



# **South Somerset District Council**

## **Contaminated Land Inspection Strategy**

### **2016 – 2021**

Issued by:

The Environmental Protection Unit

The Council Offices

Brympton Way

Yeovil

BA22 2HT

Tel: 01935 462439

<b>Contents</b>	<b>Page</b>
<b>1. Introduction</b>	<b>3</b>
<b>2. Legislative context and national policy</b>	<b>3</b>
<b>3. Corporate objectives and policies</b>	<b>9</b>
<b>4. Characteristics of South Somerset District</b>	<b>11</b>
<b>5. Strategy aims and objectives</b>	<b>16</b>
<b>6. Progress to date</b>	<b>19</b>
<b>Appendix 1 – Consultee List</b>	<b>28</b>

## **1. Introduction**

The purpose of this report is to review and update the Council's Contaminated Land Strategy.

Historically, there have been few controls on the use of industrial land from the start of the Industrial Revolution until the early 1990's, when the Government proposed a regime of identifying and dealing with contaminated land (Environmental Protection Act 1990, s143 registers). However, fear of blight and a lack of technical and scientific guidance prevented the legislation being enacted at this time.

### **1.2 The Contaminated Land Regime**

New regulations came into force on 1st April 2000 (Environmental Protection Act 1990: Part IIA, hereafter referred to as Part2A) requiring local authorities to inspect land in their area for the purpose of identifying contaminated land.

The Secretary of State issued revised statutory guidance to local authorities on the implementation of Part2A in England in 2012. This Statutory Guidance requires local authorities to take a "strategic approach" in inspecting their districts and reduced the requirements for inspection, and to decide and publish this in a written strategy.

### **1.3 Contaminated Land Strategy Review**

This document reviews and replaces South Somerset District Council's original Contaminated Land Inspection Strategy, which was first published in 2001 and revised in 2005. It describes South Somerset District Council's progress to date in tackling contaminated land. It also reaffirms South Somerset District Council's intended approach to the fulfilment of its statutory duties going forward, taking into account important changes in Statutory Guidance, National and Council Policy as well as developments in the science and policy issues that lie behind the risk assessment of potentially contaminated land.

This document is South Somerset District Council's Contaminated Land Strategy 2016 – 2021 and is available on the Council's website at [www.southsomerset.gov.uk](http://www.southsomerset.gov.uk)

## **2. Legislative Context and National Policy**

The Government has established policies and legal frameworks aimed at minimising the future incidence of contaminated land as well as dealing with contamination already in existence. The Part2A regime ensures that appropriate action is taken to deal with existing contamination where it poses unacceptable risks to human health or the environment; and encourages the reclamation and recycling of "brown field" land to bring it back into beneficial use.

Through the Government's commitment to the environmental principles of "sustainable development" and "the polluter pays principle", existing contamination which poses a threat to human health or to the environment is controlled and treated within the "suitable for use" approach, ensuring that land is suitable for its current use or intended future use if planning permission has been granted.

In the context of sustainable development, environmental and economic policy areas are key considerations in developing this revised Contaminated Land Inspection Strategy because they:

- Ensure unacceptable risks to human health or to the environment are reviewed: ensuring a cleaner and healthier environment for local people and wildlife;
- Encourage the prudent use of land and social resources; and
- Ensure that the cost burdens of undertaking remediation are proportionate, manageable and economically sustainable.

## **2.1 Regulation of Part2A**

Local authorities are the primary regulators under Part2A. Their main duties are:

- To prepare and publish a strategy for inspecting their area for contaminated land
- To implement the strategy
- To determine which sites meet the definition of contaminated land and whether such sites should be designated as Special Sites
- To make sure appropriate remediation of contaminated land takes place
- To maintain a Public Register of Part2A regulatory action.

## **2.2 Other Regimes**

In addition to Part2A there are a number of existing regulatory regimes which will continue to address and deal with land contamination issues.

### **The Planning System**

"Land affected by contamination" or the possibility of it, is a material planning consideration and development or redevelopment during the planning or building control processes will continue to be the primary mechanism for ensuring remediation of contaminated sites within South Somerset. This means that the Local Planning Authority (LPA) has to consider the potential implications of contamination both when it is developing Local Plans ( South Somerset District Council recently adopted the South Somerset Local Plan taking into account

all the agreed modifications required by the Planning Inspectorate) and when it is considering individual applications for planning permission.

For all new developments, it will be the responsibility of the developer to carry out any necessary site assessments and remediation. In most cases, the enforcement of any remediation requirements will be through planning conditions and building control, rather than through a remediation notice issued under Part 2A.

Further details of planning policy in relation to land contamination can be found at paragraphs 120 – 121 of the National Planning Policy Framework (NPPF)(ISBN 9781409834137), available at [www.gov.uk](http://www.gov.uk).

### **The Building Regulations**

In addition to the planning system, Building Regulations also require measures to be taken to protect new buildings, and their future occupants, from the effects of contamination. “Approved Document Part C (Site Preparation and Resistance to Moisture)” gives guidance on these requirements. Available at [www.planningportal.gov.uk](http://www.planningportal.gov.uk), ISBN: 978 1 85946509 7.

### **Environmental Permitting Enforced by Local Authorities**

Through the provisions of the Environmental Damage (Prevention and Remediation) Regulations 2015 and Environmental Permitting regimes there are powers to deal with land contamination resulting from breaches of permits, authorisations and licences and other environmental incidents.

### **The Environment Agency**

The Water Resources Act 1991, which gives the Environment Agency (EA) the power to serve a Works Notice where pollution of controlled waters is occurring, can also, be applied to deal with certain cases of water pollution not covered by Part2A.

It is the Government’s intention that Part2A should be complementary to these existing regulatory regimes. Remediation of contaminated land should be enforced preferentially through these means, with enforcement through Part2A only when no appropriate alternative solution exists.

### **2.3 Special Sites**

The EA also has a supporting role in respect of contaminated land under Part 2A, including assisting Local Authorities with site-specific guidance, particularly in relation to water pollution. The EA acts as the enforcing authority for “Special Sites”. The EA also has a duty to prepare periodic reports on the state of contaminated land in England.

Special Sites are defined in full in the Contaminated Land (England) Regulations 2006. These are sites which meet the definition of contaminated land and fall within one of the descriptions given in the Regulations, which include:

- Certain water pollution cases
- Land owned by the Ministry of Defence
- All radioactive contaminated land
- Industrial cases

-Waste acid tar lagoons

-Oil refining

-Explosives

-Certain IPPC sites

-Nuclear sites

Regulation 2(2) of the Contaminated Land(England)(Amendment) Regulations 2012 amends the circumstances set out in Regulation 3 (Pollution of Controlled Waters) of the 2006 Regulations in which contaminated land affecting controlled waters is required to be designated as a Special Site.

## **2.4 Objectives of the Contaminated Land Regime**

The key objectives of the Government’s policy on contaminated land and the Part2A regime are:

- (a) To identify and remove unacceptable risks to human health and the environment;
- (b) To seek to ensure that contaminated land is made suitable for its current use; and
- (c) To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principles of sustainable development.

The Government considers the most effective way of delivering these objectives to be through the application of the “suitable for use” approach. This recognises how risks presented by land contamination vary depending on what the land is used for, as well as the environmental setting.

The main element of the “suitable for use” approach is to ensure that where unacceptable risks to human health or the environment are identified, remediation requirements should be set on the basis of the lands current use or its intended future use if planning permission has

been granted as well the circumstances of the land. Risks will therefore always need to be assessed on a site-specific basis.

The Government requires that a balance between precaution and over-precaution be struck to ensure that any necessary Part2A intervention is likely to achieve a net benefit.

## 2.5 What is contaminated land?

Part2A defines non- radioactive contaminated land 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 being caused or there is significant possibility of such harm being caused: or
- (b) Significant pollution of controlled waters is being caused or there is significant possibility of such harm being caused”

And radioactive contaminated land as:

“any land which appears to the Local Authority in whose area it is situated to be in such a condition, by reasons of substances in, on or under the land that:

- (a) Harm is being caused
- (b) There is a significant possibility of such harm being caused.”

Any land meeting either of these definitions will hereafter be referred to as Contaminated Land. The terms, “Significant Harm”, “Harm”, “Significant Possibility” and “Significant Pollution of Controlled Waters” are all defined in the 2012 Statutory Guidance.

The definition reflects the “suitable for use approach” and is underpinned by the principles of risk assessment, where risk is a combination of two elements:

- (a) Probability (how likely is it that something will happen?)
- (b) Magnitude of the consequences (if it does happen, how serious will it be?)

This means that before a site can be classed as Contaminated Land, the contamination must have, or be very likely to have, a detrimental impact on human health or the environment.

It is important to realise that a site will **NOT** meet the definition of Contaminated Land just because contamination is present.

## 2.6 Identifying Contaminated Land – Contaminant Linkages

In line with established approaches to risk assessment, Part2A requires that the first step in determining whether a site is Contaminated Land is to identify “contaminant linkages” associated with that land.

A contaminant linkage is a connection between a contaminant and a receptor by means of a pathway.



A “contaminant” is a substance which is in, on or under the land and which has the potential to cause significant harm to a relevant receptor, or to cause significant pollution of controlled water.

A “pathway” is a route by which a receptor is or might be affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters.

Under the radioactive contaminated land regime, a “receptor” is limited to human beings only.

A contaminant linkage, and hence a risk to the receptor from the contaminant, can only exist if all three elements are present. A site cannot be considered as possible Contaminated Land unless at least one contaminant linkage is present.

The next step in deciding whether a site is Contaminated Land is to determine whether the contaminant linkage is “significant”, this means demonstrating that it:

- Is resulting in significant harm for non-radioactive contamination (or harm for radioactive contamination) being caused to the receptor in the contaminant linkage.
- Presents a Significant Possibility of Significant Harm for non-radioactive contamination (or significant possibility of harm for radioactive contamination) being caused to that receptor, or
- Is resulting in, or is likely to result in the significant pollution of the controlled waters which constitute the receptor for non-radioactive contamination only.



### **3. Corporate Objectives and Policies**

This Contaminated Land Inspection Strategy will operate within the context of the Council Plan 2016 - 2021, as well as alongside other strategic plans such as the longer term Local Plan 2006 – 2028 (formerly known as the Core Strategy) and the South Somerset Local Development Framework (LDF)

#### **3.1 Council Plan 2016 - 2021 & Local Plan 2006 - 2028**

South Somerset District Council's plan is driven by the longer term Local Plan 2006 – 2028 priorities for the District and has focused on four key priorities:

- Health – Communities that are healthy, self-reliant and willing to help each other
- Homes – Decent homes for all residents
- Jobs – A strong economy which has low unemployment and thriving businesses
- Environment – An attractive environment to live in

This Contaminated Land Inspection Strategy will contribute to the achievement of a number of the Local Plan's corporate outcomes:

- Solid economic growth and development that is diverse, adaptable and provides jobs growth and inward investment that is evident across South Somerset
- A balanced housing market with a range of both general and affordable housing to meet the required growth and sited and built to support sustainable lifestyles
- A natural and built environment able to attract and retain visitors
- Protection and enhancement of our natural environment, historic environment and biodiversity retaining the distinctiveness of settlements and reflecting known environmental constraints including flood risks in locating growth
- Access to quality services and facilities designed around the needs of the community, enabling everyone to have fair and equitable access to what they need in their local area.

It is recognised that the links to these outcomes may not be readily apparent, however this strategy forms a small but significant part of what the Council is trying to achieve.

#### **3.2 Local Development Framework**

The Local Development Framework (LDF) can consist of a number of development plans, which can be prepared at different times and for different purposes, but all have to be prepared along the same lines as set out by Government legislation.

The Local Plan is the strategic development plan document in the LDF and sets out South Somerset District Council's spatial vision and strategic objectives and contains the spatial strategy for the District, core policies and a monitoring and implementation framework with clear objectives for achieving delivery.

[http://www.southsomerset.gov.uk/media/707200/south\\_somerset\\_local\\_plan\\_2006-2028\\_adoption\\_version\\_march\\_2015.pdf](http://www.southsomerset.gov.uk/media/707200/south_somerset_local_plan_2006-2028_adoption_version_march_2015.pdf)

### **3.3 Shaping South Somerset. A Strategy for Sustainable Communities 2008 – 2026**

The Strategy for Sustainable Communities is a master plan for how people in the district want to live and work, now and in the future. This strategy will guide the actions and provide the framework for how services and communities will work together to address issues and to create new opportunities.

[http://www.southsomerset.gov.uk/media/15625/South\\_Somerset\\_Community\\_Strategy.pdf](http://www.southsomerset.gov.uk/media/15625/South_Somerset_Community_Strategy.pdf)

### **3.4 Housing Strategy Implementation Plan**

The Housing Strategy Implementation Plan sets out the long term objectives for housing in the District. These objectives have been established following consultation with our partners and residents of the District. Our vision for housing will help to achieve the wider priorities of the Council and our partners as set out in the Strategy for Sustainable Communities 2008 – 2026.

By enabling contaminated land to be reinstated, this strategy will contribute to all the above policies and aims.

### **3.5 Access to information**

South Somerset District Council will operate within the statutory framework for disclosure and provision of information. So as not to compromise investigations or potential for criminal proceedings, information will be restricted to that necessary to discharge any statutory duty in relation to access to information. There should be no reason why information held by the Council should not be readily available to public in various different formats.

### **3.6 Enforcement Policy**

One of the main functions of South Somerset District Council is to act as a regulator and an enforcement agency for a large range of legal duties and powers applied by Acts of Parliament and the Regulations and Orders made under them (including various bylaws).

South Somerset District Councils Enforcement Policy sets out the standards and guidance that will be applied by the Council when acting in the role as regulator and enforcement agency across a range of its relevant legal powers and duties. The policy applies to enforcement and

regulation affecting members of the public and businesses and has been developed following consultation.

South Somerset District Council's aim is to undertake its regulatory and enforcement role in a fair, open and consistent manner. This is in line with The Regulators Code, which was laid before Parliament in accordance with Section 23 of the Legislative and Regulatory Reform Act 2006. Further details can be found within The Regulators Code.

## **4. Characteristics of South Somerset District**

The causes and impacts of land contamination in the UK vary greatly from region to region, depending largely on the different local industries, land use and environmental sensitivities. This chapter presents an overview of principle characteristics of South Somerset – its history, geography, geology, hydrology and land use.

### **4.1 General Description**

South Somerset is a large and diverse area, extending nearly 65 kilometres (40 miles) from east to west, with an area of 960 square kilometres (370 square miles) and an estimated total population in 2013 of 163,900.

The District is predominately an area of small communities: some 45% of the population live in settlements of fewer than 2,500 people and the two main settlements of Yeovil and Chard have current populations of 45,000 and 14,000 consecutively.

Chard, Crewkerne, Ilminster, Wincanton and Yeovil are all defined by the Somerset Structure Plan Review Deposit Plan as "towns". These areas function as locations for employment and shopping, cultural, community and education services. The next tier of settlements are those defined as "rural centres". These are places which act as focal points for local employment and shopping, social and community activity in their areas. Rural centres can be distinguished from smaller villages by having populations of around 2,500 or more and additional facilities such as a good range of shops, medical facilities, a public library, and daily bus service.

### **4.2 Industrial History**

South Somerset's industrial past can be attributed to the availability of readily accessible raw materials or factors such as the nearness of a swiftly flowing stream for the supply of power. In Victorian times the development of railway transport altered the conditions governing the establishment of industries and this has subsequently been superseded by the road networks.

As with many local authorities, South Somerset has a diverse history of land use, with a number of potentially hazardous land uses common throughout the district area. Such land

uses would include abattoirs, gasworks and coke works, motor engineers/petrol stations, coal storage/distribution sites, engineering works and wood treatment processes.

Additionally, there are known former landfill sites along with numerous other potential “in-filled” sites at former land-drains, ponds, pits and rail cuttings. The fill material in former landfill or in-filled sites is often unknown (or cannot be verified) since many of the sites operated before 1974 when controls were first brought in.

### **4.3 Ecology and Environment**

The South Somerset area enjoys a rich and varied landscape which is largely rural in character. Within the area there are a large number of sensitive ecological sites forming a clear hierarchy of nature conservation designation.

International designation sites (Ramsar and Special Protection Areas (SPA)) include part of the Somerset Levels and Moor Ramsar and SPA site in the northwest of the area, as well as a number of national designation sites (National Nature Reserves (NNR) and Sites of Special Scientific Interest (SSSI) and local designation sites e.g. County Wildlife/Geological sites (CWS/CGS), Local Nature Reserves (LNR) and non-statutory Nature Reserves.

Of particular interest are the lowland wet grassland resource and freshwater ditch communities of the Somerset Levels and Moors, the largest remaining area of these habitats in Britain. Seven of the wetland Sites of Special Scientific Interest have been designated as a Special Protection Area for over-wintering wildfowl, and outstanding assemblages of aquatic invertebrate communities.

Other important protected locations include Environmentally Sensitive Areas and other sites which the Department of the Environment, Food and Rural Affairs (DEFRA) pays farmers to manage such as those under Countryside Stewardship arrangements.

Sites with International, National or Local designations are potential sensitive receptors in terms of contaminated land under PartIIA.

### **4.4 Natural Drainage**

The area of land covered by South Somerset District Council fall within the catchments of the River Parrett, Brue, Dorset Stour and Devon Axe. The catchments of these rivers are predominately agricultural.

#### **River Parrett**

The River Parrett catchment, which dominates the South Somerset area, covers an area of approximately 1251sq km. Its source is near Chedington to the south of Crewkerne, from where it flows 59km to Stert Point, Bridgewater where it enters the Severn Estuary.

Flowing north, the River Parrett passes Martock, and is joined by the River Isle and River Yeo to the south of Langport, becoming tidal at Oath Sluice. The River Carey rises at Castle Cary and travels in a westerly direction before entering King's Sedgemoor Drain at Henley Corner, and continuing across the Somerset Moors to join the tidal River Parrett downstream of Bridgewater at Dunball Sluice.

Much of the Parrett Catchment in particular is a valued landscape reflected by both international and national designations. The Somerset Levels and Moors Environmentally Sensitive Area Scheme encourages farmers in the area to farm less intensively, with higher winter and spring water levels than over the past 50 years. Water levels are controlled by a system of rhynes, ditches and sluices, with pumping stations operated by the Environment Agency to return excess water to the rivers.

As a final measure of the importance and sensitivity of the River Parrett catchment area, the majority of the principle surface channels tested as fully compliant with the Environment Agency's River Quality Objectives.

#### River Brue

The River Brue catchment overlaps a small part of the South Somerset area, mostly around Castle Cary and Bruton to the north. The Brue, which rises in the clay uplands to the east of the catchment, passes through Bruton before flowing slowly through the flat lowlands of the Somerset Levels and Moors and is covered in the majority by Mendip and Sedgemoor District Councils to the north and west of South Somerset.

This catchment is also sensitive, with all principal channels in the South Somerset area broadly compliant with the Environment Agency's River Quality Objectives.

#### Dorset Stour

The Dorset Stour Catchment is another small overlap of the South Somerset area, mostly around Wincanton to the east.

The Dorset Stour dominates the County of Dorset, only a relatively small northeast corner of South Somerset includes this catchment.

Again, this catchment is sensitive, meeting River Quality Objectives for all principal channels in the South Somerset area.

#### River Axe and Yarty

The headwaters of the River Axe drain a small area of South Somerset to the south and west of Crewkerne and the south of Chard. Its tributary, the River Yarty drains another small area of South Somerset to the northwest of Chard. The upper reaches of the River Yarty pass through the Blackdown Hills AONB.

## 4.5 Geological Characteristics

Geology is a fundamental factor to consider when assessing contaminated land issues. When contamination enters the ground, its subsequent movement and storage is dependent on the physical nature of the rocks and soils at that location (along with associated factors such as hydrogeology).

The South Somerset area lies within the western part of the Wessex Basin, an east-west trending depositional centre, formed as a consequence of faulting of the crust in response to north-south extension (stretching) in early Permian times (approximately 280 million years ago).

## 4.6 Solid (Bedrock) Geology

### Triassic Geology

Rocks belonging to the Triassic age Mercia Mudstone Group are the oldest sediments in the South Somerset area which comprise reddish brown, silty and sandy mudstones, locally calcareous or dolomitic. The deposits show a variation of thickness across the area. The deposits outcrop in some places to the far northwest and west of the district. This group is overlain by the Triassic Penarth Group which comprises shales, limestones, mudstones and siltstones. The Penarth Group is thought to have been deposited in marine or lagoonal environments.

### Jurassic Geology

Subsequent to the deposition of the deposits mentioned above the Lower Jurassic Blue Lias Formation was formed. This comprises thinly bedded limestone beds with nodules and massive beds of limestone along with calcareous mudstone and siltstone. Blue Lias limestone has been widely quarried over many centuries and is evident in the fabric of many older buildings in South Somerset and sets the character of towns such as Somerton.

### Cretaceous Geology

The only exposure of the Gault Formation is in the northeast of the district to the north of Penselwood, the formation comprises fine grained sandy clay. The Upper Greensand Formation overlies this deposit comprising sands and cemented sandstones. This formation crops out extensively in the southwest of the district around Chard and to the north east of the district east of Bruton.

## 4.7 Drift Geology

Quaternary geology is a term often used to describe deposits formed in the latest period of time in the stratigraphic column. This starts at the beginning of the glacial period and includes all deposits which have formed since this time.

The presence or absence and nature of such deposits are an important consideration when evaluating contaminated land. The presence of low permeability drift geology may inhibit contamination which is present at or near the ground surface from reaching underlying aquifers. Alternatively, a highly permeable granular river terrace deposit may act as preferential pathway for lateral contamination migration to streams and surrounding sites.

#### **4.8 Hydrogeological Characteristics**

Major and minor aquifers extend across the vast majority of the district. The presence of impermeable drift or solid geology overlying these aquifers significantly reduces groundwater vulnerability to contamination originating at the ground surface. Aquifers, in particular major aquifers, are important resources and must therefore be protected. In the context of Part2A and this Strategy, aquifers are considered as receptors. In addition, aquifers can act as contaminant migration pathways and can therefore enable contamination to reach other receptors such as surrounding sensitive sites, rivers and groundwater abstractions.

#### **4.9 Water Resource Characteristics**

The Council regularly inspects the quality of approximately 100 shared private drinking water supplies in the South Somerset area as a result of its obligations under the Private Water Supply Regulations 1991. These supplies are distributed widely across the District, and a further 300 single supplies exist across the district. In addition, there are numerous Environment Agency licensed abstractions across the district, which are mostly for non-potable requirements. The majority of private water supplies come from groundwater abstraction.

#### **4.10 Natural Contamination**

##### Radon

Radon is a naturally occurring radioactive gas which is emitted by certain rocks and soils and some of the largest emissions in the country originate from rocks present in the south west of England. Radon only becomes a hazard to health when it builds up in enclosed spaces. Prolonged exposure to elevated levels of radon can increase the risk of developing lung cancer.

Surveys conducted by the National Radiological Protection Board (NRPB) indicated that there are areas in the district where homes are likely to exceed the action level of 200 Bqm<sup>-3</sup>. The most significantly affected areas include Crewkerne, Penselwood, Castle Cary, Somerton, and areas to the north and west of Chard.

##### Methane

Methane can occur naturally from the degradation of organic rich soils. In the district, the most likely natural sources of contamination are likely to be peat deposits. These deposits

occur on West Sedge Moor (North West of Curry Rivel (and King's Sedgemoor (North West of Somerton).

## **5. Strategy Aims and Objectives**

The Statutory Guidance issued by the Secretary of State in 2012 requires each Council to set out its aims, objectives and priorities with respect to a Contaminated Land Inspection Strategy. The previous chapters have outlined South Somerset District Council's duties under Part2A, how the Contaminated Land Inspection Strategy relates to existing Council functions and described the unique characteristics of South Somerset.

All these factors play a crucial part in determining South Somerset District Council's strategic approach to inspection and what it hopes to achieve from carrying it out. This chapter brings these factors together into a coherent set of aims, objectives and priorities.

Set out below is a list of 4 key aims that South Somerset District Council wishes to achieve through its management of land contamination issues. These are overall aims which interlink with, and are supported by, those existing internal council policies and strategies. They also reflect the council's statutory duties.

It is not intended that these aims will be achievable solely through the implementation of Part2A. Delivery of other South Somerset District Council's strategies and statutory functions may also contribute.

Against each aim is a set of objectives and priorities.

- Objectives are activities that can or must be achieved as a direct result of the implementation of the Strategy.
- Priorities are the key activities we wish to carry out in the course of fulfilling the objectives.

### **5.1 Aims and Objectives**

The order in which the aims, objectives and priorities are presented is arbitrary. These are South Somerset District Council's current aims, objectives and priorities. They may be reviewed and revised as the Contaminated Land Inspection Strategy is implemented and targets are achieved.



## **AIM 1 – To address unacceptable risks to human health and the wider environment**

### Objective

- Ensure appropriate remediation for those sites where the land contamination is presenting a significant possibility of significant harm.

### Priorities

- Act as statutory consultees throughout the planning process with a view to securing remediation wherever needed.
- Provide advice and guidance to developers of brownfield sites

## **AIM 2 – To encourage regeneration and redevelopment**

### Objective

- Enable informed decisions (by SSDC and third parties) regarding future land use.

### Priorities

- Provide information for planning briefs
- Provide advice and guidance to developers of brownfield sites

## **AIM 3 – To fulfil the council's responsibilities with respect to implementing environmental legislation relating to Contaminated Land**

### Objective

- Ensure the Contaminated Land Inspection Strategy and its implementation meet the requirements of the Environmental Protection Act 1990, Part2A

### Priorities

- Adopt a strategic approach to carrying out our statutory duties taking into account local and national circumstances.
- Balancing costs of taking action against potential benefits.

## **AIM 4 – To raise awareness and promote understanding of land contamination issues**

### Objective

- Encourage a proactive approach amongst landowners and potential polluters towards investigation of contamination and to encourage voluntary remediation

### Priorities

- Carry out consultation on future reviews of the Contaminated Land Inspection Strategy with stakeholders as considered necessary;
- Adopt a transparent approach to implementing the Contaminated Land Inspection Strategy and to
- Develop effective procedures for communication, liaison and information exchange within the Council and with third parties.

South Somerset District Council will continue to investigate and encourage suitable remediation of sites within the district predominately through the planning process, which is deemed to be the most efficient and cost effective way of bringing potentially contaminated land back into beneficial and economic use.

The contaminated land regime is designed to deal with contamination problems that cannot be addressed under other legislation such as the planning system. Therefore, any sites that are brought to our attention and are unable to be dealt with under other legislation will be progressed in accordance with statutory guidance.

## **6. SSDC Strategy**

### **6.1 Outline**

Contaminated land cannot be addressed in isolation and like other environmental issues such as air pollution, any associated contamination strategies need to be sensitive to other broader issues.

The South Somerset Strategy for Sustainable Communities 2008 – 2026 recognises the need to offer greater opportunity for local residents by modernising the local economy thereby increasing the number and quality of jobs. However, this requirement for modernisation should be balanced against the quality of life of the Districts residents.

Taking into account sustainable development, the aim of the South Somerset Strategy for Sustainable Communities 2008 – 2026 is to improve competitiveness and encourage economic growth at the same time as protecting and enhancing South Somerset's diverse environment, using resources prudently, tackling the causes of social exclusion and recognising the needs and contributions of everyone.

The over-riding conclusion is that SSDC's Contaminated Land Inspection Strategy should be progressed without imposing unacceptable economic or social costs to our society as a whole. This will mean:

- Providing advice and information which assists inward and other new investment decisions as appropriate and in conjunction with our regulatory function;
- Introducing the strategy and legislation in a balanced manner which does not cause unnecessary alarm to our communities and damage our image; and
- Ensuring that remediation costs falling upon the Council taxpayers are kept to a minimum.

### **6.2 Progress to Date**

The primary method of successfully investigating and remediating sites with the South Somerset District will continue to be through redevelopment under the planning regime.

For sites that are not to be redeveloped but that come to our attention as potentially contaminated land under Part2A, the aim of the Contaminated Land Inspection Strategy is to adopt a strategic approach, with priority given to particular areas of land that are considered most likely to pose the greatest risk to human health or the environment.

There will be a staged approach to risk assessments and site investigations in accordance with statutory guidance. Evidence of unacceptable risk reasonably existing should be identified before progressing through the next investigative stages.

To date, SSDC has identified 3400 potential sites of interest and of those, 1717 were discounted for further investigation as the source type was unlikely to produce gross pollution and/or there were no receptors to be impacted under the contaminant linkage rules explained in section 2.6 the sites were therefore considered unlikely to be contaminated.

The remaining sites of interest were then prioritised. A consultancy was appointed to undertake walk over site assessments and each site was assessed and received a ranking based on the source, pathway, receptor model.

A combination of the above measures has resulted in a total of 116 ranked sites which are of potential interest for further investigation as appropriate.

SSDC has also made 1 contaminated land determination. This determination reflects the confirmation of contaminant linkages.

### **6.3 Development Control**

SSDC's broader approach of dealing with land contamination under the planning and building control system, to ensure land is made suitable for use when it is redeveloped, will normally be achieved by the use of standard planning conditions for the assessment and remediation of potentially contaminated land and/or landfill gas as part of a particular development

As part of compliance with the planning condition the applicant/developer will have a duty to investigate and remediate as necessary (in consultation and prior agreement with the Local Planning Authority) to ensure that the particular development is suitable for its intended use.

Remediated sites can then be removed from the Contaminated Land Database as appropriate.

Defra and the Environment Agency published the "Model Procedures for the Management of Land Contamination" (Contaminated Land Report CLR11, [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)) in 2004. CLR11 provides a technical framework for structured decision making about land contamination and identifies verification as a key part of the risk management process.

Developers will be expected to follow best practice and statutory guidance in addressing land contamination issues.

It is imperative that the applicant/developer undertakes appropriate verification of any remediation works and it is fundamental to making a request to discharge a contamination/landfill gas planning condition at the end of a development. Without appropriate verification a recommendation cannot be made to Development Management to discharge the condition(s). Failure to appropriately investigate, remediate (as necessary) and subsequently to verify the works will be in breach of a planning condition.

In addition NPPF states at Section 121 that "after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental

Protection Act 1990.” Therefore failure to appropriately satisfy the requirements of the planning condition may result in a future contaminated land investigation, taking into account the strategic objectives.

All decisions with regard to the need for and adequacy of any land remediation will be made with regard to the above principles.

In accordance with statutory guidance SSDC will look to ensure the “Polluter Pays Principle” is applied wherever possible and that voluntary remediation is secured as a first option.

## **6.5 Funding**

Funding of site investigation and remediation works in the future, through the DEFRA Contaminated Land Capital Grants Scheme will no longer be possible as this is due to cease in 2017. To all Local Authorities in England in December 2013, the Parliamentary Under Secretary confirmed that “DEFRA will no longer be supporting the costs of investigating and remediating contaminated land under Part2A through the Contaminated Land Capital Grants Scheme.” “As currently, funding for local authorities to fulfil their statutory obligations under Part2A of the Environmental Protection Act will continue to be provided through the Revenue Support Grant provided by the Department for Communities and Local Government.)”

Any future investigations would therefore need to be funded through existing budgets and this will severely limit the extent/ability to actively progress site investigations.

## **6.6 Strategic Approach**

Under Part2A a strategic approach will be taken with priority given to particular areas of land that are considered most likely to pose the greatest risk to human health or the environment.

Under Part 2A, risks should be considered only in relation to the current use of the land, which means;

- a) The use which is being made of the land currently;
- b) Reasonably likely future uses of the land that would not require a new or amended grant of planning permission;
- c) Any temporary use to which the land is put, or is likely to be put, from time to time within the bounds of current planning permission;
- d) Likely informal use of the land, for example children playing on the land, whether authorised by the owners or occupiers or not;
- e) In the case of agricultural land, the current agricultural use should not be taken to extend beyond the growing or rearing of the crops or animals which are habitually grown or reared on the land.

In accordance with the Statutory Guidance, when assessing risks any receptors which are not likely to be present given the current use of the land or other land which might be affected will be disregarded. In considering the timescale over which a risk should be assessed, SSDC should take into account any evidence that the current use of the land will cease in the relevant foreseeable future (e.g. within a period of exposure assumed for relevant receptors in a contaminant linkage). Contaminated Land Statutory Guidance, 2012.

The process of risk assessment involves understanding the risks presented by the land, and the associated uncertainties. In practice, this understanding is usually developed and communicated in the form of a “conceptual model”. The understanding of the risks is developed through a staged approach to risk assessment, often involving a preliminary risk assessment by desk-based study; a site visit and walkover; a generic quantitative risk assessment; and various stages of more detailed quantitative risk assessment. The process should normally continue until it is possible to decide:

- a) That there is insufficient evidence that the land might be contaminated land to justify further inspection and assessment; and/or
- b) Whether or not the land is contaminated land.

For land to proceed to the next stage of risk assessment there should be evidence that an unacceptable risk could reasonably exist. If there is little reason to consider that the land might pose an unacceptable risk, inspection activities should stop at that point. In such cases, SSDC will have regard to paragraphs 5.2 – 5.4 of the Statutory Guidance.

## **6.7 Detailed Inspection of Land**

If particular areas of land are considered to have a reasonable possibility of having a significant contaminant linkage during the strategic inspection process, the land will go forward for detailed inspection. In doing so, SSDC will have regard to Section 3 of the Statutory Guidance along with its approach to prioritisation for detailed inspection.

If at any stage SSDC considers, on the basis of the information obtained from inspection activities, that there is no longer a reasonable possibility that a significant contaminant linkage exists on the land, SSDC will not carry out any further inspection in relation to that linkage.

In addition if SSDC identify land which SSDC consider (if the land were to be determined as contaminated land) would be likely to meet one or more of the descriptions of a special site set out in the Contaminated Land (England) Regulations 2006, SSDC will consult the Environment Agency and, subject to the Agency’s advice and agreement, arrange for the Agency to carry out any intrusive inspection of the land on behalf of SSDC, taking into account the provisions of the Statutory Guidance. (Contaminated Land Statutory Guidance, 2012)

## **6.8 “Normal” presence of contaminants**

The Part 2A regime was introduced to deal with land that posed an unacceptable level of risk. It was not intended to apply to land with contaminant concentrations that are commonplace and widespread in particular areas, for example in areas with normally high “background” contaminant concentrations and for which in the very large majority of cases there is no reason to consider that there is an unacceptable risk,

‘Normal’ levels of contaminants in soil may result from:

a) The natural presence of contaminants (e.g. caused by soil formation processes and underlying geology) at levels that might reasonably be considered typical in a given area and have not been shown to pose an unacceptable risk to health or the environment.

b) The presence of contaminants caused by low level diffuse pollution and common human activity other than specific industrial processes.

For example, this would include diffuse pollution caused by historic use of leaded petrol and the presence of benzo(a)pyrene from vehicle exhausts, and the spreading of domestic ash in gardens at levels that might reasonably be considered typical.

In deciding whether land has normal levels of contaminants, consideration will be given to whether contamination is within the bounds of what might be considered typical or widespread. In making this decision SSDC will have regard to the relevant statutory guidance. (Contaminated Land Statutory Guidance, 2012, [www.gov.uk](http://www.gov.uk).)

## **6.9 Risk Summaries**

SSDC will produce risk summaries for any land where, on the basis of its risk assessment, it is considered likely that the land in question may be determined as contaminated land, in accordance with the statutory guidance.

The risk summary will aim to explain SSDC’s understanding of the risks and any other relevant factors associated with the land in question. This will be in a format that is understandable to the layperson.

## **6.10 Deciding that land is not contaminated land**

The starting assumption of Part2A is that land is not contaminated land unless there is reason to consider otherwise. While undertaking our inspection duties it may become apparent that a) land does not meet the definition of contaminated land or b) SSDC may cease an inspection and assessment on the grounds that there is little or no evidence to suggest that it is contaminated land. In such cases SSDC will issue a written statement to that effect in accordance with statutory guidance. SSDC may however qualify such statements given its Part2A risk assessment may only be relevant to the current use of the land. Such statements

may also need to be reviewed as scientific understanding of risks evolve over time. (Contaminated Land Statutory Guidance, 2012, [www.gov.uk](http://www.gov.uk)).

### **6.11 Determining that land is contaminated land**

Local authorities have the sole responsibility for determining whether any land appears to be contaminated land and cannot delegate this responsibility (except in accordance with section 101 of the Local Government Act 1972). In making such decisions local authorities may rely on information or advice provided by another body such as the Environment Agency, or a suitably qualified experienced practitioner appointed for that purpose. There are four possible grounds for the determination of land as contaminated land (with regard to non-radioactive contamination):

- a) Significant harm is being caused to a human or relevant non-human, receptor;
- b) There is a significant possibility of significant harm being caused to a human, or relevant non-human, receptor.
- c) Significant pollution of controlled waters is being caused.
- d) There is a significant possibility of significant pollution of controlled waters being caused.

Where SSDC is satisfied that one of these grounds exists, the determination process as set out in statutory guidance will be followed.

SSDC will ensure that a robust, appropriate, scientific and technical assessment of all the relevant and available evidence takes place.

In accordance with the statutory guidance, before SSDC makes a determination, SSDC will inform the owners and occupiers of the land and any other person who appears to be liable to pay for remediation, of the intention to determine the land (to the extent that SSDC are aware of these parties at the time) unless it is considered there is an overriding reason for not doing so.

In the case of any land which, following determination as contaminated land, would be likely to meet one or more of the descriptions of a 'Special Site' set out in the Contaminated Land Regulations 2006, SSDC will consult the Environment Agency before deciding whether or not to determine the land, providing the Environment Agency with a draft record of the determination. Local authorities should take the Environment Agency's views into full consideration and should strive to ensure it has the Environment Agency's agreement to its decision (although the decision is for the local authority to make, subject to the provisions of Part 2A. (Contaminated Land Statutory Guidance, 2012, [www.gov.uk](http://www.gov.uk)).



## **6.12 Postponing determination**

SSDC may decide to postpone a determination of contaminated land if the landowner or another person undertakes to deal with the land in question without determination and if SSDC are satisfied that the remediation will be undertaken to an appropriate standard and timescale. Postponement does not affect the ability to determine the land in the future if works are not undertaken as agreed.

In addition SSDC may decide to postpone a determination of contaminated land if a significant contaminant linkage would only exist if the use of the land were to change in the future. Should this be the case then the site will be kept under review and take reasonable steps to ensure that a postponement does not create conditions under which significant risks could go unaddressed in the future. (Contaminated Land Statutory Guidance, 2012, [www.gov.uk](http://www.gov.uk)).

## **6.13 Record of the determination of contaminated land**

Following a determination of contaminated land SSDC will prepare a written record in accordance with Sections 5.17 to 5.19 of the Statutory Guidance.

## **6.14 Reconsideration, revocation and variation of determinations**

The introduction of the revised Statutory Guidance in April 2012 allows a local authority to reconsider any determination of contaminated land if it becomes aware of additional information, which it considers significantly alters the basis for its original decision, allowing for the retention, variation or revocation of the determination in accordance with Sections 5.21 and 5.22 of the Statutory Guidance. (Contaminated Land Statutory Guidance, 2012, [www.gov.uk](http://www.gov.uk)).

It should however be noted that this is only intended to apply to those determinations made after the introduction of the revised Statutory Guidance in April 2012 or to those sites that have not yet been remediated but were determined before April 2012.

## **6.15 Making determinations in urgent cases**

If SSDC considers there is an urgent need to determine particular land, SSDC will make the determination in a timescale considered appropriate to the urgency of the situation.

## **6.16 Urgent action**

Urgent action must be authorised where SSDC is satisfied that there is imminent danger of serious harm or serious pollution of controlled waters being caused as a result of contaminated land. In such circumstances the procedures identified in the statutory guidance.

## **6.17 Liability and Costs**

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

In identifying liabilities SSDC will have regard to the provisions set out in EPA 1990 Part 2A and Section 7 of the Statutory Guidance.

The cost of each remediation action will normally be apportioned between those who remain liable after any exclusion. SSDC will also have regard to its “Contaminated Land Costs Recovery and Hardship Policy” in this process.

### **6.18 Future commitments**

The actions identified for the implementation of the Contaminated Land Inspection Strategy are:

- to continue to respond to the Council’s strategic management priorities;
- to progress the inspection and remediation of any sites identified as potentially contaminated, in order of priority; within the constraints of available resources
- to continually review progress to ensure that the Council’s objectives and strategic priorities are being fulfilled.

### **6.19 Contaminated Land Inspection Strategy review**

The Council has a duty under Part 2A to keep its Contaminated Land Inspection Strategy under periodic review. The main reasons why SSDC will carry out a review are:

- to see how SSDC are progressing, i.e. to determine whether we are achieving our objectives and priorities;
- to revise and improve procedures;
- to take account of changes in legislation;
- to take account of the establishment of significant case law or precedent;
- to take account of changes in guidance for dealing with land contamination (in particular, risk assessment techniques, guideline values, etc.);
- to reflect changes in council policies and strategies.

### **6.20 When will SSDC review the Contaminated Land Inspection Strategy?**

It is considered appropriate to carry out a review of this Contaminated Land Inspection Strategy within five full years of implementation, i.e. before April 2021. Thereafter, reviews will be carried out on a five yearly basis or less where necessary.

This is considered to be the most efficient and effective way of not only making sure the Contaminated Land Inspection Strategy is up to date and reflects current practice, but also that it is realistic and achievable.

## **6.21 How will SSDC review the Contaminated Land Inspection Strategy?**

The review will be carried out by those implementing the Strategy, who will also consult with other Service's across SSDC as considered necessary. Consultation with external organisations and other interested parties will also be carried out as deemed necessary.

Discussions will also be held with the Environment Agency which, as part of its statutory duty under Part 2A, has to assess each local authority Contaminated Land Inspection Strategy and its effectiveness in its report on the state of Contaminated Land. Any suggested changes to the Strategy will then be reported, for approval, to the Council.

Details of all significant proposed changes will be sent to the various statutory and public authorities listed in Appendix A for consultation.

Following the consultation period, the Contaminated Land Inspection Strategy document will be revised and re-published. The changes to the Strategy will then be reported to the Council for adoption and implementation.

## **Appendix 1**

### **Statutory and Regulatory Authorities**

#### **Environment Agency**

North Wessex Office  
Rivers House  
East Quay  
Bridgewater, Somerset BA6 4YS

#### **Natural England**

County Hall  
Spetchley Road  
Worcester, WR5 2NP

#### **English Heritage**

South West Region Office  
29-30 Queen Square  
Bristol, BS1 4ND

#### **Public Health England**

South of England Regional Office  
2 Rivergate  
Temple Quay  
Bristol, BS1 6EH

#### **Somerset County Council**

Community Protection Department  
County Hall  
Taunton  
Somerset, TA1 4DY

#### **SSDC Internal Consultees**

Planning  
Legal Services  
Property Services  
Environmental Health Management Group  
Environmental Health Portfolio Holder