

**London Borough of
Lambeth**

Contaminated Land Strategy

Environmental Protection Act 1990 Section 78B

October 2001

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1.0 SECTION (1) – Introduction

1.1 New Statutory powers enacted by Section 57 of the Environment Act 1995 place new obligations on the Council. These are:-

1.2

- (i) A duty to inspect land from time to time within the Borough for 'contamination'.
- (ii) To prepare a strategy for the identification and inspection of contaminated sites; this strategy has been produced in fulfilment of this requirement. It takes into account the principles and guidance set out in the relevant government advice which includes Department for the Environment Food & Rural Affairs (formerly DETR) circular 02/2000 and Technical Advice for Local Authorities (May 2001).
- (iii) To set up and maintain a public register of sites in the borough which are deemed to be contaminated following detailed investigations. The register will be held at the offices of the Council's Regulatory Services Division at 2 Herne Hill Road London SE24 0AU. It will be paper-based initially and be accessible during office hours, Monday to Friday.

1.2 This document is Lambeth Council's strategy for dealing with the statutory responsibilities outlined above, it sets out:

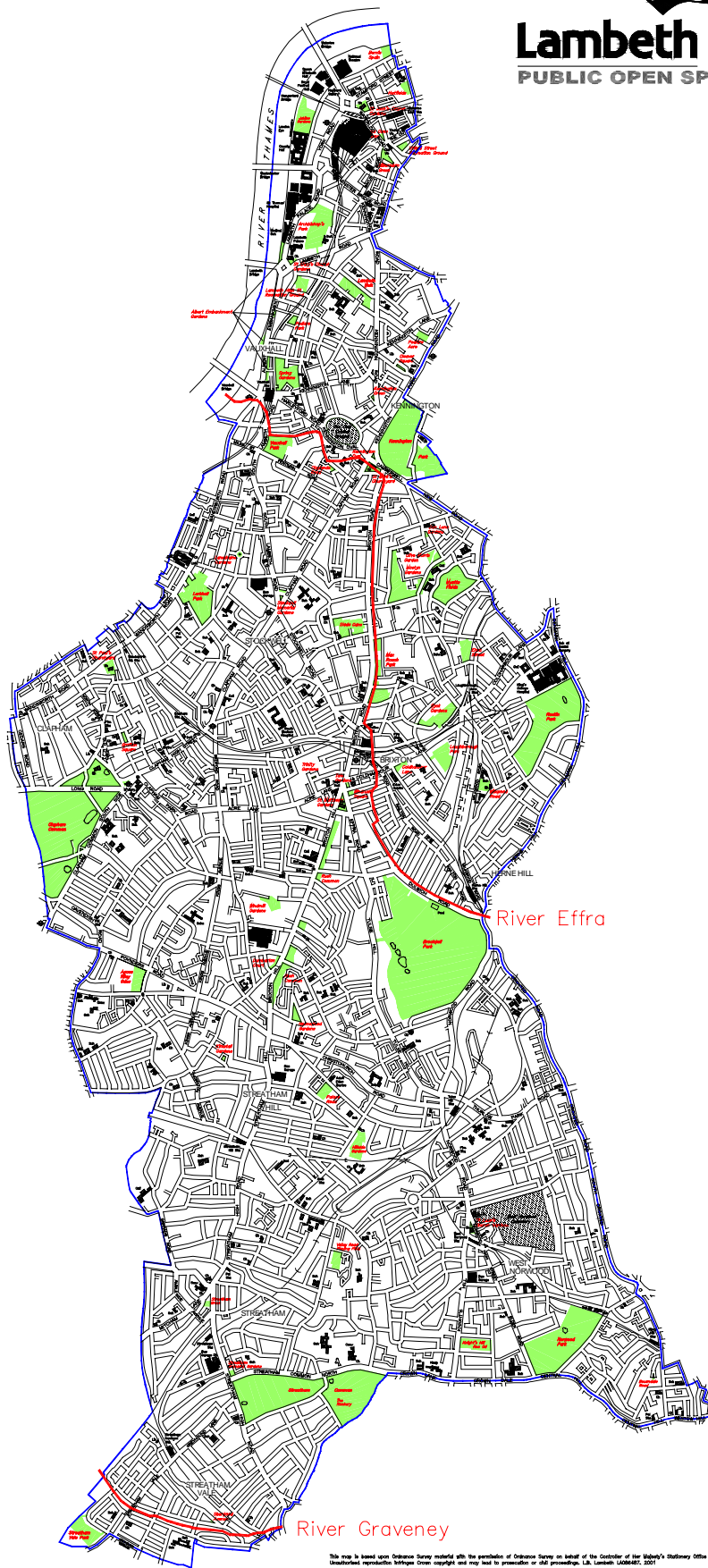
- How the Council will implement the requirements of the Environment Act 1995;
- How the Council will deal with enquiries about contamination or potentially contaminative uses;
- How the Council will make information about contamination or potentially contaminative uses available

1.3 Contaminated Land is land that contains substances either on the surface or below ground that present a risk of significant harm to human health or to our wider environment, including water resources, the local ecosystem and structures. A legal definition of 'contaminated land is to be found in Section 78(2) of The Environmental Protection Act 1990.

1.4 The Council is designated an 'enforcing authority' under Part IIA of the Environmental Protection Act 1990 and as such has enforcement responsibilities in relation to contaminated land. Any enforcement action taken by the Council's Regulatory Services Division will be in accordance with its published enforcement policy. This policy covers all aspects of the Division's enforcement work, and has been produced to ensure transparency, accountability, proportionality and consistency in accordance with the Cabinet Office Enforcement Concordat.

1.5 A list of potentially contaminative past uses is included at Appendix 3 of this strategy for information.

1.6 A number of technical terms are to found in the following pages of this strategy, many of these have precise legal definitions within the scope of the new powers. A guide to these terms is to be found in the appendices.



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2.0 SECTION (2) - Description of the London Borough of Lambeth

- 2.1 Lambeth is one of a ring of seven inner London boroughs which surround Central London. In common with most of these areas, Lambeth is characterised by high-density inner city development towards the centre of London and lower density suburban type development on its outer fringe. It measures some eleven kilometres (seven miles) north to south and four kilometres (two and a half miles) from east to west. It has a total area of 2,723.69 hectares (ten and a half square miles or 6,730.24 acres).
- 2.2 The north of the Borough is bounded by the River Thames, the area adjacent to the river and surrounding Waterloo Station faces intense redevelopment pressures due to its proximity to Central London and the access to the Continent which is provided by the Eurostar Terminal at Waterloo Station.
- 2.3 The remainder of the northern part of the Borough is characterised by several pockets of post war high density housing together with many large and small industries and is crossed by major roads.
- 2.4 The central part of the Borough between the Oval in the north and Clapham Common and Brockwell Park in the south is an area of mixed industrial and commercial but mainly residential development. This area contains many local authority housing developments. As well as containing the Borough's largest shopping centre in Brixton, the area also has a significant amount of industry extending from Wandsworth Road in the west through Brixton to Loughborough Junction in the east. Whilst two of the Borough's largest open spaces - Clapham Common and Brockwell Park - are found in the central part of Lambeth, there are parts which are particularly short of accessible open space.
- 2.5 Clapham is a mixed area comprising a central commercial / retail core and large residential areas containing pockets of employment uses. Although Clapham is not a preferred office location several large office blocks were constructed post war prior to the implementation of the office location policy. A majority of the commercial and retail areas are within the Clapham and Acre Lane Industrial and Commercial Improvement Areas. Clapham also contains some fine listed buildings with large parts of the area, including the Common, within conservation areas. Housing in this part of the Borough is varied both in the types of accommodation available and the age of properties. It has always been a popular place to live for people who work in central London, with three Underground stations on the Northern Line within the area. Because of this, property prices are higher than in less accessible parts of the Borough. This popularity has meant that there is a continual pressure on sites in employment use to be redeveloped for housing.
- 2.6 The southern part of the Borough is predominantly residential and suburban in character but contains smaller areas of deprivation and stress that have an inner city character. There is an established concentration of industry in the Norwood area together with a number of larger isolated industries in Streatham. Streatham is the Borough's second major shopping centre.
- 2.7 Lambeth is still primarily a residential area rather than an employing area. Nearly twice as many people live in Lambeth as are employed here. According to the Census, 244,143 people were resident in Lambeth in 1981. Using the same basis as the 1981 Census for counting time resident population, the 1991 equivalent for Lambeth is 216,584, a decrease of 11.3%. However the 1991 Census adopted an improved method, mainly to include households absent on Census night. This gives Lambeth's 1991 resident population as 244,834, the second highest in Inner London. The 1995 OPCS mid-year estimate for Lambeth's population was 261,700.

- 2.8 In common with other London boroughs, the Lambeth economy has experienced a trend in recent years, towards the replacement of the manufacturing sector by the service sector. In the past, Lambeth was regarded as one of the industrial sectors of the inner London economy, but increasingly jobs in the Borough tend to be of an administrative/office nature rather than ones involving manufacturing processes.
- 2.9 Of the residents in Lambeth who are in employment, only 37% work in the Borough, accounting for 35% of the total employment. The majority of the Borough's employment is provided by the service sector and public administration. Manufacturing still provides 6% of Lambeth's employment.

2.10 Historic Land Use

- 2.11 Virtually all heavy industrial uses have ceased operations in the borough over the past 50 years. A number of smaller industries have however continued to operate from within the Borough and records of historic land use including industrial use will be important sources of information and will be used as part of the Council's investigation strategy.

2.12 Solid and Drift Geology

- 2.13 Information about the Borough's solid and drift geology will be important in determining whether sites are potentially contaminated sites and are likely to have an impact on the underlying groundwater or adjacent sites. Sites that are underlain by low permeability clays, are likely to pose less of a risk to groundwater or adjacent areas than sites underlain by more permeable sandstones, gravels or limestone. The Council will therefore as part of the strategy, ascertain the underlying geology within the Borough.

2.14 Surface waters

- 2.15 Apart from the River Thames, the River Graveny is the only other surface river which runs through the borough.

2.16 Hydrogeology and Groundwater Vulnerability

- 2.17 The River Effra and its network of many tributaries run underground in an area that stretches from Norwood down to Brixton via Clapham and then on to the Oval before it discharges into the Thames close to Vauxhall Bridge. The general geological/hydrogeological characteristics of Lambeth comprise London clay (a non-aquifer which protects and confines the deeper underlying Chalk aquifer) and superficial deposits of both glacial and alluvial origins. The latter sands and gravels are classed as minor aquifers in this area. The vulnerability rating of the soils overlying the minor aquifers is classed as high due to the limited data available for urban settings leading to a worst case assumption unless proven otherwise. Details of the Borough's hydrogeology and groundwater vulnerability will provide more precise information on the sensitivity of its groundwater. Hydrogeological information will also reveal the locations of any major aquifers (used for abstraction for public supplies), minor aquifers (important as local supplies) and non-aquifers within the Borough.

3.0 SECTION (3) - Aims objectives and priorities

3.1 The Council's priorities in dealing with contaminated land will be to:

- Protect human health
- Protect controlled waters
- Protect designated eco-systems
- Prevent damage to property
- Prevent any further contamination of land
- To encourage voluntary remediation

3.2 The Councils Objectives in dealing with contaminated land will be to:

3.3 (i) support policies already found in the Lambeth 1998 UDP.

3.4 ENV2I: Contaminated land

The Council will ensure that any development on land that has been subject to contaminating use is only undertaken after a thorough investigation of the nature and degree of contamination. No development will be permitted until the site has been decontaminated to the highest standard, appropriate to its proposed end use.

The Council, in consultation with the Environment Agency, will assess the effect of contamination on public safety and water quality. It will ensure that the survey and any remedial works necessary to decontaminate the land do not pose additional threats to public safety and water quality.

The Council, with the Environment Agency, will seek to ensure that, where practical, development proposals for contaminated sites make the most of opportunities to improve surface and groundwater quality, through the careful design and implementation of the scheme, and do not present additional threats to water quality.

3.5 The UDP gives the reason for these policies as being:

Long-term exposure to soil contaminants, such as heavy metals, can have detrimental health effects. Such contaminants are taken up and accumulated in plants which, if eaten, can lead to health problems. Contaminated land poses a threat to water quality which can be addressed by adequately sealing against the leakage of polluted matter and directing surface drainage away from the source of contamination. While it is also recognised that the development of contaminated sites can offer opportunities for environmental enhancement and improvements in water quality, the disturbance of contaminated land can itself threaten water quality.

3.6 (ii) Support the national objectives of the new scheme:

3.7 The national objectives are contained in Government advice to all local authorities. The priority objectives are seen as the prevention of new contamination via the pollution control regimes and a 'suitable for use' approach so as to bring existing sites which may be contaminated back into use.

3.8 In Lambeth although the introduction of this new regime may identify some land which is contaminated, it is anticipated that redevelopment of existing (brownfield) sites, and the associated planning controls, will remain the primary mechanism for dealing with contaminated land in the Borough. Any remediation agreed as a planning condition will continue to be dealt with under planning controls and not under the new Part IIA statutory provisions. The Council's Regulatory Services Division currently works closely with Development Control on all issues relating to pollution and the current arrangements for inter-departmental consultation are believed to be sufficiently robust to encompass the new contaminated land issues.

3.9 (iii) Protect historic sites and the historic environment

3.10 The identification of 'designated historic sites' will form part of the desk study for this strategy. Such sites will include scheduled ancient monuments (SAMs), listed buildings, registered parks and gardens, historic battlefields, and conservation areas. The desk study will also identify sites of former industrial activities which may be of archaeological interest.

3.11 Actions in support of the Council's Objectives and Priorities

The Council will:

- inspect and identify "contaminated land" in the Borough as set out in sections 3 and 4 of this strategy
- consult the Environment Agency and other relevant bodies
- refer 'special sites' to the Environment Agency
- determine who the 'appropriate persons' are
- review and apportion appropriate personal liabilities
- review it's own contaminated land liabilities
- negotiate remediation strategies with the appropriate persons
- encourage voluntary remediation in preference to regulatory action
- serve remediation notices if necessary
- review Orphan Sites and Hardship Provisions
- ensure the remediation of land identified as contaminated
- carry out the remediation of a site, if required, and then recover the costs from the appropriate persons
- consider appeals
- periodically review all contaminated land within the Borough
- compile and maintain a Public Register

4.0 SECTION (4) - Time Scale for Inspection of the Borough

4.1 A 5-year programme of assessment and inspection is being undertaken. This includes the desk study, which has already commenced. Information from various sources, including historical land use data held by the Council's archive library located at Minet Road, and the Greater London Sites and Monuments Record (GLSMR). These sources will help identify the location of sensitive receptors, and land that may be harbouring contamination because of past use.

4.2 Known Information on Contamination

4.3 The Council holds information on the past historic use of land in the Borough; this information will be assessed as well as other sources to ascertain the potential extent of contamination in the Borough. The Council's Regulatory Services Division has already conducted a search of its pollution file records for the past 25 years. Where any indication of possible land contamination has been identified, a site record has been incorporated on to an 'Access Database'. This is regularly updated and it is intended that within the next 12 months it will interface with a suitable GIS.

4.4 If any potentially contaminated sites are found during the inspection programme, the Council will then carry out further, more detailed investigations. This will involve a detailed review of information about the site, including any investigative reports, associated with the site(s). A

positive indication at this stage will trigger a more detailed site investigation, including risk assessments. Where appropriate an intrusive site investigation will be undertaken. These more detailed site investigations will confirm the presence or absence of a 'significant pollution linkage'.

4.5 If the Council considers that the site is causing or likely to cause significant harm or pollution to controlled waters, it will seek suitable remediation. Wherever possible the Council will seek voluntary remediation, but will use its statutory powers where necessary.

4.6 During the Council's investigation, it will consult where necessary with relevant statutory consultees. These include

The Greater London Authority

The Environment Agency (Following discussions with the EA, initial liaison will be carried out through the EA offices based at Frimley Surrey)

English Nature

English Heritage

The Department for the Environment, Food & Rural Affairs (DEFRA)

Food Standards Agency

4.7 The investigative and enforcement role will be undertaken in the main by the Council's Regulatory Services division in consultation with other Council departments.

5.0 SECTION (5) - Arrangements and Procedures for Implementation

5.1 Consideration of Land which the Council owns.

5.2 The initial desktop survey has revealed that a significant proportion of Council land is linked to sites which are of a particularly sensitive nature i.e. allotments, schools, public open spaces etc. Where land owned by the Council is found to be contaminated the Council will carry out its duties as though it was the enforcing authority. The Council will undertake the same consultations, assessments and seek appropriate remedial works as necessary.

5.3 Obtaining & evaluating information on actual harm or pollution of controlled waters

5.4 After determining the location of sites where contamination may exist, the Council will assess the location of receptors, which will include: -

- Human beings
- Eco systems
- Property
- Water

5.5 In undertaking its duties to inspect the Borough under section 78B (1) of the Act, the Council will take into consideration the particular characteristics of the area, including:

- Relevant geology, hydro geology and hydrology
- The location of sensitive water receptors,
- The location of sensitive property receptors
- The location of relevant ecological receptors
- The location of all existing human receptors, and;
- Potential sources of contamination

- 5.6 *Risk assessment for controlled waters*
- 5.7 Advice will be sought from the Environment Agency on risk assessment if controlled waters are the receptor in a particular pollutant linkage. It is anticipated that risk assessments and remediation will be carried out in accordance with Environment Agency guidance as laid down in "Methodology for the Derivation of Remedial Targets for Soil and Groundwater to Protect Water Resources" (EA R&D Publication 20, 1999)
- 5.8 Identifying receptors and assessing the possibility / likelihood that they are being, or could be, exposed to or affected by a contaminant
- 5.9 The Council will as part of its investigation into the siting of 'sensitive receptors' consult with other organisations, both statutory consultees and non-government organisations.
- 5.10 The Council will search the Borough in the way set out in this strategy for land which has both sensitive receptors and sources of potential contamination. If there is good reason to believe these both exist, a formal risk assessment will be undertaken in accordance with current government guidance to establish whether there is the potential for them coming together and causing significant harm or pollution. (Thus establishing a pollutant linkage).
- 5.11 At all stages in the investigation, the Council's Regulatory Services Division will liaise with the owners/occupiers of the land. Full consultation will be carried out with other relevant bodies (Environment Agency, Officers from the LGA, London Ecology Unit, English Heritage and English Nature).
- 5.12 Obtaining and evaluating existing information on the possible presence of contaminants and their effects
- 5.13 *Risk assessment for contaminants*
- 5.14 The Council will refer to government guidance, and where this recommends use of a standard reference technique or model, this will normally be used. Risk assessments may also be required for substances not covered by the current standard "ICRCL" or "CLEA" guidelines. In these cases, the Council may refer to occupational exposure levels issued by the Health and Safety Executive or other authoritative sources of information, such as guidelines adopted in other countries.
- 5.15 Liaison with Other Statutory Bodies
- 5.16 *Statutory Consultees*
- 5.17 Contacts have already been established with officers of all statutory consultees.
- 5.18 *Water pollution*
- 5.19 The Water Resources Act 1991 gives the Environment Agency powers to deal with harm to controlled waters being caused by contaminated land. While Part IIA legislation does not revoke these powers, DEFRA have indicated that Part IIA should now be regarded as the preferred regime for dealing with cases of pollution which are caused by contaminated land. Attention is drawn to the fact that there may however be occasions where pollution of controlled waters will still be dealt with under the Water Resources Act 1991. For example where:
- a) Surface or coastal waters are affected but not breaching the Regulations made under section 82 of the Water Resources Act 1991

b) Groundwater (other than a principal aquifer specified above) is contaminated and the water is not used for drinking. In all cases where water pollution maybe implicated the following procedure will be used:

- 5.20 The Council will consult with the Environment Agency before designating any contaminated land that presents a risk to controlled waters and will take into account any comments made with respect to remediation.
- 5.21 If the Agency identifies a risk to controlled waters from contaminated land, the Council will be notified to enable designation of the land and remedial action will be taken under Part IIA.
- 5.22 A memorandum of understanding has been drawn up between the Environment Agency and the Local Government Association that describes how information will be exchanged between the local authority and the Environment Agency. The Council will therefore provide information to the Environment Agency following the guidelines agreed through this national forum.
- 5.23 IN ADDITION the Council will provide separate notification to the EA whenever a site is designated as contaminated land, and whenever a remediation notice, statement or declaration is issued or agreed. The Environment Agency has provided standard forms allowing this information to be provided in a consistent format and the Council will adopt these to fulfil its reporting requirements.
- 5.24 ***LAND WHICH MAY BE A SPECIAL SITE (see appendix 1 for an explanation of this term)***
- 5.25 *Where the Council is aware that land it intends to investigate would, if declared contaminated land, be a special site, it will notify the Environment Agency and may ask the Agency to undertake such investigative work on its behalf.*

6.0 SECTION (6) - Communicating with Other Parties

- 6.1 The Council's approach to its regulatory duties is to seek voluntary compliance before taking enforcement action. This approach will be adopted for issues of land contamination, recognising that in many cases more effective remediation can be achieved by agreement than by enforcement. The regulations provide an incentive to undertake voluntary action, in that any materials that require disposal as a result of voluntary remediation will be exempt from landfill taxes. This exemption does not apply to materials generated as a result of a remediation notice having been served
- 6.2 The Council's Regulatory Services Division will be the central contact point within the authority on contaminated land issues. The Division will endeavour to keep owners, occupiers and other interested parties informed at each stage of an investigation, regardless of whether there is a formal designation of contaminated land.
- 6.3 Responding to Information or Complaints from Members of the Public, Businesses or Voluntary Organisations
- 6.4 The Council through its Regulatory Services Division will respond to concerns raised by the general public, business and other non-governmental organisations, about issues concerning possible contamination.

- 6.5 Complaints or concerns may impact on the approach to inspection. A Complaint or Service Request relating to contaminated land will be processed by using the existing Regulatory Services statutory nuisance complaints procedure.
- 6.6 All customers may expect:
- their complaint or service request to be logged and recorded
 - be contacted by an officer regarding their complaint within 7 working days of receipt to be kept informed of progress towards resolution of the problem.
- 6.7 All complainants will be asked to supply their names and addresses and, if appropriate, the address giving rise to the complaint. The identity of the complainant will remain confidential. The only circumstance in which this information might be made public would be in the case of a remediation notice being appealed in a court of law and an adverse effect on the complainant's health was an important reason for the original contaminated land designation.
- 6.8 ***Anonymously Supplied Information***
- 6.9 The Council will note any anonymously supplied information, and investigate if appropriate. Any such investigation will take into account that the information has been supplied anonymously and that scope for action may be limited as a result.
- 6.10 ***Anecdotal Evidence***
- 6.11 Any anecdotal evidence provided to the Council relating to contaminated land will be noted, but no designation of contaminated land will be made without robust scientific evidence.
- 6.12 Planning and reviewing a Programme for Inspection
- 6.13 The Council will administer the new regime in an ordered, rational and efficient manner based firmly on the principles of risk assessment. Significant and imminent risks to human health will always be given the highest priority.
- 6.14 The following table sets out the Council's programme for inspections over the next five years:

Key Task	Year
Production and publication of statutory contaminated land strategy	By July 2001
Inspection of the District, identification of potentially contaminated sites and prioritisation for further investigation	2001 - 2003
Detailed inspection and assessment of priority category 1 sites	As soon as possible after they become known to the Council
Detailed inspection and assessment of remaining potentially contaminated sites	2003 - 2006

- 6.15 Potentially contaminated land will, prior to detailed investigation, be listed and categorised according to a preliminary assessment of risk. This is to ensure all further investigative work relates directly to the seriousness of the potential risk and therefore the most pressing problems are identified and quantified first.

- 6.16 Once the Council has become aware of the (possible) existence of a pollutant linkage, for an individual site the risk assessment process will commence. Risk is defined as the combination of:
- the probability, or frequency, of occurrence of a defined hazard; and
 - the magnitude of the consequences.
- 6.17 The Council will assess the risk of contamination by the use of current government advice and if appropriate, commercially available computer based risk assessment models. In the event that a number of sites present themselves, the Council will prioritise its efforts to those locations within the borough where the risk of site contamination is considered to be greatest.
- 6.18 The Council will cease the investigation and take no further action on sites where information has been obtained to confirm a pollutant linkage does not exist, or, if it does, the risks attached to any such linkage are considered trivial.
- 6.19 In carrying out its duties, the Council will consider:
- The definition of harm
 - The nature, degree and location of the contamination on the site
 - The routes by which the contaminants would affect defined receptors at the site
 - The time scales within which harm may occur
 - The current use of the site
- 6.20 A site will only be defined as “Contaminated Land” by the Council if the following criteria are satisfied: -
- (i) At least one pollution linkage exists and that the contaminant (s) must have the potential to have a detrimental effect.
- (ii) Detailed investigations undertaken as part of the Council’s investigations confirm that the pollution linkage is resulting in potential or actual significant harm to the receptor or pollution of controlled waters.

7.0 SECTION (7) - Carrying out of the detailed inspection of particular areas of land

- 7.1 If the Council is satisfied that a pollution linkage does exist on any site and that significant harm is occurring, then by definition the subject site will be classified as ‘contaminated land.’ The Council will commence regulatory action, where the land does not fall within the category of a ‘special site’. In The Case Of Special Sites, the Environment Agency will be the enforcement authority
- 7.2 For cases where evaluation of all available data suggests a significant pollutant linkage may exist, the Council will carry out more detailed investigations to ascertain if it is necessary to visit the site.
- 7.3 Further investigations will normally mean in the first instance a site walkover, which will be carried out by officers from the Council’s Regulatory Services Division. This will assist in ascertaining the likelihood of any significant pollution linkage, as well as assessing the potential risks (if any) to adjacent land and the presence of sensitive receptors. After assessing the risk from the findings of the site walkover, further intrusive investigations may then need be carried out in accordance with appropriate technical procedures and

government guidance. These investigations may involve intrusive testing and the removal of samples for testing.

- 7.4 In most cases once the criteria previously mentioned at section 4.46 of this strategy have been satisfied it will generally be the case that the Council will cease their investigation at this stage and declare the land contaminated.
- 7.5 In any cases where the Council is satisfied that: -
- (i) land is contaminated and,
 - (ii) that there is imminent danger of serious harm or serious pollution of controlled waters being caused,

It may invoke its statutory powers of entry into the premises. In urgent cases where The Council is the enforcing authority and is of the opinion that the risk would not be mitigated by enforcement action, the Council will undertake works of remediation and generally seek to recover the costs of all such works it has completed.

7.6 *ORPHAN SITES - Where orphan sites may occur as detailed in section D.103 of DEFRA Circular 02 / 2000 AND where an investigation has shown: -*

- there is significant pollution linkage related solely to the pollution of controlled waters (and not to significant harm) and no class A person can be found'
- that no class A or B person can be found. Those persons who would otherwise be liable are exempted by statutory provisions

The Council will consider bearing the cost of carrying out the appropriate remediation.

8.0 SECTION (8) - Reviewing and Updating Assumptions

- 8.1 The strategy as a whole will be reviewed annually by the Council's Head of Regulatory Services. Particular matters that will be kept under review include:
- The content of the strategy generally
 - Priorities for further investigation of potentially contaminated sites *
 - The potential for the introduction of new receptors
 - The potential for new contamination
 - Progress on voluntary remediation
 - The enforcement process generally and the identification of appropriate persons and Identification of special sites

** Where the significance of a pollution linkage cannot be adequately determined on the information available and a suspect site does not fall within the statutory definition of contaminated land, the Council will keep the site under review and reopen the investigations at any time if new information becomes available.*

- 8.2 In addition to the routine review of inspection findings, any one or more of the following situations will trigger a re-assessment of any suspect sites in the Borough:
- Change of use of land surrounding a suspect site (e.g. the introduction of new receptors)
 - The potential for pollutant linkages to become significant or urgent as a result of unplanned events (e.g. flooding, subsidence, spillage's etc.), or a change in circumstances
 - Identification of a localised effect which could be associated with the land
 - New scientific information and guidance

8.3 *Quality Control, Performance Indicators and Arrangements for Review*

8.4 *At the time of preparing this strategy, government performance indicators are awaited. Until these indicators are published the Council will continue to participate at officer level in the informal inter borough information exchange groups that have to date provided valuable advice and co-operation between the various authorities involved.*

9.0 SECTION (9) - Managing Information

9.1 General Approach to Communicating Risks

9.2 The Council has an established policy of openness and transparency. Wherever possible, reports and associated papers on any sites in the Borough found to be contaminated will be made public. In the event that an issue of public concern should arise, the Head of The Council's Regulatory Services Division will ensure that elected members, and the Council's Press Office are informed as soon as is practicable.

9.3 The register

9.4 The Council's public register will include the following details: -

- Name and address of the person on whom the notice is served
- Location and extent of the contaminated site which will include its address, a site plan and a National Grid reference
- Why the site is contaminated
- The substances in, on or under the site
- Details of any known migration of contaminants to adjacent areas
- The current use of the site
- Any remediation notices
- Details of site reports obtained by the authority relating to remediation notices;
- Remediation declarations, remediation statements and notifications of claimed remediation
- Identification of any land designated as a "special site"
- The date of any site-specific guidance issued by the Environment Agency to the Council*
- Any appeals lodged against remediation and charging notices
- Any convictions secured by the Council against companies or individuals for relevant offences.

(*) The Council will wherever it is permitted, make copies of this information available under the provisions of the Environmental Information Regulations.

Note: -

The public register will **not** include details of historic land use and other records used in the investigation of potentially contaminated land. These are research documents and as such will not form part of the public register.

9.5 Written Records of Determination and Formal Notification

9.6 Once an area of land has been declared contaminated by statutory definition, the Council will prepare a written record as set out in the procedure at Appendix 3 of this strategy. The Council will notify in writing all relevant parties where land has been declared 'contaminated',

these parties will include:

- the owner(s)
- the occupier(s)
- those liable for remediation ('appropriate persons' in the statutory guidance)
- the Environment Agency

9.7 The Council will, act on the best information available to it at this time and keep the situation continually under review as more information becomes known.

9.8 The formal notification procedure commences the process of consultation on what remediation might be most appropriate. To aid this process the Council will therefore provide as much information to the relevant parties as possible, including where available:

- a) A copy of the written record of determination
- b) Copies of site investigation reports (or details of their availability)
- c) An explanation of why the appropriate persons have been chosen as such
- d) Details of all other parties notified

9.9 The appropriate persons will also be provided with written explanations of the test for exclusion and apportionment.

9.10 Provision of information to the Environment Agency

9.11 As part of the new contaminated land regime, the Environment Agency is required to produce a report on the state of contaminated land in England. The report will provide information on:-

- the nature, extent and distribution of contaminated land
- the level of remediation undertaken and the regulatory activity under Part IIA.

9.12 Section 78(U) (Environment Act 1995) requires Local Authorities to provide the Agency with the necessary information to produce the report. The Council intends to follow the guidelines laid out in the Environment Agency document 'Information exchange with Local Authorities for the state of contaminated land report'. The Council's Regulatory Services Division will provide the following information to the Environment Agency: -

- Copy of an inspection strategy (this document)
- Copies of any future legal notices, statements and declarations together with the completed form SOCL/LA/form2
- Summary information of regulatory activity submitted annually on form SOCL/LA/form3.

Appendix 1 SPECIAL SITES

1. If the Council identifies land as 'contaminated land' by definition¹, it must also consider whether it falls into the category of a special site. Special sites are sites where, more often than not, the Environment Agency have had, or still have, an enforcement role.

2. A special site is defined in the Contaminated Land (England) Regulations 2000. For a legal definition the Regulations must always be consulted. In 'lay persons' terms however, they include land:

- which is polluting controlled waters (in certain circumstances - see below)
- subject to Integrated Pollution Control (see Environmental Protection Act 1990 Part I - Prescribed Processes and Substances Regulations 1991 schedule 1 part A)
- with waste sulphuric acid and/or tar lagoons (on sites used for refining benzole, used lubricants or petroleum)
- used as an oil refinery
- used to manufacture or process explosives
- used to manufacture or dispose of atomic, chemical or biological weapons*
- used for other nuclear purposes*
- owned or occupied by a defence organisation for naval, military or air force purposes* (not off base housing / NAAFI)

*Notes: * for non-biological and non-radioactive contamination only*

(1) Contaminated land beyond the boundary of the above premises (but contaminated by them) also forms part of the special site.

SPECIAL SITES & POLLUTION OF CONTROLLED WATERS

Controlled waters are defined for the purposes of Part IIA of the EPA 1990 as:

- Coastal waters including docks
- Relevant territorial waters (usually to three miles)
- Inland fresh waters (relevant rivers, watercourses, lakes, ponds, reservoirs - including bottom / channel / bed, even if dry)
- Groundwater as defined by section 104 of the Water Resources Act 1991

The pollution of controlled waters is defined as:

The entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter

Pollution of controlled waters will generally be dealt with by the Environment Agency (EA).

A summary of the issues relating to controlled waters is provided for information: -

Where pollution of groundwater has occurred and the source can not be identified, or the polluting substances are contained entirely within the body of water (and not in or on the land), then Part IIA

¹ EPA 1990 Section 78(2)"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, 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....."

does not apply and the matter will be dealt with by the Environment Agency under section Part III of the Water Resources Act 1991.

Where pollution has occurred from land which subsequently affects the wholesomeness of drinking water within the meaning of section 67 of the Water Industry Act 1991 (Water Supply [Water Quality] Regulations 1989 / Private Water Supplies Regulations 1991), then the land becomes a **special site**.

Where pollution has occurred from land which results in surface water failing to meet the criteria in Regulations[#] made under section 82 of the Water Resources Act 1991, then the land becomes a **special site**:

Regulations include

- The Surface Water (Dangerous Substances) (Classification) Regulations 1989
- The Bathing Waters (Classification) Regulations 1991
- The Surface Water (Dangerous Substances) (Classification) Regulations 1992
- The Surface Water (River Eco System) (Classification) Regulations 1994
- The Surface Water (Abstraction for Drinking Water) (Classification) Regulations 1996
- The Surface Water (Fish life) (Classification) Regulations 1997
- The Surface Water (Shellfish) (Classification) Regulations 1997
- The Surface Water (Dangerous Substances) (Classification) Regulations 1997
- The Surface Water (Dangerous Substances) (Classification) Regulations 1998

Where the pollution of a specified aquifer* is caused by any of the following contaminants the land also becomes a **special site**:

- Organophosphorus compounds
- Organotin compounds
- Substances which possess carcinogenic, mutagenic or teratogenic properties in or via the aquatic environment
- Mercury and its compounds
- Cadmium and its compounds
- Mineral oil and other hydrocarbons
- Cyanides
- Organohalogen compounds and substances which may form such compounds in the aquatic environment.

*Specified aquifers are those contained in the following rocks:

- Pleistocene Norwich Crag
- Upper Cretaceous Chalk
- Lower Cretaceous Sandstones
- Upper Jurassic Corallian
- Middle Jurassic Limestones
- Lower Jurassic Cotteswold Sands
- Permo-Triassic Sherwood Sandstone Group
- Upper Permian Magnesian Limestone
- Lower Permian Penrith Sandstone
- Lower Permian Collyhurst Sandstone
- Lower Permian Basal Breccias, Conglomerates and Sandstones
- Lower Carboniferous Limestones.

Appendix 2 LIST OF POTENTIALLY CONTAMINATIVE LAND USES

This list has been provided to give a broad indication of the type of sites that are known to have used in the past, materials that could pollute the soil. The list is not exhaustive, and attention is drawn to the fact that inclusion on this list does not necessary infer the existence of a pollutant linkage.

Abattoirs	Farms	Print works
Adhesives manufacture	Fertiliser manufacture	Printed circuit board manufacture
Agriculture	Fellmongers	Radioactive materials processing
Aircraft manufacture	Fibre glass works	Railway land
Airports	Food processing	Railway locomotive manufacture
Animal burial	Foundries	Refiners of nickel and antimony
Animal by-product processing	Fuel manufacture	Resin manufacture
Anodisers	Fuel storage	Rubber manufacture
Anti-corrosion treatment	Garages and depots	Scrap metal dealers
Asbestos products	Gas mantle manufacture	Sealing compound manufacture
Asphalt works	Gas works	Sewage works
Automotive engineering	Glass works	Sewage sludge disposal areas
Battery manufacture	Glue manufacture	Sheet metal merchants and works
Bearings manufacture	Gum and resin manufacture	Ship breakers
Blacksmiths	Hatters	Ship builders
Boiler makers	Hide and skin processors	Shooting grounds
Bookbinding	Ink manufacture	Skein silk dyers
Brass and copper tube manufacture	Iron founder	Small arms manufacture
Brass founders	Iron works	Smokeless fuel manufacture
Brewing	Knackers yards	Soap manufacture
Car manufacture	Laquer manufacture	Solvent manufacture
Carbon products manufacture	Laundries	Solvent recovery
Cement works	Leather manufacture	Steel manufacture
Chemical manufacture and storage	Metal coating	Stove enamellers
Chrome plating	Metal manufacture	Synthetic fibre manufacture
Ceramics manufacture	Metal sprayers and finishers	Tank cleaning
Coal carbonisation	Mining	Tanneries
Coal merchant	Mirror manufacture	Tar and pitch distillers
Concrete batching	Motor vehicle manufacture	Textile manufacture
Coppersmiths	Oil fuel distributors and suppliers	Thermometer makers
Descaling contractors (chemical)	Oil merchants	Timber treatment
Detergent manufacture	Oil refineries	Timber preservatives manufacture
Distilleries	Oil storage	Tin plate works
Dockyards	Paint and varnish manufacture	Transport depots
Drum cleaning	Paper works	Tyre manufacture and retreading
Dry cleaners	Pesticides manufacture	Vehicle manufacture
Dye works	Petrol stations	Vulcanite manufacture
Dyers and finishers	Photographic film works	Vulcanisers
Electricity generation	Photographic processing	Waste disposal
Electrical engineers	Paper manufacture	Waste recycling
Electro platers	Plastics works	Waste treatment
Engineering works	Plating works	Zincworks
Explosives manufacture (including fireworks)	Power stations	

Appendix 3 The Council's Procedure covering sites that are determined as being CONTAMINATED

For any sites that may be determined 'contaminated' the Council will issue a formal written record of the determination. This will comprise:

- A Formal written notification to all interested parties
- Determination of the physical extent of the land
- The extent and seriousness of the risks (need for urgent action)
- The number and type of pollutant linkages
- The effect each significant pollutant may have on controlled waters (if any)
- The most appropriate and cost-effective remedial scheme for each significant pollutant linkage
- Identification of liability groups and, appropriate persons, for each pollutant linkage
- Assessment of hardship in the case of each, appropriate person
- Effective remediation of the site and recovery of costs where appropriate

In non-urgent cases the Council will give encouragement to all parties with some liability to arrive at an informal solution. The Council will do all in its power to consult the appropriate person(s), owners, occupier's etc. about their views on the state of the land.

If the 'appropriate person' agrees to voluntarily remediate the land, the Council will require them to submit a remediation plan to the Council's Regulatory Services Division specifying what particular remediation actions are to be carried out and the time scales within which they are to be performed.

Service of Remediation Notices

The Council will normally only consider the service of a Remediation Notice as a last resort after the consultation process has been exhausted. Notices will not generally be served less than three months after formal notification by the Council that the land is 'contaminated' unless urgent action is deemed necessary (where there is imminent risk of serious harm).

The Council will normally specify what remediation measures are to be carried out in the remediation notice, having due regard to cost and 'best practicable techniques'. The aim of the remediation process will be to ensure that the land is decontaminated.

The contents of the remediation notice will include:

- Who is the appropriate person
- The nature of the problem
- What actions are to be undertaken for remediation
- The time scale for remediation
- Rights of appeal
- Other relevant information

In cases where there is more than one appropriate person the notice will also include:

- The details of the other appropriate persons
- The proportion of costs which each appropriate person will bear in carrying out the remediation

A copy of the remediation notice will also be sent by the Council to:

- The owners/occupiers of the site
- The Environment Agency

The Council will make all reasonable enquiries to identify persons, who are essentially the polluters, or persons who 'knowingly permit' before liability reverts to the current owner / occupier. The matter of appropriate persons will be considered for each significant pollutant linkage. The Council will apportion costs between liability groups. Liability groups may be classed as class 'A' or class 'B'.

- Class 'A' – these are generally speaking polluters, but also persons who knowingly permit.

- Class 'B' – where no class 'A' persons can be found liability reverts to the owner or the occupier.

When the Council has apportioned the costs of each remediation action and before serving remediation notices, it will consider whether any of those liable may not be able to afford it. If, after taking into consideration the statutory guidance it decides that one or more of the parties could not, it will not serve a remediation notice on any of the parties. The Council will instead, consider carrying out the work itself and produce and publish a remediation statement

The Council may decide to carry out remedial works itself where in addition:

- Urgent action is necessary
- There is no 'appropriate person'
- A remediation notice has not been complied with