

## **FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:**           **CABINET**

**DATE:**               **TUESDAY, 21 MAY 2013**

**REPORT BY:**       **DIRECTOR OF ENVIRONMENT**

**SUBJECT:**           **CONTAMINATED LAND INSPECTION STRATEGY**

### **1.00 PURPOSE OF REPORT**

1.01 To seek approval to adopt Flintshire's Contaminated Land Inspection Strategy, following updated Welsh Government guidelines which place a statutory duty on Councils to update their approach for Contaminated Land accordingly.

### **2.00 BACKGROUND**

2.01 On 1<sup>st</sup> July 2001, Part IIA of the Environmental Protection Act 1990, statutory guidance and Regulations<sup>1</sup> associated with it were enacted in Wales to replace Section 79 of the Environmental Protection Act 1990 to provide Local Authorities and the Environment Agency (now Natural Resources Wales) with a means of identifying and addressing unacceptable risks to health or the environment from land contamination.

2.02 The Council first published its Contaminated Land Inspection Strategy in 2002 and was last revised in 2008. Since then a number of investigations to assess land contamination have been carried out and significant changes to legislation and guidance documents have taken place.

2.03 The revision of the Strategy has taken these changes into account and amendments have been made where necessary.

2.04 The Contaminated Land Inspection Strategy describes how Flintshire County Council will identify sites within its administrative control that may be affected by land contamination and it explains the steps that the Council will take to investigate the land and secure the remediation of contamination.

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<sup>1</sup> The Contaminated Land (Wales) Regulations 2001.

### **3.00 CONSIDERATIONS**

- 3.01 In April 2012, new statutory guidance<sup>2</sup> was published by the Welsh Government to replace the previous statutory guidance which was published to support the introduction of Part IIA in 2001.
- 3.02 In addition to the existing requirements, the new statutory guidance introduced a requirement for Councils to;
- Produce a risk summary to explain the outcome of an assessment of a piece of land and the Councils' understanding of the risks to receptors and any other issues associated with the site that are considered to be relevant once the assessment is complete.
  - Take socio-economic factors, for example property blight, stress related effects on health that may be experienced by affected individuals and the perceptions of the wider community, into account when deciding whether or not works to address land contamination is required.
- 3.03 The new statutory guidance also allows Councils to take 'normal' levels of contamination into account in their assessment of a site e.g. It is common to find elevated levels of lead and other metals in the soil around lead mines and in areas where lead veins are present in underlying geological features.
- 3.04 The Strategy in Appendix 1 takes into account the changes required by the updated statutory guidance as described above.
- 3.05 One of the key objectives of the Strategy is to minimise the unnecessary burden of cost to the taxpayer, businesses and individuals.
- 3.06 The 'Polluter Pays' principle applies to Part IIA of the Environmental Protection Act 1990, and the responsibility for land contamination rests with those who caused it, the owner or occupier of the land or the person developing the land. The Council will make reasonable enquiries to identify and trace those responsible for causing the contamination and each individual link between contamination and receptor and will offer them an opportunity to carry out remedial works voluntarily.
- 3.07 Where the works cannot be secured voluntarily, enforcement action against those responsible for the contamination will be taken.

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<sup>2</sup> Welsh Government (2012), Contaminated Land Statutory Guidance – 2012.

#### **4.00 RECOMMENDATIONS**

4.01 That Members adopt the Contaminated Land Strategy set out in Appendix 1.

#### **5.00 FINANCIAL IMPLICATIONS**

5.01 There are no financial implications as a direct result of this, other than:

5.02 1. Where the works cannot be secured voluntarily appropriate enforcement action will be taken.

5.03 2. Where those responsible for the contamination cannot be identified and traced and the site is orphaned, as with the current strategy, the Council will be responsible for carrying out the works and seeking funding for them Nationally.

#### **6.00 ANTI POVERTY IMPACT**

6.01 Any works which are required to be carried out where the person responsible for causing land contamination cannot be found will be secured in accordance with the appropriate anti-poverty policy to minimise financial burdens on individuals and communities.

6.02 Some sites are located in densely populated areas and have the potential to affect large groups, large numbers of properties and significant areas of a community.

6.03 The revised statutory guidance allows the Council to take socio-economic factors for example property blight, stress related effects on health that may be experienced by affected individuals and the perceptions of the wider community, into account when deciding whether or not works are required.

#### **7.00 ENVIRONMENTAL IMPACT**

7.02 The amount of Contaminated Land in Flintshire will be reduced and risks to the health of residents, to their property and to the natural environment will be minimised and monitored.

#### **8.00 EQUALITIES IMPACT**

N/A

#### **9.00 PERSONNEL IMPLICATIONS**

N/A

**10.00 CONSULTATION REQUIRED**

10.01 None

**11.00 CONSULTATION UNDERTAKEN**

11.01 The following service areas have been consulted on the updated Strategy;

- Property, Valuation and Estates
- Planning Strategy
- Public Protection
- Regeneration

**12.00 APPENDICES**

12.01 Appendix 1 – Contaminated Land Strategy. This can be viewed in the Members' Library or on the website.

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985  
BACKGROUND DOCUMENTS**

None

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