

BRECKLAND COUNCIL

Report of the Deputy Chief Executive - Policy & Regeneration Portfolio to the Overview and Scrutiny Committee – 18th March 2010

Contaminated Land Strategy Review

1. Purpose of Report

- 1.1 The Council has a duty to inspect its district for potentially contaminated land and the existing contaminated Land Strategy needs to be reviewed. The different options which the Council could use to carry out this inspection are to be considered.

2. Recommendations

It is recommended that the Council/Committee:

- 2.1 Review the contents of this briefing report and verbal presentation given at the meeting and establish a Task and Finish group. The purpose of the task and finish group would be to discuss the options in greater detail and decide which options the Council supports.

Note: In preparing this report, due regard has been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

3. Information, Issues and Options

3.1 Background

- 3.1.1 In accordance with statutory guidance (referred to as Part 2A) an Inspection Strategy exists which the Council has agreed in order to meet its obligation to inspect its area for contaminated land and ensure the appropriate parties clean up where necessary suitable for the existing use. The Strategy must now be revised and guidance is needed on where the Council wants to focus its resources.
- 3.1.2 The existing Inspection Strategy included a risk prioritisation list i.e. an order of the sites in our district with potential contamination issues according to level of risk. For example residential development on a former gas works ranks as high and a filled pond in the middle of a field is minimal risk.
- 3.1.3 It was found that the methods used to rank the risk was too laborious and would have taken several years to complete. Until the list had been produced, the Council could not move on to detailed assessments of the riskiest sites. Detailed assessments involve a desk study initially followed by on-site testing and assessment of the ground conditions. A much simpler method has since been identified to prioritise the sites according to risk which has now been implemented and we now have a list of High Risk, Medium Risk, Low Risk and Negligible Risk.
- 3.1.4 Consequently the Council can now move on to detailed assessments. A decision needs to be made how the Council wants to implement these detailed assessments, (see Options below).
- 3.1.5 Detailed assessments of some of the high risk sites have already commenced as specific circumstances dictated a need and because funding became available through the Defra Capital Grant Programme.

3.2 Issues

- 3.2.1 Now there is a full list of sites ranked according to risk the Inspection Strategy needs to be re-written and a decision made how to progress the detailed assessments.

3.3 Options

3.3.1 **Option 1: Focus on Council-related land which scores as high risk**

The Council could first concentrate on detailed assessment of the high risk sites which are either owned by the Council or the Council was the original polluter, e.g. a former landfill with residential development. The inspection of the remaining high risk sites i.e. those that are not Council-related would follow.

3.3.2 **Option 2: On-going monitoring of Council-owned landfill sites**

As part of the detailed assessments of the Council-owned landfill sites a substantial amount of ground gas data will be necessary. The Council may wish to monitor the landfills at the current time in readiness for future detailed assessments.

3.3.3 **Option 3: Focus on high risk sites irrespective of ownership**

The Council could concentrate on the detailed assessment of the high risk sites irrespective of ownership. Some form of sub-division would be required for those with the same score, possibly by land use. Examples of sites within this option are a former landfill now allotment gardens, former gasworks with housing and former timber yards with housing.

3.3.4 **Option 4: Carry out Desk Studies for the high risk sites**

To produce in house desk studies (the first stage of the detailed risk assessment) for all the high risk sites in readiness for on-site investigations as and when funding or resources become available.

3.3.6 **Option 5: Planning – contaminated land assessment not carried out**

For new developments, contaminated land should be assessed through the planning system. However, there are new developments where we are aware that contaminated land assessments have not been carried out (mainly due to conditions not being attached to planning permission) and consequently will need to be assessed by the council under Part 2A.

3.3.7 **Option 6: Planning - Timescales to revisiting sites which have been assessed under old standards through the planning system**

There are sites which have been assessed under planning which would not meet the current standards of a risk assessment. A decision needs to be made when or if to re-visit them.

3.3.8 **Option 7: Focus on reviewing risk assessments under current planning permissions**

If the housing market becomes more active, resources may need to be focused on reviewing and ensuring that the risk assessments are carried out correctly through planning rather than pursuing inspections of historic potentially contaminated sites under Part 2A.

3.4 Reasons for Recommendation(s)

All the options have positive and negative consequences (e.g. funding issues, liabilities and resource issues) that are quite complex and thus should be explored in full by a Task and Finish Group. The Task and Finish group will decide preferred options and recommend these be adopted by Council for incorporation in a revised, inspection strategy. This will enable the Contaminated Land Officers to

4. Risk and Financial Implications

4.1 Risk

4.1.1 An up to date inspection strategy will not be completed therefore failing the auditors request.

4.1.2 The Contaminated Land Officers will decide on their preferred options for assessment, not taking into account of the Councils views. This could lead to problems in the future.

4.2 Financial

4.2.1 The cost of detailed assessments varies greatly. A small plot with two houses on a former gas works has cost £35,000 to date. This is envisaged to conclude the risk assessment but remediation costs have yet to be estimated. On the other hand a small landfill site on an industrial estate has cost approximately £90,000 so far. The cost of detailed assessments will depend upon the size of the plot and the complexity of the investigation. Currently Defra are funding investigations providing the development was built prior to 1994. It is unknown how long this funding will be available. The Council may need to pay for detailed assessments.

5. Legal Implications

5.1 To my knowledge there are no legal implications with setting up a Task and Finish Group to discuss and decide on the Council's priorities with respect to the Contaminated Land Inspection Strategy. However there will be legal implications once sites are investigated and if they are determined as contaminated land.

6. Other Implications

- a) Equalities: none
- b) Section 17, Crime & Disorder Act 1998: none
- c) Section 40, Natural Environment & Rural Communities Act 2006: none
- d) Human Resources: none
- e) Human Rights: none
- f) Other: none

7. Alignment to Council Priorities

7.1

Protect and Improve Public Health
Protect and improve the Environment

8. Ward/Community Affected

8.1 All.

Background Papers

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