West Oxfordshire District Council

Contaminated Land Inspection Strategy

2026 to 2031







WEST OXFORDSHIRE DISTRICT COUNCIL

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1 Introduction

1.1 Purpose of this Document

This Strategy sets out how West Oxfordshire District Council (the Council) will fulfil its statutory duties to investigate potentially contaminated land within the District. This duty is set out in Part 2A of the Environmental Protection Act 1990 (Part 2A) as inserted by Section 57 of the Environment Act 1995 and requires local authorities to inspect their areas to determine whether land present there is contaminated.

This document replaces the 2019 document and sets out the priorities for 2026-2031.

1.2 Background

There is a substantial legacy of contaminated land in the United Kingdom, due to its long industrial heritage and historically poor waste management and disposal practices. Although there are now various regimes in place to prevent new contamination occurring, the historic contamination which remains in the environment retains the potential to adversely affect people's health, damage quality of our waters, ecological systems and property.

Where land is identified as unsuitable for its current use on the basis of actual harm or significant risk from contamination, the Council has a responsibility to intervene and ensure that those risks are properly reduced to an acceptable level. This strategy sets out how West Oxfordshire District Council intends to go about this process. It replaces the Council's previous Contaminated Land Inspection Strategy published in 2019.

1.3 Aims and Objectives

The aim of the Strategy is to set out in writing how the Council intends to implement its obligations under Part 2A of the Environmental Protection Act 1990, in accordance with the Government's Contaminated Land Statutory Guidance issued in April 2012. The Statutory Guidance states that local authorities should adopt a strategic approach when inspecting their areas and this should:

1. be rational, ordered and efficient;
2. be proportionate to the seriousness of any actual or potential risk;
3. seek to ensure that the most pressing and serious problems are located first;
4. ensure that resources are concentrated on investigating in areas where the authority is most likely to identify contaminated land; and
5. ensure that the local authority efficiently identifies requirements for the detailed inspection of particular areas of land.

The principal objectives of the Inspection Strategy are:

i. to meet the statutory obligation placed on the Council to produce a written strategy under Part 2A;

ii. to provide a strategic framework which West Oxfordshire District Council will use to identify, inspect and determine contaminated land, and describe the measures that may be taken to remediate such land;

iii. to describe how the Council will prioritise which sites it will consider first;

iv. to inform the public, and improve communication with stakeholders, of the Council's intentions in relation to contaminated land;

v. to ensure that the Council's corporate priorities and ambitions will be achieved by adopting this Strategy.

This document updates the original Strategy published in 2001, itself updated in 2011 and 2019, to align it with changes in legislation and planning practice since that time and reflect progress in dealing with contaminated land across the District.

1.4 Integration with Council Priorities

The Contaminated Land Strategy will support the Council's priorities contained within "West Oxfordshire Council Plan 2023 – 2027". One of the five key priorities is "Creating a Better Environment for People and Wildlife". Within this, the plan proposes 5 areas where it will focus action in West Oxfordshire, including:-

- "Work with others, and fulfil our statutory obligations, to ensure that land, air and water support biodiverse habitats, reduce pollution and bring about nature recovery to the District, putting it at the forefront of local decision-making"

The Local Authority's duties, undertaken as a consequence of the contaminated land regulatory system, will contribute to these by seeking to ensure that the land on which we live, water which we drink and air which we breathe does not pose any unacceptable risk to our health, property, lakes, rivers, groundwater and our ecological systems. The contaminated land regime pursued by the Council will also play a role in achieving a further objective of the Council which is to "be a progressive custodian of our environmental resources, supporting a healthy natural landscape and functioning ecosystem which is rich in wildlife and habitats that are enjoyed by and benefit all."

1.5 Strategic Planning

The contaminated land regime complements the planning system. This Strategy is aimed at those sites where there is no imminent prospect of the site being addressed via the planning system. The regime aims to render land suitable for its existing or reasonably likely use.

The Council formally adopted the West Oxfordshire Local Plan 2031 on 27 September 2018. The Local Plan covers the 20-year period 1 April 2011 – 31 March 2031. The proposed housing requirement for West Oxfordshire in the period up to 2031 will be at least 15,950 homes. This comprises 13,200 homes in the period 2011 – 2031 to meet West

Oxfordshire's own identified housing needs and a further 2,750 homes in the period 2021 – 2031 to assist with the unmet housing needs of Oxford City. The Council is in the process of preparing a new Local Plan covering the period up to 2043, within which the total planned level of supply to 2043 would be 18,000 homes. Formal examination and adoption of this plan are expected during 2026-7.

Although some of this housing need will be made by development on "greenfield land" there will be development opportunities utilising previously developed (brownfield) land. Some, but not all, brownfield and greenfield sites may be contaminated. Development will see this contamination dealt with under the planning control regime. It is envisaged that most contaminated land remediation will continue to be dealt with through the use of 'land quality' planning conditions and informatives.

2 Key Concepts of the Contaminated Land Regime

2.1 General Principles

Part 2A should only be used where no appropriate alternative to address land contamination is available. This includes dealing with land contamination as part of the development control process (planning and building control), voluntary action, or other proactive regimes such as environmental permitting. The majority of contaminated sites in the UK are dealt with via the planning process.

The Government's main policy statement on contaminated land is contained within a DEFRA guidance document: Environmental Protection Act 1990, Part 2A: Contaminated Land Statutory Guidance, April 2012 ('the Statutory Guidance'). The principles of this have also been incorporated into the Ministry of Housing, Communities & Local Government's document "National Planning Policy Framework" (NPPF) which is regularly revised and updated.

UK policy on land contamination in the planning regime as set out in the NPPF, emphasises the Government's commitment to the environmental principles of "sustainable development" and "the polluter pays". It also requires that existing contamination that poses a threat to health or the environment is controlled and treated by the "suitable for use" approach.

2.2 Part 2A objectives

The overarching objectives of the Government's policy on contaminated land 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.

2.3 The requirement for a strategic approach

All local authorities are required to take a strategic approach to the identification of land in their area that merits detailed individual inspection. The Statutory Guidance requires that the approach adopted should be rational, ordered and efficient and it should reflect local circumstances. The local authority should set out its approach as a written strategy, which it should formally adopt and publish and which should be reviewed periodically.

The Statutory Guidance details the elements which should be included in the Strategy.

2.4 Definition of Contaminated Land

Section 78A(2) of the Environmental Protection Act as amended by the Water Act 2003, defines contaminated land as:

> Any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land that –
>
> (a) significant harm 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

With respect to controlled waters, the Water Act 2003 amended the second limb of the definition so that it applies only where "**significant** pollution of controlled waters is being caused, or there is a **significant possibility** of such pollution being caused". This change in the legislation became effective as of 6th April 2012.

The local authority has the sole responsibility for determining whether any land appears to be statutory contaminated land within its area.

Since the enactment of the contaminated land legislation, significant progress has been made in many technical areas of assessment and remediation of contaminated land.

2.5 The concept of a contaminant linkage

The presence of a contaminant in land does not of itself mean that it is contaminated land within the meaning of Part 2A. The Statutory Guidance refers to Contaminant Linkages. A contaminant linkage is a connection between a source of contamination and a receptor by means of a pathway. Prior to determining that any land appears to be contaminated land on the basis that significant harm is being caused, or that there is a significant possibility of such harm being caused, the Council will identify at least one significant pollutant linkage comprising each of the following:

- a contaminant (a substance which is in, on or under the land and which has the potential to cause significant harm to a relevant receptor, or to cause significant pollution of controlled waters);
- a relevant receptor (something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters); and
- a pathway (a route by which a receptor is or might be affected by a contaminant)

Contaminant linkages should be represented by a conceptual model for the site, which can either be in a diagrammatic form or tabulated, and shows the possible relationships between contaminants, pathways and receptors. The conceptual model is important throughout the whole process of risk assessment and should be refined as more information is gathered about a site.

Detailed definitions of the types of receptors are set out in Section 4 of the Statutory Guidance. The Statutory Guidance also refers to "significant contaminant linkages", referring to those that give rise to a level of risk sufficient to justify a piece of land being determined as contaminated land. In determining what is significant, the Council will have regard to Statutory Guidance issued by the Secretary of State.

The Council will also act in accordance with Statutory Guidance issued by the Secretary of State in determining whether significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused. Prior to determining that any land appears to be contaminated on the basis that pollution of controlled waters is being, or is likely to be, caused, the Council will have identified at least one significant pollutant linkage where controlled waters constitute the receptor.

2.6 Risk assessment

In order to determine whether there is the possibility of significant harm being caused, local authorities must consider the nature, extent and duration of contamination and assess the susceptibility of nearby receptors.

The Council will carry out an appropriate scientific and technical assessment, following the Land Contamination Risk Management (LCRM), produced by the Environment Agency. This is a technical framework for structured decision-making and reflects the Government's policy on how risks from land contamination should be managed. Other peer-reviewed scientific and technical guidance will be applied as appropriate.

The basic approach to risk assessment involves identifying the hazards (i.e. contaminant sources), assessing these in terms of pollutant linkages and the likely consequences, and then estimating the risk (i.e. predicting the magnitude and probability of those possible consequences). There are three tiers in the risk assessment process:

a) Preliminary Risk Assessment (desk study, site history, conceptual site model, qualitative risk assessment)

b) Generic Quantitative Risk Assessment (intrusive investigation, compare site data to generic assessment criteria, refine risk assessment)

c) Detailed Quantitative Risk Assessment (derive site specific assessment criteria for key pollutant linkages, refine risk assessment further to determine remedial measures).

2.7 Categorisation of Contaminated Land

The Council will follow the system of categorisation in the Statutory Guidance when considering whether a Significant Possibility of Significant Harm (SPOSH) exists at a site.

For each receptor, the Guidance details four categories.

Categories 1 and 2 would encompass land that is capable of being determined as contaminated land on grounds of SPOSH to human health. Categories 3 and 4 would

encompass land which is not capable of being determined on such grounds. A further description of the categories given in the Statutory Guidance Chapter 4 with a summary given in Table 2.1

Uncertainties arise in allocating land to Categories 2 and 3. The Government recognised that regulatory authorities may have difficulties in assigning land to Categories 2 and 3 and has appointed, through DEFRA, a panel of experts from industry and local authorities to assist local authorities in making decisions with regard to these uncertainties. That panel is now disbanded but detailed decisions made by the panel in cases submitted to it have been made available.

Category 4 Screening Levels (C4SLs) were published in 2014 which have been developed to help decide when land is suitable for use and definitely not statutory contaminated land. Soil Guideline Values (SGVs) and other Generic Assessment Criteria (GACs) are well within Category 4 and present minimal risk. The C4SLs are set at the top of Category 4 and although still precautionary, their purpose is to speed up the decision-making process for regulators. They are also very likely to act as a suitable remediation target for the development of brownfield land.

When considering whether significant harm is being caused, or there is a significant possibility of such harm being caused, to non-human receptors, Local Authorities should pay regard to Tables 1 and 2 of the Statutory Guidance. These address ecological system effects and property effects.

Table 2.1 Categories that may be allocated to sites

Category 1	Site probably or certainly not suitable for present use and environmental setting. Contaminants probably or certainly present and likely to have unacceptable impact on key receptors. Urgent action needed in the short term.
Category 2	Site may not be suitable for present use and environmental setting. Contaminants probably or certainly present and likely to have unacceptable impact on key receptors. Action may be needed in the medium term.
Category 3	Site considered suitable for present use and environmental setting. Contaminants may be present but are unlikely to have unacceptable impact on key receptors. Action unlikely to be needed while the site remains in present use or otherwise remains undisturbed.
Category 4	Site considered suitable for present use and environmental setting. Contaminants may be present but are very unlikely to have unacceptable impact on key targets. No action likely to be needed while the site remains in present use or otherwise remains undisturbed.

2.8 Development of the Strategy

This Strategy has been reviewed with particular reference to the 2012 DEFRA guidance and the Council has adopted the following approach:

Environmental & Regulatory Services has been identified as the lead service within the Council for the purpose of the Strategy. The designated officer responsible for Contaminated Land (Senior Officer - SO) will work with and consult other services including Development Management, Planning Strategy/Policy teams, Building Control, Land and Property and Legal Services, as appropriate. The SO also has responsibility for liaising with, and providing information to, the Environment Agency, Natural England, DEFRA, landowners, agents and members of the public in accordance with the Environmental Information Regulations and the Freedom of Information Regulations taking into consideration the General Data Protection Regulations.

The Council's previous review and update of the Strategy was undertaken 2019. This revised Strategy has been written in accordance with the 2012 DEFRA guidance and other amended legislation since 2011.

The SO will ensure that, as far as possible, land contamination is dealt with through the planning system or by voluntary remediation on the part of the current landowner. To date all sites have been dealt with in this way.

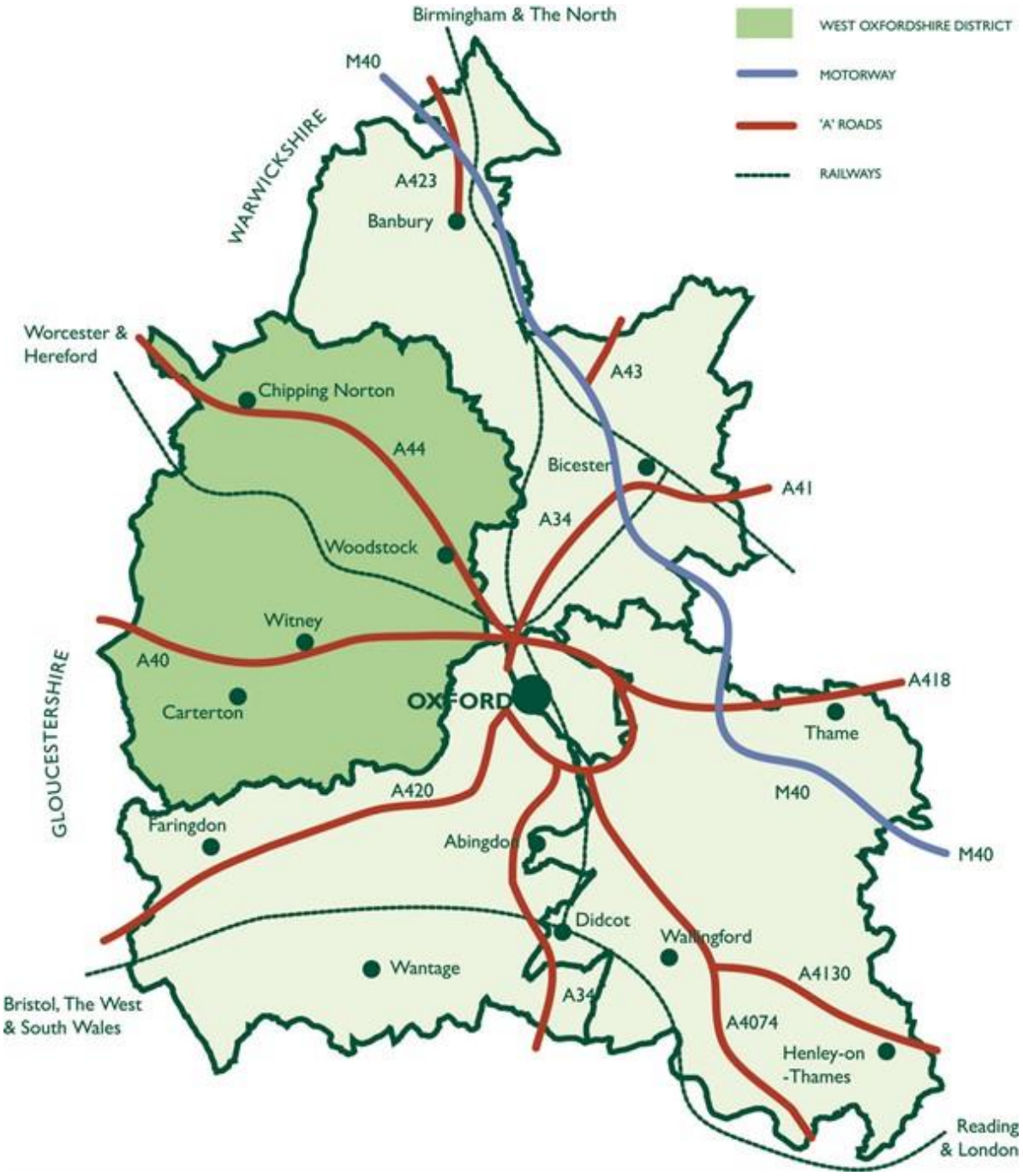
The SO will respond to requests for service and enquiries from members of the public regarding potentially contaminated land.

3. Characteristics of the West Oxfordshire District

3.1 Overview

West Oxfordshire is an area consisting of approximately 71,494 hectare and a population of around 120,000 people. The District's population is spread out over a wide area, however it is mainly concentrated in the towns of Witney and Carterton along with the smaller towns Burford, Charlbury, Chipping Norton and Woodstock. About 40 percent of the total population live in the District's two largest towns - Witney (around 30,000) and Carterton (around 16,000).

Figure 3.1 West Oxfordshire District



The District is predominantly rural in character, with agriculture being the main land use. West Oxfordshire contains some extensive sand and gravel and limestone resources particularly in the southern half of the District, focused on the Lower Windrush Valley and the area is the main supplier of sand and gravel in Oxfordshire, with a number of quarries supplying limestone. It has seen extensive mineral extraction for a number of years.

Industry is concentrated in the main population centres. The main industries in the past have been centred around blanket production and engineering supplying the car industry. These traditional industries have declined to be replaced by hi-tech industries such as bio-technical, computing, motor racing. The service sector and tourism are also important elements of the local economy.

3.2 Key Water Resource Issues

Thames Water supplies the majority of West Oxfordshire District with mains drinking water. There are however approximately 500 properties with private water supplies drawing drinking water from surface water, springs, wells, and boreholes. Of these, around 50 are supplying commercial units such as restaurants, hotels and shops, 46 water supplies are shared between roughly 380 properties, and a further 133 are not on a shared supply and only use their private water supply for domestic purposes. All the figures are approximate.

3.3 Geology

The geology of West Oxfordshire District is dominated by rock formations from the Jurassic period. The District comprises of a geological series of Clays, Siltstones, Mudstones and Limestones that get progressively younger towards the south-east of the District.

The oldest geological group to outcrop in West Oxfordshire is the Lower Jurassic Lias group, made up of the Upper, Middle and Lower Lias formations. The Lower Lias formation comprise of grey Mudstones with Limestones, entering the District in the north-west following roughly the Evenlode Valley a broad shallow basin where the River Evenlode runs. The Lower Lias can also be found to the north east tip of the District. The Middle Lias formation comprise of micaceous mudstones, siltstones and sandy textured Limestones are found in the north west of the District again following the Evenlode River Valley and to the north of the District. Between the Middle and Upper Lias there is a thin band up to 5metres thick of Marlstone a shell fragmented Oolitic Limestone which historically was excavated as ironstone in Fawler and currently in Great Tew. The Lias groups mainly exposed in the north of the District are predominantly soft rocks are folded and cut through by rivers and streams to form a complex topography.

The Lias group is overlain with a hard, well cemented Oolitic Limestone group, a sedimentary rock composed of small ooids which are small spherical grains formed in concentric layers. The Inferior Oolitic Limestone is fairly soft, sandy texture and yellow in colour at the base of the formation and becomes harder the younger the formation becomes. The strata at the top of the formation becomes more fossiliferous, to the north

east of the District alike to the Marlstone strata it has a high iron content which gives rise to the warm orange coloured stone which characterises buildings in the north of the District. The Inferior Oolite group occurs in localised outcrops along the edges of the Evenlode Valley and where the River Windrush enters the District in close proximity to Burford.

It is the thick bed of limestone of the Great Oolite group that dominates most of District and is composed of calcareous oolites and lithic fragments. The Great Oolite Limestones gives the Cotswolds its distinctive character in its building work and its use as an aggregate in industry. The Great Oolite group varies in sequence and soils overlaying this tend to be thin, well drained and calcareous, typically supporting medium grade arable farmland.

The Cornbrash strata, a thin band of up to 5metres thick marks the transition between the Great Oolite Group and the Oxford Clay formations. The Cornbrash is fine grained with shell debris containing limestone with thin bands of marlstone and mudstone horizons. The Cornbrash forms a series of low bluffs and hills, including the island of landform within the Windrush valley upon which the town of Witney was sited.

There are localised deposits of Oxford Clay, Kellaway Sand and Clay formations around Leafield, Ramsden and Combe, which create heavier soils and are typically under pasture or woodland. The Oxford Clay group is dominantly present in the south east of the District across the Upper Thames Clay Vale.

The limestone plateau is dissected by the main river valleys of the Windrush and the Evenlode with their alluvial superficial deposits predominantly under pasture. The low-lying flood plain landscape of the Upper Thames Clay Vale occupies extensive deposits of Oxford Clay soils which supports larger scale mixed farming. Large drifts of river gravels produce pockets of well-drained slightly elevated land, which supports more intensive arable farming in the District.

3.4 Hydrogeology

The Environment Agency Groundwater Vulnerability Maps provide information on the water beneath the land in the District. These indicate that there is a Principal Aquifer of high vulnerability running through the District approximately south-west to north, through Burford and Charlbury, north of Witney to Chipping Norton.

The high vulnerability major aquifers are found in the Oolite Limestone formations; the Inferior Oolite and Great Oolite. This formation has a medium porosity with grain sizes ranging from 0.5mm to larger grain and ooids which are cemented together under pressure over time. These provide high inter-granular and/or fracture permeability which can provide large amounts of water storage and high yield. They can support drinking water supply and/or river base flow on a strategic scale.

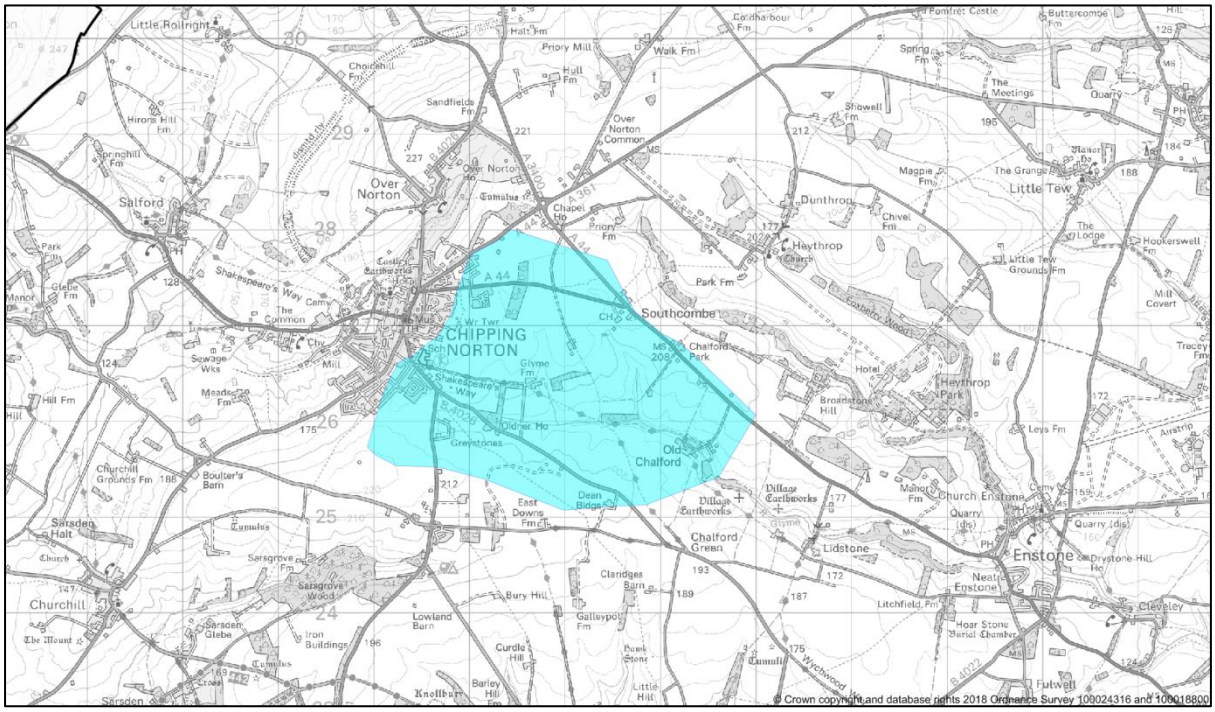
The superficial deposits in the West Oxfordshire District predominantly located within a 50m buffer zone surrounding the main rivers and tributaries, according to the Environment

Agency, contain permeable layers capable of supporting water supplies at a local rather than strategic scale, and in some cases forming an important source of base flow to rivers and minor aquifers that can supply water on a local scale.

There are numerous private water supplies throughout the District which benefit from the major aquifers in the area. Furthermore, there are a series of springs located in the District which supply not only private water supplies but also the small tributaries that feed the rivers of the District.

The important groundwater abstractions of the District for public drinking water supply are termed Source Protection Zones which are allocated by the Environment Agency. There is just one such area in the District and this can be found in the located in the area east of Chipping Norton. This is shown on the map below (Figure 3.2) in light blue.

Figure 3.2 Groundwater Source Protection Zone in West Oxfordshire District


CHIPPING NORTON
Over Norton
Salford
Southcombe
Old Chalford
Chalford Green
Little Tew
Heythrop
Dunthrop
Enstone
Church Enstone
Lidstone
Churchill
Sarsden
Sarsden Halt
Priory Mill
Walk Fm
Sandfields Fm
Over Norton Common
Chapel Hill
Priory Fm
Park Fm
Glyme Fm
Greystones
Old Rectory
Dean Bridge
East Downs Fm
Bury Hill
Lowland Barn
Gallsypot Fm
Claridges Barn
Curdle Hill
Barley Hill
Knollbury
Little Hill
Village Earthworks
Broadstone Hill
Heythrop Park
Leys Fm
Litchfield Fm
Hoar Stone Burial Chamber
Futwell
Cleveley
Chivel Fm
Magpie Fm
Shiwell Fm
Spring Fm
Quarry
Quarry (dis)
Mill Covert
Hookerswell Fm
Little Tew Grounds Fm
Meads Fm
Boulter's Barn
Iron Buildings
Sarsgrove Fm
Sarsgrove Wood
Churchill Grounds Fm
Hill Fm
Park Fm
Glebe Fm
Manor
Springhill Fm
Hirons Hill Fm
Sandfields Fm
Chadehill Fm
Hall Fm
Full Fm
Cumulus
Chapel Ho
Castle Earthwork
Shakespeare's Way
The Common
Chr
Mill
Sch
Wr Twr
Ch
Chalford Park
Hotel
Old Rectory
Greystones
Glyme
Shakespeare Way
Broadstone Hill
Village Earthworks
Quarry
Quarry (dis)
Dystone Hill Ho
Neatey Enstone
Litchfield Fm
Hoar Stone Burial Chamber
Futwell
Cleveley
Wychwood
Tumuli
Cumulus
Sarsgrove Fm
Sarsgrove Wood
Sarsden Glebe
The Mount
Church
Claridges Barn
Bury Hill
Lowland Barn
Gallsypot Fm
Curdle Hill
Barley Hill
Knollbury
Little Hill
Iron Buildings
Dunthrop
Heythrop
Chivel Fm
Magpie Fm
Shiwell Fm
Spring Fm
The Meetings
Quarry
The Grange
Little Tew
The Lodge
Hookerswell Fm
Little Tew Grounds Fm
Mill Covert
Tracey Fm
Airstrip
Leys Fm
Heythrop Park
Broadstone Hill
Hotel
Chalford Park
Park Fm
Glyme Fm
Greystones
Old Rectory
Dean Bridge
East Downs Fm
Village Earthworks
Chalford Green
Lidstone
Enstone
Church Enstone
Manor Fm
Quarry
Quarry (dis)
Dystone Hill Ho
Neatey Enstone
Litchfield Fm
Hoar Stone Burial Chamber
Futwell
Cleveley
Wychwood
Tumuli
Cumulus
Sarsgrove Fm
Sarsgrove Wood
Sarsden Glebe
The Mount
Church
Claridges Barn
Bury Hill
Lowland Barn
Gallsypot Fm
Curdle Hill
Barley Hill
Knollbury
Little Hill
Iron Buildings
Meads Fm
Boulter's Barn

Standlake the river moves south to Newbridge where the River Windrush joins the River Thames, which borders the southern edge of the District.

There are numerous smaller tributaries which alike to the River Windrush and the River Evenlode that join the River Thames south of the District or are smaller tributaries that feed the River Windrush and Evenlode. The rivers and lakes found in the south of the District are present due to the Oxford Clays and Kellaway beds and these formations low permeability, allowing the water to be contained.

3.6 Protected Locations

The District has a rich natural environment with around third of the District falling within the Cotswold National Landscape (formerly known as the Cotswold Area of Outstanding Natural Beauty) and 2% lies within the Green Belt surrounding Oxford city. Land on the eastern edge of the District falls within the Oxford Green Belt and at Cassington Meadows there is a Special Area of Conservation (SAC) of European importance. There are also a number of Sites of Special Scientific Interest (SSSIs) areas of Ancient Woodland and Local Wildlife Sites.

The District has:

- 3,200 listed buildings
- 149 scheduled monuments
- 51 conservation areas and
- 16 registered historic parks and gardens of special historic interest.

Blenheim Palace at Woodstock has been designated as a World Heritage Site.

3.7 Current and Past Industrial History

West Oxfordshire was not an area of widespread heavy industry and therefore contamination of land is not a major issue. Currently manufacturing has limited representation in West Oxfordshire although there is a high proportion of employment in manufacturing.

Potential contamination may be associated with the former blanket industry centred around Witney (where the River Windrush was fundamental to Witney's blanket industry) and with the many former quarries within the District, some of which have been infilled over the years with wastes.

One of the largest areas of land in single employment use is the air base at Brize Norton, employing around 5,800 service personnel, 1,200 contractors and 300 civilian staff, together with those employed in local support services.

One reasonably ubiquitous small scale commercial activity across the District is garages and fuel filling stations. By the mid-20th century, most villages and towns had at least one vehicle

repair garage which supplied fuel. At the turn of this century it was estimated there were around 13,000 filling stations in the UK, whereas by the 2020s the figure was around 8400. The majority of those that have closed since 2000 are thought to be rural filling stations. Many of these redundant forecourts have been redeveloped because their central setting in existing communities makes them sought after for housing.

3.8 Land owned by the District Council

The District Council owns or leases around 250 properties within the District. In specific instances, the Council may actively pursue the purchase of derelict land and redevelop this to improve the overall quality of an area.

4. Strategy Objectives, Milestones and Inspections

4.1 Aims of the Strategy

In accordance with the requirements of a strategic approach set out in Section 2.3, a prioritised list of the Council's aims has been devised to aid decision-making in a cost-effective manner.

The Council's priorities in dealing with contaminated land will be to:

- protect human health;
- protect controlled waters;
- protect designated ecosystems;
- prevent damage to property; livestock and crops, etc.;
- prevent further contamination of land;
- encourage voluntary remediation; and
- encourage the re-use of brownfield land.

Wherever possible, the Strategy will look to achieve these priorities through voluntary remediation and the redevelopment or regeneration of sites.

4.2 Prioritisation

The Council has considered the following factors in determining its approach to complying with its obligations within the Contaminated Land Regime:

- The most likely polluting sites (based on information provided within the DOE Industry Profiles) have already been remediated or redeveloped, or are still in active industrial use. Many of the remaining brownfield sites have been, or are due to be, coming forward for development and are included in the Local Plan.
- Some of the original sites have been determined as very low risk and have been retained on the list as of interest only to existing and future landowners. Examples of this are smithies and small, minor infilled sites in rural areas.
- The number of former industrial sites where some uncertainty remains over any potential legacy of land contamination is around 1900, which is a significant reduction from the initial number identified (2416 sites). It is likely that most of the sites on the priority list will NOT be considered as 'Contaminated Land'.
- Only one site has been identified or reported where the Council considers that there is a reasonable possibility that a significant contamination linkage exists (as defined in the Statutory Guidance). This is described below in section 4.3.3.

West Oxfordshire District Council is required to direct its resources to those areas of the District which are most problematic and likely to require action under Part 2A. As a

consequence of this statutory obligation, the Council undertook preliminary prioritisation of all known historical land uses within the District in 2007.

The prioritisation process undertaken by West Oxfordshire District Council assigns a risk-based score based on the likely risk exhibited by former land uses and the sensitivity of contemporary receptors present on the site. This process allowed the Council to rank the 1900 sites within the District, ensuring that any use of limited local and central resources is directed appropriately for highest risk sites. This prioritisation is continually reviewed to maintain its relevance, with new sites added for inspection and prioritisation as required.

If the Council becomes aware of land which should be inspected, the following procedures will be followed. The inspection strategy will use the contaminant-pathway-receptor model as an indication of significant contaminant linkages.

A map-based land categorisation and prioritisation method using a risk model is used to enable the identification of minimum information requirements. These requirements are:

- current land use plans;
- locations of current and former landfills and other areas of filled ground;
- locations of groundwater abstraction wells, both public and private;
- current surface water classification under the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017;
- current processes authorised by the Environment Agency or Local Authority under the Environmental Permitting regulations;
- location of statutory and non-statutory sites of ecological importance;
- potential sources of contamination based on the industries listed in the DOE Industry Profiles (as updated); and
- the current and historical locations of these industries.

The detailed procedures contained in the Statutory Guidance will be followed in all respects.

4.3 Part 2A inspections – progress to date

In the West Oxfordshire District, most contaminated land has been identified and managed in the course of assessing planning applications for land development and change of use. However, from time-to-time land which isn't being considered for changes of use under planning controls comes to the attention of the Council. Appropriate assessment is then undertaken.

Detailed inspection by intrusive site investigation works have occurred on three sites to date.

4.3.1 Former Enstone Quarry

The former Enstone Quarry, east of Church Enstone, is a disused quarry where working commenced soon after the Second World War. Planning permission for the filling of the quarry with waste was originally granted in 1977. However, in later years the land was subject to illegal tipping and was not restored, with waste deposited and left. The waste is a range of material including 'bin bag' domestic-type waste, tyres and construction wastes. Large parts of the site have revegetated after the site was abandoned.

In response to a query by a member of the public in 2019, inspections were undertaken by both the Council and the Environment Agency. Sampling of surface water concluded that the nearby spring was not being negatively affected by any leachate issuing from the nearby landfill. Samples were taken for testing from pile of fibrous material deposited near the site's western entrance. A significant heap of fibrous material in rolls near the entrance was not asbestos, however an apparently more recent deposit of cementitious material nearly 100m inside the site did contain asbestos fibre. The Council's technical team assessed that this was of very low risk to the public and would not meet the test of "statutory" contaminated land.

4.3.2 Chalcroft Close, Witney Road, Ducklington

Prioritisation studies, coupled with observations of visible hydrocarbon contamination by one resident, showed that eight dwellings built in the late 1990s, prior to current contaminated land legislation coming into force, were constructed on a former petrol filling station. Site studies dated 1999, presumably at the time of development, reported the presence of waste oil tanks, underfloor fuel tanks (slurry filled in 1991) a vehicle repair shop and possible spray paint area.

Invasive site investigation noted some oily ground at depth. It was unclear whether a contamination planning condition attached with permission for redevelopment was complied with and discharged. Some records exist to suggest that the fuel tanks were removed and remediation verification information indicated that some oil-saturated soils were excavated and the soils taken off site.

The Council commissioned its own site exploratory investigations on the land in 2006 and 2008 after the Council was successful in applying for and being awarded a grant from central Government in 2005. This included sampling of soils from the gardens of the properties.

In order for the land to be determined as statutory "contaminated land" the Statutory Guidance for Part 2A requires a specific decision that the intake of contaminants from the land is "unacceptable", which in technical terms is an intake that would result in significant possibility of significant harm. The findings of the various studies concluded that on the balance of probabilities the concentrations of contaminants observed were unlikely to lead to an "unacceptable intake" in the context of continuing residential use of the land and as such the land would not qualify as statutory contaminated land under the Part 2A legislation.

The study concluded that underground fuel infrastructure associate with the former petrol station had been removed but some visually contaminated soils remained at site.

In conjunction with the Environment Agency it was decided that there was minimal risk to groundwater beneath the site or surface water.

4.3.3 RAF Brize Norton Bulk Fuel Installation 5

At the eastern area of the Brize Norton airfield was a series of fuel storage tanks. A series of invasive site investigations from c2002-2008 found that contamination of the subsoil had occurred, presumably through leakage or loss of the fuel stored there. The result was contamination of the underlying groundwater, with a "smear zone" of fuel where the groundwater levels had risen and fallen according to the seasons. Some of these investigations had indicated a significant thickness of free phase fuels on top of the groundwater, albeit that this was decreasing over time.

Although two fuel storage areas were investigated, known as Bulk Fuel Installation 3 (BFI3) and Bulk Fuel Installation 5 (BFI5) respectively, in 2006 the Council determined as statutory contaminated land the BFI5 facility at RAF Brize Norton. It was then designated as a Special Site in accordance with Section 78c(1) Environmental Protection Act 1990 on 27th November 2006, meaning that the Environment Agency became the lead regulator.

Investigations in 2008 determined that the free phase hydrocarbons were localised around one area of the facility. In 2009 a remedial works plan was put together that comprised:

- removal of the fuel tanks and associated pipework at both BFI3 and BFI5
- Excavation of suspect contaminated soils until it was confirmed by testing that all of the contaminated material was removed
- Backfilling of voids with clean material
- Treatment of contaminated material on-site to break down contamination by natural means - biodegradation by naturally occurring micro-organisms within the soil
- Treatment of groundwater arising.

This allowed recovery of soils for reuse on site and to minimise off-site disposal to local landfills. The outcome is that ground contamination has been removed and subsequent groundwater monitoring in the vicinity has shown a general decrease in hydrocarbon concentrations in line with expectations.

4.4 Overlapping Regulatory Functions

4.4.1 Overview

Part 2A should only be used to secure remediation of contaminated land where no appropriate alternative solution exists. There are several regulatory functions that provide local authorities with legislative powers to deal with land contamination including planning, building control and Environmental Damage regulations. Action under Part 2A may be precluded where action under these regimes results in a desirable outcome, however, these should be assessed on a case-by-case basis. In the commercial site example given in the previous section, the planning process took over dealing with land contamination excluding action under Part 2A.

4.4.2 Inspection and remediation via the Planning Process

The planning system has been, and continues to be, the main mechanism for the identification and management of land affected by contamination. Land contamination is a material consideration in the planning system. Potentially contaminated sites can be addressed by applying planning conditions on development schemes, requiring contamination assessments and where applicable, remedial work and verification. The planning process considers the future uses of a site and where development doesn't proceed, it may still be necessary to default to the Part 2A regime.

The approach to contaminated land in planning is set out in the Government's National Planning Policy Framework (NPPF) revised in 2026. The latest planning policy makes some reference to brownfield and contaminated land:

> Substantial weight should be given to the benefits where a development proposal would achieve……
>
> a. Remediating despoiled, degraded, derelict, contaminated or unstable land;
> (*NPPF National decision-making policy L2: Making effective use of land*)
>
> Development plans should allocate land…..:
>
> …"Opportunities can be taken to improve local environmental conditions, such as by remediating despoiled, degraded, derelict, contaminated and unstable land;
>
> …Ground conditions will not inhibit or pose a risk to the nature of the development proposed (such as due to land instability), and occupiers and users will not be put at risk from, or be adversely affected by, unacceptable levels of pollution;
>
> …Development proposals will not cause unacceptable levels of pollution, either alone or in combination with other pollution sources, taking into account communities which may be particularly vulnerable to its effects, such as children and older people, as well as habitats and species which may be vulnerable to pollution"
> (NPPF *Plan-making policy Section P1: Planning for clean and safe places*)
>
> Sites proposed for development should be suitable for their proposed use taking into account:
>
> a. Ground conditions, including any risks arising from land instability or contamination (whether due to natural hazards or current and former activities such as mining or fuel storage); and
> b. The extent to which any such risks can be mitigated, and the potential impacts on the natural environment arising from remediation.

Where land is remediated it should, as a minimum, not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990.

Adequate site assessment information, prepared by a competent person, should be available to inform these considerations.

Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
(*NPPF National decision-making policy P2: Ground conditions*)

Development proposals should be appropriate for their location, taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, whether these effects are on or off-site; and whether this is as a result of the development itself or the product of preexisting conditions in its vicinity. In assessing the potential effects of pollution, consideration should be given to the potential sensitivity of the site, and its intended occupiers and users, as well as that of the environment and population in the surrounding area (including where certain groups could be particularly vulnerable to its effects, such as children and older people).

It is important therefore that the Senior Officer for contaminated land (SO) maintains close liaison with the planning department to ensure that, where land affected by contamination is to be developed, site investigation and, where necessary, remediation is carried out to the appropriate standard. The SO would provide technical assistance to the planning department in assessing planning applications and site investigation reports presented by developers.

The Council seeks to use the planning process to bring previously developed land into use as part of its sustainable development objectives.

At the time of writing, a number of sites which had the potential to be contaminated land under the Part 2A legislation have been or are being dealt with by the action of developers through the Planning process over the last 5 years. Some examples are as follows:

RAF Stanton Harcourt

RAF Stanton Harcourt was established as an airfield during the second world war and closed after the war was ended. Although much of the site was later worked for minerals the eastern part of the site, including many derelict wartime buildings, survived into the 2020s. This part of the former airfield was redeveloped for housing from 2020. Whilst this former brownfield site is located on the edge of the village parts of its heritage have been retained by repurposing some of the former Air Force buildings and structures and incorporating them as features in the new development.



Figure: View of former RAF Stanton Harcourt disused airfield prior to development



Figure: View of former RAF Stanton Harcourt disused airfield after development

Former petrol station and public house, Upavon Way, Carterton

A former petrol station and adjoining public house have been cleared and redeveloped for housing. The petrol station had closed some years previously and the major below-ground infrastructure was removed at that time, in accordance with good practice. Fuel tanks were

removed from the ground and prior to redevelopment remaining buried obstructions were removed and a programme of ground sampling and testing was carried out to demonstrate that the land was suitable for residential use. The land was subsequently redeveloped for 46 new homes in 2022.

Over 500 site investigation and remediation reports have been received and reviewed by the Council in connection with planning and building control applications within the last five years.

4.4.3 Brownfield Registers

All councils are required by the Brownfield Land Register Regulations (2017) to publish a register of previously developed sites in their areas which are capable of being redeveloped or converted to provide housing-led development.

Brownfield registers provide a public, up-to-date list of previously developed land suitable for housing to promote the reuse of existing sites with existing infrastructure rather than greenfield sites. The District's Brownfield Register is available for public download on the Council's website.

4.4.4 Building Control

Part C1 of Schedule 1 of the Building Regulations (2010, updated 2013) introduced the requirement for reasonable precautions to be taken to avoid danger to health and safety caused by contaminants on or in the ground covered, or to be covered by the building and any land associated with the building.

Technical guidance issued by the HM Government in the form of The Building Regulations 2010 Approved Document C – Site preparation and resistance to contaminates and moisture (2010, updated 2013), provides advice on site preparation and resistance to contaminants in order to mitigate the effects of contaminants, whilst recognising the connection between building control, planning and environmental protection.

The responsibility for securing a safe development rests with the developer and/or landowner, who should be made aware that actions or omissions on their part could lead to liability being incurred under Part 2A.

The building control function has an increasingly important role in securing a safe development with the rising number of developments being constructed using permitted development rights that do not require planning permission. Where contamination potential exists, restrictions on building approvals should be used to ensure developers undertake appropriate site assessments and address any unacceptable risk to human health and safety as part of the development.

4.4.5 Environmental Damage Regulations

The Environmental Damage (Prevention and Remediation) Regulations 2009 ('EDR Regulations') (S.I. 2009/153) as amended in 2015 and 2017 provide a mechanism to deal with environmental damage to land, water or ecosystems where this is caused by business activities and where the damage occurred after March 2009. This relies on the polluter pays

principle requiring operators of commercial activities to have in place measures to prevent environmental damage and take remedial action if it does occur.

The term 'environmental damage' has a specific meaning in the regulations and is damage that adversely affects land, surface or groundwater, marine waters, protected species or natural habitats or a site of special scientific interest. The Council has enforcement responsibilities in relation to damage to land where this results in a significant risk of adverse effects on human health. Enforcement responsibility for damage to water is held by the Environment Agency, whilst damage to natural habitats or protected species or sites of special scientific interest is enforced by Natural England.

4.4.6 Environmental Permitting

The Environmental Permitting Regulations (England and Wales) 2016 control emissions from industrial processes, waste operations, water discharges, groundwater activities and radioactive substances and give the enforcing authority the ability to apply conditions to permits to control activities and discharges to land, air and water.

Operators holding an environmental permit are liable for the prevention and remediation of environmental pollution under these Regulations.

4.4.7 Other regulatory functions

The examples of overlapping regulatory functions provided above may not be exhaustive. Furthermore, environmental legislation and regulatory responsibilities do not remain static. The Council will ensure the impact of any new legislation implemented following publication of this Strategy is taken into consideration when implementing the contaminated land regime.

4.5 Other contaminated land activities

Regular external liaison takes place with a number of other bodies including the Environment Agency (EA), UK Health Security Agency (UKHSA) and Health and Safety Executive (HSE).

A close working relationship is maintained with other Council Departments, including Planning, Building Control, Land and Property, Legal Services and IT/GIS.

A large number of land quality enquiries have been received since the original Strategy was produced, mainly by land search consultants and conveyancing solicitors. Many of these required a detailed written response. Furthermore, enquiries from the general public and local businesses were also regularly received, requesting advice and information. These related mainly to the loss of substances to land, such as heating oil spills in the District at private homes and commercial premises and fires leaking to asbestos fibres being deposited on adjoining land.

Guidance relating to general contaminated land matters has also been produced as follows:

- West Oxfordshire District Council Land Contamination Developers' guide for planning applications Planning Applications, November 2024 (see References).

4.6 Radioactive Contamination

The Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005 (SI 2005/3467) (as amended in 2010 and 2018) and the Radioactive Contaminated Land (modification of Enactments) (England) Regulations 2006 (S.I. 2006/1379) (as amended 2007-2018) make provision for Part 2A to be extended for the purpose of identification and remediation of radioactively contaminated land where this is causing harm to human health only.

The regime for radioactive sites was amended in 2010, which redefined the term "substance" for radioactive contaminated land, removing the exclusion for radon and its decay products. The change allows the regulator to take action where land is contaminated by radon or its decay products as a result of the after-effects of a radiological emergency or a past activity e.g. radioluminescent paint remnants. Naturally occurring radon gas continues to remain outside the scope of this regime and is instead managed by identifying whether a building is in a radon affected area and applying appropriate protection. Existing homes with high levels use measures like improved ventilation or radon sumps.

5 Inspection Process

5.1 Introduction

The inspection process thus far carried out by the Council has identified sites for urgent action. These sites have been researched, and where appropriate inspected, with funding through the DEFRA Capital Grants allocation. A number of potentially contaminated sites have been and are being inspected and remediated through the planning process. In many cases, this has been done by site developers where the use of the site has been changed to introduce a more sensitive receptor, as in the case of a change from industrial to residential with gardens, for example.

The inspection process must reflect the requirements of primary legislation and relevant Statutory Guidance and be capable of identifying contaminated land.

5.2 Inspection Stages

The Council has adopted a strategic approach to inspection as required by Government. This is broken down into five process steps:

Stage 1a – District Survey
The purpose of this stage of the Strategy is to gather information on potentially contaminative land uses, receptors and pathways from a variety of sources, including historical maps and records, data sets published from authoritative sources including the Environment Agency, British Geological Survey and information held on public record.

Whilst there is an ongoing need to maintain and update information for the District, this stage of the inspection process is effectively complete, allowing progression to Stage 1b.

Stage 1b – Prioritisation of sites for detailed inspection
There is a statutory requirement for a risk based approach in prioritising sites with the greatest potential to cause significant harm, although a methodology to achieve this has not been defined by Government. The Council has applied a prioritisation methodology in line with systems used by other authorities but which makes use of existing corporate systems and data and is customisable to reflect local circumstances. This is shown in Appendix B.

Stage 2 – Site Walkover and Inspection of the site
During the initial site prioritisation some site visits may have taken place. However, it is only following the collation of a desk study that a targeted site walkover can be conducted, taking into account all previously identified sources, pathways and receptors. It may be necessary at this stage to inform the site owner, if known, that the site has been prioritised for inspection.

Stage 3 - Intrusive Investigations
The requirement for intrusive investigation will be determined based upon the Site Characterisation and risk assessment carried out in the previous stages. The Council may

engage consultants to undertake the analysis of this data and preparation of the scope of investigation and a site investigation protocol.

A desk-based study may be sufficient to quantify the level of risk or it may be necessary to undertake an intrusive investigation to assess ground conditions and associated contaminant concentrations. The output from this inspection stage should provide sufficient information to categorise the site as required by Statutory Guidance.

Stage 4 – Determination

The local authority is responsible for determining whether land is contaminated land and has a duty to do so where:

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

In fulfilling this role, the Council will act in accordance with relevant Statutory Guidance, seeking expert advice, if required.

For sites that are determined as contaminated land, following a thorough risk assessment, the Council will produce a risk summary, in a simple and easy to understand format, and this will form part of the record.

Stage 5 – Remediation

When land is determined as contaminated land, the local authority must secure the remediation of that land. The Statutory Guidance will be followed to ensure the significant pollutant linkages identified by the inspection process are removed or disrupted to such a level that they no longer present a significant risk.

Further information including an outline of the processes to be completed in each stage is provided in the following sections.

5.3 Inspection Programme

The legislation and Statutory Guidance are not prescriptive in terms of how quickly the work on contaminated land needs to be completed, however, each local authority is required to set out in its strategy the timescales for the inspection process. **Table 5.1** sets out the anticipated timetable for completion of each stage of the inspection process. Prioritisation is reviewed and updated from time to time as new information arises.

Table 5.1 Timetable for inspection process

Stage	Task summary	Target Completion Date
1	District survey	Completed
	Initial prioritisation	Completed
2	Detailed Inspection	Unknown, as urgent inspections arise
3	Determination	As required following detailed inspection
4	Remediation	Within 12 months of determination

5.4 Reactive investigation

If the Council is made aware of any site not already listed on the database of potentially contaminated land that has the potential to be contaminated land under the Part 2A definition, then a process of investigation will be carried out in the same way as those sites already on the Council's database of potentially contaminated land. The site would be subjected to the same process of prioritisation as sites already listed. If the risk-based assessment of the site, based on available information, indicates urgent action should be taken, a detailed inspection would follow.

If the status of a known site should change, as in the case of the introduction of a new receptor for whatever reasons, then the site would be reassessed in terms of risk to those receptors. If it seems to the Council that the risks now posed by the site are such that a detailed inspection should be carried out by the Council then this will be done with due regard to current best practice and published guidance.

Once a detailed inspection of the land in question has been completed and sufficient information has been gathered to indicate that regulatory action is necessary, land likely to be in Category 1: Human Health or Water in the Statutory Guidance, a risk summary will be produced as required under Section 3 of the Statutory Guidance. This summary will be communicated to all identified stake holders.

5.5 Information requests and the Public Register.

The Council receives a steady flow of requests for information on contaminated land from consultants undertaking environmental assessments to property vendors and purchasers and their solicitors. It is important, therefore, to maintain the database of sites so that responses can be made to these queries on the basis of up-to-date information.

The Council is required under Section 78R of Part 2A to maintain a register containing prescribed particulars of actions taken by the Council in relation to the determination of contaminated land. The register is available, at all reasonable times, for inspection by the public free of charge. At the present time there is one entry on the Council's public register.

5.6 Strategy Review.

This Strategy will be reviewed after 5 years unless changes in legislation, Statutory Guidance or other factors dictate that the Strategy should be reviewed at an earlier date.

6. Determining Liability

6.1 Principles of Assigning Liability

It is the intention of Part 2A that the appropriate person, ideally the 'polluter', pays for the cost of remediation, as a result of voluntary or formal action.

The Council will carry out inspections and assessments as set out in the previous Chapter. It will then decide whether the land is statutory contaminated land and decide whose responsibility it is for managing the contamination.

As part of the process of determining that land is contaminated land the Council will have identified at least one significant pollutant linkage resulting from the presence of at least one significant pollutant: land may be declared contaminated upon the identification of one significant contaminant linkage. Full liability therefore, cannot be decided until all significant contaminant linkages have been identified. Only then can the procedure relating to the apportionment of liability commence.

The apportionment of liability has five distinct stages as follows:

- Identifying potential appropriate persons and liability groups
- Characterising remediation actions
- Attributing responsibility to liability groups
- Excluding members of liability groups
- Apportioning liability between members of liability group

These procedures are complex and will be undertaken in accordance with the Statutory Guidance.

6.2 Identifying Liable Parties

The Council is responsible for identifying relevant parties who are obligated to undertake remedial works.

The legal liability for remediating contaminated land follows a hierarchy: in the first instance the person caused the contamination would be liable, for example the original operator of the site or a subsequent developer who built houses on the land. If these parties cannot be found or no longer exist then liability passes to the current landowner. In some cases this might be the owner-resident of the site.

All appropriate persons with responsibility for any one linkage are a 'liability group'. These may be Class A or Class B persons.

Appropriate persons – Class A

These are generally the polluters who caused the contamination in the first place but also include persons who 'knowingly permitted' the contamination. This includes developers who

leave contamination on a site which subsequently results in the land being determined as contaminated.

Appropriate persons – Class B

Where no Class A person has been identified, liability reverts to the owner or occupier of the land. These are Class B persons, who were not responsible for causing the original pollution. Class B parties are only liable for remediation of contamination within the boundaries of their property and cannot be held liable for any pollution of controlled waters.

The Council will make all reasonable enquiries to identify the Class A persons before liability reverts to the current owner or occupier.

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

6.3 Orphan Sites and Orphan Linkages

A situation may arise where there is at least one significant contaminant linkage at a site and there is no Class A or Class B person found. Then the site would be termed an "orphan site" and the enforcing authority would bear responsibility for carrying out remediation of the land and bearing the cost of that remediation. Similarly, if there are a number of significant contaminant linkages at a site and if there is no Class A or Class B appropriate person for at least one of the linkages, such a linkage would be considered an orphan linkage and the enforcing authority would bear the responsibility of remediating that linkage.

6.4 Apportionment of Costs

Usually, the members of a liability group will have the total costs falling on the group as a whole apportioned between them. It may also be necessary to apportion the costs between liability groups. The Council will have regard to the Statutory Guidance in the application of the exclusion and apportionment tests.

6.5 Special Sites

The Council and the Environment Agency can both identify potential 'Special Sites' but a site cannot be designated a Special Site until the Council determines it as 'Contaminated Land'.

If the Council requests an inspection of a potential Special Site, the Environment Agency will prioritise this site alongside its other potential Special Site inspection requests.

Once the Council is satisfied that a site has been determined as Contaminated Land and designated a Special Site, the Council will notify the Environment Agency of this fact in writing. If the Agency disagrees on the designation, it must notify the Council of that fact in writing within 21 days.

In cases where the Environment Agency and the Council disagree the matter will be referred to the Secretary of State who may confirm or reverse the Council's decision with respect to all or part of the land. The Council will, in all cases, consult with the Environment Agency prior to giving formal notice.

If the Agency agrees or fails to inform the Council with 21 days, then the land will be designated a Special Site. The responsibility of securing remediation then passes to the Environment Agency although the Council must complete the formal notification process. This will involve the Council also notifying the owner, occupier and appropriate person with respect to that site or land.

7. Remediation

7.1 Purpose

Once the land has been identified as contaminated land and the relevant persons have been notified, a process of consultation begins to determine what remediation is required on that land.

The aim of remediation is to remove or take measures to remedy the identified significant contaminant linkages, or permanently to disrupt them to ensure they are no longer significant and that risks are reduced to an acceptable level, where the land would no longer qualify as contaminated land. Where this is not achievable, consideration should be given to remediation to a lesser standard to minimise risks as far as possible.

7.2 Definition of Remediation

Remediation is defined in s78A of the Environmental Protection Act 1990 as:

a) The doing of anything for the purpose of assessing the condition of –
   (i) The contaminated land in question;
   (ii) Any controlled waters affected by that land; or
   (iii) Any land adjoining or adjacent to that land;

b) The doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or waters for the purpose-
   (i) Of preventing, or minimising, or remedying or mitigating the effects of, any significant harm, or any significant pollution of controlled waters, by reason of which the contaminated land is such land; or
   (ii) Of restoring the land or waters to their former state; or

c) The making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or waters.

7.3 Remediation Notices

Following determination of contaminated land in its area, the Council has a duty to serve a remediation notice on the appropriate person(s) following a three-month consultation period unless there are no viable remedial options, voluntary remediation is being or will be undertaken without the need for a notice, or there is a need for urgent action where there is imminent risk of serious harm.

In considering whether the requirement to undertake the remediation is reasonable, the Council will consider:

a) The practicability, effectiveness and durability of remediation including whether it is feasible for the appropriate person to complete the remediation specified within the timescale given, and whether this will remain a robust and effective solution for a sufficient length of time;

b) The health and environmental impacts of the chosen remedial options including whether there are any direct or indirect health effects to workers or people affected by the works, or potential for damage to the countryside, protected building and other sites of importance caused by the work;

c) The financial cost which is likely to be involved at all stages of the process including preparation, remediation, monitoring, maintenance and value of the land; and

d) The benefits of remediation with regard to the seriousness of the harm or pollution of controlled waters in question including increased land value following remediation and the likelihood of an occurrence or recurrence of pollution.

A remediation notice must specify what remediation is required and the timescales in which this must be done. When considering what remedial action is required, the Council will consult other regulatory bodies and have due regard for relevant technical guidance provided by regulatory, professional or technical organisations or act on the advice of a suitably qualified practitioner employed for that purpose.

A remediation declaration must be prepared in situations where the Council itself has caused or knowingly permitted the land to become contaminated land and is responsible for its remediation.

In accordance with the requirements of s78R of the Environmental Protection Act 1990, a copy of any remediation notices or remediation declarations prepared will be placed on the public register.

In the event that new information comes to light that alters the extent of remediation required or an alternative remediation scheme is proposed by the responsible person, it is possible to revise or revoke all or part of the notice.

7.4 Voluntary Remediation

The Council actively encourages voluntary remediation and will work with the appropriate person(s) during the consultation period to secure the informal remediation of contaminated land without the need for a formal notice.

Where voluntary remediation is considered appropriate, a remediation statement will be used in place of a notice to record the nature and extent of remediation required, the person responsible for the remediation and the delivery timescales. In accordance with the requirements of s78R of the Environmental Protection Act 1990, a copy of the remediation statement will be placed on a public register.

7.5 Financial Considerations

The cost of remediation of contaminated land can be considerable. The cost of remediation must be reasonable and proportionate to the seriousness of the harm or pollution to controlled waters. When considering the reasonableness of costs, the Council will take into consideration:

a) Preparation costs including feasibility studies, remedial design and management
b) Remediation costs including making good afterwards
c) Land management costs including on-going monitoring and maintenance
d) Relevant disruption costs
e) Financial value and utility of the land as a result of remediation and who this affects.

The identity or financial standing of the appropriate person is not relevant when considering the remediation actions, although they may be relevant in deciding whether the cost of remediation can be imposed on such persons.

In making any cost recovery decision, the Council will have regard to the following principles:

- The authority should aim for an overall result which is fair and equitable as possible to all who may have to meet the costs of remediation, including national and local taxpayers; and
- The 'polluter pays' principle, by virtue of which the costs of remediating pollution are to be borne by the polluter. The local authority should therefore consider the degree and nature of responsibility of the Appropriate Person for creation, or continued existence, of the circumstances, which lead to the land in question being identified as contaminated land.

In general, this will mean that the Council will seek to recover, in full, its reasonable costs unless it waives or reduces the recovery of costs to:

- Avoid any hardship which the recovery may cause to the appropriate person; or
- To reflect one or more of the specific considerations set out in the Statutory Guidance.

7.6 Appeal Procedure

Remediation notices served by the Council will contain information on the right to appeal. The appeal period is twenty-one days from service of the notice and any appeals must be made to the Secretary of State who could quash the notice or confirm it with or without modification.

7.7 Offences

Any person failing to comply with the requirements of a remediation notice is guilty of an offence and may be fined following successful prosecution.

7.8 Remediation by the Local Authority

If the Council considers that serving a remediation notice would not result in the remediation happening soon enough, it may decide to carry out the remediation itself. This may happen where:

- urgent action is required
- no appropriate person can be found ("orphan sites")
- where persons are excluded on the grounds of hardship
- where persons responsible are in default of a remediation notice
- where an arrangement has been made whereby the Council carries out the remediation on behalf of appropriate persons.

Urgent remediation will occur where the Council is satisfied that there is imminent danger of serious harm or serious pollution of controlled waters or serious harm attributable to radioactivity being caused as a result a significant pollutant linkage that has been identified. In all appropriate cases the Council will seek to recover costs of remediation works it has completed.

8. Liaison and Communication

8.1 Internal communication

Before any site is determined as contaminated land, relevant departments within the Council will be consulted for their views and a brief will be produced to inform senior management and Legal Services. Elected members, in whose area the site is located, will also be informed of the proposed statutory determination.

Members of the Cabinet will also be informed at the earliest opportunity of any plans to determine Council owned land where the Council might be considered the Appropriate Person and liable for remediation costs.

8.2 Communication with other statutory bodies

As a local authority, West Oxfordshire District Council is the primary regulator for dealing with land which is affected by contamination. The Environment Agency, as the national environmental regulatory body, compliments this role and thus it is important for both organisations to exchange and rely on information from each other. The Council will provide information to the Environment Agency as necessary to fulfil its duties under the contaminated land regime.

The Council will contact the Environment Agency on designation of a site as contaminated land and whenever a remediation notice, statement or declaration is issued or agreed.

The Environment Agency is also required to report annually to the Secretary of State on the state of contaminated land in England and Wales. This includes:

- A summary of local authority inspection strategies, including progress and effectiveness;
- The amount of identified contaminated land and the nature of contamination; and
- Measures taken to remediate contaminated land.

The Council will provide information, upon request, to the Environment Agency to allow it to fulfil its reporting obligations to the Secretary of State.

When considering determination of a potentially contaminated site, the Council will engage in consultation with any other organisations that might have an interest in the site or that might be able to provide help and assistance. Such organisations include other affected Local Authorities, the UK Health Security Agency, the Natural England, Gloucestershire County Council, the HSE and DEFRA.

8.3 Communication with Stakeholders

The Council aims to proceed with the process of investigating sites in a transparent and open manner. It will act to keep interested parties informed and updated regarding progress with the site inspection, as required by the Statutory Guidance.

The Council is required to follow the procedures detailed in the Statutory Guidance when considering determination of a site as contaminated land. When requiring remediation of a contaminated site, the regulations provide an incentive for voluntary action. Also, voluntary remediation is often more likely to achieve a higher level of improvement in comparison to the minimum that can be statutorily required.

The Council will, therefore, seek voluntary action wherever possible, only considering subsequent enforcement action if voluntary action is refused or considered unlikely to satisfactorily remediate the site.

8.4 Risk communication

Reference should be made to the publication *Communicating Understanding of Contaminated Land Risks - SNIFFER (May 2010).* The Council will be involved in the assessment of risks associated with contaminated land and ensuring that unacceptable risks from contamination are appropriately managed.

Hence, there is a need to carefully assess how to anticipate and respond to the concerns, anxieties and expectations that may arise in response to land contamination. It is not possible or practical to eliminate each and every risk, i.e. it is not practical or financially viable to remove all risks from contamination, and in some cases it is not technically possible to do so. However, public perception and concerns are very real and should be addressed seriously and with sensitivity as part of the risk management programme.

Managing the potential conflict around the risk issues requires attention to the content of risk information, and to the appropriate procedures at relevant stages in the decision making process. The procedures should address the following:

- The need for two-way communication;
- Transparency to create trust in the regulatory role; and
- Openness to enhance the legitimacy of the overall process to the stakeholder.

Risk communication should include the overall rationale and methods behind the assessment and management process. Risk communication for a site should be flexible in terms of procedures and reflect the content and history around a particular contaminated site.

8.5 Consultation on the Inspection Strategy

Consultation on the original 'Contaminated Land Inspection Strategy (2001)' occurred with Council members, the Parish Councils, other Council departments, relevant organisations and the public. This version of the Strategy replaces the 2019 update which was revised to include consultation with the CLOs from the county of Oxfordshire and other external consultees.

This revised Strategy has also been circulated for consultation and the list of consultees for this Strategy will be found in Appendix A.

8.6 Information Management

8.6.1 Maintaining a Public Register of Contaminated Land

The Council maintains a Public Register of Contaminated Land. This is a written record of any determination that particular land is contaminated. The public register will include information on the land after determination of the land as Contaminated Land, including all data and information used to support the designation of the land as contaminated land.

8.6.2 Data Storage and Requests for Access to Information

Information obtained and collated under this Strategy is stored in both spreadsheet and GIS-based software.

An important development is that the information has been linked to the Council's information database (Idox-Uniform) so that the location of potentially contaminated sites can be accessed in relation to Development Control and Building Control, Environmental Health and Forward Planning activities.

The Council regularly receives requests for information on contaminated land. Most of these requests are in relation to land/property purchase and transfer and the Council's records may be inspected by other agencies, commercial concerns and private individuals in this respect.

The Council is subject to the requirements of the Environmental Information Regulations 2004, the Freedom of Information Act 2000, the Data Protection Act 2018 and General Data Protection Regulations and several other pieces of legislation governing the storing and provision of information, such as the requirements of Town and Country Planning. The Council will make the majority of information held by it relating to potentially contaminated land available in the public domain unless there is a good and legally valid reason not to do so.

Note that while records will be made freely available for inspection, it may not always be possible to provide or allow copies of this information as a result of copyright restrictions, or further copyright restrictions might apply to documents made available. There are occasional circumstances where information pertaining to land condition may be deemed commercially confidential (such as under the regulations governing environmental permitting (Environmental Permitting Regulations (England and Wales) Regulations 2016) and thus not made generally available. Information that if available would be prejudicial to national security or where disclosure might prejudice future legal proceedings will also be restricted.

The Council is aware that information on land contamination is a sensitive issue, as it can often contain terms and descriptions that are emotive, which if incorrectly handled would give rise to concern and blight. The Senior Officer for contaminated land can be contacted to provide advice and assistance with information on contamination.

The Council may make a reasonable charge for the supply of information, and for significant efforts to retrieve data.

8.6.3 Access to the Public Register

The public register will be made available free of charge at the Regulatory Services offices of the Council during office hours. Whilst it is not a requirement that an appointment is made, the availability of staff competent to answer any matters that may arise from inspection of the register cannot be guaranteed without prior notification.

8.6.4 Information to be withheld from the Public Register

As outlined in section 8.6.2, under certain circumstances the Council may not or cannot place information on the public register (or release in response to other requests). Circumstances where information is withheld include:

a) where it is in the interests of national security; and

b) where this is commercially confidential, or

c) where data is subject to the Data Protection Act 2018 and the General Data Protection Regulations.

Where information has been excluded from the public register for reasons of commercial confidentiality, a statement will be included on the register to indicate this.

8.6.5 Response to enquiries

The Senior Officer within the Environmental & Regulatory Services team will respond to land search enquiries which request any knowledge the Council has regarding the condition of the site, the surrounding area, and any intentions the Council has in regard to inspection of the land under Part 2A of the Environmental Protection Act.

8.6.6 Complaints

From time to time the West Oxfordshire District Council may receive a complaint relating to land contamination from a member of the public, business or community group. Interested residents may also voluntarily supply information relating to the condition of land that is not directly affecting them, their families or their properties.

- an initial response will be made acknowledging the complaint
- complaints will be treated in confidence initially[1]
- follow up investigations will be made as appropriate to the validity of the complaint

Where a potentially contaminated site is identified in this way, the risk of harm to receptors will be investigated as soon as possible and in a timescale that is proportionate to the likelihood of harm or pollution. It should be noted, however, that investigations into ground contamination are often time consuming due to the nature of the investigations required.

[1] All complainants will be asked to supply their names and addresses and, if appropriate, the address giving rise to the complaint. The identity of the complainant will remain confidential. The only circumstance in which this information might be made public would be in the case of a remediation notice being appealed in a court of law and an adverse effect on the complainant's health was an important reason for the original contaminated land determination.

References

1. West Oxfordshire Council Plan 2023 – 2027 https://www.westoxon.gov.uk/media/fv5foehk/west-oxfordshire-council-plan-2023-to-2027.pdf
2. West Oxfordshire Local Plan 2031, Sept 2018
3. Department for Environment, Food and Rural Affairs: Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance April 2012
4. Environment Agency, Land Contamination Risk Management (LCRM) https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm
5. West Oxfordshire District Council Land Contamination Developers' guide for planning applications https://www.westoxon.gov.uk/environment/noise-pests-pollution-and-air-quality/contaminated-land/

Glossary

Appropriate Person	Defined in Section 78A(9) as 'Any person who is an appropriate person, determined in accordance with Section 78F, to bear responsibility for any thing which is to be done by way of remediation in any particular case'.
Brownfield Site/Land	A site that has been generally abandoned or underused where redevelopment is complicated by actual or perceived environmental contamination. Only a small proportion of brownfield sites will meet the definition of 'Contaminated Land'.
Contaminant	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 or to cause significant pollution of controlled waters for non-radioactive contamination (or harm for radioactive contamination). Has the same meaning as 'pollutant' and 'substance'
Contaminated Land	Any land which appears to the Local Authority in whose area it is situated to be in such a condition, by reasons of substances in, on or under the land that: (a) significant harm is being caused or there is a significant possibility of significant harm being caused; or (b) pollution of controlled waters is being or is likely to be caused.
Controlled Waters	These include (a) inland waters (rivers, streams, underground streams, canals, lakes, reservoirs); (b) groundwaters (any water contained in underground strata, wells or boreholes); (c) territorial waters (the sea within three miles of a baseline); and (d) coastal waters (the sea within the baseline up to the line of highest tide, and tidal waters up to the fresh water limit).
DEFRA	UK Government's Department for Environment, Food and Rural Affairs.

Environment Agency	A non-departmental public body, sponsored by DEFRA, with responsibilities relating to the protection and enhancement of the environment in England.
GIS Geographic Information System (GIS)	A system of hardware and software used for storage, retrieval, mapping, and analysis of geographic data.
Hardship	In relation to recovery of the Council's costs, hardness of fate or circumstance or severe privation.
Harm	Harm to the health of living organisms or other interference with the ecological systems of which they form part and harm to property.
Part 2A	Part 2A of the Environmental Protection Act 1990.
Pathway	A route by which a receptor is or might be affected by a contaminant.
Pollution of Controlled waters	The entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter
Possibility of Significant Harm	A measure of the probability, or frequency, of the occurrence of circumstances which would lead to significant harm being caused
Public Register	The register is kept by the enforcing Authority relating to contaminated land and details contaminated land that has been remediated as well as any enforcement action undertaken by the Authority.
Radioactive Contaminated Land	Elevated concentrations of radio-nuclides resulting in elevated levels of radiation above a certain level.
Receptor	Something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters.
Remediation Notice	Defined by Section 78E(1) of the EPA 1990 as a notice specifying what an appropriate person is to do by way of remediation and the periods within which he is required to do each of the things specified.
Risk Assessment	The study of (a) the probability, or frequency, of a hazard occurring; and

	(b) the magnitude of the consequences.
Site investigation	The process of undertaking investigation on land to determine the condition of that land. The staged approach usually includes a desk study including a review of historical data and a site reconnaissance, and an intrusive investigation which includes trial pitting or drilling works, soil sampling, risk assessment and remediation works.
SGV	Soil Guideline Values (SGVs) are published by DEFRA and the EA and represent a minimal level of risk and depend on the current use of the land. They do not represent Significant Possibility of Significant Harm).
Special Site	Contaminated Land which meets one of the criteria laid out in the guidance for regulation by the EA.

Appendix A

List of Consultees
The following consultees were consulted on the draft of this Strategy.

Cherwell District Council
Bodicote House
Bodicote
Banbury OX15 4AA

Cotswold District Council
Trinity Road
Cirencester
Gloucestershire GL7 1PX

Stratford-on-Avon District Council
Elizabeth House
Church Street
Stratford-upon-Avon
Warwickshire CV37 6HX

Vale of White Horse District Council
135 Eastern Avenue
Milton Park
Milton OX14 4SB

Oxfordshire County Council
Petroleum Officer
Trading Standards Service
Graham Hill House
Electric Avenue
Ferry Hinksey Road
Oxford OX2 0BY

Oxfordshire County Council
Public Health and Community Safety
County Hall
New Road
Oxford OX1 1ND

Environment Agency
Environment Agency
Red Kite House
Howbery Park
Crowmarsh Gifford
Wallingford OX10 8BD

Natural England
Eastbrook
Shaftesbury Road
Cambridge CB2 8DR

UKHSA
South West HPT
UK Health Security Agency
Bristol BS1 6EH

Appendix B

Prioritisation Methodology

Preliminary prioritisation was undertaken to assess sites for future inspection and was achieved through the use of a scoring system. Scores were given for highly contaminative land uses (Hazard scores) and for highly sensitive receptors (Vulnerability scores).

The protection of human health will be the main priority of the Strategy, however, sites which are located on land above Source Protection Zones (SPZ) or where ecosystems may be impacted upon, will also be considered. Therefore, it is anticipated that where the potential for contamination exists, more detailed investigation of sites will take place in the following order of priority according to the current land use:

- residential property;
- schools;
- allotments;
- public open space and playing fields;
- other open space;
- woodland;
- offices and retail;
- warehouses and commercial premises;
- industrial land; and
- other areas.

The Vulnerability scores reflect the land uses above and take into account the sensitivity of the receptor to allow for the prioritisation of sites to be established.

An overall combined risk was calculated by multiplying the Hazard score (1-20) with the Vulnerability score (1-10) using the information available to the Council at the time of writing. The highest scores represent the highest potential risk to receptors and at this initial stage, no consideration is given to land ownership or liability issues or the number of receptors potentially affected. Council owned land will be included within this process and will not be treated differently to any other land.

If further information becomes available pertaining to the sites highlighted in the priority list, the scoring will be adjusted to reflect the changes in circumstances.

Hazard Scores

Land Use Type	Score
Airports	15
Air Shafts12	12
Animal & Animal Waste Products Processing Works	13
Burial Pit	10
Slaughterhouse / Rendering	8
Tannery	14
Asbestos Works	19
Cement Works / Brickworks / Asphalt Works	14
Charcoal Works / Coal Depots	10
Chemical Works	18
Coatings Works (Inks / Paints / Dyeworks)	15
Cosmetics Works (Soap / Detergents / Toiletries)	15
Disinfectant Works	15
Explosives Works (Ordnance / Fireworks / Flammables)	15
Fertiliser Works	15
Fine Chemicals Works	15
Inorganic Chemicals Works	15
Linoleum / Bitumen Works	15
Glue Works (Mastics / Adhesives / Sealants)	15
Organic Chemicals Works	15
Pesticides Works	15
Pharmaceuticals Works	15
Rubber Works (Tyre Works)	15
Coal Mines	18
Dockyards	12
Dry-Cleaners	14
Engineering Works	13
*Aircraft Manufacturing Works***15**	15
*Electrical / Electronic Manufacturing Works***13**	13
Railway Engineering Works	14
Shipbuilding / Boatbuilding Works	14
Smithy	10
Vehicle manufacturing Works	14
Excavation (Pit / Reservoir / Canal / Well etc) with potential infilling	19
Food Industries	8
Malthouse	8
Gasworks / Cokeworks / Coal Carbonisation	20
Glassworks	18
Graveyard (Cemetary/ Burial Ground / Plague Pit)	12
Laundry	11
Metal Works and Processing	13
Electroplating and Finishing Works (Anodising and Pickling)	13
Iron / Steelworks	15
Lead Works	18
Non-Ferrous Metal Works	15
Precious Metal Works	12
Processing Works (Stamping / Forming / Rolling)	12

Scrap Yards	13
Military Sites (Airfields / Barracks / Depots)	20
Military Office	10
Mineral Workings (Sand / Gravel / Clay Pits)	15
Oil Refineries / Bulk Oil Storage	18
Small Oil Storage Tanks	15
Paper Mills and Works (inc Pulpworks)	18
Power Stations (all Thermal Combustion)	20
Printing Works / Bookbinders	11
Quarries	15
Railway Land	14
Railway Depots	14
Railway Station	11
Tracks – Rail	13
Tracks – Tram	5
Road Vehicle Facilities	12
Petrol Filling Station	18
Road Vehicle Depot	12
Road Vehicle Haulage Centre	12
Road Vehicle Repair Garage	15
Sewage Works (Filter Beds and Sludge Lagoons)	15
Substations / Transformers	14
Textile Works / Clothes Manufacturing	11
Timber Works	13
Timber Manufacturing Works / Sawmills / Timber Yards	13
Timber Treatment Works	17
Waste Operations and Disposal	17
Drum & Tank Cleaning & Recycling Works	17
Hazardous Waste Treatment Plants	17
Landfill (engineered site)	20
Landfill (made ground and non-engineered site)	20
Solvent Recovery Works	17
Waste Transfer Station	17
Water Treatment Works	13

Vulnerability Scores

Property Type	Score
Housing with gardens	10
Allotments	7
Schools	7
Houses without gardens	5
Public open space and playing fields	4
Vacant Land	3
Woodland, designated sites, protected groundwater	3
Offices and retail	2
Warehouses and commercial	2
Industrial land	1

Additional weighting will be given to sites with a statutory designation (ecology) and groundwater

Appendix C

Table A – Categories of Significant Harm

	Type of Receptor	Description of Harm to that Type of Receptor that is to be Regarded as Significant Harm
1	Human beings	Death, disease, serious injury, genetic mutation, birth defects or the impairment of reproductive functions. For these purposes, disease is to be taken to mean an unhealthy condition of the body or a part of it and can include, for example, cancer, liver dysfunction or extensive skin ailments. Mental dysfunction is included only insofar as it is attributable to the effects of a pollutant on the body of the person concerned. In this Chapter, this description of significant harm is referred to as a "human health effect".
	Any ecological system, or living organism forming part of such a system, within a location which is: • an area notified as a Site of Special Scientific Interest - SSSI) under section 28 of the Wildlife and Countryside Act 1981; • any land declared a national nature reserve under section 35 of that Act; • any area designated as a marine nature reserve under section 36 of that Act; • an Area of Special Protection for Birds, established under section 3 of that Act; • any European Site within the meaning of regulation 10 of the Conservation (Natural Habitats etc) Regulations 1994 (ie Special Areas of Conservation and Special Protection Areas); • any candidate Special Areas of Conservation (see Scottish Office Circular 6/1995) or potential Special Protection Areas given equivalent protection; • any habitat or site afforded policy protection (ie candidate Special Areas of Conservation, potential Special Protection Areas and listed Ramsar sites); • any nature reserve established under section 21 of the	For any protected location: • 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; or • harm which 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. In addition, in the case of a protected location which is a European Site (or a candidate Special Area of Conservation or a potential Special Protection Area), harm which is incompatible with the favourable conservation status of natural habitats at that location or species typically found there. In determining what constitutes such harm, the local authority should have regard to the advice of Scottish Natural Heritage and to the requirements of the Conservation (Natural Habitats etc) Regulations 1994. This description of significant harm is referred to as an "ecological system effect".

	National Parks and Access to the Countryside Act 1949; or • any National Park designated under the National Parks (Scotland) Act 2000.	
	Type of Receptor	**Description of Harm to that Type of Receptor that is to be Regarded as Significant Harm**
3	Property in the form of: ☐ crops, including timber; ☐ produce grown domestically, or on allotments, for consumption; ☐ livestock; ☐ other owned or domesticated animals; ☐ wild animals which are the subject of shooting or fishing rights.	For crops, a substantial diminution in yield or other substantial loss in their value resulting from death, disease or other physical damage. 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. The local authority should regard a substantial loss in value as occurring only when a substantial proportion of the animals or crops are dead or otherwise no longer fit for their intended purpose. Food should 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 pollutant linkage, a 20% diminution or loss should be regarded as a benchmark for what constitutes a substantial diminution or loss. In this Chapter, this description of significant harm is referred to as an "animal or crop effect".
4	Property in the form of buildings. For this purpose, "building" means "any structure or erection, and any part of a building including any part below ground level, but does not include plant or machinery comprised in a building".	Structural failure, substantial damage or substantial interference with any right of occupation. For this purpose, the local authority should regard substantial damage or substantial interference as occurring when any part of the building ceases to be capable of being used for the purpose for which it is or was intended. Additionally, in the case of a scheduled Ancient Monument, substantial damage should 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. In this Chapter, this description of significant harm is referred to as a "building effect".

Table B - Significant Possibility of Significant Harm (SPOSH)

	Descriptions of Significant Harm (as defined in Table A)	**Conditions for there Being a Significant Possibility of Significant Harm**
1	Human health effects arising from ☐ the intake of a contaminant, or ☐ other direct bodily contact with a contaminant (exposure).	If the amount of the pollutant in the pollutant linkage in question: • which a human receptor in that linkage might take in, or • to which such a human might otherwise be exposed, as a result of the pathway in that linkage, would represent an unacceptable intake or exposure, assessed on the basis of relevant information on the toxicological properties of that pollutant. Such an assessment should take into account: ☐ the likely total intake of, or exposure to, the substance or substances which form the pollutant, from all sources including that from the pollutant linkage in question; ☐ the relative contribution of the pollutant linkage in question to the likely aggregate intake of, or exposure to, the relevant substance or substances; and ☐ the duration of intake or exposure resulting from the pollutant linkage in question. ☐ The question of whether an intake or exposure is unacceptable is independent of the number of people who might experience or be affected by that intake or exposure. Toxicological properties should be taken to include carcinogenic, mutagenic, teratogenic, pathogenic, endocrine-disrupting and other similar properties.
2	All other human health effects (particularly by way of explosion or fire).	If the probability, or frequency, of occurrence of significant harm of that description is unacceptable, assessed on the basis of relevant information concerning: ☐ that type of pollutant linkage, or ☐ that type of significant harm arising from other causes. Such an assessment should take into account the levels of risk which have been judged unacceptable in other similar contexts.
3	All ecological system effects.	If significant harm of that description is more likely than not to result from the pollutant linkage in question, taking into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.
4	All animal and crop effects.	If significant harm of that description is more likely than not to result from the pollutant linkage in question, taking into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.
5	All building effects	If significant harm of that description is more likely than not to result from the pollutant 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 pollutant linkage.