



## **CONTAMINATED LAND STRATEGY 2023-2028**

A Contaminated Land Strategy in accordance with  
Part 2A of the Environmental Protection Act 1990.

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## 1. Summary

- 1.1. This Strategy revises and updates the District Councils 2016 Contaminated Land Strategy. It contains information about the characteristics of the District and seeks to set out clearly the Council's approach to dealing with land contamination using Part 2A of the Environmental Protection Act 1990 over the next 5 years.
- 1.2. Blaby District Councils follows a three-stage approach:
  - 1.2.1. Risk Assessment (Phase 1 Desk Top Study & Phase 2 Generic Quantitative Risk Assessment (including Intrusive Investigation) where required or Phase 3 Detailed Quantitative Risk Assessment where required.)
  - 1.2.2. Options Appraisal
  - 1.2.3. Remediation and VerificationAll identified sites within Blaby District are assessed using this approach
- 1.3. At present Blaby District Council have no declared sites under Part 2A of the Environmental Protection Act 1990, as all known sites have appropriate active management in place or are under current investigation
- 1.4. The strategy also summarises the Council's wider approach to considering and regulating contaminated land through working with landowners, businesses and the Councils Development Services Team
- 1.5. Work on high priority sites on Council owned land will be completed utilising the Council's in-house resources and employing external consultants as required.
- 1.6. This Strategy will be reviewed and, if necessary, updated in 2028.

## **2. Context**

- 2.1. This Strategy outlines how the Council will fulfil its statutory duties to investigate potentially contaminated land within the District as laid out in the Defra Contaminated Land Statutory Guidance which contains the legal and scientific detail behind the Council's Strategy.
- 2.2. Part 2A of the Environmental Protection Act 1990 is the legislative framework behind the contaminated land regime in England. Under Part 2A Blaby District Council is required to take a strategic approach to inspect the land within its geographic boundaries, to identify and prioritise contaminated land most likely to pose an unacceptable risk to human health and publish this information within a written Strategy. Where land is classified as contaminated under Part 2A of the Environmental Protection Act 1990, Blaby District Council is required to identify the person(s) liable to pay for the remediation and to ensure that it is carried out to the required standard. The Department for Environment Food and Rural Affairs (DEFRA) published revised Statutory Guidance in April 2012. This requires all local authorities to periodically review their existing Inspection Strategy to ensure it remains up to date.

## **3. Objective**

- 3.1. The objective of the Strategy is to set out a framework detailing a proportionate approach to management of the risks raised by land contamination, whilst ensuring that any unacceptable risk to human health or the wider environment from land contamination is removed.
- 3.2. All investigations and risk assessments completed by the Council will be site specific, scientifically robust and will ensure only land that poses an unacceptable risk is determined as contaminated under Part 2A of the Environmental Protection Act 1990.
- 3.3. The Council will consider the various benefits and costs of taking action, with a view to ensuring that corporate priorities and statutory requirements are met in a balanced and proportionate manner.

## 4. Statutory Guidance

- 4.1. The legislation behind the Contaminated Land regime in England is Part 2A (Sections 78A- 78Y) of the Environmental Protection Act 1990 (EPA 1990), which came into force in April 2000 (inserted by Section 57 of the Environment Act 1995). This established the regulatory system for the identification and remediation of land contamination.
- 4.2. The overarching objectives of the Government’s policy on contaminated land and Part 2A of the Environmental Protection Act 1990 regime are:
- To identify and remove unacceptable risks to human health and the environment
  - To ensure that contaminated land is suitable for its current use
  - To ensure that the burdens faced by individuals, companies and society are proportionate, manageable and compatible with the principles of sustainable development
- 4.3. The legislation places a duty on the Council to inspect the District from ‘time to time’ for the purpose of (a) identifying contaminated land and (b) deciding whether such land should be designated a special site, which then becomes the responsibility of the Environment Agency due to the severity of contamination.
- 4.4. Defra published the Contaminated Land Statutory Guidance in April 2012. This requires local authorities to adopt a “strategic approach” to inspecting their areas and prioritise land most likely to pose the greatest risk to human health and the environment and publish this information within a written Strategy. The Statutory Guidance requires the Council to keep their written strategy under periodic review to ensure it remains up to date. This Strategy specifies a 5-year review in line with the Guidance.
- 4.5. Other statutory guidance documents that the Council needs to consider in relation to Part 2A of the Environmental Protection Act 1990 are;
- National Planning Policy
  - Local Planning Policy
  - Building Regulations
  - Environmental Permitting (England and Wales) Regulations 2016
  - Environmental Damage (Prevention and Remediation) Regulations 2015.

## 5. Approach to contaminated land assessment

5.1. The approach to contaminated land assessment is detailed in the Land Contamination Risk Management (LCRM) documentation. The guidance sets out a three-stage approach:

- a) Risk Assessment (Phase 1 Desk Top Study & Phase 2 Generic Quantitative Risk Assessment (including Intrusive Investigation) where required or Phase 3 Detailed Quantitative Risk Assessment where required)
- b) Options Appraisal
- c) Remediation and Verification.

5.2. Risk assessment is based on the Source-Pathway-Receptor contaminant linkage concept. For a risk to exist, all three elements of the linkage must be present. This is the case for land quality assessments completed under both planning and Part 2A of the Environmental Protection Act.

**Source:** Contaminants in soil, groundwater, gas or vapour

**Pathway:** Physical contact with contaminated soil or groundwater, inhalation of dust, consumption of edible plants grown in contaminated soil and/or soil attached to edible plants, inhalation of indoor or outdoor gases or vapours, permeation of contamination into water supply pipes, migration of contamination in groundwater, migration of contamination via over groundflow

**Receptor:** Humans, controlled waters (groundwater or surface water), ecological receptors (animals and sites designated as environmentally sensitive land uses), buildings and structures.

### 5.3. Assessment under Part 2A

5.3.1. For land to be determined as contaminated land under Part 2A of the Act, there must exist a 'Significant Possibility of Significant Harm' from contamination in/ on/ or under the land, that presents an unacceptable intake for users of that land; i.e. in such a form and quantity that it presents a hazard by means of one or more pathways that have a significant possibility of causing significant harm to someone. It is noted that there is no clear Government guidance on what constitutes "unacceptable intake" or "significant possibility of significant harm". However, the regime and associated Statutory Guidance is clear that only those sites that present a 'significant possibility of harm' or are found to be causing 'harm' should be dealt with under Part 2A of the Act.

## 5.4. Duties

### 5.4.1. Local Authorities

In order to comply with Statutory Guidance regarding contaminated land, the Council will continue to undertake the following duties:

- Where possible inspect the District to identify contaminated land
- Prepare a strategy for inspection of their area
- Determine whether any land meets the definition of contaminated land under Part 2A of the Act, i.e. land that is causing harm or has potential of causing harm
- Establish whether sites should be designated as “Special Sites” and thus become the enforcing responsibility of the Environment Agency
- Consult the Environment Agency on sites where there is pollution of controlled waters and where the Local Authority considers that land meets the definition of a Special Site
- Where the Agency carries out an inspection on behalf of the Council, the inspection duty and the decision as to whether land is contaminated land, remain the sole responsibility of the Council
- Act as the enforcing authority for all contaminated land which is not designated as a “Special Site”
- Maintain a public register of sites for which a remediation notice has been served, or where a remediation statement or declaration has been published.

### 5.4.2. Environment Agency

The Agency is a primary source of information and advice for local authorities. In addition, the Agency has its own regulatory functions to perform under Part 2A of the Act:

- Assist and provide guidance to local authorities in identifying contaminated land, particularly in cases of water pollution
- Undertake inspections of Potential Special Sites following Local Authority request
- Act as the enforcing authority for any land designated as a Special Site

- Maintain a register of Special Sites remediation
- Publish periodic reports on the state of contaminated land

5.4.3. Both Local Authority and Environment Agency (where unacceptable risk of contaminated land has been identified)

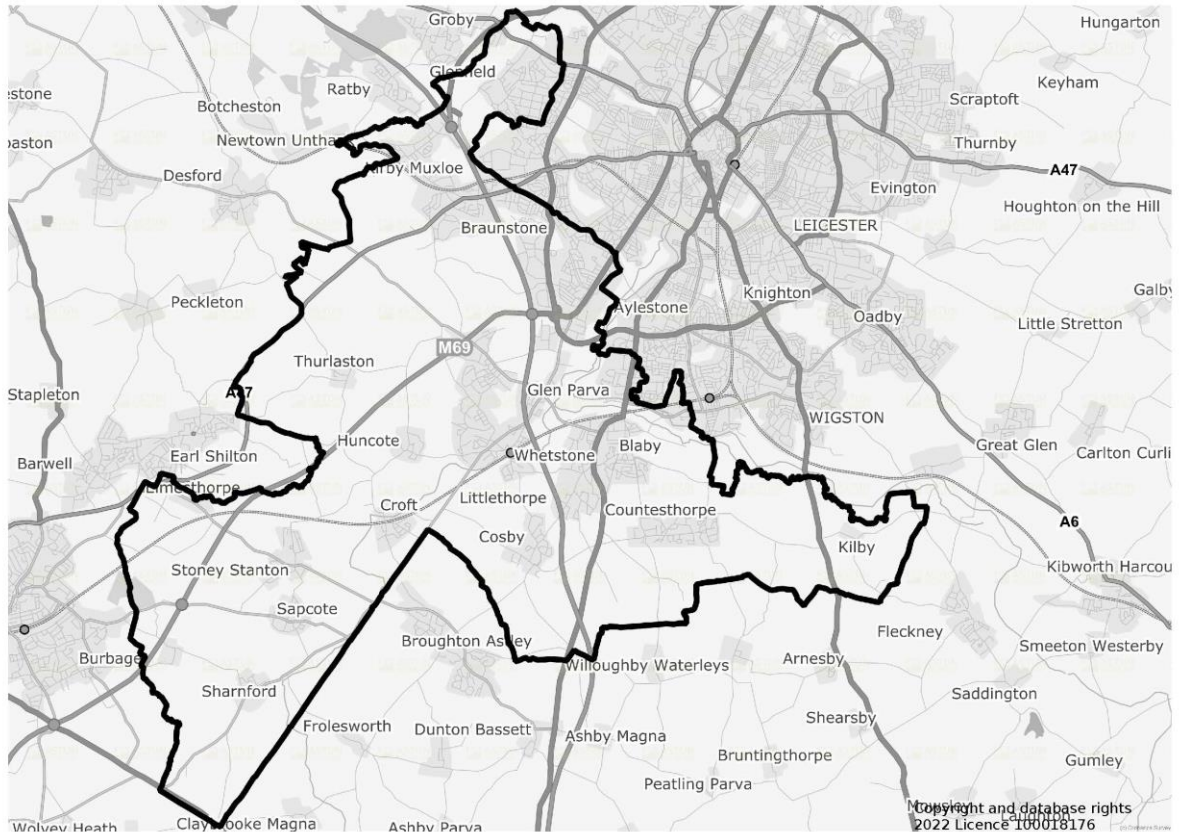
- Establish who should take responsibility for the remediation of land
- Decide, after consultation, what remediation is required and ensure that such remediation takes place either through agreement or by serving a remediation notice. Where the polluter cannot be identified and the risk to human health is unacceptable, the local authority may need to undertake the remediation
- Where a remediation notice is served or the authority carries out the work, determine who should sustain what proportion of the costs for the work
- Record certain prescribed information regarding regulatory actions on a public register



## 6. Blaby District's Characteristics

### 6.1. Physical and land designations

6.1.1. Blaby District is situated in Leicestershire, lying immediately Southwest of the City of Leicester.



The District covers an area of approximately 130sq kilometers (50 sq miles) and is made up of 24 Parishes. The population of the District was 102,900 at the time of the 2021 Census. The northern and central parts of the District are primarily urban in nature, containing approximately 80% of the population. The Southwestern part of the District has a rural character, with smaller settlements and villages surrounded by countryside which is predominantly farmland.

The landscape within the District is broadly similar, consisting of farmland intersected by transport routes and by the floodplains of the Rivers Sence, Soar and Rothley Brook. There are large settlements around the south westerly boundary of Leicester and smaller settlements throughout the rest of the District. There are also some large industrial and employment areas, mostly located in close proximity to the motorway.

Historical quarrying is evident across the District with some future permissions granted.

## 6.2. Geology, Hydrogeology and Hydrology

6.2.1. The underlying geology is an important factor when determining contaminated land, especially with consideration to controlled waters as the permeability of the soils affect the migration of contamination in both soil and groundwater. Mobile contaminants generally move more freely within coarse textured soils, such as sand and gravels as opposed to less freely through fine textured soils, such as silty clays.

Blaby District is predominantly underlain by impermeable clays and marls consisting of Triassic Mercia Mudstones and Jurassic Lower Lias Clays (Environment Agency, 1997). In addition to these strata there are several localised intrusive igneous bodies in the south-west of the area, which have been historically a source of high-quality granite.

Rock Type	Description	Flow mechanism	Geological Classification
<b>Triassic Mercia Mudstones</b>	Low permeability. Consisting of a thick sequence of red clays and marls interbedded with subordinate sandstone horizons known as skerries	Fracture in permeable bands and skerries	Non-Aquifer
<b>Jurassic Lower Lias Clays</b>	Generally low permeability. Consisting of interbedded clays, siltstones and occasional limestone horizons	Fractures in limestone's	Non-Aquifer
<b>Intrusive igneous rocks</b>	Generally low permeability, but fractures may exist.	Fracture	Non-Aquifer
<b>Fluvio-glacial sands and gravels</b>	Superficial drift deposits. Found throughout the area, principally deposited in the floodplains of surface watercourses although some sand and gravels are of glacial origin	Intergranular	Minor Aquifer

6.2.2. In general terms non-aquifers are defined by the Environment Agency as “formations with negligible permeability, only supporting very minor abstractions if any”. Minor aquifers such as fluvio-glacial sands and gravels are defined as being “variably porous/permeable but without significant fracturing. Generally only supporting locally important abstractions”

6.2.3. The River Soar and one of its main tributaries, the River Sence, are the most significant watercourses within the District. There are no large-scale water abstractions within the District due to the lack of a major geological aquifer in this area, and public water supplies are largely imported. There are currently eight single dwelling private water supplies in the area, which are monitored by the Council and over time this number is expected to decline as mains connections are facilitated.

## 7. Completed Actions

As part of the 2016 Strategy the Council set out the process for strategic inspection of the District. In March 2022 the Council agreed to create a 2-year fixed term Contaminated Land Officer post. This has allowed the work to be accelerated and the following has been completed:

- Identified and recorded sensitive receptors
- Identified and recorded current potential sources of contamination (based on historical maps)
- Assessed information (historic files) provided by the Environment Agency
- Assessed geological and groundwater data for the District
- Created a Geographical Information System (GIS) mapping overlay of former landfill sites on our database system
- Developed the IDOX database to capture contaminated land information
- Undertaken contaminated land training to best utilise the IDOX database

7.1. It is important to stress that simply the presence of a potential contaminant linkage on site does not provide sufficient evidence to confirm that a site meets the legal definition of contaminated land.

The above linkage does not demonstrate that there is either ‘significant possibility of significant harm’ or evidence that ‘harm is being caused’ on site, it is the starting point for the Council to consider whether more detailed inspection is required.

The prioritisation of sites is an evolving process based on risk determined by more detailed inspection, which is based on the information contained within the Council’s IDOX system at the time that the assessment is undertaken. Results of any prioritisation exercise are therefore subject to change at any point and may not be reflective of site conditions without wider consideration of additional information held.

## 8. Current and future actions

### 8.1. What are we doing now?

#### 8.1.1. Responding to enquiries and complaints about contaminated land

The Environmental Services Team are the main recipient of enquiries regarding contaminated land. Upon receipt of a request, Officers will investigate and advise accordingly.

#### 8.1.2. Processing planning applications

The planning system has, and continues to be, the main mechanism in the identification and management of land affected by contamination. Potentially contaminated sites can be addressed by applying planning conditions on development schemes, requiring contamination assessments and where applicable, remedial work and verification.

#### 8.1.3. Undertaking site inspections and site visits as/where required

A site visit might be required in one of the following scenarios:

- A site has been identified as requiring further inspection as part of the Council's duties under Part 2A of the Environmental Protection Act 1990
- A site may be visited in response to a planning application that has been made or to oversee remediation or investigation works required by a planning condition
- A site may be visited in response to a complaint from a member of public

#### 8.1.4. Responding to land search enquiries

The Environmental Services Team respond to land search enquiries which request any knowledge the Council has regarding the condition of the site, the surrounding area, and any intentions the Council has in regard to inspection of the land under Part 2A of the Environmental Protection Act.

### 8.2. What do we need to do?

8.2.1. The Statutory Guidance requires that the Council continue to identify and prioritise sites that may be potentially contaminated by their historic or current use, followed by detailed inspections/investigations of sites where a need for further investigation has been identified.

### 8.3. How are we proposing to do it?

- 8.3.1. The Council has and will continue to utilise a three-stage approach as referenced in 1.2, to carry out site visits and complete options appraisals, before implementing or instructing any potential remediation or mitigation works where appropriate. The Council currently has a database of possible historic and emerging sites of significance across the District which will be regularly updated as and when new information becomes available.
- 8.3.2. As previously mentioned in 1.3 the Council has no declared sites under Part 2A of the Environmental Protection Act 1990 and therefore does not currently have any entries on a contaminated land register as required by the Statutory Guidance.
- 8.3.3. Sites with an indicated pollutant linkage will be prioritized for detailed inspection. It is envisaged that all but the highest risk sites will be addressed via the planning process where appropriate mitigation/controls will be applied.

Sites under private ownership will be addressed by identifying and contacting the landowner and instigating the assessment process in accordance with the Statutory Guidance and assessed risk.

Sites within the District under Council ownership will be managed in accordance with the Statutory Guidance and assessed risk.

We will continue to undertake Desk-based studies (Phase 1), including site visits where appropriate. If a significant potential risk is identified with one or more receptors, an Intrusive Site Investigation (Phase 2) may be required. It is envisaged that this work if required would be undertaken by the Environmental Services Team in conjunction with specialist environmental consultancies.

### 8.4. What are the possible outcomes of a detailed inspection?

- 8.4.1. Where an unacceptable risk is found to be present or there is evidence of harm being caused, the process of determination of the site as contaminated land will begin, unless an active management plan is implemented. At this point using Statutory Guidance appropriate remediation will be considered and if necessary, carried out.

## 8.5. Who pays for this?

Part 2A of the Environmental Protection Act 1990 makes it clear that, wherever possible, the original polluter and/or a developer that knowingly developed a contaminated site without ensuring suitable levels of remediation are completed should pay for any remediation needed in later years. The Council has a duty under the legislation to make all reasonable effort to ensure that this is the case. However, where it is not possible to identify the appropriate person, the responsibility for dealing with the contamination passes to the current landowner. Under the legislation the Council has a duty to identify appropriate persons and apportion liability.

## 8.6. How does this strategy interact with the planning system?

8.6.1. The National Planning Policy Framework (NPPF) makes specific reference to dealing with land contamination as it is a material planning consideration. The development management process is the primary way in which land contamination issues are investigated, managed and remediated.

8.6.2. Where a site is affected by contamination, responsibility for securing a safe development rests with the developer and/or landowner. As an absolute minimum this means that the site must be incapable of being designated as contaminated land as defined under Part 2A of the Environmental Protection Act 1990.

## 9. Contact us

If you would like to talk to us about this Strategy or other matters related to contaminated land in detail please email the Environmental Services Team via [Environmental.Services@Blaby.gov.uk](mailto:Environmental.Services@Blaby.gov.uk) or visit the Council's website at [www.Blaby.gov.uk](http://www.Blaby.gov.uk)

## 10. References

- Contaminated Land Statutory Guidance  
<https://www.gov.uk/government/publications/contaminated-land-statutory-guidance>
- Environmental Protection Act 1990 Section 78A-78Y  
<https://www.legislation.gov.uk/ukpga/1990/43/section/78A/england+wales>
- National Planning Policy  
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>
- Contamination Risk Management  
<https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>