

Chester-le-Street District Council

Contaminated Land Inspection Strategy

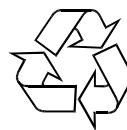
February 2008



Chester-le-Street District Council



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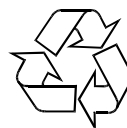
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Executive Summary

The statutory regime for the identification and remediation of contaminated land came into force on 1 April 2000. Under this regime, all Local Authorities are obliged to develop a Contaminated Land Strategy. The Strategy outlines how each authority will inspect its area to identify historic sources of contamination. The authority can then work with land owners to prevent, remedy or mitigate any harm or pollution that may have resulted.

This document is the Contaminated Land Strategy for Chester-le-Street District. Its aims are:

- To implement a means of assessing land within the District from a contaminated land perspective;
- To identify those sites where land contamination is presenting unacceptable environmental risks and ensure that remediation takes place, using a process of prioritisation to concentrate resources on the most serious sites;
- To provide information to the Environment Agency for its report on contaminated land;
- To reduce the Council's impact on the environment by identifying and remediating contamination on Council-owned land;
- To embed the regulation of contaminated land within the Council's wider regeneration objectives as set out in our Corporate Plan;
- To integrate contaminated land regulation with development control, identifying sites where regeneration and redevelopment could facilitate remediation; and
- To improve understanding within our community of contaminated land issues.

The Strategy sets priorities for inspecting land within the District, taking the protection of human health as the highest priority overall. All land will be considered on an equal basis, without dealing with any particular landownings (such as the Council's own land) separately. Nonetheless, the Council will take action in relation to any site where there is already strong evidence that a problem exists, without waiting for it to emerge from a prioritisation process.

The Strategy also outlines the way in which the Council will communicate information about contaminated land, including the establishment of a Public Register to include all action taken in respect of the remediation of contaminated sites within the District.

Control Sheet

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1. Introduction

1.1 Introduction

The regime for the prioritisation, identification, and remediation of 'contaminated land' was introduced by Part 2a of the Environmental Protection Act 1990, as inserted by Section 57 of the Environment Act 1995. This required that all Local Authorities produce and implement a Contaminated Land Strategy.

Chester-le-Street District Council first published its Contaminated Land Strategy in June 2004, since then a number of changes have taken place, both legislative and within the council Structure which have necessitated the publication of this updated version of the Contaminated Land Strategy.

The purpose of this Strategy is to ensure that Contaminated Land within the Chester-le-Street District Council area is investigated and remediated in a manner which:-

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

1.2 General Policy of the Council

1.2.1 Corporate Strategy

The Contaminated Land Strategy takes its lead from the Corporate Plan, 2007/2010. This sets out Chester-le-Street District Councils' Priorities for the three-year period and our achievements so far. These Priorities are based on a good understanding of local need, informed by feedback from residents, and supplemented by periodic reviews. There are seven priorities, as follows:

- Priority 1: Customer Excellence
 - Priority 2: Working in Partnership to deliver the Community Strategy
 - Priority 3: Meeting the Decent Homes Standard
 - Priority 4: Regenerating the District
-

Priority 5: Neighbourhood Management

Priority 6: New ways of working in Leisure

Priority 7: Maximising Efficiencies

This Strategy will contribute to three of these Priorities, as follows:

Priority 1 - Customer Excellence in that it makes the prioritisation and remediation of Contaminated Land both responsive and accountable to the Community. It is intended that the communities involved will be both consulted and involved in the decision-making process wherever possible.

Priority 2 - Work in Partnership to deliver the Community Strategy - to manage the built and natural environment to promote biodiversity whilst creating greener, cleaner, more sustainable communities. This will be achieved by not only consulting with bodies such as Natural England and the Environment Agency, but also by consulting with the communities involved in the investigation process, and working together to achieve remediation of land.

Priority 4 - Regenerating the District - in that it will contribute towards the protection and enhancement of the natural and built environment. The Contaminated Land Survey will work alongside the Development Control Team to ensure that new developments in the District are suitable for use.

The Strategy also contributes towards Priority 10 of the Community Strategy - to manage the built and natural environment to promote biodiversity whilst creating greener, cleaner, more sustainable communities

1.2.2 Environmental Strategies

The Council believes that the implementation of a Contaminated Land Strategy is an implicit component of regeneration, and has clear links to our statutory duty to promote the social, economic and environmental well being of the district. Fundamentally, the Council believes that the implementation of our Contaminated Land Strategy will have important positive implications for the quality of life of our residents.

Local Action 21

In Chester-le-Street a robust partnership of individuals, representatives from community groups, organisations, agencies, and the District and County Councils has prepared the district's own Local Agenda 21 Strategy, ***Living Today: Looking After Tomorrow***. The Plan outlines a vision for the future and suggests actions that can be taken either by individuals or organisations, that will help create a more sustainable District.

The key aims are:

- To preserve and enhance our natural environment, to use energy efficiently and to cut down waste.

- To reduce use of the car in favour of walking, cycling and public transport and lower the levels of pollution.
- To create pleasant, resource-efficient settlements, where our needs are provided for locally, including satisfying work, and where employers are environmentally and socially aware.
- To ensure that everybody's basic needs are met, to encourage people to participate in society and to live healthy, fulfilled and sustainable lives in supportive communities.

The district's LA21 Partnership has now been embedded within the policy development structure of the LSP and takes a critical role within the Environment and Housing Policy Group. This Contaminated Land Strategy will ensure that the policy group has a close and influential role in the development and implementation of the Council's contaminated land function.

Environmental Policy

Closely associated with the District LA21 policy, the Council has approved an Environmental Policy that identifies the contribution our organisation can make to promote sustainability and environmental protection. The Environmental Policy is outlined in Appendix A.

The Contaminated Land Strategy is anticipated to be a key tool in realising the principles of our Environmental Policy, particularly those concerning biodiversity.

Planning Policy

The underlying objective of the Local Development Framework (LDF), which is currently being developed, is to meet the social and economic needs of the District, without detriment to the environment. The LDF states that it is essential that new developments seek to preserve and where possible enhance the environment in order to achieve our aim of sustainability. It promotes the development of brownfield rather than greenfield sites and in doing so brings into sharp focus the need for clear risk management principles to avoid creating contamination problems.

The Contaminated Land Strategy will be key to the LDF, because the Strategy will provide the framework for identifying potentially contaminated land for remediation and sustainable and productive redevelopment.

In turn, future strategic planning policy will take full cognisance of the emerging planning advice, to ensure that there is a synergy between planning and environmental policy.

1.2.3 Public Access to Information

The Council acts in accordance with the requirements of the following statutes and regulations in making environmental information accessible to the public.

- Local Government (Access to Information) Act 1985
 - Environmental Information Regulations 1992
-

- Environmental Information (Amendment) Regulations 1998
- Data Protection Act 1998
- Human Rights Act 1998
- Freedom of Information Act 2000

1.3 Regulatory Context

1.3.1 The Contaminated Land Regime

The statutory regime for the identification and remediation of contaminated land came into force on 1 April 2000. The primary legislation is contained in Part 2a of the Environmental Protection Act (1990). It is complemented by the Contaminated Land (England) Regulations 2006, and the Statutory Guidance laid out by the Department for the Environment, Food and Rural Affairs (DEFRA) Circular 01/2006: *Contaminated Land*.

The regime sets out a framework for the identification and remediation of 'contaminated land', in circumstances where there has not been any identifiable breach of a pollution prevention regime. The regulations reinforce the **suitable for use** approach to the assessment and remediation of contaminated land, which recognises that the risks presented by contamination vary according to the current use and environmental setting. Risks posed by contaminated land therefore have to be assessed on a site by site basis. This approach ensures that any remedial requirements are reasonable, and tailored to the needs of individual sites.

The regime was designed and intended to encourage and support voluntary remediation, with the service of notices and entry onto the Contaminated Land Register taking place only when other measures have failed. Indeed, where the Local Authority is satisfied that remediation will take place through another regulatory system, such as Development Control, a remediation notice under Part 2a cannot be served.

1.3.2 Definition of Contaminated Land

Under Part 2a, contaminated land is defined 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 that there is a SIGNIFICANT POSSIBILITY of such harm being caused; or

“(b) POLLUTION OF CONTROLLED WATERS is being, or is likely to be caused”.

Where HARM is attributable to radioactivity, the definition of CONTAMINATED LAND has been modified by regulation 4(a) of the Modification Regulations as:

“any land which appears to the LOCAL AUTHORITY in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that

“(a) HARM is being caused, or

“(b) there is a **SIGNIFICANT POSSIBILITY** of such harm being caused”.

The situations where harm is to be regarded as significant are defined in the Statutory Guidance, and an environmental risk assessment is required to establish whether harm or pollution is likely to occur.

The Risk Assessment is based on the **Source → Pathway → Receptor** principle as detailed below:

Source: A contaminant in, on or under land, which has the potential to cause harm or pollution of controlled waters.

Pathway: One or more routes or means by, or through, which a receptor:

- (a) is being exposed to, or affected by, a contaminant, or
- (b) could be so exposed or affected.

Receptor: either:

(a) a living organism, a group of living organisms, and ecological system or a piece of property which

- (i) is in a category listed in Appendix B as a type of receptor; and
- (ii) is being, or could be, harmed, by a contaminant; or

(b) controlled waters which are being, or could be, polluted by a contaminant; or

(c) any person who is, or could be, subject to lasting exposure so far as attributable to radioactivity.

A **pollutant linkage** is said to exist where there is some evidence that a contaminant source in, on or under the land is impacting upon a relevant receptor via a feasible pathway. Central to the requirements for the assessment of risk is the development of a site **conceptual model** setting out all the pollutant linkages identified in the context of the site environmental setting. Examples of Conceptual Site Model showing pollutant linkages are presented in Appendix C.

Land can only be determined as contaminated land if there is at least one **significant pollutant linkage** (SPL) present. A pollutant linkage is significant when it:

- Is resulting in significant harm being caused to the receptor in the pollutant linkage;
- Presents a significant possibility of significant harm being caused to that receptor;
- Is resulting in the pollution of the controlled waters which constitute the receptor, or
- Is likely to result in such pollution.

The situations when harm or pollution is to be regarded as significant are shown in Appendix B.

1.3.3 The Regulatory Role of the Council

As the local authority, the Council is the primary regulator for its district under Part 2a.

Its main duties are to:

- Prepare and publish a strategy for inspecting the District for contaminated land;
- Implement the strategy in a rational and efficient manner, identifying the most pressing and serious problems first, and concentrating resources on areas where contaminated land is most likely to occur;
- Determine which sites meet the definition of ‘contaminated land’ and whether such sites should be designated **special sites** (see 1.3.4);
- Identify appropriate persons, attribute liability under the ‘polluter pays’ principle, and ensure that the appropriate remediation of contaminated land takes place (through encouraging voluntary remediation or serving remediation notices); and
- Maintain a public register of Part 2a regulatory action.

The Council is also responsible for enforcement activities relating to a variety of issues including environmental health, land management and planning policy.

1.3.4 The Role of the Environment Agency

Under Part 2a, the Environment Agency generally has a secondary role, assisting local authorities and providing site-specific guidance.

However, in certain circumstances, particularly when water pollution is involved, contaminated land may be designated a **special site** in accordance with the Contaminated Land (England) Regulations 2006. The responsibility for regulation of such sites then passes from the Local Authority to the Environment Agency.

The main duties of the Environment Agency are:

- To provide information to local authorities on land contamination;
- To ensure remediation of special sites;
- To maintain a register of special sites remediation;
- To provide advice to local authorities on identifying and dealing with pollution of controlled waters;
- To provide advice to local authorities on the remediation of contaminated land; and
- To prepare a national report on the state of contaminated land

The Council will seek to develop and maintain a strong partnership with the Environment Agency, noting that they have a key supporting role and are a source of professional advice on site-specific issues. The Council recognises the Environment Agency’s statutory role in regulating contaminated land **special sites** as defined in the legislation.

1.3.5 Contaminated Land and the Development Control Regime

Part 2a was developed specifically to deal with the legacy of historical contamination. It does not consider the future use of a site, only the suitability of the land for its current use. The Planning Regime considers the suitability of sites for an intended future use. The Council recognises that these two regimes are closely related and interconnected.

The Town and Country Planning regime recognises that land contamination, or the possibility of it, is a material planning consideration. In respect of any proposed development, a planning authority should satisfy itself that the potential for contamination is properly assessed, and the development incorporates any appropriate remediation measures necessary to satisfy the 'suitable for use' criteria.

DEFRA Planning Policy Statement 23 (PPS23) *Planning & Pollution Control* provides local planning authorities with advice on the relationship between controls over development under planning law, and those controls managed by pollution control legislation. It places a substantial emphasis on consultation with pollution control authorities and to securing sufficient information on which to base development control decisions.

Where a contaminated site can be properly dealt with through the Development Control regime, there should be no need to apply Part 2a to the same site. However, if undiscovered contamination issues emerge at a later date, then the use of Part 2a may need to be reconsidered. For this reason, it is important to ensure that all sites being dealt with under the development process are thoroughly investigated and remediated to a standard suitable for both current and future permitted use.

1.3.6 Contaminated Land and Other Regulatory Regimes

Part 2a deals with any harm or pollution that may arise from historic contamination of land as it affects current use. Some active sites, processes and land uses are regulated under other legislation, such as the Waste Management or Pollution Prevention and Control regimes.

Where a site is already regulated, there will generally be no need to apply Part 2a. Should Part 2a inspections provide evidence that a breach of another pollution prevention regime is occurring, action will normally be taken under that regime.

1.4 Development of the Strategy

1.4.1 Roles and Responsibilities

The responsibility for development of the Contaminated Land Strategy rests with the Council's Chief Environmental Health Officer. Some duties may be delegated to the Environmental Health Team as necessary.

1.4.2 Consultation

Partnership between the Council and other interested parties is essential to the successful implementation of the Contaminated Land Strategy. A critical aspect of this

partnership was to provide the opportunity for all key consultees to comment during the development of the strategy. This was achieved by an in-depth consultation following the drafting of the first version of the Strategy. It has not been considered necessary to consult on this revised version as the changes have been technical and in response to internal changes in the way that the Council operates.

1.4.3 Strategic Approach Requirements

The Council recognises that change in the manner in which it deals with environmental protection and contaminated land throughout the District requires a long-term strategic approach. The Contaminated Land Strategy is intended to enable step change, introducing a number of key elements in a controlled manner over the next few years.

1.4.4 Strategy Document Objectives

Key objectives relating to this strategy are:

- To implement a means of assessing land within the District from a contaminated land perspective;
- To identify those sites where land contamination is presenting unacceptable environmental risks and ensure that remediation takes place, using a process of prioritisation to concentrate resources on the most serious sites;
- To provide information to the Environment Agency for its report on contaminated land;
- To reduce the Council's impact on the environment by identifying and remediating contamination on Council-owned land;
- To embed the regulation of contaminated land within the Council's wider regeneration objectives as set out in our Corporate Plan;
- To integrate contaminated land regulation with development control, identifying sites where regeneration and redevelopment could facilitate remediation; and
- To improve understanding within our community of contaminated land issues.

The Council's performance against these key objectives will form the basis of future reviews of this strategy and will be monitored in the Best Value Performance Plan.

2. Characteristics of the District

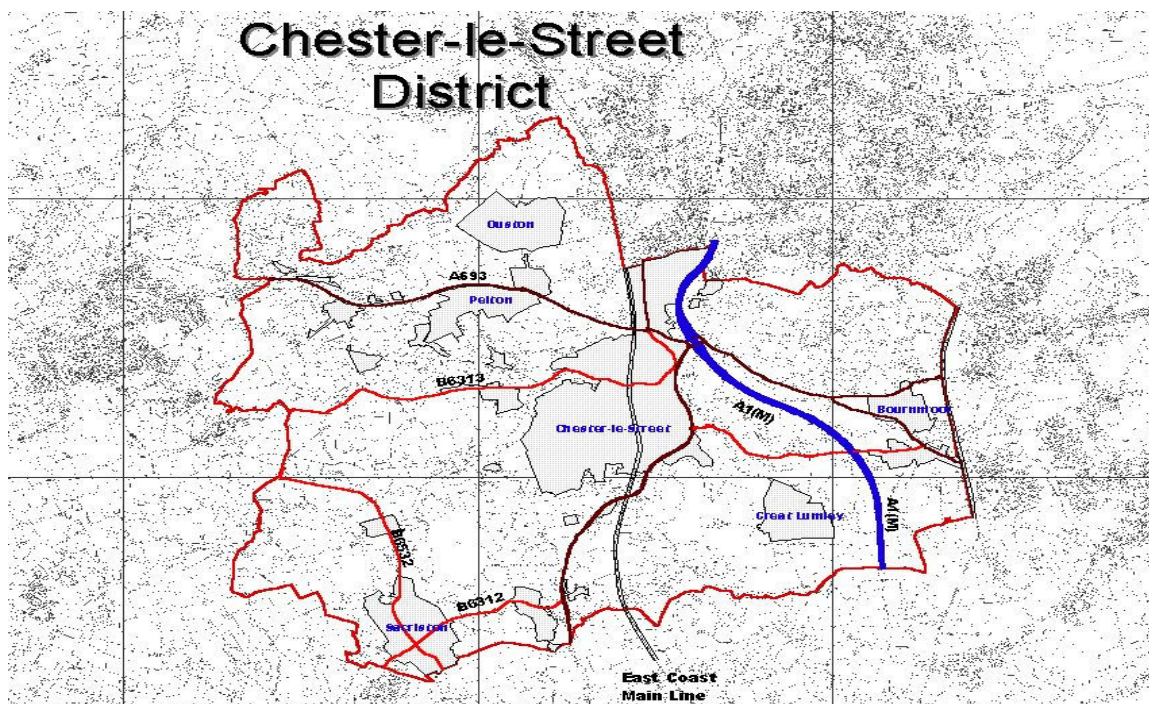
It is essential that the Contaminated Land Strategy be based on a good understanding of the District and the suitability of the land for its current use. Local circumstances, characteristics and historical land use are extremely important. This section describes these local characteristics.

2.1 Geography

Location and Setting

Chester-le-Street is the smallest (6,800 hectares – 28 square miles) and the most densely populated district in County Durham (8 people per hectare). It is located in the centre of County Durham south of the Tyne/Wear conurbation astride main national road and rail routes. The District, although formerly a coal mining area, now largely serves commuters and the area currently has a relatively small and diverse employment base. The geographical position of Chester-le-Street bisected by the main communication arteries of the County – the A1(M) and A167 roads, and the East Coast Mainline railway – and its proximity to the Tyne & Wear conurbation has meant that the last three decades have seen a 24% increase in population growth. Chester-le-Street District had an estimated population of 53,200 at June 2006 (Office of National Statistics, Resident Population Estimates, June 2006 dataset).

The population density and the proximity of the District's settlements to each other, in addition to a significant amount of housing developments on greenfield land over the past two decades, have led to the erosion of open countryside. In addition, there has been a threat of the coalescence of certain settlements, to the extent that some parts of the District have reached their environmental capacity. This has inevitably led to increasing pressure for development on brownfield sites and reinforces the need to integrate the contaminated land regime with planning policy.



Industrial Heritage

Chester-le-Street district has a rich and varied industrial heritage dominated by its location in the heart of the Durham coalfield. The coal industry has played an important part in the growth of the town and its surrounding villages since the seventeenth century.

Underground extraction has now ceased, and many of the colliery sites have been reclaimed. Associated industries, such as coke works and related by products, have also affected the district and some of these industries remain, either in use or unreclaimed.

Opencast extraction of coal has also taken place in the area and in these cases full treatment of shallow workings will have been achieved. In other cases, particularly historic workings, only partial reclamation may have been carried out, if at all, resulting in sites of concern with regard to contamination and geotechnical stability. In such cases, it would be sensible to give the site a high priority during the risk assessment stage.

Brick clay extraction was at one time prevalent in the district from workings in the laminated clay, leaving voids at the surface, many of which have been filled with waste. The impact of the infilling depends on the date of the operation. For example, earlier deposits have higher proportions of ash, and less biodegradable matter, which are likely to produce less landfill gas and fewer leachate problems compared to later deposits.

2.2 Natural Environment and Setting

2.2.1 Geology

Solid Geology

The solid geology of the District is dominated by the Upper Carboniferous Coal Measures, i.e. the Middle Coal Measures (Westphalian B and C Series). These strata outcrop at various locations across the district. The Coal Measures typically comprise interbedded layers of mudstone, sandstone, siltstone, limestone and coal.

Drift Geology

The drift geology of the District in general comprises Glacial Till which is typically 10 to 30 m in thickness.

Laminated Clay and Silt

These dark brown clays are principally composed of illite and kaolinite with subordinate chlorite and silt-grade quartz. The lamination results from slight variations in the content of silt-grade quartz. Films of pale brown, very fine micaceous sand are common. Thick deposits of laminated clay are found in buried channels in the Glacial Till. Laminated clay has been worked for brick and tile making in the Birtley area for many years.

Glacial Sand and Gravel

Thick glacial sands and gravel are, like the laminated clays, generally associated with buried channels.

Recent Deposits

Spreads of alluvium bordering most streams and terraces are developed in places. Alluvium varies from coarse gravel to fine silts and muds and includes beds of peat in places. There are small areas of head, which is a sandy, pebbly clay formed by solifluxion.

Made Ground is extensive; most of it is backfill in opencast coal sites, but in the area, domestic and industrial refuse deposits are over 20 m thick in places.

Coal Workings

A serious geological constraint in this district is old coal workings. Numerous individually named coals have been widely worked, and other thin coals have been worked locally near outcrop. Seams near the surface with little or no drift cover have been worked since the thirteenth century with extensive workings in the seventeenth and eighteenth centuries. Rudimentary ventilation allowed only limited working from each shaft, and this resulted in a multitude of small shafts in some areas. Although many of these old shafts and associated workings have collapsed, seams with strong sandstone roofs and little load from the overlying strata can provide conditions where cavities still exist. The absence of mine plans for many of these increases the problem. Careful site investigation is necessary in all areas where Coal Measures are near the surface, regardless of whether or not geological maps or mine plans indicate coal workings.

2.2.2 Hydrology

The River Wear and associated tributaries are the main water body within the District. Within the District, the Wear is predominantly classified by the Environment Agency as having a water quality of good to poor (B to D), while tributaries of the Wear have water quality designations ranging from fairly good to bad, reflecting a major fluctuation in water quality.

2.2.3 Hydrogeology

The District is located on a minor aquifer associated with the presence of bedrock comprising coal measures. Minor aquifers can be locally important with regard to local supplies of water and river base flow.

The eastern and western parts of the district benefit from soils with a low (and locally intermediate) leaching potential with regard to impact on the underlying Minor Aquifer. The leaching potentials of soils underlying the urban area of the town, in the centre of the District, are unclassified due to limited information on their nature and quality. However, they are expected to be similarly low or intermediate, as this classification is based on the presence of Glacial Till, which is present across the most of the District.

2.2.4 Landscape Character

Chester-le-Street District can be categorised into two distinct regional character areas:

Coalfield Pennine Fringe

The presence of urban land use and infrastructure has a significant influence on the character of the coalfield landscape. Some valleys are entirely rural in character with development restricted to agricultural settlements. Other valleys, while remaining largely rural, are heavily influenced by the presence of mining or industrial settlements. These may be described as semi-rural landscapes and are particularly characteristic of the coalfield.

Wear Lowlands

This can be broadly divided into three sub-regions:

- the “Incised valley” landscapes of the River Wear, characterised by narrow ravines and broader floodplains bounded by steep wooded bluffs;
- the “Transitional valley” landscapes lying to the west, covering the lower reaches of the Pennine fringe valleys as they merge with the broader valley of the Wear, which are characterised by riparian woodlands along incised lower valleys and open undulating arable farmland and heath land; and
- “Valley terrace” landscapes of undulating arable farmland lying to the east of the District.

2.2.5 Nature Conservation

The District contains some areas protected for their nature conservation interests in both urban and rural locations.

Waldridge Fell is of considerable importance as the only lowland site where semi-natural vegetation is widely developed over acidic substrates. It includes a range of heathland, grassland, wetland and woodland habitats, several of which are rare or absent in the rest of the County. The Fell constitutes the District's only Site of Special Scientific Importance (SSSI) – a site of both national and county ecological importance. As a SSSI, Waldridge Fell is given special protection under Part 2a.

At the regional / county and district level, twenty-six sites are currently designated for their nature conservation value. These are collectively described as Sites of Nature Conservation Importance.

2.3 Built Environment

Chester-le-Street District has a rich history. The County Durham Sites and Monuments Record (the database of all known sites in the county) currently shows 171 recorded sites for Chester-le-Street district. These range from prehistoric settlements and Roman sites, through Anglo-Saxon and medieval periods, to post-medieval and industrial remains. Many sites have policies protecting them in the County Structure Plan and District Plan.

2.3.1 Ancient Monuments

Chester-le-Street District currently contains four Ancient Monuments, which as such are given special protection under Part 2a. Brief details are given below (courtesy Durham County Council):

Concangis Roman Fort

Durham County Monument no. 105, NZ 276513

The Roman fort of Chester-le-Street, where numerous Roman finds have been made, it is believed to have been a cavalry fort founded in A.D.216.

Excavation in 1990 at Church Chare and again in 1993 at Park View School identified an earlier clay and timber fort belonging to the first half of the second century AD.

An earlier series of excavations between 1958 and 1978 revealed a range of detail about the internal structure of the fort. The main building uncovered was the Commanders house which went through two phases of use, initially as residential quarters. Secondly, it was modified by the division into smaller units, one of which contained a small furnace and a small bath house. The building had a fairly comprehensive hypocaust system. Some sections of the inter-vallum road were uncovered, most notably in the south east corner. The defences were composed of a rampart and a series of three external ditches, the rampart having been made by material thrown up from the innermost ditch. A stone revetment was later added to the outer face of the rampart. The ditches showed signs of having been periodically cleaned out and re-cut.

Settlement SW of Harbour House Farm

Durham 132, NZ 280481

An archaeological site comprising two possible short stretches of ditch and other marks, identified from an aerial photograph. Apart from the original identification, no further work has been carried out and so no firm idea of type of site or historical period can be given.

Harbour House Chapel

Durham 135, NZ 28234831

In 1432, Bishop Langley licensed a domestic chapel within the manor of Harbourhouse. By 1954 it was still standing, but in a poor condition with holes in the walls and roof: "The chapel measures 8.5m x 4.5m and is in use as a hen house. There is no trace of the piscina or altar, the lancet window is partially blocked up and the east window is completely blocked up."

Chester New Bridge

Durham 7, NZ 28455228

A bridge of four pointed arches, each having five wide ribs with chamfered corners. The total span is about 60 yards and the roadway is 16 feet wide. It is mentioned in 1528 as "Newbrigge" and described by Leland as "Chester Bridge".

2.3.2 Historic Conservation Areas

While Conservation Areas have no special status under Part 2a, development proposals within a Conservation Area are controlled to ensure that the Area's special character is not harmed. Works within Conservation Areas are likely to require 'Conservation Area Consent'.

There are currently two Conservation Areas within the District: Chester-le-Street Town Centre and Plawsworth.

2.3.3 Buildings of Special Interest

The District contains three buildings of exceptional architectural or historic interest, as recognised under the Planning (Listed Buildings and Conservation Areas) Act 1990. These are **Biddick Hall** in Bournmoor, the 13th century **Church of St. Mary and St. Cuthbert** in Church Chare, and **Lumley Castle**.

The District also contains six Grade II* and 56 Grade II listed buildings and structures. These are listed, along with the Grade I buildings, in the 6th List of Buildings of Special Architectural or Historic Interest, District of Chester-le-Street (Durham) and amendments.

None of these buildings have any special status under Part 2a, but works that are likely to affect them may be controlled.

3. Overall Approach of the Strategy

3.1 Aims and Priorities

The principal aim of the strategy is to identify land within the District that is deemed to be contaminated, in accordance with the Contaminated Land Regime.

Once a site is identified as contaminated land, the Council will ensure that it is remediated such that it is suitable for its current use.

In essence, this strategy is expected to achieve:

- Efficient use of resources;
- A focus on the most serious risks;
- Effective prioritisation; and
- Prompt inspection of those sites where solutions are most urgently needed.

When considering the setting of priorities, the Council will:

- Consider all land within the District on an equal basis, without dealing with any particular landownings (such as the Council's own land) separately;
- Consider the protection of human health as the highest priority overall;
- Take action in relation to any site where there is already strong evidence that a problem exists, without waiting for the site to emerge from a prioritisation process.

3.2 Effective Delivery

Recognising that the work to achieve these aims must occur in parallel with other Council activities such as development control and urban regeneration, the Council will work to optimise the use of its resources to achieve efficient delivery.

The Environmental Health Department

Management of the Council's functions within the Contaminated Land Regime will sit within the Planning and Environmental Health Department.

3.3 Objectives

The Council recognises that there are major tasks in the implementation and initial operation of the Contaminated Land regime. These are set out below along with likely duration of each task and, where appropriate, target dates by which each stage of the work is expected to be completed. The original Strategy was published in June 2004; following this all known previous industrial land uses within the district have been

identified and mapped onto a theme in the Council's Geographical Information System (GIS). Following this, the data produced was checked for data quality and the areas identified rationalised into recognisable areas, to form sites for investigation. The Council is now ready to prioritise these sites, to ensure that those that potentially pose the highest risk are investigated first. The Council's major objectives are outlined below:

Table 1: Milestones for the Contaminated Land Strategy

Task description	Period of activity
Adoption of the Revised Strategy	March 2008
Set up a Public Register to record information required under the legislation in relation to each site found to be contaminated land	Within 1 month of first Determination date
Inspect sites where there is already evidence of significant harm or pollution	In progress
Undertake initial screening of the whole District to identify sites where it is possible that pollutant linkages exist	Completed August 2007
Prioritise sites for inspection	February 2008 to Summer 2008
Conduct detailed inspections of sites identified in the initial screening, and where necessary formally determine them to be contaminated land	Rolling programme beginning Summer 2008
For each contaminated site, identify appropriate persons, select a remediation package and enforce its implementation	Rolling programme
Review of the Strategy from time to time.	Every 2 years from January 2008

4. Priority Actions

4.1 Consultation Process

4.1.1 Statutory Consultation

In developing the original Contaminated Land Strategy in June 2004, the Council consulted the following organisations:

- the Environment Agency;
- Natural England;
- English Heritage;
- the Department of the Environment, Food and Rural Affairs (DEFRA); and
- the Regional Development Agency, One NorthEast.

This consultation has not been repeated for the reasons given in Section 1.4.2.

4.1.2 Community Consultation

Developing a strong and pragmatic relationship with our communities is a fundamental priority for the Council, and this is no better demonstrated than in engaging the local residential and business communities in the development of our contaminated land function. Input from the community within the district was gained through a number of arrangements, again in June 2004. The following methods of consultation were used:

- Through the Local Strategic Partnership (LSP);
- Presentation of the strategy at key buildings throughout the district including the Civic Centre, local libraries, community centres and chamber of commerce;
- Presentation of the strategy on the Council web site; and
- The inclusion of an executive summary of the Contaminated Land Strategy within the District News, which has been delivered to every home within the District, and to every community association, residents association and Parish Council in the District.

Following the approval of the revised Contaminated Land Strategy, an article will be published in District News to publicise this.

4.1.3 Internal Liaison Procedures

The Council will ensure that all of its relevant service teams are involved in development of the Contaminated Land Strategy. This will require that liaison is made with key contacts within various sections, most notably, the Development Control and Regeneration.

4.2 The Public Register

In accordance with the requirements of Part 2a, the Council will establish and maintain a Public Register to act as a full and permanent record of sites determined to be contaminated land, where remediation action is in hand or has been completed. The Public Register will be open for public inspection.

The Register will include all action taken by the Council in respect of the remediation of contaminated sites. It will *not* be a register of

- land that has been determined to be contaminated, but for which no Remediation Notice has yet been served;
- land that is affected by contamination from other sites; or
- land that may be contaminated land, but has yet to be officially determined as such.

The Public Register will be created within 1 calendar month, immediately following the first determination of a contaminated site, so that it can begin recording information in compliance with the legislation.

5. Identifying Potentially Contaminated Land

The first stage in identifying potentially contaminated land involved preliminary screening of key data sets relating to all land within the District, to identify sites where potential pollutant linkages exist.

These data sets include:

- The database of past potentially contaminative land uses
- Geological maps
- Land use data
- Historical maps
- Environment Agency data including landfill licensing
- Information from Natural England on environmentally sensitive sites

The Council used its existing GIS system, to collate this information and produce a set of identified previous industrial uses. This data was then rationalised by a consultant (Entec UK) to produce a list of sites that are considered to be potentially contaminated.

5.1 Screening and Prioritisation

Sites will be screened and prioritised using an applicable tool, similar to that presented in the Department of the Environment's Contaminated Land Research Report 6 – *Prioritisation and categorisation procedure for sites which may be contaminated* (CLR6).

CLR6 provides a basic prioritisation, in the form of analysis of proximity to sensitive receptors, such as residential housing, allotments and schools, groundwaters and surface waters. This can easily be adapted to create a scoring system, which will begin the prioritisation process. Factors such as the type of industry or potential pollutants and the duration of works on-site will also be included to ensure that the sites most likely to cause harm are investigated first.

Initial Screening

A consultant (Entec UK) was employed to identify previous industrial land uses based on historical maps of the area. These have now been condensed into a single layer of data, capable of showing all the previous land uses of a particular site.

Prioritisation

All the sites identified have the potential to be considered as contaminated land under the legislation. However, the risk posed by these sites will vary considerably. Therefore, the screening tool will rank all the sites, so that the sites that initially appear to pose the greatest risk are the first to undergo detailed inspection.

To make this initial determination of risk, the screening tool will consider a number of elementary factors. These elementary factors may include:

- The historical use of the site;
- The extent of the historical use;
- How close the site is to the critical receptor.

5.2 Timescales

The sites have already been rationalised by Entec UK, and the process of prioritisation will begin in February 2008.

Once the priority list of potentially contaminated sites has been compiled, the Council will then begin the process of detailed inspection, to determine whether any sites within the District are actually contaminated land, in the terms of the contaminated land regime and the 'suitable for use' philosophy. The priority list is scheduled to be completed by Summer 2008.

6. The Detailed Inspection Process

6.1 Detailed Inspection

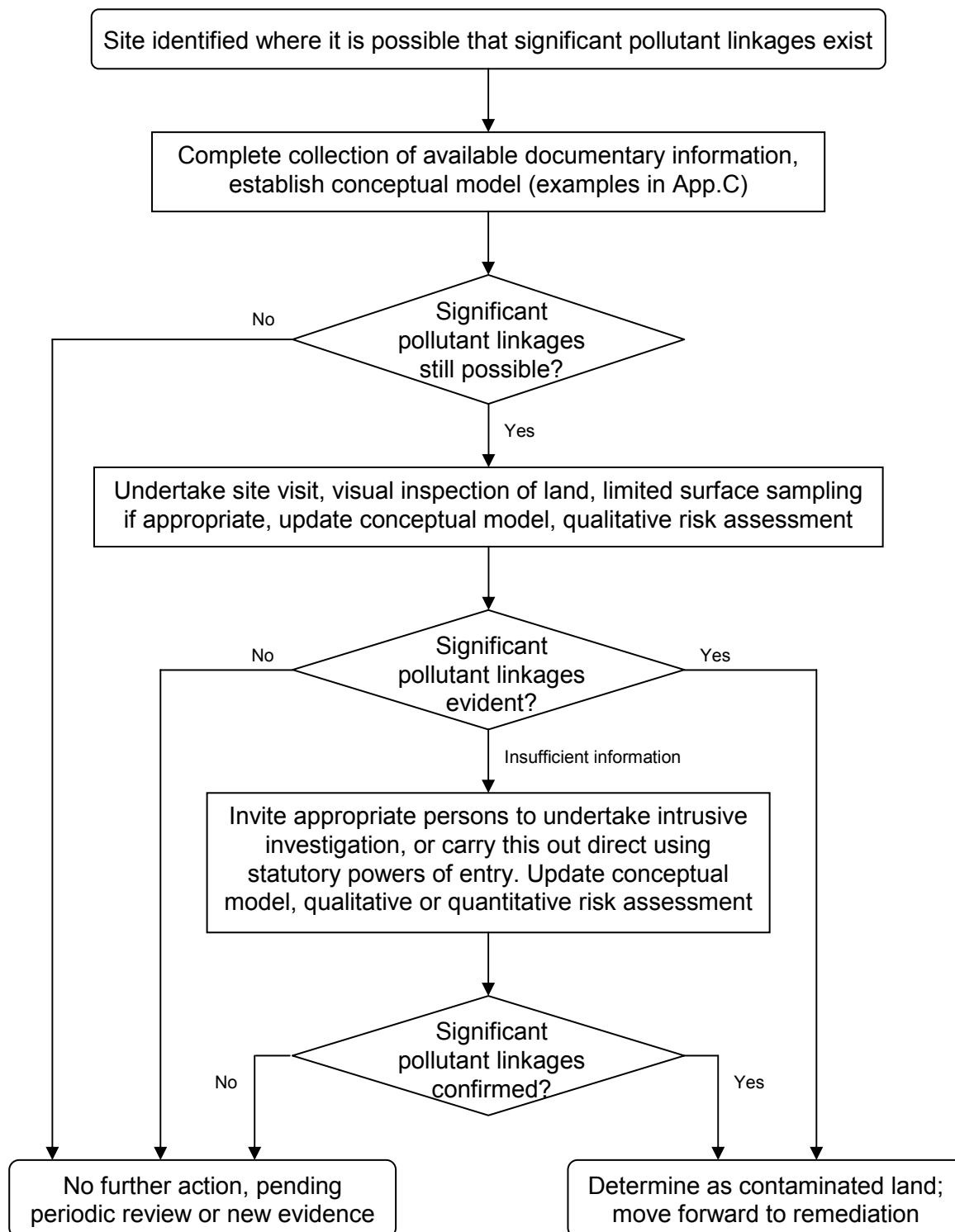
If the Council considers that there is a reasonable possibility that a significant pollutant linkage exists in respect of any land, it will carry out a detailed inspection (see Figure 1) to obtain sufficient information to determine that the land appears to be contaminated land, and whether it is a **special site**.

The process of detailed inspection will follow the requirements of the Statutory Guidance and may include the following activities:

- An additional desk study to gather and assess further information;
- A site visit for visual inspection and possibly limited sampling to determine the likelihood of contamination/pathways being present; and / or
- An intrusive site investigation, involving the sampling and analysis of soils and groundwater, to characterise actual or potential pollutant linkages.

This stage work will also begin the process of identifying those parties responsible for any contamination at the site, and attribution of liability.

Figure 1 Site Inspection Procedure



6.2 Site Inspection

In all circumstances the Council will aim to gain the approval of the landowner / tenant prior to undertaking a site inspection. The Council recognises that investigations can be disconcerting to local residents, and will endeavour to communicate in a responsible and open fashion, taking account of advice given in *Communicating Understanding of Contaminated Land Risks*, by the Scotland & Northern Ireland Forum for Environmental Research (SNIFFER) 1999.

Nonetheless, the Council has the power, under section 108 of the Environment Act 1995, to carry out an inspection using statutory powers of entry, so long as it is satisfied that there is a reasonable possibility that a pollutant linkage exists on the land. The Council will not exercise these powers if detailed information on which it could make a determination can be provided.

Requests for Environment Agency Site Inspections

If land has been determined to be contaminated land and possibly falls within the **special site** criteria, then the Environment Agency becomes the enforcing authority. In such cases, the Council will request in writing that the Agency inspect the site on their behalf. Where the Council asks the Agency to carry out an inspection they will, where necessary, authorise a person nominated by the Agency to exercise the powers of entry conferred by Section 108 of the Environment Act 1995. All relevant documentation for each site will be copied to the Agency for the purposes of their inspection.

6.3 Intrusive Investigation

The site investigation procedures to be followed will comply with current best practice, including:

- Environment Agency, *Technical Aspects of Site Investigation*; R&D technical report P5-065/TR
- BS 10175: 2001 – *The Investigation of Potentially Contaminated Sites – Code of Practice*.
- BS 5930: 1999 – *Codes of Practice for Site Investigations*
- H&S Executive HS(G)66 – *Protection of Workers and the General Public during the Development of Contaminated Land*

6.4 Assessing Contamination

Evaluation of chemical data will be undertaken in accordance with current UK best practice. Analytical results will initially be subjected to a risk-based assessment, taking into account current UK best practise and guidance including:

- Soil Guideline Values generated by the Contaminated Land Exposure Assessment (CLEA) Model developed by the Environment Agency and DEFRA;

- Thresholds of the DEFRA Soil Code;
- The SNIFFER Framework
- The Water Supply (Water Quality) Regulations 2000;
- The Water Framework Directive 2000/60/EC

Where no national guidance is available for a particular contaminant, the Council may consider comparison with European guidelines or other relevant guidance in line with the hierarchy presented in the DETR document Guidelines for Environmental Risk Assessment and Management (2000) where these can be shown to be relevant, in accord with the UK policy approach, and appropriate for the site conditions encountered.

All sites will be subject to a site-specific risk assessment when making judgements about whether land meets the definition of contaminated land.

Determination as Contaminated Land

Consistency with other statutory bodies is highly desirable. To this end, in making a determination that relates to an ecosystem effect, the Council will consult Natural England before making its decision. In making a determination that relates to controlled waters, the Council will consult the Environment Agency before making its decision. The Council will also liaise with the Health Protection Agency, Food Standards Agency, or any other appropriate agency, as appropriate.

If the Council finds that a **significant pollutant linkage** is likely to be present and that it is likely to cause **significant harm or pollution**, or obtains evidence that **significant harm or pollution** has been caused, it will formally determine the site to be contaminated land, and give written notice to:

- The Land Owner if applicable
- Any person who appears to be the occupier of the land
- Each person who appears to be an **appropriate person**
- The Environment Agency

Details of the site and the circumstances of the determination will then be entered into the Public Register.

6.5 Special Sites

Whenever the Local Authority has identified any potential contaminated land, it will be assessed to see if it meets one or more of the prescribed descriptions in the regulations that would cause it to be designated as a **special site**.

There are four broad categories of site that may be considered 'special sites' under the legislation, these are as follows:

1. Water Pollution cases where the wholesomeness of drinking water, the surface-water classification criteria, or a major aquifer is affected.

2. Industrial cases involving waste acid tar lagoons, oil refining, explosives, Integrated Pollution Control sites, Pollution Prevention and Control sites, and Nuclear sites.
3. Defence cases where the contaminated land involves the Ministry of Defence estate.
4. Radioactivity cases.

The Council will liaise with the Environment Agency in advance of any formal action to agree on the basis of any possible designation, bearing in mind that the Agency will become enforcing authority in due course. The status of any such site will be kept under review as further information becomes available. The Council will act in accordance with the Statutory Guidance in the determination of land that may be a special site (See DEFRA Circular 01/2006 B.26-B.30)

If the land is required to be designated (under Section 78C (3)) then the authority will give written notice to: -

- The Environment Agency
- The Land Owner if applicable
- Any person who appears to be the occupier of the land
- Each person who appears to be an appropriate person

At formal designation stage, the Environment Agency will consider whether it agrees with the Council that the land should be so designated. If it does not agree, then it must notify the Council in writing within 21 days of the Council notification, giving a statement and reasons for its decision.

If the Environment Agency agrees with the Council then the contaminated land in question will be designated as a **special site**. If the Environment Agency does not agree with the Local Authority decision to designate a site then the decision is referred to the Secretary of State.

Copies of all documentation relating to the site will be copied and forwarded to the Environment Agency for their records. The Council will request that any additional work carried out after the site has been formally transferred, is documented and copies are sent back to the Council for their records.

7. Remediation

7.1 The Enforcing Authority

Where a site is determined as contaminated land, the enforcing authority will generally be the Council, except for those sites designated as Special Sites, for which the Environment Agency will be the enforcing authority. The enforcing authority is under a duty to require appropriate remediation.

7.2 Liability

The liability for the costs of remediation falls on the **Appropriate Person**, who is defined by the application of the **polluter pays principle** – anyone “who caused or knowingly permitted the contaminating substance to be on, in or under the land”. This is also referred to in the legislation as a **Class A** person. It is intended that, wherever practicable, remediation should proceed by agreement with the appropriate person, rather than by formal action of the enforcing authority.

If a Class A person cannot be found, then the liability may transfer to a **Class B** person, which is the current owner or occupier. There is a complex system of exclusions and apportionment which takes into account the possibility of the existence of several persons being held responsible to differing degrees.

Should no Appropriate Person be identified, the Enforcing Authority (either the Council or the Environment Agency) will bear the cost of any remediation; however funding is available from DEFRA to assist with this. The funding available from DEFRA is in the form of the Capital Grants Programme. This consists of a set amount of funding per year and Local Authorities are required to bid for the funds required.

The process is competitive, however in recent years the fund has been significantly under-subscribed. There are a number of factors taken into account when assessing a bid, including the amount of funding contributed by the Local Authority, the quality of the investigation so far, and the potential severity of the contamination.

7.3 Definition

Following the **suitable for use** philosophy, the requirement of remediation is to restore the land to a condition necessary to prevent unacceptable risks to human health and the environment, assessed on the basis of the present use of the site and the circumstances of the land. The land does not have to be returned to its original condition, or made suitable for some future use, although the **appropriate person** is always open to voluntarily carry out a remediation that achieves these wider objectives.

A remediation package should specifically aim to:

- prevent, or reduce the likelihood of, the occurrence of any significant harm, or pollution of controlled waters; and
- remedy or mitigate the effect of any significant harm, or any significant water pollution, that has been caused, or might be caused.

The remediation must deal with every significant pollutant linkage at the site.

Harm or pollution can be prevented by doing one or more of the following:

- removing or treating the source;
- breaking or removing the pathway; or
- protecting or removing the receptor.

The Council will encourage the **appropriate persons** to take voluntary action to deal with the contaminated land. If such action is not forthcoming, then the Council will serve a Remediation Notice requiring action to be taken, or undertake the work itself and seek to reclaim the costs from the **appropriate persons**.

Regardless of who proposes a remediation package, the enforcing authority has to be satisfied that a remediation package represents the best practicable option for remediation in terms of:

- The extent to which the package would achieve the above objectives;
- Whether the package would be reasonable having regard to the cost which is likely to be involved and the seriousness of the harm or of the pollution of controlled water involved;
- Whether the package represents the best combination of practicality, effectiveness and durability.

Timescale

The programme for remedial action will be site-specific, but the Council will seek to bring about action at each site in a timely manner.

Urgent Remediation

If it appears to the Enforcing Authority that there is imminent danger of serious harm, serious pollution of controlled water or serious harm attributable to radioactivity, the authority does have the power to waive the usual consultation and notification period and serve a remediation notice immediately following service of a determination notice. Furthermore, should the authority consider that this would not lead to remediation soon enough, it may carry out the remediation itself and prepare and publish a suitable remediation strategy, the cost of this can be recouped following the remediation.

8. Procedures

8.1 Internal Management Arrangements

8.1.1 Making information available

Information on how to access information about the contaminated land regime and the Council inspection process is given in Section 9.

8.1.2 Regulatory and enforcement duties

As a Contaminated Land Enforcing Authority under Part 2a, the Council will ensure that the regime established in the Act is undertaken in a consistent, equitable and efficient manner. However, the Council will seek, where possible, to facilitate voluntary remediation of sites and will only issue remediation notices when it is clear that negotiations with those liable have failed. The Council will also be responsible for follow up action to ensure that the approved remediation action has been carried out adequately and satisfactorily.

The Council will ensure that all actions taken conform to the current Enforcement Policy (insert ref here...)

8.1.3 Legal & Democratic Services – Local Land Charges

Following the implementation of Part 2a and the requirement for each local authority to keep a Public Register of its regulatory activity, a question (3.12) referring to Contaminated Land has been added to the Form CON29; Enquiries of Local Authorities. The Environmental Health Team answers the questions on this form as part of the search carried out every time a property transaction takes place.

The information obtained through Part 2a inspection will assist in answering this question (3.12).

8.2 Consideration of Council Owned Land

The Council is of the opinion that it is important to differentiate between its role as landowner and its statutory regulatory duty under Part 2a.

In undertaking the role as contaminated land authority, the Council will develop and implement a prioritisation model for inspections based on an objective risk assessment of all land within the District irrespective of ownership. Where land within our ownership is determined as contaminated, the Council, as a responsible landowner, will lead by example in the remediation of the site.

Again, it may be possible to obtain DEFRA Capital Grants for the funding of such remediation. The mechanism for this is detailed in Section 7.2.

9. Liaison and Communication Procedures

9.1 Principles

The Council will strive to work in co-operation with all owners, occupiers and other interested parties in the development and implementation of the strategy.

The Council recognises that public perception of the risks associated with contaminated land is critical to the success of the Contaminated Land Strategy. A site cannot be considered **suitable for use** unless the public can have confidence in the methods employed to assess it, and in any remedial activity carried out. Accordingly, the Council will aim to communicate information in a clear, consistent and concise manner at all times.

Requests for Service and Complaints

Information and complaints received by the Council will be dealt with in accordance with current Requests for Service Procedure. This states that in all cases an acknowledgement letter will be sent to the complainant within one working day, followed by initial contact with the complaint within five working days.

Once information regarding a site is received, the site will be investigated on a risk assessment basis, consisting of, in the first instance, a desk-top study and walk-over survey of the site. Should this study indicate low to minimal risk, it is unlikely that a sampling regime will be implemented; however each site will be assessed on an individual basis.

It should be noted that whilst our Requests for Service Procedure states that the department will endeavour to determine all requests for service in forty working days, further investigation of contaminated land can take considerably longer than this. Chester-le-Street District Council will, however, endeavour to complete all investigations in a timely manner, without unnecessary delays.

If a complainant wishes to make a complaint regarding the service received, this will be subject to the Corporate Complaints Procedure, which can be viewed at the following address <http://www.chester-le-street.gov.uk/index.cfm?articleid=6312>

Anyone can provide the Council with information via any of the Key Contacts listed in section 11.

9.2 Information Management

Information will be managed in a logical manner ensuring its efficient use and availability. The Council will strive to continue improvement relating to Information Management.

9.2.1 Storage

As far as is reasonably possible the Council will aim to store information in an electronic format, within the GIS system.

Paper based information will be contained at a single location within the Council offices and will be registered via the GIS system.

9.2.2 Administration

Management of information within the Inspection Strategy will be administered by the Environmental Health Team.

Information held by the Environmental Health Team as part of the Inspection Strategy will be made available for use by other the Council teams, as and when appropriate.

9.2.3 Confidentiality

Information produced or provided and used within the Inspection Strategy will be treated as confidential. The Council will act in accordance with the Data Protection Act 1998 and Environmental Information Regulations 2004. Accuracy of information will be reviewed prior to use within the Inspection Strategy.

9.3 Public Access to Information

Chester-le-Street District Council takes great pride in the transparent and open manner in which it operates and recognises our citizens' fundamental right to information. The Council therefore acts in accordance with the requirements, statutes, and regulations, as detailed in section 1.2.3 of this report, in making environmental information accessible to the public.

Given the possible emotive and technical nature of the contaminated land regime and its sensitivity, the Council will seek to balance the public's right to clear and substantiated environmental information with the Council's requirement to avoid blight. The information that will be provided is detailed below.

In compliance with the above and also the requirements of the Contaminated Land (England) Regulations 2006, information held on the Council's Part 2a Public Register, will be accessible by the public and will be available for viewing at the Civic Centre during normal office hours.

Providing Information to Third Parties

The Council recognises the amount and type of baseline information about sources; receptors and pathways that need to be collated to develop the prioritisation scheme, and the running of the prioritisation model may be of interest to third parties. This may be site-specific information or data relating to the entire District. Particular attention will be paid to liaison with the Environment Agency in accordance with agreed national guidelines.

Whilst the Council wishes to make this information as accessible as possible, it is also recognised that the release of certain information, such as the prioritisation list may be harmful to the public, causing the perception of blight on properties.

For this reason, factual site-specific information such as historical land uses only will be made available to the public, conveyancers or other interested parties on request in writing. However, at the Council's discretion, certain information, which is deemed to be either confidential or personal, will be withheld. The Council will of course comply with the legal requirements governing public access to information.

Requests must be made in writing to the Chief Environmental Health Officer and should include a plan clearly identifying the site boundaries. There is currently no fee for the provision of this information. It is our long-term intention to integrate this service on-line but in the meantime, information will be provided on hard copy.

Due to the specialist nature of contaminated land site investigations, interpretative data resulting from specific site inspections will not be made publicly available. These documents are internal to the Council and are a prerequisite of the decision making process implicit in this statutory role. Where a site is determined as 'Contaminated Land' and a remediation notice served, this information will be placed on the register as part of the 'reason for determination'.

Content of the Public Register

The following contents will form the Public Register as detailed within the Contaminated Land Regulations:

- Site information – location, area, land use,
- Reason for determination as contaminated;
- Determination of sites as 'special sites';
- Remediation notices issued;
- Environment Agency site specific guidance;
- Details of site reports obtained by the Council in relation to remediation notices;
- Remediation declarations and statements;
- Appeals lodged against remediation and charging notices;
- Convictions under Section 78M (failure to comply with a remediation notice);
- Guidance issued under section 78V(1);
- Details of other environmental controls.

It must be stressed that the Public Register is not a register of all sites affected by contamination and will only contain details about sites which have been formally determined as contaminated land, and remediation action has been agreed.

9.4 Provision of Information to the Environment Agency

The Environment Agency is obliged to prepare and publish a report on the state of Contaminated Land in England. To do this the Agency will collate information it holds and any information held by Local Authorities. Much of this information is needed in a summarised format for ease of handling. Part 2a of the Environmental Protection Act 1990 requires each Local Authority to provide any information necessary to produce this report. This information is limited to the information that local authorities may have. The Council will provide information on any determination of contaminated land as it arises and any other information requested on an annual basis. A standard format for the provision of information has been agreed nationally for this purpose.

The implementation of this Inspection Strategy requires that there are strong liaison links with the Agency on water protection issues and dealing with Special Sites. Some of the information gathered as part of the Inspection Strategy will relate to this aspect and such information will be made available to the Agency as required or requested. It is envisaged that this will normally be necessary whenever it is necessary to determine whether land is to be classified as a special site.

10. Review Mechanisms

10.1 Triggers for Further Work

Changes in circumstances

The Council will review the status of land in the District from time to time. Should circumstances change on an area of land that has already been reviewed under Part 2a and found not to require action, this periodic review may trigger further inspection. Such changes might include:

- Change of use at a site that may introduce a further receptor or make a current receptor more risk sensitive. This may be dealt with through the planning process if the change of use requires permission; otherwise it will be dealt with under Part 2a.
- New information relating to a site is obtained, which significantly changes the apparent risk posed by the site.
- Unforeseen pollution occurs which cannot be dealt with by other regulatory mechanisms.

Changes in knowledge of substances

Assessments of sites will be carried out using the most recent criteria available on the hazards that particular substances might pose, and the toxicity of the substances. Where new scientific knowledge changes the understanding of the risks posed by a particular substance, then this may lead to a reduction in acceptable exposure levels, and this may lead to reassessment of particular sites in the light of the new knowledge.

10.2 Review of Strategy Document

The Statutory Guidance requires that the Council review its Inspection Strategy periodically.

This is the first review of the Contaminated Land Strategy that the Council has produced and as such it is our opinion that an early second review is desirable.

This will allow us to take consideration of:

- improved site specific information on potentially contaminated sites;
- our experience in developing and implementing prioritisation and initial inspection model;
- new guidance or emerging best practice.

Therefore, the second review is to be undertaken in January 2010, however, the Council may release updated versions of the Strategy, earlier than this should minor administrative changes occur. Such revisions would not introduce changes to the

mechanism of the Strategy; rather ensure that contacts and titles are as up-to-date as possible.

Otherwise the Council has a duty to fundamentally review all of its services over a five-year period under Best Value legislation, and this will determine future review milestones.

11. Key Contacts

11.1 Chester-le-Street District Council

Key Contact Points with regard to the Contaminated Land Regime within the Council are:

In writing	Chief Environmental Health Officer Chester-le-Street District Council Civic Centre Chester-le-Street Co. Durham DH3 3UT
By telephone	0191 387 2200
By fax	0191 387 1583
Email	Contaminatedland@chester-le-street.gov.uk
On-line	www.chester-le-street.gov.uk
In person	Chester-le-Street District Council Civic Centre Chester-le-Street Co. Durham DH3 3UT

11.2 Other Bodies

11.2.1 Neighbouring Local Authorities

Derwentside District Council

Environmental Services Department

Civic Centre

Medomsley Road, Consett

Co. Durham

DH8 5JA

Telephone: 01207 218 288

Fax: 01207 218 396

Email:

Website: <http://www.derwentside.gov.uk>

Durham City Council

Environmental Health

Byland Lodge

Hawthorn Terrace, Durham

DH1 4TD

Telephone: 0191 301 8793 or 8799

Email: envhealth@durhamcity.gov.uk

Gateshead City Council

Planning and Environmental Strategy

Gateshead Council

Civic Centre

Regent Street, Gateshead

NE8 1HH

Telephone: 0191 433 3000

Email: enquiries@gateshead.gov.uk

Website: <http://www.gateshead.gov.uk>

Sunderland City Council

Director of Community & Cultural Services

P.O. Box 107

Civic Centre

Burdon Road, Sunderland

SR2 7DN

Or Pollution Control Section

Telephone 0191 553 1661

Fax 0191 553 1658

Email: public.health@sunderland.gov.uk

Web enquiries: www.sunderland.gov.uk

11.2.2 County Archaeologist's Office

Archaeology Section

Cultural Services Department

County Hall, Durham

DH1 5TY

Telephone: 0191 383 4212

Fax: 0191 384 1336

Email: archaeology@durham.gov.uk

Web enquiries: www.durham.gov.uk

Appendix A

Chester-le-Street District Council – Environmental Policy

At Chester-le-Street District Council we recognise that all our actions have an impact upon the world around us and have put together this policy to demonstrate that we accept responsibility for the effects our activities have on the environment.

We are committed to complying with environmental regulations but also to exceed these minimum standards by continually seeking to improve our environmental performance.

The following set of principles has been adopted throughout the authority and we will implement them, wherever feasible, within existing financial constraints.

Environmental Policy

WE WILL STRIVE TO:

Protect our Natural Resources

- Reduce our consumption of all materials
- Minimise the use of non-renewable resources
- Cut down on our water consumption
- Minimise energy use and seek renewable energy provision

Minimise Waste and Paper Consumption

- Follow the 'Best Possible Environmental Option' for our internal waste management practices, applying the waste hierarchy principles as positive guidance (reduce ?reuse/repair ?recycle)
- Implement waste reduction and recycling schemes for all relevant waste streams, in particular relating to our paper consumption
- Encourage the use of technology such as IT to reduce the production of waste

Limit Pollution

- Minimise air, water, noise and other pollution by adopting good management and safe disposal practices for any substances or machinery we use

Reduce our Impacts from Transport

- Encourage staff to use their cars less on their journeys to work and at work
- Reduce the overall mileage of our fleet by planning routes carefully
- Investigate environmental improvements in our fleet operation and car user allowance systems

Operate sustainable Purchasing Practices

- Buy stationary, equipment, materials etc. that are environmentally friendly
- Preferably, obtain supplies and services locally
- Encourage our suppliers and contractors to have an environmental policy and work towards an environmental management system

Enhance Biodiversity

- Identify, protect and improve existing wildlife habitats under our management
- Increasingly, adopt environmentally friendly land management regimes
- Ensure that our land development practices are favourable to the environment

Implementation

We will ensure that all members of staff are aware of their environmental responsibilities according to this policy.

We will aim to continually improve our performance through concentrating on specific actions each year, which will be reflected in our Corporate Plan and Service Plans. We intend to establish targets and publish our performance annually.

A review of this policy will be carried out at least every five years or earlier, if it seems necessary.



Chester-le-Street
District Council

Appendix B
Definitions of Significant Harm and
Significant Possibility of Significant Harm

Table A – Categories of Significant Harm

	Type of Receptor	Description of Significant Harm
1	Human Beings	<p>Death, disease, serious injury, genetic mutation, birth defects or the impairment of reproductive functions.</p> <p>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.</p>
2	<p>Any ecological system, or living organism forming part of such a system, within a location which is:</p> <p>an area notified as an area of special scientific interest under section 28 of the Wildlife and Countryside Act 1981;</p> <p>any land declared a national nature reserve under section 35 of that Act;</p> <p>any area designated as a marine nature reserve under section 36 of that Act;</p> <p>an area of special protection for birds, established under section 3 of that Act;</p> <p>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);</p> <p>any candidate Special Areas of Conservation or Potential Special Protection Areas given equivalent protection;</p> <p>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</p> <p>any nature reserve established under section 21 of the National Parks and Access to the Countryside Act 1949.</p>	<p>For any protected location:</p> <p>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</p> <p>harm which affects any species of special interest within that location which endangers the long-term maintenance of the population of that species at that location.</p> <p>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.</p> <p>In determining what constitutes such harm, the local authority should have regard to advice of English Nature and the requirements of the Conservation (Natural Habitats etc) Regulations 1994.</p>
3	<p>Property in the form of:</p> <p>Crops, including timber;</p> <p>Produce grown domestically, or on allotments, for consumption;</p> <p>Livestock;</p> <p>Other owned or domesticated animals;</p> <p>Wild animals which are the subject of shooting or fishing rights.</p>	<p>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.</p> <p>The Council 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.</p>

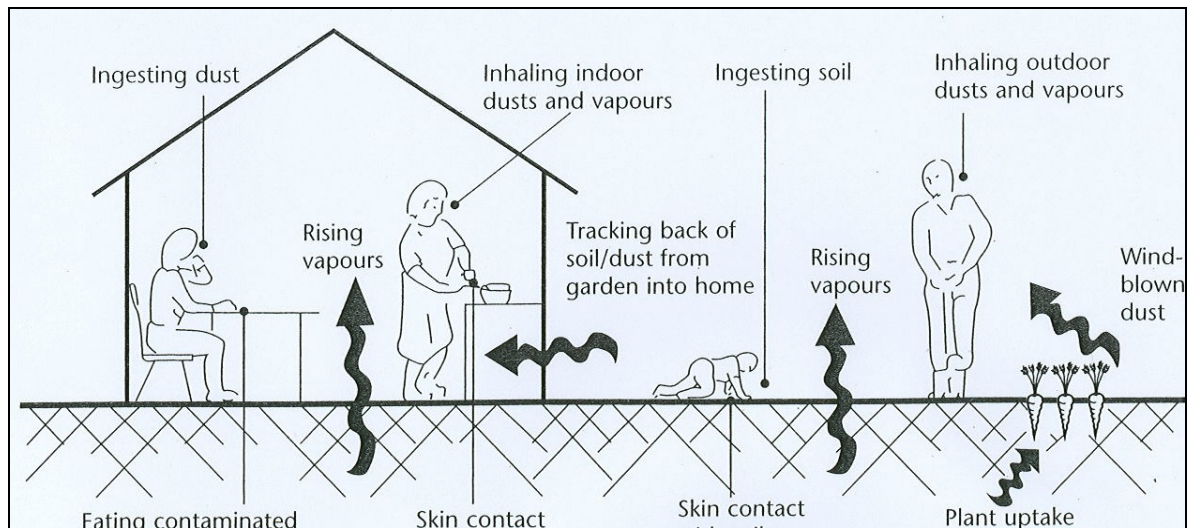
	Type of Receptor	Description of Significant Harm
4	<p>Property in the form of buildings.</p> <p>For this purpose, "building" means any structure or erection, and any part of a building including any part below ground level, but does not include plant or machinery comprised in a building.</p>	<p>Structural failure, substantial damage or substantial interference with any right of occupation.</p> <p>For this purpose, the Council 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.</p> <p>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.</p>

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 <ul style="list-style-type: none"> • the intake of a contaminant, or • other direct bodily contact with a contaminant 	<p>If the amount of the pollutant in the pollutant linkage in question:</p> <ul style="list-style-type: none"> • 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. <p>Such an assessment should take into account:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>Toxicological properties should be taken to include carcinogenic, mutagenic, teratogenic, pathogenic, endocrine-disrupting and other similar properties.</p>
2	All other human health effects (particularly by way of explosion or fire).	<p>If the probability, or frequency, of occurrence of significant harm of that description is unacceptable, assessed on the basis of relevant information concerning:</p> <ul style="list-style-type: none"> • that type of pollutant linkage, or • that type of significant harm arising from other causes. <p>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:</p> <ul style="list-style-type: none"> • 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.	<p>If either:</p> <ul style="list-style-type: none"> • significant harm of that description is more likely than not to result from the pollutant linkage in question; <p>or</p> <ul style="list-style-type: none"> • 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. <p>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.</p>
4	All animal and crop effects	<p>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.</p>
5	All building effects	<p>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.</p>

Appendix C

Example of a Conceptual Site Model



Environment Agency (2001) Guide to Good Practice for the Development of Conceptual Models and the Selection and Application of Mathematical Models of Contaminant Transport Processes in the Subsurface, Report NC/99/38/2

Appendix D

Glossary of Terms

The statutory guidance uses a number of terms that are defined in Part IIA of the Environmental Protection Act 1990, other Acts or in the guidance itself. The meanings of the most important of these terms are set out below, along with a reference to the section in the Act or the paragraph in DEFRA Circular 01/2006 (*in italics*) in which the relevant term is defined. Terms that are defined in statutes (mostly in section 78A of the 1990 Act) are underlined.

Appropriate person: ‘any person who is an appropriate person, determined to bear responsibility for any thing which is to be done by way of remediation in any particular case.’

Building: any structure or erection, and any part of a building including any part below ground, but not including plant or machinery comprised in a building.

Building effect: an effect on a building that causes significant harm

Class A liability group: a liability group consisting of one or more Class A persons.

Class A person: a person who is an appropriate person by virtue of section 78F(2) (that is, because he has caused or knowingly permitted a pollutant to be in, on or under the land.

Class B liability group: a liability group consisting of one or more Class B persons.

Class B person: a person who is an appropriate person (that is, because he is the owner or occupier of the land in circumstances where no Class A person can be found with respect to a particular remediation action).

Contaminant: a substance which is in, on or under the land and which has the potential to cause harm or to cause pollution of controlled waters

Contaminated land: defined in the Statutory Guidance 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) pollution of controlled waters is being, or is likely to be, caused.’

Controlled waters: this embraces territorial and coastal waters, inland fresh waters, and ground waters.

Current use: any use which is currently being made, or is likely to be made, of the land and which is consistent with any existing planning permission (or is otherwise lawful

under town and country planning legislation). This definition is subject to the following qualifications:

(a) the current use should be taken to include any temporary use, permitted under town and country planning legislation, to which the land is, or is likely to be, put from time to time;

(b) the current use includes future uses or developments that do not require a new, or amended, grant of planning permission;

(c) the current use should, nevertheless, be taken to include any likely informal recreational use of the land, whether authorised by the owners or occupiers or not, (for example, children playing on the land). However, in assessing the likelihood of any such informal use, the local authority should give due attention to measures taken to prevent or restrict access to the land;

and

(d) in the case of agricultural land, however, the current agricultural use should not be taken to extend beyond the growing or rearing of the crops or animals that are habitually grown or reared on the land.

Enforcing authority: defined as:

(a) in relation to a special site, the Environment Agency;

(b) in relation to contaminated land other than a special site, the local authority in whose area the land is situated.

Harm: defined 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.'

Human health effect: significant harm of a type listed in box 1 of *Table A of Chapter A*

Intrusive investigation: an investigation of land (for example by exploratory excavations) which involves actions going beyond simple visual inspection of the land, limited sampling or assessment of documentary information. *Paragraph B.20(c)*

Local authority: defined as meaning any unitary authority, district council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple.

Part IIA: Part IIA of the Environmental Protection Act 1990.

Pathway: one or more routes or means by, or through, which a receptor:

(a) is being exposed to, or affected by, a contaminant, or

(b) could be so exposed or affected.

Pollutant: a contaminant which forms part of a pollutant linkage.

Pollutant linkage: the relationship between a contaminant, a pathway and a receptor.

Pollution of controlled waters: defined as:

'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 that would lead to significant harm being caused.
Paragraph A.27

Receptor: either:

(a) A living organism, a group of living organisms, an ecological system or a piece of property which:

(i) Is in a category listed in Table A in Chapter A as a type of receptor, and

(ii) Is being, or could be, harmed, by a contaminant; or

(b) Controlled waters which are being, or could be, polluted by a contaminant.

Relevant land or waters: the contaminated land in question, any controlled waters affected by that land and any land adjoining or adjacent to the contaminated land on which remediation might be required as a consequence of the contaminated land being such land.

Remediation: defined 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 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.’

Remediation notice: defined 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 so specified.

Remediation package: the full set or sequence of remediation actions, within a remediation scheme, which are referable to a particular significant pollutant linkage.

Remediation scheme: the complete set or sequence of remediation actions (referable to one or more significant pollutant linkages) to be carried out with respect to the relevant land or waters.

Remediation statement: a statement prepared and published by the responsible person detailing the remediation actions that are being, have been, or are expected to be, done as well as the periods within which these things are being done.

Risk: the combination of:

(a) the probability, or frequency, of occurrence of a defined hazard (for example, exposure to a property of a substance with the potential to cause harm); and

(b) the magnitude (including the seriousness) of the consequences.

Significant harm: means any harm which is determined to be significant in accordance with the statutory guidance in Chapter A (that is, it meets one of the descriptions of types of harm in the second column of Table A of that Chapter, shown as App. B of this report).

Significant pollutant: a pollutant which forms part of a significant pollutant linkage.
Paragraph A.20

Significant possibility of significant harm: a possibility of significant harm being caused which, is determined to be significant in accordance with the statutory guidance in *Chapter A* (reproduced in App. B).

Special site: these are described more fully in DEFRA Circular 01/2006, Annex 4. However as a brief guide, sites are considered to have special site status in the following cases:

- Water Pollution Cases where the contamination affects:
 - Wholesomeness of Drinking water
 - Surface-water Classification Criteria
 - Major Aquifers
- Industrial Cases where the contamination is caused by:
 - Waste acid tar lagoons
 - Oil refining
 - Explosives
 - IPC (Integrated Pollution Control) Sites
 - PPC (Pollution Prevention and Control) Sites
 - Nuclear Sites
- Defence Cases
- Radioactivity Cases