

Development Control Committee – 22nd December 2014

Report of the Director of the Urban Environment

Public consultation on the Contaminated Land Inspection Strategy and Cost Recovery Policy for Dudley Borough.

Purpose of Report

1. To inform the Development Control Committee of the draft Contaminated Land Inspection Strategy and the Cost Recovery Policy documents that were considered at Cabinet on 4th December 2014 and are to be used as a basis for a statutory public consultation commencing on 12th December 2014 for a period of five weeks (to take account of the Christmas and New Year holiday period).

Background

2. Following the introduction of the Environmental Protection Act 1990, and specifically Part 2A which deals with Contaminated Land, a Statutory Duty was placed on all Local Authorities to prepare and adopt an Inspection Strategy to identify, categorise and deal with as appropriate any land within their Borough that fell within the specific definition of Contaminated Land as set out in the Act. Dudley's initial inspection strategy was prepared and adopted in June 2001, following approval by Corporate Board and the Environmental Health Committee.
3. New legislative guidance was issued in April 2012 and was finalised in 2014 which required the preparation of a revised Inspection Strategy to take account of these changes. The Contaminated Land Inspection Strategy is the framework whereby the Council sets out its methodology for the inspection of the Borough to determine what, if any, contamination may be present, how individual sites may be prioritised for further investigation and what options are available for remediation. The document is written from the basis of the Council as a Regulator, implementing the requirements of the Act. Consequently this focuses investigation and any subsequent action on those sites that potentially pose a significant risk.
4. Currently most land is remediated by the Private Sector through regeneration and development, and the Development Control Committee plays a key role in that process. The latest figures for the year 2013/2014 show that 98% of new build dwellings were on Brownfield sites. The Contaminated Land Team act as a key Consultee to provide advice and guidance to this process.
5. Works that have been undertaken to date have not identified any land that has been formally classified as "Contaminated Land" under the Act. These

draft documents will provide the future framework for the continuing investigation and analysis of the Borough, following current guidance and best practice. It should be noted that, even though land may contain some contamination, it will not necessarily fall within the strict definition of “Contaminated Land” within the Act.

6. Both the original 1990 legislation and the amended 2012 guidance placed a statutory requirement on the Local Authority to formally consult on the proposed Strategy prior to adoption. The draft Strategy is an opportunity for key Stakeholders and the wider general public to comment on these documents and the work that has been undertaken. Where appropriate, the documents will be amended as a result of the comments received during the consultation exercise.
7. In acting as a Regulator, there may be occasions where work has to be undertaken and incurred costs recovered. The consultation exercise also includes a Cost Recovery Policy for use where necessary.
8. The Cost Recovery Policy proposes to apply no waiver or reduction and seeks to recover all reasonable costs incurred by the Council in exercising its duties under the Act and Inspection Strategy, whilst having due regard to Statutory Guidance.
9. A copy of the draft Inspection Strategy and Cost Recovery documents are available in the Member’s Room or can be viewed electronically on the Council’s ‘CMIS’ pages. It has been prepared, having reviewed the current Contaminated Land Inspection Strategy and following the new legislative guidelines.
10. The document is available on the Council’s website, at Public Libraries and the Council Offices at 4 Ednam Road, Dudley for a five week public consultation period which commenced on 12th December 2014 to allow consultees to identify any further issues for inclusion or to provide comments or suggested improvements. Additionally, notification of the Consultation and details will be sent (by e-mail) to Consultees and key stakeholders based on legislative guidance.
11. Any representations following the consultation period will be incorporated, if appropriate, into the next stages of the process. It is anticipated that the final draft of the Document will put forward for formal adoption in February 2015. Following adoption by Cabinet the report will be brought back to Development Control Committee for information.

Finance

12. The Contaminated Land Inspection Strategy and the Cost Recovery Policy will be initially funded through existing budgets. The Cost Recovery Policy is designed to recover all costs that the Council incur during the exercising of its duties.
13. Previous investigative works on Contaminated Land have been supported by grants available from Department of the Environment, Food and Rural Affairs (DEFRA). Whilst grants are still available, they are for the remediation of land that has already been designated as “Contaminated Land”. Dudley currently

has no land that meets this designation. This funding has been reduced and will not be available from April 2017.

Law

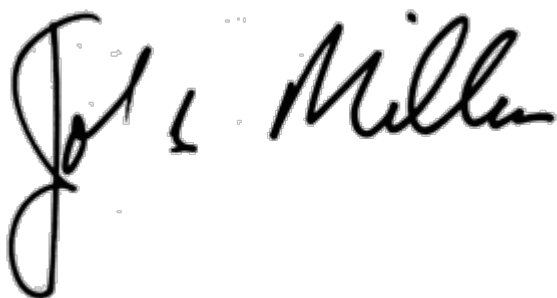
14. The introduction in April 2012 of revised Statutory Guidance made under the Environmental Protection Act 1990 requires the revision of the Contaminated Land Inspection Strategy. The Cost Recovery Policy is a supplementary document to assist in the implementation of the Inspection Strategy.
15. In addition Section 2 of the Local Government Act 2000 allows the Council to do anything that it considers is likely to promote or improve the economic, social or environmental well-being of the area.

Equality Impact

16. The Contaminated Land Inspection Strategy and Cost Recovery Policy will set the framework for the investigation and any subsequent action required for the Council to meet its obligations under Part IIA of the Environmental Protection Act 1990. The methodology will allow sites to be ranked and prioritised depending upon several factors but including the likely impact on residents and members of the public, thus meeting the needs of the communities in the Borough. This will include meeting the needs of children and young people by seeking to provide a safe environment in which they can live, and also ensuring that the environment for future generations is improved.

Recommendation

17. That Development Control Committee notes the Contaminated Land Inspection Strategy and the Cost Recovery Policy documents which are being used as a basis for public consultation which commenced on 12th December 2014 for a period of five weeks.

A handwritten signature in black ink, appearing to read 'J. B. Millar'. The signature is fluid and cursive, with a large initial 'J' and 'M'.

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J. B. Millar

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List of Background Papers

Current Contaminated Land Inspection Strategy. Adopted June 2001

<http://www.dudley.gov.uk/about/plan/plans-policies--strategies/contaminated-land-strategy-/>

Contaminated Land Inspection Strategy draft document

<http://www.dudley.gov.uk/about/plan/plans-policies--strategies/contaminated-land-strategy-/>

Cost Recovery Policy draft document

<http://www.dudley.gov.uk/about/plan/plans-policies--strategies/contaminated-land-strategy-/>

Contaminated Land Statutory Guidance – Section 8. Recovery of the costs of remediation.

<http://www.dudley.gov.uk/about/plan/plans-policies--strategies/contaminated-land-strategy-/>