

# **Contaminated Land Strategy**

## **2019-24**

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## **EXECUTIVE SUMMARY**

The UK has a considerable legacy of historical land contamination involving a very wide range of substances, such as heavy metals, petroleum hydrocarbons, polycyclic aromatic hydrocarbons, solvents, acids, asbestos and hazardous gases.

On all land there are background levels of substances, including substances that are naturally present as a result of our diverse geology and substances resulting from diffuse human pollution. On some land there are greater concentrations of contaminants, often associated with industrial use and waste disposal. In a minority of cases there may be sufficient risk to health or the environment for such land to be considered contaminated land.

Selby District Council is responsible for the enforcement of contaminated land legislation in the district. It aims to protect people, property and the environment from contaminants in the ground and encourage the brownfield regeneration of contaminated sites.

This strategy will be implemented over the next five years. It explains how the council will inspect the district for contaminated land and how it will deal with land which is found to be contaminated. It is envisaged that this strategy will help the council to improve and protect the health of residents in the district and the condition of the environment.

## Contents

1. INTRODUCTION.....	4
1.1 Regulatory Context .....	4
1.2 The Definition of Contaminated land.....	4
1.3 Contaminant Linkages.....	5
1.4 The Polluter Pays Principle.....	6
1.5 Planning Regime and Building Regulations.....	6
1.6 Other Regulatory Regimes .....	7
2. AIMS AND OBJECTIVES .....	8
2.1 Aims.....	8
2.2 Objectives.....	8
3. SELBY DISTRICT .....	10
3.1 Characteristics of the Area.....	10
3.2 Past and Current Industrial Activity .....	11
3.3 Geology.....	11
3.4 Hydrogeology.....	11
3.5 Hydrology.....	12
3.6 Ecological Systems.....	12
3.7 Scheduled Monuments & Listed Buildings.....	14
3.8 Council Owned Land .....	14
4. INSPECTION PROCESS.....	15
4.1 Information Collection .....	15
4.2 Prioritisation.....	16
4.3 Detailed Inspection.....	18
4.4 Determination of Contaminated Land .....	18
4.5 Remediation .....	19
5. PROCEDURES .....	20
5.1 Powers of Entry .....	20
5.2 Record of Determination .....	20
5.3 Public Register.....	21
5.4 Special Sites .....	21
5.5 Liability .....	22
5.6 Cost Recovery .....	22

5.7	Enforcement Policy .....	23
6.	PROGRESS AND PRIORITIES.....	24
6.1	Progress.....	24
6.2	Timescale .....	24
6.3	Priorities .....	24
7.	STRATEGY CONSULTATION AND REVIEW .....	25
7.1	Strategy Consultation .....	25
7.2	Strategy Review .....	26
8.	ACCESS TO INFORMATION .....	27
8.1	Viewing the Contaminated Land Strategy .....	27
8.2	Viewing the Public Register.....	27
8.3	Enquiries.....	27
	REFERENCES .....	28
	GLOSSARY.....	29
	APPENDIX 1: CONTAMINANT SOURCES.....	34
	APPENDIX 2: CONTAMINANT PATHWAYS.....	36
	APPENDIX 3: RECEPTORS.....	37
	APPENDIX 4: SPECIAL SITES .....	38

# 1. INTRODUCTION

## 1.1 Regulatory Context

The contaminated land regime is set out in Part 2A of the Environmental Protection Act 1990 and is commonly referred to as “Part 2A”. It was introduced in April 2000, and gives specific legal powers to local authorities to identify and deal with contaminated land. The regulations were widened in 2006 to include land contaminated by radioactivity.

Part 2A provides a means of investigating and, if necessary, remediating land to ensure that it is suitable for its current use and does not present an unacceptable risk to human health, controlled waters, ecological systems, crops, livestock, buildings and property.

The government has produced statutory guidance, in accordance with Section 78YA of the Environmental Protection Act 1990, which is legally binding and must be followed by enforcing authorities. In April 2012, the Secretary of State for Environment, Food and Rural Affairs issued new contaminated land statutory guidance to explain how Part 2A should be implemented and the legal tests for when land is considered to be contaminated land. Separate statutory guidance covering radioactive contaminated land was also issued in April 2012, by the Secretary of State for Energy and Climate Change.

## 1.2 The Definition of Contaminated land

The legal definition of contaminated land, as defined in Section 78A (2) (as modified) of the Environmental Protection Act 1990, is:

*“any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that*

- a) significant harm is being caused or there is a significant possibility of such harm being caused; or*
- b) Significant pollution of the water environment is being caused or there is a significant possibility of such pollution being caused.”*

Where “harm” means harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property.

The legal definition of contaminated land is slightly different if harm is due to

radioactivity, as defined in Regulation 5(1) of The Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006:

*“any land which appears to the local authority in whose area the land is situated to be in such a condition, by reason of substances in, on or under the land, that*

- a) harm is being caused; or*
- b) There is a significant possibility of harm being caused.”*

With regard to radioactivity, “harm” means lasting exposure to any human being resulting from the after effects of a radiological emergency, past practice or past work activity.

In summary, a site can only be determined as contaminated land for one (or more) of the following reasons:

- Significant harm is being caused.
- There is a significant possibility that significant harm could be caused.
- Significant pollution of controlled waters is being caused.
- Significant pollution of controlled waters is likely to be caused.
- Harm attributable to radioactivity is being caused.
- There is a significant possibility that harm attributable to radioactivity could be caused.

### 1.3 Contaminant Linkages

For a relevant risk to exist there needs to be one or more contaminant-pathway-receptor linkages (contaminant linkages) by which a relevant receptor might be affected by the contaminants in question. In other words, for a risk to exist there must be contaminants present in, on or under the land in a form and quantity that poses a hazard, and one or more pathways by which they might harm people, the environment, or property; or significantly pollute controlled waters.

**Figure 1.1: Contaminant Linkage**



A “**contaminant**” is a substance which is in, on or under the land and which has the potential to cause significant harm to a relevant receptor, significant pollution of controlled waters, or harm attributable to radioactivity. Please see Appendix 1 for a list of possible sources of contamination.

A “**receptor**” is something that could be adversely affected by a contaminant e.g. a person, an organism, an ecosystem, property, or controlled waters. Please see Appendix 3 for a list of the receptors covered by Part 2A.

A “**pathway**” is a route by which a receptor is or might be affected by a contaminant e.g. the ingestion of vegetables grown in contaminated soil. Please see Appendix 2 for a list of possible contaminant pathways.

#### **1.4 The Polluter Pays Principle**

An important task of the enforcing authority under the Part 2A regime is to establish who should bear responsibility for remediating a site where there are unacceptable risks from land contamination. In general, this will follow the ‘polluter pays’ principle, where the person who caused or knowingly permitted the contamination will be the appropriate person to cover the cost of remediation. However, if it is not possible to find such a person, the statutory guidance states that the cost may fall to the owner or occupier of the land. In most cases, contaminated land will be voluntarily remediated through the planning system by developers and landowners looking to bring a contaminated site back into beneficial use.

#### **1.5 Planning Regime and Building Regulations**

All planning applications have to be considered for potential contamination issues to ensure compliance with the Town and Country Planning Act 1990, the National Planning Policy Framework and the council’s Local Plan. Contaminated land issues that arise through planning applications will be controlled through the planning regime, as opposed to Part 2A.

It is the responsibility of the developer to ensure that a site can and will be made suitable for its proposed future use and that there are no unacceptable risks to human health, the environment, property and/or controlled waters. The developer must carry out site investigation and remediation works as necessary, and the council will impose planning conditions to this effect.

The vast majority of contaminated land issues in the district are currently dealt with through the planning regime. Many sites have already been investigated and

remediated through this route, so no further action will be required with regard to these sites under Part 2A.

In addition to the planning regime, building regulations (made under the Building Act 1984) require developers to take measures to protect new buildings and their future residents from the effects of contamination. An example of this would be the installation of gas protection measures into properties.

### **1.6 Other Regulatory Regimes**

The Part 2A regime is one of several ways in which land contamination can be addressed. Other legislative regimes include; Environmental Damage (Prevention and Remediation) Regulations 2009, Environmental Permitting (England and Wales) Regulations 2016, Water Resources Act 1991 (Amendment) (England and Wales) Regulations 2009, and The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

The statutory guidance states that enforcing authorities should seek to use Part 2A only where no appropriate alternative solution exists. Therefore, Part 2A should not be used where existing legislation may be enforced or where contamination has arisen due to a breach of an existing license or permit.



## **2. AIMS AND OBJECTIVES**

### **2.1 Aims**

The aims of this strategy are:

- To improve and protect the condition of the environment and the health of residents in the district.
- To meet the statutory obligation placed on the council to produce a written strategy under Part 2A.
- To encourage the redevelopment of brownfield sites.
- To ensure that a strategic approach is used for dealing with contaminated land.
- To ensure that remedial action is reasonable, practicable, effective and durable.
- To encourage voluntary remediation.

### **2.2 Objectives**

The objectives of this strategy are:

- To provide a strategic framework which the council will use to identify, inspect and determine contaminated land.
- To ensure that development on potentially contaminated land will not be permitted unless evidence has been submitted to show that the possibility, nature and extent of contamination has been properly investigated and assessed and that any remediation measures necessary to deal with the contamination are effective.
- To inspect any sites that come to light as a matter of urgency where there is a risk to human health.
- To outline the council's procedures regarding powers of entry, liability, cost recovery, special sites and enforcement.

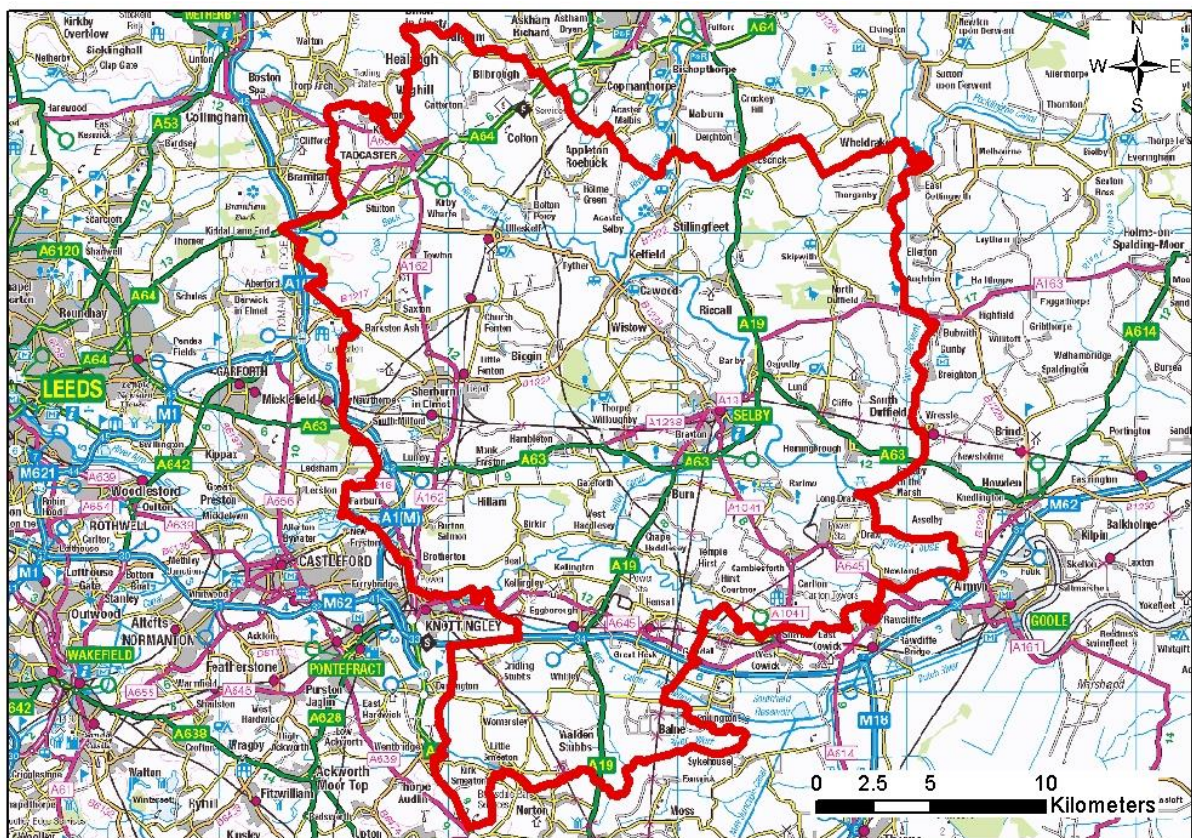
- To prepare written records of determination and risk summaries for land that is found to be contaminated.
- To prepare written statements for land that is not found to be contaminated.
- To maintain a public register of contaminated land.
- To inform the public and stakeholders of the council's intentions in relation to contaminated land.

### 3. SELBY DISTRICT

#### 3.1 Characteristics of the Area

The district of Selby covers an area of approximately 600 km<sup>2</sup> located to the south of York and to the east of Leeds, as shown in Figure 2.1. The Rivers Derwent, Ouse and Aire form the eastern boundary of the council's area. The A1/A1 (M) approximates the western boundary. The River Went forms the southern boundary. Whereas, the northern boundary runs irregularly from the village of Healaugh in the northwest, to the River Derwent at a point approximately 2km north of Thorganby.

Figure 2.1: Map showing the Selby District Council boundary



The district is primarily a rural area, containing the market towns of Selby and Tadcaster and numerous villages (i.e. Sherburn in Elmet, Riccall, Barlby, Church Fenton and Thorpe Willoughby) and hamlets. The Office for National Statistics population estimate for the district in 2019 is 88,800, with most of the population centred in the towns and villages.

### **3.2 Past and Current Industrial Activity**

Contamination can arise from a wide variety of processes and activities associated with industry and its development and growth. The industrial history of an area can therefore provide an unparalleled insight into the land which might contain and be affected by contamination.

During the eighteenth and nineteenth centuries the main industries in the district were farming and activities associated with farming e.g. milling, malting, brewing and tanning.

The twentieth century saw the arrival of a number of airfields (at Sherburn in Elmet, Church Fenton, Riccall and Burn), the railways and Selby's shipbuilding industry. Coal mining also took place in the district between the late 1970s and early 2000s. Deep coal seams underlie the area and the Selby Coalfield was a large-scale deep underground mine complex, with pitheads at Wistow Mine, Stillingfleet Mine, Riccall Mine, North Selby Mine, Whitemoor Mine and Gascoigne Wood Mine.

The main income for the area is now derived from arable farming and as a commuter area for Leeds, Wakefield and York. However, some industrial activities remain, including brewing, power generation, engineering and food production.

### **3.3 Geology**

The geology of the district comprises Sherwood Sandstone, overlying Magnesian Limestone and Coal Measures. The Sherwood Sandstone outcrops beneath the whole of the district, apart from the far west, where the Magnesian Limestone outcrops and forms an undulating ridge which follows the route of the A1/A1 (M).

Over much of the lower lying areas the bedrock is overlain by silts, clays or sands principally of glacial origin. Extensive areas of alluvial deposits are present along the floodplains of the Rivers Wharfe, Aire, Derwent and Ouse. The most extensive alluvial deposits are around the confluence of the Aire and the Ouse in the south eastern extremity of the district.

### **3.4 Hydrogeology**

Both the Sherwood Sandstone and the Magnesian Limestone (which provides a vital water supply for the brewing industry in and around Tadcaster) are designated by the Environment Agency as principal aquifers and both support a number of abstractions for potable, agricultural and industrial uses.

At outcrop, or where the aquifers are covered by a permeable sandy drift deposit, the

groundwater is vulnerable to pollution by surface activities including areas of contaminated ground. Where the aquifers are covered by a substantial thickness of clay or silt, these will tend to protect the groundwater from surface activities.

There are over 200 licensed groundwater abstractions in the district and the majority of these are for agricultural or industrial purposes. There are also a number of wells for potable water abstraction, which form part of a larger well-field for public supply, and 38 private water supplies.

### 3.5 Hydrology

Four major rivers flow through the district; the River Derwent, the River Aire, the River Wharfe and the River Ouse. These river systems are used as water supply sources and the majority of these abstractions are used for spray irrigation. There are no licensed surface water abstractions for public water supplies.

### 3.6 Ecological Systems

A number of areas of ecological importance are present within the district; these include 14 Sites of Special Scientific Interest (SSSI), two national nature reserves, a RAMSAR site, a special protection area and a special area of conservation - further details can be found in Table 3.1. The council will liaise with Natural England prior to undertaking intrusive investigations and remediation works in the vicinity of these areas.

**Table 3.1: Areas of Ecological Importance within Selby District**

Site Name	Grid Reference	Designation	Characteristic
Derwent Valley	SE678287 - 825757	- SSSI  - Special Area of Conservation  - National Nature Reserve  - Special Protection Area	Represents a classic river profile. It supports diverse communities of aquatic flora and fauna, many elements of which are nationally significant.

<b>Site Name</b>	<b>Grid Reference</b>	<b>Designation</b>	<b>Characteristic</b>
Skipwith Common	SE655373	- SSSI - Special Area of Conservation - National Nature Reserve	Extensive tract of heath land on a spur of glacial sands which forms the watershed between the Lower Derwent and Ouse Valleys.
Burr Close	SE596340	- SSSI	Damp alluvial meadowland.
Tadcaster Mere	SE500430	- SSSI	Central part of a former lake basin.
Kirkby Wharfe	SE510400	- SSSI	Area of flood land/marshland.
Stutton Ings	SE485405	- SSSI	A remnant of traditionally managed fen grassland.
Bolton Percy Ings	SE534401	- SSSI	Two unimproved alluvial flood meadows adjacent to the River Wharfe.
Derwent Ings	SE703466 to SE703347	- SSSI	A series of neutral alluvial flood meadows, fen and swamp communities and freshwater habitats lying adjacent to the River Derwent, between Sutton-upon-Derwent and Menthorpe.
Sherburn Willows	SE487325	- SSSI	Magnesium limestone grassland.
Eskamhorn Meadows	SE679242	- SSSI	Five floristically diverse fields supporting unimproved natural grassland on seasonally damp clayey soils.

Site Name	Grid Reference	Designation	Characteristic
Forlorn Hope Meadow	SE543717	- SSSI	Unimproved neutral grassland plant community.
Brockadale	SE503714	- SSSI	Narrow steep sided valley of the River Went, which cuts through magnesium limestone rocks of Permian age.
Brockadale	SE594456	- SSSI	Two unimproved alluvial flood meadows adjacent to the River Ouse.
Fairburn and Newton Ings	SE442276	- SSSI	Former ings along the river which have become permanently flooded.
Brighton Meadows	SE704332	- SSSI	Nationally and internationally important alluvial flood meadow plant community and its outstanding range of breeding birds.

### 3.7 Scheduled Monuments & Listed Buildings

There are 48 scheduled monuments and 637 listed buildings within the district. The council will liaise with the planning team and English Heritage as necessary, prior to undertaking intrusive investigations and remediation works in the vicinity of these sites.

### 3.8 Council Owned Land

The council owns over 3,000 council houses and a small number of parks, play areas and open spaces. Other significant land ownership consists of its public car parks and land surrounding its offices, depots and leisure facilities. The council is also landlord for a small number of industrial units and has a small portfolio of potential development sites.

## 4. INSPECTION PROCESS

### 4.1 Information Collection

In order to identify potentially contaminated land, it is first necessary to identify those land uses, past and present, which have the potential to give rise to contamination. It is also necessary to identify relevant receptors, so that contaminant linkages can be assessed in light of the current use of a particular site. The datasets listed in Table 4.1 have been collated for this purpose.

**Table 4.1: Sources of information**

<b>Dataset</b>	<b>Source</b>
Maps (historical & present day)	Ordnance Survey
Past industrial use (1850s, 1910s, 1950s and 1980s)	Landmark Information Group
Closed landfill sites	Environment Agency
Active landfill sites	Environment Agency
Part A and B industrial processes	Selby District Council
Geology	British Geological Survey
Groundwater vulnerability	Environment Agency
Source protection zones	Environment Agency
Groundwater abstraction points	Environment Agency
Watercourses	Environment Agency
Private water supplies	Selby District Council
Sites of Special Scientific Interest	Natural England
Special Protection Areas	Natural England
RAMSAR sites	Natural England



<b>Dataset</b>	<b>Source</b>
National Nature Reserves	Natural England
Special Areas of Conservation	Natural England
Scheduled monuments	Selby District Council
Listed buildings	Selby District Council

The council has developed a geographical information system (GIS) and an associated database to store and manage this information, which has enabled potentially contaminated land to be identified.

Any site with a past industrial use or a history of waste disposal (i.e. a closed landfill site) could potentially be contaminated. At present, the council has identified 2,121 potentially contaminated sites within the district and this list will be updated as new information comes to light. However, it should be emphasised that only a small proportion of these sites are likely to meet the legal definition of contaminated land.

The process of identifying potentially contaminated land is an ongoing activity. Further information may come to light at any stage and we will take into account any information obtained from or volunteered by the public, site owners, businesses and voluntary organisations. New and updated information will also often be provided as a result of exchanges of information between council departments and with the Environment Agency and other statutory bodies.

#### **4.2 Prioritisation**

Each potentially contaminated site will require detailed inspection in order to establish the presence or otherwise of a contaminant linkage. In accordance with the statutory guidance, the council should seek to ensure that the most pressing and serious problems are dealt with first. It is therefore necessary to categorise sites into priority order using a rapid assessment of the potential contaminant linkages.

In line with the council's original contaminated land strategy, published in 2001, the initial prioritisation of high-risk sites was completed using the Contaminated Land Assessment Risk Analyst (CLARA) model. This list was recently reviewed and updated using the GeoEnviron Contaminated Land Module, which is sophisticated GIS based prioritisation software.

2,121 potentially contaminated sites have been identified within the Selby. The GeoEnviron Contaminated Land Module has been used to rank these sites according to their potential contaminant linkages and the associated risk. Each site is allocated to one of five priority categories (A to E). Table 4.2 shows how the council has defined these categories and the number of potentially contaminated sites within each category.

**Table 4.2 – Priority Categories**

Category	Number of Sites	Description
<b>A</b>	<b>1</b>	Contaminants certainly or probably present. One or more pathways to identified receptors are likely to exist. There is a high risk of an unacceptable impact on identified receptors. The current use of the site may not be suitable. <b>High priority</b> , with action to inspect the site being required in the short term.
<b>B</b>	<b>10</b>	The presence of contaminants is likely. One or more pathways to identified receptors are likely to exist. There is a high-medium risk of an unacceptable impact on identified receptors. The current use of the site may not be suitable. <b>High to medium priority</b> , with action to inspect the site being required in the short to medium term.
<b>C</b>	<b>223</b>	Contaminants may be present. One or more pathways to identified receptors are likely to exist. There is a medium-low risk of an unacceptable impact on identified receptors. <b>Medium to low priority</b> , with action to inspect the site being required in the medium to long term.
<b>D</b>	<b>1,187</b>	Contaminants may be present. There is a medium-low risk of the existence of pathway(s) to identified receptors. It is unlikely that the contaminants will have a significant effect on identified receptors. <b>Low priority</b> , with action to inspect the site being required in the long term.
<b>E</b>	<b>700</b>	Contaminants may be present. There is a low risk of the existence of pathway(s) to identified receptors. It is highly unlikely that the contaminants will have a significant effect on identified receptors. <b>Very low priority</b> , with action unlikely to be needed whilst site remains in present use or is undisturbed.

Please note that the GeoEnviron Contaminated Land Module cannot identify contaminated land, but it does prioritise land which has the potential to be contaminated. It is designed to be used with expert judgement to assess whether the combination of sources, pathways and receptors requires a detailed investigation. A detailed inspection will then enable a determination to be made as to whether any significant pollutant linkages are present.

### **4.3 Detailed Inspection**

The council will inspect the potentially contaminated sites in priority order, starting with the highest risk site first. The purpose is to gain sufficient information to determine whether or not there is a significant contaminant linkage.

The first phase of investigation is to collect and assess as much information as possible about a particular site from maps and historic records and by undertaking a site walkover survey. If the findings confirm that there is potential for contamination to be present, then further investigation will be required.

The next phase of investigation is to carry out a ground investigation (also known as a site investigation) to determine the nature and extent of any contamination on a site. The sampling and analysis of soil, water and/or ground gases may be required to assess the amount of contamination present. A risk assessment will then be carried out to determine whether it could pose an unacceptable risk to human health, controlled waters, ecological systems, crops, livestock, buildings or property, and whether any significant contaminant linkage exists. Please note that this will be carried out in line with current guidance and best practice.

### **4.4 Determination of Contaminated Land**

Once a detailed inspection is complete, the council should have identified any significant contaminant linkage(s), and carried out a robust, appropriate, scientific and technical assessment of all the relevant and available evidence. The council can then determine whether or not a site meets the legal definition of contaminated land. Making a determination is a complex process and the council will refer to the Statutory Guidance on this matter.

However, a site shown to have a significant contaminant linkage may not always be determined as contaminated land under Part 2A. This is because the council aims to encourage the voluntary remediation of sites through constant interaction and discussions, rather than through a process of naming and shaming individuals or companies. However, if no alternative solutions can be reached, then the site will be determined to ensure that it is dealt with accordingly.

#### **4.5 Remediation**

Once a significant contaminant linkage has been identified, and land has been determined as contaminated land, remedial action will be required to reduce or remove that linkage. This may involve cleaning up the contamination, breaking the pathway, or modifying the receptor. The overall aim of remediation is to remedy harm/pollution and to ensure that risks are reduced to an acceptable level.

The council will consider how land should be remediated and, where appropriate, it will issue a remediation notice to require such remediation to be undertaken.

## **5. PROCEDURES**

### **5.1 Powers of Entry**

For the purposes of identifying contaminated land, the council has been granted powers of entry under Section 108 of the Environment Act 1995. These powers allow any person authorised in writing by the council to enter premises and inspect the area and any records connected to the site to determine if significant harm is being caused.

The council will write to the occupier to give seven days' notice of its intention to enter the premises. It may then enter the premises either with the consent of the occupier or under the authority of a warrant issued by a magistrate.

In an emergency the council may exercise its powers of entry forthwith to prevent immediate significant harm to public health or the environment, or significant pollution of controlled waters.

### **5.2 Record of Determination**

If the council determines a site as contaminated land, it shall give notice of that fact to the Environment Agency, the owner of the land, any person who appears to be in occupation of the whole or any part of the land, and each person who appears to be an appropriate person. A written record of determination will be provided to relevant parties and a copy will also be kept on file.

A written record of determination will include:

- A map showing the location, boundaries and area of the land in question.
- A risk summary (including details of the identified contaminant linkages, potential impacts and risks, uncertainties behind the risk assessment and possible remediation options).
- A summary of why the council considers that the requirements of relevant sections of the statutory guidance have been satisfied

If it is clear, following an inspection, that land does not meet the legal definition of contaminated land, the council will issue a written statement to that effect to the owners of the property and other interested parties. A copy of this statement will also be kept on file, along with the reasons for making the decision.

### **5.3 Public Register**

The council is required to maintain a public register containing full particulars of the following matters:

- Remediation notices
- Appeals against remediation notices
- Remediation declarations
- Remediation statements
- Appeals against charging notices
- Designation of 'special sites'
- Notifications of claimed remediation
- Convictions for offences under section 78M of the Environmental Protection Act 1990
- Site specific guidance issued by the Environment Agency
- Other environmental controls

The public register can be viewed online on the council's website, or viewed in person by prior arrangement at the council offices. Reasonable charges will be made to cover any photocopying costs.

### **5.4 Special Sites**

For a site to be classified as a "special site" it must meet the criteria outlined in the Contaminated Land (England) Regulations 2006, as summarised in Appendix 4. The regulation of special sites falls to the Environment Agency, but it is the responsibility of the council to identify and designate these sites before further action can be taken. No site will be designated as a special site without detailed discussions with relevant personnel within the Environment Agency. Where the council already has information that would allow the classification of a special site, arrangements can be made so the Environment Agency carries out the inspection of the site on behalf of the council.

Once a site has been designated as a special site, regulation and enforcement are passed onto the Environment Agency.

## **5.5 Liability**

For any land determined as contaminated land, the enforcing authority will need to establish who will bear responsibility for carrying out the remedial work. It is the intention of Part 2A that the appropriate person, ideally the polluter, pays for the cost of remediation, as a result of voluntary or formal action.

For some land, the process of determining liabilities will consist simply of identifying either a single person (either an individual or a corporation such as a limited company) who has caused or knowingly permitted the presence of a single significant contaminant, or the owner of the land. Whereas the history of other land may be more complex, such as a succession of different occupiers or of different industries, or a variety of substances may all have contributed to the problems which have contaminated the land. Numerous separate remediation actions may also be required, which may not correlate neatly with those who are to bear responsibility for the costs. The degree of responsibility for the state of the land may vary widely. Determining liability for the costs of each remediation action can be correspondingly complex.

In line with the statutory guidance, the enforcing authority will undertake a number of tests to decide whether any individuals or corporations should be excluded from liability. Liability can then be apportioned accordingly between the remaining liable parties.

If no appropriate person can be found, or where those who would otherwise be liable are exempted by one of the relevant statutory provisions, the significant contaminant linkage will become an “orphan linkage”. In these instances the enforcing authority has the power to carry out the remediation action itself, at its own cost.

## **5.6 Cost Recovery**

In making any cost recovery decision, the statutory guidance recommends that the following general principles should be followed:

- The enforcing authority should aim for an overall result which is as fair and equitable as possible to all who may have to meet the costs of remediation, including national and local taxpayers.

- The 'polluter pay' principle should be applied with a view that, where possible, the costs of remediating pollution should be borne by the polluter. The authority should therefore consider the degree and nature of responsibility of the relevant appropriate person(s) for the creation, or continued existence, of the circumstances which lead to the land in question being identified as contaminated land.

The council will seek to recover all of its reasonable costs. However, it will consider waiving or reducing the recovery of costs to avoid any undue hardship which the recovery may cause to the appropriate person, or to reflect one or more of the specific considerations set out in the statutory guidance.

In certain circumstances, the council may consider deferring recovery of its costs and securing them by a charge on the land in question. Such deferral may lead to payment from the appropriate person either in instalments or when the land is next sold.

### **5.7 Enforcement Policy**

The council intends to carry out its responsibilities under Part 2A in a clear and transparent manner. It will endeavour to promote voluntary remediation of sites and will only proceed with enforcement action when all other avenues have been exhausted. However should enforcement action be required, for example due to the failure to fulfil the requirements of a remediation notice, action will be taken in accordance with the council's enforcement policy.



## **6. PROGRESS AND PRIORITIES**

### **6.1 Progress**

Considerable progress has been made since the publication of the council's original contaminated land strategy in 2001. We have collated detailed information on possible sources, pathways and receptors and we have prioritised all of the potentially contaminated sites.

A number of preliminary inspections have been carried out, but no detailed inspections have been undertaken. This is due to resource limitations and the fact that the detailed inspection of a single site usually costs tens of thousands of pounds.

Hundreds of sites have been investigated and remediated through the planning regime. Contaminated land is a material planning consideration, so the council is responsible for reviewing all investigation and remediation work undertaken by developers to ensure that it is completed to a satisfactory standard and that the site is suitable for its proposed use. Please note that no additional Part 2A action will be required at sites that have been dealt with through the planning regime.

No sites have currently been found to meet the Part 2A definition of contaminated land, so the council has not determined any sites as contaminated land.

### **6.2 Timescale**

The strategy does not lend itself to the setting of fixed timescales, as the progress in carrying out detailed inspections is reliant upon resources and service priorities.

### **6.3 Priorities**

The council's current priorities are to:

- Inspect potentially contaminated sites in priority order, as budgetary resources, staffing levels and service priorities allow.
- Assess planning applications and associated contaminated land reports to ensure that land is investigated and remediated appropriately by developers, so it does not pose a risk to health or the environment.
- Deal with any urgent cases as and when they arise.

# 7. STRATEGY CONSULTATION AND REVIEW

## 7.1 Strategy Consultation

In preparing this strategy a number of statutory bodies, adjoining local authorities, internal council departments and other relevant organisations have been consulted. Please see below for a list of the consultees:

- Planning Team, Selby District Council
- Public Health, North Yorkshire County Council
- Department for Environment, Food & Rural Affairs (DEFRA)
- Environment Agency (Yorkshire and North East Region)
- Natural England (Yorkshire and North Lincolnshire Region)
- English Heritage (Yorkshire Region)
- Environmental Hazards and Emergencies Department, Public Health England
- Public Protection Team, City of York Council
- Public Protection Team, East Riding of Yorkshire Council
- Environmental Protection, Harrogate Borough Council
- Pollution Control Team, Doncaster Metropolitan Borough Council
- Contaminated Land Team, Leeds City Council
- Land Quality Team, Wakefield Council

All consultation responses have been carefully considered in the preparation of this strategy. It is also our intention to continue to take contributions from consultees who have not yet made a response and from any other individual or organisation that would like to comment on this strategy. We propose to consider these responses as part of our regular reviews of the strategy.

## **7.2 Strategy Review**

As recommended in the statutory guidance, this strategy will be reviewed every five years to ensure that it remains up to date and relevant.

## **8. ACCESS TO INFORMATION**

### **8.1 Viewing the Contaminated Land Strategy**

This strategy is available to download free of charge from the council's website. A paper version is also held at the Access Selby office below and can be viewed during normal office hours.

### **8.2 Viewing the Public Register**

A public register detailing regulatory activity on contaminated land can be viewed on the council's website. A paper version is also held at Selby District Council offices and can be viewed during normal office hours.

### **8.3 Enquiries**

Requests for information and enquiries regarding contaminated land can be made by telephone, e-mail, or in writing. The council has a policy to respond to all such requests within 10 working days. Please note that there may be a charge to cover our costs to reply to some kinds of query, but you will always be advised in advance if there is a charge.

Please note that circumstances may arise where specific information cannot be released due to commercial confidentiality or where legal action is required to enforce a remediation notice.

#### **Enquiries should be directed to:**

Selby District Council  
Civic Centre  
Doncaster Road  
Selby  
YO8 9FT

Tel: 01757 705101

Email: [info@selby.gov.uk](mailto:info@selby.gov.uk)

## REFERENCES

Department for Communities and Local Government (2019). **National Planning Policy Framework**. DCLG, London.

Department for Environment, Food and Rural Affairs (2012). **Environmental Protection Act 1990: Part 2A Contaminated Land – Contaminated Land Statutory Guidance**. The Stationery Office, London.

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Environment Agency (2019). **Land Contamination: Risk Management (LCRM)**. Environment Agency, Bristol.

**Environmental Permitting (England and Wales) Regulations 2016**. Statutory Instrument 2016/1154.

**Environmental Protection Act 1990, Part 2A**: inserted by the Environment Act 1995, Section 57. See Environment Act 1995 for text for Part 2A.

**The Contaminated Land (England) (Amendment) Regulations 2012**. Statutory Instrument 2012/263.

**The Contaminated Land (England) Regulations 2006**. Statutory Instrument 2006/1380.

**The Environmental Damage (Prevention and Remediation) Regulations 2009**. Statutory Instrument 2009/153.

**The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017**. Statutory Instrument 2017/407.

**Water Resources Act 1991 (Amendment) (England and Wales) Regulations 2009**. Statutory Instrument 2009/3104.

# GLOSSARY

This document uses a number of terms which are defined in Part 2A or in the statutory guidance. The meanings of the most important of these terms are detailed below, and where appropriate, a reference to the relevant section of Part 2A has been included.

<b>Appropriate Person</b>	Defined in Section 78A(9) as:  'Any person who is an appropriate person, determined in accordance with Section 78F, to bear responsibility for any thing which is to be done by way of remediation in any particular case.'
<b>Contaminant</b>	A substance which is in, on or under the land and has the potential to cause significant harm or significant pollution of controlled waters.
<b>Contaminant Linkage</b>	The relationship between a contaminant, a pathway and a receptor.
<b>Contaminated Land</b>	Defined in Section 78A(2) as:  'Any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that;  a) significant harm is being caused or there is a significant possibility of such harm being caused; or b) Significant pollution of the water environment is being caused or there is a significant possibility of such pollution being caused.'  OR with respect to radioactive contamination it is defined as:  'Any land which appears to the local authority in whose area the land is situated to be in such a condition, by reason of substances in, on or under the land, that;  a) harm is being caused; or b) there is a significant possibility of harm being caused.'

<b>Controlled Waters</b>	Has the same meaning as in Part III of the Water Resources Act 1991, and includes relevant territorial waters, coastal waters, inland freshwaters and ground waters. Except that “ground waters” does not include waters contained in underground strata but above the saturation zone.’
<b>Ecological Systems</b>	<p>Only the following ecological systems can be considered for the purposes of Part 2A:</p> <ul style="list-style-type: none"> <li>• A site of special scientific interest</li> <li>• A national nature reserve</li> <li>• A marine nature reserve</li> <li>• An area of special protection for birds</li> <li>• A “European site” within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2010</li> <li>• Any habitat or site afforded policy protection on nature conservation (i.e. candidate Special Areas of Conservation, potential Special Protection Areas and listed RAMSAR sites); or</li> <li>• Any nature reserve established under section 21 of the National Parks and Access to the Countryside Act 1949.</li> </ul>
<b>Enforcing Authority</b>	Special sites will be enforced by the Environment Agency and all other contaminated land sites will be enforced by the local authority in whose area the land is situated.
<b>Environment Agency</b>	An executive non-departmental public body (responsible to the Secretary of State for Environment, Food and Rural Affairs) which aims to protect and improve the environment and to promote sustainable development.
<b>Geology</b>	The study of the structure of rocks, minerals and soils in specific geographical areas.
<b>Harm</b>	<p>Defined in Section 78A(4) as:</p> <p>‘Harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property.’</p>

	<p>OR with respect to radioactive contamination is defined as:</p> <p>'Lasting exposure to any person being resulting from the after effects of a radiological emergency, past practice or past work activity.'</p>
<b>Hydrogeology</b>	The study of the occurrence, distribution, movement and properties of water through rock beneath the ground.
<b>Hydrology</b>	The study of the occurrence, distribution, movement and properties of surface water.
<b>Orphan Linkage</b>	A significant contaminant linkage where no appropriate person can be found, or where those who would otherwise be liable are exempted by one of the relevant statutory provisions. In these instances the enforcing authority has the power to carry out the remediation action itself, at its own cost.
<b>Part 2A</b>	Part 2A of the Environmental Protection Act 1990.
<b>Pathway</b>	A route by which a receptor is being / could be exposed to, or affected by, a contaminant.
<b>Pollution of Controlled Waters</b>	<p>Defined in Section 78A(9) as:</p> <p>'The entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter.'</p>
<b>Prioritisation</b>	The process of scoring sites based on the potential contaminants, pathways and receptors. This creates a prioritised list of potentially contaminated sites, which can then be inspected in priority order.
<b>Property</b>	<p>Only the following property can be considered for the purposes of Part 2A:</p> <ul style="list-style-type: none"> <li>a) Property in the form of: <ul style="list-style-type: none"> <li>i) crops, including timber;</li> <li>ii) produce grown domestically, or on allotments, for consumption;</li> <li>iii) livestock;</li> <li>iv) other owned or domesticated animals;</li> <li>v) wild animals which are the subject of</li> </ul> </li> </ul>



	<p>shooting or fishing rights.</p> <p>b) Property in the form of buildings. For this purpose, “building” means any structure or erection, and any part of a building including any part below ground level, but does not include plant or machinery comprised in a building, or buried services such as sewers, water pipes or electricity cables.</p>
<b>Public Register</b>	Register maintained by the council of particulars relating to contaminated land.
<b>Receptor</b>	Something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters.
<b>Remediation</b>	Removing identified significant contaminant linkages, or permanently disrupting them, to ensure that they are no longer significant and that risks are reduced to an acceptable level. Remediation may involve a range of treatment, assessment and monitoring actions to secure the overall clean-up of the land.
<b>Remediation Notice</b>	Defined in Section 78E(1) as a notice specifying what an appropriate person is to do by way of remediation and the periods within which he is required to do each of the things so specified.
<b>Remediation Statement</b>	In any case where the enforcing authority is precluded from serving a remediation notice, the responsible person shall prepare and publish a “remediation statement”. The document will detail what remediation actions are being / have been / are expected to be done, appropriate timescales and the name and address of the responsible person.
<b>Risk</b>	A combination of the probability / frequency of occurrence of a defined hazard and the magnitude (including the seriousness) of the consequences.
<b>Significant Harm to Human Health</b>	The following health effects should always be considered to constitute significant harm to human health: death, life threatening diseases (e.g. cancers), other diseases likely to have serious impacts on health, serious injury, birth

	defects, and impairment of reproductive functions.
<b>Significant Possibility</b>	The decision on whether the possibility of significant harm / pollution being caused is significant is a regulatory decision to be taken by the relevant enforcing authority. Decisions will be made in line with the statutory guidance.
<b>Special Site</b>	<p>Defined by Section 78A(3) as:</p> <p>‘Any contaminated land –</p> <ul style="list-style-type: none"> <li>a) which has been designated as such a site by virtue of section 78C(7) or 78D(6)...;</li> <li>and</li> <li>b) whose designation as such has not been terminated by the appropriate Agency under section 78Q(4)...’</li> </ul> <p>See Appendix 4 of this document for further details.</p>
<b>Substance</b>	<p>Defined in Section 78A(9) as:</p> <p>‘Any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour.’</p> <p>OR with respect to radioactive contamination is defined as:</p> <p>‘Whether in solid or liquid form or in the form of a gas or vapour, any substance which contains radionuclides which have resulted from the after-effects of a radiological emergency or which are or have been processed as part of a past practice or past work activity, but shall not include radon gas or the following radionuclides: Po-218, Pb-214, At-218, Bi-214, Rn-218, Po-214 and Tl-210.’</p>

# APPENDIX 1: CONTAMINANT SOURCES

The following historic activities are known to produce contamination and could therefore give rise to land contamination. Please note that this list is for guidance only and is not exhaustive.

- Smelters, foundries, steel works, metal processing & finishing works
- Coal & mineral mining & processing, both deep mines and opencast
- Heavy engineering & engineering works, e.g. car manufacture, shipbuilding
- Military/defence related activities
- Electrical & electronic equipment manufacture & repair
- Gasworks, coal carbonisation plants, power stations
- Oil refineries, petroleum storage & distribution sites
- Manufacture & use of asbestos, cement, lime & gypsum
- Manufacture of organic & inorganic chemicals, including pesticides, acids/alkalis, pharmaceuticals, solvents, paints, detergents and cosmetics
- Rubber industry, including tyre manufacture
- Munitions & explosives production, testing & storage sites
- Glass making & ceramics manufacture
- Textile industry, including tanning & dyestuffs
- Paper & pulp manufacture, printing works & photographic processing
- Timber treatment
- Food processing industry & catering establishments
- Railway depots, dockyards (including filled dock basins), garages, road haulage depots, airports

- Landfill, storage & incineration of waste
- Sewage works, farms, stables & kennels
- Abattoirs, animal waste processing & burial of diseased livestock
- Scrap yards
- Dry cleaning premises
- All types of laboratories
- Burial sites and graveyards
- Agriculture – specifically the excessive use or spills of pesticides, herbicides, fungicides, sewage sludge & farm waste disposal
- Naturally occurring contamination

## APPENDIX 2: CONTAMINANT PATHWAYS

The following pathways may create linkages between contaminants in the ground and relevant receptors. Please note that this list is for guidance only and is not exhaustive.

- Ingestion of soil and dust
- Ingestion of vegetables & soil attached to vegetables
- Inhalation of indoor & outdoor dust
- Inhalation of indoor & outdoor vapours
- Dermal contact with soils and dusts
- Risk of fire / explosion
- Migration of soluble or mobile contaminants into groundwater
- Migration of soluble or mobile contaminants into surface water bodies
- Surface run-off into surface water bodies
- Permeation through water pipes
- Impact on areas of ecological importance
- Impact on crops or domestically grown produce
- Impact on livestock and wild animals subject to shooting / fishing rights
- Impact on buildings and / or foundations

## APPENDIX 3: RECEPTORS

The following receptors are covered by Part 2A. For further details, and information on what constitutes significant harm to each receptor, please refer to the statutory guidance.

- Human beings
  
- Any ecological system, or living organism forming part of such system, within a location which is:
  - i) A site of special scientific interest
  - ii) A national nature reserve
  - iii) A marine nature reserve
  - iv) An area of special protection for birds
  - v) Any European site within the meaning of regulation 10 of the Conservation Regulations 1994 e.g. special areas of conservation and special protection areas.
  - vi) Any candidate special areas of conservation or special protection areas
  - vii) Any habitat afforded protection under paragraph 6 of planning policy statement 9 (PPS9) e.g. RAMSAR sites
  - viii) Any nature reserve under section 21 of the National Parks and Access to the Countryside Act 1949
  
- Property in the form of;
  - i) Crops, including timber
  - ii) Produce grown domestically, or on allotments for consumption
  - iii) Livestock
  - iv) Other owned or domesticated animals
  - v) Wild animals which are the subject of shooting or fishing rights
  
- Property in the form of buildings. For this purpose “building” means any structure or erection, and any part of a building including any part below ground level, does not include plant/machinery within a building.
  
- Controlled waters, as defined by the Water Resources Act 1991. Including relevant territorial waters, coastal waters, inland freshwaters and ground waters. For the purposes of Part 2A, ground waters does not include waters contained in underground strata but above the saturation zone.

## APPENDIX 4: SPECIAL SITES

A special site is a contaminated land site that is regulated by the Environment Agency instead of the local authority. The definition of a special site as given in the Contaminated Land (England) Regulations 2006 is reproduced below for information only. Reference should be made to the full text of the legislation and statutory guidance for a full legal definition and for details of references where quoted.

'Contaminated land of the following descriptions is prescribed for the purposes of section 78C (8) as land required to be designated as a special site:

- a) land affecting controlled waters in the circumstances specified in regulation 3;
- b) land which is contaminated land by reason of waste acid tars in, on or under the land;
- c) land on which any of the following activities have been carried on at any time;
  - i) the purification (including refining) of crude petroleum or of oil extracted from petroleum, shale or any other bituminous substance except coal;  
or
  - ii) the manufacture or processing of explosives;
- d) land on which a prescribed process designated for central control has been or is being carried on under an authorisation, where the process does not solely consist of things being done which are required by way of remediation;
- e) land on which an activity has been or is being carried on in a Part A(1) installation or by means of Part A(1) mobile plant under a permit, where the activity does not solely consist of things being done which are required by way of remediation;
- f) land within a nuclear site;

- g) land owned or occupied by or on behalf of -
  - i) the Secretary of State for defence;
  - ii) the defence Council,
  - iii) an international headquarters or defence organisation, or
  - iv) the service authority of a visiting force, being land used for naval, military or air force purposes;
- h) land on which the manufacture, production or disposal of -
  - i) chemical weapons,
  - ii) any biological agent or toxin which falls within section 1(1)(a) of the Biological Weapons Act 1974 (restriction on development of biological agents and toxins), or
  - iii) any weapon, equipment or means of delivery which falls within section 1(1)(b) of that Act (restriction on development of biological weapons) has been carried on at any time;
- i) land comprising premises which are or were designated by the Secretary of State by an order made under section 1(1) of the Atomic Weapons Establishment Act 1991 (arrangements for development etc. of nuclear devices);
- j) land to which section 30 of the Armed Forces Act 1996 (land held for the benefit of Greenwich hospital) applies;
- k) land which is contaminated land wholly or partly by virtue of any radioactivity possessed by any substance in, on or under that land; and
- l) land which -



- i) is adjoining or adjacent to land of a description specified in any of sub-paragraphs (b) to (k); and
- ii) Is contaminated land by virtue of substances which appear to have escaped from land of such a description.'