

ADVICE NOTE 1 – Guidance notes for developments on land which is potentially contaminated or where the proposed end use is sensitive

Introduction

The purpose of this guidance is to assist developers, agents and consultants involved with preparing a planning application for land which is potentially contaminated or where the proposed end use is sensitive or vulnerable to land contamination. Failure to comply with this guidance is likely to result in a planning application being refused.

Planning Policy Statement 23 (PPS23)

The Government's guidance on land affected by contamination is set out in Planning Policy Statement 23 (PPS23) on *Planning and Pollution Control Annex 2: Development on Land Affected by Contamination*. (ODPM, 2004).

PPS23 states 'because of the widespread potential occurrence of contamination, the possibility should always be considered, regardless of past land use, when development is proposed involving or introducing a particularly sensitive use such as housing with gardens, schools, nurseries or allotments'.

The guidance puts the responsibility on the developer to ensure that a development is safe and suitable for use for the purpose for which it is intended. Therefore, the developer is responsible for determining whether land is suitable for a particular development.

The risks from potential contamination should, therefore, be identified at the application stage of the planning process. These requirements of PPS23 are reflected in the new 1App planning application form.

Submitting a Planning Application (1App)

From April 2008, all planning applications must use the new national 1App planning application form. Section 15 (Existing Use) of 1App, highlights the requirements of PPS23, as shown in Figure 1. When preparing a planning application the following questions must therefore be addressed:

Does the proposal involve any of the following?

1. Land which is known to be contaminated?

This would include a development on land which has known contamination or on land which is known to be affected by contamination.

2. Land where contamination is suspected for all or part of the site?

This would include a development on or near land which has had a previous potentially contaminative use, but there is no actual knowledge of land contamination issues. Further information on potential contaminative activities can be found in the *Department of Environment Industry Profiles*. (DoE, 1995).

3. A proposed use that would be particularly vulnerable to the presence of contamination?

A proposed use that will be particularly vulnerable or sensitive to the presence of contamination would include any residential building, schools, nurseries and allotments. For residential buildings, this will include any development of one dwelling or more, while extensions or conservatories will be excluded, unless there is a specific known land contamination issue. It should be noted that contamination is not just restricted to land with previous industrial use; it can occur on green field sites as well as previously developed land.

If the answer to any of the above questions is 'Yes', then an appropriate **Contamination Assessment** must be submitted with the planning application (Figure 2 summarises the procedure). Contamination Assessments are usually divided into Phases. As a minimum, a **Phase 1** Study will be required, unless the development is only 1-2 dwellings on existing residential or green-field site when a **Land Contamination Questionnaire** can be completed.

Contamination Assessments – Phase 1

A Phase 1 Study, which must accompany the planning application, consists of a desktop study, site walkover and initial risk assessment. The Study must be carried out by a competent and appropriately qualified person.

Figure 1. Section 15 of the 1App planning application form

Desktop Study

This comprises a detailed search of available historical and current records and maps to identify potential on-site and off-site sources, pathways and receptors of contamination.

Site walkover

A site walkover is a survey to confirm the information gathered for the desktop study and to reveal any features such as structures, tanks, pipe work which may suggest possible sources of contamination.

Initial Risk Assessment

A preliminary risk assessment should be carried out using the information from the desktop study and site walkover to identify possible pollutant linkages and enable a conceptual model of the site to be developed.

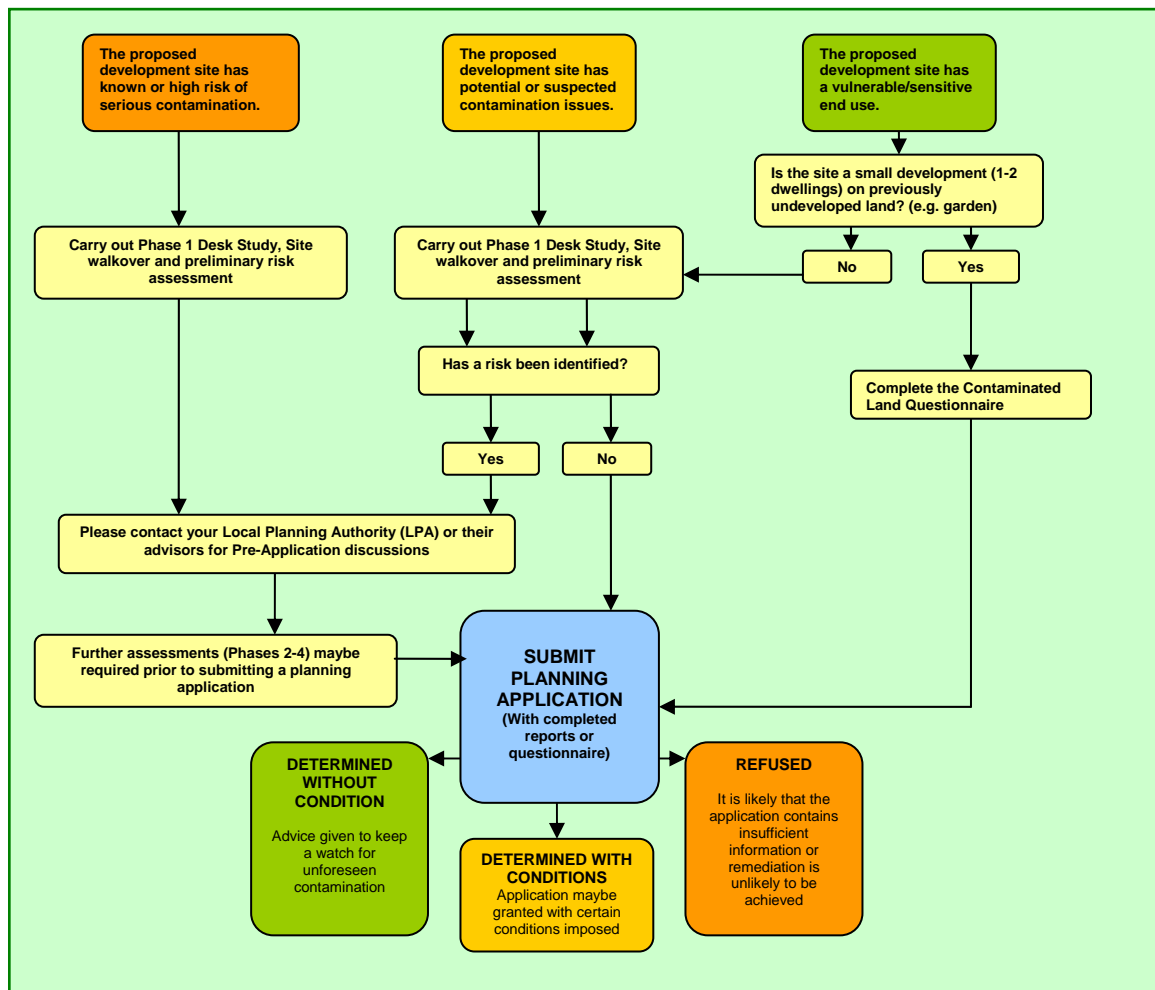
A conceptual model of the site should identify:

- Potential sources of contamination e.g. tanks, nearby landfills.
- Potential pathways linking the two e.g. direct contact, vapours.
- Potential receptors that may be harmed e.g. residents, ground waters.

If a Phase 1 Study indicates that there could be a significant risk of harm, then you should contact the Local Authority to discuss our requirements before submitting your application. It is likely that further Phase 2 or 3 assessments will be required before your application is registered. Further Information on Phase 2 and 3 assessments can be found in Advice Note 2.

If the appropriate assessments are not submitted, your planning application will not be registered!

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Please note that this flow chart refers only to contaminated land issues, the application may be refused on other issues not associated with contaminated land
Figure 2. The Planning Application Process

Contacts

Local Authorities

Babergh District Council	contaminated.land@babergh.gov.uk	01473 822801
Forest Heath District Council	envhealth@forest-heath.gov.uk	01638 719000
Ipswich Borough Council	pollution@ipswich.gov.uk	01473 432000
Mid-Suffolk District Council	envcontrol@midsuffolk.gov.uk	01449 720711
St Edmundsbury Borough Council	env.health@stedsbcc.gov.uk	01284 763233
Suffolk Coastal District Council	environmental.protection@suffolkcoastal.gov.uk	01394 383789
Waveney District Council	environment@waveney.gov.uk	01502 562111

Environment Agency

Central Area & Eastern Area	enquiries@environment-agency.gov.uk	08708 506506
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Guidance and References

A list of guidance and reference material is presented below. Parties involved in site investigation are encouraged to have regard to their contents and make use of the sources of information during their work. The list is not exhaustive and is current at the time of publishing this document. Further advice is available from the contacts listed above.

- British Standards Institution (2001). BS 10175:2001: Investigation of Potentially Contaminated Sites – Code of Practice. BSI, London.
- British Standards Institution (1999). BS5930:1999: Code of Practice for Site Investigations. BSI, London.
- Office of the Deputy Prime Minister (ODPM) (2004). Planning Policy Statement 23: Planning and Pollution Control (PPS23). Annex 2: Development on Land Affected by Contamination. ODP, London (Now Department of Communities and Local Government (DCLG))
- Department of the Environment (1995) DoE Industry Profiles. Available from http://www.environment-agency.gov.uk/subjects/landquality/113813/?version=1&lang=_e
- DEFRA and the Environment Agency (2004) CLR11: Model Procedures for the Management of Land Contamination. EA, Bristol. Available from www.environment-agency.gov.uk
- The Suffolk Environmental Protection Group – Contaminated Land Sub Group (SEPG-CL) - Topsoil Guidance May 2007

Disclaimer

This Note is intended to serve as an informative and helpful source of advice. However, readers must note that legislation, guidance and practical methods are inevitably subject to change. This note should therefore be read in conjunction with prevailing legislation and guidance, as amended, whether mentioned here or not. Where legislation and documents are summarised this is for general advice and convenience, and must not be relied upon as a comprehensive or authoritative interpretation. Ultimately it is the responsibility of the person/company involved in the development or assessment of potentially contaminated land to apply up to date working practices to determine the contamination status of a site and the remediation requirements.

Acknowledgements

The authors would also like to acknowledge the assistance provided by the following organisations: Waverley Borough Council, Gravesham Borough Council and members of the SEPG-CL.