



**DARLINGTON**  
Borough Council

# **Contaminated Land Inspection Strategy for the Borough of Darlington**

**In fulfilment of Part 2A of the  
Environmental Protection Act 1990**

**Review and Update June 2021**

|                            |  |
|----------------------------|--|
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| Date                       | June 2021  |

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## 1.0 Introduction

Under the provisions contained in Part 2A of the Environmental Protection Act 1990, local authorities are required to take a “strategic approach” to inspect land within their areas for the purpose of identifying contaminated land (Section 78B).

Section 57 of the Environment Act 1995 created Part 2A of the Environmental Protection Act 1990 which provides a means of dealing with unacceptable risks posed by land contamination to human health and the environment.

The Contaminated Land Statutory Guidance dated April 2012, issued by DEFRA, states the strategic approach to be adopted when carrying out the inspection duty under section 78B(1), should be rational, ordered, efficient and it should reflect local circumstances.

The DEFRA Statutory Guidance has not been updated since publication of the Council’s last Contaminated Land Inspection Strategy in January 2013.

The purpose of this document is to review the existing strategy to identify any changes and to provide an update on the work undertaken by Environmental Health after 2013 as well as the Council’s priorities going forward. It should be read in conjunction with the 2013 strategy which provides further information on the DEFRA Statutory Guidance, strategic and detailed inspections, information on the characteristics of the Darlington area and internal information management arrangements. Changes in guidance and the Council’s approach since the publication of 2013 Strategy are highlighted in Section 6 of this document.

The main objectives of the Government’s policy on contaminated land and the Part 2A regime as stated in the DEFRA Statutory Guidance are: -

- (a) To identify and remove unacceptable risks to human health and the environment.
- (b) To seek to ensure that contaminated land is made suitable for its current use.
- (c) To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principles of sustainable development.

The Statutory Guidance states there are four possible grounds for the local authority to make a determination of contaminated land under Part 2A: -

- (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.

Environmental Health assumes all the land within the Borough is not contaminated land under Part 2A unless there is reason to consider otherwise, e.g. the identification of a significant contaminant linkage (contaminant, pathway and receptor). The term “significant contaminant linkage” means a contaminant linkage which gives rise to a level of risk sufficient to justify the land being determined as contaminated land.

## **2.0 Darlington’s Historical Industrial Legacy**

The Contaminated Land Inspection Strategy is a means of dealing with land contamination from the historical legacy of our industrial past. Throughout the 18<sup>th</sup> century and the beginning of the 19<sup>th</sup> century, Darlington was renowned for its manufacture of linen and it is probable that the town was the largest producer of linen yarn in England until the initiative was lost to other production centres. Following the opening of the Great North Eastern Railway in 1843 an extensive area in particular around the intersection with the Stockton and Darlington Railway at Albert Hill was developed by iron-making companies. With the discovery of iron-stone in the Cleveland Hills, iron making in Darlington was abandoned but heavy engineering took over. Throughout the late 1960s into the 1990s the railways declined and industries gradually ceased. Many of the sites such as the former Cleveland Bridge site were cleared for redevelopment for a mixture of new housing and commercial end uses.

## **3.0 Policy Framework**

There are eight key outcomes identified within the Community Plan, ‘One Darlington: Perfectly Placed’ (2008 -2026). The Contaminated Land Inspection Strategy ensures the people of Darlington are healthy, supported and live in sustainable neighbourhoods.

Policy DC 1 of the Darlington Borough Council Draft Local Plan (2016 – 2036) states that proposals for a development on land affected by contamination will be permitted where the applicant can demonstrate that the site is suitable for the proposed use and the development will not result in unacceptable risks to human health or the environment.

The strategy also supports the health protection role of the Council and will support the objectives of Darlington’s Health and Wellbeing Plan (2017 – 2022) as adopted by the Health and Wellbeing Board October 2017.

#### 4.0 Progress of Contaminated Land Inspection Strategy 2001 – 2012

##### 4.1 Strategic Approach (2001 – 2006)

Between July 2001 and February 2003, Environmental Health identified more than 2000 sites of potential contaminated land (PCL) within the Borough of Darlington.

Since the publication of the 2003 Contaminated Land Inspection Strategy these sites have been risk assessed and prioritised for inspection under Part 2A using GeoEnviron software. The Stage 1 site prioritisation in GeoEnviron which produced a Stage 1 Risk Assessment score and site prioritisation list is based on cross referencing the current use of the site with the past industrial/historical use(s). This was completed for all sites dependant on receptor types in June 2006.

Stage 2 site prioritisation in GeoEnviron allows assessment of the site in more detail by identifying contaminants based on previous industrial use, distance to nearest surface water/groundwater receptors and surface conditions at the site such as hard standing etc.

##### 4.2. Completed Works (2007 – 2012)

A summary of the work programme achieved by Environmental Health between 2007 and 2012 is outlined in Table 1 below.

**Table 1: Completed work (2007 to 2012)**

| <b>Task</b>                          | <b>Work</b>  | <b>Date Achieved</b> |
|--------------------------------------|--|----------------------|
| Stage 2 Prioritisation in GeoEnviron | Achieved for 771 sites including landfills and area of unknown filled ground   | 2007-2008            |
| Working Files                        | Collated information on the high priority sites identified from the Stage 1 site prioritisation in GeoEnviron and saved the information into working files | 2007-2008            |
| Site Walkovers                       | Carried out site walkovers for the high priority sites from the Stage 1 site prioritisation in GeoEnviron  | 2007-2012            |

| Task  | Work   | Date Achieved |
|---|--|---------------|
| Site Investigation and Risk Assessment                      | Site Investigations and Risk Assessments carried out for 4 sites for which desk top study reports had identified further works were required - Shearwater Landfill site, Highside (Heighington) Landfill site, Summerhouse Landfill site and Bensham Park (former Salters Lane North) Landfill site                  | 2008-2011     |
| Preliminary Risk Assessment (Desk Top Study)                | Preliminary Risk Assessments produced for 3 of the high priority sites from the Stage 1 site prioritisation in GeoEnviron  | 2010-2012     |
| Review of High Priority Sites (Stage 1 Site Prioritisation) | Using information held in old Planning Files and GeoEnvironmental/GeoTechnical Reports to review the high priority sites identified in the Stage 1 site prioritisation to either lower the site score in GeoEnviron or archive sites that do not meet the definition of Contaminated Land under Part 2A.             | 2011-2012     |
| Low Priority Sites  | Proforma developed for assessing Low Priority Sites. Archived 277 sites, relating to unknown filled ground (such as infilled watercourses: ponds; streams and ditches) as a decision has been made that they do not require a detailed inspection and do not meet the definition of contaminated land under Part 2A. | 2011-2012     |

### 4.3 Highest Priority Sites (2008 - 2011)

The 2003 Contaminated Land Inspection Strategy prioritised landfill sites on the basis of risk and the potential for problems with soil contamination, landfill gas and leachate being able to affect receptors if a pathway is present. Four former landfill sites<sup>1</sup> known to have household waste deposited were identified as highest priority sites and were selected for detailed inspection. This involved extensive site investigation works funded by capital grants from DEFRA being undertaken on the sites between October 2008 and September 2011.

A decision was made that the four sites do not meet the definition of contaminated land under Part 2A. Further details regarding the works can be found on the Council's website<sup>2</sup> and in-depth reports are held by Environmental Health.

<sup>1</sup> Shearwater Landfill Site, Summerhouse Landfill Site, Highside (Heighington) Landfill Site, Bensham Park (Former Salters Lane North) Landfill Site

<sup>2</sup> <https://www.darlington.gov.uk/environment-and-planning/pollution/contaminated-land/site-investigation-work/>

## **5.0 Update on Strategy and work undertaken between 2013 and 2020**

The 2013 Strategy proposed that throughout 2013-2017 Environmental Health would focus on high priority, former industrial sites where human health is of greatest concern. At the time of publication of the 2013 Strategy approximately 900 sites of potential contaminated land remained within the Borough of Darlington.

Following the publication of the 2013 Strategy DEFRA removed the funding grants to local authorities at the end of 2014 to carry out site investigation works and remediation. This has resulted in no further detailed inspections of sites within the Borough of Darlington being carried out which involved intrusive site investigation and no limited sampling has been undertaken.

As a result, Council resources were placed on reviewing the higher risk sites but a greater emphasis than previously committed to was also placed on reviewing the lower risk sites. This was done with a view to making a decision as to whether or not based on a strategic inspection and a review of the information held a lower risk site could be classed as Category 4 – Not contaminated land. This approach would allow the Council to continue its work under Part 2A while maximising the usage of the limited resources available to it.

A strategic inspection involves the collection of information and prioritisation of sites for detailed inspections or to enable Environmental Health to make a decision as to whether the land is not contaminated land under Part 2A. This can take the form of a preliminary risk assessment possibly including a site walkover and limited sampling depending on the information held and level of risk identified.

The DEFRA statutory guidance states that a local authority should not assume that land poses a significant possibility of significant harm if it considers that there is no risk or the level of risk posed is low. These sites/land are referred to as Category 4 and can be categorised as such at any stage during the risk assessment process. In most cases this will be as a result of no relevant contaminant linkage (contaminant-pathway-receptor) having been established or there is insufficient evidence that the land might be contaminated land to justify further inspection and assessment.

Whilst work continued on Stage 1 and Stage 2 prioritisation in GeoEnviron the emphasis changed to carrying out strategic inspections of the sites considering all information held by Environmental Health and where appropriate to categorise the site as Category 4 – Not contaminated land. The objective being to reduce the number of potential contaminated land sites and minimise unwarranted blight and unnecessary burdens.



At the time of publication of this Strategy Darlington Borough Council has

- Reviewed and categorised 1174 sites which have been determined as “Category 4 – Not Contaminated Land” under Part 2A of the Environmental Protection Act 1990 in accordance with the definition provided in the Statutory Guidance 2012, and
- Identified in the region of 100 sites that require further review or insufficient information is held to formally determine their current condition or regulatory status, under Part 2A of the Environmental Protection Act 1990. These sites have been retained as sites of “potentially contaminated land”.

The Council has no evidence for any site that there exists or there is a significantly possibility of significant harm to human health or serious pollution of controlled waters.

The categorisation of a site as not contaminated land is based on its current use and will not be applicable to any future use changes or further development which requires planning permission. In such cases land contamination will be considered and dealt with via the planning process to ensure the site is suitable for its proposed end use which may involve remediation works.

At the time of publication of this Strategy, **no sites** within the Borough of Darlington have been determined as statutory contaminated land under Part 2A of the Environmental Protection Act 1990, in accordance with the legislation and DEFRA Statutory Guidance 2012.

| Task   | Work  | Date Achieved |
|--|---|---------------|
| Review of high priority sites (Stage 1 Prioritisation) | <b>Achieved</b> – All high priority sites have now been reviewed however this was based on strategic inspections as opposed to updating receptors and other factors scores as per site prioritisation in GeoEnviron.  | 2017          |
| Stage 2 Site Prioritisation in GeoEnviron              | This is no longer seen as a priority and a decision has been made not to complete Stage 2 Site Prioritisation for any further sites.  | 2017          |
| Continue to collate working files and site walkovers   | <b>Achieved</b> - Collated historical land use information, geo-environmental reports etc. and saved the information into electronic files.<br><b>Achieved</b> - Carried out site walkovers for seven high priority sites.  | 2017<br>2014  |
| Preliminary Risk Inspection (Desktop Top Study)        | <b>Ongoing</b> - Produced in DRAFT with a conceptual model for seven high priority sites.   | 2015          |
| Continued assessment of Low Priority Sites             | <b>Achieved</b> - 1174 sites determined as <i>Category 4 – Not Contaminated Land</i>  | 2021          |
| Written Statements                                     | <b>Ongoing</b> – Written statements are being produced for sites which do not meet the definition of contaminated land and have been classed as Category 4.   | Ongoing       |
| Normal Background Concentrations                       | <b>Additional work</b> - Following the release of the DEFRA Statutory Guidance 2012, DEFRA commissioned the British Geological Survey (BGS) to calculate the normal background concentrations (NBCs) of contaminants in English soils. NBCs are levels of contaminants in soils, which are due to natural and common human anthropogenic processes for a given area. In September 2013 Darlington Borough Council using the BGS methodology published a project report on the calculated NBCs for 7 contaminants within the Borough of Darlington which were based on existing data from previous site investigations undertaken in the Borough. <sup>3</sup> The data used was from green field topsoil samples and for two domains urban and rural. | 2013          |

**Table 2: Completed Work (2013 to 2020)**

<sup>3</sup> <https://www.darlington.gov.uk/media/1680/finalnormalbackgroundconcentrationsofcontaminantsinsoils3.pdf>

## **6.0 Changes in guidance and the Council's approach since the publication of 2013 Strategy**

### **6.1 Internal working arrangements**

Since July 2017 the Council no longer has a specialist Contaminated Land Officer and the work on Part 2A is carried out by Environmental Health Officers working in the Environmental Protection Section.

The Environmental Health Section remains responsible for implementing Part 2A of the Environmental Protection Act 1990 including site prioritisation, inspections and determinations of contaminated land under Part 2A of the Environmental Protection Act 1990. Since the 2013 strategy there have been changes in the Council's management structure and the Environmental Health Manager (Environmental Protection) is now responsible for this area of work. The Cabinet Member for Economy maintains a political overview of decisions made.

The Environmental Health Manager (Environmental Protection) has delegated powers under Part 2A of the Environmental Protection Act 1990 and Section 108 of the Environment Act 1995.

### **6.2 Expert Panel**

In October 2012 DEFRA set up an Expert Panel to support Local Authorities in making decisions on whether land is or is not Statutory Part 2A Contaminated Land. The panel's work will be focused on cases that are not straightforward and where there is a question mark over whether the land is considered legally contaminated or not.

For any land likely to be determined as Statutory Part 2A Contaminated Land, Environmental Health may consult and seek the views of the Expert Panel prior to formal determination.

### **6.3 Category 4 Screening Levels (C4SL)**

In March 2014, DEFRA published guidance on the derivation and use of Category 4 Screening Levels. The primary purpose of the C4SL Methodology was to produce levels for specific contaminants (Arsenic, Benzene, Benzo(a)pyrene, Cadmium, Chromium (VI) and Lead), for six common land use types, at which the statutory definition of Contaminated Land under Part 2A of the Environmental Protection Act 1990 had definitely not been met (i.e. is NOT a Significant Possibility of Significant Harm). The C4SL will help local authorities in making decisions to stop further assessment of sites of potential Contaminated Land and represent a low risk level which can be considered to be comfortably within Category 4.

### **6.4 Written Statements**

The Statutory Guidance (2012) states that when deciding that land is not contaminated land the local authority should issue a written statement to that effect to minimise unwarranted blight. The guidance goes on to state that the authority should inform owners of the land of its conclusion and provide them with a copy of the written statement as well as considering

informing interested parties. Written statements have been provided to the owners of land and other interested parties for sites subject to a detailed inspection i.e. site investigation works.

The 2013 strategy proposed that following a strategic inspection that Environmental Health would produce a table of sites assessed under Part 2A, and do not meet the definition of contaminated land. This table would be made available on the Council's website with further information. This has not taken place due to the resource implications and nature of some low risk sites i.e. former infilled ponds, former railway tracks, existing commercial and industrial premises, however, the information is available on request.

## **7.0 Aims of Strategy and work programme 2021 onwards**

The following objectives have been set: -

- a) Encourage the re-use and remediation of brownfield land through the planning regime in accordance with the National Planning Policy Framework 2019 to prevent unacceptable risks and ensure that new developments are suitable for use.
- b) Promote and encourage voluntary remediation and where appropriate to encourage brownfield land to be dealt with as a part of a wider regeneration programme.
- c) Ensure that all information on land likely to be affected by contamination is recorded for future consideration if circumstances change.
- d) To update the site information, risk assessment and review of classification if and when new information is received on a site.
- e) To prioritise and deal with any urgent cases where evidence may arise of significant harm or potentially significant harm.
- f) To consider applying for capital funding as and when available to carry out detailed inspection(s) of higher risk site(s).
- g) To provide information to all stakeholders on sites in order that informed decisions can be made.
- h) Review and produce the written statements for Category 4 sites to minimise unwarranted blight and unnecessary burdens. The statement will provide reasons for why, on the basis of its assessment, Environmental Health has concluded that the land does not meet the definition of contaminated land under Part 2A. Written statements will only be provided to owners and other interested parties on request unless a detailed assessment has been undertaken in which prior engagement with parties will have taken place.

## **8.0 References**

- 1) DEFRA (April 2012) Environmental Protection Act 1990: Part 2A, Contaminated Land  
DEFRA Statutory Guidance, HM Government
- 2) DEFRA (December 2014) SP1010: Development of Category 4 Screening Levels for  
Assessment of Land Affected by Contamination – Policy Companion Document, HM  
Government
- 3) Environmental Protection Act 1990: Part 2A Contaminated Land
- 4) GeoEnviron (2012)
- 5) BGS Background levels (2012)

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