

CONTAMINATED LAND INSPECTION STRATEGY

ENVIRONMENTAL PROTECTION ACT 1990, PART IIA

DRAFT CONTAMINATED LAND INSPECTION STRATEGY

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EXECUTIVE SUMMARY

This document has been produced by Wealden District Council. It sets out the Council's approach for the identification, inspection, assessment and remediation of land which may be designated as contaminated land in accordance with the statutory definition at Part IIA of the Environmental Protection Act 1990 (EPA 90).

The Government has set a target for 60 % of new homes in the UK to be built on previously developed land, known as 'brownfield' sites. A proportion of this land will be contaminated and will need to be subject to a risk based approach in its redevelopment. This land will normally be regulated through the planning and development process. However, the Government have recognised that not all sites will fall within these controls.

Part IIA of the Environmental Protection Act 1990 was therefore introduced by section 57 of the Environment Act 1995. It is intended that this new legislation will complement existing controls, causing the area within the District to be inspected by the Council to identify contaminated land sites.

This strategy describes how Wealden District Council will meet its statutory duty under the new legislation. In particular it states how the Council will follow the legislation and statutory guidance in relation to each stage of the process as shown in Appendix A.

1. INTRODUCTION

1.1 The Definition of Contaminated Land.

Contaminated Land is defined in Section 78A(2) of the Environmental Protection Act 1990 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

1. *Significant harm is being caused or there is a significant possibility of such harm being caused*

Or

2. *Pollution of controlled waters is being, or is likely to be, caused.”*

This definition includes a number of terms that are further defined in the guidance, and these introduce further concepts that must be understood if the definition of contaminated land is to be accurately applied to any particular site.

Note:

The definition ensures that only land where contamination is causing unacceptable risks to human health or the wider environment is treated as contaminated land. It does not seek to instigate remedial action against all land where contamination is present.

“Significant Harm”

‘Harm’ is defined in Section 78A(4) as:

“Harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property.”

“Significant harm” is defined in Table A, Appendix B.

The statutory guidance provides that unless significant harm is being caused, or there is significant possibility of significant harm being caused, land is not to be classed as contaminated.

“Significant possibility of significant harm”

In deciding whether the possibility of harm being caused is significant the Council must take into account the following factors

1. The nature and degree of harm
2. The susceptibility of the receptors
3. The timescale in which the harm might occur.

The conditions under which significant possibility of significant harm may occur are outlined in Table B, Appendix B.

“Suitable for Use”

The legislation takes a pragmatic approach by concentrating on land posing unacceptable risks in its current use, by making land suitable for any likely new use when planning permission is granted, and by limiting remediation work to that necessary to prevent unacceptable risks given such current or future uses. Remediation requirements must make land suitable, not necessarily free of all contamination.

How is Contaminated Land Identified?

When deciding whether land is contaminated, the Council must identify a significant ‘pollutant linkage’. A pollutant linkage means a relationship between a contaminant, a pathway and a receptor.

These terms are not defined by statute. However, the following meanings are set out in statutory guidance:

1. The contaminant must be a substance which is in, on or under land and which has the potential to cause harm or to cause pollution of groundwaters.
2. The receptor must be either:
 - a living organism, a group of living organisms, an ecological system or a piece of property which is listed in Table A, Appendix B and which is being (or could be) harmed by a contaminant; or
 - controlled waters which are being (or could be) polluted by a contaminant.

Note: The Council is advised to disregard any receptor not likely to be present given the current use of any land under investigation. The current use of a site is deemed to include any

use currently made, or likely to be made, that is consistent with existing Planning permission. However 'current use' does include any likely informal recreational use of the land.

1. The pathway must be one or more routes by which a receptor is being (or could be) exposed to or affected by a contaminant.

Examples:

1. Landfill gas (the contaminant) produced in a former unlicensed tip might be causing harm to a nearby dwelling (the receptor) as a result of the gas migrating through fissured chalk (the pathway).
2. Petrol (the contaminant) that leaked from storage tanks into underlying aquifers used for drinking water extraction. In this example the movement of groundwater represents both the pathway as the means by which petrol is moved from its original site and the receptor as the material that is suffering harm.

1.2 General Policy of the Council

Wealden District Council's general policies are guided by its mission for Wealden, its corporate objectives for the achievement of that mission and the values it upholds. The mission is "to respond to and plan for the needs of the community promoting best value and a sustainable quality of life whilst conserving and enhancing Wealden's culture, outstanding natural beauty and habitat for present and future generations".

Wealden's Corporate Objectives are as follows:

1. To continue to plan effectively for allocated growth in the number of houses in the District.
2. To respond to the changing demographic pattern in the District.
3. To foster a local economy which supports diversity and the retention of local jobs for local people.
4. To foster opportunities which encourage all sectors of the community to maximise their own quality of life and engender community responsibility.

The following values underpin the Council's Mission Statement and Corporate Objectives and thus all policies, processes and programmes for the delivery of services:

1. The Council will conduct its business in the public interest in a way which demonstrates integrity and is even-handed, open and accountable.
2. The Council will require the highest ethical standards of conduct from Members and officers and provide both training and monitoring to ensure such standards are maintained.
3. The Council will strive to ensure its services are accessible to all.

The Strategy for Contaminated Land is seen as having an important contribution to make, particularly in the fulfillment of the first of the Corporate Objectives and in assisting the Council towards meeting the Government's target for redevelopment of brownfield sites.

The Strategy will also need to be linked to Wealden's Local Plan and its Local Agenda 21 strategy and other sustainability policies. In addition, the Strategy will be dovetailed with the Council's developing Community strategy and will thereby assist in promoting the well-being of communities, as envisaged in the Local Government Act 2000. Consultation upon the Strategy will ensure that the local community has an awareness and understanding of these links and provides the mechanism for their contribution to this important new process.

1.3 Regulatory Context

Legislation

Part IIA of the Environmental Protection Act 1990 ("Part IIA") was introduced by section 57 of the Environment Act 1995 and came into force on 1 April 2000. It contains the long-awaited provisions on contaminated land in the UK and includes a new statutory definition outlined later in this section. A new duty is imposed on Local Authorities to inspect their areas for contaminated land and, where contaminated land is identified, to ensure satisfactory remediation. The Council's roles as primary enforcing authority for the purposes of Part IIA within the District are set out below. The Environment Agency's important roles in achieving the objectives of Part IIA are also outlined.

The Regulatory Roles of Local Authorities under Part IIA

The primary regulatory role under Part IIA for the Wealden District rests with the Council, which will need to:

1. Cause its District to be inspected to identify contaminated land
2. Determine whether any particular site is contaminated land
3. To act as the enforcing authority for all contaminated land which is not designated as forming a "Special Site". In the case of Special Sites, the Environment Agency will be the enforcing authority.

In order to fulfil these duties the Council is obliged to:

1. prepare an inspection strategy setting out how the Council will inspect its area with the aim of identifying contaminated land.
2. determine if any particular area of land is contaminated land as defined.
3. determine if contaminated land is to be designated as a special site.
4. undertake immediate remediation if there is an imminent danger of serious harm.
5. consider the application of alternative statutory regimes to the site (see later).
6. identify and notify those who may need to take action on the land.
7. determine responsibility for the remediation of the land.
8. consult with the relevant parties as to the remediation actions that are to be carried out.
9. serve remediation notices.
10. monitor the effectiveness of remediation carried out.
11. maintain a public register of details of regulatory action taken under the Act.
12. report progress made under Part IIA to the Environment Agency.

The Regulatory Role of the Environment Agency.

The Environment Agency's role is to:

1. assist local authorities in identifying contaminated land.
2. provide site-specific guidance to Local Authorities.
3. act as the enforcing authority for designated Special Sites.
4. publish reports on contaminated land.

The Relationship Between Part IIA and Other Controls.

The statutory guidance establishes the relationships between Part IIA and existing systems of control:

Planning and development control.

Part IIA will not normally apply where land is already within the normal cycle of redevelopment and regeneration. In such circumstances the planning and development control regime will continue to be the primary means of control.

Statutory nuisance (Part III EPA 90)

Statutory nuisance no longer applies as the main control for contaminated land, however it may still apply where land is causing nuisance e.g. by odour, where the statutory definition of contaminated land cannot be fulfilled.

Integrated Pollution Control (IPC) and Pollution Prevention and Control (PPC).

Part IIA will not be applicable where the Environment Agency or Local Authority have the ability to remedy contamination arising from a breach of a process Authorisation under the above legislation.

Waste management licensing. (Part II EPA 90)

Part IIA will not normally apply where contamination is arising from land subject to a waste management licence.

Water Resources Act 1991

This act gives the Environment Agency powers to control pollution of controlled waters. The application of either regime to any site will need to be determined after consultation between the Local Authority and the Environment Agency.

1.4 Development of the Strategy

The Council is obliged by section 78B(2) of Part IIA to act in accordance with any statutory guidance issued by the Secretary of State for identifying and regulating contaminated land. The statutory guidance imposes a duty on local authorities to take a strategic approach when identifying land that may merit detailed inspection. This approach must:

- be rational, ordered and efficient
- be proportionate to the seriousness of any actual or potential risk
- ensure that the most pressing and serious problems are located first
- concentrate resources on investigating in areas where the authority is most likely to identify contaminated land
- efficiently identify requirements for detailed inspection of particular areas of land

The Council's strategy is required to reflect local circumstances including:

- available evidence of significant harm or pollution of controlled waters
- the prevalence of each defined receptor within the District
- the extent to which these receptors are likely to be exposed to defined contaminants
- available information on land contamination
- the history, scale and nature of industrial or other activities which may have contaminated the land in the District
- the nature and timing of past redevelopment within the District
- the extent to which remedial action has already been taken to deal with land contamination or is likely to be taken as part of impending redevelopment
- the extent to which other regulatory authorities might consider harm is being or may be caused to particular receptors, or pollution of controlled waters is being or may be caused, within the District

This Strategy is based on collaborative work by District and Borough Councils across East and West Sussex assisted by the Environment Agency (Southern Region and Kent Region). The strategy will be formally adopted and published after consultation with the community and all appropriate public authorities. Consulted authorities will include the Environment Agency, East Sussex County Council, English Nature, English Heritage, and the Ministry of Agriculture, Fisheries and Food. After adoption, the strategy will be kept under periodic review.

The programme for the development, consultation and publication of this strategy is included in the programme for implementation of the contaminated land regime shown in Appendix C.

1.5 Objectives of the Strategy Document

This strategy sets out the Council's strategic approach as the primary enforcing authority for Part IIA. It explains how the Council will respond to the challenges posed within the District by contaminated land, and in particular how it will:

- inspect any particular land which may be contaminated
- notify any affected person and the Environment Agency if contaminated land is identified
- decide whether any particular land is a 'Special Site' in consultation with the Environment Agency
- formally require remediation of contaminated land by any appropriate person, and determine responsibility, after consulting them
- take enforcement action against any person who fails to comply with a formal notice
- exercise its power to carry out remediation and recover the costs of doing so
- maintain a register in relation to contaminated land

2. CHARACTER OF THE COUNCIL'S AREA

Across the United Kingdom there are marked differences in geography, industrial activity and prevalence of vulnerable 'receptors' such as protected wildlife and water resources. The manner in which contaminants have been deposited, have moved and have affected (or threatened) vulnerable receptors can vary even between localities a few miles apart. The Council has considered the character of the District when developing priorities and objectives for inspecting land that may be contaminated.

Geographical Location

Wealden District covers approximately 323 square miles, the largest District in East Sussex. Two thirds of the District is designated as an 'Area of Outstanding Natural Beauty' and is characterised by many small towns, villages and hamlets. The landscape is varied ranging from the heathland of the Ashdown Forest and the High Weald to the South Downs and coastal stretches around Pevensey Bay and Birling Gap. See map at Appendix D.

Population Distribution

Wealden District is home to 142,000 people, the second most populous authority in East Sussex. Around half of the population live in the five main towns of Crowborough (20,000), Hailsham (19,000), Heathfield (11,000), Polegate (8,000) and Uckfield (13,000).

Current Land Use Characteristics

Agriculture is the predominant land use, though only a small number of people are actually employed in farming. Tourism is of major importance due to the beautiful countryside, picturesque villages, coastline and a variety of visitor attractions.

Past and Current Industrial Land Uses

In the 16th and 17th centuries, the Ashdown Forest was at the centre of the great Wealden Iron Industry, supplying wood and charcoal. During this period, when the industry was at its peak, furnaces existed throughout the District, finally ceasing operation around the early part of the 18th century.

During the 19th century, practically every parish in the District had at least one brickyard and given the variety of geological strata within the District, many of the brickyards also produced tiles, agricultural drainpipes and domestic pottery. The Wealden area has also yielded other building materials including clay, chalk, flint and sand. This historical use of local natural resources created many disused clay pits and quarried areas, many of which have been backfilled with waste over the years. The District, therefore, has a preponderance of old landfill sites scattered around both urban and rural areas.

The present day manufacturing base primarily consists of food and drink manufacturing, instrument and mechanical engineering, plastics and data processing. It is essentially a 'small firm economy', with a large percentage of small to medium sized firms, mainly located on designated industrial estates around the main towns or in smaller rural units. Larger industries comprise pre-cast concrete works, timber processing and scrap recovery.

Broad Geological/Hydrogeological Characteristics

Wealden District Council's area lies entirely within the 'Wealden District' in terms of its geology, which comprises the tract of land enclosed by the North and South Downs.

The surface rocks of the 'Wealden District' are that of a broad dome or anticline, with an axis running roughly east-southeast to west-northwest. Though the stratigraphical range of the surface outcrops is almost wholly limited to Cretaceous and Tertiary rock, a very complete Mesozoic sequence underlain by various Palaeozoic strata is known from boreholes. All the rocks known are of sedimentary origin, including freshwater and marine deposits. However, the complete sequence has not been found at any one place.

Most of the domestic and industrial water requirements of the Wealden District are supplied by aquifers. The dependence upon groundwater is due to the absence of sufficiently extensive

catchment areas, impermeable enough to allow for the development of large impounding schemes. There are three reservoirs, however, within the District, Weirwood Reservoir on the Weald Clay at Forest Row, Arlington Reservoir on the clay of the Ashdown Beds near Hailsham and Bewl Water on the Weald Clay near Wadhurst. There are also 59 individual private domestic water supplies within the District fed by springs or wells. The availability of water supplies in a particular locality is therefore dependent upon the local geology.

Groundwater Vulnerability

Major Aquifers: (highly permeable). These are aquifers important for public drinking water supply and other purposes due to the rate at which the particular geological formation will yield water during abstraction.

In the Wealden District, major aquifers comprise:

Chalk

Upper Greensand (South Downs)

Lower Greensand.

Minor Aquifers: (variably permeable). These are aquifers important for local supplies and in supplying base flow to rivers. It should be noted, however, that major aquifers can occur underneath minor aquifers.

In the Wealden District minor aquifers comprise the following solid formations :

Upper Greensands

Lower Greensands

Sandstones and Limestones within Weald Clay

Tunbridge Wells Sand (except clays)

Sands in Wadhurst Clay

Ashdown Beds (except clays)

Purbeck Beds

They also comprise the following permeable drift deposits;

Head (sandy)

Head (grave)

Brickearth

Alluvium

Dry valley and Nailbourne Deposits

River terrace Deposits

Storm Gravel Beach Deposits

Foundered Woolwich Beds

Non-aquifers: (negligibly permeable). These formations are generally regarded as containing insignificant quantities of groundwater. However, some groundwater flow does take place and should be considered in assessing the risk associated with persistent pollutants. Yields of water from non-aquifers can be sufficient for domestic use. Major or minor aquifers can also occur beneath a non-aquifer.

Non-aquifers in the Wealden District comprise:
The London clay
Weald Clay (except sandstones and limestones)
Grinstead Clay
Wadhurst Clay (except sands)
Other clays within the Tunbridge Wells Sand
Clays in the Ashdown Beds

The following geological maps show the geology of the District:

1:50 000 series, Lewes, sheet 319 Solid and Drift
1:50 000 series Eastbourne, sheet 334 Solid and Drift
1:50 000 series Tunbridge Wells, sheet 303 Solid and Drift
1:50 000 series Hastings and Dungeness, sheet 320/321 Solid and Drift
Groundwater Vulnerability 1:100 000 Map series, sheet 46 East Sussex

The Environment Agency's 'Source Protection Zones' map shows the sensitive areas with respect to groundwater abstraction points and flood plain areas.

Protected Locations within the Wealden District

Nature Conservation

The Sussex Downs Area of Outstanding Natural Beauty (AONB) extends to the Seven Sisters at Birling Gap and beyond to Eastbourne. This coastline is designated as Heritage Coast. There are 29 Sites of Special Scientific Interest (SSSI) covering 3,500 hectares, the Pevensey Levels being the largest and also designated as a National Nature Reserve and a Ramsar site. The heathland of Ashdown Forest covers some 3,100 hectares and is designated a Special Protection Area under the European Habitats Directive as well as a SSSI.

Woodland.

Approximately 15-20% of Wealden District is woodland. This includes 10,000 hectares of 'Ancient Woodland', particularly in the High Weald.

Built Environment

Wealden's architectural heritage comprises 2,500 'Listed Buildings' and 33 'Conservation Areas'. There are 18 parks and gardens included on the register of 'Parks and Gardens of Special Historic Interest in England'. There are also 102 'Scheduled Ancient Monuments' and a further 301 sites of archaeological importance.

Wealden District Council's Landholdings and Interests

2 office centres, in Hailsham and Crowborough
3 depots in Hailsham, Crowborough and Uckfield
4 leisure centres in Hailsham, Crowborough, Uckfield and Heathfield
3,500 council houses
11 small business enterprise units
9 commercial lettings
3 agricultural lettings
13 recreation and community lettings- parks, playgrounds and gardens
56 garden plots
40 car parks
5 undeveloped general fund sites

3 undeveloped housing rate sites
21 public conveniences

Specific Local Features

Natural gas was discovered in Heathfield in 1896 and a company was formed which supplied around eighty properties, the railway station and the streets of Heathfield. The company went into liquidation in 1904 and the use of natural gas ceased.

The British Geological Survey have not yet performed a geochemical profile within the south east region. However, the National Soil Survey at Cranfield University has surveyed the area based on a 5Km grid sequence for naturally metal enriched soils. This data can be leased and is more suitable on a site specific basis.

Known Information on Contamination

The Environmental Health Department maintains a limited register of sites subject to past potentially contaminative uses or incidents in the Wealden District area. This was compiled in the 1980s. Entries have generally not been formally substantiated, but the number of sites runs to 230 which includes the lists of landfill sites provided by the Environment Agency (Southern and Kent Region). Other records within the Department are contained within individual site files, the information usually arising through the consultation process for re-development of a particular site, or because of a specific incident or information brought to the Department's attention. However, there is currently no central record for these individual files. With respect to new re-development proposals on sites with a potentially contaminative use history, there is now a central recording system within the Department. This enables the Department to keep these sites under review.

Redevelopment History and Controls

Redevelopment in the District has been controlled by policies in the Wealden Local Plan, prepared in the context of government guidance, principally through the Department of the Environment, Transport and the Region's (DETR) Planning Policy Guidance Notes and in conformity with the East Sussex Structure Plan.

Three main objectives are at the heart of redevelopment in the District; sustainable development and environmental improvement; enhanced economic performance; opportunity and choice.

Redevelopment has therefore had to strike a balance between the demand for the development of housing, employment, leisure and tourism, with the conservation of environmental quality and character of Wealden's countryside, towns and villages.

Action Already Taken to Deal with Land Contamination

Land contamination within the District has principally been dealt with through the planning and development process. Any necessary remediation of contaminated land for safe development, has been achieved through consultation with the Environmental Health Department and where necessary, the Environment Agency and any other relevant agencies.

However, it is estimated that up until approximately 20 years ago, in respect of land redeveloped for residential or other sensitive uses (eg. allotments, parks etc), systematic consideration was not given to land contamination issues. In addition, serious concern is raised about the standard of investigation and remediation carried out for such developments up until approximately 10 years ago.

3. AIMS AND OBJECTIVES OF THE INSPECTION STRATEGY

3.1 Aims of the Strategy

The Council aims to identify actual and potential contaminated sites within the District by rational, ordered and efficient investigation, to remove unacceptable risk to human health and the environment and prevent the creation of new contaminated sites.

In order to achieve this aim, the Council will:

- reinforce a "suitable for use" approach enabling developers to design and implement appropriate and cost effective remediation schemes as part of their redevelopment project of contaminated sites to bring damaged land back into beneficial use;
- identify sites which do not come under the Environmental Protection Act 1990, Part IIA but could still be contaminated, to ensure that the land is suitable for its current use or can be made suitable for its intended future development use, where a receptor may be introduced;
- create a 'contaminated land layer' on the corporate 'Geographical Information System' (GIS), showing the potentially contaminated sites identified which do not come under Part IIA, which can be used for other corporate functions, together with separate listings for those falling under Part IIA;
- establish a formal review mechanism between the Environmental Health Department and Planning Department to enable more effective monitoring of contaminated sites undergoing development or with permission for development;
- complete a review of all actual and potential sites in accordance with the Implementation Timetable in Appendix C;
- complete a risk assessment on each of the identified sites in accordance with the Implementation Timetable in Appendix C.

3.2 Objectives and Milestones

The main objective is to provide an improved system for the identification and remediation of land where contamination is causing unacceptable risks to human health and the wider environment, assessed in the context of the current use and circumstances of the land and to prevent the creation of new contaminated sites.

The Council's objectives and milestones included in the Implementation Programme at Appendix C are:

- prioritise effort and resources for the investigation of potential contaminated sites by relating it to the potential risk to any receptor, as set out in Table A, Appendix B (Categories of Significant Harm). These sites will include those where the Council may be the appropriate person and evaluation will be carried out in accordance with the prioritisation procedure described in this document. This will ensure that sites posing the greatest risk to human health or the environment are targeted first, irrespective of the appropriate person;
- determine whether the sites are contaminated sites under Part IIA, by identifying all receptors as set out in Table A, Appendix B (Categories of Significant Harm) and all controlled waters within the District, by means of local knowledge and plans and contact with other agencies such as Environment Agency, Ministry of Agriculture, Fisheries and Food, English Nature etc; Receptors will generally be prioritised in the following order: humans (highest priority) > animals > plants > non-living property (lowest priority).
- investigate sites not owned by the Council to establish who should bear responsibility for the remediation, and contact the owners or occupiers of the sites with information on the new regime and what it means for them, also requesting additional information of the particular site;
- complete an assessment of all actual and potential contaminated land within the District where the Council has responsibilities by virtue of its current or former ownership or occupation, making use of historic records, local plans etc. A full archive research of the Council's historical records relating to potentially past contaminative uses has already been undertaken. However, it is understood that the archive records are not complete and further research is needed to establish currently unknown historical sites attributable to the Council.
- consider all available evidence that significant harm or pollution of controlled waters is actually being caused, using the contaminant - pathway – receptor principle;
- evaluate the information gained from the assessment of actual and potentially contaminated sites and prioritise them in accordance with their individual risk;
- justify inspection of particular areas established as contaminated sites under Part IIA;
- to decide, after consultation, what remediation is required in relation to the site, either through agreement with the appropriate persons or by serving a remediation notice;
- establish a liaison with other authorities and agencies for information exchange;
- make information on all regulatory action taken by the Council on contaminated land available by way of a public register.

4. REVIEW OF THE COUNCIL'S CURRENT POSITION

Whilst the Part IIA responsibilities were introduced relatively recently by the Environment Act 1995, the Council already undertakes a range of functions involving land that might be, or might become, contaminated. A review was therefore conducted in January 2001 to identify how these operations might contribute to or conflict with the Council's Strategy.

Investigating complaints of statutory nuisance

The Council has a duty under the Environmental Protection Act 1990 to investigate complaints alleging that premises, accumulations or deposits are "in such a state as to be prejudicial to health or a nuisance". Current practice with respect to contaminated land complaints is that all such complaints of nuisance are investigated with a view to addressing the matter on an informal basis with the co-operation of the person(s) responsible for the nuisance. Should a nuisance be substantiated and the Environmental Health Department is unable to secure the cooperation of the person(s) responsible, the matter is dealt with through the service of an abatement notice under the above Act. The nuisance provisions of the Environmental Protection Act 1990, are used with respect to contaminated land where the land in question does not fall within the definition of contaminated land under Part IIA of the Act (see section 1.3 of this strategy), but is nonetheless causing a statutory nuisance

Developing future land-use plans

The Wealden Local Plan has been prepared by the Council as local planning authority to guide development across the whole district.

As a result of reviewing its forward planning operations with respect to contaminated land, it was found that the Wealden Local Plan adopted in December 1998 which looks ahead to the year 2004, does not set out policies and proposals specifically relating to the development of contaminated land. However, preparation of the next Local Plan is already underway and it is intended that such policies and proposals will be addressed in the light of the Government's target of developing 60% of new housing on 'brownfield' sites. It is considered however, that this percentage may be difficult to achieve in the Wealden District.

Dealing with applications for planning permission and building control consent

Many land-uses, new and old, pose potential threats of contamination. The Council's role as local planning authority is to:

- consider the implications of new proposals and make decisions as appropriate
- impose suitable conditions on new developments that are approved
- supervise compliance with any conditions imposed and take any necessary enforcement action

As a result of reviewing its development and building control operations with respect to contaminated land, it was found that remediation of contaminated land for development is dealt with via the imposition of appropriate planning conditions on planning consents. This is normally done in consultation with the Environmental Health Department.

As a planning consultee, The Environmental Health Department cross checks its internal records of 'potentially contaminated land' and individual site files for each planning application it receives. Planning condition recommendations are made to the Planning Department should a particular application site potentially be at risk from land that may be contaminated.

There will often be situations where no record exists in the Environmental Health Department at the time of the application to indicate that a particular site may be at risk from contamination. There is a tendency towards heavy reliance on Environmental Health records for potential contamination issues, which can lead to other records being overlooked. This can result in crucial information being missed and planning permissions being granted without the appropriate conditions attached. It will be necessary to review current arrangements to ensure that this does not happen in future.

Following the granting of a planning consent, which includes a condition in respect of contaminated land, it is important that the condition is properly complied with or that appropriate enforcement action is taken. Failing this a complex and unsatisfactory situation for both the developer and purchaser of a property arises and requires subsequent intervention and assistance by the Council's officers attempting to resolve the problem.

To address these issues, the Environmental Health Department in accordance with the aims in section 3 of this strategy, intends to create a layer on the corporate Geographical Information System showing all known potentially contaminated sites. The number of sites identified and added to the system will progress as implementation of this Strategy is carried out. It is intended that the Planning Department and other designated officers will have access to this information. (Sites officially designated as 'contaminated land' under Part IIA, will be identified separately on the 'Register of Contaminated Land' and on a separate layer of the GIS).

It is also intended to establish a formal review mechanism between the Environmental Health Department and Planning Department to enable consistent and effective monitoring of contaminated sites with permission to undergo development. As a first step in this approach, since October 2000, the Environmental Health Department, has implemented a central register of all planning consultations where the Department has recommended planning conditions relating to contamination at or near to the application site.

Responding to land charge enquiries

Concerns about contaminated land have increasingly featured in the standard questions dealt with through the conveyancing process, particularly during the 1990s when the Government was developing the idea of a register of contaminated land. As a result Wealden District Council has developed strong links between its Local Land Charges Section and Environmental Health Department to ensure that enquiries are dealt with as promptly and accurately as possible.

Although at the present time the extent of the information available is limited, it is intended that this will be developed and enhanced as the Strategy is implemented.

Responding to requests for environmental information

During the late 1990s and into 2000, the Environmental Health Department experienced a steady increase in the numbers of requests for information regarding contaminated land. Many of these requests were complex and seeking a wide range of information. Although manageable, such requests were increasingly taking more officer time and a decision was, therefore, taken to introduce a charge for such enquiries with effect from 1st April, 2001, thereby offsetting an element of the cost involved. It will be important to monitor the volume of requests received to ensure that these remain manageable, particularly as the Strategy is implemented.

5. THE COUNCIL'S PRIORITY ACTIONS AND TIMESCALES

5.1 Priorities

The Council will identify a set of priority sub- areas within its District that require more detailed assessment. This assessment will target areas where contaminated land is likely to be identified and ensure that the most pressing and serious problems are located first.

The Council's main priority, therefore, is to identify actual or potential human health risks via ingestion, skin contact, inhalation or through fire/explosion. This main priority will encompass the human health risk from drinking contaminated drinking water via groundwater contamination, which can affect a wider human health base than that within the immediate locality of a contaminated site. This is of particular importance within the Wealden District because of the high dependence on groundwater abstraction for drinking water purposes.

The following broad categorisation and prioritisation procedure will be used to identify those areas warranting further inspection:

STAGE 1

Sites will firstly be categorised by location with respect to groundwater and surface water protection.

CONTAMINANT SOURCE	Land within a zone1/zone 2 SPZ and/or within 50m of surface water feature	Land within a zone 3 SPZ and/or within 500m of surface water feature towards which the land drains	Land located on a major/minor aquifer	Land located on a non-aquifer and/or no surface water feature within 500m
CATEGORY	A	B	A	C

Note: SPZ = Source Protection Zones designated by the Environment Agency.

STAGE 2

Within the above categories, sites will then be prioritised as 1 (highest) to 3 (lowest) according to the following criteria:

Receptor	Domestic Dwelling/ School/Allotment/ Public Open Space		Other buildings incl. Commercial/ Industrial and Designated ancient monuments		Designated ecological site	Agricultural land incl. Crops/Timber/Live- stock/Wild animals subject of shooting/ fishing rights	Public Open Space	Designated ancient monument (archae- logical site)
Source	within 250m of source	outside 250m of source	within 250m of source	outside 250m of source	within 500m of source	within 500m of source	within 500m of source	within 500m of source
<i>Landfill Domestic/ Com/ind. Waste or unknown</i>	1	1	1	1	2	2	2	3
<i>Landfill 'inert' waste</i>	1	2	1	2	3	3	3	3
<i>Other Contami- native use</i>	1	2	2	3	2	2	1	3

STAGE 3

The priority groupings within each category will then be ranked 1 to 4 as follows, and inspected in the following order, from first (1) to last (9):

- Category A
Priority 1 – 1. human health effects
2. animal and crop effects
3. ecological system effects
4. building effects
- Category B
Priority 1 – ranking 1-4 as above
- Category C
Priority 1 – ranking 1-4 as above
- Category A
Priority 2 – ranking 1-4 as above
- Category B
Priority 2 – ranking 1-4 as above
- Category C
Priority 2 – ranking 1-4 as above
- Category A
Priority 3 - ranking 1-4 as above

8. Category B
Priority 3 – ranking as 1-4 as above
9. Category C
Priority 3 – ranking 1-4 as above.

Sites not falling within the above rankings, but known to be giving rise to pollution of the environment or harm to human health will be prioritised within the context of other sites known to be causing similar problems and investigated as deemed appropriate, given a full evaluation of all relevant information at the time.

Inspecting Land Previously Developed

The Council intend to inspect land subject to a potentially contaminative use that has previously been redeveloped. The inclusion of domestic dwellings, allotments and public open spaces on such land will be a high priority and will be ranked as such in the prioritisation procedure shown above.

Those developments completed over 20 years ago will be given highest priority, as the standard of site investigation and remediation at the time of redevelopment is likely to be non-existent or insufficiently robust. This reflects the Council's high priority to inspect areas actually or potentially causing significant human health effects.

The Council will also re-examine the site investigation/remediation works carried out for re-developments from 1980 up until the present day.

5.2 Timescales

The Council has set appropriate timescales for the completion of the various phases involved in inspecting its District. These are included in Appendix C. These timescales will be subject to regular review in the light of the availability of future resources.

6. PROCEDURES

6.1 Internal Management Arrangements for Inspection and Identification

General – Roles and Responsibilities

The Council has assigned the following roles to address its responsibilities for preparing and implementing an inspection strategy.

<u>Work Area</u>	<u>Individual/ Department</u>	<u>Role</u>
Develop the inspection strategy	Environmental Health Department	To act as the Project Manager
	Assistant Head of Environmental Services (Public Protection and the Environment)	To assume primary responsibility for developing the Council's inspection strategy.
Carry out Part IIA inspection, liaison and enforcement	Contaminated Land Officer	To support the Project Manager in delivering the Council's inspection strategy.
	Contaminated Land Officer	To undertake detailed inspection of land in accordance with Part IIA.
	Contaminated Land Officer	To undertake data management.
	Contaminated Land Officer	To advise on and supervise the remediation of contaminated land.
Respond to enquiries	Principal Solicitor (Legal Services)	To provide legal advice and enforcement action.
	Contaminated Land Officer	To co-ordinate all land charges enquiries which may involve contaminated land.
	Contaminated Land Officer	To co-ordinate all external enquiries made in accordance with the Environmental Information Regulations 1992.
	Development Control Manager	To co-ordinate all development control activities which may involve contaminated land.
	Building Control Manager	To co-ordinate all building control responsibilities which may involve contaminated land.
Liaison with external organisations	Contaminated Land Officer	To co-ordinate all external liaison concerning contaminated land inspection and enforcement.

6.2 Considering the Council's Interests in Land

A full search of the Council's archive has already been carried out to identify land previously owned/leased by the Council (including the former Hailsham and Uckfield Rural District Councils prior to 1974). The majority of potentially contaminated sites as a result of the Council's former activities, have been identified. However, it is known that the archive records are not complete, and further research is required of historical maps, planning records and local knowledge.

The Council's existing land holdings have also been identified internally and will be prioritised along with the 'historical sites' in accordance with this strategy.

In general, the Council's interests in land will be considered along with all other potentially contaminated sites, the justification for inspection of any particular Council owned/leased land being in accordance with the prioritisation procedure and the following:

- The collation and evaluation of documentary information from within the Council and any other relevant source
- Assessing the geology and hydrogeology of the land
- Liaison with current owners/occupiers of the land
- Onsite inspection with possible surface sampling
- Undertaking intrusive investigation through an independent specialist consultancy
- Decisions on designation of such land as contaminated land and any proposed remediation will be decided in liaison with the Environment Agency

6.3 Information Collection

The Council will amass a large body of information during the inspection process as many different sources of information will be required to identify potential areas of contamination, potential receptors and pathways. These sources will include:

Historical maps and literature
Planning records and District Local Plan
Trade directories
Ordnance Survey maps
Environment Agency groundwater vulnerability maps and source protection zones
Geological maps
English Nature designations
English Heritage designations
Land Registry records
Integrated Pollution Control register
Other local information/knowledge

Information on the pollution of controlled waters will be obtained from the Environment Agency, via the Contaminated Land Liaison Officer based at the Kent Regional Office for the north of the district and the Sussex Regional Office for the south of the district.

Information on 'actual harm' will be obtained from other regulatory agencies such as English Nature, adjacent District/Borough Councils, the County Council and parish councils. In addition, members of the public, trade organisations and local interest groups are all valuable sources of information.

Formal contacts for all relevant regulatory agencies have been identified and are included in Appendix E.

Information on possible receptors will be identified through the relevant statutory agencies shown in Appendix E and from current ordnance survey maps and site visits.

Where information has been collected and verified as part of the inspection process, all relevant information will be recorded on the register once a site has been designated as contaminated land. Information collected and not placed on the register will be available as public information subject to the Environmental Information Regulations 1992. However, information held prior to a designation decision will be treated as 'work in progress' and therefore may not be subject to the Environmental Information Regulations 1992.

6.4 Information and Complaints

Information provided in the form of a complaint from a member of the public, business or community group will be dealt with following the same procedure currently used to deal with statutory nuisance complaints.

All complainants may expect:

- their complaint to be logged and recorded;
- a response within 7 working days or within 24 hours in a deemed emergency;
- to be kept informed of progress towards resolution of the problem

Every effort will be made to resolve complaints quickly, but legislative requirements will make resolution a slow process due to:

- proof of pollutant linkage(s) before formal designation as contaminated land is possible, which may involve a detailed site investigation;
- prior consultation with interested parties before designation as contaminated land;
- a statutory minimum of a three month period between designation and serving of a remediation notice.

6.5 Information Evaluation

The aim of the Council is to verify and evaluate all information that may be used in support of a contaminated land designation to ensure that the Council is in the best position to make a decision. Where further information is required to enable a satisfactory evaluation, the Council will take any necessary action available under its statutory powers. To assist in the evaluation of information, the Council will adopt all relevant and authoritative guidance such as DETR and Environment Agency technical guidance and other good practice publications.

When evaluating information as part of the inspection process, the Council will place a high value on factual data or events. For example, information obtained from Ordnance Survey maps will be assumed correct unless an alternative source confirms otherwise. Sites known to have had a former potentially contaminative use, will be assumed by the Council to have some degree of relevant contaminants present. Whilst a proportion of these sites will have undergone some form of remediation in the past, they will initially be prioritised assuming no remediation has been carried out.

Evaluating Information on Actual Harm or Pollution of Controlled Waters

In evaluating information relating to actual harm occurring to the health of a living organism, ecosystem or property, the Council must be satisfied that the harm occurring is ‘significant’, in accordance with the statutory guidance, as indicated in Appendix B. The Council shall therefore not take account of harm to receptors of any type other than those shown in Table A. Equally, the Council shall not take account of any other description of harm to receptors, other than that shown in Table A.

When evaluating the degree of significant harm or pollution of controlled waters for the purposes of assessing the nature and degree of remediation, the Council shall consider:

- whether significant harm or pollution of controlled waters is already being caused
- the risk of the possibility of significant harm being caused or the likelihood of pollution of controlled waters
- the nature and importance of the receptor or controlled water
- the number of receptors which may be affected
- the nature and extent of the significant harm affecting the receptor(s) or the pollution of controlled water
- whether the effects of the significant harm or water pollution would be irreversible

The Council shall also consider in relation to significant harm or pollution of controlled water whether the receptor has already suffered damage or the controlled water has been polluted by other means and if this is the case, whether the additional effects of significant harm or water pollution would materially affect its condition.

When evaluating information relating to the pollution or likelihood of pollution of controlled waters, the Council must be satisfied that a pollutant is continuing to enter controlled waters or is likely to enter controlled waters. The Council will therefore not consider a substance already present in controlled waters where entry into controlled waters of that substance is no longer occurring and it is likely that entry will not recur.

Where the significant harm affects an ecological system, the Council will liaise with English Nature as part of the evaluation process. Similarly, where the receptor concerned is a designated ancient monument, the Council will liaise with English Heritage, where it is a controlled water, with the Environment Agency and where it is an agricultural crop or livestock, the Ministry of Agriculture Fisheries and Food.

Effectiveness of Previous Actions or other Regimes in preventing or dealing with contamination

Evaluation of the effectiveness of previous actions to deal with contamination will be carried out on a site specific basis. These sites will be identified under the prioritisation procedure described in section 5 above as there is no central record of sites having undergone remedial action in the past. As stated in section 2, remediation of contaminated sites in the Wealden District have principally been dealt with through the planning and development process. However, in some cases, there may be little firm information on which to base a useful assessment.

When evaluating the effectiveness of any past remediation, the Council shall consider via a full scientific and technical assessment of planning records or other departmental records and if necessary, a site survey:

- the nature and extent of the remediation works carried out

- whether the remediation works were completed and validated at the time
- whether the remediation works are sufficiently durable given the current use and circumstances of the land in question
- where past remediation works required on-going management and maintenance (for example, the maintenance of gas venting or alarm systems), whether these systems have been maintained and continue to be effective.

Where other regimes control certain activities or processes on land which require a licence or permit (for example Waste Management Licences under Part II of EPA 1990 or authorisations under Part I of EPA1990), the Council will assume that the licence/permit conditions will provide a suitable level of environmental protection. However, should information suggest otherwise, the Council will liaise with the appropriate regulatory body.

7. GENERAL LIASON AND COMMUNICATION STRATEGIES

The Council recognises that effective liaison and communication is an essential part of implementing its strategy. As part of this strategy, the Council will establish communication links with a wide variety of statutory consultees and interested parties to ensure efficient transfer of communication.

7.1 Statutory Consultees

The following Statutory Consultees will be invited to comment on the consultation draft of this strategy:

- Environment Agency
- English Nature
- English Heritage
- Ministry of Agriculture Fisheries and Food
- Department of the Environment, Transport and the Regions
- East Sussex County Council
- South East Regional Development Agency

7.2 Non-Statutory Consultees

There is great scope within the local community to provide input into this strategy. The Council will therefore invite comments from Parish and Town Councils and the general public by ensuring that copies of the consultation draft are available in local libraries and the Council's offices at Crowborough and Hailsham. Access to a copy of the draft will also be made via the Council's web-site.

7.3 Communicating with Appropriate Persons, Owners, Occupiers and Other Interested Parties

The Council's approach to its regulatory duties under Part IIA is always to seek voluntary action in the first instance provided that it is satisfied that the standard of voluntary remediation proposed is of an equivalent or better standard than would be specified in a Remediation Notice. The Council recognises that this approach will require effective communication with owners, occupiers and other interested parties. The Contaminated Land Officer will be the central contact point within the Council on contaminated land issues, and as such will keep owners, occupiers and other interested parties informed at each stage of an investigation.

The Council also recognises that, when communicating with major national landowners or companies, account will need to be taken of their corporate priorities with respect to remediation of contaminated land sites. It is the aim of the Council to work with representatives of such organisations to ensure that a suitable timescale is agreed, taking into account the nature and degree of risk to receptors from the contaminated land in question.

8. PROGRAMME FOR INSPECTION

8.1 Arrangements for Carrying Out Detailed Inspections of Land

When inspecting land for contamination the Council will follow the approach set out in this strategy and act in accordance with Part IIA and the statutory guidance. The aim of inspection is to determine whether any land appears to be Contaminated Land as defined.

The Council will inspect the District to:

- identify land where pollutant linkages exist (ie the presence of a contaminant source, a pathway and receptor)
- determine whether land appears to be contaminated as defined
- decide whether any land should be designated as a Special Site

If it appears that any land in a neighbouring District or Borough may require investigation to ascertain whether it is contaminated land affecting the Wealden District, the Council will inspect that land for the purposes of Part IIA in consultation with the appropriate local authority. Where it is clear from information available that any particular land would be a Special Site, the Council will make arrangements with the Environment Agency to inspect the land.

Detailed inspection may include:

- collating and evaluating documents and information relating to the land from other organisations
- assessing the geology and hydrogeology of the land
- liaison with owners/occupiers of the land and ‘appropriate persons’
- visiting the land to make visual inspections and, in some cases, limited sampling eg. surface deposits
- undertaking intrusive investigation of land, eg. exploratory excavations

Where necessary, inspections of land will be conducted using statutory powers of entry. Before doing so, however, the Council will satisfy itself on the basis of information already obtained that:

1. there is a reasonable possibility that a pollutant linkage exists on the land, and
2. in the case of proposed intrusive investigation there is :
 - a likelihood that a contaminant is actually present; and
 - knowledge or a likelihood that a receptor is present, given the current use of the land

The Council will not conduct an inspection by means of intrusive investigation if:

- it has already been provided with adequate and satisfactorily detailed information on the condition of the land on which to base determination of whether the land is contaminated for the purposes of Part IIA; or

- a person offers to provide such information within a reasonable and specified time, and this information is provided within that time.

Any intrusive investigations will be carried out using appropriate technical procedures and taking all reasonable precautions to avoid harm, water pollution or damage to natural resources or features of historical or archaeological interest. Consultation will take place with the appropriate statutory body (English Nature, English Heritage or the Environment Agency) if a particular designated site or water resource is at risk from intrusive investigation.

If at any stage the Council considers, on the basis of information from a detailed inspection, that there is no longer a reasonable possibility that a particular pollutant linkage exists, the Council will cease detailed inspection of that linkage.

Health & Safety Issues

- The Council will follow good technical practice in carrying out, and recording, detailed inspection work. The Council will take appropriate steps to ensure such work does not harm people (site workers, local residents and the general public) or damage the wider environment.
- If the history of the site indicates that it may pose threats to personal safety, the Council will undertake the necessary procedures regarding this matter and have regards to documentation such as BS 5930 (1981) regarding mining, quarrying and waste disposal sites and/or HSE HS(G)66 Protection of workers and the general public during the development of contaminated land (1991) (HMSO).

8.2 Land that may be a Special Site

If the Council has determined that land is contaminated and it also falls within one or more of the 'Special Site' descriptions prescribed in the regulations to Part IIA then the Council will, after due consultation with the Environment Agency, designate the land as a Special Site and notify the Agency accordingly. Assuming the Environment Agency agrees with this determination, the Agency will then become the enforcing authority for that land and the Council will seek to make arrangements with the Agency to carry out an inspection on its behalf. The Council will endeavour to advise and assist the Agency upon request, for example when the Agency prepares remediation proposals. In the event that the Council and the Agency cannot agree on designation of a Special Site, the matter will be referred to the Secretary of State for decision.

Where the Environment Agency is to carry out an inspection on behalf of the Council, the Council will authorise a person nominated by the Agency to exercise the powers of entry conferred by section 108 of the Environment Act 1995. Before the Council gives such authorisation, the Environment Agency will have to satisfy the Council that the conditions for the use of statutory powers of entry set out in respect of Part IIA are met.

8.3 Making Arrangements for External Appointments of Consultants

The Council has the sole responsibility for determining whether any land appears to be contaminated. The Council may choose from time to time to rely on information or advice provided by another body such as the Environment Agency, or by a consultant appointed for that purpose. This also applies when the Agency carries out an inspection on behalf of the Council.

8.4 Determining that there is 'significant possibility of significant harm being caused'

The Council will determine whether land is contaminated on the basis that there is a significant possibility of significant harm being caused (as discussed in Section 1.1) where:

1. It has carried out scientific and technical assessment of the risks arising from the pollutant linkage, according to relevant appropriate, authoritative and scientifically based guidance on such risk assessments and
2. That the assessment carried out shows that there is significant possibility of significant harm being caused, and
3. There are no suitable or sufficient risk management arrangements in place to prevent harm.

8.5 Frequency of Inspections

The Council from time to time will inspect its area for the purpose of identifying contaminated land (section 78B(1)). By doing this the authority will act in accordance with the statutory guidance.

8.6 Records of the Determination that Land is Contaminated Land

The Council will prepare a written record of any determination that particular land is contaminated. The record will include:-

- Identity of site/owner/occupier
- Date of sampling
- A description of the particular significant linkage, identifying all three components - pollutant, pathway and receptor
- A summary of the evidence upon which determination is based
- A summary of a relevant assessment of this evidence
- A summary of the way in which the authority considers that the requirements of Chapter A of the circular have been satisfied.

8.7 Risk Communication with Local Communities

Reflecting that the historical use of land has caused contamination in a variety of settings, the Council anticipates that a wide range of people may have an interest in a 'contaminated site', whether the presence of contaminants is suspected or proven. The Council considers that community acceptance of decisions is important, if contaminated land is to be managed successfully. It is therefore essential that the views of interested parties are carefully considered as part of the risk communication process.

When the Council is satisfied that there is a possibility of the risk of significant harm to local communities from a particular site, the following communication process will be implemented:

- identification of all stakeholders
- building communication links with representative stakeholders from the group
- gathering information/views from interested parties
- seeking informal ways of sharing information
- seeking more formal ways of public participation
- communicating key messages in a clear, transparent manner
- remaining open, accessible, listening and responsive
- encouraging two way communication

9. REVIEWING THE STRATEGY

This strategy will be reviewed initially after 2 years and as necessary thereafter. Review will be conducted if there is significant change at any time in:-

- a. the legislation;
- b. statutory guidance issued by the Secretary of State;
- c. key guidance in connection with site investigation;
- d. proposed land use planning;
- e. the local development plan.

The aim will be to conclude reviews within 6 months of any such change occurring.

9.1 Review of Assumptions and Information (Triggers for Inspection)

Assumptions and information used in arriving at decisions as to the status of particular areas of land and/or the need for inspection will be reviewed every 2 years as a minimum. An earlier review will be conducted in the event of:-

- a. proposed changes in the use of the land or surrounding land;
- b. unplanned changes in the use of land (e.g. persistent, unauthorised use of land by children or other members of the public);
- c. unplanned events (e.g. localised flooding, accidents, fires, spillages; where consequences cannot be addressed through other relevant environmental protection legislation);
- d. reports of localised health effects relating to a particular area of land.
- e. reports of unusual or abnormal site conditions from any source which are verified;
- f. new information received from any other statutory body;
- g. new information from owners or occupiers or other interested parties;
- h. new information or guidance on contaminants, pathways, receptors.

The aim will be to conclude reviews within 6 months maximum of any of the above events.

9.2 Audit of Inspection Procedures

Inspection procedures will be audited in house on an annual basis and at least every 4 years by an external person nominated by the CIEH Sussex Branch Pollution Working Group.

The audit will be conducted to a methodology agreed by the CIEH Sussex Branch Pollution Working Group.

10. INFORMATION MANAGEMENT

Identifying, prioritising and inspecting land that may be contaminated will generate large quantities of information, often based on (or referenced to) maps. The Council will hold and manage all information it gathers in accordance with the Environmental Information Regulations (as amended) 1992. Any requests for information about land not formally designated as contaminated land will be dealt with in accordance with these regulations. Additional information, not held on the contaminated land register in relation to a designated contaminated land site, can also be provided on request under these regulations. The Council has recently introduced charges for dealing with enquiries in respect of land contamination, in anticipation of the growing number of such enquiries being processed within the Environmental Health Department.

10.1 The Contaminated Land Register

The public register is available for inspection on request, at all reasonable times, at the Council's Vicarage Lane Offices. It is held within the Environmental Health Department and access to it can be obtained through the Contaminated Land Officer. The Register is paper based, referenced to maps.

The register will include details of all Remediation Notices served and certain other documents relating to each particular area of designated contaminated land. Before the Council includes information on its Register, it will consider whether that information should be excluded on the basis of commercial confidentiality or a threat to national security. If certain information is excluded, a note will be entered on the Register stating that additional information is available, but has been removed for specific reasons. Information excluded on the grounds of commercial confidentiality, will be included on the Register after four years. A procedure to highlight this four year lapse will be put in place at the time of the first Register entry.

10.2 Storage of Data

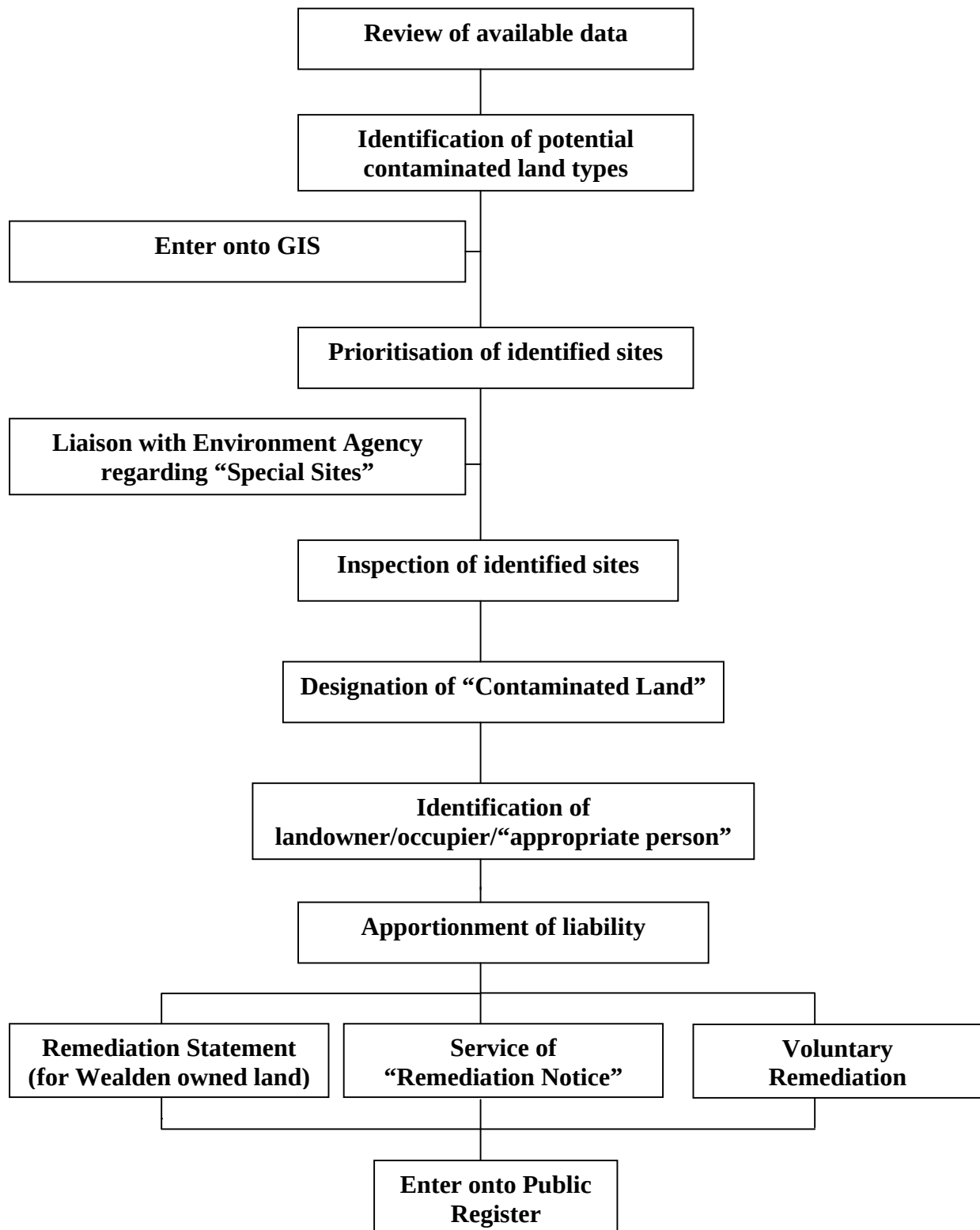
Limited data will be stored on the corporate GIS, backed up by more detailed information and reports stored in a designated filing system.

The GIS layer on which the contaminated land data is held, has restricted access at present to the Contaminated Land Officer and a limited number of other designated officers for the purposes of planning consultations. It is intended, however, to allow access to other designated officers, particularly within the planning department for other corporate functions. The Contaminated Land Officer is responsible for developing the 'contaminated land layer' and is the only officer allowed access to create the layer. The GIS Systems Administrator controls access to the system and a specific request must be made to enable more users to access the layer. The Council's Information Technology Department will manage all aspects of electronic file storage, including data backup and protection.

10.3 Data Confidentiality

The confidentiality of all information generated or obtained (especially where provided by a third party) will be confirmed at the time of provision and handled accordingly. Any third party involved should justify requests for information to be treated as confidential or subject to national security considerations. Before any information provided by a third party is released by the Council to other third parties, the Council will check whether the information is confidential by way of a 'flagging' system on the individual site file. This will involve containing all confidential information separately in a wallet located at the front of the file. The wallet will be labelled as confidential with clear instructions to remove it from the file prior to any third party gaining access to the file.

Full account will be taken of the separate requirements of the Data Protection Act 1984 and the Council's own procedures in relation to its principles.



APPENDIX B

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".
2 Any ecological system, or living organism forming part of such a system, within a location which is: - an area notified as an area of special scientific interest 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 (i.e. Special Areas of Conservation and Special Protection Areas); - any candidate Special Areas of Conservation or potential Special Protection Areas given equivalent protection; - any habitat or site afforded policy protection under paragraph 13 of Planning Policy Guidance Note 9 (PPG9) on nature conservation (i.e. candidate Special Areas of Conservation, potential Special Protection Areas and listed Ramsar sites); or - any nature reserve established under section 21 of the National Parks and Access to the Countryside Act 1949.	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 English Nature and to the requirements of the Conservation (Natural Habitats etc) Regulations 1994. In this Chapter, this description of significant harm is referred to as an "ecological system effect".
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

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	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 direct bodily contact, 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. In making such an assessment, the local authority should take into account the levels of risk which have been judged unacceptable in other similar contexts and should give particular weight to cases where the pollutant linkage might cause significant harm which: - would be irreversible or incapable of being treated; - would affect a substantial number of people; - would result from a single incident such as a fire or an explosion; or - would be likely to result from a short-term (that is, less than 24-hour) exposure to the pollutant.
3 All ecological system effects	If either: - significant harm of that description is more likely than not to result from the pollutant linkage in question; or - there is a reasonable possibility of significant harm of that description being caused, and if that harm were to occur, it would result in such a degree of damage to features of special interest at the location in question that they would be beyond any practicable possibility of restoration. Any assessment made for these purposes should take 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.

Source: DETR Circular 02/2000 Annex A Part 3, Table B

APPENDIX D

Map of the Wealden District

APPENDIX E

Contact Points for Consultation

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APPENDIX F

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