

REPORT

SUBJECT: CONTAMINATED LAND INSPECTION STRATEGY

DIRECTORATE: CHIEF EXECUTIVES

MEETING: CABINET

DATE: 8th June 2016

DIVISIONS/WARDS AFFECTED: All Wards

1. PURPOSE:

- 1.1 To consider the options for revising the Authority's Contaminated Land Inspection Strategy.

2. RECOMMENDATIONS:

- 2.1 Members note the content of the report entitled '*Monmouthshire County Council's Contaminated Land Inspection Strategy – Progress Summary*' May 2016 (Appendix A), consider the options available and decide the Authority's future approach.

3. KEY ISSUES:

- 3.1 The Authority has duties under Part 11A of the Environmental Protection Act 1990 to inspect its area for contaminated land in line with statutory guidance, which includes the development of an inspection strategy. In 2002 the Council approved a Contaminated Land Inspection Strategy setting out its plans for identifying potentially contaminated land and prioritising any identified sites for remediation action. This is provided in Appendix B.

- 3.2 A report to Cabinet in January 2009 provided a revised and detailed work programme for implementing this strategy. This was followed by a report in February 2012 (Appendix C) and the following recommendations agreed:

- To defer progress of the existing strategy and receive a future report, to enable consideration of a revised inspection strategy, following the publication of revised statutory guidance.
- To adopt as formal policy the approach of consultation between Development Control and Environmental Health sections with respect to developments on potentially contaminated land.

- 3.3 The revised statutory guidance was published by Welsh Government in April 2012. The previous guidance was 'fine-tuned' but with no fundamental change to the inspection responsibilities of the Local Authority. The statutory guidance requires Strategies produced in accordance with previous versions to be updated or replaced to reflect current guidance.

- 3.4 The report in Appendix A provides a summary of the current position of the work undertaken to date and the options for consideration in revising the Authority's Contaminated Land Inspection Strategy. Members' attention is drawn to the following key points:

- 2480 potentially contaminated sites in the authority have had an initial desk top risk assessment, which has enabled sites to be placed into risk category bands. Of the 2480 identified sites, 45 are categorised as 'very high' or 'high' risk.

- Identifying these potentially contaminated sites enables effective consultation between the Development Control Section and Environmental Health. Since 2012 Environmental Health has consulted on 91 planning applications for developments on or near potentially contaminated land. Public health is therefore being safeguarded by ensuring Contaminated Land sites are not being created and redeveloped sites are being investigated and remediated by developers.
- If a site is identified as contaminated, the land has to be declared as 'Contaminated Land' and placed on public register. The legislation allows for the Council to serve notice on the original polluter to require remediation, but in the quite likely event of the company no longer being in existence, the options remaining would be to serve notice on the current property owners to remediate or for the council to undertake the work. Remediating land is very expensive, although the costs do vary widely according to the nature of the site. Property depreciation and anxiety for the property owner(s) is a likely consequence of a declaration of 'Contaminated Land' until remediation is completed.
- From 2005 to 2011 Welsh Government provided Capital Support to local authorities to fund intrusive investigations at potentially contaminated sites and towards the cost of remediation. This funding stopped in April 2011.
- The Options presented in the attached report for a revised strategy are:
 - Option A. Dealing with land contamination through the planning regime.
 - Option B. Limited intrusive site investigations.
 - Option C. Full site investigations.
 - Option D. Further desktop studies to refine the prioritisation of sites in readiness for limited / full site investigations.

3.5 There are potentially very significant resource implications for the Council for progressing an inspection strategy beyond working within the planning regime. However limiting the strategy to Option A could be challenged as insufficient in meeting the Council's responsibilities for inspection. It should also be noted that this Authority is in a similar position to other Welsh Local Authorities.

3.6 The intention is for the strategy to be revised following consideration of the options by Cabinet. Welsh Government to be consulted (although not a statutory consultee) prior to a further report to Cabinet to agree a revised inspection strategy.

3.7 The Options for progressing the strategy were presented to the Economy and Development Select Committee on the 3rd March 2016 for comment prior to submission to Cabinet. The general consensus of the Committee was to favour Option A 'Dealing with land contamination through the planning regime'. Members requested further information on any sites owned by the Council which are in the high risk category band following the initial desk top risk assessment. There are 7 former landfill sites in the high risk band and the Progress Summary report has been updated accordingly. Environmental Health is not aware of any current issues with these sites.

4. REASONS:

4.1 The authority has a duty to inspect its area for contaminated land in line with statutory guidance. The April 2012 guidance requires strategies produced with regard to previous versions of guidance to be updated or replaced.

4.2 The financial implications of some of the options for progressing a strategy are potentially very significant, particularly in the light of Welsh Government having withdrawn funding.

5. RESOURCE IMPLICATIONS:

- 5.1 Potentially very significant depending on the options progressed following consideration by Cabinet and subsequently incorporated into the Council's Contaminated Land Inspection Strategy (which will be subject to approval by Cabinet).

6 Future Generations Evaluation:

- 6.1 The Future Generations Evaluation, including equalities and sustainable impact assessments, is provided in Appendix D. The revisions have a positive impact on these issues, for the reasons provided.

7. CONSULTEES:

**SLT
Cabinet Members
Chairs of Select Committees
Monitoring Officer and Head of Legal Services
Head of Finance
Head of Community Led Delivery
Estates Manager**

8. BACKGROUND PAPERS:

Nil

9. AUTHOR:

**Paul White, Specialist Environmental Health Officer
Huw Owen, Principal EHO**

11. CONTACT DETAILS:

TELEPHONE 01873 735433

**paulwhite@monmouthshire.gov.uk
huwowen@monmouthshire.gov.uk**