



**South  
Derbyshire**  
District Council

**South  
Derbyshire  
District Council**

# **Contaminated Land Inspection Strategy**

**2012 - 2017**

**Version 5**

**Draft**

## Executive Summary

Part 2A of Environmental Protection Act 1990 (Part 2A) was introduced in April 2000 to provide an improved system for the identification and remediation of land so contaminated that it is causing, or has the potential to cause, a risk to human health or the wider environment.

The Part 2A regime requires local authorities to inspect land in their districts for contamination and ensure land is remediated to make it suitable for its intended use. Each authority is required to submit a strategy outlining how it will approach the inspection of the land in its district.

South Derbyshire District Council (SDDC / the Council) aims to encourage the use of brownfield sites by ensuring that contaminated land is effectively remediated and by preventing any further contamination of land in the District of South Derbyshire (the district).

As of April 2012 the Council has revised its inspection approach and determination and prioritisation methodology, based on the most recent Defra publish statutory guidance. As a result of this the following current Contaminated Land Inspection Strategy puts forward 3 actions points, in which the Council will (following the adoption of the revised strategy):

- *Undertake 4 Council directed detailed investigations (Phase 1 Studies) per year.*
- *Produce and publish quarterly contaminated land inspection reports through the Corporate Service Plan.*
- *Produce and publish an ACUMEN (see Appendix F) 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.*

Liaison with other bodies is essential in the effective implementation of the strategy and consultation will be encouraged with these bodies to gather as much relevant information as possible. The Council welcomes feedback on the strategy, in addition to information on potentially contaminated land or historical use of land that members of the public or other organisations may be aware of.

The terms of reference used in this Strategy are taken where possible from Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance (April 2012). It is advised that this Strategy is read in conjunction with this guidance document.

Accompanying appendices exist as a separate document and are available on request.

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## Document Control Information

Version Number	Date of Issue	Author / Reviewer	Brief Description of Change(s)
1	July 2001	South Derbyshire District Council	First issue.
2	Sept 2003	South Derbyshire District Council	Strategy performance review and update to reflect CLEA methodology.
3	Dec 2004	South Derbyshire District Council	Periodic review
4	Feb 2007	South Derbyshire District Council	Periodic review
5	Jan 2014	South Derbyshire District Council	Periodic review and methodology revision in line with 2012 statutory guidance.

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# Section One – Introduction and regulatory context

## 1.1 Introduction

The last 150 years has seen a massive growth in the UK's industrial sector. This has brought with it huge wealth and economic development, but also detrimental effects, which have manifested in recent years with an increase in land being identified as potentially contaminated. Land despoiled by contaminative uses such as gas works, old unlicensed landfill sites, foundries or tanneries, where high levels of heavy metals, phenols, solvents, acids, or alkalis may be found, is an unfortunate legacy of our industrial heritage.

It is not known how much land in the UK is contaminated; this can only be discovered through wide-ranging and detailed site investigation and risk assessment. The Government has therefore introduced legislation to identify and 'clean up' contaminated land. Its objectives are:

- To identify and remove unacceptable risks to human health and the environment.
- To seek to ensure that contaminated land is made suitable for its current use.
- To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and economically sustainable.

These objectives underpin the "suitable for use" approach that has been adopted by the Government. This approach focuses on the risks caused by contaminated land, requiring action in cases where the contamination poses actual or potential unacceptable risks to health or the environment; and where there are appropriate and cost effective means available to carry out remedial action, taking into account the actual or intended use of the site. The suitable for use approach, taken together with tough action to prevent new contamination, and wider initiatives to promote the reclamation of previously developed land, will help to bring about progressive improvements in the condition of the land.

The purpose of this document is to outline the Council's revised strategy for implementing the Part 2A regime dealing with contaminated land in line with the current legal requirements.

## 1.2 Existing Legislation

Part 2A of the Environmental Protection Act 1990 – inserted into that Act by section 57 of the Environment Act 1995 – provides a regulatory scheme for the identification and remediation of contaminated land. The Act is supported with detailed regulations for its administration in the Contaminated Land (England) Regulations 2000 (as amended in 2012). Current guidance on fulfilling the requirements of the Part 2A regime is contained in April 2012's revision of Defra's Contaminated Land Statutory Guidance (the statutory guidance).

## 1.3 Regulatory Roles of Local Authorities and the Environment Agency

Local authorities (usually district, borough and metropolitan councils) have been given the primary regulatory role under the Part 2A regime, mainly because they have historically had responsibility for dealing with statutory nuisances caused by land contamination and other planning issues.

The Environment Agency has a secondary regulatory role in assisting local authorities, providing site-specific guidance, dealing with "special sites" and publishing periodic reports on the state of the land contamination nationally. The EA acts as the enforcing authority for special sites (a description of special sites is provided in Appendix A).

The primary objective of these responsibilities is to ensure that contaminated land can be brought back into beneficial use at reasonable cost with no unacceptable risk to human health or the environment.

Enforcing authorities should seek to use Part 2A only where no appropriate alternative solution exists. The Part 2A regime is one of several ways in which land contamination can be addressed. For example, land contamination can be addressed when land is developed (or redeveloped) under the planning system, during the building control process, or where action is taken independently by landowners. Other legislative regimes may also provide a means of dealing with land contamination issues, such as building regulations; the regimes for waste, water and environmental permitting; and the Environmental Damage (Prevention and Remediation) Regulations 2009.

#### **1.4 What is Contaminated Land?**

Part 2A of the 1990 Act defines “contaminated land”, and provides for the Secretary of State to issue guidance on how local authorities should determine which land is contaminated land and which is not. Relevant sections of the Act and accepted principles of what constitutes contaminated land are provided in Appendix B.

In practice the process of determination is a complex and subjective matter; 2012’s statutory guidance has revised the fundamental risk assessment elements of determining land as contaminated. Though the highest risk examples remain those where significant harm to human health are present (see Appendix B), in situations where significant possibility of significant harm to defined receptor types exist; the statutory guidance as introduced a category system for determination.

##### **1.4.1 Receptor types and categories**

Receptors are defined as 3 broad types, outlined below; with categories of impact or risk also defined by the statutory guidance (see Appendix C for a full list of receptor types and categories).

- **Human Health (HH)-** Included in the category of factors affecting human health are land used for allotments, residences with gardens, schools and nurseries, recreational parks, playing fields and recreational open spaces.
- **Non-Human Receptors (NHR)- Ecological systems & property-** Within this category fall Sites of Special Scientific Interest (SSSIs), National Nature Reserves, areas of special protection for birds, European Special Areas of Conservation and Special Protection Areas and nature reserves. Within this category are included crops, livestock, homegrown produce, owned or domesticated animals and wild animals subject to shooting or fishing rights. These could be found on agricultural land, allotments and gardens, forestry areas or other open spaces. Within this category are ancient monuments and other important buildings such as heritage sites.
- **Controlled Waters (CW)-** Section 104 of the Water Resources Act 1991 defines controlled waters as being relevant territorial waters, inland fresh waters, coastal water and ground waters. Within this category are major aquifers, surface waters, Source Protection Zones (SPZs – designated areas around groundwater abstractions from aquifers), groundwater used for private abstractions and drinking water abstractions, as well as agricultural usage.

These 2012 risk assessment elements have been taken into consideration in the Council’s revised determination (and prioritisation) methodology, which is described in Section 3.

## Section 2: Local authority inspection duties

### 2.1 Inspection Types

The statutory guidance recognises two board types of “inspection” which the Council is required to undertake:

#### 2.1.1 Strategic Inspection

The Council has been fulfilling this requirement since the adoption of the original version of this strategy in 2001. This contained the original assessment methodology which has now been revised in line with the 2012 statutory guidance. As a result of the work to support the commitments in the original strategy the Council has developed a substantial geographic information system (GIS) database. This database has been used to determine the risk of contamination across the whole district and is being used to incorporate the new statutory guidance’s category system by receptor type, to aid determination.

#### 2.1.2 Detailed Inspection

From the inception of the 2001 strategy, the Council has encouraged the detailed inspection of potentially contaminated land when it enters the planning process. Further information on the outcomes of this strategy is provided in section 2.2.1.

As part of this strategy we propose to take a more proactive role in the detailed inspection activity. We recognise that land blight can result from uncertainties about the risk of potential land contamination and this can act as a brake on local economic growth. In order to support the Council’s Corporate Objective to “Strengthen South Derbyshire’s economic position within a clean and sustainable environment” we therefore propose to implement the following:

<b>Contaminated Land Inspection Strategy Action Point 1</b>
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Following the adoption of the revised strategy, undertake 4 Council directed detailed investigations (Phase 1 Studies) per year. Sites will be selected and prioritised using the methodology laid out in Section 3 and with consideration given to the highest risk sites not currently subject to redevelopment and remediation, Council owned land (to reduce liability to the Council) and sites which a detailed investigation would aid or encourage redevelopment (in line with the Local Plan).
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This commitment to actively inspect and assess sites builds on work originally carried out following the inception of the Council’s Contaminated Land Inspection Strategy. Allowing the Council to both fulfil its requirements under Part 2A and add additional value in the form of reducing potential barriers and financial burden on land owners, thus encouraging sustainable development and remediation.

### 2.2 Inspection activity to date

As described the Council has had in place a contaminated land inspection strategy since July 2001, a solid foundation on which to build and take forward the aims of this current version. The original GIS and contaminated land datasets has allowed a complex series of factors to be considered and sites prioritised on their risk. This section describes the outcomes of the strategy to date:

#### 2.2.1 Initial assessment as part of the planning process

Where redevelopment is undertaken on or in the proximity of brownfield sites, the Building and Development Control Department, in consultation with Environmental Health, will determine whether the developer is required to undertake a site investigation to address potential contaminated land issues. This is in line with National Planning Policy Framework and Approved Document C & D of the Building (Approved Inspectors etc.) Regulations 2010. The planning and building control process ensures that any contamination identified is suitably remediated in line with current guidelines.

Environmental Health is notified of the requirement for any site investigations required by the planning consent. The relevant Environmental Health staff member then takes ownership of the case in order to review all supplied technical reports and either steer the developer through the works necessary to discharging the condition or advise planners of a failure to comply with the condition.

To date over 1400 planning applications have been subject to contaminated land consultation responses from the Environmental Health Department. As a result an estimated 1150 site investigations have been undertaken and an estimated 550 sites have been remediated.

We propose to build on this process of establishing quantifiable district wide determination category data, to allow simplified progress reporting and a clear, understandable picture of which parts of the district require further investigation and possible remediation. To support this, the Council will:

<b>Contaminated Land Inspection Strategy Action Point 2</b>
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Following the adoption of the revised strategy, produce and publish quarterly contaminated land inspection reports* (through the Corporate Service Plan) detailing the amount and percentage change in district land categories alongside relevant information gained as part of Action Points 1 and 2. This information will be shared with South Derbyshire District Council's Planning Policy, Economic Development teams and Corporate Assets teams.
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\*a sample quarterly contaminated land inspection report is provided in Appendix D

### **2.2.2 Reactive inspection**

Evidence of contamination or environmental incidents are commonly reported to the Environmental Health Department. Examples of such incidents include serious petrol spills, chemical leaks, fires in commercial and industrial premises, hazardous flytips and discoveries of unidentified buried tanks. On average five to ten cases such as these are dealt with each year. In the immediate response evidence is gathered, advice / support given and any potential remedial action taken. All relevant information from these incidents will be considered and added to the determination and prioritisation methodology.

### **2.2.3 Contaminated land search service**

The Council has a statutory duty to comply with the requirements of the Environmental Information Regulations 2004 when dealing with requests for disclosure of information. These regulations require local authorities to make any environmental information they hold available on request.

We have ample evidence that uncertainty or fear of liabilities associated with contamination causes conveyancing deals to fail, prevents house sales and inhibits redevelopment. We have therefore developed an enhanced service, well above our statutory obligations, to provide a faster and more detailed response to land quality enquiries. Currently the Council offers two levels of search, details of which are provided in Appendix D. This provides a small additional income stream for the Council (circa £1000 per year) but more importantly builds confidence about land contamination risks in the property market.



## Section 3: Determination and prioritisation methodology

### 3.1 Background and relevant aspects of the district

A risk assessment process referred to as the Council's determination and prioritisation methodology has been in place since the inception of the strategy. The current version of this methodology takes in to account the relevant aspects of the district and arrives at Council defined risk categories, which considers these relevant aspects and the statutory guidance defined receptor types and categories. These relevant aspects of the district include:

*A predominantly rural area with one main town of Swadlincote, many villages and towns such as Melbourne and Repton are of historic value and have close links to the agricultural heritage of the area. Sites of historic industry, particularly mining and pottery are to be found throughout the district. Covering an area of approximately 34,000 hectares (340 sq. km) and providing home to 94,611 residents. The district boasts twenty-two conservation areas, five areas of Local Landscape Value and six Sites of Special Scientific Interest (SSSI). There are also Local Nature Reserves at Elvaston Castle and Drakelow.*

*The main watercourse passing through the district is the River Trent, from its confluence with the River Tame east of Alrewas, downstream beyond its confluence with the River Dove at Newton Solney to its confluence with the River Derwent east of Shardlow. Groundwater quality varies across the district according to aquifer type and adjacent land uses. The background quality of groundwater may be poorer in the presence of dissolved natural minerals, as is the case in the coal producing areas.*

*Carboniferous rocks containing the coal seams that gave rise to the mining industry in South Derbyshire dominate the southern part of the district. Mercia Mudstones typify the northern area and can be identified by the reddish clay soils across the lowland areas of the Trent. The older Triassic sandstones support well-drained sandy soils, outcrops of which occupy parts of the Mease lowlands in the east of the district. Thick surface deposits are also widespread throughout the area, with sand and gravel surface deposits found in the Trent Valley.*

*The aquifer status (major, minor or non-) of each of the superficial and solid geological units in the district has been identified and their relative importance as receptors for contaminants determined.*

*In brief, the district's dominant geological type, Mercia Mudstone, is classified by the Environment Agency as non-aquifer. Non-aquifers are formations with negligible permeability that are not generally regarded as containing significant quantities of groundwater, although small groundwater yields are obtainable where sandier layers (called skerry bands) are encountered.*

These aspects have been considered and reflected in the Council's determination and prioritisation methodology.

### 3.2 Determination and prioritisation

In cases where imminent risk of serious harm or serious pollution of controlled waters has been confirmed, the Council will authorise urgent action. This will involve serving a remediation notice without necessarily consulting or waiting for the end of the consultation period. If the Council considers that serving a notice in this way would not result in the remediation happening soon enough, it may decide to carry out the remediation itself – known as carrying out works in default – and recover the costs from the appropriate person(s).

It is important to note that contaminated land can only be defined as such if it poses a significant risk of causing significant harm

In all other cases land on the district is subject to determination and prioritisation using the Council's GIS determination and prioritisation methodology. Sites of known contamination have an "area of concern" score applied to them and all parts of the district have a determination profile applied to them. This details where the site fits in line with statutory guidance receptor types and categories, which in turn is calculated into a simple determination score to define the site risk category.

### 3.3 Determination methodology calculation

A determination score based on the most recent statutory guidance and the Council's current level of land quality understanding will be applied to all land within the district. This classification is based on a determination profile and score reached by establishing land by 3 receptor types and from 1-4 land categories:

- Human Health (HH)– Scores between 1 and 4
- Non-Human Receptor (NHR)- Scores either -5 or 0
- Controlled Waters (CW)- Scores between 1 and 4

$$HH + NHR + CH = \text{Determination Score}$$

Based on this score, land will be classified simply as either Red, Amber, Yellow or Green, based on its determination score as below:

- Red- High Risk (= >1 to <5)- Immediate remediation action required.
- Amber- Medium Risk (= 6)- Will require investigatory and remediation work prior to redevelopment.
- Yellow- Medium / Low Risk (= 7)- May require investigatory and remediation work prior to redevelopment.
- Green- Low Risk (= ≥8)- No immediate contaminated land concerns.

#### 3.3.1 Worked examples of determination

**Calder Aluminium Works, Willington-** This site is currently being developed for 41 new homes and was once the location of Calder Aluminium processing works. The ex-industrial area, prior to redevelopment and remediation would be determined a Medium Risk (Amber), high priority site. This industrial use, alongside the physical location of the site presented many challenges; some of which are still being addressed as development takes place. The nearby River Trent and potential flood risk issue added to remedial work complexity, which was essential work to clean up one of the most contaminated sites in the district. Features encountered during this clean up included: underground storage tanks, stockpiles of contaminated waste material and significant levels of oil / hydrocarbon and heavy metal contamination. Again work to make these historical contamination issues safe included the use of clean capping layers in garden areas, removal of waste piles, tanks and asbestos compacted soils and a bio-remedial technique involving the addition of natural additives in to contaminated soil to reduce contaminants to safe level through nature processes. Applying the above into the Council's determination methodology calculation gives the site a pre-redevelopment determination profile of:

*Human Health (HH)– 3*

*Non-Human Receptor (NHR)- 0*

*Controlled Waters (CW)- 3*

*HH + NHR + CH = Determination Score*

*3 + 0 + 3 = 6 - Medium Risk (Amber) site- Will require investigatory and remediation work prior to redevelopment.*

On-going remediation work, which is a condition of the site's planning permission, is ensuring the removal and reduction of this risk. Following the completion and validation of remediation the site will become low risk, with a profile of:

*Human Health (HH)- 4*

*Non-Human Receptor (NHR)- 0*

*Controlled Waters (CW)- 4*

*HH + NHR + CH = Determination Score*

*4 + 0 + 4 = 8 - Low Risk (Green) site- No immediate contaminated land concerns.*

Other recent and high profile examples of the planning systems role in investigation and remediating land affected by contamination include:

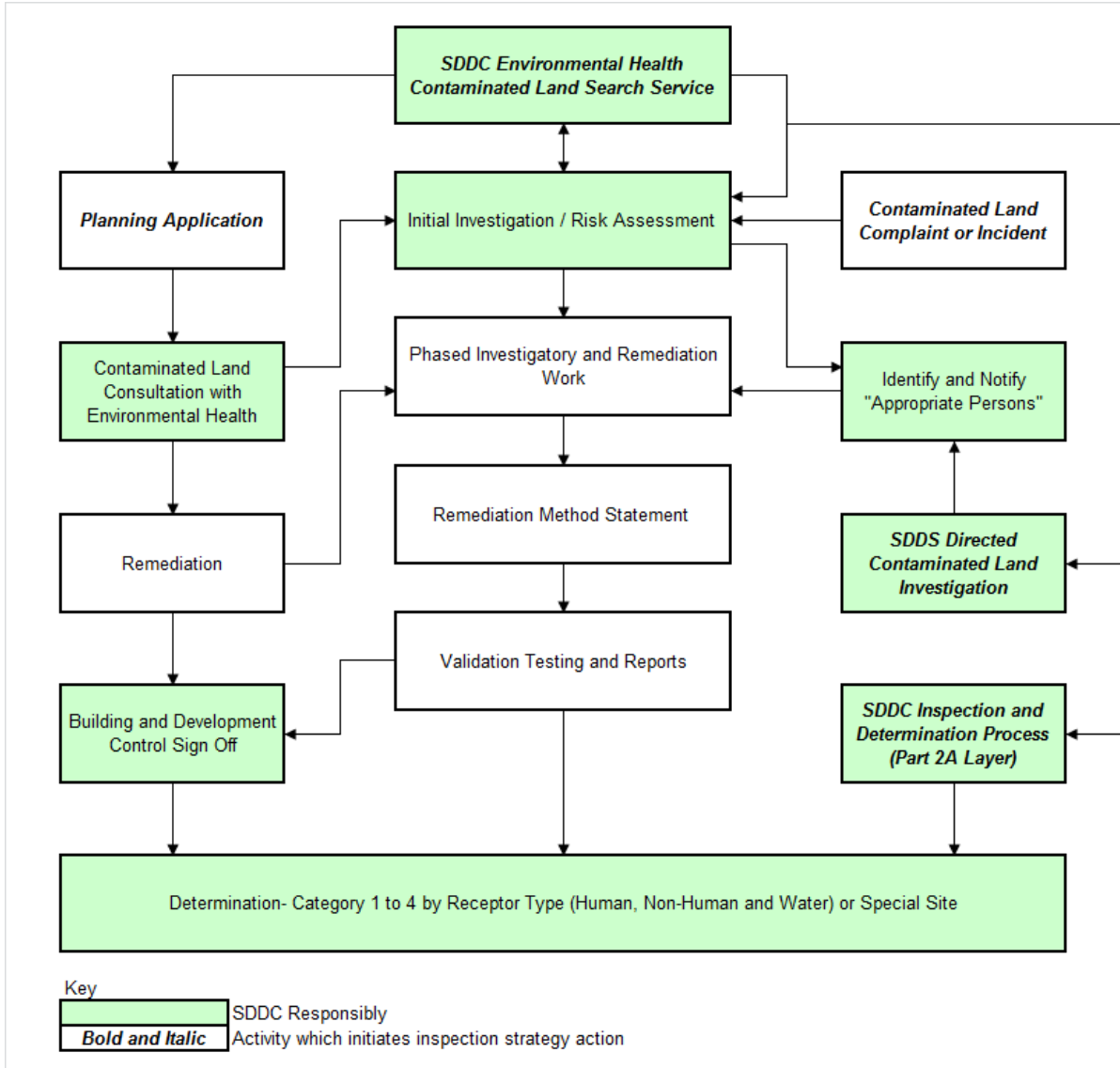
**The Pipeworks, Coppice Side, Swadlincote-** Now the location of Morrison's supermarket as well as the many retail, leisure and food and drink premises; the former Pipeworks site in Swadlincote was once a major ceramic works with associated areas of waste deposition and storage. Key pollutants identified in 2004 as part of the contaminated land investigatory and remedial work included: hot spots of oil / fuel / hydrocarbons, metallic arsenic as well as elevated levels of boron and nickel. Though not identified in significant quantities these substances did present risks to future site users; resulting in the following remedial action being taken to address these risks: a clean capping layer of inert soil brought in to garden and soft landscaped areas, local contamination hot spot removal and use of specific hydrocarbon resistant potable water supply pipes.

**Clayton Equipment Works, Scropton Road, Hatton-** Another former site of heavy industry, Clayton Works once manufactured goods and spares parts for the locomotive industry. These operations included the use and storage of large quantities of oil and grease and a crude interceptor and drainage system for oily effluent. This presented many challenges for the developers, who were required to remove all risk to human health and the environment prior to beginning construction of 40+ homes; which are not yet completed. In addition to remedial work carried out to remove oil and significant asbestos contamination in the soil; the development also required issues of acceptable noise impact from surrounding industry to be considered and specific ground gas protection measures to be installed into the foundations of the soon to be built homes.

## Section 4: Implementation, review, and links to sustainable development

### 4.1 Inspection and Determination Methodology Process Flow

The following process flow diagram describes the steps taken in responding to and ensuring compliance with the Contaminated Land Inspection Strategy; the core of this being the role of the planning system in investigation and remediating land affected by contamination.



The Strategy seeks to recognise the constraints placed on “Building and Development Control Sign Off” through development sites on the district not using Local Authority Building Control. In cases such as this, the determination process will be finalised as and when the discharge of contaminated land planning conditions is reached and through on-going consultation with involved parties during a site’s remediation.

### 4.2 Reviewing the Inspection Strategy

The Council is under a duty to periodically review the strategy, guidance suggest at every 5 years. As it is a working document, it will be subject to amendment from time to time. The periodic review of the strategy will incorporate any changes in legislation, risk assessments or information from other external sources such as the Environment Agency.

### 4.3 Strategy output sharing

As described in Contaminated Land Inspection Strategy Action Point 2, outputs of recent contaminated land development work and revisions to the Council's determination and prioritisation methodology will be shared with key Council departments who can ensure maximum value is created. Data reported can add value in the following forms:

- Directing and informing planning policy and potential developers of the technical and financial implications of development sites.
- Understanding and reducing Council liability in relation to potentially contaminated Council owned sites.

In both of these forms outcomes can be considered mutually beneficial in that strategic contaminated land data will allow positive benefits to the business community and economy while removing risk to the environment, residents and public funds.

### 4.4 Utilising historical landfill

Partnership work with the Environment Agency has highlighted the issue of historic landfill, which the strategy seeks to explore. The European Union funded ACUMEN project aims to increase the utilisation of methane from expired and non-operational landfills (see Appendix E), of which there are over 100 in the district. In a bid to explore this opportunity, by both reducing the risk and greenhouse emission impact from landfill gas migration and by assessing the feasibility of methane utilisation as an alternative heat or power source, the Council will:

<b>Contaminated Land Inspection Strategy Action Point 3</b>
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Following the adoption of the revised strategy, produce and publish an ACUMEN 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. Appraisal of all sites to be completed by March 31 <sup>st</sup> 2016.
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