



North Warwickshire  
Borough Council

North Warwickshire Borough Council

Contaminated Land Strategy 2024

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# **PART A – The Background to Dealing with Land Contamination**

## **1.0 Introduction**

This strategy sets out how North Warwickshire Borough Council (the Council) will approach the inspection of its district with respect to its statutory requirements under Part 2A of the Environmental Protection Act 1990 (Part 2A) as inserted by Section 57 of the Environment Act 1995.

This document replaces the 2008 document and all subsequent revisions and sets out the priorities for 2024-2029. The Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance April 2012 (the Statutory Guidance) recommends the written strategy should be kept under period review and advises it would be good practice to aim to review the strategy at least every five years.

As the Inspection Strategy is fundamentally remaining the same technically, a broad consultation process is not considered necessary for this update of the strategy.

## **2.0 The Contaminated Land Regime**

The Government has stated that England has a considerable legacy of historical land contamination. As a result, Part 2A of the Environmental Protection Act 1990 (Part 2A) came into force on 1 April 2000 and it provides a means of identifying and remediating land that poses a significant risk to health or the environment where there is no alternative solution.

Under Part 2A of the Environmental Protection Act 1990, Local Authorities in England are given responsibilities for regulating contaminated land. There are two main parts to the local authority's duties under Part 2A – an inspection function and an enforcement function.

Defra circular 01/2006: Contaminated Land was published in 2006 and it included how Part 2A of the Environmental Protection Act 1990 has been extended to address land contaminated by radioactivity.

On 6 April 2012, new Contaminated Land Statutory Guidance was published. In accordance with the new Statutory Guidance, this document sets out the Council's strategic approach to inspection of its district. It serves to present the council's aims,

objectives and priorities for inspection, as well as the detailed procedures it will follow to identify Contaminated Land in North Warwickshire.

Statutory guidance on radioactive contaminated land for local authorities was published in June 2018.

## **2.1 What is Contaminated Land?**

In general terms, contaminated land usually means land where industrial or other human activities have resulted in the presence of substances in the ground with the potential to cause harm to human health, structures, or the environment. However, in law the term “contaminated land” means something more specific than this.

The definition of non-radioactive contaminated land from the Environmental Protection Act 1990, Part 2A 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 a significant possibility of such harm being caused; or**

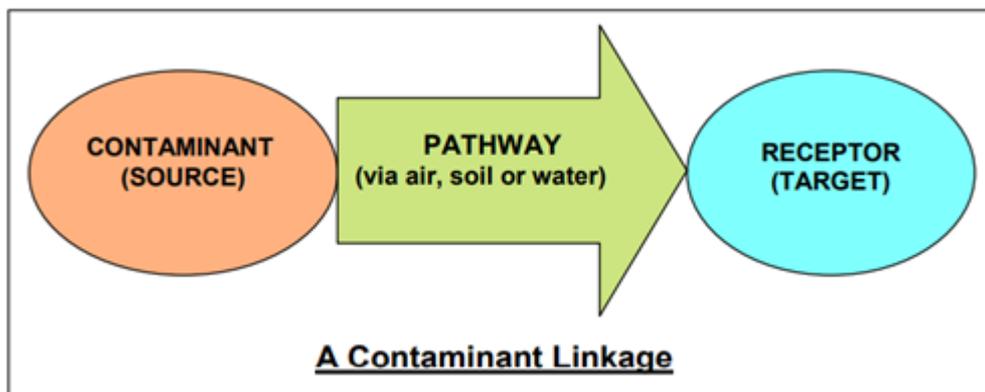
**(b) significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused.’**

For a relevant risk to exist there needs to be one or more contaminant-receptor linkages – “contaminant linkage”. The statutory guidance defines:

- A contaminant is a substance which is in, on or under the land and which has the potential to cause significant harm to a relevant receptor, or to cause significant pollution of controlled waters.
- A receptor is something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters.
- A pathway is a route by which a receptor is or might be affected by a contaminant.
- A contaminant linkage is the relationship between the contaminant (or ‘source’), the pathway and the receptor.

## 2.2 Contaminant Linkage

For a site to meet the definition of contaminated land a pollutant linkage must be established. A pollutant linkage comprises a source, a pathway and a receptor. All three must be present for a contaminant linkage to exist.



**Source** of contamination must exist, on or under the ground

**Pathway** must be present to enable the source to reach the receptor

**Receptor** of a type defined in the regulations, must exist and be at risk of being harmed by contaminants

## 2.3 What is Radioactive Contaminated Land?

Part 2A also applies to radioactive contaminated land and this is covered by the Radioactive Contaminated Land (RCL) Statutory Guidance June 2018.

Radioactive Contaminated Land is defined as:

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) harm is being caused; or**

**(b) there is a significant possibility of such harm being caused.**

The trigger for Local Authority inspections relating to radioactivity requires 'reasonable grounds' for believing that land may be radioactively contaminated and is a more limited inspection duty than for the non-radioactive contaminated land regime. If inspections identify that the land meets the statutory definition for radioactive contaminated land, it becomes a 'Special Site' and the Environment Agency becomes the enforcing authority.

## **2.4 Regulation of Part 2A**

Local authorities are the primary regulators under Part 2A. Their main duties are:

- to prepare and publish a strategy for inspecting their area for Contaminated Land;
- to implement the strategy;
- to determine which sites meet the definition of Contaminated Land, and whether such sites should be designated as Special sites;
- to make sure appropriate remediation of Contaminated Land takes place; and
- to maintain a public register of Part 2A regulatory action.

## **2.5 Special Sites**

Special Sites are defined in the Contaminated Land (England) Regulations 2006. These are sites which meet the definition of Contaminated Land and fall within one of the descriptions given in the Regulations, which include:

- certain water pollution cases;
- industrial cases;
- waste acid tar lagoons;
- oil refining;
- explosives;
- certain IPPC sites;
- nuclear sites;
- land owned by the Ministry of Defence; and
- all radioactive Contaminated Land.

Regulation 2(2) of the Contaminated Land (England) (Amendment) Regulations 2012 amends the circumstances set out in regulation 3 (pollution of controlled waters) of the 2006 Regulations in which contaminated land affecting controlled waters is required to be designated as a special site.

## **2.6 Environment Agency**

The 2012 statutory guidance states if the local authority identifies land which it considers would be likely to meet one or more of the descriptions of a special site it should consult the Environment Agency and subject to the Agency's advice and agreement, arrange for the Agency to carry out any intrusive inspection of the land on behalf of the authority.

## **3.0 A Broader Approach to Land Contamination**

Part 2A should only be used 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 and the regimes for waste, water, and environmental permitting.

### **3.1 Environmental Damage**

The Environmental Damage (Prevention and Remediation) Regulations 2009 may be applicable if contamination incident has occurred in the very recent past. Under the regulations, environmental damage includes:

- serious damage to surface or ground water;
- contamination of land where there is a significant risk to human health; and
- serious damage to EU protected natural habitats and species or damage to Sites of Special Scientific Interest (SSSIs).

The regulations introduced new obligations on businesses, to prevent or put right any environmental damage they are responsible for.

The Regulations are a 'backstop', only applying where something has gone wrong and there is an imminent threat or actual 'environmental damage'.

### **3.2 Council Policy**

The implementation of Part 2A does not stand in isolation from other council functions, policies and strategies. Moreover, it plays an important role in allowing the council to move

closer to meeting its aims and objectives for environmental improvement, regeneration and in particular, achieving sustainable development.

### **3.3 The Planning Regime**

Land contamination is a material planning consideration and development or redevelopment during the planning or building control processes will continue to be the primary mechanism for ensuring remediation of contaminated sites.

### **3.4 National Planning Policy Framework**

The National Planning Policy Framework (NPPF) describes how planning policies and decisions should promote effective use of land and contribute to and enhance the natural and local environment. Part of the way this should be achieved is through an aim to give substantial weight to the value of using suitable brownfield land and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.

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 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.

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

### **3.5 North Warwickshire Local Plan 2021**

Contaminated land is included in two of the strategic objectives of the Local Plan:

The objective to deliver high quality developments based on sustainable and inclusive designs will be achieved by measures including reducing the impact of contaminated land.

The objective to protect and enhance the quality of the natural environment and conserve and enhance the historic environment across the Borough will be achieved by measures including addressing adverse impacts arising from flood risk, contaminated land and other forms of pollution.

The Local Plan describes how the raw material, heavy infrastructure and disposal needs of the adjacent Birmingham conurbation and other nearby major urban areas have resulted in additional pressures on the Borough's land resources, including potential contamination. The Borough still has a legacy from extensive coal mining and other extraction. Minerals and Waste Core Strategies will address specific detailed policies including how to assess viability of sites. Whilst the County Council sets out the strategic approach for mineral extraction and waste disposal, the Borough retains control over contaminated land issues. In line with national requirements and the intentions of the Council's Environmental Health section to identify and reduce the amount of contaminated land across the Borough, development proposals must identify contaminated and potentially contaminated land and secure land remediation where appropriate. Such identification may be necessary prior to determination of proposals depending on the sensitivity of the end use. In addition, strict control of the use and disposal of hazardous substances is necessary to safeguard land, premises and people.

Development Considerations of the local plan include that development should not sterilise viable known mineral reserves; degrade soil quality or pose risk to human health and ecology from contamination or mining legacy and ensure that land is appropriately remediated.

Policy LP29 in the Local Plan for development considerations states that development should meet the needs of residents and businesses without compromising the ability of future generations to enjoy the same quality of life that the present generation aspires to.

Development considerations include the following:

- make effective use of brownfield land in appropriate locations reflecting the settlement hierarchy;
- promote healthier lifestyles for the community to be active outside their homes and places of work;
- Provide safe and suitable access to the site for all users;
- avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, air quality or other pollution; and in this

respect identification of contaminated and potentially contaminated land will be necessary prior to determination of proposals depending on the history of the site and sensitivity of the end use;

- protect and enhance the historic and natural environment;
- protect the quality and hydrology of ground or surface water sources so as to reduce the risk of pollution and flooding, on site or elsewhere; and
- not sterilise viable known mineral reserves; degrade soil quality or pose risk to human health and ecology from contamination or mining legacy and ensure that land is appropriately remediated.

### **3.6 Brownfield Land Register**

The Council are legally required to, in accordance with regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017, prepare and maintain a register of previously developed land that is deemed to be suitable, as well as available and achievable, for residential development.

The Council has used its Strategic Housing Land Availability Assessment (SHLAA) 2016 to help identify and assess all the brownfield sites in the Borough. Brownfield sites with extant planning consent, that meet the relevant criteria, have also been included on the register, as well as a handful of sites with expired planning permission.

The register itself is kept in two parts. Part 1 comprises all brownfield sites that the Council deems to be previously developed land, and is considered to be suitable, available and achievable for residential development. All sites must meet the following criteria:

- A minimum of 0.25 hectares or be capable of accommodating at least 5 dwellings;
- Suitable for residential development, having regard to site allocations, existing planning consent alongside any adverse impacts on the natural environment, built environment and residential amenity;
- Available by the relevant landowner(s) expressing an intention to sell or develop the site; and
- Achievable, meaning development is likely to take place within the next 15 years.

In addition to the above criteria, the authority must also have regard to the development plan, the National Planning Policy Framework and associated Planning Practice Guidance, as well as any guidance issued by the Secretary of State.

Part 2 of a brownfield land register is a subset of Part 1. Part 2 will comprise only those sites in Part 1 that the local planning authority has decided that the land would be suitable for a grant of permission in principle for residential development. At this stage, no sites have been entered onto part 2 of the register.

The associated planning practice guidance states that authorities are required to review the Brownfield Register at least once a year, ensuring any appropriate new sites are included, and those which no longer meet the relevant criteria are removed.

### **3.7 Warwickshire County Council Minerals Local Plan 2018-2032**

Warwickshire County Council's (WCC) Minerals Plan sets out the preferred strategy, sites and policies for the extraction of minerals in support of sustainable economic development until 2032 for sites in Warwickshire.

The document describes how as a co-deliverer of the Water Framework Directive (WFD) 2000/60/EC, Warwickshire County Council needs to ensure that its policies and strategies support the Directive's aspirations and targets.

Policy DM 4 Health, Economy and Amenity - Minimising the Impacts of Mineral Development states 'Planning permission will not be granted for mineral development proposals which will have unacceptable adverse impacts on local communities (including adjacent land uses or occupiers) or their environment (including open spaces, sports and other recreational assets) or on the economy (including tourism), either individually or cumulatively with other existing or proposed developments through various pollution issues including contamination of land and water pollution.

The strategy includes the following paragraph about contamination of land:

It is possible in some circumstances for mineral operations and activities to contaminate land particularly where waste management operations and activities are also involved, and this is an important issue that needs to be addressed by carrying out an appropriate investigation. This should be proportionate to the level of contamination likely to be produced/encountered but enough to provide site investigation information (a risk assessment) prepared by a competent person to determine the existence or otherwise of

any contamination, its nature and extent, the risk it may pose to potential receptors. Measures should be taken to prevent the mobilisation and migration of contaminants on and off the site and to control emissions to water and land. Proposals for mineral operations and activities that would lead to unacceptable levels of contamination on and/or off site as part of the operation, restoration or aftercare of that development will not be permitted.

### **3.8 North Warwickshire Borough Council Corporate Plan 2021-23**

Health is one of the priorities of the Council Corporate Plan 2021-23 and promoting the wellbeing of residents is part of the vision of this strategy.

The Plan states the Council will adopt a placed based approach to enforcement using our powers where appropriate to ensure the protections to residents' quality of life are used. As well as our professional powers in areas such as Planning, Housing and Environmental Health we will use a problem-solving approach to cross cutting and multi-agency issues to ensure people enjoy their homes and communities.

### **3.9 North Warwickshire Sustainable Community Strategy 2009-2026**

This Sustainable Community Strategy sets out our three key priorities for improving the overall quality of life in North Warwickshire from 2009 to 2026. These include developing healthier communities. A healthy environment is considered in the strategy to be part of what defines a sustainable community.

## **PART B – The Part 2A Strategy**

### **4.0 Introduction**

The following section provides an outline of the strategy for implementing Part 2A in North Warwickshire.

### **4.1 Government Aims**

Part 2A provides a means of identifying and remediating land that poses a significant risk to health or the environment where there is no alternative solution.

The Government requires that a balance between precaution and over precaution be struck to ensure that any necessary Part 2A intervention is likely to achieve a net benefit.

The main objectives of the Government's policy on contaminated land and the Part 2A regime 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; and
- to ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principles of sustainable development.

Part 2A takes a risk based approach to defining contaminated land where risk in the statutory guidance is defined as the combination of:

- a) The likelihood that harm, or pollution of water, will occur as a result of contaminants in, on or under the land.
- b) The scale and seriousness of such harm or pollution if it did occur.

In conducting assessments under the Part 2A regime the local authority should aim to focus on land which might pose an unacceptable risk.

Risks should only be considered for the current use of the land. The local authority should assume that any future use or development would be carried out in accordance with the National Planning Policy Framework of the time. The main element of the 'suitable for use' approach is to ensure that where unacceptable risks to human health or the environment are identified, remediation requirements should be set on the basis of the current use or proposed use. Risks will therefore always need to be assessed on a site-specific basis.

Under Part 2A the starting point should be that land is not contaminated land unless there is a reason to consider otherwise and that 'enforcing authorities should seek to use Part 2A only where no appropriate alternative solution exists'.

The Statutory Guidance requires the Council to set out its aims, objectives and priorities with respect to the Inspection Strategy and these are described in the following sections.

## **4.2 Sustainable Development**

It is a Government aim to ensure that burdens faced by individuals, companies and society as a whole during dealing with contaminated land are compatible with the principles of sustainable development.

Sustainable development is a wide reaching concept of environmental policy with numerous definitions. A well established definition is development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs. It is an approach to development that seeks to balance environmental, social and economic factors.

The Council is not expected to produce a detailed cost-benefit or sustainability analysis during dealing with contaminated land. Rather it is expected to make a broad consideration of factors it considers relevant to achieving sustainable development aims.

The presence of contaminated land may present a threat to sustainable development. At the heart of National Planning Policy Framework is a presumption of sustainable development.

Adoption of sustainable development principles during contaminated land inspection should include encouragement of sustainable methods of remediation of land as appropriate.

## **4.3 The Council's Approach to Contaminated Land**

The Environmental Health Division's Pollution Control Team will implement the Part 2A strategy in partnership working with the Council's Planning Department where appropriate.

#### **4.4 Method of Dealing with Contaminated Land**

DEFRA (Department for Environment, Food, and Rural Affairs) previously provided a grant system to local authorities via a bidding system, to finance Part 2A investigations. The grant system could also be used by local authorities to remediate sites, where no other responsible party could be identified. Funding from DEFRA through the Contaminated Land Capital Grant scheme ceased in 2017 and there are currently no plans to replace this.

The Statutory Guidance states that local authorities must seek to minimise unnecessary burdens on the taxpayer. As such, in the absence of any external funding mechanisms and the financial risk that this creates, North Warwickshire Borough Council will not routinely pro-actively undertake Part 2A detailed inspections of Sites of Potential Concern. Instead, it will make the planning regime the primary mechanism for ensuring remediation of contaminated sites within North Warwickshire, and in all other cases, encouraging voluntary action as a first step. Where there is no alternative a Part 2A detailed inspection will be undertaken.

#### **4.5 Redevelopment History and Controls**

The 2024 strategy reflects the current reality of the work that is being carried out in relation to contaminated land. The previous strategy has been altered to emphasise that most of the work with respect to land contamination is fulfilled through the planning regime, whereby contaminated sites may be remediated by developers and landowners.

A large number of sites within the district have been investigated and remediated through this route and will therefore not require Part 2A action. For example, contamination has arisen historically in North Warwickshire as a result of mining activities and also the former power station at Hams Hall. Remediation of the Hams Hall and Kingsbury Colliery sites has already occurred as part of new development.

#### **4.6 Remediation of Land**

The majority of contaminated land remediation carried out to date has been achieved by a close working relationship between the Environmental Health and Planning Divisions via planning conditions associated with development.

Where remediation is required through the Part 2A process the procedures described in section 6 will be followed. If required service of remediation notices will be authorised by the Environmental Health Manager and preceded by consultation with the Council's solicitor. Service of such notices will be carried out in accordance with Council policy on enforcement.

#### **4.7 Part 2A Inspection Strategy**

To meet statutory obligations under Part 2A of the Environmental Protection Act 1990 North Warwickshire Borough Council will aim to carry out the following objectives:

- Protect human health, important ecological sites, important historic and cultural sites and the water environment;
- Ensure that Part 2A procedures are well integrated with the planning and building control process;
- Carry out Part 2A inspection work in a rational, ordered and efficient way;
- Maintain a list of sites of potential concern;
- Aid communication between bodies and individuals interested in contaminated land; and
- Have a transparent decision-making process wherever possible.

Any site presenting immediate and significant risk to key receptors will be investigated immediately under the most appropriate legislative regime.

In carrying out a part 2A inspection the Council will prioritise inspection and action based on receptors considered to be at the greatest risk of harm from contamination, in the following order of importance:

1. Human Health.
2. Controlled Waters.
3. Ecological Systems and Archaeological Heritage (eg Scheduled Ancient Monuments, Listed Buildings etc).
4. Property in the form of buildings (non-residential or occupational).
5. Property in other forms (eg open spaces, forestry, crops, pets).

## **4.8 North Warwickshire Borough Council Land**

Council land will not be treated separately or given priority for inspection above any other land – all sites will be prioritised for inspection on the basis of risk alone. As a responsible landowner, the council will address land contamination when required.

## **4.9 Local Issues**

Past land uses in North Warwickshire are likely to be closely related to current contamination problems.

The area's history of mining activity and investigating the effect that this has had on today's ground conditions will form a major part of the Inspection Strategy. Mining affects the land in a variety of ways:

- Voids are created that can be backfilled with waste;
- Colliery spoil heaps can generate gases and pollute the water environment; and
- Underground workings provide pathways for contaminants to migrate towards receptors.

Due to the very nature of mining, many of the potential problems are hidden from view underground. Indeed even historical plans will not reveal the full underground picture. Information is difficult to come by in this field.

Due to the extent of mining, the investigation of its effects is likely to take a considerable time. The information held by the Coal Authority will be important in investigation of this land.

Former quarrying activities and sand and gravel extraction and the resultant landfilling will form another major area of investigative work as the Inspection Programme progresses.

## **4.10 Specific Geographical Areas**

In North Warwickshire the following geographical areas have a greater potential for contamination:

- The Tame and Anker Valleys and associated sand and gravel extractions;
- The Warwickshire Coalfield; and
- Quarrying in the Hartshill, Mancetter and Dosthill areas.

The prioritisation of these areas and the review of that prioritisation will give consideration to the features of these areas which give them greater potential for contamination.

#### **4.11 Specific Contaminant Linkages**

The following sites were considered to merit investigative priority:

- The former Hams Hall Power Station – underwent natural attenuation monitoring and re-development for commercial development;
- The former Birch Coppice Colliery – much of the area has been remediated through the planning process to commercial development;
- The former Kingsbury Colliery; and
- The former Coleshill Gasworks – largely remediated mid 90s.

In practice, however, the majority of such sites have been redeveloped through the planning process. As such, considerable investigative and remediation work has already been carried out at these sites.

#### **4.12 Enforcement Policy**

In 1998 the Council joined a voluntary code containing principles of good enforcement by adopting the Government's Enforcement Concordat. The overarching principles relate to standards, openness, helpfulness, complaints, proportionality, and consistency. All enforcement activities conducted by the Council should meet this standard. However, relevant departments of the Council undertaking enforcement services may develop their own policies to demonstrate compliance with the enforcement concordat and the Council's corporate enforcement policy. A specific policy has not been developed for part 2A so the Enforcement Concordat remains the main enforcement policy.

If voluntary action cannot be secured in dealing with contaminated land then there will be no hesitation by the Council in using the legal powers available to obtain access to premises and require remediation when appropriate.

#### **4.13 Risk Communication Strategy**

Land contamination can be an emotive subject. It is likely that many sites investigated will not pose a risk to receptors and therefore will not require remediation. However, other

sites will require remediation. The Council will adopt a policy of community liaison where risks affect communities. The Council will aim to communicate information in such a way that it is understandable to non-specialists.

#### **4.14 Prioritisation of ‘Sites of Potential Concern’**

The Council have taken a systematic approach to the inspection of North Warwickshire. In practice inspection will be a continuous process. Those sites posing the greatest risk to receptors will be given highest priority.

An initial prioritisation exercise was undertaken in 2007. This initial prioritisation will be reconsidered as and when new information about contaminated land comes to light.

#### **4.15 Reviewing Inspection Decisions**

There are likely to be situations where the circumstances affecting a potentially contaminated site change. These circumstances might include location of new receptors near a site, fresh evidence coming to light or unplanned events affecting a particular site. Such events would trigger a review of the original inspection decision.

Triggers for Review of Inspection Decisions:

- Proposed changes in the use of surrounding land;
- Unplanned changes in the use of the land (eg persistent, unauthorised use of the land by children);
- Unplanned events, e.g. localised flooding/landslides; accidents/fires/spillages where consequences cannot be addressed through other relevant environmental protection legislation;
- Reports of localised health effects which appear to relate to a particular area of land;
- Verifiable reports or unusual or abnormal site conditions received from businesses, members of the public or voluntary organisations;
- Responding to information from other statutory bodies; and/or
- Responding to information from owners or occupiers of land, and other relevant interested parties.

#### **4.16 Review of the Inspection Strategy**

Inspection procedures will be reviewed and updated in light of legislative changes or revised technical guidance when considered necessary. Overall it is considered good practice to review the strategy at least every five years.

#### **4.17 Health and Safety**

The Council is committed to ensuring the health, safety and welfare of its employees. It also fully accepts its responsibility for other people who may be affected by its activities.

The Council has a formal Health and Safety Policy which covers the detail of safety arrangements and responsibilities. This Policy will apply to all activities carried out under the Contaminated Land Inspection Programme when applicable.

# **PART C – Part 2A Procedures**

## **5.0 Introduction**

This section describes procedures used to implement Part 2A.

Part 2A requires that local authorities cause their areas to be inspected from time to time for the purpose of identifying contaminated land in accordance with the Statutory Guidance.

There are two broad types of “inspection” likely to be carried out by local authorities:

Strategic inspection, for example collecting information to make a broad assessment of land within an authority’s area and then identifying priority land for more detailed consideration; and

A detailed inspection of particular land to obtain information on ground conditions and carrying out the risk assessments which support decisions under the Part 2A regime relevant to that land.

## **5.1 Strategic Inspection**

The section below describes actions taken to carry out a strategic inspection of land.

## **5.2 Prioritisation of Sites for Detailed Inspection**

Guidance prepared as part of the Contaminated Land Research series (CLR6: Prioritisation and categorisation procedure for sites which may be contaminated) was used to undertake the prioritisation process.

A prioritisation database was produced through comparison of historic potentially contaminative land use with current land uses and consideration of potential sources, pathways and receptors. A comparative risk score was assigned to allow prioritisation of the investigation programme.

Unless urgent, sites will undergo detailed inspection in order of prioritisation score where potentially contaminated land is dealt with outside of the planning regime. Sites considered to present an immediate risk of serious pollution or harm to human health, will be prioritised for inspection as and when they are brought to the council’s attention.

The database was extended in 2008 by including a zone of influence to make it a useful resource in the planning process.

### **5.3 Development of Prioritisation Datasets**

The Environmental Health Division holds a list of potentially contaminated, former landfill sites. This list was compiled in 1994 in conjunction with the then Waste Regulation Authority (Warwickshire County Council). This list relates to sites where waste was deposited in or on land before such activity was regulated, as it is now. For many of these sites data sheets exist summarising the nature of deposited materials and a brief site history where such information exists. The Council provides this information through its land search service upon payment of the relevant fee.

Computerised historical plans of the Borough were purchased. These cover different historical periods, generally dating back to the late 1800s. This information enables past land uses in the Borough to be assessed. This has formed a fundamental part of identifying potentially contaminated sites.

Collection, collation and assessment of contaminated land information requires significant use of the Council's Information Technology based Geographical Information System (GIS).

Many contaminated sites within the Borough were already known to the Council prior to the purchase of the historical map database. Indeed many have already been identified and remediated. This often occurs as planning applications are received and development controls put in place to rectify contamination.

Information on the location and nature of many possible receptors is already available on the Council's GIS. Such information includes residential premises, gardens, schools, parks, open space, commercial, industrial and other land uses.

Further datasets will be added to the GIS throughout the course of the implementation of Part 2A, as they are required/developed.

### **5.4 Public Access to Information**

The Council acts in accordance with the requirements of the following statutes and regulations in making environmental information accessible to the public.

- Local Government (Access to Information) Act 1985;

- Data Protection Act 2018;
- Human Rights Act 1998;
- Freedom of Information Act 2000;
- Environmental Information Regulations 2004; and
- General Data Protection Regulation

For the majority of the above legislation, there are common exceptions to the right to access information. These generally refer to issues relating to national security, legal proceedings, breaches of statutory provision, confidentiality (commercial or otherwise), work in the course of completion, personal information or issues which could, following disclosure, increase the likelihood of damage to the environment.

In compliance with the above and also the requirements of the Contaminated Land (England) Regulations 2006, information held on the Council Part 2A Public Register, will be accessible by the public. These requirements will also be adhered to when carrying out Part 2A duties which require disclosure of site-specific information.

## **5.5 Complaints**

From time to time complaints or service requests may be received about potentially contaminated land.

These service requests will be dealt with in accordance with Environmental Health policy, namely:

- an initial response will be made within five working days
- complaints will be treated in confidence initially
- follow up investigations will be made as appropriate to the validity of the complaint

Where a potentially contaminated site is identified in this way, the risk of harm to receptors will be investigated as soon as possible and in a timescale that is proportionate to the likelihood of harm. It should be noted, however, that investigations into ground contamination are often time consuming due to the nature of the investigations required.

## **5.6 Detailed Inspection**

As stated in section North Warwickshire Borough Council will not routinely pro-actively undertake Part 2A detailed inspections of Sites of Potential Concern. Instead, it will make

the planning regime the primary mechanism for ensuring remediation of contaminated sites within North Warwickshire.

When detailed inspections of land are carried out, they may include any or all of the following:

- Preliminary investigation including collation and assessment of information from a variety of sources and a visual inspection
- An exploratory investigation involving limited sampling
- A main Intrusive investigation of land (for example by boreholes or trial pit excavations)

Any intrusive investigations will be carried out in accordance with established investigative procedures and Government approved technical guidance. Every effort will be made to minimise disruption to a site and the extent of the investigation will be commensurate with the risk of contamination and the seriousness of harm it is likely to cause.

## **5.7 Appointment of External Consultants**

Due to the specialist nature of some of the investigation work required, external consultants will be appointed to assist with the Inspection Programme.

External consultants will be involved inspecting and evaluating the risks posed by any Council owned sites. This will ensure impartiality.

If the Council needs to carry out remediation of sites in its ownership or of sites where an appropriate person cannot be found (orphan sites), then external consultants will carry out this work.

Only consultants meeting the appropriate definition of Competent Person as defined in Land Contamination Risk Management (LCRM) will be used.

## **5.8 Site Specific Liaison**

In carrying out the preliminary investigations, site owners, appropriate persons and statutory bodies may be involved in the investigative process.

## **5.9 Owners and Occupiers**

The Council will make contact with site owners and occupiers at the detailed inspection stage. The principal purposes of this first contact will be to inform them that the Council are inspecting the site for contamination problems, and to request any information that already exists (e.g. site investigation data). Where contaminated land is identified, a policy of achieving voluntary remediation will be adopted wherever possible.

The local authority should seek to avoid or minimise the impacts of long inspections on affected persons, in particular significant disruption and stress to directly affected members of the public in the case of inspections involving residential land.

## **5.10 Risk Assessment**

Risk assessment should be carried out in a staged approach in accordance with best practice utilising current best practice guidance and standards.

as soon as it becomes clear to the Council that the land is unlikely to be contaminated land, the inspection and risk assessment will be brought to an end,

As a general rule, inspections will be conducted as quickly, and with as little disruption, as reasonably possible whilst ensuring that a sufficiently robust assessment is carried out.

The Council will ensure that the time and resource put into the risk assessment is sufficient to provide a robust basis for regulatory decisions. In some cases, there may be a need for detailed and lengthy assessments, particularly in complex cases where regulatory decisions are not straightforward.

The Statutory Guidance states that the level of risk raised by land contamination will depend on more than simply the amount of contaminants in the soil. For example, it will also depend on what form the contaminants take, where they are in the soil, the efficiency of the pathway by which receptors may be exposed, the sensitivity of receptors, the likely degree and duration of exposure, the dose-response relationship, etc. These factors will vary from case to case, sometimes very substantially. Therefore, standards typically used to compare against levels of contaminants in soil such as Generic Assessment Criteria (GACs) should not be used as direct indicators of whether a significant possibility of significant harm to human health may exist.

## 5.11 Risk summaries

Following a detailed assessment, the Council will produce a risk summary for any land it considers it is likely that it may be determined as contaminated land.

The Statutory Guidance provides the following recommendations for producing risk summaries:

The authority should seek to ensure that the risk summary is understandable to the layperson, including the owners of the land and members of the public who may be affected by the decision. The authority should not proceed to formal determination of land as contaminated land unless a risk summary has been prepared.

Risk summaries should as a minimum include:

(a) A summary of the authority's understanding of the risks, including a description of the contaminants involved; the identified contaminant linkage(s), or a summary of such linkages; the potential impact(s); the estimated possibility that the impact(s) may occur; and the timescale over which the risk may become manifest.

(b) A description of the authority's understanding of the uncertainties behind its assessment.

(c) A description of the risks in context, for example by setting the risk in local or national context or describing the risk from land contamination relative to other risks that receptors might be expected to be exposed to in any case. This need not involve a detailed comparison of relative risks, but the authority should aim to explain the risks in a way which is understandable and relevant to the layperson.

(d) A description of the authority's initial views on possible remediation. This need not be a detailed appraisal, but it should include a description of broadly what remediation might entail; how long it might take; likely effects of remediation works on local people and businesses; how much difference it might be expected to make to the risks posed by the land; and the authority's initial assessment of whether remediation would be likely to produce a net benefit, having regard to the broad objectives of the regime set out in Section 1. In the case of land which (if it were determined as contaminated land) would be likely to be a special site, the authority should seek the views of the Environment Agency, and take any views provided into account in producing this description.

## 5.12 Human health Risk Categories

The Statutory Guidance introduced four contaminated land categories for human and non-human receptors to help define contaminated land and land that doesn't meet this definition.

The Statutory Guidance categorises contaminated sites into 4 categories on the grounds of significant possibility of significant harm (SPOSH) to human health (see below). The starting assumption is that land does not pose a significant possibility of significant harm unless otherwise proven.

**Category 1** sites - the Local Authority considers that there is an unacceptably high probability, supported by robust scientific based evidence that significant harm would occur if no action is taken to stop it.

**Category 2** sites - the potential for the significant possibility of significant harm exists such that there is a strong case for taking precautionary action under Part 2A

**Category 3** sites - the legal test for significant possibility of significant harm is not met and may include land where the risks are not low, but regulatory intervention is not warranted. Other parties could take action to reduce risks outside of the Part 2A regime.

**Category 4** sites - there is no risk or a low risk of a significant possibility of significant harm. This includes land where no relevant contaminant linkage has been established; land where there are only normal contaminant levels typical of that area; land where contaminant levels do not exceed relevant generic assessment criteria (GAC's); and land where estimated levels of exposure to contaminants in soil is proportionally very low when compared to other environmental sources.

## 5.13 Non-human Receptors

In considering non-human receptors, the Council will only regard certain receptors described as being relevant for the purposes of Part 2A

## 5.14 Ecological Receptors

Relevant Receptors include any ecological system, or living organism forming part of such a system, within a location which is:

- a site of special scientific interest (under section 28 of the Wildlife and Countryside Act 1981)
- a national nature reserve (under s.35 of the 1981 Act)
- a marine nature reserve (under s.36 of the 1981 Act)
- an area of special protection for birds (under s.3 of the 1981 Act)
- a “European site” within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2010
- any habitat or site afforded policy protection under paragraph 6 of Planning Policy Statement (PPS 9) on nature conservation (i.e. candidate Special Areas of Conservation, potential Special Protection Areas and listed Ramsar sites); or
- any nature reserve established under section 21 of the National Parks and Access to the Countryside Act 1949.

### **5.15 Pollution of Controlled Waters**

For this purpose, controlled waters has the same meaning as in Part 3 of the Water Resources Act 1991, except that “ground waters” does not include water contained in underground strata but above the saturation zone. The focus is on pollution which:

- (i) may be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems;
- (ii) which may result in damage to material property; or
- (iii) which may impair or interfere with amenities and other legitimate uses of the environment.

### **5.16 Deciding that Land is not Contaminated Land**

The Council will issue a written statement to state that land has not been determined to be contaminated land (rather than coming to no formal conclusion) to minimise unwarranted blight. The statement should make clear that on the basis of its assessment, the authority has concluded that the land does not meet the definition of contaminated land under Part 2A.

## **5.17 Determination of Contaminated Land**

The local authority has the sole responsibility for determining whether any land appears to be contaminated land. However, in making such decisions the authority may rely on information or advice provided by another body such as the Environment Agency, or a suitably qualified experienced practitioner appointed for that purpose.

If the Council considers there is an urgent need to determine particular land, it will make the determination in a timescale it considers appropriate to the urgency of the situation.

## **5.18 Informing Interested Parties**

The Statutory Guidance describes the following steps to be taken once land has been determined to be contaminated land.

Before making a determination, the Council will inform the owners and occupiers of the land and any other person who appears to the authority to be liable to pay for remediation of its intention to determine the land (to the extent that the authority is aware of these parties at the time) unless the authority considers there is an overriding reason for not doing so. The authority should also consider:

(a) Whether to give such persons time to make representations (for example to seek clarification of the grounds for determination, or to propose a solution that might avoid the need for formal determination) taking into account: the broad aims of regime; the urgency of the situation; any need to avoid unwarranted delay; and any other factor the authority considers to be appropriate.

(b) Whether to inform other interested parties as it considers necessary, for example owners and occupiers of neighbouring land.

If the local authority determines land as contaminated land, it shall give notice of that fact to (a) the Environment Agency; (b) the owner of the land; (c) any person who appears to the authority to be in occupation of the whole or any part of the land; and (d) each person who appears to the authority to be an appropriate person; in accordance with section 78B(3) of Part 2A. In respect of point (d) this Guidance recognises that in some cases the authority may not have identified the appropriate person(s) at the time the determination is made, in which case the requirement to give notice to such persons would not apply.

## **5.19 Postponing Determination**

The Statutory Guidance describes situations where the Council may postpone determination of contaminated land.

The Council may postpone determination of contaminated land or remediation of the land under certain circumstances. For example, if the land owner or some other person undertakes to deal with the problem without determination, and the authority is satisfied that the remediation will happen to an appropriate standard and timescale. If the authority chooses to do this, any agreement it enters into will not affect its ability to determine the land in future (e.g. if the person fails to carry out the remediation as agreed). During a postponement the status of the land will be kept under review and it will be ensured that the postponement does not create conditions under which significant risks could go unaddressed in future.

## **5.20 Record of the Determination of Contaminated Land**

The Council will prepare a written record of any determination that land is contaminated land. The record should be made publicly available by through the Council website.

The record of determination will identify the location, boundaries and area of the land in question, making appropriate reference to Ordnance Survey grid references and/or Global Positioning co-ordinates.

The record should explain why the determination has been made, including:

(a) The risk summary required, and where not already covered in the risk summary:

- (i) a relevant conceptual model comprising text, plans, cross sections, photographs and tables as necessary in the interests of making the description understandable to the layperson; and
- (ii) a summary of the relevant assessment of this evidence.

(b) A summary of why the authority considers that the requirements of relevant sections of this Guidance have been satisfied.

## **5.21 Reconsideration, Revocation and Variation of Determinations**

The Council will consider whether to retain, vary or revoke the determination if information is received that significantly alters the basis for the original decision.

Determination of contaminated land will be reconsidered if remediation action has been taken which, in the view of the Council, stops the land being contaminated land. In such a case a statement will be issued by the Council.

If the Council varies or revokes a determination or issues a statement it should record its reasons for doing so alongside the initial record of determination in a way that ensures the changed status of the land is made clear. The authority will inform interested parties of the decisions and the reasons for it, including the owner of the land; any person who appears to the authority to be in occupation of the whole or any part of the land; any person who was previously identified by the authority to be an appropriate person; and the Environment Agency.

## **5.22 Powers of Entry**

The Council will consult the landowner before inspecting the land unless there is a particular reason why this is not possible, for example because it has not been possible to identify or locate the landowner. Where the owner refuses access, or the landowner cannot be found, the authority should consider using statutory powers of entry.

If the Council intends to carry out an inspection using statutory powers of entry under section 108 of the Environment Act 1995 it will first be satisfied that there is a reasonable possibility that a significant contaminant linkage may exist on the land. The authority will not use statutory powers of entry to undertake intrusive investigations, including the taking of sub-surface samples, if:

(a) it has already been provided with appropriate, detailed information on the condition of the land (e.g. by the Environment Agency or some other person such as the owner of the land) which provides sufficient information for the authority to decide whether or not the land is contaminated land; or

(b) a relevant person (e.g. the owner of the land, or a person who may be liable for the contamination) offers to provide such information within a reasonable and specified time, and then provides such information within that time.

## **5.23 Remediation of Contaminated Land**

Once land has been determined as contaminated land, the Council will consider how it should be remediated and, where appropriate, will issue a remediation notice to require

such remediation. The enforcing authority for the purposes of remediation may be the Council which determined the land, or the Environment Agency, which takes on responsibility once land has been determined if the land is deemed to be a “special site”.

The content of a remediation notice will consist of:

1. Who the Council has served a notice on;
2. Where the contaminated land the notice refers to is;
3. Why the land is contaminated land, what the contamination is and where it came from (if not from the land in question);
4. What the contaminated land is currently used for;
5. Details of what remediation each appropriate person has to do and when this has to be done by; and
6. The date of the notice.

#### **5.24 Cost Recovery**

Where voluntary remediation is not achieved, the Council will seek to recover all costs by identifying the appropriate liable persons as set out in the statutory guidance.

When liable persons cannot be found, where they are exempt from liability, or where an orphan linkage is identified, then the enforcing authority (e.g. the Council or the Environment Agency) shall bear the cost of remediation. The Council will, in all cases, follow the statutory guidance and ensure that any actions required are reasonable.

#### **5.25 Public Register**

A public register will be maintained by North Warwickshire Borough Council of the remediation of contaminated land (defined under Part 2A) and it will be made open for public inspection. Administration of the register will be the responsibility of the Pollution Control Team within the Environmental Health Division.

The Public Register contains details of:

- remediation notices;
- appeals against remediation notices;
- remediation declarations;

- remediation statements;
- appeals against charging notices;
- designation of special sites;
- notification of claimed remediation;
- convictions for offences (under Section 78M of the Environmental Protection Act 1990);
- guidance issued (under Section 78V(1) of the Environmental Protection Act 1990);  
and
- other matters prescribed by regulations.

# Appendix 1 - Characteristics of North Warwickshire

## 1.0 Introduction

This section gives general background information about the North Warwickshire area.

The particular characteristics of the area will influence the approach taken to inspection for contaminated land.

The characteristics and history of the area will be considered together with the vulnerability of receptors in order to decide upon inspection priorities.

## 1.1 Geographical Location

The Borough of North Warwickshire lies in the centre of England situated between Birmingham, Coventry, Nuneaton and Tamworth.

The area is predominantly rural – approximately 60% of the Borough is designated green belt. The M6, M42, A5 and Birmingham Northern Relief Road (M6 Toll Road) pass through the Borough. The main settlements are Atherstone and Coleshill.

## 1.2 Description and History

North Warwickshire covers an area of 28,526 hectares.

The Borough has a population of 65,035 as measured in the 2021 census.

Settlements range in size from Atherstone, and Mancetter, with a population of 10,000 to small hamlets. Atherstone with Mancetter, Coleshill and Polesworth with Dordon are the largest settlements in the borough. The rest of the Borough comprises villages and hamlets. Atherstone and Polesworth/Dordon are in the north of the Borough and Coleshill is located to the south of the Borough.

The overall population distribution is 2.3 persons per hectare.

North Warwickshire lies on the northern sector of the Warwickshire coalfield. Gravel working continues in the Tame Valley and hard rock quarrying at Mancetter. These activities have had and continue to have a significant bearing on land use and after use in the Borough.

### **1.3 Council Ownership of Land**

The council owns various pieces of land throughout the Borough, from sports and recreation grounds, car parks, allotments, small pieces of land on housing and industrial estates to larger plots of land that could be suitable for development.

### **1.4 Current Land Use Characteristics**

Since the closure of the coal mines there has been an increase in employment land, particularly logistics, but a decrease in manufacturing. Large brownfield sites, such as Hams Hall, Birch Coppice, and Kingsbury Link, have been used for development, mainly B8 (storage and distribution uses). The two sites also benefit from intermodal rail freight interchanges. The Borough is the location for many national and international companies including Aldi, TNT, 3M, BMW, Sainsbury and Subaru. In 2012 it also became home to one of Ocado's national hubs. There are a number of other older industrial estates in Atherstone, Mancetter, Arley and Coleshill.

Major roads of national and regional significance pass through the Borough (M6, M6 Toll, A5, M42, and A446) and they form part of the Strategic Road Network.

Rail also plays an important role in the Borough with the Trent Valley line/ West Coast mainline and the Cross-Country line.

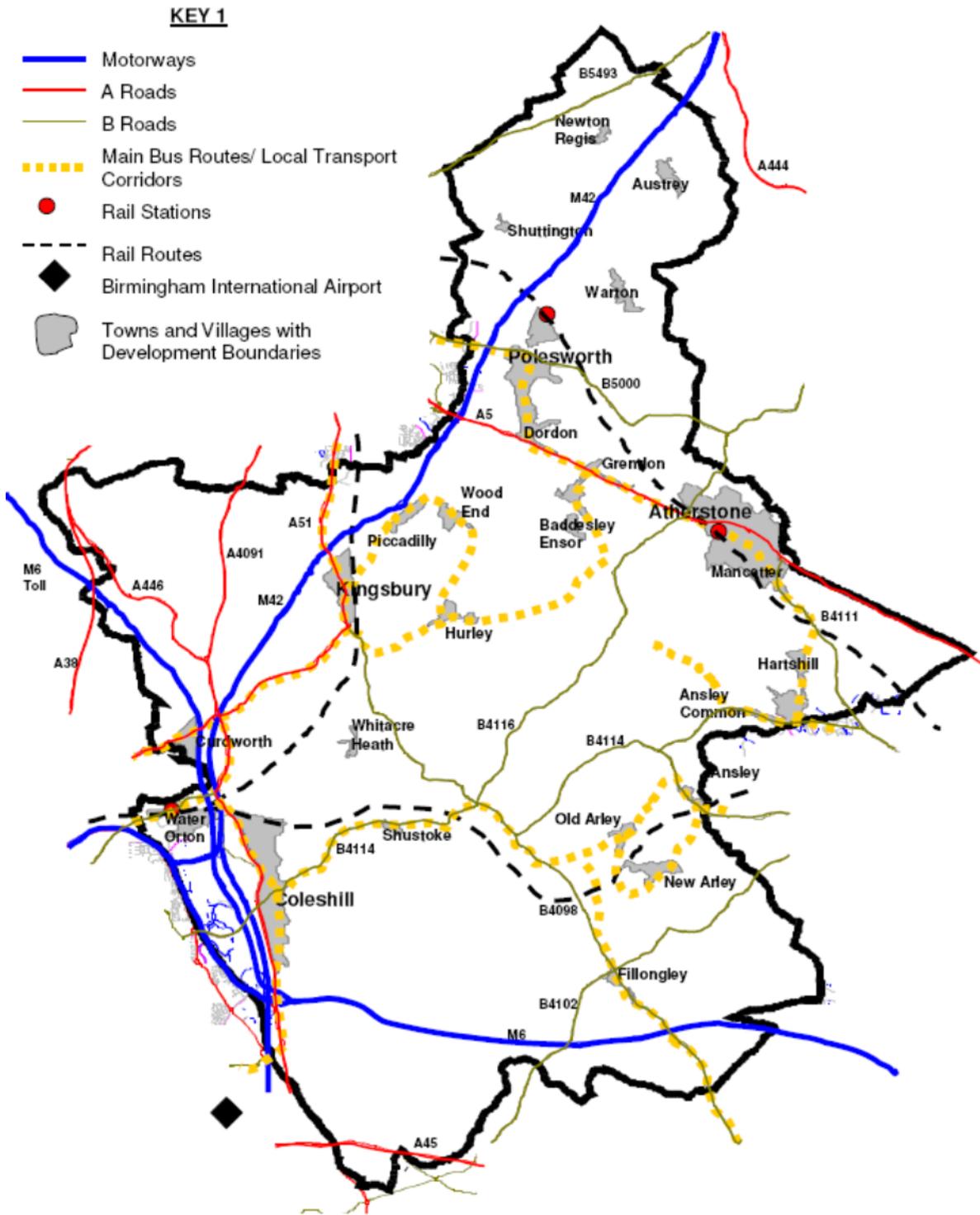
In January 2012 the Secretary of State announced the route for the first phase of HS2 (High Speed Rail) between London and the West Midlands. This travels through the Borough northwards from the NEC along the Tame Valley up to Middleton and then on to Bassett's Pole. A route also comes out of and goes into Birmingham to the south of Water Orton.

The Borough has a special and important natural environment shaped by its landscape and mining legacy. It has four major river corridors – the Tame, Blythe, Cole and Anker - and holds the largest and most important area of inter-connected wetlands in the subregion along the Tame Valley. Cumulatively this area forms a migratory bird route of regional significance. The Borough also has notable concentrations of heathland, ancient woodlands and acid grasslands associated with post-industrial habitats, which are otherwise scarce within the county. The natural environment provides many vital ecosystem services to the Borough, such as natural flood defence, carbon sequestration and the maintenance of biodiversity and air quality.

With a number of mineral reserves within the Borough there are a number of quarries. However, the Local Plan states In accordance with the emerging Warwickshire Minerals Plan, submitted for examination on 29 November 2019, the Council will not support surface mining operations especially where it will have a direct effect on local residents and an adverse environmental impact.

The Borough has a pleasant rural character distinct from its growing urban neighbours with a large number of natural and historic assets. There are 10 Conservation Areas, over 600 listed or Scheduled Monuments and buildings, as well as many wildlife and geological sites of varying designations. The Borough has a number of unique biodiversity habitats and species that are only or predominantly found in the Borough, such as heathland.

Figure 1 - The Borough of North Warwickshire



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## **1.5 Protected Locations**

The Borough has many Sites of Special Scientific Interest (SSSI), areas of Ancient Woodland, Local Sites (Wildlife and Geological), Parks and Gardens of Historical Interest, Country Parks and Warwickshire Wildlife Trust Nature Reserves.

## **1.6 Key Property Types**

The Warwickshire Historic Environment Record contains records of over 1350 archaeological sites, of which 29 are Scheduled Monuments. There are 579 Listed Buildings, 10 Conservation Areas and 3 Registered Parks and Gardens.

## **1.7 Key Water Resource Protection Issues**

The River Bourne is a drinking water supply river and its catchment is a nitrate sensitive area. Water is abstracted from the River Bourne into reservoirs at Shustoke for water supply.

The Rivers Blythe, Cole and Tame flow through the district.

Severn Trent and South Staffordshire Water companies supply the Borough's drinking water.

The Council also inspects the quality of 21 private drinking water supplies located throughout the Borough.

There are no Zone 1 or 2 Source Protection Zones within the Borough.

## **1.8 Current and Historic Industry**

As can be seen in the following section the northern limit of the Warwickshire coalfield runs through the Borough and coal mining was once a major industry in the area. As late as the 1960s there were 17 operational coal mines of which the last remaining one of Daw Mill closed in 2013.

Atherstone historically was a trading centre and now contains two industrial estates containing a variety of businesses.

Hams Hall Power Station to the north of Coleshill was once the largest power generating complex in Europe and since its closure in 1992 the land has been remediated and now is

an industrial estate containing several large units. Minworth being downstream of Birmingham contains a large sewage treatment works. The sewage sludge is incinerated near Coleshill.

The proximity to Birmingham made Coleshill a prime location once for a large gas works, now demolished and remediated and siting large industrial units alongside the Gorsey Lane/Station Road Industrial Estate.

There is a regional oil terminal at Kingsbury which is occupied by several of the major oil companies.

In the south of the Borough at Packington the extensive land raise waste disposal site closed in 2015.

The presence of sand and gravel deposits led to extensive mineral workings in the Tame Valley which continue today, although some workings have been infilled.

Operational quarries are present in Hartshill and Mancetter.

## **1.9 Geological and Hydrogeological Characteristics**

North Warwickshire contains a variety of geological features which alter across the Borough from north-east to south-west.

From the south of Warton to Atherstone and on to Nuneaton to the east of the Polesworth Fault (roughly following the line of the River Anker) is an area of Triassic rocks comprising Mercia Mudstone, Bromsgrove Sandstone and the Polesworth Formation overlain in places by alluvium deposits. This is classed by the EA as a Major Aquifer which is overlain by soils with an intermediate to high leaching potential.

To the west of the Polesworth Fault and continuing to Kingsbury in the west from Shuttington (in the north) towards Nuneaton is part of the Warwickshire Coalfield. In this area there are several previously mined seams which underlie a variety of Silesian (Upper Carboniferous), Triassic and Jurassic sandstones, mudstones and shales. In the Shuttington to Polesworth area, the coal measures are nearer to the surface and outcrop in the Westphalian (middle and lower coal measures) layers. The coal measures overlie Devonian, Cambrian and Pre-Cambrian sandstones and shales.

Outcropping the surface south of Baddesley and east of Mancetter are Merevale, Outwoods and Mancetter Shale Formations.

In the Hartshill area is an Igneous rock outcrop of the Caldecote Volcanic Formation and Pre-Cambrian Granophyric diorite.

From the edge of the coal measures towards the River Tame at the surface are the carboniferous red brown mudstone and sandstone containing conglomerates and limestones of the Meriden Formation, which overlie the Halesowen and Etruria Formations and the coal measures.

Around the River Tame, from Kingsbury towards Packington the surface is dominated by alluvium and river terrace which overlies the Lower Lias. In turn this overlies Keuper marl which along with the Keuper Sandstones outcrops at the surface from the west of the river to the western boundary of the Borough.

In addition to the Polesworth Fault there is also a fault known as the Arley Fault running from below the west of Arley towards the south west, this has resulted in the coal measures to the east of the fault being raised.

With the exception of the Major Aquifer mentioned above, the rest of North Warwickshire is a mixture of Non-Aquifer and Minor Aquifer where the overlying soils have a high leaching potential.

### **1.10 “Normal” Presence of Contaminants**

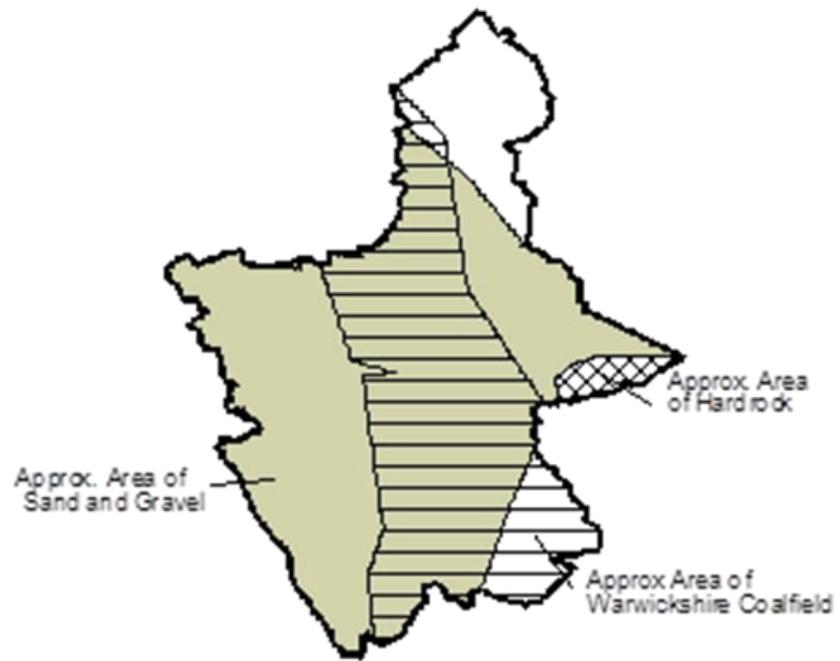
The Part 2A regime was introduced to help identify and deal with land which poses unacceptable levels of risk. It is not intended to apply to land with levels of contaminants in soil that are commonplace and widespread throughout England or parts of it, and for which in the very large majority of cases there is no reason to consider that there is an unacceptable risk.

Normal levels of contaminants in soil may result from:

- a) The natural presence of contaminants at levels that might be considered typical in certain areas and do not pose an unacceptable risk (for example due to the underlying geology).
- b) The presence of contaminants caused by low level diffuse pollution and common human activity other than specific industrial processes.

As has been outlined in the above paragraphs the presence of coal, sands and gravels feature heavily within the Borough so due consideration will be given to normal levels of contamination during Part 2A risk assessment.

**Figure 2 - A plan to show the Geology of North Warwickshire**



## Appendix 2 – Glossary of Terms

Abbreviation	Description
Contaminant	A substance relevant to the Part 2A regime which is in, on or under the land and which has the potential to cause significant harm or to cause significant pollution of controlled waters for non-radioactive contamination (or harm for radioactive contamination). Has the same meaning as 'pollutant' and 'substance'. A contaminant forms part of a contaminant linkage
Contamination Linkage	The relationship between a contaminant, a pathway and a receptor
Contaminated Land	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 – for non-radioactive contamination - (a) significant harm is being caused or there is a 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. for radioactive contamination – (a) harm is being caused; or (b) there is a significant possibility of such harm being caused
Controlled Waters	Defined by reference to Part 3 (section 104) of the Water Resources Act 1991; this embraces territorial and coastal waters, inland fresh waters, and ground waters. For this purpose, controlled waters has the same meaning as in Part 3 of the Water Resources Act 1991, except that "ground waters" does not include water contained in underground strata but above the saturation zone
Current Use	<p>(a) The use which is being made of the land currently.</p> <p>(b) Reasonably likely future uses of the land that would not require a new or amended grant of planning permission.</p> <p>(c) Any temporary use to which the land is put, or is likely to be put, from time to time within the bounds of current planning permission.</p> <p>(d) Likely informal use of the land, for example children playing on the land, whether authorised by the owners or occupiers, or not.</p> <p>(e) In the case of agricultural land, the current agricultural use should not be taken to extend beyond the growing or rearing of the crops or animals which are habitually grown or reared on the land.</p>
GIS	Geographical Information System
Groundwater	Any water contained in underground strata, wells & boreholes
Harm	Harm to the health of living organisms or other interference with the ecological systems of which they form part and harm to property.
Pathway	A route by which a receptor is or might be affected by a contaminant.
Pollution of Controlled waters	The entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter
Possibility of Significant Harm	A measure of the probability, or frequency, of the occurrence of circumstances which would lead to significant harm being caused
Receptor	Something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters. The

Abbreviation	Description
	various types of receptors are explained in the Contaminated Land Statutory Guidance and Radioactive Contaminated Land Statutory Guidance.
Risk	The combination of: (a) the likelihood that harm, or pollution of water, will occur as a result of contaminants in, on or under the land; and (b) the scale and seriousness of harm or pollution if it did occur
Significant Harm	Any harm which is determined to be significant in accordance with the Contaminated Land Statutory Guidance
Significant Contaminant Linkage	A contaminant linkage which forms the basis for a determination that a piece of land is Contaminated Land
Significant Pollution of Controlled Waters	<p>The following types of pollution should be considered to constitute significant pollution of controlled waters:</p> <p>a) Pollution equivalent to “environmental damage” to surface water or groundwater as defined by The Environmental Damage (Prevention and Remediation) Regulations 2009, but Glossary 62 Contaminated Land: An Inspection Strategy for Leeds which cannot be dealt with under those Regulations.</p> <p>b) Inputs resulting in deterioration of the quality of water abstracted, or intended to be used in the future, for human consumption such that additional treatment would be required to enable that use.</p> <p>c) A breach of a statutory surface water Environmental Quality Standard, either directly or via a groundwater pathway.</p> <p>d) Input of a substance into groundwater resulting in a significant and sustained upward trend in concentration of contaminants (as defined in Article 2(3) of the Groundwater Daughter Directive (2006/118/EC)</p>
Significant Possibility of Harm or Significant Harm	A possibility of significant harm or harm being caused which is determined to be significant in accordance with the Contaminated Land Statutory Guidance and Radioactive Contaminated Land Statutory Guidance, respectively
Special Site	<p>A site defined as such in the Contaminated Land Regulations (England) 2000. These are sites which meet the definition of Contaminated Land and fall within one of the descriptions given in the Regulations, which include:</p> <p style="text-align: center;">certain water pollution cases</p> <p style="text-align: center;">industrial cases:</p> <ul style="list-style-type: none"> <li>- waste acid tar lagoons</li> <li>- oil refining</li> <li>- explosives</li> <li>- certain IPC sites</li> <li>- nuclear sites</li> </ul> <p style="text-align: center;">Land owned by the Ministry of Defence.</p> <p style="text-align: center;">All radioactive Contaminated Land</p>
Substance	Has the same meaning as ‘pollutant’ and ‘contaminant’. For non-radioactive contamination, any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour. For radioactive contamination, covers only substances containing radionuclides which have resulted from the after-effects of a radiological emergency or have been processed as part of a past practice or past work activity
Sustainable Development	A wide reaching concept of environmental policy with numerous definitions. Most commonly supported definition is development that meets the needs of

Abbreviation	Description
	the present generation without compromising the ability of future generations to meet their own needs
Unacceptable Risk	a risk of such a nature that it would give grounds for land to be considered Contaminated Land under Part 2A

## Appendix 3 – Contact Details

All enquiries should be addressed to:

Environmental Health

North Warwickshire Borough Council

The Council House

South Street

Atherstone

Warwickshire

CV9 1DE

Tel: 01827 715341

Email: [environmentalhealth@northwarks.gov.uk](mailto:environmentalhealth@northwarks.gov.uk)

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