests for information held by the Department regarding historic land uses and site investigation data.

Requests for information will be acknowledged within five days. This acknowledgement can

refuse the request, supply the information, or tell the applicant they will receive the information within four weeks of the original request. A disclaimer will be attached to the written reply indicating that the information is based on that which is currently available to the District Council and that the Council accepts no responsibility for the use of the information or outcome of its use by a third party. This simple disclaimer has been agreed with Legal Services.

There is provision within the regulations for the District Council to charge for the supply of environmental information. Searches for sites for possible development have been formulated into a standard computerised format, the cost of which varies according to the amount of information requested. Costs are £20 for a single subject and £100 for all available subjects. For requests for copies of files and other records, information for a simple site with less than 20 A4 sheets is £52.50, and for a more complex site with more than 20 sheets, £100. These charges are in line with corporate policy and will be reviewed annually.

In April 2000 a new four-part question (Question 16A) was added to the standard land search enquiries in part 1 of form CON29⁴² (Enquiries of Local Authorities regarding Contaminated Land). In response to this question, information will only be recorded in any of its parts when a site has been identified as 'contaminated land' according to the current guidance. At the present time, the response is 'there are no entries in the register'.

9.9 Providing information to the Environment Agency

The District Council is required to consult with the Environment Agency (EA) by providing a copy of its draft contaminated land inspection strategy. The EA is not formally approving the strategy or steering the Council in its implementation. The EA will make known the Local Authorities that have not delivered strategies within the set timescale.

The District Council is also required to notify the EA when sites are determined to be 'contaminated land'. The EA may need to provide site-specific advice on these sites. This information is required to enable the EA to compile an annual report. In addition, the District Council will supply information regarding any regulatory action taken, with summary information for the report.

10.0 OTHER SUPPORTING INFORMATION

10.1 Contact points in the District Council

For information, useful contacts regarding the direct implementation of Part IIA of the Act are:

Environmental Protection Officer:

Dr. W. Pearce 01623 463139

Senior Technical Officer:

Miss C. Dewick 01623 463188

Technical Officer:

Miss S. Rhodes 01623 463188

Solicitor:

Miss A. McCaskie 01623 463304

Planning Officers:

Mr. A. Hodge 01623 463114

Mr. A. Whitelaw 01623 463195

Building Control Officers:

Mr. R. Doughty 01623 463256

Mr. J. Allen 01623 463203

Mr. D. Forman 01623 463191

Corporate Property Officer:

Mr. S. White 01623 463

General enquiries should be directed to Environmental Health administration on 01623 463189.

Other useful contacts are listed in Appendix VI.

10.2 Financial assistance with strategy implementation

The Government has identified that implementing this legislation will involve Local Authorities in considerable expenditure. As a result some £95m has been made available, £50m over three years to develop inspection strategies, carry out site investigations and take enforcement action as part of the standard spending assessment (£12m each year), and £45m available through the Contaminated Land Supplementary Credit Approval (SCA) programme. Mansfield District Council has already applied for SCA for a site in the Oakham Ward.

10.3 The formal notification of ‘contaminated land’

Once land has been declared contaminated under Part IIA of the Act³, the District Council will prepare a written report that will validate its findings. The Council will then formally notify in writing all relevant parties that the land has been declared contaminated, including:

- The owner(s)
- The occupier(s)

- Those liable for remediation ('appropriate persons' – see Appendix VII), and
- The Environment Agency.

At the notification stage it may not be possible to identify all the relevant parties, particularly the appropriate persons. The District Council will act on the best information available to it at this time and keep the situation under review as more information comes to light.

10.4 Works carried out in default

In certain circumstances the Local Authority may need to carry out remediation. In general terms it has this power where:

- Urgent action is necessary
- No 'appropriate person' can be identified
- Enforcement action cannot be taken, for reasons specified in 'Limitations on Remediation Notices' in the Guidance⁴
- The Local Authority agrees to carry out the works on behalf of an appropriate person, or
- A remediation notice has not been complied with.

In carrying out any works in default, Mansfield District Council will ensure that all Statutory Regulations and Guidance are adhered to.

10.5 Liabilities and apportionment of costs

Full liability cannot be determined until all significant pollutant linkages on a site have been identified. When this is complete, the process of apportionment of liability and costs will take place. The stages of apportionment of liability are:

- Identify potential appropriate persons and liability groups
- Identify remediation requirements
- Attribute responsibility and apportion liability, and
- Apply exclusion criteria.

All appropriate persons for any one linkage are a 'liability group'. These may be Class A or Class B persons (see Appendix VII).

The members of a liability group will generally have the total costs apportioned between them. The basic principles that apply to exclusion and apportionment are:

- The financial circumstances of those concerned have **no** relevance
- The District Council will justify any decisions it has made on apportionment, but will consult persons affected by these decisions and will consider any representations made by them, and
- Where there are already agreements between appropriate persons the District Council will adhere to these agreements.

The exclusions from liability for class A and Class B groups are given in Appendix V.

References

- 1 'A Better Quality of Life': A Strategy for Sustainable Development for the UK, DETR, 1999
- 2 'Planning for the Communities of the Future', Government White Paper, 1998
- 3 Environmental Protection Act 1990 Part IIA, 'Contaminated Land', 2000
- 4 'Inspection Strategies for Contaminated Land', draft technical note, DETR, April 2000
- 5 'Mission, Values and Priorities', Mansfield District Council Strategy, 2001
- 6 'A Better Quality of Life for Mansfield District': Local Agenda 21 Community Programme, 2000
- 7 Nottinghamshire Agenda 21 Strategy, Nottinghamshire County Council, 2000
- 8 'A Working Partnership', Guide to Fair Enforcement Practice, Mansfield District Council, 1999
- 9 Draft Municipal Waste Strategy for Nottinghamshire, Nottinghamshire County Council, 2000
- 10 11th report of the Royal Commission on Environmental Pollution, 1985
- 11 Town and Country Planning (General Development) Order, 1988
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- 13 Draft Contaminated Land Regulations, DoE, 1992
- 14 'Paying for our Past', consultation paper, DoE/Welsh Office, 1994
- 15 'Framework for Contaminated Land', DoE/Welsh Office, 1994
- 16 Environment Act, 1995
- 17 Concordat of Good Enforcement, DETR, 1998
- 18 'Introduction to Contaminated Land Risk Assessment', course papers, Greater Manchester Geological Unit, 2001
- 19 Memorandum of Understanding, Environment Agency, 2000
- 20 'The Plan for Mansfield', Mansfield Area Partnership, 1999
- 21 Landfill Tax (Contaminated Land) Order, 1999 (SI 2075/1999)
- 22 Mansfield District Local Plan, 1998
- 23 Nottinghamshire Structure Plan Review, Nottinghamshire County Council, 1996
- 24 Nottinghamshire Minerals Local Plan, Nottinghamshire County Council, 1997
- 25 'A Standard Land Condition Record', Urban Task Force Working Group, 2000
- 26 State of the Environment Report, Mansfield District Council, 1995
- 27 Groundwater Vulnerability Map, National Rivers Authority, 1994
- 28 Annual Drinking Water Report, DETR, 1998
- 29 'Implementing the New Duties of Contaminated Land Identification and Remediation', report to CEMT and Policy and Performance Management, MDC, 2001
- 30 Planning (Hazardous Substances) Act, 1990
- 31 Planning (Hazardous Substances) Regulations, DETR, SI 1656/1992
- 32 Planning (Control of Major Accident Hazards) Regulations, DETR, SI 981/1999
- 33 Notification of Installations Handling Hazardous Substances Regulations, DoE, SI 1357/1982
- 34 Explosives Act, 1875
- 35 Sludge (Use in Agriculture) Regulations, DETR, SI 1263/1989
- 36 Best Value Performance Plan, MDC, 2000
- 37 Wildlife and Countryside Act, 1981
- 38 Contaminated Land (England) Regulations, DETR, SI 227/2000
- 39 'Communicating Understanding of Contaminated Land Risks', SNIFFER, 1999

- 40 Environmental Information Regulations, DoE, 1992
- 41 Data Protection Act, 1998
- 42 Form CON29, Enquiries of Local Authorities regarding Contaminated Land (revised 2001)
- 43 Water Resources Act, 1991
- 44 Water Industry Act, 1991

APPENDIX I

TABLE A – CATEGORIES OF SIGNIFICANT HARM

| Type of receptor | Description of harm to that type of receptor that is to be regarded as significant harm |
|--|---|
| <p>1 Human beings</p> | <p>Death, disease, serious injury, genetic mutation, birth defects or the impairment of reproductive functions.</p> <p>For these purposes, disease is to be taken to mean an unhealthy condition of the body or a part of it and can include, for example, cancer, liver dysfunction or extensive skin ailments. Mental dysfunction is included only insofar as it is attributable to the effects of a pollutant on the body of the person concerned.</p> <p>In this Chapter, this description of significant harm is referred to as a ‘human health effect’.</p> |
| <p>2 Any ecological system, or living organism forming part of such a system, within a location that is:</p> <ul style="list-style-type: none"> ▪ an area notified as an area of special scientific interest under section 28 of the Wildlife and Countryside Act 1981; ▪ any land declared a national nature reserve under section 35 of that Act; ▪ any area designated as a marine nature reserve under section 36 of that Act; ▪ an area of special protection for birds, established under section 3 of that Act; ▪ any European Site within the meaning of regulation 10 of the Conservation (Natural Habitats etc) Regulations 1994 (i.e. Special Areas of Conservation and Special Protection Areas); ▪ any candidate Special Areas of Conservation or potential Special Protection Areas given equivalent protection; ▪ any habitat or site afforded policy protection under paragraph 13 of Planning Policy Guidance Note 9 (PPG9) on nature conservation (i.e. candidate Special Areas of Conservation, potential Special Protection Areas and listed Ramsar sites); or ▪ any nature reserve established under section 21 of the National Parks and Access to the Countryside Act 1949. | <p>For <u>any</u> protected location:</p> <ul style="list-style-type: none"> ▪ harm which results in an irreversible change, or some other substantial adverse change, in the functioning of the ecological system within any substantial part of that location: or ▪ harm which 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>In addition, in the case of a protected location which is a European Site (or a candidate Special Area of Conservation or a potential Special Protection Area), harm which is incompatible with the favourable conservation status of natural habitats at that location or species typically found there.</p> <p>In determining what constitutes such harm, the local authority should have regard to that advice of English Nature and to the requirements of the Conservation (Natural Habitats etc) Regulations 1994.</p> <p>In this Chapter, this description of significant harm is referred to as an ‘ecological system effect’.</p> |
| <p>3 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 that 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.</p> <p>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.</p> <p>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</p> |

| | |
|---|--|
| | <p>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 pollutant linkage, a 20% diminution or loss should be regarded as a benchmark for what constitutes a substantial diminution or loss.</p> <p>In this Chapter, this description of significant harm is referred to as an 'animal or crop effect'.</p> |
| <p>4 Property in the form of buildings.</p> <p>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.</p> | <p>Structural failure, substantial damage or substantial interference with any right of occupation.</p> <p>For this purpose, 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.</p> <p>Additionally, in the case of a scheduled Ancient Monument, substantial damage should 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.</p> <p>In this Chapter, this description of significant harm is referred to as a 'building effect'.</p> |

APPENDIX II

TABLE B – SIGNIFICANT POSSIBILITY OF SIGNIFICANT HARM

| Description of significant harm (as defined in Table A) | Condition for there being a significant possibility of significant harm |
|--|---|
| <p>1 Human health effects arising from:</p> <ul style="list-style-type: none"> ▪ the intake of a contaminant, or ▪ other direct bodily contact with a contaminant. | <p>If the amount of pollutant in the pollutant linkage in question:</p> <ul style="list-style-type: none"> ▪ which a human receptor in that linkage might take in, or ▪ to which such a human might otherwise be exposed, <p>as a result of the pathway in that linkage, would represent an unacceptable intake or direct bodily contact, assessed on the basis of relevant information on the toxicological properties of that pollutant.</p> <p>Such an assessment should take into account:</p> <ul style="list-style-type: none"> ▪ the likely total intake of, or exposure to, the substance or substances which form the pollutant, from all sources including that from the pollutant linkage in question; ▪ the relative contribution of the pollutant linkage in question to the likely aggregate intake of, or exposure to, the relevant substance or substances; and ▪ the duration of intake or exposure resulting from the pollutant linkage in question. <p>The question of whether an intake or exposure is unacceptable is independent of the number of people who might experience or be affected by that intake or exposure.</p> <p>Toxicological properties should be taken to include carcinogenic, mutagenic, teratogenic, pathogenic, endocrine-disrupting and other similar properties.</p> |
| <p>2 All other human health effects (particularly by way of explosion or fire).</p> | <p>If the probability, or frequency, of occurrence of significant harm of that description is unacceptable, assessed on the basis of relevant information concerning:</p> <ul style="list-style-type: none"> ▪ that type of pollutant linkage, or ▪ that type of significant harm rising from other causes. <p>In making such an assessment, the local authority should take into account the levels of risk which have been judged unacceptable in other similar contexts and should give particular weight to cases where the pollutant linkage might cause significant harm which:</p> <ul style="list-style-type: none"> ▪ would be irreversible or incapable of being treated; ▪ would affect a substantial number of people; ▪ would result from a single incident such as a fire or an explosion; or ▪ would be likely to result from a short-term (that is, less than 24-hour) exposure to the pollutant. |

| | |
|---|--|
| <p>3 All ecological system effects.</p> | <p>If either:</p> <ul style="list-style-type: none"> ▪ significant harm of that description is more likely than not to result from the pollutant linkage in question; or ▪ 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 damage to features of special interest at the location in question that they would be beyond any practical possibility of restoration. <p>Any assessment made for these purposes should take into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.</p> |
| <p>4 All animal and crop effects.</p> | <p>If significant harm of that description is more likely than not to result from the pollutant linkage in question, taking into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.</p> |
| <p>5 All building effects.</p> | <p>If significant harm of that description is more likely than not to result from the pollutant 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 pollutant linkage.</p> |

APPENDIX III

POLLUTION OF CONTROLLED WATERS

1. Controlled waters are defined for the purposes of Part IIA of the Act³ as:
 - Coastal waters including docks
 - Relevant territorial waters (usually to three miles)
 - Inland fresh waters (relevant rivers, watercourses, lakes, ponds, and reservoirs, including bottom, channel or bed, even if dry), and
 - Groundwater (Water Resources Act 1991, section 104⁴²)
 2. The pollution of controlled waters is simply defined as the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter.
 3. There is no guidance on what degree of pollution may constitute pollution of controlled waters. This is a potential area of conflict. In cases where it is thought very small quantities of a contaminant are causing pollution, Local Authorities must consider what remediation it may be reasonable to require.
 4. Pollution of controlled waters will generally be dealt with by the Environment Agency. Below is a summary of the issues:
 - Where pollution of groundwater has occurred from an unidentified source, or the pollutant is contained entirely within the body of water and not in or on the land, then Part IIA does not apply and the matter would be dealt with by the Environment Agency under section Part III of the Water Resources Act 1991⁴².
 - Where pollution has occurred from land which subsequently affects the wholesomeness of drinking water within the meaning of section 67 of the Water Industry Act 1991⁴³, then the land becomes a Special Site.
 - Where pollution has occurred from land that results in surface water failing to meet the criteria in the Surface Water and Bathing Waters regulations made under section 82 of the Water Resources Act 1991⁴², then the land becomes a Special Site.
 - The land becomes a Special Site where the pollution of a specified aquifer* is caused by organohalogen, organophosphorus or organotin compounds, carcinogenic, mutagenic or teratogenic substances, mercury and its compounds, cadmium and its compounds, mineral oil and other hydrocarbons, or cyanides.
- *Specified aquifers are those contained in the Pleistocene Norwich Crag, Upper Cretaceous Chalk, Lower Cretaceous and Permo-Triassic Sherwood Sandstones, Upper Jurassic Corallian, Middle Jurassic and Lower Carboniferous Limestones, Lower Jurassic Cotteswold Sands, Upper Permian Magnesian Limestone, Lower Permian Penrith, Collyhurst and Basal Sandstones, and Lower Permian Basal Breccias and Conglomerates.
5. This in effect leaves Local Authorities with the potential responsibility for the pollution of controlled waters where:
 - Surface or coastal waters are affected but not breaching the various Surface Water and Bathing Waters Regulations, and
 - Groundwater (other than a specified aquifer) is contaminated but the water is not used for drinking.

APPENDIX IV

LIST OF POTENTIALLY CONTAMINATIVE LAND USES

This list provides a broad indication of the type of sites that are known to use, or to have used, materials that could pollute the soil. It must be understood that the list is not exhaustive and that inclusion on this list does not necessarily infer the existence of a pollutant linkage.

| | |
|--|-------------------------------------|
| Abattoirs | Gas mantle manufacture |
| Adhesives manufacture | Gas works |
| Agriculture | Glass works |
| Aircraft manufacture | Glue manufacture |
| Airports | Gum and resin manufacture |
| Animal burial | Hatters |
| Animal by-product processing | Hide and skin processors |
| Anodisers | Incinerators |
| Anti-corrosion treatment | Ink manufacture |
| Asbestos products | Iron foundry |
| Asphalt works | Iron works |
| Automotive engineering | Knackers' yards |
| Battery manufacture | Lacquer manufacture |
| Bearings manufacture | Laundries |
| Blacksmiths | Leather manufacture |
| Boilermakers | Metal coating |
| Bookbinding | Metal manufacture |
| Brass and copper tube manufacture | Metal sprayers and finishers |
| Brass foundries | Mining (coal and metals) |
| Brewing | Mirror manufacture |
| Brickworks | Motor vehicle manufacture |
| Car manufacture | Oil fuel distributors and suppliers |
| Carbon products manufacture | Oil merchants |
| Cement works | Oil refineries |
| Chemical manufacture and storage | Oil storage |
| Chrome plating | Paint and varnish manufacture |
| Ceramics manufacture | Papermaking |
| Coal carbonisation | Pesticides manufacture |
| Coal merchant | Petrol stations |
| Concrete batching | Photographic film works |
| Coppersmiths | Photographic processing |
| Descaling contractors (chemical) | Paper manufacture |
| Detergent manufacture | Plastics works |
| Distilleries | Plating works |
| Dockyards | Power stations |
| Drum cleaning | Printed circuit board manufacture |
| Dry cleaners | Printing works |
| Dye works | Radioactive materials processing |
| Dyers and finishers | Railway land |
| Electricity generation | Railway locomotive manufacture |
| Electrical engineers | Refiners of nickel and antimony |
| Electroplaters | Resin manufacture |
| Engineering works | Rubber manufacture |
| Explosives manufacture (including fireworks) | Scrap metal dealers |
| Farms | Sealing compound manufacture |
| Fertiliser manufacture | Sewage works |
| Fellmongers | Sewage sludge disposal areas |
| Fibreglass works | Sheet metal merchants and works |
| Food processing | Ship breakers |
| Foundries | Ship builders |
| Fuel manufacture | Shooting grounds |
| Fuel storage | Skein silk dyers |
| Garages and depots | Small arms manufacture |

Smokeless fuel manufacture
Soap manufacture
Solvent manufacture
Solvent recovery
Steel manufacture
Stove enamellers
Synthetic fibre manufacture
Tank cleaning
Tanneries
Tar and pitch distillers
Textile manufacture
Thermometer makers

Timber treatment
Timber preservatives manufacture
Tin plate works
Transport depots
Tyre manufacture and retreading
Vehicle manufacture
Vulcanite manufacture
Vulcanisers
Waste disposal
Waste recycling
Waste treatment
Zinc works

APPENDIX V

EXEMPTIONS FROM LIABILITY FOR REMEDIATION OF CONTAMINATED LAND

There are criteria to identify Class A groups who should be excluded from liability. These will be applied in sequence and separately for each pollutant linkage.

Exemptions apply where:

- The land is contaminated only by pollution of controlled waters
- The land is contaminated only by the escape of pollution from one piece of land to another
- The land is contaminated by pollution of controlled waters from an abandoned mine, or
- The Class A person was acting in a 'relevant capacity', e.g. insolvency practitioner, official receiver, etc.

The exclusion of Class B persons is much less complex; the single test excludes those who do not have an interest in the capital value of the land. Tenants are therefore excluded. Class B persons cannot be held responsible for polluting water from land.

APPENDIX VI CONSULTEES AND CONTACT POINTS

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(No comments)

APPENDIX VII

‘APPROPRIATE PERSONS’

Class A persons

These are generally the polluters but also include persons who ‘knowingly permit’. This includes developers who leave contamination on a site that subsequently results in the land being declared contaminated.

Class B persons

Where no Class A persons can be found, liability reverts to the owner or the occupier. These are known as Class B persons. The District Council will make all reasonable enquiries to identify Class A persons before liability reverts to owners or occupiers.

The matter of appropriate persons must be considered for each significant pollutant linkage. Therefore where a site has had a series of contaminative uses over the years, each significant pollutant linkage will be identified separately and liability considered for each.

Sites where ‘reasonable’ enquiries have failed to find a Class A or Class B person, or sites where the persons that can be found are exempted from liability for specified reasons, will become ‘orphan sites’ (see Appendix V). In such cases Mansfield District Council, as the enforcing authority, will bear the costs of any necessary remediation, in accordance with the Statutory Guidance⁴.

APPENDIX VIII

COMMENTS RECEIVED ON THE DRAFT STRATEGY

THE COUNTRYSIDE AGENCY

East Midlands Region, 18 Market Place, Bingham, Nottingham, NG13 8AP
Tel 01949 876200 Fax 01949 876222

Date 17 May 2001

PART IIA - ENVIRONMENTAL PROTECTION ACT 1990 DRAFT CONTAMINATED LAND INSPECTION STRATEGY

Thank you for consulting the Countryside Agency in connection with the preparation of the above. The Agency supports the aim of the Strategy which will assist in meeting the objectives of sustainable development by encouraging re-use of brown field land for development in preference to previously undeveloped greenfield sites and help improve the quality of life for the residents of Mansfield District Council.

Of prime concern to the Agency is that where remediation of land takes place, final restoration proposals will need to be sympathetically developed to respect the intrinsic character of the surrounding area. Nottinghamshire County Council's Landscape Guidelines will be able to help inform the decision making process in order to assess the suitability of final restoration and after use proposals. The Agency would encourage you to make direct reference to the requirement for the character approach to landscape assessment needing to be met in the final strategy.

On an administrative note would you kindly amend your consultee address database to reflect the address at the top of this letter and ensure that all future correspondence is sent directly to our regional office.

KAREN DEVONPORT
Countryside Officer

CITY OF NOTTINGHAM

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www.nottinghamcity.gov.uk

1 June 2001

Part IIA of the Environmental Protection Act 1990 (Contaminated Land) **Re: External Consultation**

Thank you for your letter dated 4th May 2001, enclosing a copy of Mansfield District Council's Draft Contamination Land Inspection Strategy.

I only have one comment to make on the strategy document with regard to the cross-referencing between the strategy document and the Local Plan.

Page 22 (2nd last paragraph) and page 23 (1st -2nd paragraph) refer to details given in specific sections of the Council's Local Plan. This therefore means that the reader must then obtain and read the Local Plan in order to gain and understand the information which is being referred to. I would suggest that this information is included in the strategy document to make the document more comprehensive and easier to read.

Gill Macken
Team Leader (Pollution Control)

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Tel: 0115 9772129 Fax: 0115 9772418

Date Thursday, 14 June 2001

MANSFIELD DISTRICT COUNCIL DRAFT CONTAMINATED LAND STRATEGY

Thank you for consulting me on your District's draft contaminated land strategy. Part IIA of the Environmental Protection Act 1990 has some potentially very significant implications for archaeology. It is perhaps unfortunate that the potential for damage to archaeological deposits is not more clearly underlined in the Act and associated government guidance. However, it is contrary to current government thinking, and in particular to concepts of sustainable development, that protection for one aspect of the environment should have major negative impacts upon another aspect, particularly one such as archaeology, whose remains are finite and non-renewable. I am therefore very pleased to note the concern for archaeological issues which is contained within the draft strategy, and I am writing now to offer assistance in making sure that archaeological issues are fully appreciated throughout the process of identifying potentially contaminated sites.

Archaeology is perhaps unique in that different types of archaeological remains and deposits can form the source of contamination, the pathway for contamination, or the receptors of contamination. The remains of a gas works may be a source of contamination, but may also be of very real industrial archaeological significance. The soils which contain stratified Mediaeval urban deposits may be a pathway for pollution from the later tanning industry. The waterlogged organic-rich ditch fills of the moat which is a Scheduled Ancient Monument may be being destroyed by a cocktail of chemicals from the site of the nearby paint factory. These are imaginary examples, but could very easily arise in practice. There are two slightly different aspects to the situation. Nationally important archaeological sites which are receptors of contaminants and are at significant risk from them, may fall within the protection of the Act. However, the majority of archaeological sites will never become Scheduled Ancient Monuments. Some 432 monuments (not including single findspots) are known in the District, and without doubt further sites await discovery. Archaeological sites which are not Scheduled may be at particular risk from intrusive site investigation and from remediation works. I am very pleased that the Draft Strategy identified this risk with regard to site investigation. I would be grateful if potential damage from remediation works could also be highlighted in the Strategy.

Highlighting the potential for damage to occur is a first step, but it is also necessary to try and find ways of reducing the risk of such damage occurring. To this end I recommend that we work together to set up links by which we can provide you with comments on archaeological issues on a site by site basis, possibly at the stage when detailed risk assessments are being drafted. In many cases we will be able to provide information on the archaeological significance of sites identified as potentially contaminated, and advise on the need for archaeological mitigation works. We can of course also provide advice in situations where archaeological remains turn up unexpectedly in the course of site investigations or remediation works. I will be pleased to discuss this with you in more detail.

I appreciate that with the deadline of July 1st approaching for publication of the strategy you must be very busy. Perhaps after that date we could arrange a time to meet and discuss the issues noted above?

I hope my comments are helpful.

Ursilla Spence
Senior Archaeological Officer

ENVIRONMENT AGENCY

Trentside Offices, Scarrington Road, West Bridgford, Nottingham NG2 5FA

Tel: 0115 945 5722 Fax: 0115 981 7743

25 May 2001

PART IIA ENVIRONMENTAL PROTECTION ACT 1990 LOCAL AUTHORITY INSPECTION STRATEGIES: CONSULTATION

Thank you for your letter dated 4th May 2001 enclosing your draft Inspection Strategy under Part IIA, for our comment, in accordance with paragraph B11 of the Statutory Guidance.

We have restricted our comments to those relating to information previously provided by the Agency, and to those areas where we have environmental protection responsibility. In our opinion, the draft Inspection Strategy appears to generally conform with the statutory requirements. Our comments are set out below.

Section 1.4.4 refers to the forms required by the Agency in order that the annual State of Contaminated Land Report can be completed accurately. This report and its associated forms are not related to the Land Condition Record forms and should be viewed as being entirely separate.

If you require any clarification on any of the enclosed, or would like to discuss this, please do not hesitate to contact me.

ANDREW BARKER
Area Contaminated Land Officer

ENGLISH HERITAGE
East Midlands Region, 44 Derngate, Northampton, NN1 1UH
Direct Dial: 01604 735450
E-mail: ann.plackett@english-heritage.org.uk

1 June 2001

CONTAMINATED LAND STRATEGY, CONSULTATION DRAFT – ENVIRONMENTAL PROTECTION ACT 1990 PART IIA

Thank you for your letter of 4 May 2001 inviting English Heritage to comment upon the draft Contaminated Land Strategy. We should like to make the comments that relate to the application of DETR Circular 02/2000 with respect to the interests of English Heritage and to make more specific comments about the content of your draft strategy. The implications for the historic environment are broadly two-fold; the existence of potential receptors and the impact of decontamination works on the possible historical legacy of a contaminated site. We are advising all local authorities as set out in the letter below.

Introduction

Definition of Contaminated Land

Definition of harm to Scheduled Ancient Monuments. Within the categories of significant harm, the DETR Circular identifies Scheduled Ancient Monuments as one of receptors that could be subject to harm. In the case of Scheduled Ancient Monuments, substantial damage (i.e. harm) would be regarded as 'unauthorised works' as defined by the Ancient Monuments and Archaeological Areas Act 1979. In order to undertake works affecting a Scheduled Ancient Monument, Scheduled Monument Consent is required. Damage involves anything that represents an addition, removal or alteration of the monument and is a criminal offence, which could lead to prosecution.

Principles of Pollutant Linkages - Receptors

Other potentially sensitive receptors. Although not included in the DETR guidance, it is important to remember that listed buildings, world heritage sites, historic parks and gardens, historic battlefields and conservation areas will, on occasions, also be sensitive receptors. All these are designations, some of them statutory, that local authorities are required to take into account when considering planning applications and related matters. For example, a significant number of industrial buildings are listed and some conservation areas may include, or may even have been designated principally because of industrial sites.

Characteristics of your Local Authority Area

Protected Sites, para. 2.3 As well as Scheduled Ancient Monuments, there may also be sites with industrial archaeological interest that may not be designated, but might need to be subject to some form of assessment

before remedial work is undertaken (see below). Early identification of any historic interest will minimise the danger of conflict later in the process.

Current and Past Industrial History English Heritage would like to stress that it does not want the historical legacy of sites and structures to be regarded as a form of contamination, although it realises that the conservation or recording of remains may require special measures.

Procedures

Information Collection

Consultation of Sites and Monuments Records

In the preparation and implementation of your inspection strategy, we recommend that you consult the Sites and Monuments Records (SMR) covering your area, at Nottinghamshire County Council. The SMR is the record of all known archaeological sites, including Scheduled Ancient Monuments. The SMR should be able to identify any Scheduled Ancient Monuments etc that are associated with land that may be in a contaminated state and which could potentially be Contaminated Land according to Part IIA of the EPA 1990, as well as potential receptors.

Programme for Inspection

Methodology and procedures for detailed inspection

The following advice is applicable to detailed inspections, especially where 'intrusive investigations' might be required, and when the **remediation strategies** are developed.

i) Advice on Scheduled Ancient Monuments. You should be aware that, across the country, the sites of some former industrial activities are Scheduled Ancient Monuments, and at these locations any contaminants present may constitute a significant element of the archaeological interest for which the monument was scheduled, e.g. asbestos in steam driven installations. This aspect would need to be considered when drawing up a remedial strategy for the site, in consultation with English Heritage. Jon Humble, Ancient Monuments Inspector for your area, will be able to advise on the risks of significant harm to specific Scheduled Ancient Monuments.

ii) Other archaeological sites. Scheduled Ancient Monuments are thought to constitute less than 5% of the total archaeological resource. We would expect that when significant contamination is identified on or in an unscheduled archaeological site, and remediation is necessary, full discussion with the County Archaeologist would take place at an early stage to agree an appropriate mitigation strategy. This could include in situ preservation or excavation and recording. The special circumstances might require the development of a particular approach to overcome issues such as the archaeological material itself being treated as contaminated and not suitable for removal for archiving/further research. Clearly this would depend upon the nature of the contamination and the archaeologists would need to work with you to develop the appropriate mitigation strategy.

It is anticipated that decontamination is likely to take place in response to a proposed planning application for the development of brownfield land. If this is the case, then the procedures for dealing with areas of potential archaeological interest are clearly set out in Planning Policy Guidance 16 (PPG 16) Archaeology and Planning. The first stage would be to contact the Sites and Monuments Record to establish this potential. However, we are particularly concerned about the impacts of remediation measures that a) will take place outside the normal development control procedures and will not therefore, be subject to the automatic appraisal of the historic implications, and b), with respect to special sites, which will be under the aegis of the Environment Agency, which will not necessarily be aware of the appropriateness of following a similar procedure to that set out in PPG 16.

In conclusion, we would encourage your authority to consider contaminated sites in their historical context. They can tell us about past industrial activities and may include buildings and plant, as well as other archaeological evidence, which it might be appropriate to conserve or record. The understanding of the history of a site may inform planners and developers as to how new development can best be integrated into the existing urban fabric.

It would be helpful therefore, if these issues could be highlighted in the strategy or taken into account when developing the procedures for the remediation of contaminated sites.

Future contact with English Heritage. The regional team of English Heritage is keen to provide what assistance it can to deal with this important issue, however it is limited in the amount of detailed casework it is able to undertake. To that end, I envisage that discussions with local authority archaeological and building conservation staff will provide the principal initial input on site-specific issues. Scheduled Monument Consent is dealt with by English Heritage, which advises the Department of Culture, Media and Sport and it is therefore essential to make early contact with us to discuss suggested courses of action that affect such sites. We also have Regional Advisors for Archaeological Science who would be able to advise on scientific and technical issues that the Ancient Monuments Inspectors are unable to resolve. Officers of your Council will normally deal with sites affected by other historic environment designations, although English Heritage will be involved in certain circumstances.

Details of Statutory Consultation Contacts

Please could you amend the contact for English Heritage in Appendix VI to:

Jon Humble, Ancient Monuments Inspector
English Heritage, East Midlands Region
44 Derngate, Northampton, NN1 1UH
Tel. 01604 735400

I trust the above is of assistance to you in taking the Strategy forward. I look forward to your confirmation that the above observations will be incorporated into the final document or subsequent procedures. If there are any issues you wish to discuss in more detail, please do not hesitate to contact me.

Miss Ann Plackett
Regional Land Use Planner

EAST MIDLANDS DEVELOPMENT AGENCY

Apex Court, City Link, Nottingham, East Midlands NG2 4LA
T: 0115 988 8300 F: 0115 853 3666
e: info@emd.org.uk
www.emda.org.uk

8 June 2001

Re: Contaminated Land Inspection Strategy

I have now received the above consultation document dated 8 May 2001 and have no additional comments to make regarding the structure and timescales. The document is comprehensive and contains all that I would have expected from such a document.

However, I would like to suggest the following additional items:

- The 'source-pathway-receptor' principle could be represented in a diagrammatic way, similar to that in the Environment Agency Publication 'Safe Development of Housing on Land Affected by Contamination'.
- Some comments upon the geological and hydro-geological characteristics of the District would be helpful.
- A flow chart for the inspection process.
- A bar chart to identify the strategy tasks identifying target start and completion dates.
- An additional Appendix for a Glossary of Terms.

NEIL BURGIN
Project Team Manager

ENGLISH NATURE

East Midlands Team, The Maltings, Wharf Road, Grantham, Lincolnshire NG31 6BH
Tel 01476 584800 Fax 01476 570927

e-mail: east.midlands@english.nature.org.uk
www.english-nature.org.uk

24 May 2001

**Part IIA of the *Environmental Protection Act 1990*
Contaminated land**

We welcome Mansfield District Council's Draft Contaminated Land Strategy and compliment your Authority in providing the document in an electronic format.

We have no comments to make in respect of the timescales proposed for dealing with the inspection of potentially contaminated land or on the structure of the strategy. Our only comment which you may wish to consider is that protected species should be mentioned in this strategy. This is because many potentially contaminated land sites may have been colonised by protected species such as badgers or great crested newts and which may present significant legal constraints to remediation in some circumstances.

My contact details (see page 57) have also be partly amended to telephone number 01476 584800.

I hope these comments are helpful, but if you have any queries or require any further consultation with English Nature, please do not hesitate to get in touch.

IAN EVANS
Conservation Officer
Land Use Planning

FOOD STANDARDS AGENCY

Room 707c, Aviation House, 125 Kingsway, London WC2B 6NH
Tel: 020 727 68726 GTN: 2678726 Fax: 020 727 68717
www.foodstandards.gov.uk

5 June 2001

**Environmental Protection Act 1990
The Contaminated Land (England) Regulations 2000 Contaminated Land Inspection Strategy**

Thank you for the copy of your draft contaminated land inspection strategy that you sent on 4 May 2001 for comment.

The Agency's involvement in assessing risks to food safety from pyres burning carcasses of animals with foot and mouth has resulted in the re-allocation staff and resources. Unfortunately, this means it is unlikely we will be able to comment on your draft strategy within the time requested. We apologise for any inconvenience this may cause if we have any further comments to those given below, then we will contact you as soon as possible.

However, from our experiences of the draft strategies we have received so far, there are a few general comments that may be relevant to your strategy which are listed below.

Areas of food production may often be relatively sparsely populated, but it is important to bear in mind that food produced there may potentially reach a large number of consumers (or 'receptors').

The Food Standards Agency has responsibility for advice on food safety, including the safety for consumers of any food that might be affected by contamination of land. This includes food produced in domestic gardens and allotments and food collected from the wild, including game, as well as commercially produced foods.

We are available to advise on any potential food safety aspects of any specific cases of contaminated land that may be identified as a result of the development and implementation of your strategy. Contaminated land may affect food safety directly - for example by contaminating crops grown on, or animal products from animals raised on, contaminated land - or indirectly, for example by transport of contaminants to other locations, or by

causing pollution of waters used to irrigate crops or to water animals, or from which fish or shellfish may be consumed.

The Food Standards Agency should be added to your list of consultees if it is not included already. My contact details are as shown in this letter (please note that we now have a new address).

Dr Patrick Miller
Contaminants Division
E-Mail: patrick.miller@foodstandards.gsi.gov.uk

HEALTH AND SAFETY EXECUTIVE

Hazardous Installations Directorate, Land Division, National Field Delivery Unit (Gas & Pipelines)

Date: 6 June 2001

PART IIA -ENVIRONMENTAL PROTECTION ACT 1990 DRAFT CONTAMINATED LAND INSPECTION STRATEGY

Thank you for sending a copy of the draft strategy but on this occasion the HSE has no comments to make.

R. HADWAY
HM Inspector of Health and Safety

DEFENCE ESTATES

Blakemore Drive, Sutton Coldfield, West Midlands B75 7RL
Telephone: 0121 311 2126 DGSA DFTS: (9)4421 2126 Fax: 0121 311 3707
E-mail: Raymond.dickinson@de.mod.uk
Internet Site: www.defence-estates.mod.uk

Date 25 May 2001

PART IIA OF THE ENVIRONMENTAL PROTECTION ACT 1990: CONTAMINATED LAND

Thank you for forwarding a copy of Mansfield District Council's draft Contaminated Land Inspection Strategy on which I do not have any specific comments to make. While there is very little defence land within Mansfield District I should be grateful if you would continue to forward consultation documents to the above address. If during the implementation of the strategy site specific information is required in relation to any MOD land holding the enquiry should be addressed to: Mr P Rushmer, DE Waterbeach, Stirling House, Denny End Road, Waterbeach, Cambs, CB5 9QE.

Ray Dickinson
Environmental Policy
Estates Directorate

SEVERN TRENT WATER Ltd

Severn Trent Headquarters, 2297 Coventry Road, Birmingham B26 3PU
Tel 0121 722 4000 Fax 0121 722 4800
Contact: Charlotte Harper Direct Line 0121 722 4192

20 May 2001

Severn Trent Water Ltd. is currently considering its position regarding the Contaminated Land Regulations. We are aware of the requirement for the local authorities to publish and implement a strategy to identify and deal with contaminated land in its area. We would welcome the opportunity of being consulted on your draft strategy

as it is being produced, as we have an interest relating to the potential impact of contaminated land on our water supply operations. It would be most useful if you could provide details of your strategy, its associated timescales and the contacts involved in this work.

We are aware that you may wish to seek information from ourselves and would be happy to provide this wherever possible. If you require any information please contact myself at the above address, or via e-mail at charlotte.harper@severntrent.co.uk.

Charlotte Harper
Environmental Planning

HM CUSTOMS AND EXCISE

Business Services and Taxes
Birmingham Business Centre, 2 Broadway, Broad Street, Five Ways, Birmingham B15 1BG
Tel: 0121 697 4000 Fax: 0121 697 4002

15 June 2001

RE: PART IIA - ENVIRONMENTAL PROTECTION ACT 1990 DRAFT CONTAMINATED LAND INSPECTION STRATEGY

I refer to your letter dated 4 May 2001, which included a copy of Mansfield District Council's Contaminated Land Inspection Strategy. As requested I have read this, and reviewed it in line with guidelines as issued by HM Customs & Excise for contaminated land.

The only reference to HM Customs & Excise appears in Appendix VI "Consultees and Contact Points". In part 1.0 Introduction it is stated that there are three national objectives in relation to contaminated land, these being as follows:

- a) To identify and remove unacceptable risks to human health and environment.
- b) To bring back into beneficial use land that has been subjected to possible contaminative uses.
- c) To ensure that the cost burdens faced by individuals, companies and society as a whole are reasonable, proportionate, manageable and economically sustainable.

In relation to (c) above, HM Customs & Excise legislation can have a significant impact. In the remediation process to clean up contaminated land for any developmental or other use, there are significant cost burdens. When contaminated waste is disposed of by way of landfill, the waste will be subject to a landfill tax of £12.00 per tonne. However under HM Customs & Excise legislation i.e. LANDFILL TAX (CONTAMINATED LAND) ORDER 1999 (SI 1999 No 2075), there are circumstances where a disposal of contaminated waste will be considered EXEMPT from landfill tax. There is no reference to this within your draft document.

Apart from the above I have no further comment to make.

DAVID CONSTANTINE
Officer of HM Customs & Excise Birmingham Business Centre

Web: www.hmce.gov.uk
National Advice Service: 0845 010 9000

DEFRA

Department for Environment, Food & Rural Affairs
100 Southgate Street, Bury St Edmunds, Suffolk, IP33 2BD
Telephone: 01284 750102 Fax: 01284 753658 Direct line: 07768 687812
E-mail: a.adams@frca.maff.gsi.gov.uk

June 18, 2001

DRAFT CONTAMINATED LAND INSPECTION STRATEGY

The draft Strategy for your Council sent to the Ministry of Agriculture (MAFF) in Nottingham has been passed to me for comment. I apologise for the delay but the document does seem to have taken a rather roundabout route in reaching me. For the purposes of Contaminated Land all general correspondence should be addressed to Ms F Reynolds or Mr G Beckwith, Sustainable Agriculture Branch, RMED, DEFRA, 16 Palace Street London SW1EE 5FF. Technical enquires should be addressed to myself as per the letter heading.

Section 2.4 refers to Nitrate Sensitive Areas. More correctly I believe this should be Nitrate Vulnerable Zones. The former were areas designated by MAFF for Agri-environment payments to reduce nitrate leaching. However they have been superseded by NVZs which are statutory designated areas where management practices have to be put in place to reduce the contamination of water supplies by nitrate. However this legislation is already in existence and is the responsibility of the Environment Agency. It is our understanding that because other legislation exists that the Contaminated Land Regime does not include that control of nitrate and therefore it is not appropriate for it to be included in the strategy.

At para 5.3.2 you set out the assessment indicators for a number of receptors. Crops and livestock are mentioned specifically. It is important to recognise in the guidance that it is unlikely to establish a polluting linkage by prediction of plant or animal uptake from soil data. It will be necessary to obtain specific information relating to the receptor under investigation. I am not clear how the risk to livestock is to be assessed given that this may come from direct soil ingestion rather from the ingestion of edible plants.

At section 5.5.4 you indicate that alluvium soils might be of some concern. It would be interesting to see any particular issues that might be covered and how these might be assessed.

You may also wish to note that the MAFF system of Agricultural Land Classification (ALC) includes provision for grading land according to long term limitations, which can result from soil contamination. ALC surveys do not routinely collect soil or crop samples to assess contamination, and would only do so if an extensive problem were suspected. However, if contamination has been identified in an ALC survey within your Authority's area this should be taken as indicative of a possible problem to be investigated and not evidence that a pollution linkage exists.

In the contacts list I would be grateful if you would amend the MAFF entry to the contact given above which both reflects the main points of contact and the change in Departmental name and function now encompassed in the Department for Environment, Food and Rural Affairs (DEFRA).

Andrew Adatris
Team Manager - Land Management

MDC RESPONSE LETTER

Contaminated Land Inspection Strategy – Consultation

Many thanks for responding to our consultation concerning the Draft Contaminated Land Inspection Strategy to be adopted by this Authority.

We have tried to include most of the response comments in the final document and I hope that you are now satisfied that we have adopted your comments satisfactorily.

Enclosed is the final version on CDROM (a hard copy is available on request). I hope that you agree that this document ensures that your particular interests are adequately addressed. Finally, I hope that the consultation process with yourself does not now end, particularly as this process develops and subsequent remediation of land is required.

Dr. W. C. Pearce, Environmental Protection/Contaminated Land Officer

APPENDIX IX

Glossary of Terms

NB the definitions below are given as a 'quick reference' guide only. All terms will, in practice, be interpreted according to the definitions given in the EPA Part IIA or in available guidance.

| | |
|--|--|
| Appropriate person | Someone held to be responsible in some degree for the remediation of an area of contaminated land. |
| 'Class A person' | A person who caused or knowingly permitted a pollutant to be in, on or under designated contaminated land. See also Appendix VII. |
| 'Class B person' | A person who is the owner or occupier of designated contaminated land, where no Class A person can be found. See also Appendix VII. |
| Contaminant (or source) | A substance that is in, on or under land and which has the potential to cause harm or pollution of controlled waters. |
| Contaminated land | Any land which, due to the substances in, on or under it, is causing significant harm or pollution of controlled waters, or there is a significant possibility of such harm or pollution being caused. |
| Controlled waters | Territorial and coastal waters, inland fresh waters and ground waters, as defined in section 78A(9) of the Environmental Protection Act 1990 by reference to Part III (section 104) of the Water Resources Act 1991. |
| Current use | Any use which is currently being made, or is likely to be made, of land, consistent with any existing planning permission or lawful under Town and Country Planning legislation. |
| DETR | The former Department of the Environment, Transport and the Regions (now DEFRA – the Department for Environment, Food and Rural Affairs). |
| EA | The Environment Agency. |
| Enforcing authority | The Local Authority, or in the case of a Special Site, the Environment Agency. |
| GIS | Geographical Information System – a computerised mapping programme. |
| Groundwater | Water contained in underground strata, wells and boreholes. |
| Harm | Harm to the health of living organisms, interference with the ecological systems of which they form a part, and harm to property. |
| Human health effect | Significant harm of a type listed in Table A above. |
| Intrusive investigation | Investigation of land going beyond visual inspection or limited sampling, e.g. excavations or boreholes. |
| Orphan site | An area of contaminated land for which no appropriate person can be found, or for which the appropriate person(s) is/are exempted for whatever reason. |
| Pathway | One or more routes through which a receptor is being or may be exposed to or affected by a contaminant. |
| Pollutant | A contaminant forming part of a pollutant linkage. |
| Pollutant linkage | The relationship between contaminant, pathway and receptor. |
| Pollution of controlled waters | The entry into controlled waters of any polluting or solid waste matter. |
| Receptor | A living organism, an ecological system or a piece of property, as listed in Table A above, which is being or could be harmed by a contaminant, or controlled waters which are being or could be polluted by a contaminant. |
| Remediation | The carrying out of works to prevent or minimise the effects of contamination. |
| Risk assessment | The study of the probability and frequency of occurrence of a defined hazard and the seriousness of the consequences. |
| Semi-quantitative risk assessment | A risk assessment where numbers on a sliding scale are allotted to help quantify the probability of harm occurring, the likely severity of that harm, and the frequency of contributing factors occurring in a particular situation. |
| Significant harm | Defined in section 78A(5) of the Environmental Protection Act 1990. It means any significant harm meeting one of the descriptions of types of harm in Table A (see above). |
| Special Site | Land designated as contaminated due to certain criteria, as listed in 7.1.4. Special Sites are dealt with by the Environment Agency rather than the Local Authority. |

APPENDIX X

Contaminated Land Forms

Contaminated Land Form 1

| | |
|--|----------------|
| Location (inc. OS grid references) | |
| | |
| | |
| | |
| Database checked | Outcome |
| Solid geology | |
| | |
| | |
| Drift geology | |
| | |
| | |
| Surface water | |
| | |
| | |
| Groundwater vulnerability | |
| | |
| | |
| Water abstraction points | |
| | |
| | |
| Water sources and protection zones | |
| | |
| | |
| Former wells | |
| | |
| | |
| Former licensed waste disposal sites | |
| | |
| | |
| Current licensed waste disposal sites | |
| | |
| | |
| Landfill | |
| | |
| | |
| Epoch 1 map (early 1880s) | |
| | |
| | |
| Epoch 2 map (early 1900s) | |
| | |
| | |
| Epoch 3 map (late 1910s) | |
| | |
| | |
| Epoch 4 map (late 1930s; partial) | |
| | |
| | |
| Epoch 5 map (late 1950s) | |
| | |
| | |
| Epoch 6 map (late 1960s) | |
| | |
| | |
| Epoch 7 map (mid 1980s) | |
| | |
| | |
| Current map | |
| | |
| | |
| Possible contaminative uses | |
| | |
| | |
| Quarries (stone, sand, gravel) and brickyards | |
| | |
| | |
| Former petrol stations and storage | |

| | | |
|-----------------------------------|----------------------------|--------------|
| | | |
| | | |
| 'Part B' processes | | |
| | | |
| Boreholes | | |
| | | |
| Reports | | |
| | | |
| Ancient woodlands | | |
| | | |
| SSSIs and other protected sites | | |
| | | |
| Listed Buildings | | |
| | | |
| MDC-owned land | | |
| | | |
| Aerial photos | | |
| | | |
| Additional information | | |
| | | |
| Recommendations (tick one) | | |
| | No further action required | |
| | Go to stage 2 | |
| Form completed by: | | Date: |
| Manager's signature: | | Date: |

Contaminated Land Form 2

| | | | | |
|---|-------------------|---------------------|---|---------------------------------|
| Address/location *attach map at 2,500 scale* | | | OS Grid References (six-figure) Eastings 4 Northings 3 | |
| Current use of site (give further details where possible) | Industrial | | | |
| | Domestic | | | |
| | Commercial | | | |
| | Other | | | |
| | Unknown/wasteland | | | |
| Former contaminative uses of site and approximate dates | | | | |
| | | | | |
| | | | | |
| Any evidence of contamination on site walkover? (tick one) | NO | YES | If yes, summarise | |
| | | | | |
| | | | | |
| Any known 'pollution incidents' or complaints? (tick one) | NO | YES | If yes, summarise | |
| | | | | |
| | | | | |
| List possible receptors and distance from site (summarise) | | | | |
| | | | | |
| | | | | |
| Any possible linkages? (tick one) | | YES – go to stage 3 | | NO – no further action required |
| Form completed by: | | | Date: | |
| Manager's signature: | | | Date: | |

Contaminated Land Form 3

| | | | | |
|--|-----------------|--------------------|---------------------|-------|
| Linkage risk assessments *refer to table on next page* | | | | |
| Linkage 1 | Description | | | |
| Frequency score: | Severity score: | Probability score: | Risk rating: | |
| | | | | |
| Linkage 2 | Description | | | |
| Frequency score: | Severity score: | Probability score: | Risk rating: | |
| | | | | |
| Linkage 3 | Description | | | |
| Frequency score: | Severity score: | Probability score: | Risk rating: | |
| | | | | |
| Linkage 4 | Description | | | |
| Frequency score: | Severity score: | Probability score: | Risk rating: | |
| | | | | |
| Linkage 5 | Description | | | |
| Frequency score: | Severity score: | Probability score: | Risk rating: | |
| | | | | |
| Linkage 6 | Description | | | |
| Frequency score: | Severity score: | Probability score: | Risk rating: | |
| | | | | |
| Linkage 7 | Description | | | |
| Frequency score: | Severity score: | Probability score: | Risk rating: | |
| | | | | |
| Linkage 8 | Description | | | |
| Frequency score: | Severity score: | Probability score: | Risk rating: | |
| | | | | |
| Linkage 9 | Description | | | |
| Frequency score: | Severity score: | Probability score: | Risk rating: | |
| | | | | |
| Is this site Contaminated Land? | | | | |
| If so, is it a Special Site? | | | | |
| Is further investigation still required? | | | | |
| Assessment carried out by: | 1) | 2) | 3) | Date: |

Risk Assessment Table

| Frequency of exposure to risk | Severity of outcome of exposure | Probability of exposure to risk | Using the table: 1) Allot a risk for each category 2) Multiply resulting numbers 3) Refer to table below | | |
|-------------------------------|---------------------------------|---------------------------------|---|-----------|---|
| 10 Continuous | 10 Death | 10 Inevitable | | | |
| 9 Almost continuous | 9 Severe, permanent harm | 9 Almost certain | | | |
| 8 75% of the time | 8 Severe, semi-permanent harm | 8 Very likely | | | |
| 7 50% of the time | 7 Severe but temporary harm | 7 Probable | Risk ratings | | |
| 6 Monthly | 6 Moderate, permanent harm | 6 More than even chance | 0 - 79 | Very low | Within acceptable limits. No action required |
| 5 3 monthly | 5 Moderate, semi-permanent harm | 5 Even chance | 80 – 174 | Low | No immediate action required, but planning and/or monitoring needed |
| 4 6 monthly | 4 Moderate, temporary harm | 4 Less than even chance | 175 – 391 | Moderate | Action required if risk cannot be reduced by risk management |
| 3 Annually | 3 Mild, (semi-) permanent harm | 3 Improbable | 392 – 728 | High | Imminent action required |
| 2 Rarely | 2 Mild, temporary harm | 2 Very improbable | 729 – 1000 | Very high | Immediate action required |
| 1 Never | 1 No harm | 1 Almost impossible | | | |