



Aylesbury Vale District Council

Statutory Contaminated Land Strategy

Required under the provisions of the
Environmental Protection Act 1990 Section 78B



INVESTOR IN PEOPLE

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Contents

Page

Introduction & Overview

i.1	Background to the legislation	4
i.2	Explanation of terms	5
i.3	National objectives of the new regime	6
i.4	Local objectives	7
i.5	About this strategy	8
i.6	Roles and responsibilities	9
i.7	Outline of the statutory procedure	9
i.8	Situations where this regime does not apply	11
i.9	Land under the ownership of the enforcing authority	13
i.10	The need for team working	13
i.11	Financial and manpower implications	14

The Strategy

Part 1 -	Description of the Aylesbury Vale Council area and how its particular characteristics impact on the inspection strategy	15
Part 2 -	Identification of potentially contaminated sites and their prioritisation according to risk	23
Part 3 -	Obtaining further information on pollutant linkages and the risk assessment process	27
Part 4 -	The written record of determination and formal notification	31
Part 5 -	Liability and enforcement	33
Part 6 -	Data handling and access to information	36
Part 7 -	Quality control, performance indicators and arrangements for review	38
Part 8 -	Projected costs and timetable	40

Appendices

1	-	Special sites	43
2	-	List of consultees and contact points	44
3	-	Pollution of controlled waters	50
4	-	List of potentially contaminative uses	52
5	-	Powers of entry and the appointment of "suitable persons"	54
6	-	Examples of Preliminary and Stage 1 & 2 assessments	59
7	-	List of Ancient Monuments in the Vale	62
8	-	List of Sites of Special Scientific Interest	64
9	-	Standard forms for Exchange of Information	65

- Glossary of Terms

INTRODUCTION & OVERVIEW

i.1 - BACKGROUND TO THE LEGISLATION

Industrial change and demographic shift during the 20th century resulted in the need for large-scale re-organisation of our towns and cities. Industries moved out or disappeared altogether leaving large, 'brown field', gaps in our urban landscape. At the same time, changes in heating methods, and the advent of the consumer society, has had a significant effect on the type and volume of refuse it has been necessary to landfill. Inevitably, these changes have left behind a legacy of contaminated land, which in some cases may be harmful.

The Government, in its response to the 11th report of the Royal Commission on Environmental Pollution in 1985, announced that the Department of the Environment was preparing a circular on the planning aspects of contaminated land. The draft of the circular stated that:

Even before a planning application is made, informal discussions between an applicant and the local planning authority are very helpful. The possibility that the land might be contaminated may thus be brought to the attention of the applicant at this stage, and the implications explained.

Thus suggesting that it would be advantageous for the planning authorities to have available a list of potentially contaminated sites.

In 1988 the Town & Country Planning (General Development) Order required local planning authorities to consult with waste disposal authorities if development was proposed within 250m of land which had been used to deposit refuse within the last 30 years.

In January 1990 the House of Commons Environment Committee published its first report on contaminated land. This document, for the first time, expressed concern that the Government's suitable for use approach, "... may be underestimating a genuine environmental problem and misdirecting effort and resources". The committee produced 29 recommendations, including the proposals that:

The Department of the Environment concern itself with all land which has been so contaminated as to be a potential hazard to health or the environment regardless of the use to which it is to be put, and;

The Government bring forward legislation to lay on local authorities a duty to seek out and compile registers of contaminated land.

Immediately following the House of Commons report the Environmental Protection Act 1990 had at section 143, a requirement for local authorities to compile, 'Public registers of land which may be contaminated'. If enacted this would have required local authorities to maintain registers of land which was, or may have been contaminated, as a result of previous (specified) uses. In March 1992 however, the concern about the blighting effect of such registers resulted in a press release

published by the Secretary of State delaying the introduction of section 143 stating:

The Government were concerned about suggestions that land values would be unfairly blighted because of the perception of the registers.

Subsequently in July 1992, draft regulations were released with significantly reduced categories of, contaminative uses, "... to those where there is a very high probability that all land subject to those uses is contaminated unless it has been appropriately treated". It was estimated that land covered by the registers would be only 10 to 15% of the area previously envisaged. This, however, still did not satisfy the city, so on the 24th of March 1993 the new Secretary of State (Michael Howard) announced that the proposals for contaminated land registers were to be withdrawn and a belt and braces review of land pollution responsibilities to be undertaken.

This resulted in the Department of the Environment consultation paper, *Paying For our Past* (March 1994), which elicited no less than 349 responses. The outcome of this was the policy document, *Framework for Contaminated Land*, published in November 1994. This useful review emphasised a number of key points:

- The Government was committed to the, "polluter pays principle", and, "suitable for use approach".
- Concern related to past pollution only (there were effective regimes in place to control future sources of land pollution).
- Action should only be taken where the contamination posed actual or potential risks to health or the environment and there are affordable ways of doing so.
- The long-standing statutory nuisance powers had provided an essentially sound basis for dealing with contaminated land.

It was also made clear that the Government wished to:

- Encourage a market in contaminated land;
- Encourage its development, and
- That multi functionality was neither sensible or feasible.

The proposed new legislation was first published in June 1995 in the form of section 57 of the Environment Act which amended the Environmental Protection Act 1990 by introducing a new Part IIA. After lengthy consultation on statutory guidance this came into force in April 2000.

i.2 - EXPLANATION TERMS

The legislation and guidance is very heavily punctuated with many complex and often unusual terms. To assist in the interpretation of these an extensive glossary has been included in DETR Circular 2/2000, *Environmental Protection Act 1990: Part IIA - Contaminated Land*. (For convenience this has been re-produced at the end of this document)

i.3 - NATIONAL OBJECTIVES OF THE NEW REGIME

The Government believes contaminated land to be “an archetypal example of our failure in the past to move towards sustainable development”. The first priority has therefore been specified as the prevention of new contamination via the pollution control regimes.

Secondly there are three stated objectives underlying the suitable for use approach as follows:

- a) to identify and remove unacceptable risks to human health and the environment;
- b) to seek to bring damaged land back into beneficial use; and
- c) to seek to ensure that the cost burdens faced by individuals, companies and society as a whole are proportionate, manageable and economically sustainable.

The suitable for use approach recognises that risk can only be satisfactorily assessed in the context of a specific use with the aim of maintaining an acceptable level of risk at minimum cost, thereby, “not disturbing social, economic and environmental priorities”.

The specific stated objectives of the new regime are:

- a) To improve the focus and transparency of the controls, ensuring authorities take a strategic approach to problems of land contamination;*
- b) to enable all problems resulting from contamination to be handled as part of the same process (previously separate regulatory action was needed to protect human health and to protect the water environment);*
- c) to increase the consistency of approach taken by different authorities; and*
- d) to provide a more tailored regulatory mechanism, including liability rules, better able to reflect the complexity and range of circumstances found on individual sites.*

In addition to providing a more secure basis for direct regulatory action, the Government considers that the improved clarity and consistency of the new regime, in comparison with its predecessors, is also likely to encourage voluntary remediation. It is intended that companies responsible for contamination should assess the likely requirements of regulators and plan remediation in advance of regulatory action.

There will also be significant incentive to undertake voluntary remediation in that the right to exemption to pay Landfill Tax will be removed once enforcement action has commenced.

The Government also considers the new regime will assist developers of contaminated land by reducing uncertainties about so called, “residual liabilities”, in particular it should:

- a) reinforce the suitable for use approach, enabling developers to design and implement appropriate and cost-effective remediation schemes as part of their redevelopment projects;*
- b) clarify the circumstances in which future regulatory intervention might be necessary (for example, if the initial remediation scheme proved not to be effective in the long term); and*
- c) set out the framework for statutory liabilities to pay for any further remediation should that be necessary.*

i.4 - LOCAL OBJECTIVES

The Aylesbury Vale District Council welcomes the introduction of Part IIA of the Environmental Protection Act (1990) which compliments the Council's own Corporate aims and objectives.

The Council's Corporate Plan was first published in 1998. The Council's mission is:-

“To make Aylesbury Vale the best possible place for people to live and work.”

The Council's former Environment and Health Committee was responsible for all aspects of environmental issues and the provision of environmental health services throughout the District. Considerable emphasis has been given to developing a Local Agenda 21 and Sustainability Policy through the SAVE (Support Aylesbury Vale's Environment) initiative and a Local Authority Eco-Management and Audit Policy.

Other key initiatives closely linked to the Contaminated Land Strategy are the following:-

- The 1998 Local Plan where the objective is to:-

“Meet the needs and aspirations of present generations without compromising the ability of future generations to meet their needs and aspirations.”

- The Buckinghamshire County Structure Plan (1991 – 2011) where the aim is to:-

“Balance the need for development and the need to protect the environment for existing and future generations”.

The identification and safe re-use of contaminated land therefore plays a key part in the sustainable development of the area.

i.5 - ABOUT THIS STRATEGY

The Act itself states at section 78B (1) that:

Every local authority shall cause its area to be inspected from time to time for the purpose -

(a) of identifying contaminated land; and

(b) of enabling the authority to decide whether any such land is land which is required to be a special site (see appendix 1).

Section 78B (2) states that the authorities must act in accordance with guidance issued by the Secretary of State in this respect. Statutory guidance has now been published within Department of the Environment Transport & Regions Circular 02/2000, dated the 20th of March 2000. Specific technical guidance on the drafting of Inspection Strategies has also been circulated in draft form for consultation on the 7th of April 2000.

The statutory guidance makes clear that in order to carry out this duty Authorities must produce a formal contaminated land strategy document which clearly sets out how land which merits detailed individual inspection will be identified in an ordered, rational and efficient manner, and in what time scale.

The strategy must be completed, formally adopted by the Council, and published, within a period of fifteen months from the publication of the guidance. Copies of the final document must also be forwarded to the Environment Agency. Subsequently the strategy must be kept under periodic review.

In order to satisfy the far reaching objectives of the new regime it will be necessary to investigate land throughout the whole of the District and collate significant volumes of information. This will ultimately enable the Authority to make the sometimes difficult, and inevitably complex decisions relating to its condition, the risks it presents and who may be liable for it at law. This strategy is the commencement of that process and seeks to express as clearly as possible how each stage will be addressed.

It should be noted that there is no formal mechanism in place for approval of local authority strategies, though the Environment Agency, County Council, English Nature, English Heritage, DEFRA, and any statutory regeneration bodies, should be consulted (see appendix 2 for details of consultees).

i.6 - ROLES AND RESPONSIBILITIES

The primary regulator in respect of these new powers are the **local authorities**. In the Aylesbury Vale District Council the strategy will be under the control of the Director of Housing, Health and Leisure and the Nominated Cabinet Member. It should be noted that this is a complex and demanding enforcement role which will be carried out in accordance with the Council's enforcement policy (2000) and the Cabinet Office Enforcement Concordat March 1998.

The statutory guidance states: "The local authority has the sole responsibility for determining whether any land appears to be contaminated land."

This is a significant responsibility which reflects existing local authority duties under the statutory nuisance regime and Town & Country Planning, development control. The role in broad terms includes:

- To cause the area to be inspected to identify potentially contaminated sites
- To determine whether any particular site is contaminated (by definition)
- To determine whether any such land should be designated a 'special site'
- To act as enforcing authority for contaminated land not designated as a 'special site'

The **Environment Agency** has four main roles:

- To provide advice to local authorities on identifying and dealing with contaminated land (particularly where water pollution is involved)
- To enforce remediation related issues (powers under s78V), including apportionment of liability between parties
- To provide site specific guidance to local authorities on contaminated land where requested
- To act as enforcing authority for contaminated land designated a 'special site'
- To publish periodic reports on contaminated land

Where the presence of contaminated land has been confirmed the enforcing authority must:

- Establish who should bear responsibility for remediation
- Decide after consultation what must be done in the form of remediation and ensure it is effectively carried out
- Determine liability for the costs of the remedial works
- Maintain a public register of regulatory action in relation to contaminated land

i.7 - OUTLINE OF THE STATUTORY PROCEDURE

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 -

Significant harm is being caused or there is a significant possibility of such harm being caused; or

Significant pollution of controlled waters is being, or is likely to be caused.

What may and may not constitute the various categories of harm is described in the statutory guidance. Controlled waters include inland freshwater, groundwater and coastal waters (see appendix 3).

Local authorities must search their districts for land that has both sensitive receptors and sources of potential contamination. Where they have good reason to believe these both exist, they must undertake a formal risk assessment in accordance with established scientific principles in order to establish whether there is the potential for them coming together and causing harm or pollution as described. This is known as a pollutant linkage.

Where they are satisfied that significant harm is occurring, or there is a significant possibility of such harm, or pollution of controlled waters, they must declare that a significant pollutant linkage exists and that the land is therefore contaminated land by definition. In every case where the land does not fall within the category of a, special site, they must commence regulatory action.

This involves a series of complex procedures that must include:

- A formal written record of the determination
- Formal notification of all interested parties
- Determination the physical extent of the land
- The extent and seriousness of the risks (need for urgent action)
- The number and type of pollutant linkages
- The effect each significant pollutant may have on controlled waters (if any)
- The most appropriate and cost effective remedial scheme for each significant pollutant linkage
- Identification of liability groups and, appropriate persons, for each pollutant linkage
- Assessment of hardship in the case of each, appropriate person
- Effective remediation of the site and recovery of costs where appropriate

A series of consultations must also be carried out at each stage with the ultimate aim of securing voluntary remediation (without the need for enforcement action). Where the land does fall within the definition of a special site the Environment Agency become the enforcing authority. In these cases, however, the local authority must still make the determination and formally notify the interested parties.

In certain circumstances the local authority may carry out the remedial works. In general terms it has this power where:

- Urgent action is necessary (see part 5 and appendix 5)
- There is no appropriate person

- The authority is precluded from taking enforcement action (specified reasons)
- The authority agrees to carry out the works on behalf of an appropriate person
- A remediation notice has not been complied with.

In non-urgent cases where a remediation notice is necessary and all the required consultations have been completed, the notice must be served on the appropriate person(s) no sooner than three months after the contaminated land has been identified or declared a special site. The notice itself may require further investigation of the site and as a result more pollutant linkages may be identified. Where this is the case the enforcing authority must go through the same processes again to identify appropriate persons and remedial actions.

The enforcing authority must at all times consider the potential for hardship and undertake cost benefit analysis in respect of all remedial actions. Where remedial actions are undertaken in default of a notice the enforcing authority has the power to recover costs in certain circumstances.

i.8 - SITUATIONS WHERE THIS REGIME DOES NOT APPLY

As stated in i.3 above, the primary aim of the Government is to prevent new contamination occurring. There are several situations therefore where existing pollution control legislation would apply to control the effects of land contamination:

a) **Pollution Prevention and Control** (EC Directive 96/61 - Pollution Prevention and Control Act 1999) There are certain processes prescribed under the above regulations for a pollution control regime known as Pollution Prevention and Control (PPC) - EC Directive 96/91 which came into force in August 2000 (Statutory Instrument 2000 No.1973). This is enforced by the Environment Agency and includes prevention of pollution to land. The Act gives the Environment Agency power to take action to remedy harm caused by a breach of PPC controls, including land contamination.

b) **Waste Management Licensing** (Environmental Protection Act 1990 Part II) - All waste disposal and processing sites (including scrap yards) should be subject to licensing. Contamination causing harm, or pollution of controlled waters, should be dealt with as a breach of the conditions of the licence. In exceptional circumstances, where the problem arises from an unlicensed activity, it is possible that Part IIA could apply. An example of this would be a leak from an oil tank outside the tipping area. Where there has been an illegal tipping of controlled waste (fly tipping) this should also be dealt with under the Environmental Protection Act 1990 Part II (section 59).

c) **Pollution of Controlled Waters not arising from land** (Water Resources Act 1991 section 161) - Where a pollution incident has occurred and the pollutant is discharged directly into the body of water, or it has left land and it is entirely in the body of water (i.e. the land is no longer causing pollution), the Water Resources Act 1991 will apply. The Groundwater Regulations 1998 (Statutory Instrument 1998 No. 2746) are also applicable here.

d) **Discharge Consents** (Water Resources Act 1991 Part III) - No remediation notice

can require action to be taken which would affect a discharge authorised by consent.

e) **Change of Land Use** - Where land becomes a risk to potential new receptors as a result of a change of use, the Town & Country Planning Development Control regime will continue to apply as before.

f) **Risk of Harm to Employees** - Where there is a risk of harm to persons at work from land contamination, this should be dealt with under the Health and Safety at Work etc Act 1974. The enforcing authority will be either the Health & Safety Executive or this Council depending on the work activity.

g) **Risk of Harm Following an Incident at a COMAH Site** (Control of Major Accident Hazard Regulations 1999) - Where there has been a release, explosion or other major incident, which has caused land contamination, the restoration should be carried out as part of the COMAH on site / off site emergency restoration plan.

In addition there are several other situations where the relationship with Part IIA needs clarification:

h) **Contaminated Food** (Food Standards Act 1999) - Part I of the Food and Environment Protection Act 1985 gave Ministers emergency powers to prevent the growing of food on, *inter alia*, contaminated land. Following the establishment of the Food Standards Agency this power is now vested in the Secretary of State. Where the Council suspects crops may be affected from contaminated land to such an extent they may be unfit to eat, they will consult the Food Standards Agency and Ministry of Agriculture Fisheries and Food to establish whether an emergency order may be necessary. It should be noted, however, that remediation of the site if necessary would be carried out through the new powers in Part IIA.

i) **Radioactivity** - Part IIA does not apply to contamination caused by radioactivity, but the Secretary of State does have the power to make Regulations to that effect. Until such Regulations are created and brought into force, the Council will liaise with the Environment Agency where radioactive contamination is suspected or confirmed.

j) **Organisms** - Part IIA does not apply to contamination caused by organisms such as bacteria, viruses or protozoa, as they do not fall within the definition of substances. This could affect land contaminated with Anthrax spores, E-coli, etc. The Council will liaise with the Environment Agency in relation to MOD land and the Ministry of Agriculture Fisheries and Food on all other sites. It should be noted that even though contaminated sites used in connection with biological weapons must be designated Special Sites (see appendix 1), this applies only to non biological contamination.

k) **Statutory Nuisance** - (Environmental Protection Act 1990 Part III) - The relationship between Part IIA and statutory nuisance is not straightforward. Suffice to say if land is declared contaminated land by definition, it cannot be considered a statutory nuisance. This is understandable and ensures there is no duplication or confusion between the two regimes. If however the land is investigated and found not to be contaminated land but, "land in a contaminated state" (defined as land

where there are substances in, on or under the land which are causing harm, or there is a possibility of harm being caused), it also can not be considered a statutory nuisance for the purposes of Part III of the Act. Precisely in what circumstances might land be declared, "in a contaminated state", remains to be seen. Where land is not *contaminated land* or in a, *contaminated state*, but is causing a nuisance from smell, it could be considered a statutory nuisance as before.

i.9 LAND UNDER OWNERSHIP OF AN ENFORCING AUTHORITY

Where land owned by a local authority is found to be contaminated land, unless a special site, the local authority will be the enforcing authority. Local Council's must, therefore, undertake the same consultations, assessments and seek appropriate remedial works as necessary.

To this end a formal relationship should be maintained between the Department responsible for enforcement of the new regime and that responsible for Council owned land. All information relating to the identification, assessment and remediation of Council owned land must be fully reported to satisfy the needs for transparency. See also i.10 below.

i.10 - THE NEED FOR TEAM WORKING

This strategy impacts on potentially all departments of the Council, in particular :

Planning and Development Control - the inspection of the District will identify areas of potentially contaminated land which may be developed, awaiting development, derelict, protected or green belt. This may result in the need to re-examine past development control files or identify development routes for contaminated sites which may subsequently impact on the Local Development Plan.

Building Control - have the duty to enforce protection measures in new build projects to mitigate the impact of contamination on property. Information they hold will be essential to quantify risks.

Legal - this is a highly complex piece of legislation which could have significant implications for the Council, landowners and occupiers. The Solicitor's advice may be required on many aspects including those relating to enforcement, liability, powers of entry, data protection, and access to information etc.

Engineers and Highways - land under highways, pavements, verges and common areas may be contaminated and present a risk to potential receptors. Highways Authorities must maintain registers under Part III of the New Roads and Street Works Act 1991 regarding, amongst other things, streets with, "special engineering difficulties". This includes risks from contamination.

Information Technology - significant volumes of data will need to be held both on database and geographical information systems. Support will be required on the use of these systems and data protection.

Amenities and Housing - land in use and controlled by these departments may be contaminated and require remediation. The Tree Officer may need to be consulted on remediation and tree growth. The Countryside Officer on (potential) impacts on eco-receptors.

Property - the Head of Service for Environmental Health will lead the Council on the remediation of any contaminated sites it is found to be responsible for.

Finance - this legislation can have significant resource implications for the Council, both as an Enforcing Authority and landowner (see also i.11 below).

The need for close corporate team working to ensure the smooth implementation of the strategy can not therefore be overstressed.

i.11 - FINANCIAL AND MANPOWER IMPLICATIONS

The Explanatory and Financial Memorandum to the Environment Bill stated that the creation of the new contaminated land regime would have neither financial nor manpower implications. In the light of responses received to the draft guidance, however, the Government acceded that successful operation would necessitate considerable resources.

Accordingly, as part of the Government spending review in July 1998 a sum of £50M was made available to local authorities over three years to develop inspection strategies, carry out site investigations and take forward enforcement action. In addition £45M for remediation is to be made available through the contaminated land Supplementary Credit Approval (SCA) programme.

Funding aspects of the strategy are considered in Part 8.

THE STRATEGY

PART 1

DESCRIPTION OF THE AYLESBURY VALE AREA AND HOW ITS PARTICULAR CHARACTERISTICS IMPACT ON THE INSPECTION STRATEGY

1 INTRODUCTION

1.1 General Description

Aylesbury Vale is a large Shire District with a wealth of attractive environment. It lies between a major regional growth area to the north – the new city of Milton Keynes – and an area of severe development restraint to the south – the Chilterns Area of outstanding Natural Beauty (AONB) and the Metropolitan Green Belt around London.

The District covers about 900km², well over half the County of Buckinghamshire and has a population of approximately 160,000. The Vale has long been a flourishing agricultural area but, with the expansion of Aylesbury as a commercial, administrative and industrial town, it has now a wider economic and social base.

With the improvement of transport connections by canal and railway, many industries developed in the town during the early part of the 20th century. While many areas of employment tended to be associated with the railway, later development has been more diversely located. A number of service industries have moved to Aylesbury. As a result, Aylesbury has grown into the commercial centre of the Vale.

The growth in population accompanying and fostering the growth in employment has taken place at an ever-increasing rate. Census records for e.g. Aylesbury and the Civil Parishes of Bierton with Broughton and Stoke Mandeville give populations of 10,118 (for 1901), 14,630 (for 1931), 30,370 (for 1961) and 58,439 (for 1991). Therefore, much of the housing is less than one hundred years old with a significant proportion being less than thirty years old.

Aylesbury is also the administrative centre for both the District and County Councils and currently has a population of around 60,000. There are over 100 smaller settlements including the important historic town of Buckingham, and the country towns of Wendover and Winslow. There are many other beautiful villages set out in a classically English landscape that varies in character from the Chiltern woodlands and escarpment, across the low clay Vale of Aylesbury, to the lower dip-slopes of the Cotswolds.

1.1.1 Land owned by Aylesbury Vale DC

At the time of writing the Council owns approximately 760 hectares of land. The

following is a simple break down of land use (in hectares):-

- Housing 250
- Public open-space – 414
- Investment properties – 85
- Office and administration – 1
- Leisure buildings – 2
- Car parking – 5
- Cemeteries – 3

1.2 Local Geology and Hydrogeology

The geological strata of the Vale are of Jurassic and Cretaceous age, overlain in part by glacial and recent deposits. The regional dip is in a south-south-easterly direction, at an angle of about 1 degree. Therefore, the older Jurassic rocks outcrop in the northwest, and the younger, Cretaceous rocks in the southeast. The general picture is one of clays forming the vales, bordered by limestone and chalk ridges. Glacial deposits have their greatest development in the northern part of the District represented by Boulder Clay and glacial sands and gravels.

In terms of Hydrogeology, much of the river Thame area (in the south west of the Vale) is underlain by impermeable clays in which there is little significant groundwater flow. Where these clays outcrop, surface run-off will provide the dominant input to the river system.

The only major aquifers within the area are the Chalk and Upper Greensand. In places these can form a single aquifer, but the presence of a double spring-line within the Chalk and Upper Greensand would suggest that the low permeability Chalk Marl that forms the lower part of the Lower Chalk acts as an aquiclude which restricts flow between the two.

The Portland and Purbeck Beds, Whitchurch Sands and Lower Greensand Formation all yield small quantities of groundwater that are tapped for domestic and agricultural use.

In the north of the Vale, the river Great Ouse lies on Jurassic Oolite limestone. The river Ouzel rises on chalk and the Woburn Sands formation to the north east of the Vale. The Great Ouse flows in an eastward direction downstream of Brackley and is joined by the river Twins at Thornborough. River flows are derived mainly from surface water run-off and drainage, and from groundwater and springflows. The main aquifers in the Upper Ouse are the Lower Greensand and Bedford Oolite.

1.3 Transport network

The transport network has several clearly identifiable roads: –

- A 41 High Street – Tring Road corridor which runs east from Aylesbury town and

- provides a connection to the M 25 and London.
- A 418 which runs north to Wing and then to Leighton Buzzard (from which the A4146 runs to Milton Keynes).
 - A 413 running north to Buckingham.
 - A 41 (west) running to Bicester and the M40.
 - A418 Oxford Road running South-West to Thame, Oxford and the M40.

The railway network is geared to serving the needs of London. Silverlink County runs passenger services between London Euston, Milton Keynes, Northampton and Birmingham with a station at Cheddington. While Chiltern railways runs from Aylesbury via Stoke Mandeville and Wendover to London Marylebone and from Aylesbury through High Wycombe to the same destination.

In addition there is a freight only line between Bicester and Claydon junction with a link from Aylesbury which also serves the waste disposal site at Calvert and the Woodham Industrial estate.

A branch of the Grand Union canal serves Aylesbury.

STRATEGIC APPROACH TO THE IDENTIFICATION OF CONTAMINATED LAND IN THE VALE OF AYLESBURY.

1.4 In developing a strategic approach it is necessary to consider -

- The extent to which any specified receptors are likely to be found in the District;
- The history, scale and nature of industrial or other potentially contaminative uses;

1.5 Land can only be considered contaminated if it impacts in a certain way on specified receptors, these are:

a) Human beings.

- b) Eco systems:**
- Areas of special scientific interest
Wildlife & Countryside Act 1981 section 28
 - National / local nature reserves**
Wildlife & Countryside Act 1981 section 35 / National Parks & Access to the Countryside Act 1949 section 21
 - Marine nature reserves**
Wildlife & Countryside Act 1981 section 36
 - Areas for the special protection of birds**
Wildlife & Countryside Act 1981 section 3
 - Special areas of conservation & special protection areas**
Conservation (Natural Habitats etc) Regulations 1994 regulation 10
 - Any candidate special areas of conservation or potential special protection areas**
 - Any habitat or site afforded planning policy protection**
Planning Policy Guidance Note 9 - Nature Conservation, para 13

- c) Property:**
- Buildings (including below ground)
 - Ancient monuments
 - All crops including timber

Produce grown domestically or on allotments for consumption
Livestock
Other owned or domesticated animals
Wild game subject to shooting or fishing rights

d) Water:

Territorial sea water (to three miles)
Coastal waters
Inland fresh waters (rivers, streams, lakes, including the bottom / bed if dry)
Ground waters
Water Resources Act 1991 s104 (see also appendix 3)

1.6 In undertaking its duties to inspect the District under section 78B (1) of the Act, the Council will take into consideration the particular characteristics of the area, including:

Relevant geology, hydro geology and hydrology

The location of: sensitive water receptors
sensitive property receptors
relevant ecological receptors
all existing human receptors, and;

Potential sources of contamination

1.7 Consideration will also be given to the existence of sites and receptors which if found to be contaminated land would be designated special sites (see appendix 1).

1.8 POTENTIAL SOURCES OF CONTAMINATION

a) INDUSTRIAL HISTORY - A comprehensive list of potentially contaminative uses has been appended at 4. The first step in the process of identifying potentially contaminated sites will be to closely examine historical data in the form of old Ordnance Survey plans and photographs from the early part of the century to the present day. These will be obtained from this Council's archives and the County records office. A lot of past industry will also still be within recent memory so local knowledge will be important at this stage. To aid this process all the Town and Parish Council's will be consulted.

b) CURRENT INDUSTRY - The present industrial areas of the Borough are potential sources of contamination and these will be inspected in accordance with the statutory guidance to establish whether there is a potential of contamination to exist, and, if there is, whether it is controlled by another agency.

c) ENVIRONMENTAL PROTECTION ACT 1990 Part I - 'Part B' processes authorised for air pollution control by this Council.

There are currently 49 processes authorised by the Council under Part I of the

Act. These range from small waste oil burners to paint manufacturers. Many of these processes have the potential to pollute the land, but there are no other statutory methods of control. **Note: the Pollution Prevention and Control Act (1999) will repeal Part 1 of the above Act once all processes have been transferred to the new regime.**

d) ENVIRONMENTAL PROTECTION ACT 1990 Part I - 'Part A' processes authorised for integrated pollution control (IPC) by the Environment Agency. There is currently 1 process authorised by the Environment Agency under Part I of the Act. The IPC regime should control unauthorised discharges to land but their presence will need to be noted and the potential for long term pollution assessed, particularly post closure. **Note: the Pollution Prevention and Control Act (1999) will repeal Part 1 of the above Act once all processes have been transferred to the new regime.**

e) HAZARDOUS SUBSTANCES - this Council is a Hazardous Substances Authority for the purposes of the Planning (Hazardous Substances) Act 1990 and the Planning (Hazardous Substances) Regulations 1992. This legislation requires consent to allow the presence on land of hazardous substances above a specified quantity. The regulations were recently amended by the Planning (Control of Major Accident Hazards) Regulations 1999 (SI 981) to take account of the new COMAH Regulations (see f below). **There are currently 3 authorised sites in the District.** A register is maintained for this purpose by the Planning Officer.

f) COMAH sites - The Control of Major Accident Hazards Regulations 1999 (SI 743) are enforced by the Environment Agency and Health & Safety Executive (joint competent authority) to control both on and off site risks from industries with a high potential for disaster from dangerous substances (flammable, toxic or explosive). **There are currently no sites within the District.**

g) It should be noted that all sites notified to the HSE under the Notification of Installations Handling Hazardous Substances Regulations 1982 (NIHHS sites) and COMAH sites, will be held on the hazardous substances register, so there should be no need to consult with the HSE on their location.

h) EXPLOSIVES - are not directly covered by the hazardous substances regulations but are controlled by the Health & Safety Executive under licences issued under the Explosives Act 1875. Any licensed sites will be identified.

i) CURRENT LANDFILL AND WASTE PROCESSING SITES - are licensed by the Environment Agency under the provisions of Part II of the Environmental Protection Act 1990. Details of all these sites have already been provided by the Agency for this purpose.

j) CLOSED LANDFILL SITES - are a potentially significant source of risk, especially those which operated before the licensing requirements of the Control of Pollution Act 1974. All closed landfills in the District will be identified and their association with any specified receptors considered in detail.

k) SEWAGE WORKS AND LAND USED FOR THE DISPOSAL OF SEWAGE SLUDGE - land dedicated for the disposal of sewage sludge is notified to the Environment Agency under the, Sludge (Use in Agriculture) Regulations 1989. This land, together with all operating and redundant sewage works will be identified and assessed.

l) MINES AND MINERALS EXTRACTION - the geology of the area has resulted in large areas used for the extraction of minerals, particularly sand and gravel. Many of the resulting quarries then being filled with refuse or other materials. These can present a particular risk to water resources. An attempt will be made to identify all past quarrying sites and assess the risk they present. Bucks County Council's role as the Minerals and Waste Disposal Authority will be utilised in terms of their records relating to the Vale.

m) WASTE OR DERELICT LAND - often owned by the utilities, railways or local authorities is left seemingly abandoned because it has no particular use or is difficult to access. These areas can accumulate unwanted materials and can be used to dispose of wastes and effluents illegally.

n) MINISTRY OF DEFENCE LAND - there are two areas occupied by Defence Agencies (**RAF Halton and Edlesborough Radio-Communications Site**). Their potential for contamination could be significant therefore they will be investigated, in association with the Environment Agency as required, in accordance with the statutory guidance.

o) PREVIOUSLY DEVELOPED CONTAMINATED SITES - the inspection of the District will identify many potentially contaminated sites which have been developed over the years. In some cases the methods and extent of remediation may be unknown, in others it may be known but the remediation suspected of being inadequate.

As mentioned above, a more comprehensive list of previous uses considered potentially contaminative are listed in appendix 4 for information. Any site with the potential to cause pollution will be identified at this preliminary stage.

1.9 POTENTIAL SPECIFIED RECEPTORS

a) HUMAN - The present population of the District is approximately 160,000 distributed amongst the main population centres of Aylesbury, Wendover, Buckingham and Winslow. The remainder distributed throughout the many villages and smaller settlements of the rural area. Human receptors may therefore be present to some degree at almost any location within the District. The potential for persons either living on or frequenting a potentially contaminated site will be considered in every case, but priority will be given to sites with infants.

b) PROPERTY. BUILDINGS - All buildings and underground services (within the footprint of the building) are potential receptors and will be

considered in every case where contamination and buildings exist. Listed Buildings will be given a degree of priority under this category.

c) PROPERTY. ANCIENT MONUMENTS - as listed by English Heritage will be specifically identified as part of the strategy and the potential impact of contaminants considered. A full list of scheduled Ancient Monuments is provided in appendix.7 We shall also consult the Sites and Monuments Records (SMR) pertinent to the Vale, held at County Hall. The County Archaeological Curator will also be approached if a Significant Pollutant Linkage relating to an archaeological site is identified. Registered Historic Parks and Gardens will also be considered under the above category.

d) PROPERTY. AGRICULTURAL AND HORTICULTURAL CROPS - Being a largely rural area crop growing regions will not be specifically identified but taken into consideration as necessary. Where contamination is known or suspected associations with poor yield and crop failure will be investigated.

e) PROPERTY. TIMBER CROPS - There are several regions of the District growing timber. Crop failure as a result of contamination is, however, most unlikely except perhaps where trees have been planted on contaminated land as part of a remediation programme.

f) PROPERTY. HOME GROWN PRODUCE - There are many acres of allotments within the District and these will all be identified and their potential for contamination considered as a result of previous uses or activities. Similarly any domestic gardens likely to be contaminated will be identified and assessed.

g) PROPERTY. AGRICULTURAL LIVESTOCK, GAME AND OTHER OWNED ANIMALS - Again being a largely rural area the presence of livestock in an area will not be specifically identified but taken into consideration as necessary.

h) ECOLOGICAL RECEPTORS - All receptors listed in 1.5 (b) above will be identified as part of the inspection strategy. There are several specified sites including SSSIs and other areas of ecological importance. Significant impact of contamination is unlikely but all areas will be identified, examined and any risks carefully quantified with English Nature and the Environment Agency.

i) WATER. AQUIFERS - All aquifers will be specifically identified with their location, depth and vulnerability according to cover. Potential risks from identified sources of contamination will be considered carefully with the Environment Agency.

j) WATER. PUBLIC WATER SUPPLIES - All public water supply abstraction points will be identified with their location, depth, strata / surface water supply they draw from and volume of supply. There are no abstraction points in the Vale. Where a potential pollutant linkage includes a public water supply source as a receptor, the appropriate water authority will be notified

immediately.

k) WATER. PRIVATE WATER SUPPLIES - There are approximately 48 private water supplies (i.e. properties where this is currently, the only available drinking water supply) in the District which are often drawn from shallow sources. The protection of these could be particularly important due to the heavy reliance paid on them by local communities. This Council has, in the past, undertaken monitoring of these as part of its duties under the Water Industry Act 1991 Part II and Private Water Supplies Regulations 1991.

l) WATER, OTHER AUTHORISED ABSTRACTION POINTS - All authorised abstraction points will be identified such as those used for agricultural or recreational use.

m) WATER, OTHER SPECIFIED RECEPTORS - All other water receptors such as rivers, streams, tributaries, reservoirs, lakes etc will be identified as part of the inspection strategy.

Details of statutory and non-statutory consultees and contact points are included in appendix 2.

PART 2

IDENTIFICATION OF POTENTIALLY CONTAMINATED SITES AND THEIR PRIORITISATION ACCORDING TO RISK

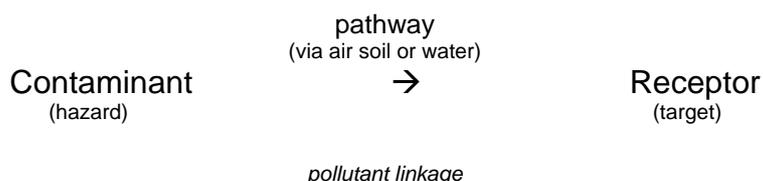
Introduction:

It is anticipated that the risk assessment stage will involve large volumes of data. The primary source of information will be Landmark historical land use data. This database consists of over 2000 ordnance survey grid reference points relating to previous land use (1884 onwards) in the Vale.

This information has already been placed on the Council's Geographical Information System (GIS) which will play an essential part in the processing of, not only the Landmark data, but many additional sets of relevant data.

2.1 The identification of contaminated land will be carried out in an ordered, rational and efficient manner based firmly on the principles of risk assessment. Significant and imminent risks to human health will always be given the highest priority.

2.2 Before land can be declared contaminated by definition a, significant pollutant linkage, must be identified.



2.3 Unless all three elements of a pollutant linkage are identified land can not be considered contaminated. All search strategies will therefore be prioritised on areas where both contaminants and receptors are known or likely to exist. It is important to fully understand this concept, as it will form the basis of all future site investigation and prioritisation procedures.

2.4 If, for example, an area of land is known to be badly affected with potentially dangerous contaminants, it will not be considered of the highest priority if studies confirm there are no specified receptors within the area of influence. If there are receptors evident, the risk assessment process will seek to determine the likelihood of them coming together at any time. If the chances of this are calculated as, significant, and the consequences would result in, significant harm, or pollution of controlled waters, then a significant pollutant linkage will be said to exist and the land will be declared contaminated land by definition.

2.5 In summary, for contaminated land to exist the following are pre-requisites:

- i) One or more contaminant substances
- ii) One or more specified receptors
- iii) At least one plausible pathway between contaminant and receptor

- (Then a pollutant linkage exists)
- iv) A good chance that the pollutant linkage will result in significant harm to one of the specified receptors, or, pollution of controlled waters.

2.6 The strategy for identification will therefore be based on a desk top survey of the District to identify areas of land where:

- a) Previous uses indicate contamination may exist
- b) There is no existing pollution control regime in place
- c) There are known receptors within a determined area of influence

Previous uses considered potentially contaminative are listed in appendix 4.

2.7 Potentially contaminated land shall, prior to detailed investigation, be listed and categorised according to a **preliminary assessment** of risk. The method used will be based on that described in DETR Contaminated Land Research Report 6, entitled, 'Prioritisation & Categorisation Procedure for sites which may be Contaminated' (CLR 6). This is to ensure all further investigative work relates directly to seriousness of the potential risk and therefore the most pressing problems are identified and quantified first.

2.8 CLR6 was published in 1995 and the terminology is not ideal for this purpose therefore some of the wording has been slightly changed in the description of the Priority Categories below, new words have been identified by underlining.

2.9 CLR 6 describes four Priority Categories (PCs):

- Priority Category 1 - Site likely not to be suitable for present use and environmental setting.
Contaminants probably or certainly present and very likely to have an unacceptable impact on key targets.
Urgent assessment action needed in the short term.
- Priority Category 2 - Site may not be suitable for present use and environmental setting.
Contaminants probably or certainly present and likely to have an unacceptable impact on key targets.
Assessment action needed in the medium term.
- Priority Category 3 - Site considered suitable for present use and environmental setting.
Contaminants may be present but unlikely to have an unacceptable impact on key targets.
Assessment action unlikely to be needed whilst the site remains in present use or otherwise remains undisturbed.
- Priority Category 4 - Site considered suitable for present use and environmental setting.

Contaminants may be present but very unlikely to have an unacceptable impact on key targets.

No assessment action needed while site remains in present use or undisturbed.

2.10 To assist in the prioritisation procedure a simple scoring system has been devised as follows:

Likelihood of <i>contaminants</i> on the site:	1	-	most unlikely
	5	-	good chance
	10	-	known to be present

Existence of <i>receptors</i> within area of influence:	1	-	most unlikely
	5	-	good chance
	10	-	known to exist

Likelihood of impact of contaminants on receptors (<i>pathway</i>):	1	-	most unlikely
	5	-	good chance
	10	-	certain

2.11 This preliminary process is known as a CRP (contaminant receptor pathway) assessment. Initial trawls may identify sites where either particular contaminants are likely or known to exist, or sensitive receptors are known to exist. No assessment should be undertaken unless both are suspected or confirmed. Where there is doubt the situation will be kept under review.

CRP Score	PC
26-30	1
21-25	2
16-20	3
10-15	4

Relationship of CRP score to Priority Category:

2.12 How this system is used can best be demonstrated by examples and several are shown in appendix 6 using a simple multi-stage assessment form

2.13 As Priority Category 1 sites are likely not to be suitable for their present use, these will be investigated as soon as possible after they are identified.

Note:- A risk assessment scoring system (devised by AVDC Officers and similar to the above system) has already been applied to the "Landmark" contaminated land data base. Each data point has been given a score based on the following categories:

1. DEFRA (Old DOE) Class:- "High" (score 3); "Medium" (2); "Low" (1)
2. Map date:- 1952 – 2000 (score 3) ; 1900 – 1952 (2) ; 1900 (1)
3. Current (land) use:- Domestic (score 6) ; Leisure/Industrial (4) ; Agricultural (2)
4. Proximity to controlled waters:- Abstraction Point (score 3) ; Source protection zone (2) ; Close to surface/ground water (1)
5. Site still currently used as described:- Score 1-1.5.

COMPLAINTS FROM THE PUBLIC

2.14 Complaints will continue to be received about fly tipping, accumulations, and the potential for contaminated land. These will be investigated in accordance with existing protocols and enforcement policy to establish whether the complaint is justified. If so, the particular circumstances will be evaluated to establish which enforcement process would be most appropriate. See also i.8 above, where the new contaminated land regime does not apply.

2.15 Complaints may also be received about the fact that a particular site has been identified for further investigation. This could give rise to concern, especially where a potential sale has failed as a direct result of the suggestion that the land may be contaminated. Those so affected may seek an early investigation to clarify their position, thereby seeking to circumvent the prioritisation process. Such requests for priority inspection will, where resources allow, be dealt with as considerately as possible and in accordance with the Council's customer service policy. This is considered also in Part 6 on data handling and access to information.

CONCLUDING COMMENTS ON IDENTIFICATION AND PRIORITISATION

2.16 It must be understood that the assessments at this preliminary stage are made on a limited amount of incomplete basic data and information, such as old surveys, maps, geological information etc. As more knowledge of the site is obtained, these assessments will be revised and their Priority Category may change. The assessment of a site as Priority Category 1 does not necessarily infer the existence of a significant risk to one of the specified receptors, but it does identify the need for priority assessment of risk potential.

PART 3

OBTAINING FURTHER INFORMATION ON POLLUTANT

LINKAGES AND THE RISK ASSESSMENT PROCESS

3.1 The Council has the sole responsibility for determining whether any land appears to be contaminated land, it can not delegate this responsibility. This applies even where the Environment Agency has carried out an investigation on behalf of the Council (see 3.11 below).

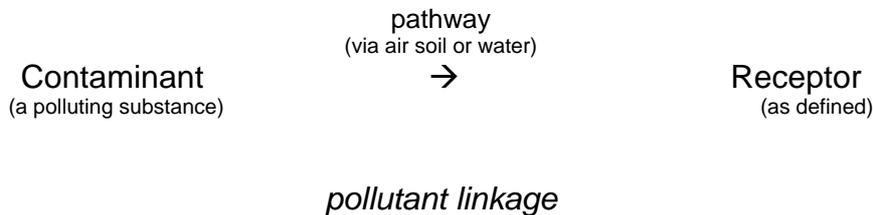
3.2 Once the Council become aware of the (possible) existence of a pollutant linkage they must, in accordance with their prioritisation procedure, commence the risk assessment process. The definition of contaminated land (see i.7 above) is based on the principles of risk assessment. For the purposes of the guidance risk is defined as the combination of:

- a) the probability, or frequency, of occurrence of a defined hazard; and
- b) the magnitude of the consequences.

There are two steps in applying the definition of contaminated land:

3.3 STEP 1

The Council must satisfy itself that at least one pollutant linkage exists -



This, for the purposes of this strategy is termed a **stage 1 risk assessment**.

The contaminant(s) must have the potential to have a defined detrimental impact on the receptor(s) and the pathway has to be plausible. It is not necessary for direct observation of the pathway but if a reasonable scientific assessment suggest the two could come together then a pollutant linkage is said to exist and the authority must proceed to step two.

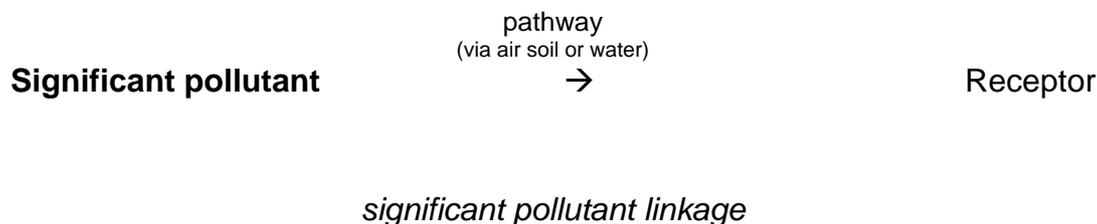
3.4 STEP 2

At this stage a more detailed investigation must be undertaken to confirm that the pollutant linkage identified is:

- resulting in significant harm (or the significant possibility of such harm) being caused to the receptor(s), or

- resulting in (or likely to result in) the pollution of controlled waters

If either of these is confirmed then the land becomes contaminated land by definition and the pollutant linkage becomes, 'significant'.



This, for the purposes of this strategy is termed a **stage 2 risk assessment**.

3.5 The detailed investigation of contaminated land is invariably a very time consuming and expensive process, therefore it must be emphasised that all investigations will be carried out on an incremental basis and terminated immediately it is clear that no significant pollutant linkage exists. However, it is acknowledged that there is merit in attempting to identify all pollutant linkages during the inspection phase of the determination process. Only the identified significant pollutant linkage (SPL) on which the land has been determined as Contaminated Land can be remediated via the enforcement regime. Any further SPLs identified at a later date may result in a repeat of the determination process for a different SPL.

3.6 In cases where imminent risk of serious harm or serious pollution of controlled waters has been confirmed, the Council will authorise urgent action in accordance with paragraph 5.13 of this strategy.

3.7 *OBTAINING DESK TOP INFORMATION* - As has been explained in the introduction to this strategy, the suggestion that land may be contaminated can have a significant impact on the way others view it, and in particular, its perceived value. The Council will therefore seek to obtain as much information as possible about a suspected site without causing unnecessary alarm. This may involve detailed inspection of historical data in its possession such as Planning and Building Control files. Also the consultation of others who may possess information such as:

- The Environment Agency
- Dept. for Environment, Food and Rural Affairs
- The Health & Safety Executive
- Developers
- Previous occupiers
- and others

Details of several sources of information are listed in 1.8 above.

Once sufficient information has been obtained which confirms a pollutant linkage does not exist, or, if it does, it is not significant, then the investigation will cease and no further action will be taken. It may be, however, that circumstances will be identified whereby a significant pollutant linkage could occur at some time in the future. Then arrangements will be made to keep the situation under review.

3.8 INSPECTION OF LAND - Where evaluation of all available data suggests a significant pollutant linkage may exist, it may be necessary to visit the site and carry out some form of on site testing, or take away samples for analysis. In every case this will be carried out by a, "suitable person", adequately qualified to undertake the work (see appendix 5). The utmost discretion will be used at all times to minimise the effect on occupiers of the land.

Intrusive investigations will be carried out in accordance with appropriate technical procedures to ensure:

- a) They are effective;
- b) do not cause any unnecessary damage or harm; and
- c) do not cause pollution of controlled waters.

To ensure the most appropriate technical procedures are employed the Council will have regard to the most up to date guidance available.

3.9 POWERS OF ENTRY - Statutory powers of entry are conferred on the Council to enable it to carry out its functions under Part IIA. These are also considered in appendix 5. There are no circumstances in which the Council will use these powers to obtain information about the condition of land, where:

- It can obtain the information from third parties without the need for entering the site; or
- A person offers to provide the information within a reasonable and specified time, and does so.

3.10 LAND WHICH MAY BE A SPECIAL SITE (see appendix 1) - Where the Council are aware that land it intends to investigate would, if declared contaminated land, be a special site, it will notify the Environment Agency in writing, requesting any information it may have on the land and the likelihood of pollutant linkages. The Council may request that the Agency carries out the site inspection on its behalf, to establish if the site is a special site. The Agency will agree the scope of all site inspection works with the Council.

Where the Environment Agency (or their agents) wish to carry out formal investigation on behalf of the Council their officers will need to be appointed as, "suitable persons", in accordance with appendix 5. The Environment Agency do not have the power under Part IIA to investigate land which may be contaminated land without the authorisation of the Council.

3.11 DETERMINING LAND IS CONTAMINATED - There are four possible grounds for determining land contaminated:

- a) Significant harm is being caused
- b) There is a significant possibility of significant harm being caused
- c) Pollution of controlled waters is being caused
- d) Pollution of controlled waters is likely to be caused

In making any determination the Council will take all relevant information into account, carry out appropriate scientific assessments, and act in accordance with the statutory guidance. The determination will identify all three elements of the pollutant linkage and explain their significance.

3.12 In an attempt to ensure the situation can be understood as widely as possible, a simple conceptual model (initially in diagrammatic form) will be produced for all relevant pollutant linkages, and multi-stage assessment forms completed, which clearly demonstrates the decision making process. Examples are produced in appendix 6.

3.13 WHERE THE SIGNIFICANCE OF A POLLUTANT LINKAGE CAN NOT BE ADEQUATELY DETERMINED - Situations may arise where, on the information available, it is not possible to determine whether a pollutant linkage is significant in accordance with the statutory guidance. In such case the Council will determine that, on the balance of probabilities, it would seem the land does not fall within the statutory definition of contaminated land, but the situation will be kept under review and reopened at any time new information becomes available.

3.14 Similarly, inspection may identify contamination that would form a significant pollutant linkage should new receptors be introduced. In such circumstances this information will be carefully recorded and the site monitored where the introduction of relevant new receptors seems likely. Should such a site be identified for future development the information obtained during the investigation will be made available to the planning officer and the developer.

PART 4

THE WRITTEN RECORD OF DETERMINATION AND FORMAL NOTIFICATION

4.1 Once an area of land has been declared contaminated by statutory definition, the Council will prepare a written record to include:

- a) a description of the pollutant linkage(s) confirmed, including conceptual model;
- b) a summary of the evidence which confirms the existence of the pollutant linkage(s);
- c) a summary of the risk assessment(s) upon which the pollutant linkage(s) were considered to be significant;
- d) a summary of the way the requirements of the statutory guidance were satisfied.

4.2 The Council will then to formally notify in writing all relevant parties that the land has been declared contaminated, these to include:

- a) the owner(s)
- b) the occupier(s)
- c) those liable for remediation ('appropriate persons' in the guidance)
- d) the Environment Agency

4.3 At the notification stage it may not be possible to identify all the relevant parties, particularly the appropriate persons. The Council will, however, act on the best information available to it at this time and keep the situation continually under review as more information comes to light.

4.4 If the Council is of the opinion that the contaminated land is a special site (see appendix 1) it will inform the Environment Agency of that decision also. The Agency will then consider whether it agrees that the land should form a special site. If it does not agree it will notify the Council and the Secretary of State within 21 days with a statement explaining its reasons. The Council will then refer the decision to the Secretary of State.

4.5 If the Environment Agency agrees with Council, or it fails to notify the Council it disagrees within 21 days, the land will be designated a special site. The responsibility for securing remediation then passes to the Environment Agency, though the Council must complete the formal notification process.

4.6 The legislation and statutory guidance has been designed to try to encourage voluntary remediation (without the need for enforcement action). The formal notification procedure commences the process of consultation on what remediation might be most appropriate. To aid this process the Council will therefore provide as much information to the relevant parties as possible, including where available:

- a) a copy of the written record of determination;
- b) copies of site investigation reports (or details of their availability)
- c) an explanation of why the appropriate persons have been chosen as such
- d) details of all other parties notified

4.7 The appropriate persons will also be provided with written explanations of the

test for exclusion and apportionment.

4.8 It may be at this stage that the Council will need further information on the condition of the site in order to characterise any significant pollutant linkages identified. If that is the case an informal attempt will be made to obtain this information from the appropriate persons already identified.

4.9 Environment Agency (EA) Liaison.

The EA is required to prepare an annual report for the Secretary of State on the state of contaminated land in England and Wales. The report will include:

- A summary of local authority inspection strategies, including progress of the strategy and its effectiveness
- The amount of contaminated land determined and the nature of the contamination
- Measures taken to remediate contaminated land.

As Local Authorities (LAs) are the lead regulators on contaminated land (with the EA regulating e.g. "Special Sites") the national survey will clearly be reliant on information provided by LAs. A memorandum of understanding has been drawn up between the EA and the Local Government Association, which describes how information will be exchanged between the LA and the EA. This Council will therefore provide information to the EA following the guidelines agreed via this national forum. Aylesbury Vale District Council will also provide information to the EA whenever a site is determined as contaminated, and whenever a remediation notice, statement or declaration is issued or agreed. The EA has provided standard forms (see appendix 9) allowing this information to be divulged in a consistent format, and this Council will adopt these to fulfil its reporting requirements.

PART 5

LIABILITY & ENFORCEMENT

5.1 Land may be declared contaminated upon the identification of only one significant pollutant linkage. Full liability can not therefore be determined until all significant pollutant linkages on the site have been identified (see also 3.5 above). When all significant pollutant linkages have been identified the procedure relating to

the apportionment of liability must commence. This has five distinct stages as follows:

- i) Identifying potential appropriate persons and liability groups
- ii) Characterising remediation actions
- iii) Attributing responsibility to liability groups
- iv) Excluding members of liability groups
- v) Apportioning liability between members of a liability group

5.2 These procedures are complex and cumbersome. The process commences with the establishment of liability groups. All appropriate persons for any one linkage are a 'liability group'. These may be class 'A' or class 'B' persons.

APPROPRIATE PERSONS - Class 'A' - These are, generally speaking the polluters, but also included are persons who, "knowingly permit". This includes developers who leave contamination on a site which subsequently results in the land being declared contaminated.

APPROPRIATE PERSONS - Class 'B' - Where no class 'A' persons can be found liability reverts to the owner or the occupier. These are known as class 'B' persons.

The Council will make all reasonable enquiries to identify class 'A' persons before liability reverts to innocent owner-occupiers.

5.3 The matter of appropriate persons must be considered for each significant pollutant linkage. Therefore where a site has had a series of contaminative uses over the years, each significant pollutant linkage will be identified separately and liability considered for each.

5.4 APPORTIONMENT OF COSTS - Generally speaking the members of a liability group will have the total costs falling on the group as a whole apportioned between them. It may also be necessary to apportion costs between liability groups. There are three basic principles that apply to exclusion and apportionment tests:

- i) The financial circumstances of those concerned have no relevance;
- ii) The Council must consult persons affected to obtain information (on a reasonable basis having regard to the cost). If someone is seeking to establish an exclusion or influence an apportionment to their benefit then the burden of providing the Council supporting information lies with them.
- iii) Where there are agreements between appropriate persons the local authority has to give effect to these agreements.

5.5 LIMITATION ON COSTS TO BE BORN BY APPROPRIATE PERSONS - There are six tests specified to identify Class 'A' groups who should be excluded from liability. These will be applied in sequence and separately for each pollutant linkage. The exclusion of Class 'B' persons is much less complex, the single test merely excludes those who do not have an interest in the capital value of the land. Tenants therefore are excluded.

THE ENFORCEMENT PROCESS

5.6 Before remediation notices are served the extensive consultation process will be completed and ample encouragement given to arrive at an informal solution. The Council will do all in its power to consult the appropriate person(s), owners, occupiers etc about their views on the state of the land. This could be a difficult and most protracted process and cause delays. Where a housing estate is affected for example, it would be reasonable to expect house owners, land owners, developers, lenders, insurers, surveyors, geotechnical engineers, residents groups, etc all to have differing views according to their position.

5.7 Remediation notices are served only as a last resort (not withstanding urgent cases), and then only after this lengthy consultation process has been exhausted. Notices will be authorised after two tests are satisfied:

- That the remediation actions will not be carried out otherwise.
- That the Council has no power to carry out the work itself.

5.8 If these are met the Council will serve a remediation notice on each appropriate person. It can not be served less than three months after formal notification that the land is contaminated unless the urgent action is deemed necessary (where there is imminent risk of serious harm).

5.9 *SPECIFYING REMEDIATION* - The Assistant Principal Officer and/or Environmental Protection Officer (Environment and Support)) will specify what remediation measures are to be carried out in the remediation notice. These will be both appropriate and cost effective employing what the statutory guidance terms, 'best practicable techniques'. The aim of the remediation will be to ensure that the land is no longer contaminated, taking the shortest and lowest cost route. Therefore, remedial action will aim to break the pollutant linkage.

5.10 The "reasonableness" of the requirements are, however, paramount, a concept which is considered at some length in the guidance. It is determined in relation to the cost of carrying out the remediation against the cost of failing to (i.e. the costs, or potential costs, resulting from the continuing pollution).

REMEDICATION BY THE LOCAL AUTHORITY

5.11 Before the Council can serve a remediation notice it will first determine whether it has the power to carry out any of the remediation actions itself. There are five specified circumstances where this may be the case:

- Where urgent action is required (see below)
- Where no appropriate person can be found
- Where one or more appropriate persons are excluded (on grounds of hardship)
- Where the local authority has made an agreement with the appropriate person(s) that it should carry out the remediation

- In default of a remediation notice.

Note:- Definition of Orphan Site

These are sites where it is not possible after “reasonable” enquiries to find anyone responsible for them (class A or class B persons) or where persons can be found but they are exempted for liability for specified reasons. These are described in the statutory guidance as “orphan linkages”.

Exemptions apply where:

- *The land is contaminated by reason of pollution of controlled waters only, and no class A person can be found (meaning class B persons can not be held liable for polluting water from land).*
- *The land is contaminated by reason of the escape of a pollutant from one piece of land to another and no class A persons can be found.*
- *The land is contaminated land by reason of pollution of controlled waters from an abandoned mine.*
- *The person was acting in a “relevant capacity” (e.g. insolvency practitioner, official receiver etc)*

URGENT ACTION

5.12 Urgent action must be authorised where the Council is satisfied that there is imminent danger of serious harm or serious pollution of controlled waters being caused as a result of contaminated land. In such circumstances the procedures identified in the statutory guidance will be followed which may involve the forced entry into the premises (see also appendix 5).

5.13 The terms “imminent” and “serious” are unfortunately not defined, local authorities are advised to use the normal meaning of the words. There is, however, guidance on what may constitute “seriousness” when assessing the reasonableness of remediation.

5.14 The Council will undertake the remediation in urgent cases where it is the enforcing authority if it is of the opinion that the risk would not be mitigated by enforcement action. In the case of a special site the Council will declare the land contaminated land in accordance with the statutory procedure, and then notify the Environment Agency who will then be responsible for the remediation.

5.15 In appropriate cases the Council will seek to recover costs of remediation works it has completed.

PART 6

DATA HANDLING AND ACCESS TO INFORMATION

6.1 The Council is required by Statute to produce this contaminated land strategy

and formally publish it by the end of June 2001. Subsequently it must maintain a register of regulatory action taken under Part IIA, which must be made available for public inspection at all reasonable times (see 6.13 below).

THE ENVIRONMENTAL INFORMATION REGULATIONS 1992

6.2 Implementation of the strategy will, however, also result in significant volumes of data which will be held on computer databases and geographical information systems, as well as in paper form. There is no statutory obligation to disclose this information therefore the Council must comply with the requirements of the Environmental Information Regulations when dealing with requests for disclosure.

6.3 These Regulations require local authorities to make any environmental information they hold available upon request, subject to certain exemptions. These are complex but it would be likely that the Council will have to respond to requests for information on land it has identified as part of, for example, the inspection of the District, as outlined in Part 2 of this strategy. See also 2.15 above on complaints about information held.

6.4 Below are broadly the exemptions to the right of environmental information. In all circumstances where there is doubt, the Council's Legal Division will be consulted.

Where held for judicial purposes.

Where disclosure would affect legal proceedings.

Where disclosure would affect international relations, national defence or public security.

Where disclosure would affect the confidentiality of deliberations by a relevant person, or the confidentiality of commercially sensitive matters.

Where it would involve the supply of a document or record which is still in the course of completion.

Where the information is not accessible.

6.5 "Information", for the purposes of the Regulations includes records, registers, reports, returns, and information on computers.

6.6 It has been suggested that information held as a result of the Council's initial inspection of the District and subsequent prioritisation for further investigation, could be classified as, 'a record which is in the course of completion', for the purposes of the Regulations, and therefore not be disclosed. Whilst this interpretation is appealing, it should be understood that sites should not be so identified unless there are sound reasons, based on scientific judgement, that a pollutant linkage may exist. Also once the preliminary inspection of the District has commenced, each assessment about each and every site, could constitute a, 'record', in itself.

6.7 More significantly, however, should a third party purchase land following a refusal on the part of this Authority to supply information requested on its condition, and the Authority had identified it at that stage as potentially contaminated land, that party may wish to seek a remedy against the Council should the site be subsequently declared contaminated land and lose value as a result.

6.8 Requests for information will therefore be dealt with promptly and shall be concluded no later than 10 days after they are made. A minimum charge of £50 will be made for the supply of information in accordance with the Regulations. Where the Council must refuse a request for any of the reasons stated in the Regulations it will provide details of the reasons in writing at no cost to the applicant.

THE DATA PROTECTION ACT 1998

6.9 The Data Protection Act (1998) applies to all personal data that is processed automatically. It does not apply to data processed manually. The Act seeks to give some protection to persons (known as data subjects) in respect of three potential dangers:

- The use of personal information that is inaccurate, incomplete or irrelevant
- The possibility of access to personal information by unauthorised persons
- The use of personal information in a context or for a purpose other than that for which the information was collected

6.10 Personal data is defined as data consisting of information which relates to a data subject who can be identified from the information, or from that and other information in the possession of the data user (the Council). Every individual member of the public can be considered a data subject; there is no age limit.

6.11 It should be noted that just about all information held on computers is considered as being, 'processed automatically', for the purposes of the Act. Therefore should the Council be unsure as to the legality of maintaining data on a computer it will keep a paper record only.

6.12 The implications of holding information relating to the condition of potentially polluted property, and the persons associated with that property and pollution, could be significant. The matter will therefore be considered in detail with the Council's Solicitor and Data Protection Administrator) before records begin to be compiled.

CONTENTS OF FORMAL CONTAMINATED LAND REGISTERS

6.13 The only information required to be stored on a formal register is that relating to regulatory action and remediation. The contents are specified at length in schedule 3 of the Contaminated Land (England) Regulations 2000. This formal contaminated land register will be maintained at the offices of the Environmental Health Division, 66 High Street, Aylesbury, Bucks). Members of the public will be able to view the register free of charge during normal office hours 0830 - 1730. Requests for copies of documents must be made to the Environmental Protection Officer and will be charged £3.50p for the first page and then 10 pence per sheet.

6.14 For the transfer of information to the Environment Agency, where a site is determined as contaminated land, details will be submitted to the Agency via a completed pro-forma, an example of which can be found in appendix 8

PART 7

QUALITY CONTROL, PERFORMANCE INDICATORS AND ARRANGEMENTS FOR REVIEW

7.1 The Government have stated -

“The DEFRA will be developing performance indicators to assess overall progress in the task of identifying and remediating our inherited legacy of contaminated land”.

7.2 No such performance indicators have been developed to date, but it is suggested they will include:

- a) Measures of the scale of regulatory activities; and
- b) Indicators of the overall progress in the task of identifying and remediating contaminated land.

7.3 It is the Government’s intention in due course to establish targets for overall progress.

7.4 COMPLAINTS AND INFORMATION FROM MEMBERS OF THE PUBLIC - This is also considered in 2.14 and 2.15 above. Procedures are in place to:

- Record that information or a complaint has been received;
- Demonstrate an appropriate officer has designated to deal with the request;
- Record the request and response; and
- Ensure appropriate records are maintained.

7.5 As part of this Council’s on going commitment to improving quality of service, performance criteria have been agreed and can be found the Corporate Customer Care Standards (October 2000).

REVIEW

7.6 Whilst the Council has a duty to inspect the District, ‘from time to time’, to identify contaminated land, the frequency of inspection is not prescribed. In practice inspection may be a continuum, balancing a systematic approach with the availability of resources. The Council has a duty to review its inspection strategy on a regular basis and to meet its statutory responsibilities. Two main aspects of review need to be built into this strategy:

- Triggers for reviewing inspection decisions, and
- Review of the inspection strategy

7.7 In addition to the routine review of inspection findings (see 2.11, 2.16, 3.8, 3.13,

3.14, 4.3 above) there will be situations which will trigger re-assessment including:

- Change of use of surrounding land (introduction of new receptors)
- The potential for pollutant linkages to become significant or urgent as a result of unplanned events (e.g. flooding, subsidence, spillages etc), or a change in circumstances
- Identification of a localised effect which could be associated with the land
- Responding to new information

7.8 The strategy as a whole will be reviewed by the Assistant Principal Officer and/or Environmental Protection Officer (Environment and Support) at least annually and any proposed changes will be reported to the appropriate cabinet members, and (if necessary) the Council, and incorporated as necessary. Specific items that will be kept under review include:

- The content of the strategy generally
- Priorities for further investigation of potentially contaminated sites
- The potential for the introduction of new receptors
- The potential for new contamination
- Progress on voluntary remediation
- The enforcement process generally and the identification of appropriate persons particularly Identification of special sites
- Progress with the implementation

PART 8

PROJECTED COSTS AND TIMETABLE

8.1 As outlined in i.11 above, the Government has identified that to implement this highly complex and demanding piece of legislation will involve local authorities in considerable expenditure. As a result some £95M has been made available over three years as part of the standard spending assessment (£12M each year), with the rest available through the contaminated land supplementary credit approval (SCA) programme.

8.2 No additional staff has been employed at this Council to implement the requirements of Part IIA. This strategy has been produced with the help of consultants at a cost of £500.

8.3 The next stage is the inspection of the District, identification of potentially contaminated sites, and their prioritisation for further more detailed inspection. This has been estimated to cost approximately £20,000 per annum and will be co-ordinated by the Environmental Protection Officer in the period year 2001 - 2003

8.4 Subsequently, potentially significant sums may be required to make more detailed investigation of sites and possibly take enforcement action and carry out remediation action. It is very difficult at this stage to estimate what the full inspection of the District will reveal, and how much further work it will necessitate. It is therefore proposed to allow a further three years after the full inspection of the District to complete detailed investigations allowing a sum of £10,000 per annum, which is rolled over to the next year if it is not required that year.

8.5 Should a significant investigation and / or remediation be identified, it would be anticipated that an application for SCA would be made specifically relating to that site.

8.6 It should be noted that these arrangements relate specifically to the Council's *enforcement role* and not that as landowner. Should land in possession of the Council be identified as contaminated land then funding of remediation will be considered on a case by case basis. In the event of significant costs being involved it is likely that an application will also be made via the contaminated land SCA scheme.

PROPOSED TIMETABLE FOR THE IMPLEMENTATION OF PART IIA

Duty	Year
Production and publication of statutory contaminated land strategy	By July 2001
Inspection of the District, identification of potentially contaminated sites and prioritisation for further investigation	2001 – 2003
Detailed inspection and assessment of priority category 1 sites	As soon as possible after they become known to the Council
Detailed inspection and assessment of remaining potentially contaminated sites	2003 - 2005

APPENDICES

APPENDIX 1

SPECIAL SITES

1. Once a local authority has identified land as contaminated land by definition, it must also consider whether it falls into the category of a special site. Special sites

are sites where, more often than not, the Environment Agency have had, or still have, an enforcement role.

2. What exactly constitutes a special site is specified in the Contaminated Land (England) Regulations 2000. For a legal definition the Regulations must always be consulted. In simple terms, however, they include land: -

- Polluting controlled waters (in certain circumstances - see appendix 3);
- On sites subject to Integrated Pollution Control (see Environmental Protection Act 1990 Part I - Prescribed Processes and Substances Regulations 1991 schedule 1 part A);
 - With waste sulphuric acid tar lagoons (on sites used for refining benzole, used lubricants or petroleum);
- Used as an oil refinery;
- Used to manufacture or process explosives;
- Used to manufacture or dispose of atomic, chemical or biological weapons (non biological contamination only);
- Used for other nuclear purposes;
- Owned or occupied by a defence organisation for naval, military or air force purposes (not off base housing / NAFFI);
- Held for the benefit of Greenwich Hospital.

3. Contaminated land beyond the boundary of these premises (but contaminated by them) also forms part of the special/contaminated site.

4. Procedure in relation to the investigation and declaration of special sites is covered in 3.10, 4.4, 4.5 and 5.14 above.

APPENDIX 2

LIST OF CONSULTEES AND CONTACT POINTS

Internal:

(Named officers consulted at various stages of the production of strategy)

Planning Officer : **M. Dalby**

Building Control Officer : **A. Heeley**

Forward Plans : **M. White**

Solicitor : **J. Swift**

Engineer : **G. Dawson**

IT : **M. Baker**

Data Protection
Administrator : **R. Gardner**

Housing : **S. Franklin**

Property : **C. Andrews**

County Council:

**Environmental Services Department
Bucks County Council
County Hall
Aylesbury
Bucks
HP20 1UP**

ENGLISH HERITAGE

Details of all Ancient Monuments in the area can be obtained from the Planning Officer

- Local contact:

**South East Region
East Gate Court
195 – 205 High Street
Guildford
GU1 3EH**

- National contact:

**Chief Scientist
23 Saville Row
London
W1X 1AB**

**Tel: 0207 973 3321
Enquiries: 0207 973 3000
Fax: 0207 973 3001**

ENGLISH NATURE

- Local contact:

**Thames and Chiltern Region
Foxhold House
Crookham Common
Thatcham
Berkshire. RG19 8EL**

- Special advisory teams:

**Environmental Impacts Team (Taunton)
English Nature
Roughmoor
Bishop's Hull**

Taunton
Somerset
TA1 5AA
Tel: 01823 283211
Fax: 01823 272978

Environmental Impacts & Marine Team (Peterborough)
English Nature
Northminster House
Peterborough
Cambridgeshire
PE1 1UA
Tel: 01733 455000
Fax: 01733 568834

ENVIRONMENT AGENCY:

The Council will consult and liaise with the Environment Agency on matters relevant to the Agency's various functions. It will also seek site specific advice where necessary in accordance with the Environment Agency's formal role.

This process will, as far as is reasonably practicable (taking into consideration the limitations on both parties), be carried out broadly in accordance with the Memorandum of Understanding.

- Area Contaminated Land Officer:

The Environment Agency
Isis House
Howberry Park
Wallingford
Oxfordshire
OX10 8BD.

- Regional Contaminated Land Co-ordinator:

Environment Agency
Kings Meadow House
Kings Meadow Road
Reading RG1 8DQ

National Centre for Groundwater and Contaminated Land:

Olton Court
10 Warwick Road
Solihull

B92 7HX

Tel: 0121 711 2324

Fax: 0121 711 5925

National Centre for Eco-toxicology and Hazardous Substance:

**Evenload House
Howberry Park
Wallingford
OX10 8BD**

Tel: 01491 828 544

Fax: 01491 828 427

National Centre for Risk Analysis and Options Appraisal:

**Steel House
11 Tothill Street
London
SW1H 9NF**

Help desk: 0207 664 6897

Fax: 0207 664 6911

FOOD STANDARDS AGENCY:

**Contaminants Division
PO Box 31037
Room 238
Ergon House
Horseferry Road
London
SW1P 3WG**

Tel: 0207 238 5751

Fax: 0207 238 5331

HEALTH & SAFETY EXECUTIVE

**14 Cardiff Road
Luton
Beds
LU1 1PP**

HER MAJESTY'S CUSTOMS AND EXCISE OFFICE:

Landfill Tax helpline is 0845 912 8484

DEPT. FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS:

**Sustainable Agriculture Branch
16 Palace Street
London
SW1 EE 5FF**

National Policy Advisor:

**Farming & Rural Conservation Agency
Nobel House
17 Smith Square
London
SW1P 3JR**

Tel: 0207 238 6452

Statutory Regeneration Bodies:

**South East England Development Agency
"SEEDA" Head Quarters
Cross Lanes
Guildford
GU1 1YA**

English Partnerships Head Quarters:

**National Environmental Policy Co-ordinator
16-18 Old Queen Street
London
SW1 9HP**

Tel: 0207 976 7070

Fax: 0207 976 7740

English Partnerships Senior Projects Manager
(Contaminated Land):

**Arpley House
110 Birchwood Boulevard
Birchwood**

**Warrington
WA3 7QH**

**Tel: 01925 651144
Fax: 01925 644657**

The Countryside Agency Head Quarters:

**John Dower House
Crescent Place
Cheltenham
Gloucester
GL50 3RA**

**Tel: 01242 521 381
Fax: 01242 584 270**

Water Authorities:

**Anglian Water Services Ltd
Endurance House
Chivers way
Histon
Cambridgeshire CB4 9ZR**

**Dr Peter Spillett
Thames Water
Gainsborough House (RBH 2)
Manor Farm Road
Reading RG2 0JN**

APPENDIX 3

POLLUTION OF CONTROLLED WATERS

1. Controlled waters are defined for the purposes of Part IIA as:

- ❑ Coastal waters including docks
- ❑ Relevant territorial waters (usually to three miles)
- ❑ Inland fresh waters (relevant rivers, watercourses, lakes, ponds, reservoirs - including bottom / channel / bed, even if dry)
- ❑ Ground water (section 104 of the Water Resources Act 1991)

2. The pollution of controlled waters is simply defined as:

The entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter

3. There is no power in the Act to enable the Secretary of State to issue guidance on what degree of pollution may constitute pollution of controlled waters. This has been accepted as a potential area of conflict. When, however, considering cases where it is thought very small quantities of a contaminant are causing pollution, local authorities must consider what remediation it may be reasonable to require. This should act as a limiting factor thereby ensuring unrealistic demands are not made in relation to cases of very minor pollution.

4. The Local Authority will request advice on identifying and dealing with the pollution of controlled waters from the Environment Agency. Below is a summary of the issues relating to controlled waters.

5. Where pollution of ground water has occurred and the source can not be identified, or the polluting substances are contained entirely within the body of water (and not in or on the land), then Part IIA does not apply and the matter would be dealt with by the Environment Agency under section Part III of the Water Resources Act 1991 (see also paragraph i.8 (c) above).

6. Where pollution has occurred from land which subsequently affects the wholesomeness of drinking water within the meaning of section 67 of the Water Industry Act 1991 (Water Supply [Water Quality] Regulations 1989 / Private Water Supplies Regulations 1991), then the land becomes a **special site**.

7. Where pollution has occurred from land which results in surface water failing to meet the criteria in Regulations (see list below) made under section 82 of the Water Resources Act 1991, then the land becomes a **special site**:

The Surface Water (Dangerous Substances) (Classification) Regulations 1989
The Bathing Waters (Classification) Regulations 1991
The Surface Water (Dangerous Substances) (Classification) Regulations 1992
The Surface Water (River Eco System) (Classification) Regulations 1994
The Surface Water (Abstraction for Drinking Water) (Classification) Regulations 1996
The Surface Water (Fish life) (Classification) Regulations 1997
The Surface Water (Shellfish) (Classification) Regulations 1997
The Surface Water (Dangerous Substances) (Classification) Regulations 1997
The Surface Water (Dangerous Substances) (Classification) Regulations 1998

8. Where the pollution of a specified aquifer* is caused by any of the following contaminants the land becomes a **special site**:

- Organohalogen compounds and substances which may form such compounds in the aquatic environment;
- Organophosphorus compounds;
- Organotin compounds;
- Substances which possess carcinogenic, mutagenic or teratogenic properties in or via the aquatic environment;
- Mercury and its compounds;
- Cadmium and its compounds;
- Mineral oil and other hydrocarbons;
- Cyanides.

*Specified aquifers are those contained in the following rocks:

Pleistocene Norwich Crag;
Upper Cretaceous Chalk;
Lower Cretaceous Sandstones;
Upper Jurassic Corallian;
Middle Jurassic Limestones;
Lower Jurassic Cotteswold Sands;
Permo-Triassic Sherwood Sandstone Group;
Upper Permian Magnesian Limestone;
Lower Permian Penrith Sandstone;
Lower Permian Collyhurst Sandstone;
Lower Permian Basal Breccias, Conglomerates and Sandstones;
Lower Carboniferous Limestones.

9. This, in effect, leaves local authorities with the potential responsibility for the pollution of controlled waters where:

- a) Surface or coastal waters are affected but not breaching the Regulations in paragraph 7 above.
- b) Groundwater (other than a principal aquifer specified as in 8 above) is contaminated and the water is not used for drinking.

APPENDIX 4

LIST OF POTENTIALLY CONTAMINATIVE LAND USES

This list has been drawn up to provide a broad indication of the type of sites that are known to use, or to have used in the past, materials that could pollute the soil. It must be understood that the list is not exhaustive, also that inclusion on this list does not necessarily infer the existence of a pollutant linkage.

Abattoirs	Dockyards
Adhesives manufacture	Drum cleaning
Agriculture	Dry cleaners
Aircraft manufacture	Dye works
Airports	Dyers and finishers
Animal burial	Electricity generation
Animal by-product processing	Electrical engineers
Anodisers	Electro platers
Anti-corrosion treatment	Engineering works
Asbestos products	Explosives manufacture (including fireworks)
Asphalt works	Farms
Automotive engineering	Fertiliser manufacture
Battery manufacture	Fellmongers
Bearings manufacture	Fibre glass works
Blacksmiths	Food processing
Boiler makers	Foundries
Bookbinding	Fuel manufacture
Brass and copper tube manufacture	Fuel storage
Brass founders	Garages and depots
Brewing	Gas mantle manufacture
Car manufacture	Gas works
Carbon products manufacture	Glass works
Cement works	Glue manufacture
Chemical manufacture and storage	Gum and resin manufacture
Chrome plating	Hatters
Ceramics manufacture	Hide and skin processors
Coal carbonisation	Ink manufacture
Coal merchant	Iron founder
Concrete batching	Iron works
Coppersmiths	Knackers yards
Descaling contractors (chemical)	Laquer manufacture
Detergent manufacture	Laundries
Distilleries	

Leather manufacture	Sheet metal merchants and works
Metal coating	Ship breakers
Metal manufacture	Ship builders
Metal sprayers and finishers	Shooting grounds
Mining	Skein silk dyers
Mirror manufacture	Small arms manufacture
Motor vehicle manufacture	Smokeless fuel manufacture
Oil fuel distributors and suppliers	Soap manufacture
Oil merchants	Solvent manufacture
Oil refineries	Solvent recovery
Oil storage	Steel manufacture
Paint and varnish manufacture	Stove enamellers
Paper works	Synthetic fibre manufacture
Pesticides manufacture	Tank cleaning
Petrol stations	Tanneries
Photographic film works	Tar and pitch distillers
Photographic processing	Textile manufacture
Paper manufacture	Thermometer makers
Plastics works	Timber treatment
Plating works	Timber preservatives manufacture
Power stations	Tin plate works
Print works	Transport depots
Printed circuit board manufacture	Tyre manufacture and retreading
Radioactive materials processing	Vehicle manufacture
Railway land	Vulcanite manufacture
Railway locomotive manufacture	Vulcanisers
Refiners of nickel and antimony	Waste disposal
Resin manufacture	Waste recycling
Rubber manufacture	Waste treatment
Scrap metal dealers	Zinc works
Sealing compound manufacture	
Sewage works	
Sewage sludge disposal areas	

APPENDIX 5

POWERS OF ENTRY AND THE APPOINTMENT OF “ SUITABLE PERSONS”

1. Section 108 of the Environment Act 1995 gives the local authority power to authorise, in writing, “suitable persons”, to investigate potentially contaminated land. These powers are extensive and will be considered in detail with the Council’s Solicitor prior to any resisted entry being attempted. It should be noted that these powers are not available to the Environment Agency. The powers which a person may be authorised to exercise include:

To enter at any reasonable time (or in urgent cases, at any time, if need be by force) any premises/land to make such examination and investigations necessary.

To take samples, photographs, carry out tests, install monitoring equipment etc.

2. At least seven days notice must be given to residential occupiers and to occupiers of land where heavy plant is to be used. Consent must be obtained to enter from the occupier, or failing that, a warrant obtained under Schedule 18 of the Act.

3. It should be noted that there are no circumstances in which the Council will use these powers to obtain information about the condition of land, where:

- it can obtain the information from third parties without the need for entering the site; or
- a person offers to provide the information within a reasonable and specified time, and does so.

URGENT ACTION

4. Urgent action must be authorised where the Council is satisfied that there is imminent danger of serious harm or serious pollution of controlled waters being caused as a result of contaminated land. In such circumstances the procedures identified in the statutory guidance will be followed which may involve the forced entry into the premises.

5. The terms “imminent” and “serious” are unfortunately not defined, local authorities are advised to use the normal meaning of the words. There is, however, guidance on what may constitute “seriousness” when assessing the reasonableness of remediation.

6. The Council will undertake the remediation in urgent cases where it is the

enforcing authority if it is of the opinion that the risk would not be mitigated by enforcement action. In the case of a special site the Council will declare the land contaminated land in accordance with the statutory procedure, and then notify the Environment Agency who will then be responsible for the remediation.

7. In appropriate cases the Council will seek to recover costs of remediation works it has completed.

8. All intrusive investigations will be carried out in accordance with appropriate technical procedures to ensure:

- a) they are effective
- b) they do not cause any unnecessary damage or harm
- c) they do not cause pollution of controlled waters

COMPENSATION

9. Schedule 18 of the Environment Act 1995 makes clear the circumstances when a local authority must pay compensation for loss or damage as a result of the use of these powers. The Assistant Principal Officer (Environment and Support) will therefore ensure that only appropriate technical procedures are deployed, the utmost care is taken at all times, and the conditions carefully recorded before, during and after completion of the necessary works.

“SUITABLE PERSONS”

10. The science and associated technical procedures relating to the investigation and assessment of contaminated land are extremely complex. Knowledge of several specialised disciplines is required together with an ability to interpret significant volumes of data and make a reasoned judgement, often in difficult circumstances.

11. The consequences of, ‘getting it wrong’, could, in many cases, have a major impact on the District and on people’s lives. On the one hand, an entire area could be unnecessarily blighted and homes rendered worthless over night, whilst on the other, a generation of children could be left at risk from an unidentified contaminant.

12. Neither the Act nor the guidance considers what may constitute a, “suitable person”, for the purposes of the investigation and assessment of contaminated land. There is no list of approved consultants or any professional organisation which oversees the training of contaminated land specialists. There is no minimum qualification and no recognised qualification. Consultants come from a range of backgrounds including:

- Environmental health
- Other environmental science disciplines (several)
- Surveyors
- Engineers
- Geologists

Hydrologists
Soil scientists
Chemists
etc

13. Ultimately, the responsibility for determining what land may and may not be declared contaminated, by definition, lies with the Head of Service (of the Environment Health Division). He/she will, however, often need to rely on the advice of appointed, "suitable persons". Under these circumstances criteria have been developed to assist in their selection.

PROCEDURE FOR THE APPOINTMENT OF "SUITABLE PERSONS" FOR THE PURPOSES OF PART IIA

14. There are two prerequisites to commencing the process of appointing suitable external consultant / contractors, firstly:

Adequate funding to support the process; and secondly
A well qualified person, 'in house, to act in the Client role

15. Such a person, as well as having sufficient knowledge and experience to specify the contract, must have sufficient time to monitor it also.

The Assistant Principal Officer (Environment and Support) of the Environmental Health Division has been identified for this purpose.

16. Additional training will be required to provide an adequate foundation of knowledge upon which to carry out the role.

17. The Client officer will produce a comprehensive, unambiguous but succinct draft specification for each contract which clearly identifies the work to be carried out, its purpose, timetable and Client / Contractor responsibilities. Then s/he will produce a list of appropriate companies, taking care to seek out those most prominent and successful in the field, rather than only those who promote themselves to the Council. Each of these will then be contacted in turn for an informal discussion as to their capability, expertise and experience. Prior to commencing this process the Client officer will produce a selection of questions relevant to the contract to ask each company. This should then hopefully result in a short list of six or so companies who will be asked to quote / tender for the work based on a final specification.

18. A check list of information requirements is included at the end of this section.

19. Once appointed the Client officer will be responsible for monitoring the contract to ensure:

- the contractors are kept fully aware of their responsibilities at all times;
- quality control requirements are met;
- amendments are quickly agreed and documented;

- the timetable is strictly adhered to;
- the aim of the contract is achieved.

20. The Local Authority (LA) may request that the Environment Agency (EA) undertake an inspection on its behalf. If so, the LA will need to authorise an EA representative, under s108 of the Environment Act (1995), to undertake the inspection.

CHECKLIST OF INFORMATION REQUIREMENTS

CLIENT'S INFORMATION REQUIREMENTS	REQUIREMENTS OF THE CONSULTANT
1. GENERAL	
1.1 Background on company capability	How long has company been operating? What kind of work were they originally set up to do - is this an add on? Who traditionally are their clients?
1.2 Numbers and qualifications of staff 1.3 CV and availability of key staff	If a large company, what are the interests / sympathies of those in control. Do they consider local authorities as a serious market? How many staff are available for this type of work, will they need to subcontract? Who will actually be doing the job, what are their qualifications and experience? Practical experience is KEY. Do they really understand Part IIA? Knowledge of environmental law & local government systems an important requirement.
1.4 Details of QA systems including: Allocation of responsibilities Project Management Technical Procedures Technical review Training Assessment of external suppliers	Where appropriate, need details of quality management systems indicating whether accredited by a third party. What technical procedures to be used. Which staff responsible, which will undertake technical review. How will quality of subcontractors is to be ensured.
1.5 Management of Health & Safety	Identify H&S management procedures where appropriate. Do they understand the fundamental requirements of H&S legislation?
1.6 Track record on similar projects	Ever done similar work or is this a new departure?
1.7 Client references	Need several telephone numbers to enable rapid verification of statements made at interview.
1.8 Financial status	May not always be necessary but on large contracts where considerable financial outlay required need to demonstrate solvency. Bond may be required on large remediation contracts.

1.9 Details of insurance cover	Need to demonstrate insurance available 3 rd party liability and professional indemnity. Identify limitations / exclusions
1.10 Membership of professional and trade associations	May be necessary to make checks, Corporate membership of professional organisations, meeting CPD requirements?
1.11 Compliance with codes of practice	Can they demonstrate knowledge of the appropriate guidance, codes of practice etc relevant to the job?
2. PROJECT SPECIFIC	
2.1 Technical proposal	The proposal must make it absolutely clear that work will be carried out to comply with the requirements of the specification, what the results will be, and when they will be achieved.
2.2 Project management plan / working plan	A clear timetable must be available which states what stage will be reached by when and who will be responsible to deliver.
2.3 Details of sub contractors	Subcontractors will be necessary on large technical projects. Must state who they are, contact points and lines of responsibility.
2.4 Details of technical procedures	Again, the working plan must clarify all procedures and lines of responsibility.
2.5 Reporting	Reporting procedures must be made absolutely clear. It is essential not to have masses of reports landing on the desk of the client officer which puts the responsibility back on him / her. The responsibility for doing what has been agreed to the agreed standard must lie with the contractor.
2.6 Programme & 2.7 Financial proposal	It may be that the Contractor will want to provide a guide price or include large contingency sums. The programme of work and the quotation must not be ambiguous. A lot depends on the quality of the original specification. Stage payments and timetables must be firm and with perhaps penalty clauses if fail to deliver on time.
2.8 Conditions of engagement	Contracts a need not be long and wordy, should define responsibilities of both parties, liabilities etc succinctly.

APPENDIX 6

EXAMPLES OF PRELIMINARY, AND STAGE 1 & 2

RISK ASSESSMENTS

Preliminary assessments are those carried out at the time of the inspection of the District and are designed only to assess priorities for further investigation. See Part 2 above.

Stage 1 risk assessments are those which seek to confirm (or otherwise) that a suspected pollutant linkage actually does exist. See 3.3 above.

Stage 2 risk assessments are those which seek to confirm (or otherwise) that a confirmed pollutant linkage is significant. See 3.4 above.

EXAMPLE 1 - Closed landfill with houses built on the site with no recognised capping

<i>Contaminant score</i>	-	10	(As a landfill site contaminants are known to be present)
<i>Receptor score</i>	-	10	(As persons are living on the site receptors are known to exist)
<i>Pathway score</i>	-	10	(As persons are living on the site they are potentially able to access the contamination - a pathway exists)
TOTAL	-	<u>30 - PC1</u>	

This is a very simple example but it indicates why houses on a landfill site with minimal protection will always be PC1 as a *pollutant linkage* always exists.

EXAMPLE 2 - Closed landfill site with houses built on the perimeter

<i>Contaminant score</i>	-	10	(As a landfill site contaminants are known to be present)
<i>Receptor score</i>	-	10	(As persons are living very close by receptors are known to exist within an area of influence of the site)

Pathway score - 6 (As persons are living so close there may be a presumption that there is a significant possibility that the contamination could impact on the receptors, maybe landfill gas)

TOTAL - 26 - PC1

In this case, if there was data to show that the pathway between the contaminant of concern (say landfill gas) and the receptors, had been effectively broken, then the pathway score may be significantly reduced or even become zero.

EXAMPLE 3 - Closed land raise in the country, no houses or property receptors nearby but watercourses identified on both sides of the site with leachate staining

Contaminant score - 10 (As a landfill site contaminants are known to be present)

Receptor score - 10 (The water courses are controlled waters and therefore specified receptors within an area of influence of the site)

Pathway score - 8 (It is very likely - possibly certain, that the contamination on this site will access the water courses)

TOTAL - 28 - PC1

EXAMPLE 4 - Old derelict gas works site, no structures, no access to the public, clay geology, no significant deep aquifer, but PWS nearby. Recent sample results satisfactory.

Contaminant score - 10 (As a gas works site contaminants are known to be present)

Receptor score - 5 (Initial investigations seem to suggest the existence of sensitive receptors unlikely except the PWS)

Pathway score - 3 (Adverse impact on receptor unlikely but could not be ruled out in the long term - seems satisfactory at the moment from recent sample results)

TOTAL - 18 - PC3

EXAMPLE 5 - Old power station site, now derelict, no structures, children play on the site, motorcyclists use it for scrambling. River adjacent and part of site a flood plain.

Contaminant score - 8 (As a power station site contaminants are very likely, including asbestos)

Receptor score - 10 (Person frequenting the site are receptors with direct access to any surface contamination. The river is controlled water and could be picking up contaminants from the site during periods of flood and heavy rain)

Pathway score - 5 (Chronic adverse impact on receptors possible)

TOTAL - 23 - PC2

Appendix 7				
		<u>Ancient monuments in the Vale of Aylesbury</u>		
Reference	Location1	ParishName	OSGridRefE	OSGridRefN
SAM:0001	Ivinghoe Hills	IVINGHOE	495988	216406
SAM:0002	Ivinghoe Beacon Hill	IVINGHOE	496057	216810
SAM:0003	Ivinghoe Beacon Hill	IVINGHOE	496206	216875
SAM:0004	Ivinghoe Hills	IVINGHOE	496010	216642
SAM:0005	Gallows Hill	IVINGHOE	496933	217090
SAM:0006	Bolebec Castle	WHITCHURCH	479960	220817
SAM:0007	Castle Hill	WING	488077	222822
SAM:0008	Moneybury Hill	PITSTONE	497113	213613
SAM:0009	Church Hill	WHADDON	480492	233865
SAM:0010	Snelshall Benedictine Priory	WHADDON	481623	234478
SAM:0011	Boddington Camp	HALTON	488216	207981
SAM:0012	The medieval village of Burston.	ASTON ABBOTTS	484060	218808
SAM:0014	Vatches Farm	ASTON CLINTON	486533	212732
SAM:0015	South of Boarstall	BOARSTALL	462283	214001
SAM:0016	Church Street	BRILL	465616	213903
SAM:0017	Temple Street	BRILL	465663	214310
SAM:0018	North of Manor Farm	CRESLOW	481025	222006
SAM:0019	Castle and medieval village	CUBLINGTON	483371	222162
SAM:0020	Nucleated medieval settlement East of	DINTON	478465	207286
SAM:0021	Site of medieval village of Moreton	DINTON	479020	209769
SAM:0022	North West of Aston Mullins	DINTON	476306	208749
SAM:0023	Church Farm	EDLESBOROUGH	497223	219337
SAM:0024	Fulbrook Farm	HOGSHAW	475034	222608
SAM:0025	Ickford Bridge	ICKFORD	464881	206477
SAM:0026	Wards Coombe	IVINGHOE	497049	215734
SAM:0027	Augustinian abbey & dovecote	LONG CRENDON	471947	209161
SAM:0028	South-west of church	LUDGERSHALL	465911	217105
SAM:0029	Moneybury Hill	PITSTONE	497150	213623
SAM:0030	Quainton medieval standing cross	QUAINTON	474657	220150
SAM:0031	Denham Lodge	QUAINTON	475378	220668
SAM:0032	Deserted villages and earthwork	QUARRENDON	480132	215767
SAM:0033	Lidcote, Littlecote Farm,	STEWKLEY	483207	224068
SAM:0034	Thornborough Bridge	THORNBOROUGH	472925	233197
SAM:0035	Two Roman barrows	THORNBOROUGH	473151	233255
SAM:0036	Grims Ditch	WENDOVER	489929	207117
SAM:0037	Manor House (grounds of)	WESTON	485909	210411

			TURVILLE		
SAM:0038	Moated site 330m south east of		WESTON TURVILLE	484738	213516
SAM:0041	Bacombe Hill		WENDOVER	486168	207142
SAM:0042	Bacombe Hill		WENDOVER	486127	207112
SAM:0043	Groves Road, Halton Camp		HALTON	488586	209524
SAM:0044	Butlers Manor, South End Lane		EDLESBOROUGH	495475	219089
SAM:0045	Round Hill, Aylesbury Road		HADDENHAM	473715	210017
SAM:0046	Ivinghoe Hills		IVINGHOE	495956	216384

Appendix 8

Sites of Special Scientific Interest in the Vale of Aylesbury						
SSI:0024	BOARSTALL	Whitecross Green and Oriel Woods				
SSI:0017	OAKLEY	Shabbington Wood Complex				
SSI:0021	BRILL	Muswell Hill				
SSI:0012	MARSH GIBBON	Long Herdon Meadow				
SSI:0019	TINGEWICK	Tingewick Meadows				
SSI:0016	BRILL	Rushbeds Wood and Railway Cutting				
SSI:0009	WOODHAM	Ham Home-Cum-Hamgreen Woods				
SSI:0008	GRENDON UNDERWOOD	Grendon & Doddershall Woods				
SSI:0018	CHARNDON	Sheephouse Wood				
SSI:0007	FOSCOTT	Foxcote Reservoir and Wood				
SSI:0025	QUAINTON	Finemere Wood				
SSI:0013	THORNBOROUGH	Pilch Fields				
SSI:0026	STONE	Adj Botts Furlong Farm				
SSI:0004	STONE	Bugle Quarry				
SSI:0003	BIERTON	Bierton Clay Pit				
SSI:0022	STEWKLEY	Warren Farm				
SSI:0023	WESTON TURVILLE	Weston Turville Reservoir				
SSI:0027	SOULBURY	Pokers Pond Meadow				
SSI:0002	ASTON CLINTON	Aston Clinton Ragpits				
SSI:0005	ASTON CLINTON	Dancersend				
SSI:0020	MARSWORTH	Tring Reservoirs				
SSI:0006	BUCKLAND	Dancersend Waterworks				
SSI:0011	SOULBURY	Kings & Bakers Woods & Heaths				
SSI:0015	MARSWORTH	Pitstone Quarry				
SSI:0014	PITSTONE	Pitstone Hill				
SSI:0010	IVINGHOE	Ivinghoe Hills				
SSI:0001	IVINGHOE	Ashridge Commons & Woods				

Appendix 9

Example of Standard Forms For Exchange Of Information Between Local Authorities And the Environment Agency:-