

<b>REPORT TO:</b>	<b>ENVIRONMENT &amp; DEVELOPMENT SERVICES COMMITTEE</b>	<b>AGENDA ITEM: 10</b>
<b>DATE OF MEETING:</b>	<b>27<sup>th</sup> SEPTEMBER 2018</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>STRATEGIC DIRECTOR (SERVICE DELIVERY)</b>	<b>OPEN</b>
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<b>SUBJECT:</b>	<b>CONTAMINATED LAND INSPECTION STRATEGY</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: EDS14</b>

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## **1. Recommendations**

- 1.1. That the Committee approves the adoption of an updated Contaminated Land Inspection Strategy.

## **2. Purpose of Report**

- 2.1. To seek the Committees approval to the adoption of a Contaminated Land Inspection Strategy covering the period 2018-2023. The document sets out South Derbyshire District Council's proposed approach to managing the risks associated with contaminated land, while balancing legal and precautionary principles with effective regulation and is geared towards not un-necessarily burdening sustainable development.

## **3. Background**

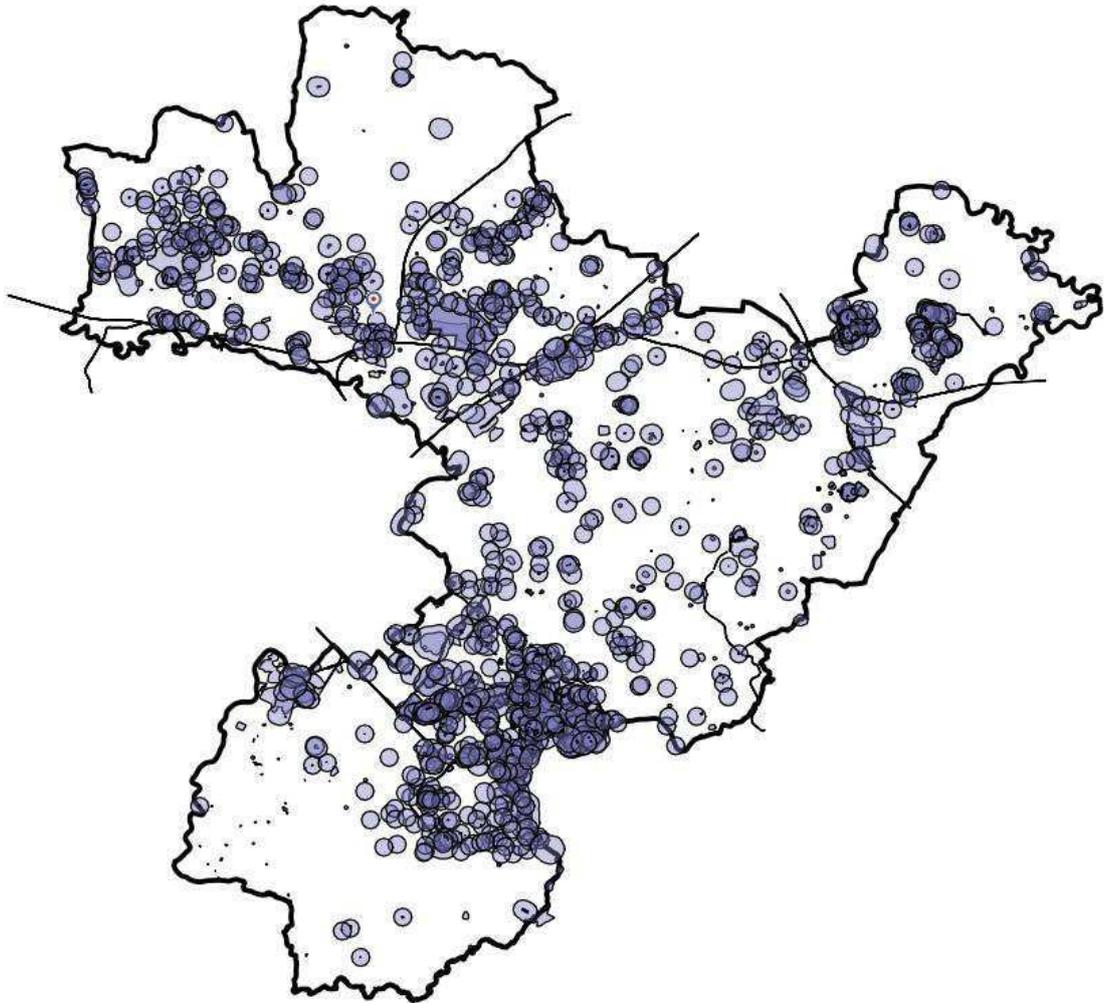
- 3.1. Part 2A of the Environmental Protection Act 1990 is the primary legislation concerning contaminated land. Part 2A's broad objectives are to:

- Reduce risk to human health, ecological systems, the built environment and controlled waters from historical contamination, ensuring sites are made "Suitable for Use" following development or immediately if the risk is significant enough.
- Define a framework for risk assessment, determination and remediation.
- Through strategic inspection, require local authorities to identify, determine land as contaminated, then coordinate remediation.

- 3.2. Under the statutory requirements of Part 2A of the Environmental Protection Act 1990, South Derbyshire District Council has had a Contaminated Land Inspection Strategy in place since July 2001. To date the Strategy has provided a framework to build SDDC's contaminated land records, to risk rate sites and to prioritise Council inspection of "high risk" sites.

3.3. Since 2001, over 2,000 sites in South Derbyshire have been risk rated as illustrated in Figure 1 below. The data processed to comply with the previous Strategies has enabled the Council to consider the potential land quality implications of approximately 4,600 planning applications and has led to an estimated 500 sites being cleaned up as a result of planning conditions.

**Figure 1 – Risk Rated Sites of Potential Contamination**



3.4. Following a significant review by the government of the statutory guidance issued to local authorities in 2014, the most recent revision to the Strategy was approved by this Committee in March 2014. A review of the current Strategy was, therefore, timely.

3.5. The overall aims of the revised Strategy are:

- To ensure compliance with and enforcement of Part 2A of the Environmental Protection Act 1990.
- To ensure that where redevelopment of land takes place within South Derbyshire, the planning and building control process deals effectively with any land contamination so that the land is rendered suitable for its intended use.
- To take a proactive approach to determine the status of highest risk sites.
- To further improve management of the Council's corporate land assets.

- To prevent any further contamination of land.
- To encourage voluntary remediation.

#### **4. Proposed Changes**

- 4.1. The draft updated Strategy is shown as Appendix 1. There have been no significant statutory or policy changes since 2014 and therefore the content of the policy remains largely unchanged.
- 4.2. The most significant alteration is the proposed removal of a commitment within the current Strategy to *“Produce and publish an ACUMEN (Assessing, Capturing and Utilising Methane from Expired and Non-operational landfills) directed project appraisal for expired and non-operational landfill sites in the District. Assessing the feasibility of all known sites and establishing options for landfill gas mitigation and potential methane utilisation”*.
- 4.3. ACUMEN was a national project run by the Environment Agency which was closed in April 2015. Unfortunately, no sites in South Derbyshire were included in the five sites which were selected for the project. Officers are not aware of any proposals in the foreseeable future for the development of similar projects, therefore the removal of this reference within the Strategy is considered appropriate.

#### **Phase 1 Assessments**

- 4.4. The Strategy has retained a commitment, originally adopted in 2014, to undertake four Council directed ‘Phase 1’ investigations of the highest risk sites in the District per year.”
- 4.5. Phase 1 risk assessments consist of desk-top studies and site walk-over assessments to help provide qualitative evidence of the risk of the site in question being contaminated. The purpose of a Phase 1 assessment is to determine the need to progress to an intrusive investigation into the site to analyse soil samples and ground gases for quantitative evidence of contamination (called a Phase 2 investigation).
- 4.6. In 2016/17 and 2017/18 the Corporate Action Plan contained the commitment to undertake four Phase 1 contaminated land assessments per annum. As a result of this commitment a total of eight proactive assessments were undertaken. The sites were selected because either they had been rated as of highest risk due to their former use, or they were at sites which the Council were keen to help facilitate to redevelop and the Phase 1 assessment was a means of helping in that process.
- 4.7. Of the eight Phase 1 assessments undertaken, none of them were considered sufficiently high risk to warrant moving to a Phase 2 assessment. Given that these sites were considered to be the most likely within the District to be contaminated, this has provided confidence that there is very little likelihood that any of the 2,000 sites identified as having a historical contaminative legacy are likely to be having an adverse effect on human or ecological health.
- 4.8. It is, therefore, proposed to focus future Phase 1 studies on Council owned land (in order to manage its own risks as landowner), or on privately owned sites which the Council is keen to develop (in order to reduce development costs).

## **5. Implementation**

- 5.1. Once adopted, the Strategy will be made publically available on the Council's website and upon request in hard copy from the Environmental Health Team.
- 5.2. Progress and compliance with the Strategy will be monitored through the Corporate and Service planning performance framework.

## **6. Corporate Implications**

- 6.1. The contents of the Contaminated Land Strategy meet the Corporate Plan theme of 'People' and specifically the aim PE3 to "Use existing tools and powers to take appropriate enforcement action". It also meets the 'Place' theme and specifically aim PL6 "Deliver service that keep the District clean and healthy".

## **7. Community Implications**

- 7.1. The contents of the Contaminated Land Strategy meet the Sustainable Community Strategy theme of "High quality development that minimises the impact on the environment".
- 7.2. The proposals have no adverse impacts on groups of people with protected characteristics, will have a net positive impact on our communities and will have no adverse impact on inequality.
- 7.3. The report has no impact on the Armed Forces Community Covenant.

## **8. Conclusions**

- 8.1. The Contaminated Land Inspection Strategy fulfils the Council's legal responsibility in meeting the requirements of Part 2A of the Environmental Protection Act 1990. The Strategy sets out the processes by which the District Council will ensure that all land within the District is 'fit for use' and shows how the Council will continue to use the planning process to ensure that any new development safeguards both existing and new sensitive receptors.

## **9. Background Papers**

- 9.1. South Derbyshire Contaminated Land Inspection Strategy 2012-17.