

## Report to Cabinet

12<sup>th</sup> January 2017

By the Cabinet Member Housing and Public Protection

**DECISION REQUIRED**



**Horsham  
District  
Council**

Not Exempt

### Contaminated Land Inspection Strategy

#### Executive Summary

Since April 2000 Part IIA of the Environmental Protection Act 1990 has required local authorities to produce a written inspection strategy to identify areas of contaminated land in their districts.

The Council's original contaminated land inspection strategy was agreed by Cabinet in September 2001 and was reviewed and amended in 2007. Following this review and statutory consultation a new contaminated land strategy is recommended to be adopted and published.

#### Recommendations

That the Cabinet is recommended:

- i) To approve the new Contaminated Land Inspection Strategy set out at Appendix 1 to this report.

#### Reasons for Recommendations

- i) All local authorities are under a statutory duty to review their contaminated land inspection strategies
- ii) The outcome of the consultation did not result in any objections to the proposed new inspection strategy.

**Background Papers:** Horsham District Council's Contaminated Land Inspection Strategy 2007.

**Wards affected:** All

**Contact:** Lee Money, Area Environmental Health Officer, Ext 5410.

## **Background Information**

### **1 Introduction and Background**

- 1.1 Since April 2000 Part IIA of the Environmental Protection Act 1990 has required local authorities to produce a written inspection strategy to identify areas of contaminated land in their districts.
- 1.2 The Council's original contaminated land inspection strategy was agreed by Cabinet in September 2001 and was reviewed and amended in 2007. The existing strategy is due for review.

### **2 Relevant Council policy**

- 2.1 The Council has an existing Contaminated Land Inspection Strategy which this report seeks to update.
- 2.2 The objectives under this Strategy are congruent with HDC's Corporate Plan 2016 – 2019 and its priority to manage the built and natural environments and support local communities.

### **3 Details**

- 3.1 Since the adoption of the previous contaminated land inspection strategy there has been a number of revisions to the statutory guidance and government policy relating to contaminated land. In addition recent constraints have emerged such as the removal of government funding for investigation and remediation work together with the reduced support for local authorities from the Environment Agency. These constraints will impact on how the Council fulfils its statutory duties. The statutory guidance on contaminated land also requires that the strategy be reviewed from time to time.
- 3.2 Following the revision of the Council's contaminated land strategy in 2007 substantial progress has been made in meeting the targets identified. All sites considered as potentially having significant risk have been visited and preliminary site walkover inspections completed. No sites have been found which required remediation

Intrusive inspections undertaken by specialist consultants have been carried out at a number of sites. These include:

Storrington gas works - risks from hydrocarbon vapour, cyanides and phenols  
Former Nightingales nurse - asbestos fibre concentrations in garden soils

The gas works investigation was funded through a successful grant bid to DEFRA and the Nightingales nursery site was assessed using a novel sampling protocol developed in conjunction with the Institute of Occupational Medicine.

The investigation work completed under the previous strategy has helped to ensure the council can continue to administer land contamination issues effectively for the foreseeable future.

- 3.3 The revised strategy details the general background to the contaminated land legislation and the particular characteristics of Horsham District. The strategy outlines the Council's priorities and how the contaminated land regime is to be implemented.
- 3.4 The Environmental Health and Licensing Department is responsible for implementing the Council's contaminated land inspection strategy and for undertaking its enforcement duties. The Council is the lead regulator on contaminated land but, whenever necessary, the Council will work in partnership with external agencies and other interested parties in dealing with the issues of identification and remediation of contaminated land.

## **4 Next Steps**

- 4.1 The Cabinet are recommended to approve the Contaminated Land Inspection Strategy set out at Appendix 1 to this report to take immediate effect.

## **5 Views of the Policy Development Advisory Group and Outcome of Consultations**

- 5.1 The proposed policy changes were considered by the Housing and Public Protection Policy Development and Advisory Group at its meeting on 7<sup>th</sup> November 2016. The Group was fully supportive of the new strategy and approved the draft strategy for consultation.
- 5.1 We received no comments from the statutory consultees as set out in Appendix 3 to the revised strategy.
- 5.2 A copy of the draft inspection strategy was also put on the Council Website and no comments were received.
- 5.3 The Monitoring Officer advised that the statutory guidance on contaminated land requires that the strategy be reviewed from time to time.
- 5.4 The Director of Corporate Resources advised that whilst the revised strategy has not identified any further sites that require proactive investigation there remains a financial risk of dealing with urgent sites where no liable persons can be established. Such sites are termed "orphan sites".

## **6 Other Courses of Action Considered but Rejected**

- 6.1 Not to review the strategy but this would be counter to the duty to do so.

## **7 Resource Consequences**

- 7.1 The revised strategy has not identified any further sites that require proactive investigation and confirms that the planning system will continue play the dominant role in dealing with sites that are affected by contamination within the District.

However there remains a financial risk of dealing with urgent sites where no liable persons can be established.

## **8 Legal Consequences**

- 8.1 Part IIA of the Environmental Protection Act 1990 requires local authorities to produce a written inspection strategy to identify areas of contaminated land in their districts. The statutory guidance on contaminated land also requires that the strategy be reviewed from time to time.

## **9 Risk Assessment**

- 9.1 There are no new risks associated with the revised contaminated land inspection strategy.
- 9.2 Local authorities' statutory duties in respect of contaminated land remain but central government financial support has been removed. HDC has registered dealing with contamination at an "orphan site" as a corporate risk on the Council's "Corporate Risk Register".

## **10 Other Considerations**

- 10.1 Action under the proposed strategy would be taken without discrimination and in accordance with the statutory provisions.