



SOUTH
KESTEVEN
DISTRICT
COUNCIL



Environment Overview & Scrutiny Committee

12th December 2023

Report of Councillor Rhea Rayside
Cabinet Member for People and
Communities

Revised Contaminated Land Strategy

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Purpose of Report

To brief the Committee on the Council's requirements to have a Contaminated Land Strategy, along with providing details of the proposed updated Strategy and consultation prior to Cabinet approval.

Recommendations

That the Committee:

1. Notes the updated Contaminated Land Strategy
2. Recommends that the updated Contaminated Land Strategy undertakes a four week consultation
3. Recommends that the Contaminated Land Strategy, with any proposed amendments following the results of the consultation process in consultation with the Chairman of the Environment Overview and Scrutiny Committee, be approved by Cabinet

Decision Information

| | |
|---|--|
| Does the report contain any exempt or confidential information not for publication? | No |
| What are the relevant corporate priorities? | Housing that meets the needs of all residents Healthy and strong communities Clean and sustainable environment |
| Which wards are impacted? | All wards |

1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

Finance and Procurement

1.1 There are no direct financial implications associated with the recommendations within this report.

Alison Hall Wright, Deputy Director (Finance and ICT) and Deputy S151 Officer

Legal and Governance

1.2 Details of the legal and governance implications are set out in the body of the report.

Graham Watts, Assistant Director (Governance and Public Protection) and Monitoring Officer

2. Background to the Report

2.1 There is a substantial legacy of contaminated land in the United Kingdom, due to its long industrial heritage and previous waste disposal practices. There are now various regimes in place to prevent new contamination however the historic contamination remains and still has the potential to adversely affect people's health, as well as damage water quality, ecological systems and property.

2.2 Under Part IIA of the Environmental Protection Act 1990, South Kesteven District Council (SKDC) has gained regulatory duties and powers relating to contaminated land. The provisions of Part IIA came into force on 1 April 2000.

(Note Part IIA is also referred to as Part 2A within the Report and Strategy).

2.3 The Contaminated Land Inspection Strategy, fulfils the first of SKDC's responsibilities – to prepare and publish a Strategy. The strategy was last updated in 2010 following legislative and guidance updates. The Council's duties under the Act are:

- To inspect the district of South Kesteven for land that may be contaminated.
- To inspect individual sites to determine whether they are contaminated land.
- To ensure that appropriate action is taken to remediate contaminated land.

Part IIA places financial responsibility for remediation of contaminated land on the polluter. Where the polluter cannot be found, landowners or occupiers can be liable for the costs. Part IIA refers to people or organisations that are liable for the costs of remediation as "Appropriate Persons".

2.4 South Kesteven District Council has had a published Contaminated Land Strategy since 2001 with its last revision being in 2010. The Strategy sets out how South Kesteven District Council will identify and deal with contaminated land. The programme of inspection and intervention will be based on identifying risk and those of high risk given priority.

2.5 The revisions of the strategy are a light touch refresh to reflect the current position across the district and ensure that legislation, addresses, and other details are current. There have not been any significant or major changes to legislation leading to a material change in our approach.

3. Our role in contaminated land

3.1 We inspect individual sites to determine whether they are contaminated and ensure action is taken to clean it up if necessary. The cost of any clean-up usually lies with the polluter of the land. However, where the polluter cannot be found, landowners or occupiers can be liable.

3.2 We also check that developers take responsibility for ensuring that land is clear of any contamination.

3.3 Our 'Contaminated Land Inspection Strategy' explains how the council undertakes inspections and identifies contaminated land.

3.4 We ensure that new development on land which may be contaminated does not result in an unacceptable risk to the future users of the site. To ensure land is fit for development, applicants must submit information on whether the site poses any risk of contamination. Work may be required before development can take place.

- 3.5 The Environment Agency (EA) will provide site-specific guidance to local authorities on land contaminated and will assist in identifying contaminated land where there is a risk of pollution of controlled waters. The EA can take over as the enforcing authority where the local authority identifies a “special site”, as defined in the legislation. These can be described as sites which are likely to present the greatest threat to health or the environment.
- 3.6 We keep a record at our offices of all contaminated land sites in the district. The register is available at our council offices in Grantham during normal working hours. At present we do not have any known contaminated land sites as the previous two sites identified have now been remediated.

4. The Strategy

- 4.1 The aims of the strategy are:
 1. To assist in the classification of known contaminated land sites and the identification and classification of any potential contaminated sites within the district by logical and efficient investigation for the purpose of removing unacceptable risk to human health and the environment.
 2. To ensure that Part 2A procedures are well integrated and consistent with the planning process.
 3. To demonstrate how SKDC will meet its obligations under Part 2A of the EPA 1990 to prepare, implement and keep under periodic review its Contaminated Land Inspection Strategy
- 4.2 The overarching aims of the government’s policy on contaminated land and the Part 2A regime are set out in statutory guidance and require us to:
 - 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 are proportionate, manageable, and compatible with the principles of sustainable development.
- 4.3 Land may have become contaminated because of a current or historic land use. Examples of potentially contaminating land uses include industrial and waste disposal sites. Spills and leakages of substances may also lead to contamination. Part 2A regime provides a risk-based approach to defining and identifying contaminated land and a means to remediate land that poses a significant risk to human health or the environment.

- 4.4 The management of contaminated land includes working closely with the planning and development control processes to ensure that potentially contaminated land is identified, and risks do not arise from redevelopment through the monitoring of applications and changes of land use.
- 4.5- The updated strategy is differing from the existing strategy in that is it a more concise document. Large sections of no longer necessary information have been removed along with priorities and objectives that have been met or are now outdated since the publishing of the last strategy. The updated strategy has taken all relevant sections of the existing policy and added more current and update information. It is intended to be an overarching strategy and not a detailed instruction on the process, legislation and procedure that South Kesteven District Council follow in respect of contaminated land.

5. Purpose of the strategy

- 5.1 The purpose of this updated strategy is to ensure a rational, ordered, timely and efficient approach to dealing with potentially contaminated sites within the South Kesteven district.
- 5.2 Land should be considered not contaminated unless there is reason to consider otherwise. Part IIA is intended to deal with the highest risk sites where no appropriate alternative solution is available.
- 5.3 The Council must always consider the benefits and costs of taking action under Part IIA to ensure intervention is both precautionary and proportionate.
- 5.4 The Contaminated Land Strategy has been prepared in the context of the council's vision and corporate priorities as set out in the Corporate Plan 2020-23, in particular the provision of a clean and sustainable environment.

6. Working in partnership

- 6.1 South Kesteven District Council works with a range of partners to ensure that contaminated land is managed and remediated effectively this includes internal Planning colleagues, developers, the environment agency, and contaminated land specialists.
- 6.2 South Kesteven District Council is also a member of the Yorkshire and Lincolnshire Pollution Advisory Group which is a group formed to share best practice and develop technical guidance for council officers and developers.

7. Consultation

7.1 There is no legal duty placed upon the Council to consult on the revision of this strategy. However, it is good practice to consult with the public and key stakeholders.

This would include:

- Specialist contaminated land consultants,
- Developers,
- Planning colleagues,
- The Environment Agency,
- The wider public.

7.2 It is recommended that the public consultation will be undertaken for a 4 week period. On completion of which the responses will be reviewed and where appropriate amendments to the strategy will be made.

8. Next steps

1. Consult upon the content of the strategy.
2. Consider the feedback and amend the strategy as necessary.
3. Format the strategy and finalise the graphics and layout.
4. Take finalised strategy to cabinet document for consideration and adoption.

9. Key Considerations

There is a legal requirement to have a Contaminated Land Strategy, this revision is to ensure the strategy remains current and fit for purpose.

10. Other Options Considered

- 10.1 To agree the recommendations set out in this report.
- 10.2 To consider any amendments to the proposed Strategy or the proposed consultation process.

11. Reasons for the Recommendations

11.1 The revised Strategy will ensure that the Council has an up to date and clear approach to dealing with potentially contaminated sites within the South Kesteven district. The consultation process will allow the views of key partners, stakeholders and the public to be considered in the revision of this Strategy.

12. Background Papers

12.1 [contaminated land strategy \(southkesteven.gov.uk\)](http://southkesteven.gov.uk)

13. Appendices

13.1 Appendix 1 – Revised Contaminated Land Strategy