APPENDIX A

Lichfield district council
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CONTAMINATED LAND STRATEGY 2020

FEBRUARY 2020

CONTENTS

1			INTRODRODUCTION AND LEGISLATIVE CONTEXT	1
	1.1		Background To The Legislation	
	1.2		Terminology	3
	1.3		Relevant Legislation	
		1.3.1	Environmental Protection Act 1990 Part 2A	
		1.3.2	Town and Country Planning Acts	5
		1.3.3	The Environmental Damage (Prevention and Remediation) Regulations 2009	
		1.3.4	Environmental Permitting Regulations 2010 (as amended)	6
		1.3.5	Water Resource Act 1991	
2			POLICY CONTEXT	
	2.1		European Union Policy	
	2.2		Central Government Policy	6
		2.2.1	Contaminated Land Statutory Guidance	
		2.2.2	National Planning Policy Framework	7-9
	2.3		Regional Government Policy	
		2.3.1	Staffordshire County Council Policy	
		2.3.2	The Minerals Local Plan 1994-2006	
		2.3.3	Lichfield District Council Planning Policy	
3			STRATEGY OUTLINE	
	3.1		Roles and Responsibilities	
		3.1.1	Lichfield District Council	
		3.1.2	The Environment Agency	9
		3.1.3	Other Agencies	10
	3.2		Aims and Objectives	
	3.3		Priorities	
	3.4		Addressing Contamination	11
4			THE DISTRICT OF LICHFIELD DISTRICT COUNCIL	
	4.1		Geographical Location	
	4.2		Brief Description of Lichfield District	12
	4.3		Historical Development	13
	4.4		Size	14
	4.5		Population Distribution	
	4.6		Current and Past Industrial History	
	4.7		Roads, Canals and Railways	
	4.8		Burntwood	15
	4.9		Lichfield	16
	4.10		Other Areas	17
	4.11		Geological Characteristics	
	4.12		Key Water Resource/ Protection Issues	19
	4.13		Hydrogeology	20

	4.14		Hydrology	21
	4.15		Natural Contamination	
		4.15.1	Radon	
		4.15.2	Methane, Carbon Dioxide and Oil Susceptibility	
	4.16		Soil Geochemistry	22
	4.17		Protected Locations	23
5			STRATEGIC INSPECTION	
	5.1		Statutory Guidance	
	5.2		Data Collection	24
	5.3		Powers Of Entry	25
6			DETAILED INSPECTION	26
	6.1		Obtaining Further Information	
	6.2		Request For Further Information From Relevant Parties	
	6.3		Intrusive Site Investigations	27
		6.3.1	General approach	
		6.3.2	Voluntary Provision of Information	
		6.3.3	Potential Special Site	
		6.3.4	Council Inspection of Land	
7			RISK ASSESSMENT	28
	7.1		Grounds For Determination	
	7.2		Evaluation Of Risk	
		7.2.1	Current Use	
		7.2.2	Contaminant Linkage	
		7.2.3	Risk Assessment	29
		7.2.4	Normal Presence of Contamination	
		7.2.5	Risk Assessment Methodology	30
		7.2.5.1	Human Health	
		7.2.5.2	Human Health- Radioactivity	
		7.2.5.3	Groundwater	31
		7.2.5.4	Ecology	
		7.2.6	Categorisation of Risk	
8			DETERMINATION OF CONTAMINATED LAND	34
	8.1		Pre-Determination	
		8.1.1	Notification of Decisions- Non Contaminated Land	
		8.1.2	Notification of Decisions- Contaminated Land	
		8.1.3	Risk Summary	
		8.1.4	Physical Extent of Land to be Determined	35
		8.1.5	Voluntary Remediation	
	8.2		Determination	
		8.2.1	Public Register	
9			REMEDIATION	36
	9.1		Outline	
	9.2		Remediation Works	
		9.2.1	Remediation Aims	
		9.2.2	Remediation Standards and Reasonableness	
10			LIABILITY AND COSTS	37
	10.1		Identification Of Liable Persons	

	10.2		Remediation	
	10.3		Attributing Liability	38
		10.3.1	Class A Persons	
		10.3.2	Class B Persons	
	10.4		Recovery Of Costs	
		10.4.1	Cost Recovery Decisions	39
11			MISCELLANEOUS PROVISIONS	
	11.1		Funding For Contaminated Land Strategy	
	11.2		Progress On Strategy	39
	11.3		Timescales	41
	11.4		Council Owned Land	
	11.5		Guidance for development	
	11.6		Provision of Environmental Information	41
			REFERENCES	43

1. Introduction and Legislative Context

1.1 Background to the legislation

The UK has a strong industrial heritage, having led the Industrial Revolution from the mid-18th Century onwards. Lichfield District has had a diverse range of industries and commercial concerns. The economy developed with little regard to the environment; air, water and land pollution was barely considered in the drive to increase industrial output. This continued until the mid-1970s, when legislation to protect the environment began to emerge.

Modern industry is now regulated much more stringently on environmental matters such as pollution and carbon emissions; however, an unwelcome legacy remains, with many redundant factories, landfills and other sites, and their environmental impacts, still to be addressed.

The Government, in its response to the 11th report of the Royal Commission on Environmental Pollution 1985 (Royal Commission on Environmental Pollution, 'Managing Waste: The Duty of Care') announced that the Department of the Environment was preparing a circular on the planning aspects of contaminated land. The draft the circular stated that:

Even before a planning application is made, informal discussions between an applicant and the local planning authority are very helpful. The possibility that the land might be contaminated may thus be brought to the attention of the applicant at this stage, and the implications explained.

This suggests that it would be advantageous for the planning authorities to have available a list of potentially contaminated sites.

In 1988 the Town and Country Planning (General Development) Order required local planning authorities to consult with waste disposal authorities if development was proposed within 250m of land which had been used to deposit refuse within the last 30 years.

In January 1990 the House of Commons Environment Committee published its first report on contaminated land (Contaminated Land, First Report, Session 1989-1990, HC170, 1990). This document, for the first time, expressed concern the Government's suitable for use approach "…may be underestimating a genuine environmental problem and misdirecting effort and resources" The Committee produced 29 recommendations, including the proposals that:

The Department of the Environment concern itself with all land which has been so contaminated as to be a potential hazard to health or the environment regardless of the use to which it is to be put, and;

The Government bring forward legislation to lay on local authorities a duty to seek out and compile registers of contaminated land.

Immediately following the House of Commons report the Environmental Protection Act 1990 had at Section 143, a requirement for local authorities to compile, 'Public registers of land which may be contaminated'. If enacted this would have required local authorities to maintain registers of land that was, or may have been contaminated, as a result of previous (specified) uses, regardless of the actual risks posed to humans or property.

In March 1992, the concern about the potential 'blighting' effect of public registers resulted in a press release published by the Secretary of State delaying the introduction of section 143 stating:

The Government were concerned about suggestions that land values would be unfairly blighted because of the perception of the registers.

On the 24th March 1993 the Government announced that the proposals for contaminated land registers were to be withdrawn and a belt and braces review of the land pollution responsibilities was to be undertaken.

The following year (1994), the Department of the Environment consultation paper, Paying for our Past (Paying for Our Past, March 1994), elicited no less than 349 responses. The outcome of this was the policy document, Framework for Contaminated land (Framework for Contaminated Land, November 1994). This useful review emphasised a number of key points:

- The Government was committed to the "polluter pays principle", and the "suitable for use approach".
- Concern related to past pollution only (there are effective regimes in place to control future sources of land pollution).
- Action should only be taken where the contamination posed actual or potential risks to health or the environment and there are affordable ways of doing so.
- The long standing statutory nuisance powers had provided an essentially sound basis for dealing with contaminated land.

It was also made clear that the Government wished to:

- Encourage a market in contaminated land;
- Encourage its development, and
- That multi functionality was neither sensible nor feasible.

The proposed new legislation was first published in the form of Section 57 of the Environment Act 1995, which amended the Environmental Protection Act 1990 by introducing Part 2A (contaminated land). After lengthy consultation on statutory guidance, this came into force in April 2001.

1.2 Terminology

Most of the specific terms used in this Strategy are defined within the text. Some general aspects of terminology are:

- "Contaminated Land" is used to mean land which meets the Part 2A definition of contaminated land.
- Part 2A means Part 2A of the Environmental Protection Act 1990 (as amended).
- The terms "contaminant", "pollutant" and "substance" as used in this Strategy have the same meaning- i.e. they all mean a substance relevant to the Part 2A regime 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 waters.
- "Unacceptable risk" means a risk of such a nature that it would give grounds for land to be considered contaminated Land under Part 2A.
- "The Council" means Lichfield District Council.
- "The District" means land falling within the legislative boundary of Lichfield District Council.
- "Contaminant linkage" means the presence of a source (of contamination), a pathway (a way for the source to affect the receptor) and a receptor (something affected by contamination).
- "Remediation" means to carry out works to address contamination, by breaking the contaminant linkage.
- "Statutory Guidance" means any guidance on contaminated land published for this purpose in accordance with section 78A of the Environmental Protection Act 1990. At the time of writing, statutory guidance is contaminated within the following publications:
    - Department for Environment, Farming and Rural Affairs (DEFRA) 'Contaminated Land Statutory Guidance', April 2012.
    - Department of Energy and Climate Change (DECC) 'Radioactive Contaminated Land Statutory Guidance', April 2012

1.3 Relevant Legislation

Whilst this document details the Council's strategy for dealing with contaminated land under Part 2A, other legislation exists which also addresses issues of contamination. Current English legislation for addressing contamination is outlined below.

1.3.1 Environmental Protection Act 1990 Part 2A

Contaminated land is specifically defined under Part 2A Section 78A of the Environmental Protection Act 1990 as:

- Any land which appears 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.

Contaminated lad is also defined under Part 2A Section 78A(2) 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. harm is being caused or
    b. there is significant possibility of harm being caused.

In the context of Section 78A(2), “harm” means lasting exposure to any person resulting from the after-effects of a radiological emergency, past practice or past work activity.

In order for land to be considered contaminated, the following elements must be present (as shown in figure 1):

- A source (of contamination)
- A receptor (something affected by contamination)
- A pathway (a way for the source to affect the receptor).

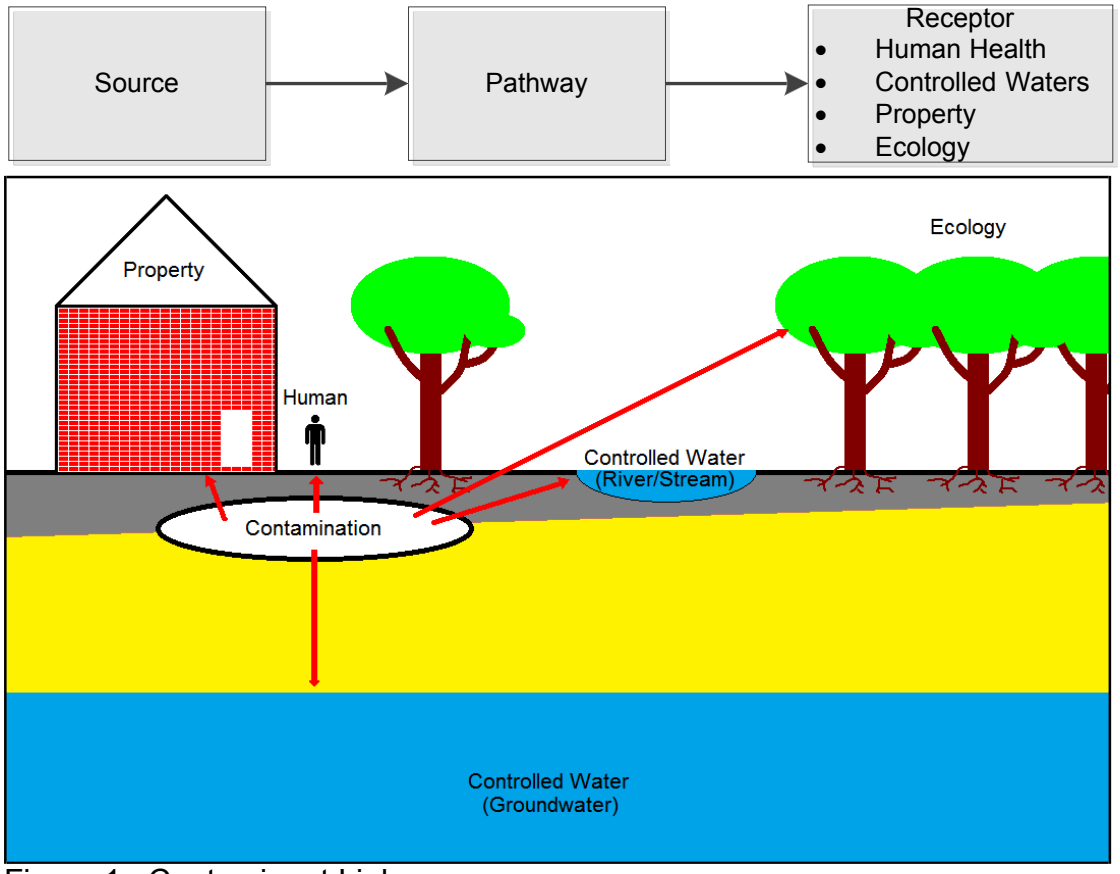

Figure 1– Contaminant Linkage

Should the land be identified as 'contaminated land' under Part 2A, them the Council would have several options to address the contamination:

- Enter negotiations with the relevant parties (liable persons) to encourage voluntary remediation.
- Serve notice on the relevant parties to compel remediation.
- Carry out remediation works and recover costs from relevant parties.

Part 2A (Section 78B) requires that local authorities cause their areas to be inspected with a view to identifying contaminated land. Relevant sections of the Act include:

- Every local authority shall cause its area to be inspected from time to time for the purpose-
    a. of identifying contaminated land; and
    b. of enabling the authority to decide whether any such land is land which is required to be designated as a special site.
- A local authority shall act in accordance with any guidance issued for the purpose by the Secretary of State.

1.3.2 Town and Country Planning Acts

The most common method of addressing issues of contamination is through the planning system.

For many planning applications, a desk study and site walkover will be required to be submitted as part of a planning application, as a minimum, when contamination is suspected of being present on the development site.

If the desk study identifies a potential contaminant linkage, then conditions are likely to be attached to any planning permission, which will require the site investigation works and remediation as necessary.

In this way, any new development within the District should be incapable of being determined as "contaminated land"; the responsibility for carrying out all works lies with the developer.

1.3.3 The Environmental Damage (Prevention and Remediation) Regulations 2015 (as amended)

When there is an imminent threat of "environmental damage" or actual "environmental damage" the operator responsible is required to take immediate steps to prevent damage or further damage and notify the authority.

"Environmental Damage" under the Environmental Damage Regulations is damage of one or more of:

- Protected species and natural habitats
- Surface Water or groundwater
- Land

The Council has responsibility for damage to land under these regulations (damage to water is covered by the Environment Agency (EA), whilst damage to protected species and natural habitats is covered by Natural England).

Damage to land is defined as:

- Contamination of land by substances, preparations, organisms or micro-organisms that result in a significant risk of adverse effects on human health.

Once the Council is aware of a potential case of "environmental damage", either because it has been reported by an operator, an interested party, or through other means, it must determine whether there is "environmental damage".

The Council is responsible for deciding what remedial measures will be implemented, taking into account of any measures proposed by the operator, and will consult certain specified people before serving a remediation notice on the operator; operators are responsible for carrying out remediation measures.

The Environmental Damage Regulations only apply to operators of economic activities.

1.3.4 Environmental Permitting Regulations 2016 (as amended)

Under the Environmental Permitting Regulations 2010 (as amended), anyone who applies for an environmental permit (specifically, an Integrated Pollution Prevention and Control (IPPC) Permit) is obliged, on surrender of their permit:

- To avoid any pollution risk resulting from the operation of the installation
- To return the site of the regulated site to a satisfactory state, having regard to the state of the site before the installation was put into operation.

In short, when IPPC permit is surrendered, the site should be returned to the same condition it was before the permit was granted.

1.3.5 Water Resource Act 1991

The EA, under Section 161 of the Water Resources Act 1991, serves a works notice to address situations where pollution has occurred, (or is likely to) and poses a risk to groundwater.

2. Policy Context

2.1 Central Government Policy

2.2.1 Contaminated Land Statutory Guidance

The current government policy on contaminated land has outlined in the latest versions of the Part 2A Statutory Guidance.

The overarching objectives of the Government's policy on contaminated land and the Part 2A 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.
(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's view is that enforcing authorities should seek to use Part 2A where no appropriate alternative solution exists. The Part 2A regime is one of several ways in which land contamination can be addressed.

For example, land contamination can be addressed:

(a) When land is developed (or redeveloped) under the planning system, during the building control process.

(b) Where action is taken independently by landowners

(c) Other legislative regimes may also provide a means of dealing with land contamination issues, such as building regulations; the regimes for waste, water, and environmental permitting; and the Environmental Damage (Prevention and Remediation) Regulation 2009.

Under Part 2A, the enforcing authority may need to decide whether and how to act in situations where such decisions are not straight forward and where there may be unavoidable uncertainty underlying some if the facts of each case. In so doing, authority should use its judgement to strike a reasonable balance between:

(a) Dealing with risks raised by contaminants in land and the benefits of remediating land to remove or reduce those risks; and
(b) The potential impacts of regulatory intervention including financial costs to whoever will pay for remediation (including the taxpayer where relevant) health and environmental impacts of taking action, property blight, and burdens on affected people.

The authority should take a precautionary approach to the risks raised by contamination, whilst avoiding a disproportionate approach given the circumstances of each case. The aim should be to consider the various benefits, taking account of local circumstances.

2.2.2 National Planning Policy

Further to the Part 2A Statutory Guidance, the National Planning Policy Framework (Department for Communities and Local Government, 'National Planning Policy Framework', March 2012) seeks to encourage the remediation of contaminated land through the planning regime:

- Section11: Conserving and enhancing the natural environment
- The planning system should contribute to and enhance the natural and local environment by… remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
- To prevent unacceptable risks from pollution and land instability,

planning policies and decisions should ensure that new development us appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues responsibility for securing a safe development rests with the developer and/ or landowner.

2.3 Regional Government Policy

2.3.1 Staffordshire County Council

Staffordshire County Council, as the local planning authority on mineral and water matters, plays an important part in contaminated land.

2.3.2 The Minerals Local Plan for Staffordshire 2015 to 2030

The Staffordshire Minerals Local Plan states that to ensure ensure that Staffordshire's mineral sites are restored and managed in a way that enhances local amenity and the environment by:

- Restoring mineral sites at the earliest opportunity;
- Achieving high quality restoration and aftercare;
- Contributing to national and local environmental and amenity initiatives including: measures to manage flood risk to deliver flood risk management benefits wherever possible; measures to manage water supply, demand and quality; adapting restoration and aftercare to the effects of climate change on communities, biodiversity and landscape; the provision of new sport and recreation facilities; measures to protect and enhance the historic environment; Local Plan strategies, policies and proposals, and local partnerships
- Regularly reviewing restoration plans / strategies so that new opportunities to enhance the restoration and aftercare can be maximised.

2.3.3 Lichfield District Council's Planning Policy

Lichfield District Local Plan Strategy 2008-2029 adopted on 17th February 2015, in Core Policy 3- Delivering Sustainable Development, states:

> 'ensure that development on brownfield sites affected by contamination is remediated and that any ground instability arising from mining legacy or former land uses is addressed'

3.1 Roles and responsibilities

3.1.1 Lichfield District Council

The primary regulatory role under Part 2A regimes rests with local authorities. As such the Council will carry out its responsibilities under Part 2A in line with the Statutory Guidance and any other relevant policies that may apply (including the Enforcement Policy). The local authority has a duty under Part

2A to:

- Cause their areas to be inspected from time to time to identify whether any land appears to be contaminated land;
- Determine whether any particular site meets the statutory definition of contaminated land;
- Act as the enforcing authority for all contaminated land, unless the land is required to be designated as a 'special site', in which case the Environment Agency will act as the enforcing authority.

3.1.2 The Environment Agency

The Environment Agency has four principal roles with respect to contaminated land under Part 2A. These are to:

- Assist local authorities in identifying contaminated land particularly land where water protection is involved;
- Provide site- specific guidance to local authorities on contaminated land;
- Act as the enforcing authority for any land designated as a special site and;
- Publish periodic reports on the state of contaminated land nationally.

If land is contaminated and falls within one of the descriptions set out in Regulations 2 and 3 of the Contaminated Land (England) Regulations 2012 it must be designated as a special site. The descriptions of land do not imply that land of that type is more likely to constitute contaminated land, only that if the land is contaminated land, the Environment Agency is best placed to be the enforcing authority. The Regulations also ensure that the Environment Agency becomes the enforcing authority in three types of case where contaminated land is affecting controlled waters and their quality, and where the Environment Agency will also have other concerns under the legislation. The three cases are wholesomeness of drinking water; surface water classification criteria; and cases where particularly difficult pollutants are affecting major aquifers.

Pollution of controlled waters is to a large extent already regulated by the Water Resources Act 1991, which gives the Environment Agency the power to serve a works notice where pollution of controlled waters is occurring. Which regime is appropriate will depend on the details of each case. To prevent the overlap of jurisdiction between the two Acts, local authorities are required to liaise with the Environment Agency where pollution of controlled waters is occurring, or is likely to occur.

Pollution of controlled waters is defined in section 78A(9) of Part IIA as "the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter"

For the purpose of the contaminated land regime, entry of pollution into controlled waters takes place where a contaminant is dissolved, or

suspended, in controlled waters, immiscible or has direct contact with those waters, on or beneath the surface of the water.

3.1.3 Other Agencies

Other relevant organisations such as other local authorities will be consulted on contaminated land issues when specific circumstances require it.

3.2 Aims and Objectives

Part 2A (Section 78B) requires that the local authorities cause their areas to be inspected with a view to identifying contaminated land. Relevant sections of the Act include:

- Every local authority shall cause its area to be inspected from time to time for the purpose-
  - Of identifying contaminated land; and
  - Of enabling the authority to decide whether any such land is land of which is required to be designated a special site.
- A local authority shall act in accordance with any guidance issued for the purpose by the Secretary of State.

Therefore and in line with the Statutory Guidance and government policy, the objectives of he Council with respect to Part 2A are:

- To identify and remove unacceptable risks to human health and the environment.
- To ensure that contaminated land is made suitable for its current, or proposed, use.
- To ensure that the burdens faced by individuals, companies and society are proportionate, manageable and compatible with the principles of sustainable development.

3.3 Priorities

The Statutory Guidance suggests that the Council should be rational, ordered, and efficient and it should reflect local circumstances.

The overall aim of the strategic inspection is to identify land that is potentially contaminated land the District.

The Council has finite resources and cannot realistically expect to address all potentially contaminated land within the District at once. Therefore, the Council must direct its resources at sites that appear to present the greatest risk. This is in line with the Statutory Guidance, which states:

> *When the local authority is carrying out detailed inspection of land in accordance with Part 2A, it should seek to prioritise particular areas of land that it considers most likely to pose the greatest risk to human health or the environment.*

The methodology for identifying priority sites for detailed inspection is outlined in Section 5 (Strategic Inspection).

3.4 Addressing Contamination

The statutory guidance states:

> *Enforcing authorities should seek to use Part 2A only where no appropriate alternative solution exists. The Part 2A regime is one of several ways in which land contamination can be addressed. For example, land contamination can be addressed when land is developed (or redeveloped) under the planning system, during the building control process, or where action is taken independently by landowners. Other legislative regimes may also provide a means of dealing with land contamination issues, such as building regulations; regimes for waste, water, and environmental permitting; and the Environmental Damage (Prevention and Remediation) Regulations 2009.*

The Council will therefore seek to use Part 2A only where there is no appropriate alternative available. The preferences of the Council when addressing contamination is:

- To encourage voluntary remediation by the relevant parties (this would include the encouragement of development on brownfield and potentially contaminated sites where this is appropriate).
- Where voluntary remediation cannot be carried out, to use alternative legislation, where appropriate, to bring about remediation.
- To use Part 2A as a last resort.

The Council's work under Part 2A will be carried out in tandem with other relevant policies (Section 2.3), in order to help identify the optimum means of addressing potential contamination.

4. THE DISTRICT OF LICHFIELD

4.1 Geographical Location

Lichfield District Council occupies the south eastern part of the county of Staffordshire bordered by other parts if the county to the north, south east and west (East Staffordshire, Tamworth, Cannock Chase and Stafford), Derbyshire, Leicestershire and Warwickshire to the east and the West Midlands conurbation to the south west. The location of Lichfield District within the UK is shown in figure 2.

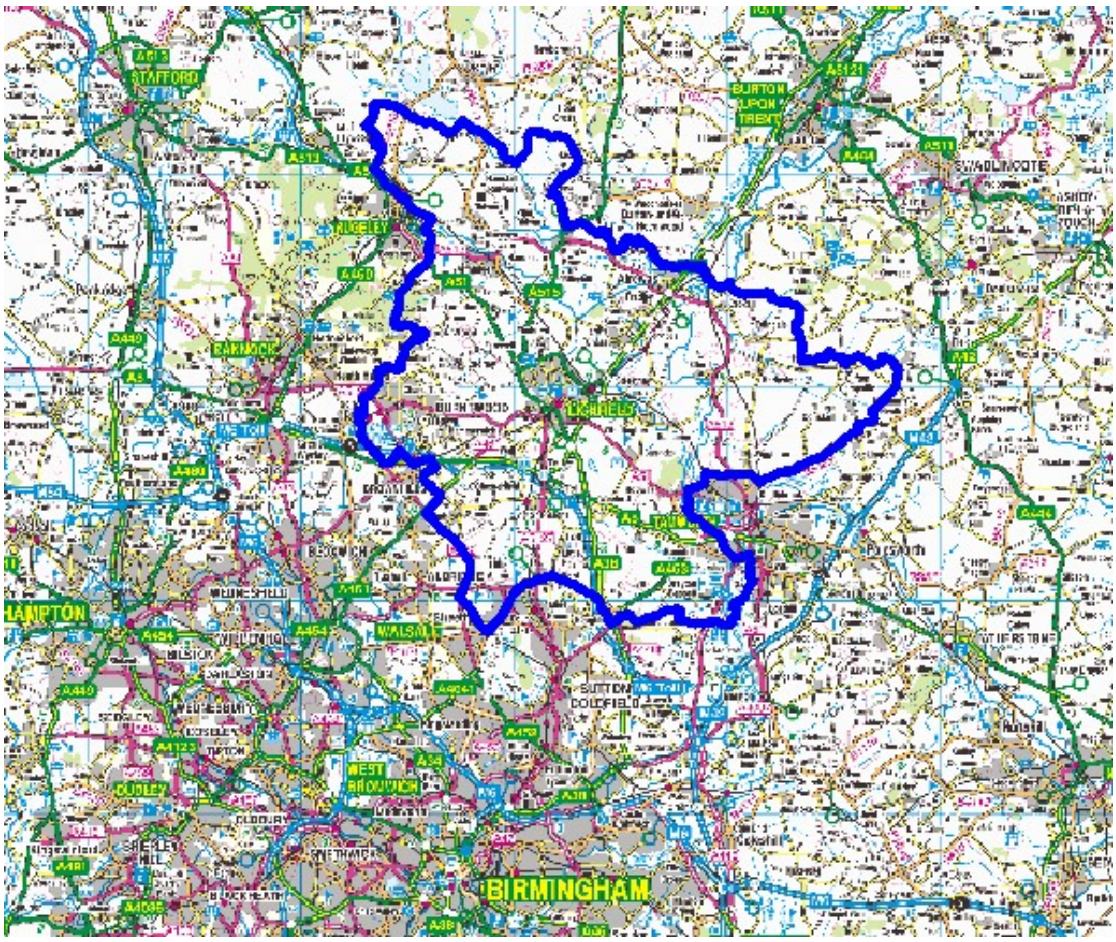

Figure 2 Location and extent of Lichfield District

4.2 Brief Description of Lichfield District

Lichfield District includes two main urban areas, the City of Lichfield and the town of Burntwood, together with a considerable rural area containing many villages of significant character and several contrasting high quality rural landscapes.

The southern and western parts of the District are more than 100m above sea level with a general reduction in the elevation towards the north and the drainage basin of the Trent/ Tame system.

The landscape is still dominated by agriculture in terms of land use, but only a small proportion of people are now directly employed by that industry. Lichfield District has a diverse range of industries and commercial concerns principally centred in Burntwood and Lichfield but also in Fazeley, Fradley, Shenstone and Armitage.

The A38 and A5 trunk road arteries connect at Lichfield to give good access to the Midlands Motorway system. As well as the M6 toll road that passes through the south western part of the District. Two major electrified rail the

District, a frequent commuter link from Lichfield to Birmingham and part of the Stafford branch of the West Coast Main Line from London Euston.

4.3 Historical Development

There is some evidence that Lichfield District was populated during the pre-Roman times. The valleys of the Trent and Tame were of great importance during pre-historic times. Cropmarks of Neolithic enclosures have been discovered in the Trent valley at Mavesyn Ridware and Alrewas. Cropmarks in the Trent and Tame valleys also indicate Bronze Age ceremonial sites and farmsteads.

There is considerable evidence that he Romans settled within the District. In AD 48 the Romans advanced through the Midlands in a campaign against the holistic Welsh tribes. A forward base was established at Lectocetum, the modern Wall, south-west of Lichfield. This was at first a temporary camp, later replaced by a fort.

The forts were linked with each other and with garrisons and cities elsewhere by a network of roads. The most important road in the area was Watling Street (mainly the modern A5), which linked the capital at London with a fortress at Wroxeter in Shropshire. Another major route was Ryknild Street, which ran south-west from Lillechester near Derby to pass close to Wall; its route through the District is followed and paralleled by the A38.

The Anglo-Saxon period saw Anglican invaders settling in the area in the later sixth century. Staffordshire became part of Mercia. Mercia to be the largest and most powerful of the Anglo- Saxon kingdoms. Its heartland lay in the valleys of the Trent and the Tame.

The accepted data for the beginning of the conversion of the English to Christianity in Staffordshire is AD 653. Chad was appointed bishop of the Mercians in 669 and established his centre in Lichfield. A cathedral has been present in Lichfield since that time, much rebuilt and restored over the centuries.

A feature of the Norman society after the conquest in 1066, was the forest. Not necessarily an area of trees but rather a tract if country strictly preserved as a royal hunting ground, the Cannock Forest occupied the whole of the District north of the Bourne Brook, wet of the River Tame and south of the River Trent to at least 1300. The royal forest in the western part of the District was granted to the Bishop of Lichfield in 1290 and hence became Cannock Chase.

Lichfield originated as a new town planned by the Bishop in the mid 12th century. In the mid 16th century it was granted city and county status by the Crown. A church dedicated to St. Mary was built in the market place, and other medieval institutions included a Franciscan friary, an almshouse for men and another for women, which both survive, and an important religious and social guild. On the eve of the guild's suppression at the Reformation much

of its land was conveyed in trust for the maintenance of the city's medieval water supply and for other needs. As a result Lichfield has for centuries enjoyed private-enterprise public services, and the Conduit Land Trust is still active.

In the 18th century Lichfield was a centre for polite society with its races at Whittington Heath attracting many visitors. In the 19th century there was industrial development, notably in the brewing industry. A MOD Barracks was developed at Whittington which is still in operation today. The later 20th century has seen the growth of light industry and also extensive residential development, with a nearly threefold increase in industry and also extensive residential development, with a nearly threefold increase in the city's population. An Anglo- American Airbase was situated at nearby Fradley from World War II until the 1950's. Tourism too has been encouraged and is associated particularly with Samuel Johnson, born in the city in 1709.

The District also contains several former townships lying outside the city but once part of the Lichfield parishes of St Michael and St Chad. They include Wall and its Roman-British remains, Fisherwick which once possessed a mansion and park by Capability Brown, and the urban parish of Burntwood containing the former mining villages of Chasetown and Chase Terrace; the others include Curborough and Elmhurst, Freeford, Hammerwich, and Streethay with Fulfen.

4.4 Size

Lichfield District covers an area 331 square kilometres of 128 square miles and comprises 25 parishes.

4.5 Population Distribution

The population of Lichfield district is 103,965. The majority of the inhabitants of the District live in the two centres of Burntwood and Lichfield.

4.6 Current and Past Industrial History

The principal industry of the District in terms of land use is agriculture with the population of the District concentrated in four principal locations which have developed localised manufacturing operations. This is reflected in the current location of the fifteen industrial sites within the district.

In addition to these areas mineral extraction in the form of sand and gravel workings are associated with the River Trent and Tame valleys and Triassic Pebble Beds in the south of the District at Hopwas, Hints, south of Weeford and Shire Oak.

4.7 Roads, Canals and Railways

The Trent and Tame have never been navigable for commercial purposes and this contributed to the relative isolation of Staffordshire as a whole until at

least the eighteenth century. The industrial development of the District was closely linked with the improvement of its system of communications.

The most important of the medieval routes through the District was that from London to Chester, the port for Ireland at that time. The road entered the District at Bassett's Pole, and ran through Lichfield and Rugeley to cross the Trent at Wolseley Bridge (the present day A51). In 1729 this section of road was turnpiked (tolls raised for maintenance) along with the Lichfield-Burton road (the present day A38).

Although an inland county with no navigable rivers Staffordshire became the centre of the English canal system in the eighteenth century. Four canals were constructed through Lichfield District at this time: the Trent and Mersey Canal (1777); the Coventry Canal (1790); the Birmingham and Fazeley Canal (1790); and the Wyrley and Essington Canal (1797). That part of the Wyrley and Essington Canal within the District closed in 1954 and was subsequently filled in. Some sections of this canal are now in the process of restoration. The other canals remain in use.

The nineteenth century saw the development of the railway systems through the District. The first of these was a line from Birmingham to Tamworth, Burton and Derby completed in 1842. A more direct route from London to the North was provided by the Trent Valley Railway, opened in 1847 from Stafford via Lichfield and Tamworth to Rugby. The line from Walsall to Lichfield opened in 1849.

The Cannock Chase coalfield was penetrated in 1858 by a line running from Walsall to Cannock, which continued to the London line at Rugeley in 1859.

The Birmingham-Lichfield City line opened in 1884.

4.8 Burntwood

The whole township lay within the part of Cannock Forest which became Cannock Chase in the thirteenth century.

With the development of coalmining in the 1850's and the enclosure of heathland in 1861 the landscape was transformed.

The development of the Cannock Chase field began in 1849 when the Marquess of Anglesey sank the Marquess Pit on the border between Hammerwich and Burntwood. The Anglesey Branch Canal was cut in 1850 to link the pit with the Wyrley and Essington Canal.

In total five pits were sunk over the period 1849 to 1861 with the new mining villages of Chasetown and Chase Terrace appearing respectively in the 1850's and 1860's. The last pit was closed in 1959 and industrial estates now occupy the mining sites.

Other industries in the Burntwood area in the eighteenth and nineteenth centuries comprised nailing and brickmaking. A gasworks was built south of Queen Street, Chasetown in 1870 by the Chasetown Gas Company Ltd and remained in use until around 1952.

Between 1961 and 1971 the population of Burntwood nearly doubled with the development of both Council and privately built housing to accommodate people from Birmingham and the Black Country.

4.9 Lichfield

Between 1801 and 1901 Lichfield's population rose from just under 5000 to nearly 8000. The overall growth was reflected in suburban expansion and in the increasing scale of local government, public services and economic activity.

In the Greenhill area a cattle market had been established in early 1800's with the building of a Smithfield market in the 1870's. Market gardening was Lichfield's major industry in the first half of the nineteenth century.

Industrial development began with the expansion of cloth working when a fulling mill was built at Leamonsley in the early 1790's and Pones mill was converted into a woollen manufacturing in 1809. Both were still in operation in the 1850's. Less successful was the cotton manufacturing established in Lower Sandford Street by Sir Robert Peel in 1802, which closed by 1813. An established tanning industry had apparently disappeared by the 1840's (the City's role as a trading centre flourished in the fourteenth century with several fairs and a reputation for leather goods; notably shoes and saddles).

In 1835 a gas works opened in Queen Street. There was also some expansion in metal working in the early part of the nineteenth century, with works producing agricultural machinery and cutlery in Sandford Street. Foundries were opened in Wade Street, Sandford Street and Beacon Street in 1864, 1879 and 1890 respectively.

The most striking industrial development was brewing. From the late eighteenth century maltsters, rather than individual innkeepers, dominated the industry. In the later nineteenth century they in turn were replaced by brewing companies. There were five breweries in Lichfield in the late 1870's.

The growth of manufacturing firms was allegedly hampered by the development of market gardening from the early nineteenth century, with its emphasis on seasonal labour. In the late 1840's there were approximately 1,300 acres of market gardens in the city, nearly two fifths of its total acreage. The produce was sold in the towns of South Staffordshire and in Birmingham.

In the twentieth century Lichfield has developed as a residential area with extensive light industry and a growing emphasis on tourism.

4.10 Other Areas

In addition to Burntwood, coal workings also existed in Armitage and Fazeley. The two other areas of industrial development in the eighteenth and nineteenth centuries relate to the cotton mill at Fazeley, opened in 1795 by Robert Peel (father of the statesman), and the Armitage Shanks works in Armitage.

4.11 Geological Characteristics

The present surface expression and land use of the District is in part a response to rock type, and as such, some aspects of geological and structural history are relevant.

The geology of the District can be categorised into three main rock types: the Triassic Mercia Mudstones, the Triassic Sherwood Sandstones and the Carboniferous Coal Measures.

The oldest rocks exposed at the surface in the District are of Carboniferous Age. The Coal Measures originally formed a thick continuous sheet of strata covering much of central England. This sheet was folded and faulted by earth-movements, dissected by erosion and then buried deeply below Triassic sediments. Subsequent erosion has removed much of the Triassic cover, and parts of the folded and faulted sheet have now become the detached coalfields of the region. The coalfields of relevance to the District are South Staffordshire and Warwickshire.

The Warwickshire Coalfield is roughly oval in outline, and extends southwards from Tamworth to Warwick. It occurs immediately east of the District roughly delineated by the River Anker to the north of Tamworth and the River Tame south of the Anker. Much of the coalfield is bounded by faults.

The South Staffordshire Coalfield extends for some 40km between Rugeley in the north and the Lickey Hills in the south, and is bounded to the east and west by faults which are nearly 16km apart in the central area. The Eastern Boundary Fault runs along the District's western boundary from approximately Brereton Hill, south through Cannock Wood to Chase Terrace and Chasetown. Chasewater is underlain by Coal Measures strata.

The geological conditions have been assessed from the following British Geological Survey maps: 1:63,360 Solid and 1:63,360 Solid and Drift map Sheet 154 Lichfield; and 1:50,000 Solid and Drift maps Sheet 140 Burton- upon-Trent and Sheet 155 Coalville.

A summary of the geological sequence is shown in Table 1 below; with the youngest Age (Holocene) at the top.

Table 1. Geological Sequence of the District

Period	Age	Geological Unit	Characteristics
Quaternary	Holocene	Alluvium River Terrace Deposits Glacial Sand and Gravel Glacial Till	Soft clays, sand, silt and peat. Sand and gravel, locally clayey Sand and gravel, locally clayey Stiff, pebbly, sandy clay
Mesozoic	Triassic	Mercia Mudstone Group (Keuper Marl) Bromsgrove Sandstone Formation (Keuper Sandstone) Cannock Chase Formation (Pebble Beds) Hopwas Breccia	Red mudstone with sandy bands Pink and red sandstones with mudstone bands Red brown sandstones with conglomerate layers Soft sandstone with subangular pebbles
Palaeozoic	Carboniferous	Keele Formation Halesowen Formation Etruria Marl Formation Productive Coal Measures	Red mudstones, siltstones and sandstones Red and grey sandstones Purple mudstones Mudstones, sandstones and coal

Outliers of Carboniferous strata occur at the surface within the District in a line from Hopwas south west to Hints and Canwell with the eastern margin defined by the Birmingham Fault. To the west of this line Hopwas Breccia outcrops. A second Carboniferous outlier outcrops as a thin band from Little Aston on the District's southern boundary to Lower Stonnall and Lynn some 5km to the north west.

The division between the Triassic Sandstones and Mudstones within the District is, very broadly speaking, delineated by the line of the Trent Valley Railway. North of this line, together with the area in the east of the District between the Birmingham Fault and the River Tame, Mercia Mudstone outcrops. South of this line and west of the Birmingham Fault the Bromsgrove Sandstone and Cannock Chase Formations of the Sherwood Sandstone Group outcrop.

Most of the hilltop areas are capped by glacial till but erosion has commonly laid bare the underlying solid rocks on the valley sides. Glacial sands and gravels represent outwash aggradation deposits formed during the retreat of the glaciers.

River Terrace Deposits are associated with the Trent and Tame valleys. In the valley of the Tame, a southern tributary of the Trent, there are at least two terraces and along the Trent itself, up to four terraces are usually recognised. The sands and gravels were probably laid down under cold, periglacial conditions, the area lying beyond the ice front of the last, Devension Glaciation.

Post-Glacial deposits of Alluvium, deposited within the last 10,000 years, are primarily associated with the valleys of the Tame and Trent.

4.12 Key Water Resource/Protection Issues

The Environment Agency routinely obtains chemical and biological data through its monitoring programs. Periodic assessment is now made by applying the General Quality Assessment (GQA) scheme, which provides a general measure of water quality and allows national comparisons.

The majority of the rivers are Grade D - fair or better (suitable for coarse fish populations).

The River Blithe is the only public water supply river in the District. There are no major sewage works discharges to the river. The river is impounded in Blithfield Reservoir from where it is used for public water supplies by South Staffordshire Water plc. Water is also abstracted from the river at Nethertown close to its confluence with the River Trent with the abstracted water being pumped back into the reservoir.

The canals receive few direct discharges and the main water quality problem is related to algae growth.

The Triassic sandstones beneath the District are a significant groundwater resource. They are exploited via boreholes, mainly for public water supply. Groundwater is taken from less than fifteen public water supply abstractions. It is also used to supply a number of industrial activities. The majority of groundwater licences, however, authorise a large number of very small abstractions for domestic or agricultural use.

Source Protection Zones (SPZ's) are associated with major abstractions and cover large areas of Lichfield District. These Environment Agency determined zones are split into Inner Zone, Outer Zone, and Total Catchment (based on travel time of water in the aquifer) and are designated to reduce contamination risks to abstractions by restricted or prohibiting certain activities within them.

The District council regularly inspects the quality of private drinking water supplies in its area (some for human consumption and others for irrigation).

There are three Groundwater Units identified by the Environment Agency within the District, the Lichfield, Shenstone and Rugeley Units. No new licence applications can be considered in the Lichfield and Shenstone Units due to overlicensing and overabstraction. Borehole yields and groundwater quality are variable in the Rugeley Unit.

The EC Nitrates Directive concerns the protection of waters against pollution caused by nitrates from agricultural sources along with placing restrictions on fertiliser use. The aquifer underlying Lichfield has been designated a Nitrate Vulnerable Zone. Legislation aims to reduce agricultural nitrate pollution by restricting the amount of nitrate fertilisers and organic manure that may be applied to agricultural land.

4.13 Hydrogeology

The hydrogeological conditions of the District have been assessed from the Environment Agency Groundwater Vulnerability Maps of the area (Sheets 22 and 23, 1:100,000 scale), and the Environment Agency Policy and Practice for the Protection of Groundwater: Midlands Region. A summary of the hydrogeological features of the strata within the District is shown below in table 2.

Table 2 Hydrogeological Features of the District

Strata Type	Hydrogeological Characteristics	Flow Mechanism	Geological Classification
Alluvium	Floors the main valleys	Intergranular	Minor Aquifer
River Terrace Gravels	Occurs sporadically in the rivers valleys, but notably in the Trent and Tame where they average 6 to 7m thick. Resources can be locally important, in hydraulic continuity with watercourses	Intergranular	Minor Aquifer
Glacial Sands and Gravels	Occurs as masses within and above Glacial Till	Intergranular	Minor Aquifer
Glacial Till	Yellow to grey clay with pebbles, averages 6m, locally thicker. Can yield small supplies from interbedded sands. Limits infiltration into underlying aquifers.	Varied	Minor Aquifer
Mercia Mudstone Group	Low permeability, limited resources in fractured mudstone/sandstone	Fracture in permeable beds	Non-Aquifer
Sherwood Sandstone Group including Hopwas Breccia	Major water supply, high permeabilities and high yields. Unconfined in the central southern part of the District.	Intergranular/ Fracture	Major Aquifer
Carboniferous Coal Measures	Sandstone layers act as separate aquifers, can support locally important supplies.	Fracture/ Intergranular	Minor Aquifer

As can be seen from the table the major geological strata within the District exhibit a variable ability to store and transmit groundwater. The Triassic sandstones form the District's principal aquifer, a resource widely exploited via boreholes mainly for public water supply but also for numerous agricultural spray irrigation licences.

Baseflow to the rivers is maintained by seepages from surrounding strata outcrops and by the widespread sand and gravel deposits associated with the rivers across the District.

The groundwater vulnerability maps for the District shows the central southern part of the District underlain by Triassic sandstones to be a major aquifer with soils of high leaching potential (i.e. soils with little ability to attenuate diffuse source pollutants and in which non-absorbed diffuse source pollutants and liquid discharges have the potential to move rapidly to underlying strata or to shallow groundwater).

4.14 Hydrology

Located within the Upper Trent Area of the Environment Agency Midlands Region, the District is characterised by a north easterly flowing surface water drainage system. This combines on the District's northern boundary to the east of Alrewas where the Rivers Tame and Mease join the Trent.

The Trent and Mersey, Coventry and Birmingham and Fazeley Canals also provide surface water connections within the District.

4.15 Natural Contamination

Three areas have been reviewed form existing information published by the British Geological Survey (BGS) and in the Soil Geochemical Atlas of England and Wales. There are:

- radon and background radioactivity from natural sources;
- methane, carbon dioxide and oil seeps from natural sources and mining areas;
- potentially harmful elements from natural sources and mining areas.

4.15.1 Radon

BGS information at 1:625,000 scale indicates that based on their classification of the underlying rocks, the District falls within the low, low to moderate and moderate Radon Potential Classes. This reflects the geology – the Coal Measures strata falling within the Moderate Class, the Triassic mudstone the Low to Moderate Class and Triassic sandstone the Low Class. For the Triassic deposits less than 1% of dwellings are estimated to be exceeding the 200 Bqm^3 Action Level and for the Coal Measures strata 1 to 3% of dwellings.

In 1996 the National Radiological Protection Board published formal advice to the Government on radon affected areas in England. On a 5km square grid basis the average for Staffordshire is approximately 41Bqm^3 with less than 1% of homes above the Action level.

4.15.2 Methane, Carbon Dioxide and Oil Susceptibility

BGS information at 1:625,000 scale indicates that where the Coal Measures strata outcrop there is a moderate susceptibility to methane and carbon

dioxide emissions and/or oil seeps at the surface and underground derived from the solid strata. For the vast majority of the District however, where the solid geology comprises Triassic sediments an intermediate category is defined where gas and/or oil may be encountered in boreholes, mines or tunnels intersecting buried (concealed) Carboniferous strata. The approximate depth to the top of the Carboniferous strata beneath the Triassic sediments in the District is broadly indicated at approximately Om Ordnance Datum in the southern part of the District south of Lichfield (i.e some 100m below ground level), increasing to between –200m and –400m Ordnance Datum towards the northern boundary of the District.

4.16 Soil Geochemistry

A study in the early 1980's based on less than 2mm fraction of soils and taken from a depth of 0 to 0.15m below ground level, sampled the non-urban landscape on a 5km grid across the country (i.e. one sample every 25km²)

Within the District this indicated low concentrations of heavy metals in the soil: cadmium less than 1mg/kg, (locally 1 to 2 mg/kg); chromium less than 150mg/kg; copper less than 50mg/kg (locally 50-100mg/kg); lead less than 150mg/kg; nickel less than 30mg/kg; and zinc less than 150mg/kg (locally 150 to 300mg/kg).

In 1995 the BGS produced maps at a scale of 1:625,00 entitled 'Distribution of Areas with above the National Average Background Concentrations of Potentially Harmful elements (As, Cd, Cu, Pb and Zn). This was based on stream sediment data on either one sample per 1.6km² (BGS data) or one sample per 2.5km² (Wolfson Data). A computer procedure then classified the country in 1km grid squares based on the highest level recorded for any grid square. The Wolfson Data, which covers the District, indicated the following ranges for classification of gridded stream sediment geochemical data (mg/kg):

Table 3: Classification of Stream Sediment Geochemical Data

Element	Data Set	National Average Background (Bk)	Bk-<2Bk	2Bk-<4Bk	>4Bk
Arsenic	Wolfson	<40	40-80	80-190	>190
Cadmium	Wolfson	<2.5	2.5-7	7-14	>14
Copper	Wolfson	<95	95-190	190-380	>380
Lead	Wolfson	<60	60-165	165-370	>370
Zinc	Wolfson	<215	215-380	380-810	>810

In general it was concluded that the areas of more than 4 times the upper limit of the background value are likely to contain soil concentrations that would require further investigation on the basis of currently accepted guideline concentrations.

The plots, however, are generalised multi element maps which must not be relied upon as a source of detailed information about specific areas or as a substitute for appropriate assessment. Above background concentrations are

intended as a prompt to consider whether further site specific information is required for the particular purpose. The maps merely indicate those areas where above background levels may be expected in soils and surface waters as well as stream sediments, they are not a guide to absolute concentrations in soil or water as influenced by a number of factors.

Within the District seven 1 kilometre squares are indicated as more than four times the upper limit of the background level of at least one of arsenic, cadmium, copper, lead, and zinc. These were Ordnance Survey Grid Squares SK1103 (Shenstone Park); SK 1116, 1117, 1216, 1217, 1316 and 1317 (all around King's Bromley). The stream sediment sample from the Shenstone Park square probably relates to a tributary of Black Brook, whilst those around King's Bromley probably relate to the River Trent and former sand and gravel extraction pits to be the north and west of King's Bromley and Bourne Brook plus a tributary to the south.

4.17 Protected Locations

Lichfield District contains 5 sites of Special Scientific Interest (SSSI's). These sites are the best example of national natural heritage of wildlife habitats, geological features and landforms.

The majority of the SSSI's are located in the west of the District. The largest area is Gentleshaw Common, with four others comprising Chasewater Heaths.

The River Mease has been submitted to Europe and is, therefore, a candidate Special Area of Conservation (SAC). There are European Protected Species present within Lichfield District, for example, great crested newts, otter and bats. The District also contains almost 100 Sites of Biological Interest (SBIs). A wider nature conservation interest of the district is shown on English Nature's Natural Area Profile. The relevant Natural Areas are Midlands Plateau, Trent Valley and Rises, and the Needwood and South Derbyshire Claylands.

5. Strategic Inspection

5.1 Statutory Guidance

The Statutory Guidance suggests that the Council should take a strategic approach to carrying out its inspection duty under sections 78B(1). This approach should be rational, ordered and efficient and it should be reflect local circumstances.

The methodology for carrying out a strategic inspection of potentially contaminated land can be summarised thus:

1. Data Collection
2. Data processing (initial prioritisation).
3. Desk Studies
4. Secondary prioritisation.

It should be noted that the Council will start with the assumption that the land in not contaminated land unless there is reason to consider otherwise.

5.2 Data Collection

In order to carry out a strategic inspection of the District, it is first necessary to obtain as much relevant information as possible to identify potentially contaminated site.

As outlined in Section 1.3.1, in order for land to be contaminated the following must be present:

- A source (of contamination).
- A receptor (or something affected by contamination).
- A pathway (a way for the source to affect the receptor).

A map-based land categorisation and prioritisation method using a receptor source – proximity relative risk model has been developed at the strategy stage to enable the identification of minimum information requirements. These requirements are:

i) Current land use plans
ii) Locations of current and former landfills and other areas of filled ground
iii) Locations of groundwater abstraction wells, both public and private
iv) Current surface water classification under the Environment Agency's General Quality Assessment Chemical Grading for Rivers and Canals Scheme and the river ecosystem classification under the Surface Waters (River Ecosystem Classification) Regulations 1994.
v) Location of statutory and non-statutory sites of ecological importance
vi) Potential sources of contamination based on the industries listed in the DOE Industry Profiles.
vii) The current and historical locations of these industries based on current and historical Ordnance Survey maps.
viii) Environmental information held by Environmental Health and aerial photos etc.

The Council's first priority in dealing with contaminated land is to protect human health. Given that the limited industrial development in the District is also focused in the main centres of population the urban areas are at the highest risk of having all three elements of a pollutant linkage (source, pathway, receptor) which could cause significant harm to human health.

During the initial prioritisation once sufficient data was obtained, it was processed in order to screen the District for potentially contaminated sites.
The screening process involved identifying intersects between areas with potential sources and areas with potential receptors, to obtain a base list of potentially contaminated sites.

Further data processing has been required in order to refine this list and obtain a basic prioritisation. Such processing takes into account:

- The potential contamination source
  - How likely contaminants are to have been used at the site
  - How likely contaminants are to have escaped or migrated from containment or storage on the site
  - How toxic or hazardous those contaminants might be

- The receptor sensitivity
  - Inherently, some receptors are considered to be more sensitive than others. We will only be considering the human health receptors of contaminated land.
  - We will also consider how many receptors are likely to be affected by the source, e.g. the number of households on the indicative extent of the site.

Following the data processing, a prioritised list of potentially contaminated sites was developed. A number of sites, which posed the highest risk, have been selected for more detailed consideration.

The Council has used the list of potentially contaminated sites to identify land which it considers to pose the greatest risk to human health or the environment, by carrying out a manual prioritisation (the secondary prioritisation).

The secondary prioritisation is carried out by Environmental Health and will allow for full consideration of all available information on each potentially contaminated site. The sites which appear to be the most likely to pose the greatest risk will be placed at the top of the list and will be addressed first when undertaking detailed inspections.

Environmental Health continue to review the district and assess new information.

5.3 Powers of Entry

Under Section 108 of the Environment Act 1995, the Council, or and authorised agent of the Council (which would include the Environment Agency), may exercise the following powers of entry when undertaking an investigation:

a. Entry of premises;
b. Entry with other authorised persons and with equipment or materials;
c. Examination and Investigation;
d. Direction that premises be left undisturbed;
e. Taking measureents, photographs and recordings;
f. Taking samples of air, water and land;

g. Subjecting articles or substances suspected of being polluting to tests;
h. Taking possession of and detaining such articles;
i. Requiring persons to answer questions;
j. Requiring production of records or the furnishing of extracts from computerised records;
k. Requiring necessary facilities or assistance to be afforded; and
l. Any other power conferred by the Regulations.

In the case of a desk study, therefore, the Council has the power to obtain information on potentially contaminated land, both form relevant persons (e.g. the owner of the land, or a person who might be liable for contamination) and their agents (for instance, environmental consultants who carried out work for a site). The Council also has the power to request site access in order to undertake a site walkover inspection and, and in the case of detailed inspection, to undertake intrusive site investigation works.

Before excising powers of entry, the Council will always see to obtain cooperation form the landowner or other relevant parties on a voluntary basis, in line with the Statutory Guidance.

6. DETAILED INSPECTION

6.1 Obtaining Further Information

Following the secondary prioritisation, the Council must determine whether there is a reasonable possibility that a significant contaminant linkage exists.

The process of obtaining additional information will continue until there is sufficient evidence for the Council to determine whether the land is contaminated or not.

If, at any stage, the Council considers that there is no longer a reasonable possibility that a significant contaminant linkage exists, the Council will not carry out any further inspection in relation to that linkage.

6.2 Request for Further Information from Relevant Parties

The Council may, or may not, already have contacted relevant parties to request specific information that they hold on the site.

Before considering detailed inspections, the Council will contact relevant persons (if possible) to request that information on the site (as outlined in Section 5.5) where this has not already been done. If necessary, this will be by the issue of a notice to request information.

6.3 Intrusive Site Investigation

6.3.1 General Approach

Where evaluation of all available data suggest that there is a reasonable possibility that as significant contaminant linkage may exist, it may be necessary to visit the site and carry out some form of on-site testing, or take away samples for analysis. In every case this will be carried out be a 'suitable person', adequately qualified to undertake the work. Inspections will be conducted as quickly, discreetly, and with as little disruption, as reasonably possible.

The Council will seek to consult the landowner and residents before inspecting their land, unless there is a particular reason why this is not possible (for instance, because it is not possible to identify or contact the landowner).

Should the owner refuse access, or cannot be found, the Council will consider using powers of access as outline in Section 5.3.

6.3.2 Voluntary Provision of Information

If a reasonable possibility of a contaminant linkage exists on a site, then the Council will consider undertaking an intrusive site inspection of the land in order to obtain sufficient information to determine whether it is contaminated land or not.

However, if a relevant person were to offer to provide such information within a reasonable and specified time, and does so, then the Council would not proceed with its own investigation.

6.3.3 Potential Special Sites

In the case of potential special sites (as set out in the Contaminated Land (England) Regulations 2006), the Council will liaise with the EA.

6.3.4 Council Inspection of Land

Intrusive investigations will be carried out by the Council in accordance with appropriate good practice technical procedures for such investigations.

Should it be necessary, the Council will employ a consultant or contractor to undertake appropriate site investigation works and prepare the report. The Council will ensure, as far as possible, that any consultants are appropriately qualified and competent to undertake the work.

7.0 RISK ASSESSMENT

7.1 Grounds for Determination

There are six possible grounds for determining land to be contaminated:

- Significant harm is being caused
- There is a significant possibility of significant harm being caused.
- Significant pollution of controlled waters is being caused.
- There is a significant possibility of significant pollution of controlled waters.

With respect to harm from radioactivity:

- Harm may be caused
- There is a significant possibility that harm may be caused.

In making any determination the Council will take all relevant information into account, carry out appropriate scientific assessments, and act in accordance with statutory guidance. The determination will identify all three elements of the contaminated land linkage and explain their significance.

7.2 Evaluation of Risk

7.2.1 Current Use

Under the Part 2A, risks are evaluated in the context of the current use of the land. In this case, the current use is determined as;

- The current use of the land.
- Reasonably likely future use of the land which would not require planning permission.
- Any temporary use to which the land is put, or likely to be put, within the bounds of the current planning permission.
- Likely informal use of the land, whether authorised by the owners or the occupiers, or not.

When considering risks form future use of a site which fall under the definition of current use, it will be assumed that any developer which is subject to a planning permission will be fully carried out (including any conditions), although issues of potential land contamination would ordinarily be addressed in such circumstances through the planning system.

7.2.2 Contaminant Linkage

For there to be a risk, an appropriate contaminant linkage must exist (as outlined in Figure 1).

- A ‘contaminant’ is a substance which is on, on or under the land and which has a potential t cause significant harm to receptor, or to significant pollution to controlled waters.
- A ‘receptor’ is something that could be adversely affected by a contaminant- namely, a person, an ecosystem, property, or controlled waters (as defined in Table 2).

- A ‘pathway’ is a route by which a receptor is or might be affected by a contaminant.

A contaminant linkage is the relationship between a contaminant, a pathway and a receptor. All three elements of a contaminant linkage must exist in relation to a particular site before it can be considered to be a contaminated land under Part 2A, including evidence of the actual presence of contaminants.

The Council may encounter sites with multiple contaminant linkages, from a number of different contaminants, pathways and receptors. In such cases, the Council may treat contaminants with similar properties as a single contaminant source, provided that there is a scientifically robust reason for doing so; the Council will fully document the reasons for adopting this approach where appropriate.

7.2.3 Risk Assessment

The process of risk assessment involves understanding the risks posed by land and associated uncertainties.

As more information is obtained on a site (in the case of this Strategy, form identification of land as potentially contaminated in the preliminary prioritisation, to the collection of all available information in a desk study and finally the collection of site specific data in a site investigation), the understanding of the risks posed by a site increase and uncertainties decrease.

The collection of information on a site increases until it is possible for the Council to decide:

- That there is insufficient evidence of contamination to justify further investigation into the site; and or
- Whether or not the land is contaminated land.

In order to continue to justify obtaining more information on a site, the Council must be satisfied that an unacceptable risk could reasonably exist.

7.2.4 Normal Presence of Contaminants

It is possible that, in some circumstances, some substances might be present in what would otherwise be considered ‘elevated’ concentrations due to natural circumstances, for instance:

- The natural presence of contaminants from the underlying geology that might reasonably be considered typical of area and have not been shown to pose an unacceptable risk to health or the environment.
- The presence of contaminants from low level diffuse pollution and common human activity (for example, from historic use of leaded petrol and the spreading of ash from domestic coal fires in gardens and allotments that might have been considered typical).

In these circumstances, the Council will not usually consider the land to be contaminated, unless there is a particular reason to consider that those contaminated might pose a significant risk.

7.2.5 Risk Assessment Methodology

There are a number of different methodologies for assessing risks from different contaminants to different receptors. Current methodologies which would typically be used by the Council are outlined below, although their use would depend on their specific relevance to the site being investigated, as well as any updates or revisions to official technical guidance. The use of alternative risk assessment methodologies will be considered if there are justifiable benefits from doing so.

7.2.5.1 Human Health

The Council will apply the methodology outlined in the Contaminated Land Exposure Assessment (CLEA) model when assessing the risks from potential contaminants to human health.

The Council may rely on the use of soil guideline values (SGV), published by the EA and developed with CLEA model, as a screening tool to identify land that does not pose a significant risk to human health. Where an SGV has not been developed, generic assessment criteria [19] ([19] Land Quality Management (LQM) and CIEH, The LQM/CIEH Generic Assessment Criteria for Human Health Risk Assessment (2nd edition), 2009) [20] ([20]Contaminated Land; Applications in Real Environments (CL:AIRE), Soil Generic Assessment Criteria for a Human Health Risk Assessment , 2010) (GAC), which have been developed using the CLEA model, may be used instead. In either case, the use of the SGV or GAC will only considered where the assumptions use to generate the SGV or GAC are appropriate to the specifics of the site under investigation.

When considering risks from ground gas, the Council would consider guidance offered in BS8485:2007[21] ([21]BSi, BS8485:2007 Code of practice for the Characterisation and Remediation from Ground Gas in Affected Developments) and CIRIA C665[22] ([22] CIRIA, CIRIA C665 Assessing Risks Posed by Hazardous Ground Gases to Buildings, 2007) when characterising a site and identifying remediation.

7.2.5.2 Human Health- Radioactivity

The risk assessment of potential radioactive contaminated land will be undertaken using the methodology outlined in the Radioactive Contaminated Land Exposure Assessment Model[23] ([23] EA, Using RCLEA- the Radioactivity Contaminated Land Exposure Assessment Methodology, 2011). (RCLEA).

7.2.5.3 Groundwater

Risk assessment for groundwater will be undertaken using the EA Remedial Targets Methodology[24] ([24] EA, Remedial Targets Methodology- Hydrogeological Risk Assessment for Land Contamination, 2006).

7.2.5.4 Ecology

When considering risks to ecological systems, the Council would seek to follow the Ecological Risk Assessment[25] ([25] EA, An Ecological Risk Assessment Framework for Contaminants in Soil, 2008) (ERA) methodology set out by the EA.

7.2.6 Categorisation of Risk

Following each phase of risk assessment, land can be place into one of four categories for human health or controlled water, as outlined in table 4.

Category	Human Health	Controlled Water
1	A significant possibility of significant harm exists in any case where the Council considers there is an unacceptably high probability, supported by robust science based evidence that significant harm would occur if no action is taken to stop it.	There is a strong and compelling case for considering that a significant possibility of significant pollution of controlled waters exists.
2	There is a strong case for considering that the risks from the land are of sufficient concern, that the land poses a significant possibility of significant harm; on the basis of the available evidence, including expert opinion, there is a strong case for taking action under Part 2A on a precautionary basis.	The strength of evidence to put the land into Category 1 does not exist; but nonetheless, on the basis of the available scientific evidence and expert opinion, considers that the risks posed by the land are of sufficient concern that the land should be considered to pose a significant possibility of significant pollution of controlled waters on a precautionary basis.
3	The strong case described above does not exist, and therefore the legal test for significant possibility of significant harm is not met.	The risks are such that the tests set out above are not met, and therefore regulatory intervention under Part 2A is not warranted.
4	There is no risk or the level of risk posed is low.	There is no risk, or the level of risk posed is low.

Table 1 – Risk Categorisation for Human Health and Controlled Water

In the case of the radioactive contamination of land, the possibility of harm is a measure of the probability, or frequency, of the occurrence of circumstances which would lead to lasting exposure being caused where:

a. The potential annual effective dose is below or equal to 50 milliseverts (mSv) per annum; and
b. The potential annual equivalent dose to the lens of the eye and to the skin is below or equal to 15 mSv and 50 mSv respectively.

The Council will regard the possibility of harm as significant if, having regard to uncertainties, the potential annual effective dose from any lasting exposure multiplied by the probability of the dose being received is greater than 3mSv.

Risk assessments for ecological systems and property are not categorised in the same way as above, but instead are considered as outlined in Table 5 and Table 6.

Significant Harm	Significant Possibility of Significant Harm
Harm which results in an irreversible adverse change, or in some other substantial adverse change, in the functioning of the ecological system within any substantial part of that location.	Significant harm of that description is more likely than not to result from the contaminant linkage in question.
Harm which significantly affects any species of special interest within that location and which endangers the long-term maintenance of the population of that species at that location.	There is a reasonable possibility of significant harm of that description being caused, and if that harm were to occur, it would result in such a degree of damage to features of special interest at the location in question that they would be beyond any practicable possibility of restoration.
In the case of European sites, harm which endangers the favourable conservation status of natural habitats at such locations or species typically found there.	

Table 2 – Risk Categorisation for Ecological Systems

	Significant Harm	Significant Possibility of Significant Harm
Crops, Produce, Livestock, Domestic Animals and Game	For crops, a substantial diminution in yield or other substantial loss in their value resulting from death, disease or other physical damage. Significant harm would be considered when a substantial proportion of the animals or crops are dead or otherwise no longer fit for their intended purpose. Food will be regarded as being no longer fit for purpose when it fails to comply with the provisions of the Food Safety Act 1990. Where a diminution in yield or loss in value is caused by a contaminant linkage, a diminution or loss of over 20% will be regarded a substantial diminution or loss.	Conditions would exist for considering that a significant possibility of significant harm exists to the relevant types of receptor where the Council considers that significant harm is more likely than not to result from the contaminant linkage in question, taking into account relevant information for that type of contaminant linkage, particularly in relation to the ecotoxicological effects of the contaminant.
	For domestic pets, death, serious disease or serious physical damage.	
	For other property in this category, a substantial loss in its value resulting from death, disease or other serious physical damage.	
Property	Structural failure, substantial damage or substantial interference with any right of occupation. Substantial damage or substantial interference as occurs when any part of the building ceases to be capable of being used for the purpose for which it is or was intended. In the case of a scheduled Ancient Monument, substantial damage will also be regarded as occurring when the damage significantly impairs the historic, architectural, traditional, artistic or archaeological interest by reason of which the monument was scheduled.	Conditions would exist for considering that a significant possibility of significant harm exists to the relevant types of receptor where the Council considers that significant harm is more likely than not to result from the contaminant linkage in question during the expected economic life of the building (or in the case of a scheduled Ancient Monument the foreseeable future), taking into account relevant information for that type of contaminant linkage.

Table 3 – Risk Categorisation for Property

8. DETERMINATION OF CONTAMINATED LAND

8.1 PRE- DETERMINATION

8.1.1 Notification of Decisions- Not Contaminated Land

Where the Council inspects land and determines that it is not contaminated land, the Council will prepare a written statement confirming that it does not consider the land to be contaminated land.

The Council will maintain records including the reasons for deciding that land is not contaminated land.

The Council will also provide a copy of the written statement to the owners of the land; the Council will consider providing the same to other interested parties as appropriate and with due regard to the Council's legal obligations under the Freedom of Information Act 2000 and The Environmental Information Regulations 2004.

8.1.2 Notification of Decisions- Contaminated Land

Where the Council considers that land meets the definition of contaminated land, the Council will inform the owners and the occupiers of the land, as well as any other person who may be liable to pay for remediation, of the Council's intention to determine the land as contaminated land, unless there is an overriding reason not to do so.

8.1.3 Risk Summary

In accordance wit the statutory guidance, the Council will produce a risk summary for any land where the Council considers it likely that the land may be determined as contaminated.

The risk summary will explain how the Council understands the risks and other factors which are relevant in a way that is understandable to no experts; this will be prepared before a determination is made.

The risk summary will include:

- A summary of the Council's understanding of risk, including a description of:
    - The contaminants involved.
    - The identified contaminant linkages or a summary of the linkages.
    - The potential impacts.
    - The estimated possibility that impacts may occur.
    - The timescale over which risks may become manifest.

  A description of how the Council understands the uncertainties behind the risk.

- A description of the risks put in context.

- A description of the Council's initial views on possible remediation. This will include:

    - What remediation might entail
    - How long remediation might take
    - The likely effects of remediation works on local people and businesses.
    - How much difference it might be expected to make to the risks posed by the contaminated land.
    - The Council's initial assessment of whether remediation would be likely to produce a net benefit.

8.1.4 Physical Extent of Land to Be Determined

The Council will identify the area of land that it is considering determining as contaminated land, based on the available information regarding historic land use boundaries and information from the site investigations.

Large areas of contaminated land may be sub-divided into smaller plots, with separate determinations for each area, where appropriate. For instance, divisions may be based on the nature of the contaminated linkages which have been identified, historic and current land ownership, liability and the nature of any remediation which may be required.

8.1.5 Voluntary Remediation

The Council may decide not to determine that land is contaminated, if there is an offer to deal with the contamination on a voluntary basis, although such a decision would be taken on a case by case basis, and would involve consideration of a number of factors including (but not limited to):

- The proposed timescales.
- The technical acceptability of the proposal.
- The proposed remediation standards.

8.2 Determination

If, following pre-determination consultation, there are no valid reasons to delay determination, the Council will formally determine land as contaminated land.

8.2.1 Public Register

The Council maintains a public register of contaminated land, as prescribed by Section 78R of the Act.

Information on the public register may be available online through the Council website: www.lichfield.gov.uk

9. REMEDIATION

9.1 Outline

Once land has been determined as contaminated land, the Council must consider how it should be remediated and, where appropriate, it must issue a remediation notice to require such remediation.

Remediation involves undertaking works to break, or permanently disrupt, the contaminant linkage, this ensuring that the site no longer poses an unacceptable risk to any receptors; remediation may also involve taking reasonable steps to remedy harm or pollution that has been caused by a significant contaminant linkage.

9.2 REMEDIATION WORKS

9.2.1 Remediation Aims

The aim of remediation is to demonstrably address contaminant linkages. Such works may involve the following:

- Reducing or treating the contaminant part of the linkage (e.g. by physically removing contaminants or contaminated soil or water, or by treating the soil or water to reduce levels of contaminants, or by altering the chemical or physical form of the contaminants).
- Breaking, removing or disrupting the pathway parts of the linkage (e.g. a pathway could be disrupted by removing or reducing the chance that receptors might be exposed to contaminants, for example by installing gas membranes in a property, or by sealing land with a material such as clay or concrete).
- Protecting or removing the receptor. For example, by changing the land use or restricting access to land it may be possible to reduce risks to below an unacceptable level.

Remediation may be complete in one operation, or split across several phases.

As well as carrying out remediation works, further site investigation may be required in order to provide evidence that the remediation works have been carried out to a satisfactory standard (known as verification), or to determine whether further works may be required. Such works may also involve site monitoring, especially where groundwater or ground gas are involved, over a prolonged in order to obtain sufficient information on which to make a robust decision.

9.2.2 Remediation Standards and Reasonableness

The overall aim of remediation works is to break the contaminant linkage that has been identified on a site. However, the Council will consider the

reasonableness of the remediation requirements, taking into account the cost of remediation works and the seriousness of any harm that might be caused.

Where the Council considers that it is not practicable or reasonable to remediate land to a degree where it stops being contaminated land, it will consider instead whether it would be reasonable to require remediation to a lesser standard.

When considering what is reasonable, the Council will take into account:

- The practicability, effectiveness, and durability of remediation.
- The health and environmental impact of the chosen remedial options.
- The financial cost which is likely to be involved.
- The benefits of remediation with regard to the seriousness of the harm or pollution of controlled water in question.

10. LIABILITY AND COSTS

Under Part 2A, the Council is responsible for identifying liable persons and apportioning amongst those groups; the Council may also recover its costs where it has had to carry out remediation. This section outlines the process that the Council will follow when doing so.

10.1 Identification of Liable Persons

For each identified significant contaminant linkage, the Council will make reasonable enquiries to identify persons who caused or knowingly permitted that linkage. Those persons would be classified as follows:

- Class A Persons- Generally the polluters and those who knowingly permit contamination; this includes developers who leave contamination on a site.
- Class B Persons- The current owners or occupiers of the land.

If no Class A persons can be identified for a given contaminant linkage, then liability may fall to Class B persons (with the exception of contaminant linkages that fall solely to controlled waters).

If no liable persons can be established, that contaminant linkage becomes an orphan linkage; the Council has the power to carry out remediation of orphan linkages, at its own cost.

10.2 Remediation

Following identification of the liable persons for each contaminant linkage, the Council will identify the remediation that is necessary for each contaminant linkage.

Where there is only one contaminant linkage on the contaminated land, all remediation actions will refer to the contaminant linkage. However, if there are two or more contaminant linkages, the Council will establish if that

remediation action relates to a single contaminant linkage (a single linkage action or multiple contaminant linkages (a shared action).

Where remediation is a shared action, the Council will establish whether the shared action is:

- A common action- that which contaminant linkages to which it is referable, and would have been part of the remediation works if each contaminant linkage had been addressed separately.
- A collective action- that which addresses contaminant linkages to which it is referable, but would not have been part of the remediation for one or more of those contaminant linkages if they had been addressed separately.

This distinction may be important when considering how costs may be split between liable persons.

10.3 Attributing Liability

10.3.1 Class A Persons

Where a liability group has been established for a contaminant linkage, that group will be responsible for carrying the cost of remediation, however, the Council will consider whether any members of the liability group are exempted from liability cover under Part 2A. This is done by carrying out a number of exclusion tests, in strict order, until only one person remains in the liability group. Where an exclusion test would remove all persons from liability, that test is not run and the next test is applied.

Those exclusion tests are summarised thus:

1. Excluded activities
2. Payment made for remediation
3. Sold with information
4. Changes to substances
5. Escaped substances.
6. Introduction of pathways or receptors.

The Council has responsibility for attributing remediation costs between liable persons; this is a complex legal matter and the Council will follow the procedure laid out in the Statutory Guidance.

10.3.2 Class B Persons

Two exclusion tests have been set for Class B Persons, the purpose of which is to exclude from liability those who do not have an interest in the capital value of the land.

10.4 Recovery of Costs

Under Part 2A, if the Council carries out remediation it is to recover its reasonable costs from doing so.

10.4.1 Cost Recovery Decisions

When deciding on whether to pursue recovery of costs, the Council will have regards to the following principles:

- The recovery of costs should be as fair and equitable as possible to all who have to meet remediation costs, including the taxpayer.
- The “polluter pays principle” should be applied.

The Council will seek to recover all its reasonable costs for remediation; however, the Council may waive or reduce the recovery of its costs where it considers this appropriate and reasonable- for instance, in circumstances where:

- The recovery of costs would cause undue hardship to the appropriate person.
- There is a threat of business insolvency or closure.
- There could be adverse impacts on the activities of charities.
- There could be adverse impacts on registered social landlords.
- In the case of a Class B persons (and where the presence of contamination was not known about now reasonably foreseeable), where recovering full costs appears unreasonable.

The Council may be willing to consider deferring recovery of costs and instead incurring them by a charge on the land in question.

When making decisions on the recovery of costs, the Council will require relevant information on that person’s financial status; when making such requests, the Council will consider:

- Accessibility of the information
- The cost of obtaining the information
- The likely significance of the information.

Any personal financial information will be held in accordance with the Councils obligation under the Data Protection Act 1998.

The Council will inform relevant persons of the outcome of cost recovery decisions, and the reasons for making those decisions.

11 MISCELLANEOUS PROVISIONS

11.1 Progress on Strategy

From the initial assessment of the GIS system 1632 potentially contaminated sites were identified within the Lichfield District. An officer of the Council then further scrutinised and assessed the identified sites and a list of 55 sites likely to require detailed investigation was drawn up.

18 detailed intrusive site investigations have taken place since the publication of the original Contaminated Land Strategy.

To date none of the sites investigated have been determined to be

contaminated land.

The intrusive investigations to date have been facilitated by our existing budget plus grants received from the Department for Environment, Food and Rural Affairs (DEFRA).

The District Council has in the past achieved significant benefit from previous grant schemes operated by DEFRA. In the past grant funding has been critical in enabling the Council to progress with assessing the risk on identified sites. The grant funding budget has ceased from 1st April 2017.

The cost of undertaking intrusive investigations far outweighs the funding available through the in house revenue budget.

Of the 55 sites identified as requiring detailed intrusive investigation 37 remain on our list requiring further investigation. These are of lower priority and risk than those already investigated.

DEFRA has implemented changes to the statutory guidance which are intended to refocus the Part IIA regime on the high risk land it was originally designed to address and deal with regulatory uncertainty by clarifying when land will not be caught by the regime.

There are several other initiatives which have been pursued to support more targeted implementation of the Part IIA regime including,

In light of the Contaminated Land Statutory Guidance produced in April 2012 each of the 37 sites requires assessment to determine whether they still meet the criteria for detailed intrusive investigation.

In 2011, following a report Lichfield District Councillors decided:

- That the District Council would investigate one site at a time (in accordance with priority ranking previously identified) and conclude each investigation before commencing any further investigation.
- That where remediation is required the options are considered on a site specific basis and further reports be brought for consideration as necessary.

The rate at which sites will be inspected will be determined by the budgetary and manpower resources available at the time.

Lichfield District Council intends to maintain:

- Reprioritisation of the outstanding 37 sites in line with the current guidance.
- Inspect potentially contaminated sites in priority order, as budgetary resources, staffing and service priorities allow.
- Assess planning applications to ensure that the land contamination is investigated and remediated appropriately by developed.
- Deal with urgent cases as and when they arise.

11.2 Timescales

The strategy does not lead itself to the setting of fixed timescales as the progress of the individual sites cannot be accurately predicted. However, considerable progress has been made since the publication of the original strategy. Certain areas of work such as developing the GIS and gathering new information on sources and receptors will be ongoing.

It is not possible to set a timescale for the determination of Contaminated Land, but the Council will determine sites as and when they are identified as contaminated land, and will always give due regard to the statutory guidance. There will need to be flexibility in the inspection programme to allow for new information coming to light, as well as changes to legislation, statutory guidance and allocation of resources.

11.3 Council Owned Land

It may be the case that the Council may have some liability or other interest in land identified as potentially contaminated under this strategy. This could occur for a number of reasons, including:

- Land identified as potentially contaminated is owned by the Council
- The Council has been identified as a potentially liable person (see Section 10).

Land that is owned by the Council will be prioritised above privately owned land.

11.4 Guidance for Development

Staffordshire Local Authorities, via the CIEH Contaminated Land Working Group, have collated their resources to produce guidance for developers on the redevelopment of land affected by contamination (A Guide for the Redevelopment of Land Affected by Contamination in Staffordshire 2015), which can be downloaded free from the Council website.

The guidance serves two purposes:

1. To explain to developers and land owners why contaminated land conditions have been applied to a planning application and the background to the legislations.
2. To inform consultants of the Council requirements when addressing contaminated land conditions.

11.5 Provision of Environmental Information

The Council often receives requests for information within the District, typically as part of environmental due diligence or as part of the preparation of a desk study.

The Council will, on request, provide information on land within the District

which may, for example, include:

- Historical topographical mapping.
- Historical landfill sites.
- Information contained within any public register (including the contaminated land register and environmental permit register).
- Previous site investigations carried out by the Council under Part 2A.
- Contaminated land issues addressed through the planning system.

When compiling information, The Council will act accordance with the Freedom of Information Act 2000 and The Environmental Information Regulations 2004.

The Council will usually levy a fee, set annually by Regulatory and Licensing Committee, for compiling and preparing environmental information.

Some information held by the Council might not be available due to copyright restrictions.

The Council will not release information on sites identified as 'potentially contaminated' (under strategic inspection) as part of the Contaminated Land Strategy. Any list of potentially contaminated land is information which is considered to be 'a record which is in the course of completion' and therefore exempt from disclosure under Regulation 12(4) of the Environmental Information Regulations 2004. This is also in keeping with the aim of the Statutory Guidance, which seeks to avoid potential property blight.

References

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Environmental Damage (Prevention and Remediation) Regulation 2009
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