

Meeting of the Cabinet – 11th March 2015

Report of the Acting Strategic Director of Environment, Economy & Housing

Formal Adoption of the Contaminated Land Inspection Strategy and Cost Recovery Policy for Dudley Borough following Public Consultation.

Purpose of Report

1. To seek Cabinet approval for the adoption of the Contaminated Land Inspection Strategy and the associated Cost Recovery Policy documents following a Public Consultation exercise between 12th December 2014 and 16th January 2015.

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 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, with the latest figures for the year 2013/2014 showing that 98% of new build dwellings were on Brownfield sites. The Council Contaminated Land Team acts as a key Consultee to this at both Pre-Application stage and during the formal Planning and Building Control processes to advise on the existing conditions to applicants, customers and Officers, and to assist with verification of on-site measures. Additionally the team provide specialist advice and guidance to the Council and public on issues generally related to contaminated land.

5. Works that have been undertaken to date have not identified any land that has been formally classified as “Contaminated Land” under the strict definition within the Act. These documents will provide the future framework for the continuing investigation and analysis of relevant land in the Borough, following current guidance and best practice. Should any land be formally identified as ‘Contaminated’, then the team will act in their capacity as regulator and enforcing authority to secure the remediation of the site.
6. It should be noted that, even though most land may contain some form of contamination, it will not necessarily fall within the strict definition of “Contaminated Land” within the Act.
7. In acting as a Regulator, there may be occasions where work has to be undertaken and incurred costs recovered. Corporate Property Group has been consulted on these documents.
8. The Cost Recovery Policy applies 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. At the Cabinet meeting of 4th December 2014, approval was given for a public consultation exercise on the proposed Contaminated Land Inspection Strategy and Cost Recovery Policy from 12th December 2014 for a period of five weeks. During the consultation, representations were received from stakeholders including English Heritage and the Risk Management and Insurance section of Dudley MBC. Additionally the opportunity was taken for a Peer Review from other Officers. Based on the comments and observations received, the Inspection Strategy has been amended to take account of the items raised during the consultation and a revised Inspection Strategy is proposed for formal adoption.
10. There were no comments or representations received concerning the Cost Recovery Policy

Finance

11. The Contaminated Land Inspection Strategy and the Cost Recovery Policy will be initially funded through existing budgets. The Cost Recovery Policy seeks to recover all costs that the Council incur during the exercising of its duties.
12. 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.
13. Investigations may reveal contamination on sites owned by the Council, or on sites where ownership cannot be established – in which case the remediation costs would have to be borne by the Council itself. Resources to meet these costs would need to be identified in due course.

Law

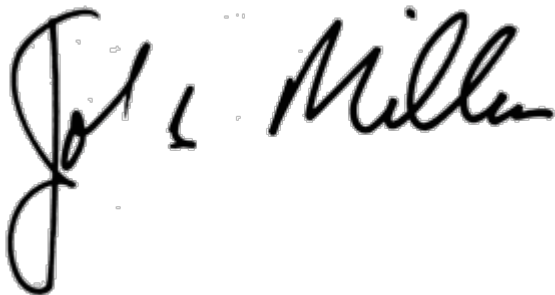
14. The introduction in April 2012 of revised Statutory Guidance made under the Environmental Protection Act 1990 requires the revision of the Contaminated Land Inspection Strategy. The Cost Recovery Policy is a supplementary document to assist in the implementation of the Inspection Strategy.
15. In 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 sets 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 Cabinet approves the adoption of the revised Contaminated Land Inspection Strategy and the Cost Recovery Policy for the Borough of Dudley.

A handwritten signature in black ink, appearing to read 'John Millar', with a stylized, cursive script.

John Millar
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List of Background Papers

Contaminated Land Inspection Strategy. Adopted June 2001

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

Contaminated Land Inspection Strategy March 2015.

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

Cost Recovery Policy

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