WEST LANCASHIRE BOROUGH COUNCIL

REVISED CONTAMINATED LAND STRATEGY

APRIL 2009

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1. INTRODUCTION

1.1 BACKGROUND

1.1.1. The original version of the Contaminated Land Strategy for West Lancashire was produced in response to the new statutory contaminated land regime in England, which came into force on 1 April, 2000 through the Contaminated Land (England) Regulations, 2000 and the Environment Act (Commencement Order No. 16 and Saving Provision) (England) Order, 2000.

Since then the Government has published guidance to assist local authorities in implementing the new regime. The guidance requires local authorities to review their strategies periodically and revise as necessary. This document is the second revision of the original Strategy and follows the Government guidance, which is set out in DETR Circular 01/2006 'Environmental Protection Act, 1990: Part IIa – Contaminated Land'. It also takes account of the experience gained in dealing with contaminated land issues since 2001.

1.1.2 The purpose of the new legislation is to deal with the legacy of contaminated land that has arisen from a wide range of industrial, mining and waste disposal activities, which may now present a hazard to the general environment. It has been estimated that there are up to 200,000 hectares of land across the UK which are potentially contaminated as the result of previous or ongoing industrial use.

The legislation is ultimately aimed at removing the risk of harm to humans and ecological habitats and the risk of pollution to controlled waters. For developers, new legislation will help to remove uncertainty from land purchase, redevelopment and subsequent resale.

1.2 THE LEGISLATIVE FRAMEWORK

1.2.1. Part IIa of the Environmental Protection Act, 1990 (inserted by Sec.57 of the Environment Act, 1995) provides a new statutory regime for the identification and control of threats to human health and the wider environment from land contamination.

1.2.2 Under this regime, the statutory control of contaminated land lies primarily with local authorities, although the Environment Agency (EA) has the responsibility for sites which fulfil certain defined criteria; such sites are called 'Special Sites'.

1.2.3 Contaminated land is any land which falls within the statutory definition under Part IIa of the Environmental Protection Act, 1990. Contaminated land is defined under Sec.78A(2) as:

"…any land which appears to the local authority in whose area it is situated to be in such a

condition, by reason of substances in, on or under the land, that –

a) 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; and in determining whether any land appears to be such land, a local authority shall….. act in accordance with guidance issued by the Secretary of State….with respect to the manner in which that determination is to be made."

1.2.4 The scope of the definition is deliberately limited to the current state of land. Any risk associated with the future development of the land, or a possible future new use, does not fall within the scope of the new provisions and is already covered by other legislation.

1.2.5 The basis of the determination as to whether or not land is contaminated land is complex and includes the use of risk assessment procedures. These procedures involve identification of contamination source, pathway and receptor, and the establishment of pollutant linkages by which the contamination can reach the receptor via the pathway, with the possibility to cause significant harm or the pollution of controlled waters.

1.2.6 It is the duty of each local authority (Sec.78B of Part IIa) to inspect its area from 'time-to-time' for the purpose of identifying contaminated land, and to determine which land should be designated as a Special Site, i.e. one that will be dealt with by the EA. Local authorities cannot delegate this responsibility (except in accordance with Sec.101 of the Local Government Act, 1972), although in discharging it they can choose to rely on information or advice from another statutory body. In deciding how this function shall be carried out, the local authority shall act in accordance with the Government's Statutory Guidance.

1.2.7 The key statutory duties placed on West Lancashire Borough Council (WLBC) under Part IIa are:

- To inspect its area to identify contaminated land (Sec.78B)
- To consult with all parties with an interest in the land (Sec.78B)
- To consult with the EA in the case of any contaminated land that the Council believes should be treated as a Special Site (Sec.78C)
- To secure remediation of contaminated land, initially through informal action, then by legal notice if necessary (Sec.78E)
- To identify who is responsible for causing the contamination (the 'Appropriate Person') (Sec.78F)
- To remediate contaminated land in default where necessary (Sec.78N)
- To maintain a Contaminated Land Register (Sec.78R)

- To act in accordance with the Statutory Guidance (Sec.78W)

1.2.8 Under Part IIa, WLBC will have the primary regulatory role. It should be noted that remedial operations on a site might themselves require planning permission from the relevant planning authority, and the retention of contaminants on a site in areas where they do not present a risk, may require a waste disposal licence from the EA.

1.2.9 The Environment Agency has two main roles in connection with contaminated land:

- Existing powers and responsibilities to prevent and control land pollution.

- New duties and powers under Part IIa of the Environmental Protection Act, 1990 that enables them, in partnership with local authorities, to tackle contaminated land.

The EA is a statutory consultee to local authorities. It has the power to provide site-specific guidance to local authorities (Sec.78V). It is not obliged to do this, but will endeavour to do so wherever possible. The EA has the regulatory role for Special Sites (as defined in Part IIa), which include, for example, nuclear sites and sites used for the manufacture of explosives, together with most cases where contaminated land poses a risk to controlled waters. The EA may require remediation of contaminated land if a controlled water is under threat, either by issuing a Works Notice under the Water Resources Act, or under powers contained in Part IIa.

1.2.10 The key powers and responsibilities of the EA under the Part IIa regime include

- The provision of site-specific guidance to local authorities on land contamination

- To act as the enforcing authority for and to ensure the remediation of Special Sites.

- Maintaining a register of Special Sites remediated.

- The periodic preparation of a national report on the state of contaminated land

- Providing advice to local authorities on the identification of pollution of controlled waters.

- Undertaking technical research and acting as a centre of expertise.

1.3 FINANCIAL CONSIDERATIONS

1.3.1 Since the last revised edition of this Strategy, decreasing financial resources have made their way into the workings of local government. It is now expected that there will be no budget for contaminated land investigations at WLBC from 1 April 2010. Sections 10 and 12 relate to this in particular, and the review of the contaminated land Sites List and revised programme of Part IIA work, described in Section 12, is a direct result of it. Consequently some parts of the Strategy have become more theoretical than was the case when first published in 2001. This current version should be read in the light of this.

2. PHYSICAL AND GEOGRAPHICAL CHARACTERISTICS OF WEST LANCASHIRE

2.1 GEOGRAPHY

2.1.1 Combining the former Ormskirk UDC, Skelmersdale & Holland UDC, most of West Lancashire RDC and parts of Wigan RDC, West Lancashire District Council was created by the Local Government reorganisation of 1974. This brought together the towns of Ormskirk, Burscough and Skelmersdale and the surrounding villages under one administration. The title of the Authority changed to West Lancashire Borough Council in 2009.
The Borough stretches from the boundary with the Borough of Knowsley in the south to the River Ribble in the north, and is divided into 25 wards served by 54 councillors. The holiday resort of Southport borders the Borough to the west, while to the east it is flanked by Wigan and Chorley Boroughs, and to the south by St Helens Borough.

The Borough covers an area of 34,688 hectares (134 square miles). Most of the population, which totals about 110,000, live in the urban areas around the main towns of Ormskirk and Skelmersdale. Ormskirk is a market town with a charter dating from medieval times while Skelmersdale is a new town with large industrial and commercial estates. Both are located in the midst of some of England's most fertile agricultural land.

2.2 TOPOGRAPHY

2.2.1 Low sandstone hills lie in the north east of the Borough, while an extensive coastal plain lies in the west and south of the Borough. The town of Ormskirk stands on a sandstone escarpment overlooking the coastal plain. Part of this plain is very low lying, and, prior to draining, this area was covered by an extensive lake known as Martin Mere.

2.2.2 The River Douglas and its tributaries drain the northern part of the Borough. Rainford Brook, together with the River Alt and its tributaries drain the southern part

of the Borough. The area covered by the former Martin Mere is drained through a series of man-made waterways, culminating in the Three Pools Waterway system and its associated pumping station at Crossens.

2.2.3 Along most of its western border, the adjacent authority of Sefton MBC separates West Lancashire from the sea. However, in the north west the Borough reaches the estuary of the River Ribble. Here there are extensive estuarine mud flats and areas of sea washed turf, behind which lie many acres of land reclaimed from the sea and protected by sea defences.

2.3 GEOLOGY

2.3.1 The geology of West Lancashire is diverse, ranging from extensively fissured coal measure deposits in the east, most of which are overlain with boulder clay, to more uniform strata comprising primarily of a sandstone aquifer in the west, overlain by drift deposits of boulder clay, sand and peat. Some rock salt deposits also exist in the west of the Borough, and in one area there are deposits of mineral oil close to the surface, but these are no longer commercially viable.

2.4 WATER RESOURCES

2.4.1 Several pumping stations extract water for the public supply from the large sandstone aquifer, which underlies the western part of the Borough. Ormskirk Hospital also extracts from this aquifer. Several private water supplies rely on water trapped in sand lenses perched on top of the boulder clay.

2.4.2 In some locations the sandstone aquifer is not protected by overlying boulder clay, and in these areas it is particularly vulnerable to pollution.

2.4.3 The extraction of water for irrigation purposes is widely undertaken from many watercourses in the Borough.

2.5 HISTORY

2.5.1 West Lancashire has a long history of settlement, dating back to the arrival of Viking farmers in the seventh and eighth centuries. Many family and local place names date back to this period.

2.5.2 Historically industry in West Lancashire has been diverse. Past industry has included gas works, brick making, wooden boat manufacture and the extraction of minerals. Mineral working has included the extraction of clay and sand, quarrying for sandstone, and coal mining.

2.5.3 In the past, coal mining activities were extensive in the Skelmersdale and Up Holland areas. These were carried out by private coal mining companies, some of which were in due course absorbed into the National Coal Board.

2.5.4 Adjacent to the western boundary of the Borough, the extraction of commercially viable near-surface deposits of mineral oil took place until the 1950s.

2.5.5 Other past land use has included extensive landfill throughout the Borough, with a total of over 90 known landfill sites, of which over 50 were filled before the controls imposed by the Control of Pollution Act, 1974. There is also evidence that the Borough was used for depositing 'night soil' from Liverpool, mainly during the Victorian era.

2.5.6 West Lancashire has a rich architectural heritage of historic buildings, a medieval market town and ancient villages. There are over 600 buildings within the Borough, which are on the statutory list of buildings or architectural or historic interest. The most important secular buildings are Rufford Old Hall and Scarisbrick Hall, and amongst the most important religious buildings are the parish churches of Up Holland, Aughton and Halsall, and the remains of Burscough Priory.

2.5.7 There are 28 Conservation Areas within the Borough, ranging from parts of Ormskirk to rural villages such as Newburgh, and the Georgian parkland at Lathom Park.

2.5.8 There are 12 scheduled Ancient monuments in the Borough, including 5 moated sites of medieval origin, and evidence of Roman and Iron Age occupation of the Borough is now coming to light.

2.6 CURRENT LAND USE

2.6.1 The coastal areas are used extensively for arable farming and market gardening. Commercial greenhouses cover much of the land in this area. Most of the traditional wooden greenhouses have now either been replaced by greenhouses of a more modern design, or the land has fallen to other uses. In the east of the Borough there are many livestock farms and intensive livestock rearing is practised throughout West Lancashire.

2.6.2 Sewage sludge has for many years been spread onto farmland in the Borough. This practice continues today with the permission of the EA. Additionally manure arising from intensive livestock farming is spread onto fields in the Borough.

2.6.3 Landfill currently takes place at just one site within the Borough, which is licensed to receive special and hazardous wastes.

2.6.4 Ethylene and Natural Gas pipelines cross the area, and large industrial estates exist adjacent to the town of Skelmersdale. Industrial estates also exist outside of Skelmersdale, principally at Appley Bridge, Burscough and Ormskirk.

2.6.5 There are six Sites of Special Scientific Interest in West Lancashire, including two sites recognised under the Ramsar Convention as internationally important wetland habitats. There are also a number of other sites of biological or geological interest

2.6.6 The Leeds and Liverpool Canal passes through West Lancashire and is used extensively by leisure craft and for coarse fishing. Marinas have recently been constructed at Rufford and Scarisbrick. Several small lakes are also used for recreation.

3.0 WORK UNDERTAKEN TO IDENTIFY AND REMEDIATE CONTAMINATED LAND BEFORE THE COMMENCEMENT OF PART IIA

3.1 Prior to the implementation of Part IIa of the Act, the then Environmental Health Services division of WLDC had been working to identify potentially contaminated land in West Lancashire. This work included:

- A survey of historical maps and archived data to identify potentially contaminated land in the Borough, and

- An assessment of the likelihood of risk arising from each current and former landfill site in West Lancashire, including devising written procedures to ensure that any development on adjacent sites is designed to mitigate risk from landfill gas.

3.2 The Service has also been responsible for overseeing the decontamination of some sites in West Lancashire, while several others have been investigated and found not to pose a risk to residents, the environment or controlled waters. This work has been done using the Statutory Nuisance provisions of the Environmental Protection Act and under planning legislation. Sites have included a former gas works, former Ministry of Defence land, estuarine areas, fuel storage sites and road haulage depots.

3.3 When Part IIa came into force the Service was proposing a walkover survey of each potentially contaminated site, as a first step in ranking the degree of risk posed by each site. However this is no longer considered necessary for every site (see section 8.3.1 below). The Service was also overseeing the remediation of several sites, including one large site badly contaminated by heavy metals and hydrocarbons.

3.4 Clearly this work had gone some way towards identifying the extent of land contamination in West Lancashire. However, the Council's Strategy regarding contaminated land requires review and amendment as necessary to bring it into line with the requirements of Part IIa and to reflect ongoing changes within the Council itself.

4.0 FACTORS INFLUENCING THE APPROACH TO IDENTIFICATION OF CONTAMINATED LAND IN WEST LANCASHIRE

4.1 The industrial history of West Lancashire will be a principal factor determining the parts of the Borough to be targeted in the Council's contaminated land programme under Part IIa. This history is characterised in particular by the following:

- Extensive coal mining took place in the Skelmersdale area, but the industry has now been extinct for some 40 years or more.

- Brick manufacture took place at a number of sites around the Borough, but only one active brickworks now remains.

- Quarrying for stone, clay and sand took place in various parts of the Borough, often in association with other local industry (e.g. clay for the brickworks). This in turn has led to the landfill activities referred to earlier. Quarrying activity has now virtually ceased, and there is only one active landfill. A very large number of old ponds within the more rural parts of the Borough have been filled in over the past 150 years.

- Corn mills existed at a number of locations across the Borough. All have ceased to operate. There was a variety of mainly small-scale industries within Ormskirk and Burscough, including brewing, engineering and rope manufacture.

- The extensive agricultural and horticultural activities throughout the rural parts of the Borough may have lead to localised contamination, dependant on the circumstances.

Within the last 40 years there has been major expansion and development of modern industrial estates, particularly at Skelmersdale and Burscough, but these are not envisaged as a priority within the contaminated land programme on account of their recent establishment, although it is possible they could give rise to isolated contamination incidents as a result of mismanagement or accident, e.g. petrol, leaks from filling stations.

4.2 Much of West Lancashire is underlain by a sandstone aquifer used for the public water supply. In the area around Ormskirk, Aughton, Halsall, Burscough and Rufford the aquifer is classified by the EA as 'major'. The need to protect this aquifer will be taken into account when determining the parts of the Borough to be targeted in the Council's contaminated land programme under Part IIa.

4.3 A great deal of information on land use past and present can be obtained from historic maps and other sources of stored data. Where such information is lacking it may be helpful to connect into local knowledge, which may bring additional information about historic land use. Inevitably there may be some potentially contaminated sites that do not come to light through any means of investigation. It is difficult to see how these would be identified.

Since the Council's Contaminated Land Strategy was first published, a desk study has been undertaken to work through the available data, and by the end of 2004 this had identified over 1250 potentially contaminated sites. By 1 April 2008 this figure had risen to 1317

5.0 DEVELOPMENT OF THE STRATEGY

5.1 The development of this Strategy has full regard to Part IIa of the EnvironmentalProtection Act, the Government's Statutory Guidance, and all other relevant legislation and guidance.

5.2 To ensure the Strategy is as comprehensive and relevant as possible, consultations have taken place with the EA, other local authorities in Lancashire and Greater Manchester, other departments within WLBC and some of the more major landowners.

5.3 In devising the Strategy regard was had to the physical and geographical features of West Lancashire and to current knowledge of land contamination through the past action of Environmental Health Services.

6.0 DIVISION OF ENFORCEMENT RESPONSIBILITY

6.1 The identification and investigation of contaminated land is the responsibility of the Council's Community Services Division. Community Services recognises that:

- The control of contaminated land is shared with the EA.
- The control of contaminated land impacts upon other services within both WLBC and Lancashire County Council, particularly those services that own land and those with an input into the planning control process.
- Some remediation schemes may require planning permission and /or require the submission of an Environmental Impact Assessment to the relevant planning authority.

6.2 Therefore, in the execution of the Strategy the appropriate involvement of the EA, Lancashire County Council and other services within WLBC will always be involved where appropriate.

7.0 GENERAL POLICY OF THE COUNCIL WITH REGARD TO CONTAMINATED LAND

7.1 Throughout the Strategy document, and in its implementation, priority will be given to the identification and assessment of risks to human health. Risks to other receptors will be considered in consultation with internal departments and external organisations as appropriate.

7.2 The Council will endeavour to ensure that at all times when implementing the Strategy, they act in a manner consistent with best practice across the country and in line with current Government advice and guidance.

7.3 The Council will endeavour to ensure that sufficient resources are available to implement the Strategy. However, it is noted that significant cutbacks in the Council budget, to take effect in the immediate future, will severely curtail the Part IIA programme in particular. (See Sections 10 and 12).

7.4 The Council will (except where an imminent danger of serious harm or serious pollution of controlled waters dictates otherwise) ensure that all opportunities are given to the person(s) responsible for contamination, to remediate the land voluntarily, before formal enforcement action is taken.

7.5 The Council will endeavour to ensure compliance with the new contaminated land provisions, and in particular will:-

- Be open in its dealings with landowners and the wider public.
- Be fair and consistent in determining whether or not land is contaminated.
- Be thorough in its efforts to trace the person(s) responsible for contamination.
- Have proper regard to the assessment of hardship in cases where occupiers are liable for the cost of remediating contaminated land. The Council has agreed a procedure for assessing individual cases of hardship in accordance with Government Guidance, and including an appeals procedure.
- Be prepared to consider all reasonable options for remediation, consistent with protecting human health, the environment and controlled waters.
- Allow reasonable timescales for remediation to take place.

7.6 Land formerly or currently owned by the Council or its agents will be dealt with to the same standard and using the same criteria as other land within West Lancashire.

8.0 AIMS AND OBJECTIVES OF THE STRATEGY AND HOW THEY WILL BE ACHIEVED.

8.1 THE AIM OF THE STRATEGY

8.1.1 The aim of the Strategy is to ensure that the statutory duties of WLBC under Part IIa of the Environmental Protection Act, 1990 are carried out, and in particular that land within the Council's Borough identified as contaminated within the meaning

of Part IIa is remediated to a standard that removes risk to human and other receptors. This will be fulfilled by achieving the objectives listed below:-

8.2 THE OBJECTIVES OF THE STRATEGY

8.2.1 To fulfil the aim of the Strategy a number of objectives have been devised, and these will be carried out within appropriate timescales. The objectives are listed below.

8.2.2 The objectives of the Strategy are:-

- Inspect the Borough to identify all sites that are, or may be, contaminated within the meaning of Part IIa of the Act.

- Store and manage the data obtained during the inspection process in a format that will enable it to be easily accessed and worked on.

- Prioritise the sites in a manner that identifies the degree of risk to receptors.

- Investigate the sites in order of priority, and formally determine as 'contaminated' those that fulfil the relevant criteria.

- Ensure that sites determined as contaminated are remediated, either voluntarily or by the service of Remediation Notices.

- In the case of sites that are or may be contaminated and which become the subject of a planning application, to require an investigation and, if necessary, remediation of the site through the planning process.

- To review at intervals the data obtained, so as to decide whether the Council should revise the action it may or may not have taken in regard of any site.

- Maintain a Contaminated Land Register.

8.3 HOW OBJECTIVES WILL BE ACHIEVED

8.3.1 Each objective will be achieved in the manner described below:-

Objective: Inspect the Borough to identify all sites that are, or may be, contaminated within the meaning of Part IIa of the Act.

Carry out a desk study of maps and other relevant sources of historic data to identify sites within the Borough that may be contaminated by virtue of their historical use. Consult with other agencies such as the EA, DEFRA, The Coal Authority and English Nature, etc., to obtain additional data relative to the objective.

Have regard to information forthcoming from landowners, residents and other sections of the local community, as well as the local or specialised knowledge of Council staff, in order to obtain additional relevant data.
A walk-over survey of the site will be made in order to search for additional evidence in cases where this is considered necessary.
Regard shall be had to those parts of the Borough underlain by unprotected sections of sandstone aquifer and the proximity of sites to surface waters and drains, as this will determine the extent of risk to controlled waters.

This objective has been achieved

Objective: Store and manage the data obtained during the inspection process in a format that will enable it to be easily accessed and worked on.

Using the data obtained in the desk study, compile a list of sites known to be, or with the potential to be contaminated.

Using the data obtained in the desk study, and from any necessary walk-over surveys, create a computerised GIS data base for each site identified.
Manage the sites list and data base to take account of additional desk study information which may become available from time-to-time, and make adjustments as necessary.
Notify Service Heads within the Authority of any Council-owned sites that fall under their management.

This objective has been achieved, although in certain respects it is an ongoing process.

Objective: Prioritise the sites in a manner that identifies the degree of risk to receptors

Prioritise those sites identified by the desk study as being contaminated or potentially contaminated, in a way that reflects the perceived degree of risk to human health, the environment and controlled waters.
The system of prioritisation shall be in accordance with any relevant Government guidance.

This objective has been achieved

Objective: Investigate the sites in order of priority, and formally determine as contaminated those that fulfil the relevant criteria.

After the prioritisation exercise is complete, an investigation programme will be devised and the sites investigated according to the order of priority.
Each investigation shall be sufficient to characterise the site, and to identify any likely contaminants, receptors and pollutant linkages that could be present. It shall be carried out in accordance with relevant Government guidelines and British Standards.

The investigation shall include the production of an appropriate Conceptual Model for the site that illustrates each pollutant linkage that may be present.
Where the Conceptual Model identifies potential pollutant linkages, the investigation shall extend to include an intrusive stage using boreholes, trial pits and other appropriate means to confirm whether the suspected contaminants and pollutant linkages are in fact present. The results of the intrusive stage of the investigation shall be risk assessed, using an appropriate risk assessment model, to establish whether there is a risk to one or more receptors.
In each case where a risk to receptors is identified, the relevant criteria shall be applied to establish conclusively whether the site is contaminated within the meaning of Part IIa. If a site is found to be contaminated within the meaning of Part IIa, it shall be formally determined as such using the procedures set out in Part IIa and the related Government guidance.
The Authority will take steps to notify all those parties with an interest in the site that it has been determined.
Service Heads within the Authority will be notified of any sites under their management that are to be investigated, and of any that are subsequently determined as contaminated land within the meaning of Part IIa.
In those cases where a contaminated site meets the criteria to be designated as a Special Site, it shall be designated as such and passed to the EA who will secure its remediation.
In the majority of cases it will be necessary to employ suitably qualified and experienced environmental consultants to perform the task of investigation and risk assessment.

This investigation programme will now be significantly curtailed as a result of current financial circumstances, but could resume in the future should new funding become available. More details of this can be found in section 10.

Objective: Ensure that sites determined as contaminated are remediated, either voluntarily or by the service of Remediation Notices.

Where a site is determined as contaminated land and is not designated as a Special Site, the Authority shall ensure that it is remediated within an acceptable timescale by the person responsible for the pollution (The 'Appropriate Person'). Where this person cannot be found or identified, the Authority shall follow the procedure set out in the relevant Government guidance to establish who should be considered as the 'Appropriate Person' in each particular case. In many cases this is likely to be the current owner/occupier of the land.
Wherever possible remediation should be achieved by voluntary action on the part of the Appropriate Person, and the Authority will encourage such action as a preferred course. In those cases where the Appropriate Person fails to remediate the site voluntarily, or in cases where there is an imminent and significant risk to receptors, the Authority shall serve a Remediation Notice on the Appropriate Person, and notwithstanding the above, in cases where the risk to receptors is considered to be significant and imminent, the Authority shall ensure that remediation takes place without any undue delay.

In those cases where a Remediation Notice is not complied with to the satisfaction of the Authority, it will carry out the remediation work in default and recover the cost of doing so from the Appropriate Person in whole or part, according to the provisions of the Government guidance.
Service Directors will be notified of the need to remediate any contaminated site under their management or control, and an undertaking will be required from them that remediation will be carried out within an appropriate timescale.

A number of sites have been investigated for contamination, but so far none has qualified for formal determination in accordance with this objective

Objective: In the case of sites which are, or may be contaminated and which become the subject of a planning application, to require an investigation and, if necessary, remediation of the site through the planning process.

Examine the weekly list of valid planning applications provided by the Council's Development Control Manager (DCM).
With reference to the data arising from the contaminated land desk study, request the DCM to consult the Environmental Protection Manager (EPM) in the case of each planning application that relates to land known or suspected of being contaminated.
Upon receiving a consultation make further reference to the data arising from the desk study. If there is a possibility that contamination that is or may be on site could present a risk to the developed site, ask the DCM to attach the standard contaminated land condition to any planning consent that he may intend to grant. The planning condition will require a contaminated land investigation to be carried out with respect to the site. If pollutant linkages are identified, remediation will be carried out to the satisfaction of the Authority, and the relevant planning condition shall not be discharged until this has taken place.

Objective: To review at intervals the data obtained, so as to decide whether the Council should revise the action it may or may not have taken in regard of any site

The sites list and database will be reviewed from time-to-time to decide whether sites need to be added or removed in the light of changing circumstances. The first such review has recently taken place, somewhat out of necessity (see Section 13), and is reported on in this Strategy
Sites that have been investigated and found not to be contaminated may need reconsideration in the light of changing circumstances.
This Strategy will also be reviewed at suitable intervals and modified as necessary to take account of Government guidance, changes in contaminated land legislation and procedures, and other relevant issues. This version of the strategy arises from the second such review.

A number of sites have already been remediated in accordance with this objective. It is expected that this objective will continue to be achieved, as remediation through the planning process is financed by the private sector and does not rely on public funding.

Objective: Maintain a Contaminated land Register

A Contaminated Land Register will be maintained and kept up to date. It will serve as a record of all formal action taken by the Authority in relation to Part IIa of the Act. It will be available for public inspection.

A register has been provided, although currently there are no entries. This is because there has not yet been any formal action taken that requires to be entered.

9.0 MANAGEMENT AND REVIEW OF THE STRATEGY

9.1 Where necessary, appropriate written procedures and work instructions will be produced to assist in achieving the objectives of the Strategy. These documents will be reviewed periodically and revised as necessary to keep in line with changes in the contaminated land regime.

9.2 Supporting documentation will include:

- A list of all potentially contaminated sites arising from the desk study, together with the GIS database, kept in electronic format.
- All relevant documentation and guidance published by the Government, the EA and other relevant agencies for the purpose of assisting local authorities in carrying out their function under Part IIa.
- Procedures for dealing with requests for information relating to contaminated land.
- Procedures for dealing with complaints relating to contaminated land.
- Procedures for carrying out a site investigation.
- Procedures for undertaking a walk-over survey.
- A priority ranking system to determine the order in which sites will be investigated.

9.3 The documentation and guidance referred to in 9.2, above, shall be kept in library form by the EPM, but some may also be kept in electronic format where this is more convenient. The documentation and guidance shall be followed at all times in implementing this Strategy. It will be reviewed periodically and revised as necessary to reflect changes in Government guidance and other relevant circumstances.

9.4 Arrangements will be in place to ensure the continuing detection of potentially contaminated land, especially land which, although giving no cause for concern at the time of the desk study, does so at a later stage due to changed circumstances.

Similarly, arrangements will be in place for ensuring that sites, initially determined not to be contaminated, which later give rise to further concern are re assessed in the light of additional guidance and changed circumstances.

9.5 All stages of the implementation of the Strategy will be subject to project planning and monitoring.

9.6 Performance Indicators will be used for various activities relating to the Council's contaminated land work as appropriate. These will form part of the relevant work programme and will also be reported on where necessary.

10.0 FUNDING, AND TIMETABLE FOR IMPLEMENTATION

10.1 FUNDING

10.1.1 The cost of carrying out contaminated land site investigations will vary depending on different factors, such as the size, topography and geology of the site, or the number and nature of contaminants and potential pollutant linkages. In some cases considerable sums of money will be involved. WLBC has recognised the importance of this work, and has made significant financial and staff resources available to implement this Strategy. However, financial cutbacks are now set to curtail the programme significantly.

Although the cost of remediating contaminated land will be borne by the Appropriate Person (the 'polluter' in the first instance), as defined in the Government guidance, the investigation to establish whether the land *is* contaminated will be at the expense of the local authority. The Government has made funds available to authorities to cover the cost of this in the form of a Contaminated Land Capital Projects Programme (CLCPP).

10.1.2 However, in order to attract CLCPP funding, a local authority must prove to DEFRA that a degree of contamination exists in the land in question, and to do this the authority needs to carry out an initial basic investigation to establish whether this is the case. Should significant contamination be identified, the result of this initial investigation is then presented to DEFRA as the basis of the authority's application for funding. Provided this application is successful, the investigation then continues to its conclusion by means of the funding so provided, but the initial investigation is not eligible for CLCPP funding, and must be paid for by the authority. It follows, therefore, that, if a budget is not available to cover the cost of these initial works, investigations cannot be carried forward to conclusion, as they will never reach the stage where Government funding becomes available. Until now money for contaminated land work has been coming from two sources. Firstly contingency monies re-prioritised from projects where they were no longer needed, and secondly from capital budget granted on a near annual basis. The contingency monies are nearly used up, and from April 2010 capital budget will be withdrawn. Thus only one more year of capital expenditure will be available, and there will be no money for continuing the Part IIA programme after 31 March 2010.

10.1.3 Given that a budget will no longer be available, it then follows that site investigations cannot generally be undertaken. An exception to this could be former landfill sites. In these cases DEFRA has agreed to accept the results of landfill gas spike tests as a basis for granting CLCPP funding where appropriate. Community Services can carry out these spike tests using existing resources, therefore the withdrawal of the budget should in theory not prevent these particular sites from being investigated. Consequently a number of these sites will be investigated by spike testing, and in those cases where there is significant production of landfill gas further investigation will be possible assuming that CLCPP funding remains available. However, it is not considered appropriate to investigate all landfill sites

regardless of the relative risk to human health that each presents, while leaving unaddressed those non-landfill sites that represent a greater risk, simply because the one group of sites can be investigated without the need of the a budget whilst the other cannot. It is expected that this activity will be confined to those landfills that have attracted higher scores in the prioritisation exercise, but not bound by the score of 4500 referred to in section 12.6 of this Strategy.

10.2 TIMETABLE FOR IMPLEMENTATION

10.2.1 The Government has set no precise timescales for local authorities to achieve the aims and objectives contained in their Contaminated Land Strategies. There is no mention of timescale in the Part IIa legislation. The Government guidelines (DEFA Circular 01/2006) states only that "The local authority should include in its Strategy….appropriate timescales for the inspection of different parts of its area". It is, therefore, within reason a matter for each authority to decide on timescales that will fit in with local circumstances.

10.2.2 It is not appropriate to produce timescales for some of the objectives in this Strategy, however for certain important objectives timescales were proposed, as follows:-

- Inspection of Borough and completion of desk study:

  To be completed within one year of approval of this Strategy

  This target has been achieved and has produced a list of over 1300 potentially contaminated sites for prioritisation and subsequent inspection.

- Prioritise sites:

  To be completed within eighteen months from the date of approval of this Strategy. This exercise is now complete.

- Planning consultation responses:

  To be responded to within 10 days of receipt.

10.2.3 A timescale is not proposed for the completion of the site investigation programme, as the amount of work involved cannot be assessed in advance. Clearly some sites will prove to be more complex than others. Two investigations that were commenced in 2006 are still in progress and proving very complex. It is found that investigations involving owner/occupied private dwellings raise particular difficulties resulting in lengthy timescales. It is likely that progress will be relatively slow at first, as the higher risk sites are dealt with. Later in the programme, as the lower risk sites are addressed, investigation rates may accelerate. Applications for CLCPP funding and the appointment of consultants are time-consuming exercises and will add significantly to timescales in some cases.

11. PROGRESS SO FAR

11.1 Prioritisation of all sites on the Sites List was completed during 2008.

11.2 Since the first version of this Strategy was published in March 2001, seven sites have been fully investigated under Part IIA. In five of these the site was found not to be contaminated within the meaning of Part IIA. (The legal definition of contaminated land can be found in Section 1.2.3 of this document). In the remaining two cases a decision has yet to be made as to whether the site is contaminated. The process of determining whether a site is contaminated is proving to be lengthy and complex. A further three sites are in the early stages of investigation under Part IIA, with an outcome expected within the next 12 months.

11.3 Since first publication of this Strategy, 14 sites have been investigated for contamination through the planning process, and one such investigation is in progress. Remediation of contaminated ground has taken place at some of these sites as part of the development process.

11.4 Two sites have been investigated as a result of specific pollution incidents, and one of these has been remediated.

11.5 Over 200 residences and three commercial developments have so far benefited from this programme.

12. REVIEW OF THE SITES LIST, AND A REVISED PART IIA PROGRAMME

12.1 In 2008 the Sites List was reviewed for the following reasons:

- To produce a more manageable list of sites
- To identify those sites where the human health risk is likely to be significant, and where investigation would therefore be of greatest benefit.
- Because of the budgetary restraints referred to elsewhere in this document.

12.2 The original Sites List contained around 1200 sites, increasing to over 1300 at one stage as a result of further research. At an inspection rate of 10 sites per annum it would take well over 100 years to complete the programme. Clearly this is unrealistic, as predictions cannot be made over such a length of time. More realistic targets are required. Many sites with lower scores probably carry insufficient risk to human health to justify the expense and disruption of site investigations. The review has identified those sites where investigation remains desirable notwithstanding budgetary constraints, as there is likely to be significant human health risk should contamination be present.

12.3 Several different approaches were used, each resulting in a suggested revised list of between 8 and 76 sites. Based on recent inspection rates, this would result in a Part IIA programme varying from one to 20 years. Alongside this, the investigation of some former landfill sites might be able to continue as these sites rely less on the availability of a capital budget. (But note the constraints set out in Section 10.1.3.)

12.4 Taking all circumstances into account, it was initially decided to identify 21sites for a full contaminated land inspection, together with 60 landfills to be spike tested for landfill gas. Together these were to form the revised Sites List with a new target of four Part IIA investigations per annum. This would create a five-year programme, plus the spike tests. In addition sites arising through the planning process will be dealt with on an *ad hoc* basis.

12.5 However, because of the constraints outlined in this Strategy, it is probable that a maximum of six further Part IIA inspections will now take place before the existing budget is exhausted, and the programme will terminate until such time as further monies become available. Furthermore it is possible that less than six sites will be done if the cost of individual investigations continues to arise, thus using up remaining monies sooner than anticipated.

12.6 Consequently most of the 21 sites on the revised list are not going to be investigated in the shorter term. The site prioritisation exercise resulted in well over 1200 sites with scores ranging from 7450 down as low as just 180. So far only those sites scoring greater than 5000 have been investigated. From the remaining sites a working short list has been compiled of only those sites with a priority score of 4500 or greater. This amounts to just eight in total. As six of these are what may be termed 'hybrid' sites, i.e. they comprise of both landfill and other sources of contamination, spike tests will be carried out as a first step. If these prove negative, then the site would be investigated for the other contamination sources out of the remaining budget. If the tests are positive and landfill gas is present, then application for CLCPP funding will be made, and if granted, the investigation can proceed without recourse to the remaining budget, thus freeing capital monies to be used on a further non-landfill site.

12.7 In the foreseeable future the contaminated land programme will consist as follows:

- A short list of up to 8 sites for investigation under Part IIA, as outlined in 12.6 above.
- Sites requiring remediation that come through the planning process and which will be dealt with at the expense of the developer.

Should a budget for contaminated land work become available again at some point in the future, this programme will be reviewed in the light of that.

If a situation arises whereby a site comes to light that is so contaminated that there is an immediate and significant threat to human health and urgent remediation is

required, the Executive Manager Community Services will report to the relevant Committee with a request for emergency funding.

COMMUNITY SERVICES
WEST LANCASHIRE BOROUGH COUNCIL
March 2009

APPENDIX ONE

Abbreviations:

CLCPP	Contaminated Land Capital Projects Programme
DCM	Development Control Manager
DEFRA	Department of the Environment, Farming and Rural Affairs
DETR	Department for the Environment, Transport and the Regions
EA	Environment Agency
EPM	Environmental Protection Manager
GIS	Geographical Information System
MBC	Metropolitan Borough Council
RDC	Rural Borough Council
UDC	Urban Borough Council
WLBC	West Lancashire Borough Council
WLDC	West Lancashire District Council