



CONTAMINATED LAND STRATEGY

(3rd REVISION)

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1. EXECUTIVE SUMMARY

This document forms a revision of the West Berkshire District Council (“the Council”) Contaminated Land Strategy which was originally developed in 2000 and subsequently revised in 2002 and 2006.

It reviews the Council’s aims and objectives as well as progress made in implementing its strategy so far. It also updates the relevant action plans and procedures taking into account the Council’s current priorities and recent changes to the contaminated land statutory guidance.

The strategy revision was undertaken by Council staff with support from STM Environmental Consultants Ltd.

1.1. Aims and Objectives

The aims and objectives of the strategy remain unchanged from previous strategies. Its broad objectives are:

- To meet the requirement to produce and revise a written strategy
- To demonstrate how the Council will meet the requirements of the Part IIA legislation

1.2. Progress in implementing the strategy to date

In general, the Council has been successful in meeting the general aims and objectives set by the previous strategy. It is complying with its legal obligations and has a clear risk based framework for ensuring that both Council owned and non-Council owned land is inspected in a rational, ordered and efficient manner. This includes a consistent process for assessing sites and this will ensure consistency of approach for dealing with future sites. The Council has consulted with relevant stakeholders and the strategy has been made available for the public to access.

A database of approximately 1306 potential contaminated sites has been built up and prioritised in terms of the risk the pose to humans and the wider environment. Since the 2006 strategy review, 111 sites have been removed from the list of potentially contaminated sites, which is at a significantly faster rate than predicted. Experience has proved that the removal of high risk sites from the list requires more intensive work as they may require remediation to be carried out.

A number of the targets set in the previous strategy were however not completed due to the fact that they were overly ambitious in terms of timeframes. These targets have been revised in this new strategy.

1.3. New Action Plan

Building on the progress achieved to date a new action plan has been developed that provides updated targets for the next five years.

These targets focus on the management and provision of contaminated land information, developing land through the planning regime, Part 2A activities and ensuring and maintaining relevant QMS processes and procedures.

1.4. Measuring Progress

In line with statutory guidance, the Strategy will be reviewed and revised if necessary at least every 5 years. Progress in meeting the targets set by the Strategy will be reviewed in accordance with the accredited QMS audit plan.

2. INTRODUCTION

2.1. Background

Contaminated land in the UK is a legacy of our industrial past. Industrial processes such as gas works, chemical works and waste disposal have resulted in large number sites whose soils are contaminated with a wide range of hazardous chemicals.

The contaminants resulting from some of these industrial activities can lie hidden in soils, posing a health risk to humans that unknowingly come into contact with them. They can also pollute our groundwater, surface waters (rivers, streams and lakes) as well as nature and ecological conservation areas.

The Environment Agency estimated that there may be as many as 100,000 sites covering an area of over 300,000 hectares that may be affected by such contamination in England and Wales. It estimated that between five and twenty per cent of these sites will require action to minimise unacceptable risks to human health and the environment¹.

Although West Berkshire has never been a heavily industrialised area, the district does have its own legacy of contaminated land that needs to be dealt with. To date, approximately 1306 potentially contaminated land sites have been identified within the district. This document provides an updated roadmap for how the Council intends to continue to deal with these sites and the threats arising from contaminated land in the district.

2.2. Characteristics of West Berkshire District

2.2.1. Geography

West Berkshire District is located in the county of Royal Berkshire and covers an area of 70,417 hectares. The main centres in the district include Newbury, Thatcham, Hungerford, Pangbourne and Lambourn, connected together by a vast network of transport links, including the M4, A34 and railways. Bordering authorities include Oxfordshire to the north, Reading and Wokingham to the east, Hampshire to the south and Wiltshire to the west.

The District is primarily made up of chalk Downlands, loosely centred along the lower reaches of the River Kennet, which rises in Wiltshire and flows through to join the Thames at Reading. The flat floodplain of this river is bordered by fairly steep slopes on each side. Most people within the district live within this valley. To the south, the land rises steeply to line of scarps which form the border with Hampshire. The majority of the district however, lies to the north of the Kennet where the land rises to the Berkshire and Marlborough Downs. This is an area of gently rolling, chalk Downlands, classified as part of the North Wessex Downs Area of Outstanding Natural Beauty (AONB).

¹ Dealing with contaminated land in England - Progress in 2002 with implementing the Part IIA regime, Environment Agency 2002

A map of West Berkshire can be found in [Appendix 2](#).

2.2.2. Population

The Office for National Statistics estimated the population of West Berkshire Authority to be 154,100 in 2011. Twenty percent of the population were aged 0 to 15 years, 64% aged 16 to 64 years, and 16% aged over 65 years². Seventy percent of people live in settlements along the Kennet Valley and 16% in the suburban areas just to the west of Reading borough. The largest urban area in the district is Newbury/Thatcham, where around 67,000 (44%) of West Berkshire residents live. Other significant towns in the district include Hungerford with just under 6,000 residents and Theale with a population of just under 3,000. The remainder of the population are dispersed in small rural settlements across the district. West Berkshire has one of the most dispersed populations in the South East with 253 people per hectare³.

2.2.3. Past Industrial Land Uses

For almost all authorities, the inspection process will begin with a consideration of the historical land uses that are likely to have generated contamination within their areas.

West Berkshire's industrial history can be traced back to at least Roman times with the manufacture of pottery, iron and woodcrafts. The industrial revolution during the latter part of the 18th century impacted strongly on parts of the county but left many areas untouched. Agriculture was the major employer and industries were related either to serving an agriculture economy or processing the materials produced in the area. Due to the various types of clay deposits found throughout the county the brick making industry flourished until World War II but declined during the 1950s. Gravel was not used extensively until the 20th century and the subsequent use of exhausted gravel pits as landfill sites for refuse disposal was another essential major industry.

2.2.4. Current Land Uses

Current land uses within the District have impacts on the type and sensitivity of receptors present on sites, as well as contaminants that may have been, or are being, released to the environment.

The table below shows the land use distribution statistics from 2001 which was published by the Office of the Deputy Prime Minister in 2005.

² Table 8a Mid-2011 Population Estimates: Selected age groups for local authorities in England and Wales; estimated resident population. Office for National Statistics, Census based, 2011.

³ 2013 West Berkshire District Profile: 1 People and Place. West Berkshire District Council, 2013.

Table 1 - ODPM 2001 West Berkshire Land Use Categories

Land Use	Area (ha)	Area (%)
Domestic Buildings	460	0.7
Gardens	2,576	3.7
Non-Domestic Buildings	363	0.5
Road	1,333	1.9
Rail	75	0.1
Path	41	0.1
Greenspace (i.e. agriculture, open space)	63,614	90.6
Water	922	1.3
Other	865	1.2

Agriculture is the major land use in West Berkshire covering approximately 74% of the District (51,000 hectares). Agriculture and related industries employs 7% of the economically active population of the District. The remaining land is either residential or used for commercial or light industrial activity.

The district is widely recognised as an area with a high concentration of high-tech firms and is home to companies such as Bayer, Norsk Data, Quantel and Vodafone. Tourism and recreation play an important part within the District which is renowned for its horse racing interests. There is an excellent racecourse situated in the heart of Newbury, with gallops and training stables on the Downs around Lambourn, East Ilsley and West Ilsley. The Kennet and Avon canal also runs through the heart of the District. There is a Nature Discovery Centre at Thatcham.

The military history of the District has resulted in a number of areas owned by the Ministry of Defence. The four largest defence sites in total cover some 800 hectares, just over 1% of the District area. They are; AWE Burghfield, AWE Aldermaston, RAF Welford, and Greenham Common. Greenham Common has largely been decommissioned and is now owned by a trust of which West Berkshire District Council is a part. The other three sites remain operational.

2.2.5. Geology

Due to the movement of contaminants through the subsurface, the geology of the area is important in determining whether sites are potentially contaminated and if they will impact, or are impacted by, surrounding areas. Much of the District is covered in Chalk deposits overlain by London Clay, Reading Beds and Clay with flints. The drift deposits include Plateau Gravels, Valley Gravels and Alluvium.

A map of geological features within West Berkshire District can be found in [Appendix 3](#).

2.2.6. Hydrogeology

Details of the locations of major aquifers (used for abstraction of water for public supplies) and minor aquifers (important for local water supplies) are important for an understanding of potential receptors to generate the risk assessment. Information on the groundwater vulnerability is also important to quantify the sensitivity of the groundwater receptors.

Chalk deposits are classified as a Major Aquifer. The Plateau Gravel, Valley Gravel and Alluvium are classified as Minor Aquifers and the London Clay, Reading Beds and Clay with Flints are classified as Non Aquifers.

The River Thames forms part of the northern boundary of the District. The River Kennet flows through Newbury on its way to Reading, and the River Lambourn joins the Kennet at Newbury.

Source Protection Zones (SPZs) define areas which are considered to form the catchments to public water supplies and certain other private supplies. They show the position of the sources and all subdivisions of their protection zones (Inner, Outer and Total Catchment). There are a total of 25 SPZs either fully or partially contained within the district. Eight of these are Inner SPZs, 7 are Outer SPZs and the other 10 are Total Catchment Zones.

2.2.7. Protected Ecological Areas and Buildings

The West Berkshire District contains a diverse range of environments and key property types, including areas or features protected by regulations. These include:

Table 2 – Numbers of Protected Ecological Areas and Buildings

Type	Number	Comments
Sites of Special Scientific Interest (SSSIs)	51	Covering an area of 1,349 hectares
Special Areas of Conservation (SACs)	3	River Lambourn, The Kennet and Lambourn floodplain and the Kennet Valley Alderwoods
Areas of Outstanding Natural Beauty (AONBs)	1	North Wessex Downs, covering an area of around 52,000 hectares, or 74% of the District
Local Wildlife Sites (LWSs)	~500	
Local Geological Sites (LGSs)	8	
Scheduled Ancient Monuments	89	
Listed Buildings	2462	Includes 53 Grade 1 listed buildings and 144 Grade II* listed
Historic Parks and Gardens	11	
English Heritage Battlefields	1	Newbury 1 st Battlefield

The combined areas of SSSI, LWS and LGS amounts to over 7,700 hectares, or about 11% of the district.

3. REGULATORY CONTEXT

3.1. Part IIA Legislation

Legislation, which is now commonly known as “Part IIA”, was introduced in 1995 to provide a legal framework for dealing with contaminated land⁴.

Under the legislation, each Local Authority has a duty to “cause its area to be inspected from time to time for the purpose of identifying contaminated land”. Where sites that may be contaminated are identified, the guidance instructs Local Authorities to assess the risks they may pose to human health and the wider environment.

Where the risks associated with a site are considered to be “unacceptable”, the legislation allows Local Authorities to take legal action to ensure that they are remediated (i.e. reduced to acceptable levels). Where possible the Authority can require the persons who were responsible for the pollution to undertake the remediation. If those persons cannot be found, the responsibility may fall upon the current owners and/or occupiers of the land.

3.1.1. Statutory Guidance

Part IIA officially came into force in April 2000 following the issuance of Statutory Guidance⁵ by the Government to Local Authorities detailing how they should implement the legislation. This guidance was recently revised in April 2012 following a review of the way the contaminated land regime was seen to be functioning in England and Wales⁶.

The guidance requires Local Authorities to take a strategic approach to inspecting their areas and to this end, requires each Local Authority to publish and keep updated a written strategy explaining how it intends to fulfil its duties under the legislation. Details of the requirements for such a strategy are given in [Appendix 1](#). This document is the written strategy for West Berkshire District Council.

The revised guidance encourages Local Authorities to be more decisive in terms of whether land should be considered to be contaminated land or not. It instructs that the starting point for any consideration is that land should be assumed not to be contaminated land.

It also introduced a system of categorisation in which potentially contaminated land could be put into one of four categories depending on the level of risk associated with it. These categories are summarised below:

- Category 1 – Sites where there is an unacceptably high probability of significant harm, or significant pollution of controlled waters, occurring if no action is taken to stop it.

⁴ The legislation, which consists of sections 78A to 78YC of the Environmental Protection Act 1990, was inserted by section 57 of the Environment Act 1995. In 2006, the legislation was extended to cover radioactivity.

⁵ Circular 2/2000 Contaminated Land. DETR, 2000.

⁶ Environmental Protection Act 1990: Part IIA, Contaminated Land Statutory Guidance. Department for Environment, Food and Rural Affairs (DEFRA), 2012.

- Category 2 – Sites where the land is capable of being determined as contaminated land on grounds of significant possibility of significant harm.
- Category 3 – Sites where the land is not capable of being determined as contaminated land on grounds of significant possibility of significant harm.
- Category 4 – Sites where there is no risk of significant harm or significant pollution of controlled waters, or the level of risk is low.

3.1.2. Definition of Contaminated Land

Before a Local Authority can require remediation to be undertaken on a site, it has to officially “determine” (or declare) the site to be ‘contaminated land’⁷.

The term ‘contaminated land’ is defined as:-

"Any land which appears to the Local Authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land that:-

(a) Significant harm is being caused or there is significant possibility of such harm being caused: or

(b) Significant pollution of controlled waters is being caused, or there is a significant possibility of pollution to be caused."

3.1.3. Principles of Contaminant Linkages

In order for land to be considered “contaminated land”, there must be a contaminant, a pathway and a receptor present.

- A Contaminant is a substance situated in, on or under the land that is present at such concentrations that it has the potential to cause harm to a receptor.
- A Receptor is a body that may be harmed by the contaminant. A receptor may be a human being, controlled waters (i.e. groundwater or surface water), designated ecosystem (i.e. Site of Special Scientific Interest) or a property (i.e. housing, cattle).
- A Pathway is a route, or means, by which the receptor may become exposed to (i.e. come into contact with), or affected by the contaminant.

When all three of the above components are present at a site, a *Contaminant Linkage* is said to exist.

Contaminant Linkage = Contaminant + Pathway + Receptor

In order for a Local Authority to make a decision that a site is contaminated land, it must be satisfied that the Contaminant Linkage is “*Significant*” (i.e. that the land identified is causing or is likely to cause significant harm to receptors if remedial action is not undertaken).

⁷ The term ‘contaminated land’ was originally defined in Section 78A of the Part IIA legislation. It was subsequently amended by section 86 of the Water Act 2003 which came into force in April 2012.

3.1.4. Principles of Risk Assessment

Part IIA requires Local Authorities to take a risk based approach to the identification and remediation of contaminated land. The guidance defines “risk” as a combination of:

- (a) the likelihood that harm (i.e. to humans), or pollution of water, will occur as a result of contaminants in, on or under the land; and
- (b) the scale and seriousness of such harm or pollution if it did occur.

Where contamination is identified, the guidance instructs that any requirements for remedial action should be based on the ‘suitable for use’ approach⁸.

3.2. National Planning Policy Framework

In addition to a revision of the Part IIA Statutory Guidance, the National Planning Policy Framework (NPPF)⁹ was introduced in March 2012, removing previous national Planning Policy Guidance (PPG) documents. This included the removal of Planning Policy Statement 23: Planning and Pollution Control (PPS23) which gave guidance on the relevance of pollution controls to the exercise of planning functions. The removal of PPG documents was undertaken as part of the localism agenda of the Government, allowing councils to produce local plans reflecting the needs and priorities of their communities (Sections 120 and 121 of NPPF).

3.3. Role of Local Authorities

As mentioned above, Local Authorities have a duty to inspect their districts for land for the purposes of identifying land that may be considered to be contaminated land. The guidance states that in so doing, Local Authorities should start with the assumption that the land being inspected is not contaminated land (i.e. does not pose a significant risk of significant harm). It is only when robust science-based supporting evidence is available, that land can be determined as Contaminated Land.

Once a Local Authority determines a site as contaminated land, it should act as the enforcing authority and require remediation. The Local Authority has to prepare a written record of determination (or risk summary) and a formal notification which should be understandable to people without technical knowledge of contaminated land.

In specific instances (as outlined below), the Local Authority may designate a site as a ‘special site’, in which case the responsibility for enforcement passes to the Environment Agency.

⁸Land contamination is treated to deal with unacceptable actual or perceived threats to health, safety or the environment, taking account of the actual or intended use of the site.

⁹ National Planning Policy Framework. Department for Communities and Local Government, 2012.

3.4. Role of the Environment Agency

The Environment Agency has the responsibility of acting as the enforcing authority in cases where the Local Authority has designated a site as a 'special site'¹⁰. There are four main categories of special site described in the regulations:

- Some water pollution cases – includes areas of contaminated land affecting drinking water supply or (potentially) polluting controlled waters within a major aquifer;
- industrial cases – includes specific circumstances such as acid tar lagoons,
- Sites where explosives were manufactured, or a site for an authorised process under the Environmental Permitting (England and Wales) Regulations and its predecessor regimes;
- defence cases – including most land currently owned by the Ministry of Defence and those of visiting forces;
- Radioactivity cases – where land is contaminated land by virtue of radioactivity which can include nuclear sites.

The Environment Agency also provides guidance to Local Authorities when requested.

¹⁰ . 'Special sites' are defined by Section 78A (3) of the Environmental Protection Act. ISBN 0105443905.

4. DEVELOPMENT OF THE STRATEGY

4.1. Overall Approach

The West Berkshire District Council Contaminated Land Strategy was originally produced in 2000¹¹ and revised in 2002 and 2006¹². This document constitutes a further revision. It is based on the previous editions and takes into account progress that has been made in the interim as well changes in the Council's visions, policies, other strategies and corporate plans.

4.1.1. Council Policies and Strategies

4.1.1.1. *West Berkshire District Council Vision and Purpose*

The vision of the Council is:

“Keeping West Berkshire a great place in which to live, learn, work and do business”.

The Purpose of the Council is to:

1. Help you to help yourself
2. Help you when you cannot help yourself
3. Help you to help one another
4. Promote and act in the interests of the communities

4.1.1.2. *West Berkshire District Council Strategy (2013-2017)*

The Council Strategy provides the framework for future decision-making: prioritising those areas seen as most critical or important and setting out the Council's overarching approach to dealing with the reduction of resources whilst keeping the impact on local communities to a minimum.

The priorities of the Council in delivering public services are:

- Caring for and protecting the vulnerable
- Promoting a vibrant district
- Improving education
- Protecting the environment

Three quarters of West Berkshire is designated as an Area of Outstanding Beauty. That natural environment plays a key role in sustaining a high quality of life in West Berkshire and is the reason why many people choose to live within the district. Protecting this resource and the environment more generally, both now and for future generations, are seen as key to the district's continued prosperity.

To do this, the Council will:

¹¹ West Berkshire District Council, Contaminated Land Strategy. Wokingham District Council, 2000.

¹² West Berkshire District Council, Contaminated Land Strategy (2nd Revision). Enviro Consulting, 2006.

- Focus development on the existing urban areas to protect the countryside and the surrounding Area of Outstanding Natural Beauty
- Ensure the protection and promotion of the natural and built environment and heritage
- Maximise the proportion of waste recycled and composted across the district.
- Minimise the amount of waste being sent to landfill sites
- Reduce carbon emissions through efficient energy management, thereby reducing energy consumption and bills.

4.1.1.3. *Development Plan*

The Development Plan for West Berkshire comprises the West Berkshire Local Plan, made up of the West Berkshire Core Strategy (2006-2026), the Saved Policies of the West Berkshire District Local Plan (WBDLP) 1991-2006, the Replacement Minerals Local Plan for Berkshire and the Waste Local Plan for Berkshire.

A number of policies in the West Berkshire District Local Plan have been superseded. This is due to the 'Planning and Compulsory Purchase Act' introducing a new planning system in 2004 in which Local Plans were replaced by 'Local Development Frameworks' (LDFs). However, some policies of the Local Plan were saved and carry "due weight" according to their degree of conformity with the National Planning Policy Framework (NPPF). These policies will ultimately be replaced by policies in the forthcoming Site Allocations and Delivery Development Plan Document.

The Strategy will be linked with the LDF of the Council, which is a folder of local development documents that outline how planning and sustainable development will be managed in the District. The lead document in the LDF has the status of a Development Plan Document (DPD) and is known as the Core Strategy, setting out the long term 'spatial vision' for the West Berkshire District up until 2026.

The West Berkshire Core Strategy was adopted on 16 July 2012 and carries full weight in decision-making as a development plan document (DPD) adopted since publication of the NPPF. It is an overall vision which sets out how West Berkshire should evolve over the next 20 years. It incorporates:

- A set of strategic objectives which expand the vision and focus on the key issues to be addressed.
- A delivery strategy for achieving these objectives which sets out how much development is intended to happen, where, when and how.
- Strategic policies for delivering the development.
- An implementation and monitoring framework

The South East Plan was partially revoked on 25 March 2013 under the Regional Spatial Strategy for the South East (Partial Revocation) Order 2013 (S.I. 2013/427). However policy NRM6 (Thames Basin Heaths Special Protection Area) has been retained.

The Local Development Scheme (LDS) is a three year project plan which explains what DPDs will be included in the West Berkshire LDF. The third version published in May 2012 updates the previous version, published in April 2010, to reflect changes in circumstances since 2010.

It states the Council is intending to produce the following Development Plan Documents (DPDs) between 2010 and 2015:

- West Berkshire Core Strategy (adopted July 2012)
- Site Allocations and Delivery
- Proposals Maps
- Minerals and Waste Local Plan
- Minerals and Waste Proposals Map

4.1.1.4. *Stakeholder Management Strategy*

Produced in March 2007, the Stakeholder Management Strategy¹³ was created to develop procedures on the identification of stakeholders affected by contaminated sites, and the engagement with them. It recommended the use of a Steering Group to direct both environmental assessment and communications strategies. Members of the Steering Group include; Council officers from different service areas and functions, officers of the Environment Agency and other public organisations, together with additional site-specific members. Organisation of the Steering Group is also included in the document, as well as managing contact with stakeholders and the media, dealing with public feedback and redress.

The framework was based on six procedures established in the 2006 Strategy:

- Internal consultation on Part IIA sites (Procedure 4)
- External consultation with Environment Agency on Part IIA sites (Procedure 5)
- External consultation with other bodies on Part IIA sites (Procedure 6)
- Identification and communication with site owner/occupier (Procedure 9)
- Identification and communication with the wider community (Procedure 10)
- Communication of risk (Procedure 11)

4.1.1.5. *Sustainable Community Strategy (2008-2026)*

The Sustainable Community Strategy (SCS), entitled 'A Breath of Fresh Air' sets out a long-term vision for the District and has been developed by the West Berkshire Partnership. It comprises of a range of local people and organisations, including business groups and public sector bodies. The purpose of the Strategy is to set a clear vision and direction focusing on improving the social, economic, and environmental well-being of the area, in addition to providing an overarching framework within which other local strategies will sit.

4.1.1.6. *IPPC Integrated Pollution Prevention and Control*

This is the regulatory scheme that effectively licences polluting industrial processes. It is enforced by Local Authorities and the Environment Agency and replaces, in a phased manner, the existing IPC (Integrated Pollution Control) and LAPC (Local Authority Pollution Control) schemes. The main difference of importance to contaminated land remediation is that the IPPC scheme has a holistic approach to environmental protection and focuses on reducing emissions to land and water, as well as air.

¹³ Public Protection, West Berkshire Council: Stakeholder Management Strategy. Enviro Consulting, 2007.

4.2. Responsibility, Consultation and Liaison

The strategy was originally produced by the Council's Contaminated Land Working Group which consisted of representatives from relevant Council departments. Comments from internal and external statutory and informal consultees were also incorporated into the Strategy.

4.2.1. Internal Teams Responsible

Within West Berkshire District Council, Contaminated Land Strategy is implemented by an inter-departmental team with officers from the Pollution Control Team within Public Protection, and from Development Control and Planning Policy within Planning and Transport.

4.2.2. Internal Liaison

Where relevant, elected members of the Council and Town/Parish Councils and other Council teams and departments will be consulted on the updated strategy and on-going progress in implementing it.

Relevant teams and departments within the Council include;

- Policy and Performance Management Unit
- Public Protection
- Countryside & Environment
- Planning & Transport Strategy
- Legal Services
- Estates and Valuation
- IT Unit
- Finance
- Building Control

4.2.3. External Liaison

The Council will take a pro-active approach to communication with local residents/land owners, the media and other interested parties regarding contaminated land issues.

West Berkshire District Council undertakes to inform relevant owners and occupiers of any on-site investigations being carried out in the district and to provide answers to any queries they may have. This will be done before any detailed intrusive investigations on the site begin. The Council will also provide details of Council officers who will act as contact points for queries, and where there is significant local demand, will arrange for public meetings to discuss relevant issues.

The Council's website will be used to provide general information on contaminated land, with further development of its functionality to enable on-line service and information requests to be made.

5. AIMS AND OBJECTIVES OF THE STRATEGY

5.1. Aims and Objectives of the Previous Strategies

The West Berkshire District Council Contaminated Land Strategy was originally produced in June 2000 and then reviewed in 2006. The 2006 version of the Strategy set out the following overall aims:

- To identify ‘sites of potential concern’ within the authority area,
- To determine the risks posed by the sites
- To prioritise the sites for further action
- To instigate site remediation where and when necessary through the use of Part IIA and development control procedures

5.2. Objectives and Targets set by the Previous Strategy

The table below presents the objectives and targets were set measure the progress in implementing the Strategy across the authority.

Table 3 – Objectives and targets set by previous strategies

Core Area	Objective	Target	Target End Date
Corporate	Collation of up to date historical and environmental information, together with receptor details to enable desk-based identification of potential pollutant linkages.	Maintenance of GIS database with identification and resolution of data gaps	Continuous
	Desk-based initial prioritisation of sites of potential concern controlled under Part IIA.	Maintain prioritisation software and revisit prioritisation	June 2007
	Agree a policy with planning on inspection based on prioritisation (especially in relation to all ‘identified sites’ and any change of use)	Inspection of 154 high priority sites	March 2016
		Inspection of 353 medium priority sites	March 2039
		Inspection of low priority sites	Continuous
	Desk study and qualitative risk assessment of sites of	Desk Study and risk assessment of top 20 sites	March 2005

Core Area	Objective	Target	Target End Date
	potential concern controlled under Part IIA.	Desk Study and risk assessment of gas works sites	April 2006
		Desk Study and risk assessment of WBDC owned sites	March 2007
		Desk Study and risk assessment of sites where WBDC may be liable	March 2014
	Detailed site investigations and quantitative risk assessment of sites of potential concern on top 20 list.	Identify sites for investigations	Ongoing
	Identification of 'appropriate persons' for top 20 sites and gasworks determined to be significantly contaminated under Part IIA.	Identification of appropriate persons	Ongoing
	Designation of sites and instigation of remediation, as and when necessary, under Part IIA, for sites where appropriate persons identified either voluntarily or following service of a remediation notice.	Agreement with all appropriate persons on all sites to undertake remediation	Ongoing
	Establish clear liaison procedures with WBDC planning to ensure verification of the implementation of any conditions set to assess or remediate land contamination.	Achieve 100% compliance with contaminated land planning conditions	Continuous
	For any sites that have been designated, Identify Special Sites and progress in consultation with the EA	Identify all Special Sites in District	Continuous
	Integrate planning and environmental health databases	Integrate planning and environmental health databases	September 2006
	Completion of all written	Completion of all written	March 2007

Core Area	Objective	Target	Target End Date
	procedures	procedures	
Financial	Establish funding for investigation and remediation works for WBDC owned sites, or sites where no appropriate person is identified (orphan) site.	Achieve 100% funding	Ongoing
	Secure funding of contaminated land regulation at local level from authority.	Achieve 100% funding	Ongoing
Learning	Set up continual improvement process	Re-run prioritisation software	March 2007
		Agree timetable for internal audits of inspection procedure	March 2007
	Review contaminated land inspection strategy and procedures	Five-yearly cycle recommended	March 2011
Stakeholders	Provide annual reporting of information for Best Value Assessment and for the Environment Agency State of Contaminated Land Report in England.	Provide correct information on time, to budget and the required format. Target date agreed annually with EA. Also target of no significant queries or re-writes.	Annual
	Maintain Public Register.	Ensure register is up to date	Continuous
	Provide information for local authority property searches.	Provide a 2-working day turnaround	Continuous
	Investigate contaminated land database as a resource and other potential users.	Promote database on internal web to other departments. Promote on external web as a chargeable service to developers etc.	Continuous

5.3. Key Achievements to Date

Below is a list of key achievements in relation to dealing with contaminated land to date.

Table 4 - Key Achievements to Date

Year	Achievement
2001	Publication of Contaminated Land Strategy by West Berkshire District Council.
2002	First revision of Contaminated Land Strategy
2002-2003	Purchase of CLARA database and prioritisation software. Inspection of historical maps and identification of potentially contaminated sites. Around 1200 sites identified and digitised as polygons.
2003	Small area of AWE Aldermaston formally declared as contaminated land (A12Q1 AWE) in December.
2004	<p>Prioritisation of sites – 154 sites classified as high priority, 353 sites classified as medium priority. These sites will be proactively inspected by WBC. 687 sites classified as low priority. These will be dealt with as they arise through planning.</p> <p>Desk study undertaken at possible ‘special site’- Sterling Industrial Estate.</p>
2005	Top 20 sites inspected – Phase 1 desk studies, 2 high priority sites identified as being in need of further investigation.
2006	Second revision of Contaminated Land Strategy. GIS system set up allowing Development Control to identify all sites on or within 100m of potentially contaminated land for consultation with Environmental Health.
2007	<p>11 former gas work sites and landfills inspected – phase 1 desk studies.</p> <p>Stakeholder Strategy Report published.</p> <p>Further work also undertaken on sites identified as high priority from 2005 and 2007 work. Site investigations undertaken at Limberlost Farm and Enborne Gate landfills.</p>
2008	<p>Additional investigation at Limberlost Farm– no human health risk identified. Site investigation at Mulberry Way, Theale – no human health risk identified.</p> <p>Beenham Landfill investigated through grant from DEFRA – no risk to residents identified.</p>
2009	<p>Bradfield gas works investigation from DEFRA grant.</p> <p>Desk study undertaken on Sterling Industrial Estate – former gas works site.</p> <p>Following request from Council, EA funded a site investigation at the Sterling</p>

	<p>industrial estate. The investigation confirmed the presence of contamination and that site would be classed as 'special site'.</p>
2010	<p>Additional site investigation of Bradfield Gas Works undertaken through further DEFRA grant.</p> <p>New contaminated land database known as Uniform purchased due to GIS compatibility issues with CLARA. Uniform provides links with Development Control.</p> <p>Historical contaminated land reports undertaken through planning regime scanned and "smartsaved".</p> <p>Initial transfer of data from CLARA database to the Uniform database, using a combination of electronic and manual data transfer. Approximately 1200 sites were transferred with basic historic land use, risk assessment score and site polygon drawn up. Given that previous potentially contaminated sites do not necessarily have the same footprint as current uses, an additional advantage of manual transfer was it allowed the connection of all properties which fell within the site boundary. This enabled a more accurate assessment for land searches, environmental searches and planning applications.</p>
2011	<p>Desk study undertaken on Pinchington Lane and Pyle Hill landfill sites.</p> <p>Site investigation undertaken at Pinchington Lane landfill site.</p> <p>Council declared Sterling Industrial Estate as Contaminated Land. The EA is the primary regulator as it was declared a 'special site'.</p>
2010-2012	<p>Analysis of sites identified through the planning process. If a planning application has a contaminated land condition imposed, Environmental Health review and comment on the submitted documentation to determine if it is appropriate to discharge the condition. This allowed the identification of potentially contaminated sites which have been remediated through the planning process and identify sites where contamination has been confirmed but remediation is yet to happen. In order to do this, the Senior Scientific Officer collated the documents for each site, they were then scanned and bookmarked and finally saved against the relevant record. The Senior Scientific Officer then undertook a review of these documents and populated the Uniform records with the relevant site history.</p>
2012	<p>West Berkshire Council and Wokingham Borough Council's Environmental Health Teams signed up to Joint Service Delivery. This partnership will enable staff to make savings and share information and resources, which could include a joint database.</p>
2012-2013	<p>A total of 237 (out of 1306) sites have been assessed for possible contamination. 98 have been removed from the list as they have either had no contaminated found or remedial work has been undertaken and the site cleared to an appropriate</p>

	standard.
2013	Further shallow soil sampling undertaken at Bradfield gas works.

5.4. Gap Analysis

This section reviews the progress that has been made in meeting the specified aims, objectives and targets with a view to identifying shortfalls or gaps in implementation of the strategy so far.

Table 5 - Review of progress in meeting objectives and targets

<u>Corporate</u>
<p>Maintain GIS database as well as identifying and filling data gaps</p> <p>The Uniform database is continually updated with information on new and existing sites.</p>
<p>Maintain prioritisation software and revisit prioritisation</p> <p>In March 2010, a new contaminated land database system called Uniform was purchased as the existing CLARA system was unable to run with the current GIS mapping systems and furthermore was no longer being supported by the ICT Applications Team within the Council. This database system is already currently being utilised by Development Control and Environmental Health. The contaminated land module allows new sites to be added and prioritised.</p> <p>Moreover, as new environmental information becomes available, for example through proactive Part 2A desk studies and site investigations or via the planning regime, potentially contaminated sites are updated and will be reprioritised.</p>
<p>Proactive inspection of high priority sites for completion by March 2016 and medium priority sites for completion by March 2039. Deal with low priority sites through the planning regime</p> <p>A total of 238 (out of 1324) sites have been assessed for possible contamination. 111 have been removed from the list as they were either not considered to be contaminated land or they have had remedial works carried out on them. This number includes 14 of the 154 high priority sites, 22 of the 353 medium priority sites and 17 low priority sites. Sites are now mainly investigated through the planning regime and thus has resulted in a further 58 sites being remediated.</p>
<p>Desk study and qualitative risk assessment of top 20 sites, gas works sites, WBDC owned sites and other sites where WBDC may be liable</p> <p>In 2005, phase 1 desk studies were undertaken on the top 20 high priority sites with 2 sites identified as requiring further investigation. In 2007, phase 1 desk studies were undertaken on 11 former gas work sites and landfills. No work has been undertaken on WBDC sites since investigations are undertaken on a priority basis.</p>

<p>Identify sites from top 20 for detailed site investigations and quantitative risk assessment</p> <p>2 sites were identified for further work and intrusive investigations on these sites were undertaken in 2007. Based on the results, 1 site was prioritised for an additional site investigation with the other site being reprioritised. This additional investigation was undertaken in 2008 and the results revealed that no human health risk was identified.</p>
<p>Identify appropriate persons for sites deemed to be contaminated land get agreement to undertake remediation (voluntary or through a remediation notice)</p> <p>In 2003 and 2011, 2 sites (a small area of AWE and also Sterling Industrial Estate) were formerly declared as Contaminated Land by WBDC. These sites were classed as 'Special Sites' and therefore fall to the EA as the primary regulator</p>
<p>Designation of sites and instigation of remediation with agreement of appropriate persons</p> <p>The EA hold responsibility for identifying the appropriate persons and for securing remediation of contaminated land sites classed as 'special sites'.</p>
<p>Achieve 100% compliance with contaminated land planning conditions</p> <p>All contaminated land reports submitted to the LPA are reviewed by EH in accordance with current best practice and guidance and within specified response times.</p>
<p>Identify all 'Special Sites' in WBDC area</p> <p>A small area of AWE and more recently Sterling Industrial Estate were identified as special sites. Further sites may be identified in the future as further information comes to light.</p>
<p>Integrate planning and environmental health databases</p> <p>Environmental Health and Development Control now both use the Uniform database system.</p>
<p>Completion of all written procedures</p> <p>Relevant policy and procedures relating to contaminated land will be developed and reviewed to comply with the externally accredited QMS system, which is to be introduced.</p>
<p><u>Financial</u></p>
<p>Achieve 100% funding for investigation and remediation works on WBDC owned sites and orphan sites</p> <p>No investigations have been undertaken on WBDC owned sites. Any future investigations will have to be funded by WBDC as the external funding available via Capital Grants has been dramatically reduced in recent years, with funding priority now given to remediation projects.</p>

<p><u>Learning</u></p>
<p>Re-run prioritisation software in light of feedback from top 20 sites</p> <p>The site prioritisation has not been revisited since it was initially carried out in 2004. The CLARA system that was initially used to undertake the prioritisation is no longer being used due to compatibility issues. The status of sites will be updated accordingly as new information becomes available.</p>
<p>Internal audit of inspection procedures</p> <p>The audit of internal inspection procedures will be included in the audit matrix plan to be established in the QMS accredited system.</p>
<p>Review contaminated land inspection strategy on a five yearly cycle</p> <p>The strategy was last revised in 2006. A further review (this document) was initiated in April 2013 and is due to be completed by March 2014.</p>
<p><u>Stakeholders</u></p>
<p>Provide annual report of information</p> <p>All requested information will be submitted to the relevant authorities within the timescales specified.</p>
<p>Ensure Public Register is up to date</p> <p>The Public Register will be maintained and updated whenever a site is determined or remediated.</p>
<p>Provide a 2-day turnaround for local authority property searches</p> <p>A rapid response according to agreed timescales will be undertaken in accordance with the needs of the customer.</p>
<p>Investigate contaminated land database as a resource and other potential internal and external users</p> <p>The Uniform database system is currently being utilised by Environmental Health and Development Control and provides an excellent resource for both users. No other internal departments have implemented the system. The database has not yet been promoted externally.</p>

5.4.1. Gap Analysis Discussion

The Council has succeeded in meeting the general aims and objectives of the previous strategy. It is complying with its legal obligations and has a clear risk based framework for ensuring that both Council owned and non-Council owned land is inspected in a rational, ordered and efficient manner. This includes a consistent process for assessing sites and this will ensure consistency of approach for dealing with future sites ([Appendix 4](#)). The Council has consulted with relevant stakeholders and the strategy has been made available for the public to access.

Since the 2006 strategy review, nearly 100 sites have been removed from the list, which is a significantly faster rate than predicted. The volume of sites removed from the register demonstrates that all low risk sites could be successfully removed from the list of potentially contaminated sites within a few years. High risk sites still require more intensive work and it may be necessary for remediation works to be carried out on some of them.

However, it is considered that some of the targets set in the 2006 revision of the strategy were overly ambitious in the timeframes given and therefore they have not been completed. These have included the production and review of procedures and the re-prioritisation of sites. It is hoped that the targets set for this revised strategy will be more achievable based on current circumstances.

5.5. Aims and Objectives of the Revised Strategy

The aims and objectives of the previous West Berkshire strategy are to be carried forward into this new revised strategy with no amendments. The overall aims are:

- To identify 'sites of potential concern' within West Berkshire;
- To determine the risks posed by the sites;
- To prioritise these sites for further action.

The objectives of the revised strategy are:

- Continue with the identification of contaminated land sites in a rational, ordered and efficient manner;
- Be proportionate to the seriousness of any actual or potential risk;
- Seek to ensure that the most pressing and serious problems are dealt with first;
- To ensure that resources are concentrated on investigating in areas where the authority is most likely to identify contaminated land;
- To ensure that Council efficiently identifies requirements for the detailed inspection of particular areas of land.

5.6. Targets for the Revised Strategy

The Council will continue to work towards the targets set by the previous version of the strategy with a few modifications that take into account changes to the Statutory Guidance as well as Central Government and the Council's changing priorities.

An example of changing priorities can be observed in the fall in the amount of central government funding that is currently available to Local Authorities for the investigation and remediation of contaminated land. Funding available via the Contaminated Land Capital Programme has been drastically reduced from approximately £21 million in 2001 to approximately £2 million in 2012 (i.e. over 90% reduction since the start of Part IIA). As a consequence, any further progress on the investigation and remediation of sites, as specified in Task 1 and to a certain extent in Task 3, is likely to be very limited.

The targets set by this revised strategy are outlined in the table below.

Table 6 - Targets set by the revised strategy

Targets	Target End Date
<p><u>Target 1 – Management and Provision of Information:</u></p> <p><i>Ensure that the Uniform contaminated land database is regularly maintained and that any updates provided by the software company are installed.</i></p> <p><i>Respond to all formal requests for Environmental Information relating to potential contamination in accordance with the current Environmental Information Regulations and within agreed Council timescales.</i></p> <p><i>Provide and maintain information and advice on land contamination available via the Council’s web site.</i></p> <p><i>Set up and maintain a public register of declared contaminated sites on the Council’s website.</i></p> <p><i>At the end of each calendar year carry out a review of contaminated land activity carried out by the Environmental Quality Team in accordance with this strategy and provide a summary report to the Joint Services Review Panel.</i></p>	<p>Ongoing</p>
<p><u>Target 2- Activity Associated with Development of Land:</u></p> <p><i>Provide on-going support and advice to the Planning Authority regarding the future development of potentially contaminated sites.</i></p> <p><i>Respond to all formal planning consultations for proposed development on potentially contaminated sites within the statutory consultation period.</i></p> <p><i>On behalf of the Planning Authority review contaminated land reports submitted to discharge planning conditions and make appropriate recommendations within agreed timescales.</i></p> <p><i>Ensure that all site specific contaminated land reports submitted to the Planning Authority are entered onto the contaminated land database and that the risk assessment score for each site is adjusted accordingly.</i></p> <p><i>Encourage and support the development of local planning policy on the development of potentially contaminated sites in accordance with the National Planning Policy framework.</i></p>	<p>Ongoing</p>

Targets	Target End Date
<p><u>Target 3- Activity under Part2A of the Environmental Protection Act 1990</u></p> <p><i>Depending on resources available and estimated level of risk to human health and complexity of the site aim to carry out one full site investigation per year to determine whether or not the land is contaminated.</i></p> <p><i>Depending on resources available establish the number of site walk-over surveys to be carried out during the period 2014-2015. Thereafter the number of surveys to be carried out will be increased by 5% per annum until all surveys are completed.</i></p>	Ongoing
<p><u>Target 4- Maintaining Competency and Quality Control</u></p> <p><i>Develop and maintain relevant processes and procedures as part of an externally accredited QMS system</i></p> <p><i>Ensure that regular audits of processes and procedures relating to contaminated land are carried out in accordance with the agreed QMS audit plan. Participate in external audits carried out by the accrediting body.</i></p> <p><i>Ensure that all staff involved with contaminated land work are appropriately trained and that their competency in the subject area is maintained.</i></p> <p><i>Ensure that staff keep up to date with the latest research into land contamination and with relevant changes to legislation and standards.</i></p>	Ongoing

5.7. Measuring Progress

It is recommended that progress towards meeting the targets is reviewed by a Progress Review Panel comprising of all relevant Officers on an annual basis. Meetings should be clearly recorded and should be used to check whether any additional support is required to maintain the momentum towards meeting the targets.

6. PROCEDURES FOR STRATEGY IMPLEMENTATION

This section provides updated procedures for implementing the revised strategy taking into account the revised aims, objectives and targets.

6.1. Investigation of Potentially Contaminated Land Sites

Local Authorities have a continuing duty inspect their areas for the purpose of identifying land that may be contaminated and to take action where necessary.

The Environmental Health Department within the Council is responsible for implementing work under Part IIA. This includes undertaking desk studies, carrying out visits to sites thought to be of risk. This work may be completed by an officer of the Council or outsourced to a duly qualified person. If a site is determined as contaminated, it is the job of the Principal Environmental Health Officer to serve a remediation notice on the site following consultation with the officer and the Council's Legal Department.

The following section describes the procedures that the Council will use to identify and prioritise potential contaminated land sites for further action.

6.1.1. Identification of Potential Sources

Potential sources of contamination have been collated by systematically examining historical maps covering all epochs (1843 – 1991) as well as current land use mapping. Data obtained from the Environment Agency has also been used to identify locations of current and former landfill sites.

To date, 1324 potentially contaminated sites have been identified.

The Council will continue to review available information sources for the purposes of identifying new potential contaminated land sites.

6.1.2. Identification of Potential Receptors

The locations of potential receptors¹⁴ within the District have been identified using local knowledge combined with the systematic examination of Ordnance Survey mapping, aerial photography and map databases provided by English Nature and the British Geological Survey.

6.1.3. Prioritisation of Potentially Contaminated Land Sites

All sites are to be prioritised so as to ensure that those sites that present the greatest potential risk are inspected first. The Council's order of importance is as follows:

¹⁴ Humans or environmental features (i.e. surface water, groundwater, ecology and property) that may be affected by contamination

1. Human health is the Council's overriding responsibility;
2. High priority given to proactive inspection of sites scoring over 200;
3. Medium priority given to proactive inspection of sites scoring 100-200;
4. Low priority given to sites scoring less than 100 and will be dealt with as they arise through planning control;
5. Inspect WBDC owned land.

6.1.4. Preliminary Risk Assessments undertaken under Part IIA

Following the 2006 Strategy review, funding enabled Preliminary Risk Assessments (PRAs) to be produced on 12 High Risk sites.

PRAs consist of desk based studies as well as a site walkover. A desk study of a site involves the collation and assessment of information about the possible presence of contamination by looking at records of the site on OS maps, planning history, and previous site investigation reports etc. This is combined with information about site conditions (geology, hydrology etc.) and current land uses.

The site walkover consists of a visual inspection of the site. This helps in the verification of the status of the site and the locations of potential receptors (e.g. dwellings and occupiers, water courses) as well as existing mitigation measures (i.e. landfill gas venting systems).

The assessor will examine all available information on the site to determine whether there are reasons to believe that contamination may be present and the extent of the spread of any pollution.

The output of each PRA will include a report which contains a *Conceptual Site Model* (CSM) which details likely contaminants, receptors and pathways as well as associated uncertainties. The CSM will examine what potential contaminants and receptors are likely to be present and the routes by which receptors may be exposed to the potential contaminants (i.e. pathways). Where potential contaminants, pathways and receptors are considered likely to exist on a site, then "potential contaminant linkages" are said to exist at the site.

6.1.5. Intrusive Site Investigations

Following the completion of preliminary risk assessments, intrusive site investigations may be required to further assess risks, and to determine whether further action is necessary.

Intrusive investigation involves collecting and analysing soil, water and gas samples (as appropriate) from the site in order to determine whether or not contaminants of concern are actually present in the ground, and if so, at what concentrations. This may include a number of processes, including off site groundwater monitoring, gas monitoring and soil sampling.

Every site investigation is specifically designed and considers multiple aspects including:

- Health and safety requirements
- Land-use, area and access, geology

- Communication and liaison with all concerned parties (i.e. site owners and occupiers, the Environment Agency etc).
- Relevant standards and guidance

In order to carry out effective and consistent evaluation of the potentially contaminated sites a process was developed and followed by the officers involved; the main steps taken are outlined in [Appendix 4](#).

Local Authority officers may have to use their powers of entry under Part IIA legislation to undertake intrusive site investigations.

Where the Council intends to investigate land which would become a 'special site' if determined, it will notify the Environment Agency.

Of the 12 sites chosen for PRAs, 2 required additional intrusive work which diverted resources (both financial and human) away from other investigations. The Council successfully obtained DEFRA Capital Grant funding for 3 sites which eased the financial burden, however proactive work beyond Development Control applications assessment has slowed significantly.

6.1.6. Quantitative Assessment of Risks on Individual Sites

Once an intrusive site investigation has been undertaken, a Generic Quantitative Risk Assessment (GQRA) will be carried out in order to evaluate the risks associated with any contamination identified on a site.

The GQRA is a process that allows risk assessors to determine whether the potential contaminant linkages identified in the conceptual site model actually exist and whether they should be considered to be significant or not. A GQRA uses generic (i.e. general) assumptions about the behaviour of contaminants and receptors on the site.

As part of the GQRA, the contaminant concentrations observed on the site are compared with scientifically derived Generic Assessment Criteria (GAC)¹⁵, also known as "screening values". Depending on whether the observed contaminant concentrations are below or above the GAC, the assessor may either confirm or exclude potential pollutant linkages or highlight new potential linkages identified during the assessment process.

Following the GQRA it may be possible to establish whether or not the site is likely to represent a *Significant Possibility of Significant Harm* (SPOSH) and if so, whether it should be determined as Contaminated Land under Part IIA. In situations where the GQRA suggests that SPOSH may exist at a site or where no appropriate GAC are available to allow for a GQRA to be undertaken, then a Detailed Quantitative Risk Assessment (DQRA) will be conducted.

A DQRA is similar in construct to GQRA. It differs in that it uses site specific assessment criteria (SSAC) which take into account areas where site conditions (i.e. bioavailability of contaminants)

¹⁵ Generic Assessment Criteria – Criteria used in a risk assessment which have been derived using generic assumptions about the characteristics of the source, pathway and receptor. These generic characteristics relate to characteristics such as soil organic carbon content, body weight, vulnerable receptors, and exposure duration – HPA - An Introduction to Land Contamination for Public Health Professionals 2009.

differ from the generic assumptions used by a GQRA. Where site specific data is used, a full investigation and justification for any assumptions used will be provided.

6.2. Determination of Contaminated Land

6.2.1. Determining that land is contaminated land

Under the Part IIA, there are four grounds on which land (excluding radioactively contaminated land) can be defined as contaminated:

- a) Significant harm is being caused to a human, or relevant non-human, receptor.
- b) There is a significant possibility of significant harm being caused to a human, or relevant non-human, receptor.
- c) Significant pollution of controlled waters is being caused.
- d) There is a significant possibility of significant pollution of controlled waters being caused.

This risk of harm or pollution involves the consideration of the presence of contaminant linkages (as detailed above) which are identified through the examination of information gathered from detailed site inspection (i.e. intrusive investigations and quantitative risk assessments).

It is only when risks at a site have assessed and are considered to fulfil the requirement of “Significant Harm” or “Significant possibility of significant harm” (SPOSH), will a site be determined as being Contaminated Land.

6.2.1.1. Informing Interested Parties

When risks at a site are considered to fulfil SPOSH, the Council will produce a “Risk Summary” which will explain its understanding of the risks and other factors the authority considers to be relevant. As required by the guidance, the Council Officers will endeavour to ensure that any Risk Summaries produced are understandable to the layperson.

Before making a determination, the Council will inform the owners and occupiers of the land and any other person who may be liable to pay for its remediation, of its intention to determine the land unless there is an overriding reason for not doing so. This will allow for these persons to make representations to the Council that may avoid the need for a formal determination.

6.2.1.2. Land Which May be a ‘Special Site’

Before determination of a ‘special site’, the Council will consult the Environment Agency to establish any statutory powers and duties it maintains, such as Waste Management Licences, Water Resources Act etc.

If an area of contaminated land fulfils the criteria for a ‘special site’ after determination, the Council will inform the Environment Agency for agreement as to whether the site should be classified as a ‘special site’. If agreed, the responsibility for securing remediation of the site will be passed onto the Environment Agency.

6.2.1.3. Written Record of Determination and Formal Notification

If the Council decides to formally determine a site that is not a ‘special site’, then it will commence regulatory action. This will begin with preparing a written record to include:

- location, boundaries and area of the land in question
- the risk summary for the site and where not already covered in the risk summary, a description of the evidence which confirms the existence and significance of the Contaminant linkage(s);
- a summary of the way the requirements of the statutory guidance were satisfied.

The Council will then, in writing, formally notify all relevant parties that the land has been declared contaminated. These will include:

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

It, however, may not be possible to identify all of the relevant parties during the notification stage therefore the Council will act on the best information at the time. If further information becomes available, the Council will review the situation.

If the Council believes the site is a 'special site', they will notify the Environment Agency. If the Environment Agency agrees with the Council, the responsibility for securing remedial action will pass from the Council to the Agency, however, the Council will still be required to complete the formal notification process.

The legislation encourages voluntary remediation therefore where available, the Council will provide information to the relevant parties, such as; the written record of determination, an explanation of why the relevant person(s) have been chosen, details of site investigation reports etc. Remediation notices are served only as a last resort and after a detailed consultation process has taken place. The Council must be satisfied that without the notice any remedial actions would not be carried out and that the Council has no power to carry out the work itself.

6.2.1.4. *Apportioning Liability*

When all significant Contaminant linkages on the site have been identified, the process of apportioning liability will begin. For each linkage, a 'liability group' comprising appropriate persons will be established.

- Class 'A' persons – These are generally speaking the polluters, but also included are persons who "knowingly permit". This includes developers who leave contamination on a site, which subsequently results in the land being declared contaminated.
- Class 'B' persons – Where no Class 'A' persons can be found, liability reverts to the owner or the occupier. These are known as Class 'B' persons.
- 'Orphan linkages' – These exist when it is not possible to find Class 'A' or Class 'B' persons responsible for the land, or the persons found are exempt from liability.

The Council will make reasonable attempts to identify Class 'A' persons before the liability reverts to Class 'B'.

Any specified remediation will be both appropriate and cost effective, taking the shortest and most sustainable and economic route. Consequently, attention will normally be focussed on breaking the

pathway, rather than on the contaminant or receptor. The Authority must undertake a cost-benefit analysis in respect of all remedial actions, through considering the potential for hardship caused and the costs they are able to recover.

6.2.1.5. *Apportionment of Costs*

Costs will be apportioned between members of the liability group unless agreements exist between the appropriate persons. Tests also exist to exclude groups from liability, including Class 'B' persons who do not have an interest in the capital value of the land, such as tenants.

If the Council considers that one or more of the parties cannot afford the cost of remediation, it will not serve a remediation notice upon any of the parties. Instead, it will consider completing the work itself and producing a remediation statement.

6.2.2. Deciding that land is not contaminated land

If, following the completion of the detailed inspection and assessment of a site, there is little or no evidence to suggest that SPOSH exists at the site, then the Council will issue a written statement to this effect as required under the new revised statutory Guidance.

The Council has a duty to locate and inspect contaminated land within the District 'from time to time' under Part IIA but in some circumstances, it may be required to carry out inspections without the general strategic framework.

6.2.3. Triggers for Undertaking Non-Routine Inspections

The circumstances that may trigger non-routine inspections are likely to include new receptors and new sources of contamination coming to light. These could include land use changes and planning applications, as well as the receipt of complaints or information from statutory bodies, land owners, members of the public or other relevant parties.

If unplanned events occur that alter Contaminant linkages to a higher significance, such as flooding or spillage of contaminants, it would be advisable to undertake non-routine inspections to assess the significance of the linkage.

Voluntary remediation of sites may be carried out by viable parties and as such, the change in circumstances should trigger a non-routine inspection.

6.2.4. Triggers for Reviewing Decision Making

When deciding if a site is classified as contaminated, certain criteria should be met. If these criteria change, such as due to changes in legislation, establishment of case law, revision of guidance values for exposable assessment or any additional information that becomes available, the sites should be re-assessed to ensure they follow the new criteria.

6.3. Dealing with Contaminated Land under Planning

When redevelopment sites from the planning regime are identified as lying within the vicinity (i.e. within 100m) of a potential contaminated land site, liaison and co-operation between the Environmental Health Team and the Development Control Team is required to ensure a suitable investigation into risks provided by any contamination is completed.

Although withdrawn under the NPPF, the Council continues to use guidance in PPS23 until new procedures are developed within the Authority, or new national guidance is provided. Only when documents produced in accordance with PPS23 are reviewed by the relevant officer can further works on the area be continued.

The process of reviewing planning applications on sites that may be affected by land contamination is on-going. Some applications will require a simple review, others may take several days. All specialist reports submitted for discharge of contaminated land conditions are currently reviewed by the Environmental Health Team

6.4. Information Management

6.4.1. Contaminated Land Strategy Document

This document will be made publicly accessible by publishing it on the Council's website. It will also be available in the Environmental Health Department of the Council Offices in Newbury where it may be viewed by the public during normal office hours. Requests for copies of the document should be made to the Environmental Health Department and a reasonable charge will be made.

6.4.2. Contaminated Land Register

Under Section 78R of the Environmental Protection Act 1990, information regarding contaminated land is to be maintained within a Register. This information includes:

- Remediation notices (and any appeals)
- Remediation declarations statements
- Appeals against charging notices
- Designation of 'Special Sites'
- Notification of claimed remediation
- Convictions for any offences under Section 78M
- Guidance issued under Section 78V(1)

Under Sections 78S and 78T of the Environmental Protection Act 1990, the Authority must not include information relating to affairs of individuals or their businesses without permission, or commercially confidential information.

The Register will be maintained by the Environmental Health Department of the Council Offices in Newbury where it may be viewed by the public during normal office hours. Requests for copies of the document should be made to the Environmental Health Department and a reasonable charge will be made.

6.4.3. Data Management

All the information collated in relation to potential contaminated land sites is stored in a contaminated land database system called Uniform. The system consists of a database management system with integrated mapping. Uniform's contaminated land module is also capable of using spatially referenced data from the corporate GIS system to score sites according to the source, pathway, receptor characteristics.

The information gathering process is on-going, and draws on information from a range of sources, including local knowledge. Information has been collected from the planning records, historical maps, OS maps, talking to Town and Parish Councils etc. Much collection and collation of relevant information has already been carried out as part of the implementation of the previous strategy.

The Uniform system will continue to be updated with new information relating to contaminated land as it is received. This will include, for example, new sites that are identified as part of the continuing inspection process as well as information on sites that are investigated and/or remediated voluntarily or via the planning or Part IIA regimes.

6.4.4. Dealing with Requests for Information

Information on contaminated land is generally accessible both internally to members of the Council and externally to members of the general public. However, there are circumstances in which some data may not to be made publicly available (i.e. data is personal or commercially confidential). Refusal to provide information will, however, be followed by a written statement detailing the reasons for refusal.

Provision of information can result in a reasonable charge being made. The Council allows free access to the Public Register but makes a reasonable charge for prints or photocopies.

6.4.4.1. Information Requests under the Freedom of Information Regulations

The Freedom of Information Act 2000 requires the Council to provide information to the requestor, so long as the information is not considered sensitive. Quick informal advice is given over the phone or by email free of charge. Formal requests for written responses usually take one week and are generally charged at a fixed rate. Searches can take several hours as multiple databases need to be interrogated to obtain the required information.

6.4.4.2. Information Requests under the Environmental Information Regulations

With the introduction of the Environmental Information Regulations 2004 the Council has an obligation to disclose environmental information held on file, via a request, with regard to potentially contaminated land. The Council therefore operates an environmental information enquiry service to deal with enquiries as and when they are received. These may include enquiries in relation to:

- An initial report provided by a private enquiry service such as Envirocheck or GroundSure to a Solicitor or home buyer/seller.
- A Solicitor's direct enquiry to the Environmental Protection and Housing Team in relation to the buying and selling of residential, commercial or industrial property.

- An Environmental Consultant's enquiry as part of a property transaction, development, or due diligence exercise, or
- Individuals interested in collecting information on their own property.

Requests are predominantly received from contaminated land consultants involved in the development process as well as potential homebuyers. The enquiry involves a search of the Environmental Health database and planning records for information on whether a property or site is at risk from potentially contaminated land. Information can be provided on the following:

- The location of historic and current landfill sites
- Known areas of contamination on or adjoining the property
- Records of pollution or contamination issues on or adjoining the property
- Nearby permitted processes controlled under the Environmental Permitting Regulations 2010
- Records of site investigations or remediation carried at the property or adjoining properties in respect of potentially contaminated land
- Complaints about environmental issues where substantiated through service of legal notice or prosecution and
- Whether the Council is considering taking any action at the property under Part IIA of the Environmental Protection Act 1990 (which relates to the designation of contaminated land).

Quick informal advice is given over the phone or by email free of charge. Formal requests for written responses usually take one week and are generally charged at a fixed rate. Searches can take several hours as multiple databases need to be interrogated to obtain the required information.

6.4.5. Provision of Information to the Environment Agency

Officers from the Environment Agency are given unrestricted access to all relevant information regarding contaminated land in the West Berkshire District.

7. LIAISON AND CONSULTATION

7.1. Statutory Consultees

Under the DEFRA circular 01/2006¹⁶ the Local Authority should consult the Environment Agency and other appropriate public authorities, such as the County Council, statutory regeneration bodies, English Nature and English Heritage in developing its strategic approach. With the updated Guidance, consultation is now proposed with:

Environment Agency
English Heritage
Natural England
Department for Environment, Food and Rural Affairs (DEFRA)
South East England Development Agency (SEEDA)
South East England Regional Assembly

7.2. Non Statutory Consultees

Although not a 'statutory consultee', Thames Water and South East Water would wish to be notified whenever a potential pollutant linkage includes a public water supply as a receptor.

Where contact information is available, the Council will endeavour to contact any appropriate person(s) and stakeholders in relation to determining land as contaminated.

It may be necessary to consult with officers within the Council. If required, the relevant person(s) will be found and contacted, such as from; building and development control, engineers and highways, legal, information technology etc.

¹⁶ Circular 01/2006 Contaminated Land. DEFRA, 2006.

8. STRATEGY REVIEW MECHANISMS

8.1. Review of Strategy Document

In line with the statutory guidance, it is suggested that the Strategy should be reviewed, and revised at least every 5 years. During the review, much of the Strategy should be updated including; progress on implementation of the Strategy and voluntary remediation, changes to objectives and any changes in legislation. It is also recommended a progress update is compiled annually to review the implementation of the Strategy and identify any shortcomings.

8.2. Triggers for Early Review

As well as the routine review of the Strategy there may be situations arising that trigger early review of the document to ensure the Strategy covers the specified aims and objectives.

If legislation changes before the review period is due, it is likely that the Strategy will need to be updated or amended to incorporate new requirements as well as information from statutory bodies, public or other interested parties.

8.3. Audit of Inspection

Inspection of the current information held by the Council in relation to contaminated land should be completed periodically reviewed in accordance with the externally accredited QMS audit plan. This should involve inspection of property files and computer records selected randomly to highlight any failings in the recording of information or the following of procedures. Should any inconsistencies be found, the Principal Environmental Health Officer should suggest improvements to procedures to reduce future discrepancies.

9. APPENDICES

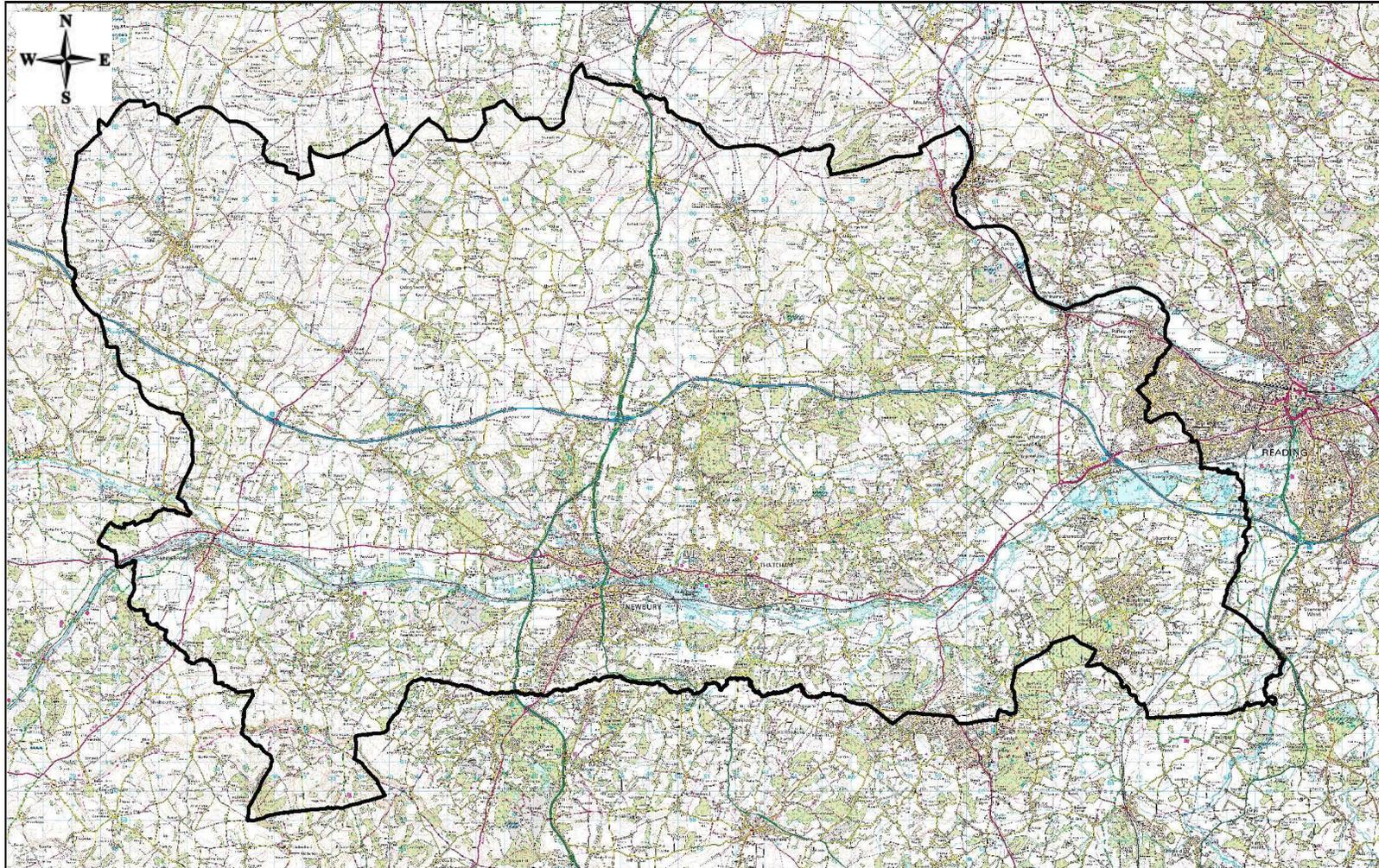
9.1. Appendix 1 - Requirements for a Contaminated Land Strategy

The Guidance states that the Local Authority should include in its strategy:

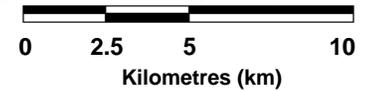
- (a) Its aims, objectives and priorities, taking into account the characteristics of its area.
- (b) A description of relevant aspects of its area.
- (c) Its approach to strategic inspection of its area or parts of it.
- (d) Its approach to the prioritisation of detailed inspection and remediation activity.
- (e) How its approach under Part IIA fits with its broader approach to dealing with land contamination. For example, its broader approach may include using the planning system to ensure land is made suitable for use when it is redeveloped; and/or encouraging polluters/owners of land affected by contamination to deal with problems without the need for Part IIA to be used directly; and/or encouraging problematic land to be dealt with as part of wider regeneration work.
- (f) Broadly, how the authority will seek to minimise unnecessary burdens on the taxpayer, businesses and individuals; for example by encouraging voluntary action to deal with land contamination issues as far as it considers reasonable and practicable.

9.2. Appendix 2 – Map of the West Berkshire District

West Berkshire District Map

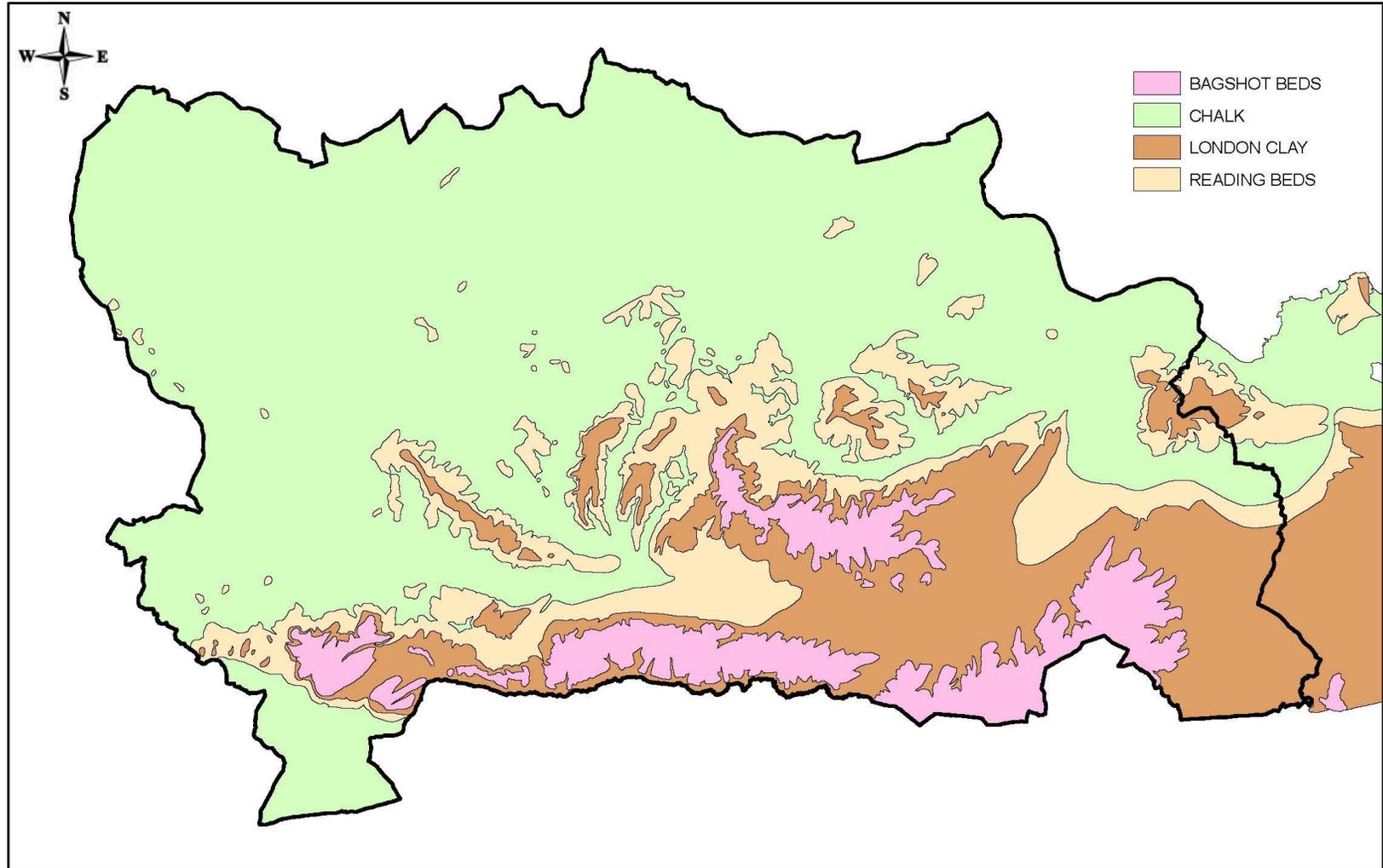


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9.3. Appendix 3 – Maps of geology of West Berkshire District

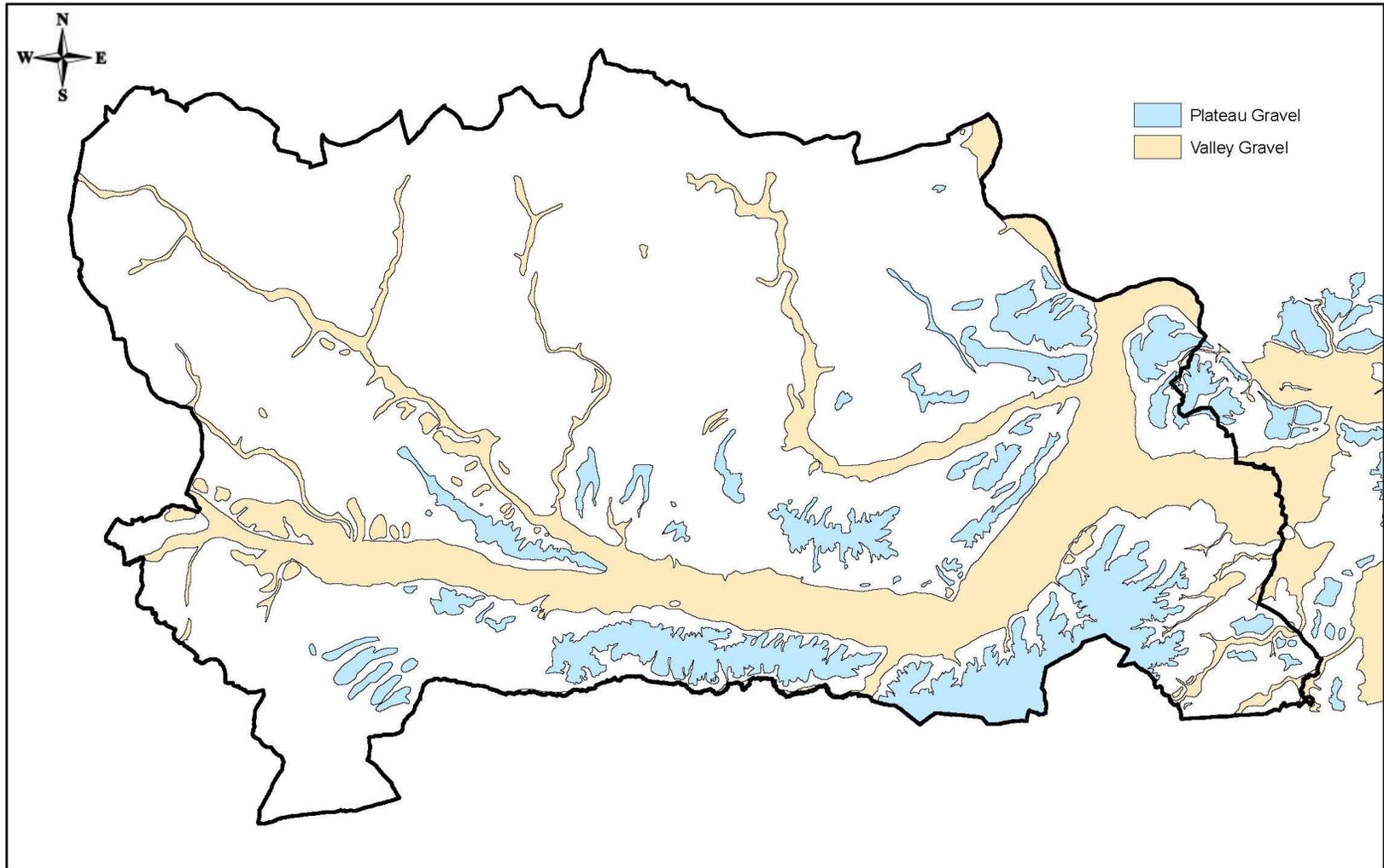
West Berkshire Solid Geology



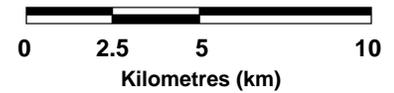
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0 2.5 5 10
Kilometres (km)

West Berkshire Drift Geology



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9.4. Appendix 4 – Process for consistent evaluation of potentially contaminated sites, followed by council officers

In order to carry out effective and consistent evaluation of the potentially contaminated sites a process was followed by the officers involved; the main steps taken are outline below:

- A desk-top study of the site was carried out by an officer. (Checking the site history on the Uniform database for planning applications and complaints)
- The West Berkshire Council interactive map was checked for historical planning applications (Pre 2000)
- An additional check of the GIS layers to identify any potential contaminative sources
- A walkover of site by an officer
 - Looking for any evidence of possible contamination or possible sources
 - A check of the site receptors e.g. residential, commercial, surface water etc.
 - Take site photographs
- Look through Council held microfiches of historical planning applications looking for in particular maps of site, site owners, site information, old photos, conditions attached, any site investigation data/information etc.
- If appropriate write to former owners of site, developers, occupier, EA etc. asking for any information on the site.
- Collate all information gathered and smartsave all documents to Uniform case ref if historical CLARA site or create new reference.
- Update Uniform summarising knowledge of site gathered and change CL status accordingly.