



Contaminated Land  
FAQ

# Contaminated Land

Frequently asked questions | May 2012



# Frequently Asked Questions

## A condition requiring a site investigation has been put on my planning permission. Why?

The planning application was sent by the Planning Department to Public Protection for comments.

Where there is a possibility that the site is affected by contamination, usually as a result of something that has taken place on or next to the site in the past, Public Protection will ask the Planning Department to put a condition requiring the site to be investigated on the planning permission if it is granted.

This is particularly important where the proposed development would introduce something or someone that would be sensitive to or whose health could be adversely affected by the presence of contamination.

Where it is suspected that land may be affected by contamination, the nature of the contamination and the sensitivity of the proposed development must be taken into account and each site assessed on its own merits.

The investigation should confirm the extent of any contamination and explain what will be done to remove it or reduce it to an acceptable level so that it does not cause harm to the receptors.

## I've been asked to do a site investigation before planning permission can be granted. Why?

Where it is suspected that land may be affected by contamination, usually as a result of something that has taken place on the site in the past, the nature of the contamination and the sensitivity of the proposed development must be taken into account and each site assessed on its own merits.

Developing a site may introduce changes to a site that could result in land being considered Contaminated Land, where that land would not be considered Contaminated Land if the development did not take place.

Once the development is complete or is occupied, unacceptable risks associated with land contamination should have been removed or reduced to an acceptable level and the land should not be capable of being determined as Contaminated Land in accordance with Part IIA of the Environmental Protection Act 1990.

In developing a site, it is the responsibility of the developer to demonstrate that contamination present at the site may reasonably be addressed and that once developed, the site is suitable for the use proposed and is incapable of being formally determined as statutorily Contaminated Land in accordance with the provisions of Part IIA the Environmental Protection Act 1990.

In some cases, where it is suspected that a site may be grossly affected by contamination or that remediation (something that is done to remove or reduce the contamination to an acceptable level) of the contamination may not reasonably be achieved, the Council may require that the site be investigated and remediation proposals submitted in support of an application for planning permission. It is in these cases that it would not be considered appropriate to put a condition requiring this on a planning permission. Before it grants planning permission, the Council must first be satisfied that the site is suitable for the development proposed, that all potential risks have been identified and that those risks can be addressed. For this reason, information in respect of land contamination is required in support of the application in these cases.

The Council needs to be sure that where contamination is present, it can reasonably be remediated. This is especially important where gas protection measures are necessary as this may involve significant alterations to the foundations and floor of an existing building. The Council needs to be sure that if necessary, the required level of gas protection measures can be correctly installed in an existing structure.

The developer needs to be aware of the scale of the works, the cost of the works, how long the work is likely to take, health and safety precautions for those working on the development and the methods by which they will be required to show how that remediation has been achieved.

The developer should also be mindful that failure to provide sufficient information in a timely manner during the planning process may result in, at least, a significant delay and increased expense for the developer or at worst, a refusal of planning permission.

## My neighbour had an investigation done at their site. Can I use their report instead of investigating my site?

No. Where it is suspected that land may be affected by contamination, the nature of the contamination and the sensitivity of the proposed development must be taken into account and each site assessed on its own merits.

The site investigation process takes into account the proposed development, potential contamination, features and condition of each site. These things can vary across one site and so from site to site and the information gained from one site investigation is not transferable to another.

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Further copies should not be made without the prior permission of the copyright owner.

## I've got an old report. Can I still use it?

Possibly. It is important to remember that legislation, guidance, best practice and industry standards are updated and changed frequently. This means that investigations and reports from some time ago may be out of date and may need to be reviewed to make sure that they are up to date and consistent with current standards. If the report is very old, the information in it may be so out of date that it can't be used and the investigation may need to be started again from scratch.

## Can you tell me who I can ask to do the investigation?

No. The Council is not able to recommend one company over another. Site investigations are specialised pieces of work and to carry them out requires competence, experience and careful professional judgement. It is recommended that an environmental consultancy is appointed to carry them out. There are lots of consultancies that may be able to offer the services required and a lot of companies are listed in directories such as the ENDS Directory.

The Council does not provide a sampling service, does not design or carry out site investigations and does not interpret results from site investigations carried out for others. This includes those applying for or who have been given planning permission, developers and their agents.

## Can I do it myself?

This is not recommended. It may expose you and others to health risks and may cause damage to the environment.

There are a number of things to think about when designing and carrying out a site investigation. Some of these things are listed below as examples;

- Do I need any personal protective equipment (PPE)? Why?
- What am I looking for? Why?
- Where should I take the samples? Why?
- What type of samples should I take? Why?
- What should I put them in? Why?
- Where and how should I keep them? Why?
- How many samples should I take?
- How will I label the samples?
- How will I avoid mixing them up?
- Should I dig trial pits, trenches or drill boreholes? Why?
- How deep should they be? Why?
- How far apart should they be? Why?
- How many samples do I need to take from each? Why?
- How much sample do I need to collect? Why?
- Where can I take them to be tested?

- Is the laboratory accredited?
- How do I know which testing methods to ask the laboratory to use?
- How do I know what to test them for?
- What should I ask the laboratory to test them for? Why?
- What will the results mean?
- Do I need to take samples more than once and over time?

Site investigations are specialised pieces of work and to carry them out requires competence, experience and careful professional judgement.

It is recommended that an environmental consultancy is appointed to carry them out. There are lots of consultancies that may be able to offer the services required and a lot of companies are listed in directories such as the Yellow Pages or the ENDS Directory.

## How do I know that the consultant will do a good job?

It is difficult to be certain that someone will do a good job but if you make a few checks and make yourself aware of and understand what you want them to and the reasons why, you can ask them some informed questions which may help you decide who to appoint.

### **Some examples of the questions that you might like to ask are given below;**

- Ask for a few quotations and ask for the quotation to be broken down into parts (sampling, site supervision, reporting, laboratory analysis, phone calls, meetings, details and credentials of sub-contractors etc). This will help you to make sure that you are getting value for money and will make comparing quotations easier.
- Discuss the site and proposed development, any information to support a planning application or the requirements of the conditions on the Planning Permission with the companies providing the quotations. Explain what you want them to do and why.
- Ask for references. Who have they worked for? Have they done much work of this type before? Follow up the references, speak to the people that they have done work for and ask if they were happy with the work.
- (It is important to be mindful that failure to provide sufficient information in a timely manner during the planning process may result in, at least, a significant delay and increased expense for the developer or at worst a refusal of planning permission.)
- Ask which member of staff will be doing the work. Ask if they have experience of this type of work. Make sure that the quotation includes the supervision of the works on site by a suitable member of staff.

(Supervision by a suitable person at all times during the investigation is very important as that person can make sure that the scope of the investigation, standards, best practice and procedures are adhered to and that samples are collected, recorded stored and handled correctly. This means that you receive a better service and value for money and recover the best information possible from your investigation.)

- Do they follow quality assurance procedures?
- How much of the work will be done by them and how much will be sub-contracted to someone else?
- Do they have professional indemnity insurance and public liability insurance?
- Have they been prosecuted for environment or pollution related offences?
- Is the company solvent?
- Do they have the expertise and experience to carry out each stage of the investigation (from desk study to verification) if required?

## Will land contamination affect anything else in the development?

It might. This would depend on the nature and extent of the contamination that is found and whether or not each stage of the investigation has been done properly.

### **Things that land contamination could affect include for example;**

- Cost
- Selling the completed development
- Timescales
- Design and layout of the development
- Drainage design
- Waste disposal
- Foundation design
- Regulatory controls such as discharge consents and pollution prevention
- Building Regulations
- Local Authority or NHBC completion
- Health and Safety requirements

It is helpful to discuss the requirements of planning conditions and any proposals with both the Contaminated Land Officer and Planning Officer before appointing someone to do the work and before the work begins.

It is recommended that you stay in touch regularly with the Contaminated Land Officer and Planning Officer throughout the investigation and until the planning condition is discharged.

## What if the Council is not satisfied with the information it is given?

If the information is not satisfactory or is insufficient, you will be notified of this, an explanation of the reasons why will be given and you will be asked to provide further information.

It is important to be mindful that failure to provide sufficient information in a timely manner during the planning process may result in, at least, a significant delay and increased expense for the developer or at worst a refusal of planning permission.

It is helpful to discuss the requirements of planning conditions and any proposals with both the Contaminated Land Officer and Planning Officer before appointing someone to do the work and before the work begins.

It is recommended that you stay in touch regularly with the Contaminated Land Officer and Planning Officer throughout the investigation and until the planning condition is discharged.

## There are other potentially contaminated sites that are not being developed. Who investigates those?

As far as other sites that have not been put forward for development are concerned, every Local Authority, including Flintshire County Council, has a duty imposed on it by Part IIA of the Environmental Protection Act 1990, to identify and investigate land that may be affected by contamination. A large number of sites may be identified as potentially contaminated and the legislation requires that these sites are investigated in a prioritised manner. Sites where the greatest harm is occurring or is likely to occur are investigated first. This is explained in detail in the Council's Contaminated Land Strategy which is available free of charge on the Council's website [www.flintshire.gov.uk](http://www.flintshire.gov.uk).

## What is Contaminated Land?

Land can be affected by contamination in the environment as a result of human activity and as a result of natural processes. The presence of contamination may cause harm or present risks to health, animals, buildings or the environment. However, just because contamination is present does not mean that the land is contaminated or that there is a problem.

If there is no way for the contamination to reach receptors (something or someone that would be sensitive to or whose health could be adversely affected by the presence of contamination) then there would be no way for the receptors to be affected.

There are some sites that are affected by contamination to the extent that the receptors are being affected or that risks to the receptors are too great. This land could be considered statutorily Contaminated Land as defined by Part IIA of the Environmental Protection Act 1990.

## How does land become contaminated?

Land can become affected by contamination as a result of human activity, a previous use of the land or natural processes which leave behind contamination that may or may not reduce or disappear over time.

### **Examples of activities/land uses that may cause land contamination are;**

- Landfills and waste disposal
- Fuel storage, spillages and leaks from tanks
- Coal mining
- Lead mining
- Factories

### **Examples of natural processes that may cause land contamination are;**

- Flooding
- Weathering of geological features such as lead veins
- Production of gas in coal seams and peat bogs

## How can I find out which sites are Contaminated Land?

The Council has a Public Register of Contaminated Land which is available free of charge on the Council's website [www.flintshire.gov.uk](http://www.flintshire.gov.uk).

## How can I find out what my land was used for in the past?

Useful sources of information include historical maps and records held at County Record Offices. The nearest County Record Office to Flintshire is in Hawarden.

Flintshire Record Office,  
The Old Rectory  
Rectory Lane  
Hawarden  
Flintshire  
CH5 3NR

01244 532364

## I'm buying/selling a house and the environmental search says that the land may be contaminated. Does this mean that it is Contaminated Land?

No. Environmental searches usually rely on information such as historical maps and trade directories to find out what the land has been used for in the past but without assessing risks to health or the environment.

The Council's Public Register of Contaminated Land is available free of charge on the Council's website [www.flintshire.gov.uk](http://www.flintshire.gov.uk).

Whilst you may be keen to secure a mortgage or please your mortgage lender now, it is important to remember that these issues may be raised again when you come to sell the property yourself.

The Council can't tell you whether to buy a property or not. The Council can provide you with factual information but not an opinion. Having done your research it'll be up to you and your legal advisors to make such decisions.

The law in respect of land contamination, Part IIa of the Environmental Protection Act 1990, came into force in Wales in July 2001. This law introduced a detailed way by which land contamination could be regulated.

If you bought your house before then, it is unlikely that the environmental searches carried out by your Solicitor would have included a search for potentially contaminated land.

If you have bought or sold your house since then and you were not told about any potential land contamination during the conveyance process or if the results of the environmental searches were not brought to your attention, you may wish to contact your Solicitor.

## Who can I contact to find out more about land contamination?

The Council's Contaminated Land Officer.

Contaminated Land Officer  
Pollution Control  
Public Protection  
County Hall  
Mold  
Flintshire  
CH7 6NF

01352 703400