

Meeting of the Cabinet – 4th 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 seek Cabinet approval for the draft Contaminated Land Inspection Strategy and the Cost Recovery Policy documents 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 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 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 relevant land in 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 maybe 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. It is proposed that the document will be available on the Councils website as well as main libraries and Council Offices during the 5 week period of consultation from Friday 12th December 2014 until Friday 16th January 2015 to allow consultees to identify any further issues for inclusion or to provide comments or suggested improvement. Notification of the consultation details will be sent (by letter and/or email) to landowners, agents and key stakeholders. There will also a drop in events for Members during this period. The exact location, date and time of this will be confirmed in due course.
10. 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.

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

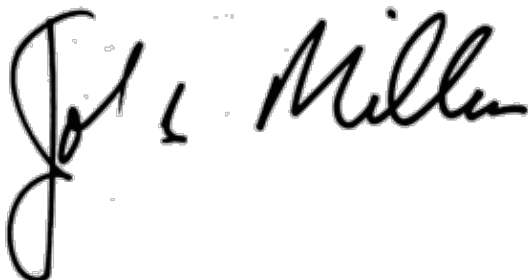
14. The introduction in April 2012 of revised Statutory Guidance made under the Environmental Protection Act 1990 requires the revision of the Contaminated Land Inspection Strategy. The Cost Recovery Policy is a supplementary document to assist in the implementation of the Inspection Strategy.
15. In 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 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 Cabinet approves the Contaminated Land Inspection Strategy and the Cost Recovery Policy documents to be used as a basis for public consultation commencing on 12th December 2014 for a period of five weeks.



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

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