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**CONTAMINATED LAND INSPECTION STRATEGY**

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**Responsible Cabinet Member –  
Councillor Chris McEwan, Economy and Regeneration Portfolio**

**Responsible Director – Richard Alty, Director of Place**

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**SUMMARY REPORT**

**Purpose of the Report**

1. The purpose of this report is to seek Members' approval of the revised Council's Contaminated Land Inspection Strategy dated January 2013 (see **Appendix A**).

**Summary**

2. The Council has reviewed and updated its Contaminated Land Inspection Strategy which outlines how the Council intends to strategically inspect the land within its area for the purpose of identifying land which could legally be defined as "contaminated land". This review follows the release of new Contaminated Land Statutory Guidance by Defra in April 2012. It is essentially an operational plan that sets out how the Council will meet its statutory duties in respect of contaminated land.

**Recommendation**

3. It is recommended that Members agree the adoption of the Contaminated Land Inspection Strategy for the Borough of Darlington January 2013.

**Reason**

4. The recommendation is supported as it supports compliance with the Council's statutory duty under Part 2A of the Environmental Protection Act 1990 to inspect its Borough to identify contaminated land.

**Richard Alty, Director of Place**

**Background Papers**

Contaminated Land Inspection Strategy the Borough of Darlington January 2013  
Part 2A Environmental Protection Act 1990

Defra (April 2012) Environmental Protection Act 1990: Part 2A, Contaminated Land Statutory Guidance, HM Government

Carol Whelan : Extension 2570

S17 Crime and Disorder	There are no implications on S17 Crime and Disorder
Health and Well Being	The Contaminated Land Inspection Strategy 2013 ensures the people of Darlington are healthy and supported and live in sustainable neighbourhoods.
Carbon Impact	There are no carbon impact implications in this report
Diversity	There are no implications on diversity
Wards Affected	This Strategy covers the whole of the Borough.
Groups Affected	There are no particular parts of the community which will be affected more than others.
Budget and Policy Framework	The Contaminated Land Inspection Strategy is not one of the strategies that forms part of the Council's Policy Framework. It is an operational plan and therefore this report does not represent a change to the budget and policy framework.
Key Decision	This is not a key decision.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	The Contaminated Land Inspection Strategy ensures that the people of Darlington are healthy and supported and live in sustainable neighbourhoods.
Efficiency	There are no implications on efficiency.

## MAIN REPORT

### Information and Analysis

5. The revised Contaminated Land Inspection Strategy 2013 which is the second review sets out the Council's proposals for identifying, inspecting and assessing contaminated land within the Borough taking into account the new statutory guidance and the Council's Corporate Policy. It is essentially an operational plan that sets out how the Council will meet its statutory duties in respect of contaminated land.
6. Contaminated Land for the purposes of Part 2A of the Environmental Protection Act 1990 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:-
  - (a) significant harm is being caused or there is a significant possibility of such harm being caused: or
  - (b) significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused"
7. Officers in the Environmental Health Section have the sole responsibility through delegated powers for determining whether any land is contaminated land under Part 2A. The decision is not made or approved by Cabinet or the Council.
8. The Contaminated Land Inspection Strategy outlines the priority actions for the period 2013 -2017 as summarised in Table 3 of the Strategy and also includes information on the following:
  - (a) The contaminated land inspection regime
  - (b) Characteristics of the Darlington area,
  - (c) Development of the strategy
  - (d) Dealing with land contamination outside Part 2A
  - (e) Internal management arrangements
  - (f) Information Management
  - (g) General liaison and communication strategies
9. The Strategy aims to fulfil the requirements of the Statutory Guidance and the following objectives have been set:
  - (a) Ensure the approach taken addresses the most pressing and serious potentially contaminated land sites as a priority.
  - (b) Protect receptors from significant harm.
  - (c) Ensure Environmental Health efficiently plans inspections to be carried out on potentially contaminated land and identifies the requirements for making a determination or otherwise.
  - (d) Inform stakeholders (e.g. landowners) of any action to be taken by Environmental Health in relation to addressing potentially contaminated land, where necessary, having regard to the Communication Strategy.

- (e) Ensure that the resources available are concentrated on investigating sites of highest priority at the time.
  - (f) Promote and encourage voluntary remediation.
  - (g) Prevent any further land contamination, where possible, by: -
    - (i) Raising awareness about the causes and effects of land contamination.
    - (ii) Promoting good practice in the community and workplace.
    - (iii) Encourage good design and management in new developments.
  - (h) Maintain an up to date public register.
  - (i) Ensure all land likely to be affected by contamination is recorded for future consideration if circumstances change.
  - (j) Continue with the identification of all potential contaminated land sites in the Borough of Darlington, adopting a rational, ordered and efficient approach.
  - (k) Encourage the re-use and remediation of brownfield land through the planning regime in accordance with the National Planning Policy Framework to ensure that new developments are suitable for use.
10. There are currently approximately 900 sites remaining on the list of potentially contaminated land sites. The 2003 Contaminated Land Inspection Strategy prioritised landfill sites on the basis of risk and the potential problems with soil contamination, landfill gas and leachate. Lessons learnt from gas risk assessment from carrying out extensive site investigations works at four former landfill sites within the Borough has changed the Council's focus. The 2013 Strategy highlights this change in focus and that priority will be given in the period 2013 -2017 to former industrial sites, where there is considered to be the greatest risk to human health. The most sensitive current use being residential with gardens.
11. To date, no sites have been determined as contaminated land under the definition contained in Part 2A of the Environmental Protection Act 1990.
12. Environmental Health will only use the provisions of Part 2A Environmental Protection Act 1990 as a last resort to deal with the historical legacy of land contamination and only where no appropriate alternative solution exists. The planning regime remains the primary mechanism for dealing with sites affected by land contamination.

### **Legal Implications**

13. Part 2A of the Environmental Protection Act 1990 imposes a statutory duty on local authorities to strategically inspect the land within its area for the purpose of identifying land which could legally be defined as "contaminated land".
14. The Contaminated Land Inspection Strategy 2013 provides a clear set of objectives and actions for inspecting land within the Borough of Darlington.

### **Consultation**

15. Consultation has been carried out on the draft Contaminated Land Inspection Strategy with internal sections of the Council and external consultees including the

Environment Agency and the Health Protection Agency. A list of consultees can be found in Appendix 5 of the Strategy.

### **Outcome of Consultation**

16. A number of minor changes were proposed to the Contaminated Land Inspection Strategy, these have been included in the final draft.