Appendix 1

Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Contaminated Land Strategy 2026

Required under the provisions of the
Environmental Protection Act 1990 Section 78B

Document Control and Overview

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Contents

1.0 Introduction

1.1 Background

There is a substantial legacy of contaminated land in the United Kingdom, due to its long industrial heritage and historically poorly managed waste disposal practices. Although there are now various regimes in place to prevent new contamination occurring, the historic contamination which remains in the environment retains the potential to adversely affect people's health, damage quality of our waters, ecological systems and property. Where land is identified as unsuitable for its current use on the basis of actual harm or significant risk from contamination, the local authority has a responsibility to intervene and ensure that those risks are properly reduced to an acceptable level. This strategy sets out how Cherwell District Council (the Council) intends to go about this process. It replaces the Council's previous Contaminated Land Inspection Strategy published in 2007.

1.2 Aims and Objectives

The Council originally published its Contaminated Land Strategy in 2001. The aim of the strategy is to set out in writing how the Council intends to implement its obligations under Part 2A of the Environmental Protection Act 1990. In accordance with statutory guidance issued in April 2012 local authorities should adopt a strategic approach when inspecting their areas and this should:

a) be rational, ordered and efficient;

b) be proportionate to the seriousness of any actual or potential risk;

c) seek to ensure that the most pressing and serious problems are located first;

d) ensure that resources are concentrated on investigating in areas where the authority is most likely to identify contaminated land; and

e) ensure that the local authority efficiently identifies requirements for the detailed inspection of particular areas of land.

The principal objectives of the inspection strategy are:

a) to meet the statutory obligation placed on the Council to produce a written strategy under Part IIA

b) to provide a strategic framework which the Council will use to identify, inspect and determine contaminated land, and describe the measures that may be taken to remediate such land;

c) to describe how the Council will prioritise which sites it will consider first;

d) to inform the public, and improve communication with stakeholders, of the Council's intentions in relation to contaminated land;

e) to ensure that the Council's corporate priorities and ambitions will be achieved by adopting this strategy.

This document updates the original strategy, itself updated in 2007, to align it with changes in legislation and planning practice since that time.

The contaminated land regime complements the planning system. This Strategy is aimed at those sites where there is no imminent prospect of the site being addressed via the planning system. The regime aims to render land suitable for its existing or any proposed use.

1.3 Strategic Planning

The Council formally adopted the Cherwell Local Plan 2011 - 2031 on 20 July 2015. The Councils Executive approved the 2022 Regulation 10A Review of the Local Plan 2011-2031 Part 1 on 6 February 2023. The Plan provides the strategic planning policy framework for the District including housing needs. Although some of this housing need will be made by development on “greenfield land” there will be development opportunities utilising previously developed (brownfield) land. Some, but not all, brownfield and greenfield sites may be contaminated. Development will see this contamination dealt with under the planning control regime. In fact, it is envisaged that most contaminated land remediation will continue to be dealt with using ‘land quality’ planning conditions and informatives.

The contaminated land regime complements the planning system. This Strategy is aimed at those sites where there is no imminent prospect of the site being addressed via the planning system. The regime aims to render land suitable for its existing or any proposed use

1.4 Enforcement

In accordance with the Council’s Enforcement Policy, securing voluntary remediation is always a preferred option to taking formal enforcement action. The Council will assist in this process wherever possible by providing guidance, support and advice as necessary. Where a successful outcome is not reached voluntarily, or the timescale of a successful outcome is unacceptable, the Council will resort to enforcement action in accordance with those powers conferred to it by primary legislation, such as in relation to powers of entry, as described below.

For the purposes of identifying contaminated land, the Council are granted powers of entry to allow inspection of land, by section 108 of the Environment Act 1995. Any person authorised in writing by the Council may enter any premises at any reasonable time to make any examination or investigation as may be necessary and take samples or in the vicinity of the premises.

Where entry to premises is refused or, where the Council have reasonable grounds to believe that entry is likely to be refused or that force may be necessary to effect entry, then the Council may gain entry under the authority of a warrant issued by a magistrate. In all cases the Council will normally consult with the occupier prior to entry on to the premises.

In an emergency, the Council may exercise its powers of entry forthwith. For this purpose, a case may be considered an emergency if it appears to the Council that:

- there is an immediate risk of serious pollution of the environment or of serious harm to human health; or
- circumstances exist which are likely to endanger life or health.

If individuals or companies obstruct officers or are not forthcoming with requested information, an application for a warrant may be made to allow officers to act effectively. The warrant will be used to facilitate Council Officers entry onto a site or residential premises for inspection purposes.

Remediation – the Council has a duty to serve a remediation notice on the appropriate person(s) where the clean-up of a site has not been secured on a voluntary basis or where no agreement is reached in relation to remediation action.

Where enforcement action is taken, the Council follows the following four key principles:

- Transparency – we will aim to ensure that the nature of, and reasons for, enforcement action taken by the Council are explained in a clear manner.
- Fairness & objectivity – we will treat everyone equally and fairly and will ensure that decisions are not influenced by the colour, race, nationality, ethnic or national origin, gender, religion, marital status, age, sexual orientation or disability of the offender, complainant or witness.
- Proportionality – we will aim to ensure that any action taken relates directly to the actual or potential risk to health, safety, welfare or the environment.
- Consistency – we will take consistent action to ensure that similar issues are dealt with in a similar way.

1.5 Summary of roles and responsibilities

Pollution Type	Agency Responsible	More Information
Contaminated Land and Soils	Cherwell District Council*	Contaminated Land Strategy 2026 (this document)
Water Pollution	Environment Agency	https://engageenvironmentagency.uk.engagementhq.com/enforcement
Drinking Water	Drinking Water Inspectorate (DWI)	https://www.dwi.gov.uk/
Tap Water	Water Companies (Thames and Anglian)	Following DWI Guidance
Private Water Supplies	Cherwell District Council	Following DWI Guidance – more info here: https://www.cherwell.gov.uk/info/7/environment/426/water-quality

*CDC oversees the reports provided by developers and contractors rather than carrying out testing themselves.

2.0 About this Strategy

2.0 Legislative Background and Government Policy

The Government's main policy statement on contaminated land is now contained within a DEFRA guidance document: Environmental Protection Act 1990, Part 2A: Contaminated Land Statutory Guidance, April 2012 ('the Statutory Guidance'). The principles of this have also been incorporated into the Communities and Local Government document “National Planning Policy Framework” as revised and published in February 2019.

UK policy on land contamination as set out in the Framework, as well as emphasising the Government’s commitment to the environmental principles of “sustainable development” and “the polluter pays”, requires that existing contamination which poses a threat to health or to the environment is controlled and treated within the “suitable for use” approach. The statutory basis of the regime is to be found in Part 2A of the Environmental Protection Act 1990 (which was inserted by the Environment Act 1995).

2.1 Part 2A Objectives

The overarching objectives of the Government’s revised policy on contaminated land 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 are proportionate, manageable and compatible with the principals of sustainable development.

2.2 The Requirement for a Strategic Approach

All local authorities are required to take a strategic approach to the identification of land in their area that merits detailed individual inspection. The Statutory Guidance requires that the approach adopted should be rational, ordered and efficient and it should reflect local circumstances. The local authority should set out its approach as a written strategy, which it should formally adopt and publish, and which should be reviewed periodically.

The Statutory Guidance details the elements which should be included in the strategy.

2.3 Definition of Contaminated Land

Section 78A(2) of the Environmental Protection Act defines contaminated land as follows:

> *“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) pollution of controlled waters is being, or is likely to be, caused*

With respect to controlled waters, the Water Act 2003 amended the second limb of the definition so that it applies only where "significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused". This change in the legislation became effective as of 6th April 2012.

The presence of a contaminant in land does not of itself mean that it is contaminated land within the meaning of Part 2A. The Statutory Guidance refers to Contaminant Linkages where one or more contaminant pathway receptor linkages exist.

Receptors are defined as:
“ … *something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters.”*

Detailed definitions of the types of receptors are set out in Section 4 of the Statutory Guidance. The Statutory Guidance also refers to “significant contaminant linkages”, referring to those that give rise to a level of risk sufficient to justify a piece of land being determined as contaminated land.

The local authority has the sole responsibility for determining whether any land appears to be statutory contaminated land within its area.

Since the enactment of the contaminated land legislation, significant progress has been made in many technical areas of assessment and remediation of contaminated land.

2.4 The concept of a pollutant linkage

As indicated above, the definition of contaminated land includes the notion of ‘significant harm’ and the ‘significant possibility’ of such harm being caused. In determining what is significant, the Council will have regard to statutory guidance issued by the Secretary of State. The statutory guidance uses the concept of a ‘pollutant linkage’, i.e. a linkage between a source of contamination and a receptor by means of a pathway. Prior to determining that any land appears to be contaminated land on the basis that significant harm is being caused, or that there is a significant possibility of such harm being caused, the Council will identify a significant pollutant linkage comprising each of the following:

- a contaminant
- a relevant receptor
- a pathway by means of which either the contaminant is causing significant harm to the receptor or there is a significant possibility of such harm being caused

Pollutant linkages should be represented by a conceptual model for the site, which can either be in a diagrammatic form or tabulated, and shows the possible relationships between contaminants, pathways and receptors. The conceptual model (a diagram showing the relationship between sources, pathways and receptors for a site) is important throughout the whole process of risk assessment and should be refined as more information is gathered about a site. The Council will also act in accordance with statutory guidance issued by the Secretary of State in determining whether pollution of controlled water is being, or is likely to be, caused. Prior to determining that any land appears to be contaminated on the basis that pollution of controlled waters is being, or is likely to be, caused, the Council will have identified a significant pollutant linkage where controlled waters constitute the receptor.

2.5 Risk assessment

In order to determine whether there is the possibility of significant harm being caused, local authorities must consider the nature, extent and duration of contamination and assess the susceptibility of nearby receptors.

The Council will carry out an appropriate scientific and technical assessment, following the Model Procedures for the Management of Land Contamination (CLR11), produced by the Environment Agency and Department for Environment, Food and Rural Affairs (DEFRA). This is a technical framework for structured decision-making and reflects the Government's policy on how risks from land contamination should be managed. Other peer-reviewed scientific and technical guidance will be applied as appropriate.

The basic approach to risk assessment involves identifying the hazards (i.e. contaminant sources), assessing these in terms of pollutant linkages and the likely consequences, and then estimating the risk (i.e. predicting the magnitude and probability of those possible consequences). There are three tiers in the risk assessment process:

a) Preliminary Risk Assessment (desk study, site history, conceptual site model, qualitative risk assessment)

b) Generic Quantitative Risk Assessment (intrusive investigation, compare site data to generic assessment criteria, refine risk assessment)

c) Detailed Quantitative Risk Assessment (derive site specific assessment criteria for key pollutant linkages, refine risk assessment further to determine remedial measures).

2.6 Categorisation of Contaminated Land

In deciding whether land is contaminated land on grounds of significant possibility of significant harm to human health, the Council will follow the system of categorisation in the Statutory Guidance. For each receptor, the guidance details four categories.

Categories 1 and 2 would encompass land that is capable of being determined as contaminated land on grounds of significant possibility of significant harm to human health. Categories 3 and 4 would encompass land which is not capable of being determined on such grounds. A further description of the categories will be found in Table 2.1.

Uncertainties arise in allocating land to Categories 2 and 3. The government recognised that regulatory authorities may have difficulties in assigning land to Categories 2 and 3 and has appointed, through DEFRA, a panel of experts from industry and local authorities to assist local authorities in making decisions with regard to these uncertainties. That panel is now disbanded but detailed decisions made by the panel in cases submitted to it have been made available.

Category 4 Screening Levels (C4SLs) were published in 2014 which have been developed to help decide when land is suitable for use and not statutory contaminated land. Soil Guideline Values (SGVs) and other Generic Assessment Criteria (GACs) are well within Category 4 and present minimal risk. The C4SLs are set at the top of Category 4 and although still precautionary, their purpose is to speed up the decision-making process for regulators. They are also very likely to act as a suitable remediation target for the development of brownfield land.

When considering whether significant harm is being caused, or there is a significant possibility of such harm being caused, to non-human receptors, Local Authorities should pay regard to Tables 1 and 2 of the Statutory Guidance.

2.7 Roles and Responsibilities

This Strategy has been reviewed with particular reference to the 2012 DEFRA guidance, and the Council has adopted the following approach:

Regulatory Services and Community Safety has been identified as the lead service within the Council for the purpose of the Strategy, in consultation with other services including Planning & Development, Planning Policy, Building Control, and Legal Services, as appropriate, and external agencies including the Environment Agency, Natural England, DEFRA, landowners, and agents.

The Environment Agency also has four main roles:

- To assist local authorities in identifying contaminated land (particularly where water pollution is involved);
- To provide site specific guidance to local authorities on contaminated land where requested;
- To act as enforcing authority for contaminated land designated a 'special site';
- To publish periodic reports on contaminated land.

Where the presence of contaminated land has been confirmed the enforcing authority must:

- Establish who should bear responsibility for remediation;
- Decide after consultation what must be done in the form of remediation and ensure it is effectively carried out;
- Determine liability for the costs of the remedial works;
- Maintain a public register of regulatory action in relation to contaminated land.

Regulatory Services and Community Safety will ensure that, as far as possible, land contamination is dealt with through the planning system or by voluntary remediation on the part of the current landowner. To date all sites have been dealt with in this way.

Requests for service and enquiries from members of the public regarding potentially contaminated land will normally be responded to within 3 working days, except where pollution incidents are occurring, in which case it will be responded to on the same day

3.0 Description of Cherwell District

3.0 Overview

Cherwell District occupies the northern part of Oxfordshire District covering an area of 58,983 hectares (228 square miles), and borders Warwickshire, Northamptonshire and Buckinghamshire. The district is mainly rural comprising 65,000 households spread over seventy-five Parishes, with two market towns, Banbury and Bicester and the town of Kidlington in the south of the district. The total number of businesses exceeds 3,500, employing over 56,000 people. The main waterway draining the area is the River Cherwell, which runs from north to south of the district. Other waterways include the Great Ouse bordering the east, the River Ray to the southeast, the Thames tributaries joining from the south, and the River Swere to the west. Padbury Brook and Sor Brook also serve the district. The Chiltern line and the North-South Banbury to Oxford line are the main railways serving the area along with East West Rail passing through the south of the district. The M40 motorway runs the length of the district.

The landscape includes part of the Cotswolds Area of Outstanding Natural Beauty at Epwell. It also includes three areas of Ecologically Important Landscape, seventeen Sites of Special Scientific Interest (eight of which are geologically important), eighty-nine County Wildlife Sites, fifty conservation areas, two potential County Wildlife Sites and four thousand listed buildings. There are also twelve other Wildlife Sites of importance within the district, two Regionally Important Geological Sites, twenty-nine Scheduled Ancient Monuments, and several important Historic Parks and Gardens, including areas of ancient semi-natural woodland.

3.1 Geology and Topography

Cherwell District forms part of the stone belt which stretches across England from Dorset to the Humber. The rocks date from the Jurassic period and are150 million years old. The underlying strata consists of Lower, Middle and Upper Lias. The district is divided into three distinct types. Ironstone predominates in the north and northwest, consisting of heavy clays and marlstone overlaid with limestone and sandstone. In such areas elevated concentrations of naturally occurring arsenic occur, see section. Across the centre of the district lies a band of oolitic limestone which is part of the Cotswolds. This can be seen as a band of undulating and rising ground. Below this lies an area of lower lying land on Oxford clays, overlain by alluvial deposits associated with the River Thames and River Ray floodplains. This underlying geology gives rise to the landscape today.

In the north of the district lie gentle ironstone hills and small ironstone villages. This contrasts to the flat floodplains and wet meadows in the south. Across the centre of the district lies a band of rolling limestone hills which are an extension of the Cotswolds. Woodland is found throughout the district as are several areas of Parkland. The River Cherwell valley runs down the centre of the district, with the Oxford Canal following its line.

3.2 History of Cherwell District

The historical use of the Cherwell District relates directly to its geology and has resulted in exploitation of minerals for building materials and other purposes. In order to extract the minerals, quarries have been excavated across the landscape to extract ironstone and limestone. One of the main quarries was located at the village of Hornton, to excavate Hornton Stone. This closed in 1942, as have most of the others. Several have been returned to arable land, and some have, and are being used for landfill. Quarries will therefore be an important area of investigation concerning potential land contamination sites.

Building materials from the quarries are evident in the ironstone villages in the north of the district around the Banbury area, and in the limestone villages around Bicester and to the south of the district. In the past, the iron rich fertile soils provided good ground for crop growing. Cattle, sheep and horses were also grazed on the land, and Banbury and Bicester became the market towns for trading agricultural produce. Industries grew up around the towns, including stonemasons and brickyards such as Gilletts Brickyard on the outskirts of Banbury.

Sheep farming led to a big wool trade in the district, with loom industries appearing; also industries such as the knitting factory in Alkerton and weaving and lace making sprang up. Other industries benefiting from the agriculture of the region included Wrench's Mill in Shutford which produced hand-woven livery, and breweries such as Hook Norton Ales. The Oxford Canal built in 1778, enabled transportation of goods in and out of the area.

The importing of meat and grain in the 1850's, accompanied by bad harvests, helped lead farming into a period of depression, and many farmers left agriculture or emigrated to countries such as Canada. The building of the railways in the 1850's had a marked effect on industry, as it allowed goods to be transported easier and further. The coming of the Northern Aluminium Company to Banbury in the 1900's marked the beginning of industry not related to agriculture, and was followed by General Foods Ltd, (now Kraft Foods) and the Banbury Road Industrial Estate. These industries also led to the town's population and industrial growth.

Disused railways are often used for the dumping of waste; similarly, used and disused industrial sites may contain contaminated waste. The Cherwell District also contains many allotments which may be a source of contaminants. Because of these reasons, and other opportunities for future development within the district, it is important to identify and remediate any potential land contamination.

There are several current and former military sites in the district such as Graven Hill in Biester and the former RAF/USAF base at Upper Heyford.

3.3 Land owned by the District Council

Land owned by the Council is often linked with sensitive uses and includes allotments, schools, recreational grounds and public open spaces. Additional land use types include offices, depots, sport centres, community buildings, car parks and properties held as investments such as shops or industrial units.

Where land owned by the Council is found to be contaminated, unless a special site, there will be no enforcing authority. The Council will, however, carry out its duties as though they were the enforcing authority. Site prioritisation will be conducted in the same manner as all other sites within the district, ensuring that only the most urgent sites are dealt with first. Site investigation will undergo the same consultations, assessments and appropriate remedial works as necessary.

4.0 Overlapping Regulatory Functions

4.0 Overview

Part 2A should only be used to secure remediation of contaminated land where no appropriate alternative solution exists. There are several regulatory functions that provide local authorities with powers to deal with land contamination including planning, building control and The Environmental Damage (Prevention and Remediation) Regulations 2009. Action under Part 2A may be precluded where action under these regimes results in a desirable outcome, however, these should be assessed on a case-by-case basis. In the commercial site example given in the previous section, the planning process took over dealing with land contamination excluding action under Part 2a

4.1 Planning Process

In February 2019 the Government published its revised National Planning Policy Framework (NPPF) which refers to brownfield and contaminated land as follows:

“Planning policies and decisions should:

…. give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land…”

Paragraph 118 of the NPPF:
“…. contribute to and enhance the natural and local environment by….. remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”

Paragraph 170 of the NPPF
“…ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.”

Paragraph 178 of the NPPF
“Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.”

Paragraph 179 of the NPPF
“It is important therefore that the Contaminated Land Officer maintains close liaison with the planning department to ensure that, where land affected by contamination is to be developed, site investigation and, where necessary, remediation is carried out to the appropriate standard. The Contaminated Land Officer would provide technical assistance to the planning department in assessing planning applications and site investigation reports presented by developers.”

4.2 Building Control

Part C1 of Schedule 1 of the Building Regulations (2010, updated 2013) introduced the requirement for reasonable precautions to be taken to avoid danger to health and safety caused by contaminants on or in the ground covered, or to be covered by the building and any land associated with the building.

Technical guidance issued by the HM Government in the form of The Building Regulations 2010 Approved Document C – Site preparation and resistance to contaminates and moisture (2010, updated 2013), provides advice on site preparation and resistance to contaminants in order to mitigate the effects of contaminants, whilst recognising the connection between building control, planning and environmental protection.

The responsibility for securing a safe development rests with the developer and/or landowner, who should be made aware that actions or omissions on their part could lead to liability being incurred under Part 2A.

The building control function has an increasingly important role in securing a safe development with the rising number of developments being constructed using permitted development rights that do not require planning permission. Where contamination potential exists, restrictions on building approvals should be used to ensure developers undertake appropriate site assessments and address any unacceptable risk to human health and safety as part of the development.

4.3 Environmental Damage Regulations

The Environmental Damage (Prevention and Remediation) Regulations 2009 ('EDR Regulations') (S.I. 2009/153) as amended in 2015 and 2017 provide a mechanism to deal with environmental damage to land, water or ecosystems where this occurs to businesses after March 2009. They rely on the polluter pays principle requiring operators of commercial activity to have in place measures to prevent environmental damage and take remedial action if it does occur.

The term 'environmental damage' has a specific meaning in the regulations and is damage that adversely affects land, surface or groundwater, marine waters, protected species or natural habitats or a site of special scientific interest. The Local Authority has enforcement responsibilities in relation to damage to land where this results in a significant risk of adverse effects on human health. Enforcement responsibility for damage to water is held by the Environment Agency, whilst damage to natural habitats or protected species or sites of special scientific interest is enforced by Natural England.

4.4 Environmental Permitting

The Environmental Permitting Regulations (England and Wales) 2016 (as amended) were introduced on 11th December 2016 replacing the 2010 regulations. These Regulations cover industrial processes, waste operations, water discharges, groundwater activities and radioactive substances and give the enforcing authority the ability to apply conditions to permits to control activities and discharges to land, air and water.

Operators holding an environmental permit are liable for the prevention and remediation of environmental damage under the EDR Regulations.

4.5 Radioactive Contamination

The Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005 (SI 2005/3467) (as amended in 2010 and 2018) and the Radioactive Contaminated Land (modification of Enactments) (England) Regulations 2006 (S.I. 2006/1379) (as amended 2007-2018) make provision for Part 2A to be extended for the purpose of identification and remediation of radioactively contaminated land where this is causing harm to human health only.

4.6 Waste Management Licensing

The Environmental Protection Act 1990 Part II requires all waste disposal and processing sites (including scrap yards) to be licensed. Contamination causing harm, or pollution of controlled waters, should be dealt with as a breach of the conditions of the licence. In exceptional circumstances, where the problem arises from an unlicensed activity, it is possible that Part IIA could apply. An example of this would be a leak from an oil tank outside the tipping area. Where there has been an illegal tipping of controlled waste (fly tipping) this should also be dealt with under the Environmental Protection Act 1990 Part II (Section 59).

4.7 Pollution of Controlled Waters

Where a pollution incident has occurred and the pollutant is discharged directly into the body of water and not arising from land, or it has left land and it is entirely in the body of water (i.e. the land is no longer causing pollution), the Water Resources Act 1991 section 161 will apply.

4.8 Risk of Harm to Employees

Where there is a risk of harm to persons at work from land contamination, this should be dealt with under the Health and Safety at Work Act 1974. The enforcing authority will be either the Health & Safety Executive or this Council depending on the work activity.

4.9 Risk of Harm Following an Incident

Where there has been a release, explosion or other major incident, which has caused land contamination, the restoration should be carried out under the Control of Major Accident Hazard Regulations 1999 as part of the COMAH on site / off site emergency restoration plan.

5.0 Inspection Process

5.0 Introduction

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

- protect human health;
- protect controlled waters;
- protect designated ecosystems;
- prevent damage to property; livestock and crops, etc.;
- prevent further contamination of land;
- encourage voluntary remediation; and
- encourage the re-use of brownfield land.

Wherever possible, the Strategy will look to achieve these priorities through voluntary remediation and the redevelopment or regeneration of sites.

Before land can be determined as contaminated by definition a significant pollutant linkage, must be identified. Unless all three elements of a pollutant linkage are identified land can not be considered contaminated (section 2.4).

No assessment should be undertaken unless both contaminants and receptors are suspected or confirmed. Where there is doubt the situation will be kept under review.

5.1 Inspection Stages

The Council has adopted a strategic approach to inspection as required by Government. This is broken down into five process steps:

Stage 1a – District Survey

The purpose of this stage of the Strategy is to gather information on potentially contaminative land uses, receptors and pathways from a variety of sources, including historical maps and records, data sets published from authoritative sources including the Environment Agency, British Geological Survey and information held on public record. Collated information has been incorporated into the Council's GIS. Whilst there is an ongoing need to maintain and update information for the district, this stage of the inspection process is complete.

Stage 1b – Prioritisation of sites for detailed inspection

There is a statutory requirement for a risk-based approach in prioritising sites with the greatest potential to cause significant harm, although a methodology to achieve this has not been defined by Government. As a result, the Council used the software Contaminated Site Evaluation and Prioritisation Tool (ConSEPT), developed by the British Geological Survey specifically designed to help Local Authorities meet the requirements of Part 2A. It allows scoring of sources, pathways and receptors for each potentially contaminated site to establish a site prioritisation graded from 'A' to 'E', with grade 'A' sites having the highest priority in need of immediate investigation.

Stage 2 – Site Walkover and Inspection of the site

During the initial site prioritisation some site visits may have taken place. However, it is only following the collation of a desk study that a targeted site walkover can be conducted, considering all previously identified sources, pathways and receptors. It may be necessary at this stage to inform the site owner, if known, that the site has been prioritised for inspection.

Stage 3 - Intrusive Investigations

The requirement for intrusive investigation will be determined based upon the Site Characterisation and risk assessment carried out in the previous stages. The Council may engage consultants to undertake the analysis of this data and preparation of the scope of investigation and a site investigation protocol.

A desk-based study may be sufficient to quantify the level of risk, or it may be necessary to undertake an intrusive investigation to assess ground conditions and associated contaminant concentrations. The output from this inspection stage should provide sufficient information to categorise the site as required by statutory guidance.

Stage 4 – Determination

The local authority is responsible for determining whether land is contaminated land and has a duty to do so where:

- Significant harm is being caused to a human or relevant non-human receptor;
- There is a significant possibility of significant harm being caused to a human or relevant non-human receptor;
- Significant pollution of controlled waters is being caused; or

- There is a significant possibility of significant pollution of controlled waters being caused.

In fulfilling this role, the Council will act in accordance with relevant statutory guidance, seeking expert advice, if required.
For sites that are determined as contaminated land, following a thorough risk assessment, the Council will produce a risk summary, in a simple and easy to understand format, and this will form part of the record.

Stage 5 Remediation

When land is determined as contaminated land, the local authority must secure the remediation of that land. The Statutory Guidance will be followed to ensure the significant pollutant linkages identified by the inspection process are removed or disrupted to such a level that they no longer present a significant risk.

Further information including a detailed outline of the processes to be completed in each stage is provided in the following sections.

5.2 Inspection Programme

The legislation and statutory guidance are not prescriptive in terms of how quickly the work on contaminated land needs to be completed, however, each local authority is required to set out in its Strategy the timescales for the inspection process. Table 1 sets out the anticipated timetable for completion of each stage of the inspection process.

Table 1 Timetable for inspection process

Stage		Progress
1a	District Survey	Completed
1b	Prioritisation	Completed
2	Detailed Inspection	As required
3	Determination	As required following detailed inspection
4	Remediation	Within 12 months of determination

Prioritisation is reviewed and updated from time to time as new information arises.

5.3 Reactive investigation

If the Council is made aware of any site not already listed on the database of potentially contaminated land that has the potential to be contaminated land under the Part 2A definition, then a process of investigation will be carried out in the same way as those sites already on the Council’s database of potentially contaminated land. The site would be subjected to the same process of prioritisation as sites already listed. If the risk-based assessment of the site, based on available information, indicates urgent action should be taken, a detailed inspection would follow.

If the status of a known site should change, as in the case of the introduction of a new receptor for whatever reasons, then the site would be reassessed in terms of risk to those receptors. If it seems to the Council that the risks now posed by the site are such that a detailed inspection should be carried out by the Council, then this will be done with due regard to current best practice and published guidance.

5.4 Information Requests and the Public Register.

The Council receives a steady flow of requests for information on contaminated land from consultants undertaking environmental assessments to property vendors and purchasers and their solicitors. It is important, therefore, to maintain the database of sites so that responses can be made to these queries based on up to date information.

The Council is required under Section 78R of Part 2A to maintain a register containing prescribed particulars of actions taken by the Council in relation to the determination of contaminated land. The register can be viewed on the Councils website at [Contaminated land | Contaminated land | Cherwell District Council](). There are currently no entries on the Council's public register.

5.5 Strategy Review.

This Strategy will be reviewed in 5 years unless changes in legislation, statutory guidance or other factors dictate that the Strategy should be reviewed at an earlier date.

6.0 Liability

6.0 Principles of Assigning Liability

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.

The Council will carry out inspections and assessments as set out in Chapter 5. It will then decide whether the land is statutory contaminated land and decide whose responsibility it is for managing the contamination.

As part of the process of determining that land is contaminated land the Council will have identified at least one significant pollutant linkage resulting from the presence of at least one significant pollutant: land may be declared contaminated upon the identification of one significant contaminant linkage. Full liability, therefore, cannot be decided until all significant contaminant linkages have been identified. Only then can the procedure relating to the apportionment of liability commence.

The apportionment of liability has five distinct stages as follows:

- Identifying potential appropriate persons and liability groups
- Characterising remediation actions
- Attributing responsibility to liability groups
- Excluding members of liability groups
- Apportioning liability between members of liability group

These procedures are complex and will be undertaken in accordance with the statutory guidance.

6.1 Identifying Liable Parties

The Council is responsible for identifying relevant parties who are obligated to undertake remedial works.

The legal liability for remediating contaminated land follows a hierarchy: in the first instance the person caused the contamination would be liable, for example the original operator of the site or a subsequent developer who built houses on the land. If these parties cannot be found or no longer exist then liability passes to the current landowner. In some cases this might be the owner-resident of the site.

All appropriate persons with responsibility for any one linkage are a 'liability group'. These may be Class A or Class B persons.

Appropriate persons – Class A
These are generally the polluters who caused the contamination in the first place but also include persons who 'knowingly permitted' the contamination. This includes developers who leave contamination on a site which subsequently results in the land being determined as contaminated.

Appropriate persons – Class B
Where no Class A person has been identified, liability reverts to the owner or occupier of the land. These are Class B persons, who were not responsible for causing the original pollution. Class B parties are only liable for remediation of contamination within the boundaries of their property and cannot be held liable for any pollution of controlled waters.

The Council will make all reasonable enquiries to identify the Class A persons before liability reverts to the current owner or occupier.

The matter of appropriate persons must be considered for each significant pollutant linkage. Therefore, where a site has had a series of contaminative uses over the years, each significant contaminant linkage will be identified separately and liability considered for each.

6.2 Orphan Sites and Orphan Linkages

A situation may arise where there is at least one significant contaminant linkage at a site and there is no Class A or Class B person found. Then the site would be termed an "orphan site" and the enforcing authority would bear responsibility for carrying out remediation of the land and bearing the cost of that remediation.

6.3 Apportionment of Costs

Usually, the members of a liability group will have the total costs falling on the group as a whole apportioned between them. It may also be necessary to apportion the costs between liability groups. The Council will have regard to the Statutory Guidance in the application of the exclusion and apportionment tests.

6.4 Special Sites

The Council and the Environment Agency can both identify potential 'Special Sites' but a site cannot be designated a Special Site until the Council determines it as 'Contaminated Land'.

If the Council requests an inspection of a potential Special Site, the Environment Agency will prioritise this site alongside its other potential Special Site inspection requests.

Once the Council is satisfied that a site has been determined as Contaminated Land and designated a Special Site, the Council will notify the Environment Agency of this fact in writing. If the Agency disagrees on the designation, it must notify the Council of that fact in writing within 21 days.

In cases where the Environment Agency and the Council disagree the matter will be referred to the Secretary of State who may confirm or reverse the Council's decision with respect to all or part of the land. The Council will, in all cases, consult with the Environment Agency prior to giving formal notice.

If the Agency agrees or fails to inform the Council with 21 days, then the land will be designated a Special Site. The responsibility of securing remediation then passes to the Environment Agency although the Council must complete the formal notification process. This will involve the Council also notifying the owner, occupier and appropriate person with respect to that site or land.

7.0 Remediation

7.0 Purpose

Once the land has been identified as contaminated land and the relevant persons have been notified, a process of consultation begins to determine what remediation is required on that land.

The aim of remediation is to remove or take measures to remedy the identified significant contaminant linkages, or permanently to disrupt them to ensure they are no longer significant and that risks are reduced to an acceptable level, where the land would no longer qualify as contaminated land. Where this is not achievable, consideration should be given to remediation to a lesser standard to minimise risks as far as possible.

7.1 Definition of Remediation

Remediation is defined in s78A of the Environmental Protection Act 1990 as:

a) The doing of anything for the purpose of assessing the condition of –
   - (i) The contaminated land in question;
   - (ii) Any controlled waters affected by that land; or
   - (iii) Any land adjoining or adjacent to that land;

b) The doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or waters for the purpose-
   - (i) Of preventing, or minimising, or remedying or mitigating the effects of, any significant harm, or any significant pollution of controlled waters, by reason of which the contaminated land is such land; or
   - (ii) Of restoring the land or waters to their former state; or

c) The making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or waters.

7.2 Remediation Notices

Following determination of contaminated land in its area, the Council has a duty to serve a remediation notice on the appropriate person(s) following a three month consultation period unless there are no viable remedial options, voluntary remediation is being or will be undertaken without the need for a notice, or there is a need for urgent action where there is imminent risk of serious harm. In considering whether the requirement to undertake the remediation is reasonable, the Council will consider:

a) The practicability, effectiveness and durability of remediation including whether it is feasible for the appropriate person to complete the remediation specified within the timescale given, and whether this will remain a robust and effective solution for a sufficient length of time;

b) The health and environmental impacts of the chosen remedial options including whether there are any direct or indirect health effects to workers or people affected by the works, or potential for damage to the countryside, protected building and other sites of importance caused by the work;

c) The financial cost which is likely to be involved at all stages of the process including preparation, remediation, monitoring, maintenance and value of the land; and

d) The benefits of remediation with regard to the seriousness of the harm or pollution of controlled waters in question including increased land value following remediation and the likelihood of an occurrence or recurrence of pollution.

A remediation notice must specify what remediation is required and the timescales in which this must be done. When considering what remedial action is required, the Council will consult other regulatory bodies and have due regard for relevant technical guidance provided by regulatory, professional or technical organisations or act on the advice of a suitably qualified practitioner employed for that purpose.

A remediation declaration must be prepared in situations where the Council itself has caused or knowingly permitted the land to become contaminated land and is responsible for its remediation.

In accordance with the requirements of s78R of the Environmental Protection Act 1990, a copy of any remediation notices or remediation declarations prepared will be placed on the public register.

If new information comes to light that alters the extent of remediation required or an alternative remediation scheme is proposed by the responsible person, it is possible to revise or revoke all or part of the notice.

7.3 Voluntary Remediation

The Council actively encourages voluntary remediation and will work with the appropriate person(s) during the consultation period to secure the informal remediation of contaminated land without the need for a formal notice.

Where voluntary remediation is considered appropriate, a remediation statement will be used in place of a notice to record the nature and extent of remediation required, the person responsible for the remediation and the delivery timescales. In accordance with the requirements of s78R of the Environmental Protection Act 1990, a copy of the remediation statement will be placed on a public register.

7.4 Financial Considerations

The cost of remediation of contaminated land can be considerable. The cost of remediation must be reasonable and proportionate to the seriousness of the harm or pollution to controlled waters. When considering the reasonableness of costs, the Council will take into consideration:

a) Preparation costs including feasibility studies, remedial design and management

b) Remediation costs including making good afterwards

c) Land management costs including on-going monitoring and maintenance

d) Relevant disruption costs

e) Financial value and utility of the land as a result of remediation and who this affects.

The identity or financial standing of the appropriate person is not relevant when considering the remediation actions, although they may be relevant in deciding whether the cost of remediation can be imposed on such persons.

In making any cost recovery decision, the Council will have regard to the following principles:

- The authority should aim for an overall result which is fair and equitable as possible to all who may have to meet the costs of remediation, including national and local taxpayers; and
- The 'polluter pays' principle, by virtue of which the costs of remediating pollution are to be borne by the polluter. The local authority should therefore consider the degree and nature of responsibility of the Appropriate Person for creation, or continued existence, of the circumstances, which lead to the land in question being identified as contaminated land.

In general, this will mean that the Council will seek to recover, in full, its reasonable costs unless it waives or reduces the recovery of costs to:

- Avoid any 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.

7.5 Appeal Procedure

Remediation notices served by the Council will contain information on the right to appeal. The appeal period is twenty one days from service of the notice and any appeals must be made to the Secretary of State who could quash the notice or confirm it with or without modification.

7.6 Offences

Any person failing to comply with the requirements of a remediation notice is guilty of an offence and may be fined following successful prosecution.

7.7 Remediation by the Local Authority

If the Council considers that serving a remediation notice would not result in the remediation happening soon enough, it may decide to carry out the remediation itself. This may happen where:

- urgent action is required
- no appropriate person can be found (“orphan sites”)
- where persons are excluded on the grounds of hardship
- where persons responsible are in default of a remediation notice
- where an arrangement has been made whereby the council carries out the remediation on behalf of appropriate persons.

Urgent remediation will occur where the Council is satisfied that there is imminent danger of serious harm or serious pollution of controlled waters or serious harm attributable to radioactivity being caused as a result a significant pollutant linkage that has been identified. In all appropriate cases the Council will seek to recover costs of remediation works it has completed.

8.0 Liaison and Communication

8.0 Internal communication

Before any site is determined as contaminated land, relevant departments within the Council will be consulted for their views and a brief will be produced to inform senior management and Legal Services. Elected members, in whose area the site is located, will also be informed of the proposed statutory determination.

Members of the Cabinet will also be informed at the earliest opportunity of any plans to determine Council owned land where the Council might be considered the Appropriate Person and liable for remediation costs.

8.1 Communication with other statutory bodies

As a local authority, the Council is the primary regulator for dealing with land which is affected by contamination. The Environment Agency, as the national environmental regulatory body, compliments this role and thus it is important for both organisations to exchange and rely on information from each other. The Council will provide information to the Environment Agency as necessary to fulfil its duties under the contaminated land regime.

The Council will contact the Environment Agency on designation of a site as contaminated land and whenever a remediation notice, statement or declaration is issued or agreed.

The Environment Agency is also required to report annually to the Secretary of State on the state of contaminated land in England and Wales. This includes:

- A summary of local authority inspection strategies, including progress and effectiveness;
- The amount of identified contaminated land and the nature of contamination; and

- Measures taken to remediate contaminated land.

The Council will provide information, upon request, to the Environment Agency to allow it to fulfil its reporting obligations to the Secretary of State.

When considering determination of a potentially contaminated site, the Council will engage in consultation with any other organisations that might have an interest in the site or that might be able to provide help and assistance. Such organisations include other affected Local Authorities, Public Health England, the Foods Standards Agency (FSA), the HSE and DEFRA.

8.2 Communication with Stakeholders

The Council aims to proceed with the process of investigating sites in a transparent and open manner. It will act to keep interested parties informed and updated regarding progress with the site inspection, as required by the statutory guidance.

The Council is required to follow the procedures detailed in the statutory guidance when considering determination of a site as contaminated land. When requiring remediation of a contaminated site, the regulations provide an incentive for voluntary action. Also, voluntary remediation is often more likely to achieve a higher level of improvement in comparison to the minimum that can be statutorily required.

The Council will, therefore, seek voluntary action wherever possible, only considering subsequent enforcement action if voluntary action is refused or considered unlikely to satisfactorily remediate the site.

8.3 Risk communication

Reference should be made to the publication Communicating Understanding of Contaminated Land Risks - *SNIFFER (May 2010)*. The Council will be involved in the assessment of risks associated with contaminated land and ensuring that unacceptable risks from contamination are appropriately managed.

Hence, there is a need to carefully assess how to anticipate and respond to the concerns, anxieties and expectations that may arise in response to land contamination. It is not possible or practical to eliminate each and every risk, i.e. it is not practical or financially viable to remove all risks from contamination, and in some cases, it is not technically possible to do so. However, public perception and concerns are very real and should be addressed seriously and with sensitivity as part of the risk management programme.

Managing the potential conflict around the risk issues requires attention to the content of risk information, and to the appropriate procedures at relevant stages in the decision making process. The procedures should address the following:

- The need for two-way communication;
- Transparency to create trust in the regulatory role; and
- Openness to enhance the legitimacy of the overall process to the stakeholder.

Risk communication should include the overall rationale and methods behind the assessment and management process. Risk communication for a site should be flexible in terms of procedures and reflect the content and history around a particular contaminated site.

8.4 Consultation on the Inspection Strategy

Consultation on the original 'Contaminated Land Inspection Strategy (2001)' occurred with Council members, the Parish Councils, other Council departments, relevant organisations and the public. This included the Oxfordshire County Council, DEFRA, Environment Agency, English Heritage, English Nature, Food Standards Agency, HSE (Appendix A).

9.0 Information Management

9.0 Maintaining a Public Register of Contaminated Land

The Council maintains a Public Register of Contaminated Land. This is a written record of any determination that particular land is contaminated. The public register will include information on the land after determination of the land as Contaminated Land, including all data and information used to support the designation of the land as contaminated land – this can be found online at
https://www.cherwell.gov.uk/info/7/environment/464/contaminated-land

9.1 Data Storage and Requests for Access to Information

Information obtained and collated under this strategy is stored in both spreadsheet and GIS-based software. Records are also logged on the Council's information database (Idox). The Council regularly receives requests for information on contaminated land. Most of these requests are in relation to land/property purchase and transfer.

The Council is subject to the requirements of the Environmental Information Regulations 2004, the Freedom of Information Act 2000, the Data Protection Act 2018 and General Data Protection Regulations. The Council will make most of the information held by it relating to potentially contaminated land available in the public domain unless there is a good and legally valid reason not to do this.

Note that while records will be made freely available for inspection, it may not always be possible to provide or allow copies of this information because of copyright restrictions, or further copyright restrictions might apply to documents made available. There are occasional circumstances where information pertaining to land condition may be deemed commercially confidential (such as under the regulations governing environmental permitting (Environmental Permitting Regulations (England and Wales) Regulations 2016 (as amended)) and thus not made generally available. Information that if available would be prejudicial to national security or where disclosure might prejudice future legal proceedings will also be restricted.

The Council is aware that information on land contamination is a sensitive issue, as it can often contain terms and descriptions that are emotive, which if incorrectly handled would give rise to concern and blight. The Council can be contacted to provide advice and assistance with information of contamination.

The Council may make a reasonable charge for the supply of information, and for significant efforts to retrieve data.

9.2 Access to the Public Register

The public register will be made available free of charge at the Regulatory Services offices of the Council during office hours. Whilst it is not a requirement that an appointment is made, the availability of staff competent to answer any matters that may arise from inspection of the register cannot be guaranteed without prior notification.

9.3 Information to be withheld from the Public Register

As outlined in section 9.2, under certain circumstances the Council may not or cannot place information on the public register (or release in response to other requests). Circumstances where information is withheld include:

a) where it is in the interests of national security; and

b) where this is commercially confidential, or

c) where data is subject to the Data Protection Act 2018 and the General Data Protection Regulations.

Where information has been excluded from the public register for reasons of commercial confidentiality, a statement will be included on the register to indicate this.

9.4 Response to enquiries

All enquiries relating to contaminated land will be logged in Idox within the Environmental Protection Team. An initial response to the enquiry will normally be conveyed within 20 working days, except where pollution incidents are occurring during normal working hours, in which case it will be responded to on the same day.

9.5 Environmental Information Regulations

Requests for information are routinely received which will be responded to within 10 working days of receipt. An hourly charge will be made for the supply of the information in accordance with the Councils fees and charges. Where the Council must refuse a request for any of the reasons stated in the Regulations it will provide details of the reasons in writing.

The Council responds to specific written requests for information held by the authority on contamination, historic land uses and site investigation data. A disclaimer is added to the written response, making it clear that the information provided is to the best of the Councils knowledge, information and belief at that time.

This is consistent with the Environmental Information Regulations 2004. However, circumstances do exist where information is deemed confidential and will not be disclosed.

9.6 Complaints

From time to time the Council may receive a complaint relating to land contamination from a member of the public, business or community group. Interested residents may also voluntarily supply information relating to the condition of land that is not directly affecting them, their families or their properties. These complaints or acts of information provision have the potential to impact on the approach to inspection and so the procedures to be adopted are set out below.

A complaint regarding the quality of land will be dealt with as follows:

All complainants may expect:

- their complaint to be logged and recorded in the Council's database
- to be contacted by an officer regarding their complaint
- to be kept informed of progress towards resolution of the problem

Every effort will be made to resolve complaints quickly and efficiently. The legislative framework does, however, present several obstacles to the speedy resolution of problems:

i. proof of a viable pollutant linkage before any formal designation as contaminated land is permissible, which might only be possible with detailed investigation.

ii. prior consultation with interested parties before designation as contaminated land.

iii. a minimum of a three-month period between designation and serving of a remediation notice.

iv. the requirement for the enforcing authority to make every effort to identify the original polluter of the land (or "Class A" person).

The regulations allow conditions ii) and iii) to be waived in extreme cases, but not conditions i) and iv).

All complainants will be asked to supply their names and addresses and, if appropriate, the address giving rise to the complaint. The identity of the complainant will remain confidential. The only circumstance in which this information might be made public would be in the case of a remediation notice being appealed in a court of law and an adverse effect on the complainant's health was an important reason for the original contaminated land determination. If a person or organisation provides information relating to land quality, which is not directly affecting their own health, the health of their families or their property, this will not be treated as a complaint. The information supplied will be recorded in the Council's database, allowing officers to exercise professional judgement as to which legislative regime or regulatory actions are best placed to facilitate resolution of the issue. Complaints and enquiries relating to Contaminated Land or land affected by contamination will be considered by the Environmental Protection Team. There is no statutory obligation for the Council to keep the person or organisation informed of progress towards resolution, although it may choose to do so as a matter of good practice.

References

1. Environmental Protection Act 1990 Part 2A
2. Department for Environment, Food and Rural Affairs: Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance April 2012
3. Environment Agency, Model Procedures for the Management of Land Contamination, Contaminated Land Report 11
4. Cherwell Local Plan 2011 – 2031 Part 1
5. Cherwell District Council Enforcement Policy September 2014

Glossary

Appropriate Person	Defined in Section 78A(9) as 'Any person who is an appropriate person, determined in accordance with Section 78F, to bear responsibility for anything which is to be done by way of remediation in any particular case'.
Brownfield Site/Land	A site that has been generally abandoned or underused where redevelopment is complicated by actual or perceived environmental contamination. Only a small proportion of brownfield sites will meet the definition of 'Contaminated Land'.
Contaminated Land	Any land which appears to the Local Authority in whose area it is situated to be in such a condition, by reasons of substances in, on or under the land that: (a) significant harm is being caused or there is a significant possibility of significant harm being caused; or (b) pollution of controlled waters is being or is likely to be caused.
Controlled Waters	These include: (a) inland waters (rivers, streams, underground streams, canals, lakes, reservoirs); (b) groundwaters (any water contained in underground strata, wells or boreholes); (c) territorial waters (the sea within three miles of a baseline); and (d) coastal waters (the sea within the baseline up to the line of highest tide, and tidal waters up to the fresh water limit).
ConSEPT	Contaminated Site Evaluation and prioritisation Tool – Software which provides initial screening of potentially contaminated sites within a GIS environment.
Controlled Waters	These include inland waters (river, streams, underground streams, canals, lakes and reservoirs) groundwaters (any water contained in underground strata, wells or boreholes) territorial waters (the sea within three miles of a baseline) coastal waters (the sea within the baseline up to the line of highest tide, and tidal waters up to the fresh water limit)
DEFRA	Department of Environment, Food and Rural affairs
Environment Agency	a non-departmental public body, sponsored by the UK government's Department for Environment, Food and Rural Affairs (DEFRA), with responsibilities relating to the protection and enhancement of the environment in England.

GIS	Geographical Information System
Hardship	Where an appropriate person can demonstrate that carrying out a remediation action would cause him/her 'hardship', the Council will assess whether it is appropriate to require that person to carry out the remediation.
Pathway	One or more routes by which a receptor can be exposed to a contaminant
Pollutant linkage	The relationship between a contaminant, a pathway and a receptor
Ramsar site	A site protected under an international convention on protection of wetlands of international importance, especially as habitats for waterfowl, named after the city in Iran where the convention was signed
Receptor	Sometimes referred to as 'the target' - the health of a person, waters, ecosystem or property type that could be affected by contamination
Remediation	Generally accepted as being the carrying out of works to prevent or minimise effects of contamination. In the case of this legislation the term also encompasses assessment of the condition of land, and subsequent monitoring of the land
Remediation Action	Any individual thing which is being, or is to be done by way of remediation
Risk	The combined effect of the probability and consequence of a defined hazard, or the probability of exposure to harm
Risk Assessment	The study of the probability, or frequency, of a hazard occurring; and the magnitude of the consequences
Special Site	Any contaminated land designated due to the presence of: Waste acid tar lagoons, Oil refining, Explosives, Integrated pollution control sites, Nuclear sites
Site investigation	The process of undertaking investigation on land to determine the condition of that land. The staged approach usually includes a desk study including a review of historical data and a site reconnaissance, and an intrusive investigation which includes trial pitting or drilling works, soil sampling, risk assessment and remediation works.

Appendix A

List of Consultees

1. Oxfordshire County Council
2. English Heritage
3. Natural England
4. Environment Agency
5. Food Standards Agency
6. Health & Safety Executive
7. West Oxfordshire District Council (2026)

Appendix B

TABLE A – CATEGORIES OF SIGNIFICANT HARM	
Type of receptor	**Description of harm to that type of receptor that is to be regarded as significant harm.**
Human beings	Death, disease, serious injury, genetic mutation, birth defects or the impairment of reproductive functions. For these purposes, disease is to be take to mean an unhealthy condition of the body or a part of it and can include, for example, cancer, liver dysfunction or extensive skin ailments. Mental dysfunction is included only insofar as it is attributable to the effects of a pollutant on the body of the person concerned. In this chapter, this description of significant harm is referred to as a "human health effect".
Any ecological system, or living organism forming part of such a system, within a location which is part • an area notified as an area of special scientific interest under Section 28 of the Wildlife and Countryside Act 1981; • any land declared a national nature reserve under Section 35 of that Act; • any area designated as a marine nature reserve under Section 36 of that Act; • an area of special protection for birds, established under Section 3 of that Act; • any European Site within the meaning of Regulation 10 of the Conservation(Natural Habitats etc) Regulations 1994 (i.e. Special Areas of Conservation and Special Protection Areas); • any candidate Special Areas of Conservation or potential Special Protection Areas given equivalent protection; • any habitat or site afforded policy protection under paragraph 13 of the Planning Policy Guidance Noted 9 (PPG9) on nature conversation (i.e. candidate Special Areas of Conservation potential Special Protection Areas and listed Ramsar	For any protected location: • harm which results in an irreversible adverse change, or in some other substantial adverse change, in the functioning of the ecological system within any substantial part of that location; or • harm which affects any species of special interest within that location and which endangers the long-term maintenance of the population of that species at that location. In addition, in the case of a protected location which is a European Site (or a candidate Special Area of Conservation or a potential Special Protection Area), harm which is incompatible with the favourable conservation status of natural habitats at that location or species typically found there. In determining what constitutes such harm, the local authority should have regard to the advice of Natural England and to the requirements of the Conservation (Natural Habitats etc) Regulations 1994. In this Chapter, this description of significant harm is referred to as an "ecological system effect".

TABLE A – CATEGORIES OF SIGNIFICANT HARM	
Type of receptor	**Description of harm to that type of receptor that is to be regarded as significant harm.**
sites); or • any nature reserve established under Section 21 of the National Parks and Access to the Countryside Act 1949.; or • any National Park designated under the National Parks (Scotland) Act 2000.	
Property in the form of: • crops, including timber. • produce grown domestically, or on allotments, for consumption; • livestock; • other owned or domesticated animals; • wild animals which are the subject of shooting or fishing rights.	For crops, a substantial diminution in yield or other substantial loss in their value resulting from death, disease or other physical damage. For domestic pets, death, serious disease or serious physical damage. For other property in this category, a substantial loss in its value resulting from death, disease or other serious physical damage. The local authority should regard a substantial loss in value as occurring only when a substantial proportion of the animals or crops are dead or otherwise no longer fit for their intended purpose. Food should be regarded as being no longer fit for purpose when it fails to comply with the provisions of the Food Safety Act 1990. Where a diminution in yield or loss in value is caused by a pollutant linkage, a 20% diminution or loss should be regarded as a benchmark for what constitutes a substantial diminution or loss. In this chapter, this description of significant harm is referred to as an "animal or crop effect".
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”.	Structural failure, substantial damaged or substantial interference with any right of occupation. For this purpose, the local authority should regard substantial damage or substantial interference as occurring when any party of the building ceases to be capable of being used for the purpose for which it is or was intended. Additionally, in the case of a scheduled Ancient Monument, substantial damage should be regarded as occurring when the damage significantly impairs the historic, architectural, traditional, artistic or archaeological interest by

TABLE A – CATEGORIES OF SIGNIFICANT HARM	
Type of receptor	**Description of harm to that type of receptor that is to be regarded as significant harm.**
	reason of which the monument was scheduled. In this chapter, this description of significant harm is referred to as a "building effect".

TABLE B SIGNIFICANT POSSIBILITY OF SIGNIFICANT HARM	
Descriptions of Significant Harm	**Conditions for There Being a Significant Possibility of Significant Harm**
Human health effects arising from • the intake of contaminant, or • other direct bodily contact with a contaminant	If the amount of the pollutant in the pollutant linkage in question: • which a human receptor in that linkage might take in, or • as a result of the pathway in that linkage, would represent an unacceptable intake or direct bodily contact, assessed on the basis of relevant information on the toxicological properties of that pollutant. Such an assessment should take into account: • the likely total intake of, or exposure to, the substance or substances which form the pollutant, from all sources including that from the pollutant linkage in question; • the relative contribution of the pollutant linkage in question to the likely aggregate intake of, or exposure to, the relevant substance or substances; and • the duration of intake or exposure resulting from the pollutant linkage in question. • The question of whether an intake or exposure is unacceptable is independent of the number of people who might experience or be affected by that intake or exposure. Toxicological properties should be taken to include carcinogenic, mutagenic, teratogenic, pathogenic, endocrine-disrupting and other similar properties.
All other human health effects (particularly by way of explosion or fire)	If the probability, or frequency, of occurrence of significant harm of that description is unacceptable, assessed on the basis of relevant information concerning: • that type of pollutant linkage, or • that type of significant harm arising from other causes. Such an assessment should take into account the levels of risk which have been judged unacceptable in other similar contexts.

TABLE B SIGNIFICANT POSSIBILITY OF SIGNIFICANT HARM	
Descriptions of Significant Harm	**Conditions for There Being a Significant Possibility of Significant Harm**
All ecological system effects	If significant harm of that description is more likely than not to result from the pollutant linkage in question, taking into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.
All animal and crop effects.	If significant harm of that description is more likely than not to result from the pollutant linkage in question, taking into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.
All building effects	If significant harm of that description is more likely than not to result from the pollutant linkage in question during the expected economic life of the building (or, in the case of a scheduled relevant information for that type of pollutant linkage.