MANCHESTER
CITY COUNCIL

Planning & Contaminated Land

Technical Guidance

February 2021

Environmental Protection
Environmental Health
Neighbourhoods Directorate
Manchester City Council

Tables

Service Aim

This guidance aims to provide help and advice in relation to land contamination in a planning context to encourage good practice and mitigation of impacts. It outlines what is expected in relation to current guidance and policy with the aspiration that new developments achieve the highest possible standards without compromising the health and well-being of people that live and work within the City of Manchester.

Applicants, developers, landowners and contaminated land consultants are advised to read this document prior to submitting a planning application.

This document is written to serve as an informative and a helpful source of advice. Readers must note that legislation, guidance and practical methods may be subject to change. The Council has taken all reasonable precautions to ensure the information is correct. However, the Council, its officers, servants, or agents, will not accept any liability for loss or damage caused by any person relying on this information, or for any errors or omissions in the information provided.

Overview

Many areas of the City have previously been occupied by a variety of industrial activities. Historically, the predominant industries included textile and dye works, heavy engineering works, chemical works, gas works and brickworks. In general, early industrialists had little or no knowledge of the environmental effects of their manufacturing processes or operating practices. Consequently, over a period of time a particular site may have been home to a variety of industries, each of which may have left substances in the ground that may be hazardous to human health and the environment. Additionally, more recent activities may also have had a detrimental impact on the environment.

As the Government encourages more redevelopment on brownfield land, developers now have to take into account the possibility of land contamination. The purpose of this guide is to make applicants, developers and their advisors aware of the information that Manchester City Council (MCC) requires in assessing an application for planning consent on land that may be affected by the presence of contamination.

In order to assess submitted information, the Environmental Protection Team would expect a developer to demonstrate that due consideration has been given to the guidance contained within this document.

For more detail on the underpinning principles on which this document is based, the reader is directed to the Land Contamination Risk Management (LCRM) information from the Environment Agency (EA) and the National Planning Policy Framework (NPPF)

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1.0 What is Contaminated Land

Local Authorities are responsible for addressing land contamination issues within two separate regimes: The Contaminated Land Regime (commonly known as Part 2A) and the Planning Regime (Development Control).

1.1 Definition under Part 2A of the Environmental Protection Act 1990

The definition of contaminated land (from Section 78A(2) of the Environmental Protection Act 1990 (EPA 1990) is; 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 the significant possibility of such harm being caused; or
b) significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused

Part 2A of the EPA 1990, as inserted by Section 57 of the Environment Act 1995, was brought into force on 01 April 2000. It requires all local authorities to identify contaminated land in its area and secure its remediation to a condition suitable for its current use.

To fall within the Part 2A definition, the land when assessed in the context of its current use must be capable of causing significant harm to human health or other specified receptors and/or significant pollution of controlled waters. Development of land will have to take into account Part 2A because a change in the use of the land may bring the development inside the statutory definition of contaminated land by creating a pollutant linkage.

A key element of the Part 2A regime is the Source-Pathway-Receptor pollutant linkage concept. Each element is defined as follows:

- The source is the contamination in, on or under the land;
- The pathway is the route by which the contamination reaches the receptor, and;
- The receptor is defined as living organisms, ecological systems or property which may be harmed.

Without the clear identification of all three elements of the pollutant linkage, land cannot be identified as contaminated land under the regime.

1.1.1 Impacts to Human Health

1. Uptake of contaminants by food plants grown in contaminated soil: Heavy metals (e.g. cadmium, lead) and persistent organic pollutants including certain pesticides and veterinary products may result in an accumulation in food plants to concentrations where they exceed legal limits and/or may pose a hazard to human health. Uptake will depend on concentration in soil, its chemical form, soil pH, plant species and prominence in diet.
2. Ingestion and inhalation: Substances may be ingested directly by young children playing on contaminated soil, by eating plants which have absorbed metals or are contaminated with soil or dust. Ingestion may also occur via

contaminated water supplies. Metals, some organic materials and radioactive substances may be inhaled from dusts and soils.

3. Skin contact: Soils containing tars, oils and corrosive substances may cause irritation to the skin through direct contact. Some substances (e.g. phenols) maybe absorbed into the body through the skin or through cuts and abrasions.
4. Irradiation: As well as being inhaled and absorbed through the skin, radioactive materials emitting gamma rays can cause a radiation response at a distance from the material itself.
5. Fire and explosion: Materials such as coal, coke particles, oil, tar, pitch, rubber, plastic and domestic waste are all combustible. If heated by contact with buried power cables or careless disposal of hot ashes they may ignite and burn underground. Both underground fires and biodegradation of organic materials may produce toxic or flammable gases. Methane and other gases may explode if allowed to accumulate in confined spaces.

1.1.2 Impacts to Buildings

1. Fire and explosion: Underground fires may cause ground subsidence and cause structural damage to buildings. Accumulations of flammable gases in confined spaces leads to a risk of explosion. Underground fires may damage building services.
2. Chemical attack on building materials and services: Sulphates may attack concrete structures. Acids, oils and tarry substances may accelerate corrosion of metals or attack plastics, rubber and other polymeric materials used in pipe work and service conduits or as jointing seals and protective coatings to concrete and metals.
3. Physical: Blast-furnace and steel making slag (and some natural materials) may expand if ground conditions are changed by development. Degradation of fills may cause settlement and voids in buried tanks and drums may collapse as corrosion occurs or under loading from construction traffic.

1.1.3 Impacts to the Natural Environment

1. Phytotoxicity (prevention/inhibition of plant growth): Some metals are essential for plant growth at low levels and are phytotoxic at higher concentrations. Methane and other gases may give rise to phytotoxic effects by depleting the oxygen content in the root zone.
2. Contamination of water resources: Soil has a limited capacity to absorb, degrade or attenuate the effects of pollutants. When this is exceeded, polluting substances may enter into surface and groundwater.
3. Ecotoxicological effects: Contaminants in soil may affect microbial, animal and plant populations. Ecosystems or individual species on the site, in surface waters or areas affects by migration from the site may be affected.

1.2 Planning definition

The planning system uses a slightly different definition for contaminated land, which is not based solely on the legal definition set out in Part 2A. A wider range of contamination and receptors is relevant to planning but the degree of harm or pollution and the approach to remediation are essentially the same.

However, to avoid confusion with the term Contaminated Land the planning regime uses the wider term land affected by contamination. This is intended to cover all cases where the actual or suspected presence of substances in, on or under the land may cause risks to people, human activities or the environment, regardless of whether or not the land meets the statutory definition in Part 2A.

The NPPF states that; as a minimum, the land should not be capable of being determined as contaminated land under Part 2A of the EPA 1990

The principal difference is that under the planning system, risks have to be assessed based upon the new or intended use of the land, rather than the existing use.

However, the principles underlying both regimes are fundamentally the same, namely, the identification and remediation of land that may pose a risk to human health and/or the environment.

Typical causes of land contamination include previous industrial or commercial usage, mining, and the landfilling of wastes. Land can also become contaminated due to its proximity to contaminated areas.

Part 2A was designed and intended to encourage voluntary remediation and should only be used where no appropriate alternative solution exists. The Contaminated Land Strategy published by the Council provides details of the planning system to ensure land is made suitable for use when it is redeveloped and/or encouraging polluters and owners of land to deal with problems without the need for Part 2A to be used directly.

1.3 Types of contamination

Contaminating substances may include,

- Metals e.g. cadmium, arsenic, lead, iron, nickel, chromium
- Inorganic compounds e.g. cyanide, ammonium, chlorides
- Organic substances e.g. oils, petrol, solvents, phenols, PAHs, PCBs
- Gases e.g. methane, carbon dioxide, hydrogen sulphide, volatiles
- High or low pH

Contamination may not occur solely as a result of human activities and land can be contaminated as a result of its natural state. For example, in Greater Manchester, marsh gas can cause a contamination problem, particularly in areas previously occupied by moss land.

2.0 Roles and responsibilities

2.1 Role of the Owner/Developer

Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended.

The developer is therefore responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In order to demonstrate this, the developer should determine:

1. Whether the land in question is already affected by contamination through source – pathway – receptor pollutant linkages;
2. Whether the proposed development will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors; and
3. What action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development.

In doing so, a developer should be aware that actions or omissions on their part could lead to liability being incurred under Part 2A, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway.

Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that remain with the new landowner.

2.2 Role of the Local Planning Authority

The Local Planning Authority (LPA) has a duty to take account of all material planning considerations including land contamination during the preparation of Local Plans and when considering an application for planning permission. Usually where there is reason to believe land may be contaminated, or the proposed development is of particular sensitivity e.g. housing, a full assessment may be required in advance of planning approval being issued, and a planning condition requiring assessment of possible contamination may be recommended by the LPA and applied to the decision notice.

When considering development on land affected by contamination, the principal objective of the LPA is to ensure that any unacceptable risks to human health, property and/or the wider environment are identified so that appropriate action can be considered and then taken to address those risks. In achieving this objective, the LPA should assist in providing the necessary confidence to owners and occupiers of the land after development, regarding the condition and the ranking of the land in relation to relevant environmental protection regimes, such as Part 2A.

2.3 Role of the Environmental Protection Team

The Environmental Protection (EP) Team are responsible for addressing land contamination issues using Part 2A and the planning system, and are consulted by the Planning Department on applications within Manchester's district.

EP consider a number of environmental issues, including land contamination, before making a recommendation to the Planning department. Typically this recommendation is that the application either be approved, be approved subject to appropriate conditions, or be refused.

The recommendations made by EP are not binding on the Planning department, who will consider all relevant issues concerning a planning application but land contamination is a material planning consideration that must be taken into account in the decision making process.

2.4 Role of other organisations

The Environment Agency (EA) are a statutory consultee for any planning applications where development is proposed on land potentially affected by contamination. Where the EA are consulted and land contamination is an issue they will seek to implement the objective of the water framework directive to prevent and limit the entry of pollutants into groundwater.

Within the LPA, Building Control will also need to be satisfied that any risks to the development from potential contamination have been adequately addressed. The Building Regulations 2000 require developers to demonstrate that hazards from potential contamination have been properly assessed and appropriate measures put in place to address any risk.

3.0 The planning procedure

The actual or possible presence of contamination is a material planning consideration. Planning advises that as a precautionary approach, the possibility of contamination should be assumed when considering planning applications in relation to all land subject to or adjacent to previous industrial use and also where uses are being considered that are particularly sensitive to contamination, e.g. housing, schools, hospitals and children's play areas.

Where development is proposed on land that is or may be affected by contamination, an assessment of risk should be carried out by the applicant for consideration by the LPA before the application is determined. Any existing or new unacceptable risks should be identified and proposals made to deal with them effectively as part of the development process.

When a planning application is made, the planning officer will consult with the Contaminated Land Section and the application (with supporting information) will be assessed to determine whether there is the potential for contamination to influence the site, whether suitable measures have been proposed to address any risks and whether the proposed development is acceptable.

Other statutory bodies and relevant local authority departments may also be consulted as necessary, including English Nature, Natural England and the departments for building control, conservation and archaeology, and engineering.

If there is the potential for contamination to affect the site, or the end-use is particularly sensitive, recommendations will be made that pre-commencement conditions be imposed upon the development. These are intended to ensure that the site is made suitable for its proposed end use and ensure the safety of site workers, future site users and the protection of the environment.

It is essential that the developer and their agents provide as much information to the LPA at every stage of the planning process. Withholding information, however trivial, may cause a delay to the application. The onus is on the applicant to keep the LPA well informed about the development at all times so that decisions can be made swiftly and the application process completed as quickly as possible.

For large developments on sites where serious contamination is known, or is likely to be present, it is strongly recommended that a pre-application consultation with the LPA be undertaken. It may save both time and money if a thorough pre-application consultation takes place prior to submission of a full planning application. This may result in a site investigation being required to be submitted with the application.

3.1 Pre-commencement conditions

On the 1st October 2018 The Town and Country Planning (Pre-commencement conditions) Regulations 2018 came into force. These regulations mean the local planning authority needs to give notice to applicants when pre-commencement conditions have been recommended. The applicant has 10 working days to accept the pre-commencement conditions (or to challenge them).

With regards to land contamination there is a pre-commencement requirement for sites where there is a risk of contamination being present. This requires the council to be in receipt of; and to agree the findings of a preliminary risk assessment, a site investigation and a remediation strategy prior to works commencing on site.

For some low risk sites we may accept a preliminary risk assessment only but there will still be a post completion element in the form of a validation/site completion report before the condition can be fully discharged.

3.2 Local Planning Policy

Land and water contamination are covered in the Manchester City Council Core Strategy 2012-2027 under EN17 and EN18

3.2.1 Policy EN17 – Water Quality

Development should avoid any adverse impact on water quality, including during the construction phase, and wherever possible should seek to enhance water quality, both chemical and ecological.

Development should minimise surface water run-off from development and associated roads, and maximise the use of appropriate sustainable drainage systems, to minimise groundwater contamination, and to avoid pollutants reaching watercourses.

Development close to a watercourse should also ensure that waste or litter cannot enter the watercourse from the site.

Development should, where feasible and appropriate, seek to open up any culverted or hidden watercourse beneath the site to improve the ecological status of that watercourse.

This will help towards the achievement of the water framework directive by 2027. This policy also gives advise related to Sustainable Urban Drainage Systems (SUDS)

3.2.2 Policy EN18 – Contaminated Land and Ground Stability

The Council will give priority for the remediation of contaminated land to strategic locations as identified within the core strategy. Any proposal for development of contaminated land must be accompanied by a health risk assessment

All new development within former mining areas shall undertake an assessment of any
associated risk to the proposed development and, if necessary, incorporate appropriate mitigation measures to address them

The Council's target is for 90% of new development to be on previously developed land. This is in line with historical trends across Manchester and will ensure a sustainable approach is taken with regard to the use of land as a limited resource.

3.3 National Planning Policy

The National Planning Policy Framework (last updated February 2019) covers Land Contamination in paragraphs 178 and 179.

178. Planning policies and decisions should 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.

179. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

4.0 Criteria used for assessing the submitted information

Information submitted in support of planning applications must be of an acceptable minimum standard in order to satisfy the LPA. The guidance contained within this section aims to inform developers of the procedural requirements of a risk-based approach to land contamination, as defined in current UK legislation and guidance.

A detailed technical framework for investigating and dealing with land affected by contamination is contained within Land Contamination Risk Management (LCRM, published in October 2020). The process involves identifying, making decisions on, and taking appropriate action to deal with, land contamination in a way that is consistent with government policies and legislation within the UK.

The approach outlined in this guidance note is consistent with LCRM and is based on a staged or tiered approach to risk assessment, which includes the following three key elements:

1. Risk Assessment
2. Options Appraisal
3. Remediation and Verification

Risk assessment generally involves developing a conceptual model (Section 4.1), which identifies whether there could be any potentially unacceptable risks at the site. The conceptual model may then be used to determine if any further assessment is required. If this preliminary assessment clearly demonstrates that contamination at the site poses no unacceptable risks (i.e. no source-pathway-receptor relationships) then further assessments may not be required.

The procedure for investigating a potentially contaminated site would be expected to meet the criteria outlined in British Standard (BS) 10175 (2011) Investigation of Potentially Contaminated Sites – Code of Practice. Typical components of a report submitted in support of a planning application would generally include the following four components:

1. Preliminary Risk Assessment (PRA) (often referred to as a Phase 1 Investigation or Desk Study)
2. Phase 2 Investigation (intrusive investigation)
3. Remediation Strategy
4. Verification Report

Points 1-3 are a pre-commencement requirement.

A more detailed checklist of LPA requirements in relation to each of these components can be found in Appendix A.

4.1 Preliminary Risk Assessment

A Preliminary Risk Assessment (PRA) (sometimes referred to as a Phase 1 investigation or Desk Study) should provide a preliminary qualitative assessment of risk by interpreting information on a site's history, considering the likelihood of contamination being present and making an initial hazard assessment. The PRA

typically consists of a desk study, site reconnaissance, development of a conceptual model and a basic hazard assessment.

The desk study comprises a search of available information and historical maps, which can be used to identify the likelihood of contamination being present. The two main indicators for the likely presence of contamination at a site are past industrial uses and/or close proximity to a landfill. A detailed appraisal of documentary research can be found in CLR 3 Documentary Research on Industrial Sites.

A simple site reconnaissance survey of the site is conducted to identify if there are any obvious signs of contamination at the surface. Further information regarding site inspection can be found in CLR 2 Guidance on Preliminary Site Inspection of Contaminated Land.

A conceptual model is a representation (text and/or graphics) of the relationships between contamination sources, pathways and receptors developed on the basis of hazard identification. Developing a conceptual model should be viewed as an iterative process that should be refined during subsequent phases of assessment.

Using the information gathered, the conceptual model of the site is constructed and a basic hazard assessment is carried out.

4.2 Phase 2 investigation

A Phase 2 investigation (site investigation) aims to reduce the uncertainties identified in the initial conceptual model by quantifying potential contamination at the site. The data obtained will be used to inform a decision as to whether the site is potentially harmful. A Phase 2 report generally consists of an intrusive site investigation and a subsequent risk assessment. The investigation process should seek to clearly identify and characterise plausible source-pathway-receptor linkages at the site and provide information for the refinement of the initial conceptual model.

4.3 Remediation strategy

This is a document detailing what action is to be carried out so that contamination no longer presents a risk to site users, property or ecological systems. It may include measures such as the removal of contamination, encapsulation of the contaminants, treatment of the contaminants or measures to break the pollution linkages. Please note that Government policy encourages sustainable methods of remediation.

A remediation strategy should be submitted where a site investigation identifies levels of contamination that will require remediation prior to the site being suitable for its intended use. This statement should include full details of how the contamination problem at the site will be addressed and demonstrate that the standard of remediation work complies with current best practice and guidance. This must be approved by the LPA before any remedial actions at the site commence.

4.4 Verification report

Where contamination has been found and/or remediated, the developer will be required to submit a verification report. In certain circumstances it may be necessary for the developer to conduct post-completion monitoring. This should be undertaken to the approval of the LPA and results of the monitoring should be submitted for review. For limited remediation works or protective works a verification statement alone may be acceptable, but prior confirmation of this should be obtained from the LPA.

The verification report should provide confirmation that all measures outlined in the approved remediation statement have been successfully completed, including where appropriate, validation testing.

Recommendations to discharge land contamination conditions will only be made once the Contaminated Land Section has received and approved a satisfactory verification report.

5.0 Reporting Considerations

The complexity of land contamination technical guidance, coupled with individual site variability, makes it difficult to produce comprehensive guidance applicable to every situation.

However, when assessing the adequacy of a site investigation, a number of common problems frequently arise. These generally relate to areas where technical guidance may be complex or incomplete. In an attempt to minimise the occurrence of these problems, the CLS apply consistent criteria for certain technical aspects of a site investigation. This section is intended to highlight recurring problem areas and key points that are of particular importance.

5.1 Obtaining representative samples

All sampling strategies should be designed to provide data that is representative of the site conditions as a whole. Sampling should be undertaken in accordance with recognised sample collection methodology and guidance, with reference made to recommendations within BS 10175. Reference to the historical site information obtained from the desk study is essential in order to target possible sources of contamination and to ensure that an appropriate suite of analysis is performed. Justification for the chosen sampling regime and analysis suite should be clearly set out in the site investigation report.

5.2 Sample analysis

A suitably accredited laboratory should be used to undertake analysis of samples. The site investigation should include a detailed plan showing the location of sampling points and accreditation details of the laboratory used, together with summary tables of results. A full set of results should be included in the report submitted and an electronic form from the laboratory that undertook the analysis should also be submitted.

5.3 Generic and detailed quantitative risk assessment (GQRA and DQRA)

Defra formally withdrew the 1987 ICRCL trigger and action values in December 2002, following the implementation of the Contaminated Land Exposure Assessment Model (CLEA) and associated publication of the Soil Guideline Values (SGVs).

In 2008, the CLEA UK model and the SGVs were withdrawn by Defra and a revised CLEA model was launched. MCC would expect all future site investigations to make no reference to the withdrawn standards.

Generic and detailed QRA should now be carried out using assessment criteria derived using the new CLEA model (1.06). Where site-specific target levels are used they should be calculated based on suitable and reasonable assumptions as well as current best practice and associated briefing notes and guidance. Reference should also be made to statistical analysis of the resulting data from the intrusive investigation.

More recently the following criteria have been released Category 4 Screening Levels (C4SLs) (replaced SGVs) and Suitable 4 Use Values (S4ULs) (replaced LQM/CIEH GACs). Where these values exist they should be used instead of the SGVs and LQM/CIEH GACs.

The CLR7 report 'Assessment of Risks to Human Health from Land Contamination: An Overview of the Development of Soil Guideline Values and Related Research' was withdrawn in 2008. Consultants when assessing site investigation data should adopt a suitable statistical approach. The CIEH and CL:AIRE set out in the document 'Guidance on Comparing Soil Contamination Data with a Critical Concentration' an approach that is a useful starting point for statistically assessing data.

It is usually inappropriate to apply quantitative criteria developed outside the UK, to UK sites, as assumptions underlying the models used to derive these criteria often reflect different behaviour patterns, local soil types or other technical factors.

Where other land contamination quantitative criteria are used e.g. Dutch or USEPA, the reasoning behind not using current UK guidance should be given and their use must be fully justified and referenced within the report. This would be expected to include a discussion of the conceptual model and assumptions used to derive the generic criteria together with an assessment of the underpinning toxicological data.

5.4 Assessment criteria for ground gas

If the development is situated within 250m of a landfill site or is suspected of having the potential to generate ground gas, it will be necessary to assess the potential risk and, if required, to incorporate appropriate gas protection measures into the development design.

When undertaking gas monitoring and designing gas protection measures reference should be made the following British Standards:

- BS8576 - Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs)
- BS8485 - Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings

Guidance is also available for assessment of the risks associated with the presence of methane and carbon dioxide within ground gas (full references are given at the end of this document), this includes:

- CL:AIRE TB18 - Continuous Ground-Gas Monitoring and the Lines of Evidence Approach to Risk Assessment
- Assessing Risks Posed by Hazardous Gas Ground Gases to Buildings (CIRIA C665)
- BRE Report 414 publication Protective Measures for Housing on Gas Contaminated Land
- NHBC - Guidance on Evaluation of Development Proposals on Sites where Methane and Carbon Dioxide are present
- CIEH Local Authority Guide to Ground Gas

Due to the age of some of the guidance documents their use will need to be fully justified.

It should also be noted that when submitting ground gas monitoring data a current calibration certificate for all machines used for the gas monitoring should also be submitted. The risk assessment will also need to demonstrate that sufficient data have been obtained to determine the gas regime for the site.

6.0 Cover Systems

The main function of an engineered cover system should be to provide a safe and permanent barrier between any 'significant' levels of buried contamination and residents/site users.

It is not uncommon for developers to include a simple cover system into garden and soft landscaped areas. This is done in order to provide a reduction in the hazard to human health in situations where 'marginally' elevated levels of contaminants have been encountered, as well as to provide a suitable medium for plant growth.

There is currently no definitive guidance available that is able to adequately address the design of either of these cover systems. Therefore the CLS considers that where cover systems are used there should be no distinction between 'marginal' and 'significant' levels of contamination.

6.1 Depth of cover systems and capping layers

Where used as a capping layer of cover system, fill materials should be installed at prescribed depths according to their soil type and the role they play within the cover system. As cover systems are almost always site-specific, the various depth of fill can vary greatly depending on how complex or engineered the cover system is to be, but there are a few minimum standards to be observed, which are described below.

Typical cover system design requires a capillary break layer at its base, which is then overlain by various depths/types of fill material. These individual layers working in unison form the cover system or capping layer.

The minimum acceptable total depth for fill materials (including the break layer) within private garden areas should be 600 mm. This figure is recommended and has been adopted for the following reasons:

i. Root systems for shrubs are typically up to 600 mm;
ii. Excavations are unlikely to be deeper than 600 mm in typical gardening activities;
iii. Bioturbation (soil-mixing by biological organisms) is typically limited to the top 600 mm of the soil profile;
iv. Excavations by children or pets are unlikely to exceed 600 mm.

The minimum acceptable total depth for fill materials (including the break layer) within areas of soft-landscaping, common areas or public open spaces is 450 mm. This relaxation of cover depth is designed to reflect the reduced risk afforded by diminished exposure of human health receptors to potentially contaminated soils within these public areas via direct contact (dermal, ingestion, inhalation).

6.2 Depth of growing medium and planting

In certain circumstances, where it can be demonstrated that future activities will not result in soil mixing, it may be acceptable to use a shallower depth of cover material. A robust case would need to first be presented for prior approval from the LPA. An additional consideration when planting landscaped areas is that BS 3882 recommends the rooting depths in Table 2.

Table 1 Growth medium rooting depths for various vegetation types

Vegetation Type	Rooting Depth (mm)
Grass	450
Plants	450
Shrubs	600
Trees	900

6.3 Sampling Ratios

When a cover system is used, a desk study should be provided with details of the source of the cover material. It should be demonstrated that the soil is free from contamination by supplying results of analytical tests. Justification for the analytical suite used should be included. Sampling densities should be justified and based on the findings of a desk study. It would be expected that as an absolute minimum sampling would consist of at least three samples for each source used. One sample for every 200m^3 from proven 'greenfield' sources and one sample every 50m^3 from 'unknown', 'mixed' or 'brownfield' sources (for residential gardens). Table 3 summarises the recommended sampling frequencies depending on the soil source and end use.

Table 2 Sampling frequencies for imported or site-won fill materials

End-Use	Greenfield Soils	Remediated Soils	Brownfield Soils	Unknown Soil Source
Residential Gardens	1:200m^3	1:100m^3	1:50m^3	1:50m^3
Soft landscaping	1:200m^3	1:150m^3	1:150m^3	1:150m^3
Other	1:200m^3	1:200m^3	1:200m^3	1:200m^3

6.4 On-site or Off-site Soil Validation

Fill material imported onto site should be stored in a designated area, which is clearly identified on an appropriate scale plan. Stockpile management protocols consistent with best practice apply.

The Environmental Protection Team does not routinely accept off-site validation of fill material (whether this is top-soil, sub-soil or other substrate), as this often results in chemical testing of different material to that actually imported to site. It is therefore difficult to prove the exact chemical nature of the material eventually imported, as off-site validation tends to involve composite samples taken from a 'typical batch' of the material intended for import. As such, validation testing of imported fill materials should be carried out in-situ, after materials have been imported to site.

An exception will be made if samples can be taken at source from a stockpile which has already been allocated to the site in question and this can be proven in the validation report.

6.5 Documentary Evidence

Chemical analysis: All raw laboratory data should be submitted with the analytical test certificate.

Statistical analysis of datasets: Calculations in line with CIEH/CL:AIRE guidance should be provided.

Photographic evidence: Photographs of installed remedial measures (of any type) are required. Photographic evidence should be representative and where necessary, include a scale/ruler. This is of particular importance when photographing cover depths to verify the agreed depth of cover has been installed.

Plans: Showing pertinent information relating to remediation, such as stockpile locations, areas subject to remedial measures or areas of further investigation.

Import/export data: Pertinent data relating to fill materials/wastes, including volumetric data (i.e. how much was imported to site), source data (i.e. where the material came from) and waste transfer data (where applicable).

6.6 Obtaining Representative Samples

All sampling strategies should be designed to provide data that is representative of the site conditions as a whole. Sampling should be undertaken in accordance with recognised sample collection methodology and guidance, with reference made to recommendations within the British Standard BS10175 guidance document. It is essential to derive a CSM using the information obtained from the PRA to target possible sources of contamination and also to ensure that an appropriate suite of analysis is performed. Justification for the chosen sampling regime and analysis suite should be clearly set out in the site investigation report.

A suitably accredited laboratory should be used to undertake analysis of samples. The site investigation should include a detailed plan showing the location of sampling points and accreditation details of the laboratory used, together with summary tables of results. A full set of results, including exploratory hole logs, should be submitted.

7.0 Other Information

7.1 Human Remains and / or Burial Sites

If you have been made aware through means such as historical records that the site is on or adjacent to an existing or former burial ground that may contain human remains, you must contact Environmental Health at the earliest opportunity.

If at any time during site investigation works, ground-works or excavating on a site within the boundary of MCC you discover human remains, suspected human remains or bones of an unknown type you must stop all works, secure the area and contact the Police and Environmental Health for advice. Environmental Health can be contacted through the City Council's contact centre on 0161 234 5004.

7.2 Japanese Knotweed

Japanese knotweed is a very invasive species of plant which is not native to the British Isles. Since it was introduced into the UK as an ornamental garden plant in the mid-nineteenth century it has spread across the UK, particularly along watercourses, transport routes and waste areas. Japanese knotweed is not just a problem for our native wildlife; the vigorous growth can also damage buildings and hard surfaces. Once established underneath or around the built environment, it can be particularly hard to control.

Neither the Environment Agency or the Local Authority are responsible for controlling Japanese knotweed, other than that growing on their own land. Managing knotweed is the responsibility of the owner/occupier of a site.

Japanese Knotweed Guidance
Invasive Species Guidance

Contact Details for the Environment Agency

Telephone: 08708 506 506 (Mon-Fri, 8am - 6pm)

E-mail: enquiries@environment-agency.gov.uk

Postal Address: National Customer Contact Centre, PO Box 544 Rotherham S60 1BY

7.3 Asbestos

With regard to the MCC CLS there are three issues related to asbestos that we may be contacted in relation to and they are;

- Dealing with asbestos as part of a land contamination condition or in relation to the planning process;
- Concerned members of the public thinking about asbestos in their homes, in/on neighbouring properties or on current developments close by, and;
- Members of the public working and being exposed to asbestos in their workplace.

7.3.1 Asbestos and Contaminated Land

If the presence of asbestos within made ground is suspected then contact use via the City Council's contact centre on 0161 234 5004.

7.3.2 Asbestos, Neighbours and Current Developments

If the issue is with members of the public having concerns with their house, neighbours or building sites dealing with asbestos sheeting or similar, then please visit our website.

If asbestos is suspect within a building due for demolition then the initial contact should be with the Health and Safety Executive.

7.3.3 Asbestos at Work

If the issue is work related then please visit the Health and Safety Executive website.

7.4 Coal Mining

Historical coal mining has been undertaken in part of MCC.

If the Coal Authority (CA) does not comment on specific risks (which they will only do when there have been recorded emissions) on occasion this is wrongly being interpreted as implying that there are no gas risks. Due to the volume of consultation responses they deal with they do not have the in-house capacity to provide detailed technical guidance in every case. The CA have provided a statement where former mining has been identified on a site which has been included in Appendix C.

8.0 References

Department of Environment, Food & Rural Affairs/Environment Agency, 2004, CLR Report No 11, Model Procedures for the Management of Land Contamination.

Department of the Environment, 2004, PPS23, Planning & Pollution Control.

British Standards Institute, 2011, BS10175, Investigation of Potentially Contaminated Sites – Code of Practice.

Department of the Environment, 1994, CLR Report No 3, Documentary Research on Industrial Sites.

Department of the Environment, 1994, CLR Report No 2, Guidance on Preliminary Site Inspection of Contaminated Land.

Chartered Institute of Environmental Health (CIEH) / Contaminated Land: Applications in Real Environments (CL:AIRE), 2008, Guidance on Comparing Soil Contamination Data with a Critical Concentration.

British Standard 8576:2013 - Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).

British Standard 8485: 2015+A1:2019 - Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.

CL:AIRE 2019, TB18 - Continuous Ground-Gas Monitoring and the Lines of Evidence Approach to Risk Assessment.

CIRIA, C665, 2007, Assessing risks posed by hazardous ground gases to buildings.

Building Research Establishment 414 (2001) Protective Measures for Housing on Gas Contaminated Land.

National House Building Council (NHBC), Report Edition No. 4 (March 2007) Guidance on Evaluation of Development Proposals on Sites where Methane and Carbon Dioxide are present.

Chartered Institute of Environmental Health (2008) Local Authority Guide to Ground Gas.

British Standards Institute BS 3882 (2007) Specification for Topsoil and requirements for use.

8.1 Additional Reference Material

Chartered Institute of Environmental Health, 2001, Local Authority Guide to the Application of Part 2A of the Environmental Protection Act 1990.

Department of the Environment, 1994, CLR Report No 1, A Framework for Assessing the Impact of Contaminated Land on Groundwater and Surface Water.

Department of Environment, Transport and Regions, Circular 02/2000 Contaminated Land: Implementation of the Part 2A of the Environmental Protection Act 1990.

Department of the Environment, 1994, CLR Report No 4, Sampling Strategies for Contaminated Land.

Department of Environment, Transport and Regions, 1997, CLR Report No 12, A Quality Approach for Contaminated Land Consultancy [section 3.4 'Reporting'].

Department of Environment, Transport and Regions, 2000, Guidelines for Environmental Risk Assessment & Management, Revised Departmental Guidance.

Environment Agency, 1999, R&D Publication 20, Methodology for the Derivation of Remedial Targets for Soil and Groundwater to Protect Water Resources.

Environment Agency, March 2010, GPLC1 – Guiding Principles for Land Contamination.

Environment Agency, March 2010, GPLC2 – FAQs, Technical Information, Detailed.

Environment Agency, March 2010, GPLC3 – Reporting Checklists.

Environment Agency, February 2010, SC030114, Evidence, Verification of Remediation of Land Contamination.

Harris, M R, Herbert, S M & Smith, M A, 1995-1998, CIRIA Special Publications 101-112, Remedial Treatment for Contaminated Land, 12 Volumes.

Health & Safety Executive, 1991, Protection of Workers & the General Public during the Development of Contaminated Land.

National House Building Council (NHBC), 1999, NHBC Standards Chapter 4.1, Land Quality – Managing Ground Conditions.

The LQM/CIEH S4ULs for Human Health Risk Assessment, 2015.

Appendix A Checklist outlining the information required in support of a planning application

Preliminary Risk Assessment/Desk Study (pre-commencement)

- A site description.
- A detailed site plan showing the site location, extent and boundary.
- A review of historical information including copies of historical maps where available.
- Background information on past and present uses of the site and its surrounding area.
- Background information on the nature of any hazards and potential sources identified.
- An appraisal of the site's environmental setting including:
- Geology, hydrology and hydrogeology.
- Information on coal workings and other extractive industries.
- Waste management issues and landfill sites.
- Water abstractions and discharges, pollution incidents, IPPC Part A and B, and radon.
- Drainage and services.
- A review of previous desk studies or site investigations.
- Risk screening by means of an initial conceptual model, which should generally include the following.
- Source characterisation.
- Migration pathway descriptions.
- Environmental receptor identification and discussion.
- Identification of potential pollution linkages.
- Description of the limitations and uncertainties inherent in the conceptual model.
- Recommendations and conclusions.

Phase 2 Site Investigation (pre-commencement)

- Site Investigation Methodology:
    - A clear investigation scheme, based on findings of desk study.
    - Methods of investigation with justification of the methodology and investigation techniques used.
    - Justification of exploration locations and a plan showing their position.
    - Sampling and analytical strategy.
    - Coverage of investigations (statistical significance - targeted and non-targeted)
- Environmental monitoring including water sampling and gas monitoring/sampling.
    - Results and findings of the site investigation:
    - Ground, groundwater and gas conditions encountered.
    - Presentation of laboratory analysis, sampling and monitoring results.
- Discussion of any ground contamination (soil/gas/water) encountered.
- Refine conceptual model.
- Qualitative and quantitative risk assessments (clearly identifying pollutant linkages).

- Recommendations for remediation.
- Recommendations for further investigation (if required).

Remediation Strategy (pre-commencement

- Clear remediation strategy.
- Detailed outline of works to be carried out.
    - Description of ground conditions.
    - Type, form and scale of contamination to be remediated.
- Consents, agreements and licenses (waste management issues).
- Implementation and validation of remediation.
    - Use of on-site observations and visual evidence.
    - Chemical analysis/monitoring data.
    - Proposed clean up standard.
    - Construction Quality Assurance.

Verification Report (post completion)

- Details of works carried out and contamination encountered during investigation.
- Details and justification of any changes from the original remediation strategy.
- Demonstration of compliance and description of validation methods.
    - Laboratory and in-situ results.
    - Monitoring results for groundwater and gases.
    - Summary data plots and tables relating to clean up criteria.
    - Plans showing treatment areas and details of any differences from the original remediation strategy.
    - Photographic and other media records.
    - Waste management details and records.
- Ongoing environmental monitoring or works to be carried out.
- Confirmation that remediation objectives have been met.

Appendix B Frequently Asked Questions

Q: How much of the work can I do without employing a consultant?

A: Simply determining whether land contamination is likely to be an issue is relatively straight-forward. Researching the history and uses of a site at the local studies unit of a library, and making enquiries of the Council and other agencies, can be carried out by competent developers. You can also contact the Environmental Protection Team and request an Environmental Search to use as part of the Desk Study, for further information and costs see our website

Q: Can the Council advise on employing a consultant or contractor?

A: The Council cannot recommend any consultant or contractor. Lists can be found in telephone and trade directories. There are websites that may help to identify consultants and contractors with suitable experience. Advice may be given as to the type of expertise a consultant or contractor might be expected to demonstrate.

Q: Who should I address correspondence to within the Council?

A: Once a land contamination condition has been placed on an application all correspondence relating to the subsequent assessment process should be directed to the Planning Department who will refer the information to the Environmental Protection Team. The team will keep the appropriate planning officer informed of the progress of the application.

Q: When should I contact the Environment Agency?

A: Although local authorities are the primary regulators of Part 2A, the Environment Agency assume the role when contamination is found to impact on controlled waters. Therefore, if a development is likely to impact on either surface waters or groundwater the advice of the Agency should be sought.

Appendix C Coal Authority Statement

The CA does not have any interest in matters of ground contamination, but does seek to ensure that where development is proposed on sites with coal mining features at or near the surface, the risks of potential ground instability and the possible presence of mine gas are appropriately considered and reflected in the layout and design of the development as may be necessary, and in any proposed mitigation or remediation measures.

The CA identifies specific risk features based on abandoned mine plans and other data, and in combination they constitute the CA defined Development High Risk Area (DHRA). The CA normally contacts all 181 local planning authorities within the defined coalfield every April to advise of the availability of the current DHRA data, and to request that it is downloaded by each LPA. Guidance on the consideration of coal mining related risks and our consultation process is also produced and periodically reviewed by the CA and is made available to all such LPAs.

For most forms of development within the DHRA, LPAs should require developers to submit a Coal Mining Risk Assessment (CMRA) with the Planning Application. For more guidance please go the Coal Authority website.

If a CMRA is required, the LPA should then also consult the Planning team at the CA in accordance with the formal consultation process. The Planning team will review the submitted CMRA and compare it with the mining information held by the CA. In accordance with the CA defined role as a statutory consultee, a substantive response will then be sent back to the LPA. The response will confirm whether or not the submitted CMRA is considered adequate, and whether or not the CA wishes to raise any objection to the proposed development. If an objection is not raised then it is usually the case that the CA will recommend certain pre-commencement planning conditions in respect of site investigation and remediation as may be necessary.

Some specific risk features (such as mine entries and their zones of influence) are considered to have direct implications for site layout, whereas others (such as probable and recorded coal mine workings at shallow depth) do not have a direct impact on site layout provided appropriate investigation is undertaken, and appropriate remediation is implemented. It is important to note therefore that within the DHRA, LPAs should ensure that CMRA are treated as a fundamental validation requirement. They should not be required by planning condition, as the matters in consideration may be critical to the very principle of the development.

A CMRA should be produced by a technically competent person and should review a breadth of source data to consider the potential risks of ground instability and mine gas. In addition to identifying such risks, the risk assessment should show how all coal mining related risks that cannot be discounted, have been appropriately reflected in the development that is proposed and in any further site investigations and related remedial or mitigation measures that may be recommended.

The CA expects that where possible stability risks should be dealt with directly. Engineering solutions related to the design of the development will not normally be considered acceptable as a substitute for ground treatment, unless such treatment is

demonstrated to be impractical, and the proposed engineering solution has been designed on the basis of specific site investigations.

It should be noted that wherever coal resources or coal mine features exist at or near the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA.

Potential gas pathways to the surface can change over time and may be induced by construction activities on site.

There are different types of mine gas - all potentially toxic, and some potentially explosive.

Whilst it is expected that the risks of mine gas are taken into account in CMRA, in its responses to LPAs the CA will normally only highlight specific gas risks and make related recommendations where we have records of previous gas emissions in the locality.

If we do not raise a specific comment, it should be recognised by LPAs and developers that mine gas may nonetheless be present. Therefore, no comment should not be interpreted as meaning no risk.

Whether or not specific risks are highlighted by the CA, LPAs should seek their own technical advice on the gas risks that may exist, and appropriate measures to be implemented, from technically competent personnel.

Please note that whilst our statutory role only involves discussion with LPAs through the formal consultation process, developers and their technical advisors may seek guidance from the CA through our chargeable Pre-application Advice Service.