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| REPORT TO: | ENVIRONMENTAL & DEVELOPMENT SERVICES COMMITTEE | AGENDA ITEM: 8 |
| DATE OF MEETING: | 29th JANUARY 2004 | CATEGORY: RECOMMENDED |
| REPORT FROM: | MARK ALFLAT – DIRECTOR OF COMMUNITY SERVICES | OPEN |
| MEMBERS’ CONTACT POINT: | ALAN TWELLS –EXT 5945 or ADAM SPENCER – EXT 5903 | DOC: |
| SUBJECT: | REVISION OF CONTAMINATED LAND INSPECTION STRATEGY | REF: |
| WARD(S) AFFECTED: | ALL | TERMS OF REFERENCE: ES14 |

1.0 Recommendations

- 1.1 Members note the amendments made to the South Derbyshire District Council Contaminated Land Inspection Strategy.
- 1.2 Members note the progress made in the implementation of the inspection strategy.
- 1.3 Members approve the revised timetable for the inspection of the District in line with the strategy.

2.0 Purpose of Report

- 2.1 To outline to members the progress made so far in the implementation of the Contaminated Land Inspection Strategy, approved by the Urgency Sub Committee on the 25th June 2001.
- 2.2 A complete revision of the strategy has been undertaken to determine any amendments required as a result of changes to legislation, guidance and resources. The report highlights the amendments to the report along with a revised timetable.

3.0 Detail

- 3.1 Part IIA of the Environmental Protection Act 1990, came into force in April 2000 and placed a statutory duty on all Local Authorities to inspect it's area for contaminated land.
- 3.2 As part of this duty all Local Authorities were required to formulate and implement an inspection strategy by the end of June 2001. This was completed and the initial strategy was approved by the Urgency Sub Committee on the 25th June 2001.
- 3.3 A full copy of the original strategy is available on the Council Web site, from Environmental Health and a copy has been placed in the Members room.

3.4 The Council's main duties within this regime are: -

- To draw up an inspection strategy
- To inspect its area in order to identify contaminated land
- To determine if a site is 'contaminated' in accordance with the legislation
- To establish the 'appropriate person' for remediation of the land
- To decide on what remediation shall be undertaken
- To compile a public register of contaminated sites

3.5 The strategy outlined how the work was to be undertaken and also detailed that the strategy would be regularly reviewed in line with changes to legislation, guidance and resources of the Council.

3.6 It was made clear that the inspection of the District would take a significant amount of data collection and analysis. This would involve a considerable amount of time and resources. Due to the appointment of the Pollution Control Officer (Contaminated Land) within Environmental Health in August 2003 the Division has now been able to review the strategy and progress our inspection work.

3.7 Annex A outlines in detail the specific amendments that have been made to the strategy. Most of the amendments made are as a result of new and updated guidance issued by the government and information collated by the Division. The most significant of these being the publications of the Contaminated Land Reports (CLR's), which are a series of reports issued by DEFRA giving guidance to Local Authorities on a number of issues and in particular guidance on the human health risk of contaminated sites and associated soil guideline values.

3.8 One of the main changes to the strategy is an amendment to the inspection timetable, which is now as detailed below:-

| <i>Objective</i> | <i>Completion Date</i> |
|---|---|
| Consultation Strategy | June 2001 |
| Publication | July 2001 |
| Collection Of Information | 2004 see Chapter 5 for more information |
| Prioritisation | Ongoing |
| Site Investigations | Ongoing – completed 2005 |
| Determination of contaminated land | Ongoing – immediately once land is designated |

3.9 The main amendment to the timetable is that the collation of information was envisaged to be completed by the end of 2003. However, as the Contaminated Land Officer only commenced employment with the Council in August 2003, it has only been possible to start this work towards the end of 2003. It is envisaged that the collection of information concerning sites within the District will be completed by the end of 2004.

- 3.10 Specific site investigation work should then commence and hopefully be completed by 2005. It should be noted, however, that numerous sites are already being dealt with through the planning process. The development of 'Brownfield' sites has resulted in a number of sites with old industrial contamination being remediated to ensure the sites are suitable for the intended use, i.e. residential or industrial.
- 3.11 It is not anticipated that a lot of sites will be found that fully fit the definition of 'Contaminated Land'. However, those that do will need more work in order to determine the site and this will be ongoing both during and after the initial site investigation work. Some of this may require on site intrusive investigations work.
- 3.12 The strategy implementation progress will continue to be monitored and reported to Committee.
- 3.13 The main progress in the implementation of the strategy to date is as follows:-
- Commencement of the Pollution Control (Contaminated Land) Officer in August 2003.
 - Complete revision of the strategy in line with new guidance issued and information collated.
 - Formulation of a SDDC Contaminated Land Guidance for Developers, also available on the web site.
 - Formulation of an inspection protocol for sites within the district to ensure each site is assessed in a consistent manner.
 - Over 1,500 sites requiring further assessments have been initially identified using old maps and basic information logged on a spreadsheet, which will form the basis of the initial site prioritisation work.
 - Collation of data from the Environment Agency, British Geological Survey, Derbyshire Library Service and other agencies.
 - Formulation of numerous responses to planning applications, requiring site investigation reports and subsequent remediation depending on the findings.
- 3.14 Additionally, the Division is increasingly having to respond to specific enquiries and searches in relation to sites, particularly during property transactions.
- 3.15 The Contaminated Land Officer is also part of the Derbyshire Contaminated Land Group, which is made up of all Contaminated Land Officers within Derbyshire and the Environment Agency. The group organise training events, specialist speakers and formulate standard documents and share experiences etc.
- 3.16 The above information highlights both the amendments to the Inspection Strategy and the progress to date. It is difficult to quantify at this stage the full implications of the work required and the exact time it will take, as this will be dependant on the number of sites requiring detailed investigations and subsequent remediation.

4.0 Financial Implications

- 4.1 It is not possible to determine at this stage of the implementation of the strategy what financial resources will be required. However, members should be aware of the possible implications as a result of this regime.
- 4.2 It may be necessary to undertake on site intrusive investigation work, which would involve the use of external companies. Such investigation work could be in the region of £20,000 per site, dependent on the size, nature and extent of contamination.

- 4.3 If the Council are found to have responsibility to undertake the remediation of a site then this could involve significant resources, which could be in the region of £100,000 plus. Again this could be less and is dependent on the extent and nature of the contamination found. For both on site sampling work and also remediation the government have made available Supplementary Credit Approval (SCA) money, which is open to bids for assistance from all Local Authorities.
- 4.4 The Council will be able to recover reasonable costs for remediation work undertaken from the 'appropriate person'. This would normally be the person or company who caused the contamination. However, in most cases the contamination is caused by industries that have long ceased trading, so the responsibility may then fall on the owner.
- 4.5 The Council must also consider the hardship of the responsible person in determining any recovery of costs. A further possibility may be in placing a charge on the land so that when it is sold some recovery of costs are possible.
- 4.6 If no responsible person can be found then the site will be deemed to be an 'orphan' site and will be the responsibility of the Local Authority.
- 4.7 Additional resources, such as computer programs for the management of data, may also be required in order to assist in the implementation of the process. Training will also be required for staff involved in the process, which will be addressed through the PDR process. If all of the above cannot be met within existing budgets then these will form part of the Council's Service Development bidding proposals.

5.0 Corporate Implications

- 5.1 Under Part IIA of the Environmental Protection Act 1990, the Council has a statutory duty to inspect its' area for Contaminated Land. The Inspection Strategy and amendments outlined above detail how this will be undertaken.
- 5.2 The Council will also have responsibility for the remediation of certain sites that are declared to be 'Contaminated Land' under the aforementioned Act. This could be as the owner, a site where the liability cannot be determined or other circumstances where it is deemed not to be appropriate for the site owner to undertake the work.

6.0 Community Implications

- 6.1 The continued implementation of the Contaminated Land Strategy will bring about the clean up and remediation of many sites within the District. This will have the effect of ensuring that the general environment is improved and the protection of public health of residents living within the area.

7.0 Conclusions

- 7.1 South Derbyshire District Council's Contaminated Land Inspection strategy has now been reviewed and amended as outlined within Annex A.
- 7.2 The new Pollution Control Officer (Contaminated Land) commenced work during August 2003, which has allowed further progress to be made in the implementation of the strategy.

7.3 Members are being asked to note the amendments to the strategy, the progress being made and approve the revised timetable.

8.0 Background Papers

8.1 South Derbyshire District Council Contaminated Land Inspection Strategy – June 2001

8.2 South Derbyshire District Council Contaminated Land Inspection Strategy – Amended December 2003

8.3 DETR Circular 02/2000 Environmental protection Act 1990:Part IIA – Contaminated Land.

8.4 Contaminated Land Reports CLR's series – DEFRA & Environment Agency

