

Relevant Planning Policy: Ground Conditions

Appendix 11.4: Relevant Planning Policy – Ground Conditions

Legislative and Planning Context: Ground Conditions

- 1.1 Current relevant environmental legislation in respect of contaminated land includes the Environment Act (1995), Water Resources Act (1994), Environmental Protection Act (1990), Health and Safety at Work Act (1994), Town and Country Planning Act (1990), the Building Regulations (1985), Pollution Prevention and Control (England and Wales) Regulations (2000) and the Landfill Regulations (2002).
- 1.2 The Environment Act 1995 (Section 57) makes provision for a risk based framework for the identification, assessment and management of contaminated land within the UK. The provisions of the Act came into effect in April 2000 and are aimed at ensuring that actions taken with respect to contaminated land are directed by a technically well-founded assessment of risk that considers the source/pathway/receptor scenario (pollutant linkage).
- 1.3 The Lostock Sodium Carbonate Manufacturing Site, of which the application site is a part, is covered by a Permit issued by the Environment Agency under the Pollution Prevention and Control (England and Wales) Regulations 2000. The Permit requires the submission of an Application Site Report and Site Protection and Monitoring Programme to identify potential sources of contamination associated with the permitted activities and to document baseline contamination conditions. On closure of the project site the Environment Agency will require measures to be put in place to decommission the site to ensure there is no risk to the environment and to provide a surrender application report identifying if there has been any deterioration to the baseline conditions as a result of the permitted activities.
- 1.4 The proposed use of the site as an SEP will also be a permitted activity. Consequently it will be necessary to apply for a partial surrender and new permit, or partial transfer and subsequent modification to reflect the proposed activities.
- 1.5 The European Council (EC) Landfill Directive (1991/31/EC) was adopted in July 1999. It sets out new operational, regulatory and technical requirements for the landfilling of waste. In England and Wales, the requirements of this Directive are applied under the Environmental Permitting (England and Wales) Regulations 2010. Council Decision 2003/33/EC sets out criteria and testing procedures to be adopted and the Waste Acceptance Criteria (WAC) for landfill. These are also set out in Schedule 10 of the Environmental Permitting (England and Wales) Regulations 2010. This legislation would be applicable to the removal (for disposal to landfill) of contaminated materials originating from the site if that became necessary.

National Planning Policy

- 1.6 The regime for the regulation of contaminated land is described in Part IIA of the Environmental Protection Act 1990 introduced by Section 57 of the Environmental Act 1995 and qualified by the associated Statutory Guidance and various special regulations. Relevant national policy includes the following.
- Planning Policy Statement 23 (PPS23): Planning and Pollution Control - Annex 2: Development on Land Affected by Contamination
- 1.7 PPS23 replaces PPG23: Planning and Pollution Control (1994). It is intended to complement the new pollution control framework under the Pollution Prevention and Control Act 1999 and the Pollution Prevention Control (PPC) Regulations 2000. PPS23 gives guidance on how the Government's policies for contaminated land are to be reflected in land use planning. It embodies the Government's commitment to the regulation and remediation of land affected by contamination and requires developers of brownfield sites to satisfy the local authority that any identified unacceptable risks from contamination will be successfully addressed through remediation without undue environmental impact during or following the development.
- 1.8 The policies in PPS23 and the accompanying annexes are to be taken into account by Regional Planning Bodies and Local Planning Authorities in preparing Regional Spatial Strategies and Local Development Documents. This guidance (PPS Section 17) states that:
- 'Contamination is not restricted to previously developed industrial land, but it also can occur on greenfield sites and it can arise from natural sources as well as from human activities. Contamination can create risks to human health, property, and the wider environment, including long term limitations on the use of soils'*
- 1.9 PPS23 Section 2 advises that:
- ... 'any consideration of the quality of land, air or water and potential impacts arising from development, possibly leading to impacts on health, is capable of being a material planning consideration in so far as it arises from or may affect any land use; the presence of contamination in land can present risks to human health and the environment, which adversely affect or restrict the beneficial use of land but development presents an opportunity to deal with these risk successfully.'*
- 1.10 PPS23 Section 25 states that:
- 'The remediation of land affected by contamination through the granting of planning permission (with the attachment of the necessary conditions) should secure the removal of unacceptable risk and make the site suitable for its new use. As a minimum, after carrying out the development and commencement of its use, the land should not be capable of being determined as contaminated land under Part IIA of the EPA 1990.'*

Regional and Local Planning Policy

1.11 The following documents set out regional local policies on land regeneration and the management of brownfield sites:

- The North West of England Plan: Regional Spatial Strategy 2021

Policy EM2: Remediation of Contaminated Land. *The past industry activity in the region has left a legacy of land contamination which needs to be managed with successful remediation fundamental to improving the image of the region. The contaminated land regime favours voluntary remediation and often as a consequence of proposed development. Plans, strategies, proposals and schemes should encourage the adoption of sustainable remediation technologies which render harmless any contamination that may be present.*

- Cheshire Replacement Waste Local Plan 2007

Policy 10, Minimising Waste during Construction and Development, identifies that a waste audit should be prepared detailing measures to ensure that the maximum amount of waste arising from the site is incorporated into the new development.

- Vale Royal Borough Local Plan 2006.

Policy P8, states that;

Before determining planning applications for sites which are known or strongly suspected to be adversely affected by contamination (including by landfill gas) or to be sources of contamination, the borough council will require the developer to carry out a site investigation where appropriate to:

(i) assess the nature, extent and significance of the contamination; and

(ii) identify specific remedial measures to deal with any hazard, to safeguard future development, neighbouring uses and other sensitive receptors.

Planning permission will only be granted on such sites provided that all other relevant policies of the local plan are satisfied and that any specific remedial measures required to deal with hazards are incorporated within the development, subject to the satisfaction of the borough council who will attach conditions to this effect.

1.12 It is therefore a strategic aim of the Local Plan documents to make contaminated land safe and bring back to beneficial use. In doing so the applicant is required to undertake site investigations to identify the presence or otherwise of contamination and develop sustainable remedial strategies to render harmless any contamination that may be present whilst minimising the removal of waste from the site.