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Guidance

Land affected by contamination

Provides guiding principles on how planning can deal with land affected by contamination.

From:

[Department for Levelling Up, Housing and Communities](https://www.gov.uk/government/organisations/departments-for-levelling-up-housing-and-communities)
([/government/organisations/departments-for-levelling-up-housing-and-communities](https://www.gov.uk/government/organisations/departments-for-levelling-up-housing-and-communities)) and [Ministry of Housing, Communities & Local Government](https://www.gov.uk/government/organisations/ministry-of-housing-communities-and-local-government)
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Where plans are being prepared under the transitional arrangements set out in Annex 1 to the revised [National Planning Policy Framework](#) (<https://www.gov.uk/government/publications/national-planning-policy-framework--2>), the policies in the [previous version of the framework published in 2012](#) (<http://webarchive.nationalarchives.gov.uk/20180608095821/https://www.gov.uk/government/publications/national-planning-policy-framework--2>) will continue to apply, as will any previous guidance which has been superseded since the new framework was published in July 2018. If you'd like an email alert when changes are made to planning guidance please [subscribe](#) (<https://www.gov.uk/topic/planning-development/planning-officer-guidance/email-signup>).

Land affected by contamination

Why should local planning authorities be concerned about land contamination?

Failing to deal adequately with contamination can cause harm to human health, property and the wider environment. It can also limit or preclude new development; and undermine compliance with the [Water Environment Regulations 2017](#)

<http://www.legislation.gov.uk/ukxi/2017/407/contents/made>).

See related policy:

- [paragraph 170 \(https://www.gov.uk/guidance/national-planning-policy-framework/15-conserving-and-enhancing-the-natural-environment\)](https://www.gov.uk/guidance/national-planning-policy-framework/15-conserving-and-enhancing-the-natural-environment)
- [paragraphs 178-179 \(https://www.gov.uk/guidance/national-planning-policy-framework/15-conserving-and-enhancing-the-natural-environment#para178\)](https://www.gov.uk/guidance/national-planning-policy-framework/15-conserving-and-enhancing-the-natural-environment#para178)
- [paragraph 183 \(https://www.gov.uk/guidance/national-planning-policy-framework/15-conserving-and-enhancing-the-natural-environment#para183\)](https://www.gov.uk/guidance/national-planning-policy-framework/15-conserving-and-enhancing-the-natural-environment#para183)

Paragraph: 001 Reference ID: 33-001-20190722

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What is the role of planning when dealing with land which may be contaminated?

To ensure a site is suitable for its new use and to prevent unacceptable risk from pollution, the implications of contamination for development should be considered through the planning process to the extent that it is not addressed by other regimes. The latter include:

- The system for identifying and remediating statutorily defined contaminated land under [Part 2A of the Environmental Protection Act 1990](http://www.legislation.gov.uk/ukpga/1990/43/part/IIA) (<http://www.legislation.gov.uk/ukpga/1990/43/part/IIA>), which provides a risk based approach to the identification and remediation of land where contamination poses an unacceptable risk to human health or the environment. The government has published [statutory guidance](https://www.gov.uk/government/publications/contaminated-land-statutory-guidance) (<https://www.gov.uk/government/publications/contaminated-land-statutory-guidance>) on Part 2A which focuses on addressing contaminated land that meets the legal definition and cannot be dealt with via any other means, including planning.
- [Building Regulations](https://www.gov.uk/government/publications/site-preparation-and-resistance-to-contaminates-and-moisture-approved-document-c) (<https://www.gov.uk/government/publications/site-preparation-and-resistance-to-contaminates-and-moisture-approved-document-c>), which require that reasonable precautions are taken to avoid risks to health and safety caused by contaminants in ground to be covered by buildings and associated ground.
- [Environmental Permitting Regulations](https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit) (<https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit>), under which an Environmental Permit from the Environment Agency is normally required to cover the treatment and/or redeposit of contaminated soils if the soils are 'waste'.

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When is contamination likely to be present?

Contamination is more likely to arise in former industrial areas however, it may also be present in other locations including in the countryside (eg by inappropriate spreading of materials such as sludges, or contamination being moved from its original source). In addition, some areas may be affected by the natural or background occurrence of potentially hazardous substances, such as radon, ground gases or elevated concentrations of metallic elements.

Paragraph: 003 Reference ID: 33-003-20190722

Are concerns about land contamination relevant to neighbourhood planning?

Concerns about land contamination could be relevant to neighbourhood planning and it is important to consider the possibility of land being affected by contamination when drawing up a [Neighbourhood Plan](https://www.gov.uk/guidance/neighbourhood-planning--2) (<https://www.gov.uk/guidance/neighbourhood-planning--2>) or considering a Neighbourhood Development Order. The local planning and environmental health departments should be able to advise on whether land contamination could be a concern.

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How do you determine whether land could be contaminated?

Only a specific investigation can establish whether contamination is present, but there are various sources of information that can be used to help establish its likelihood, including:

- Local authorities' own survey information; including information held and collected in connection with [Part 2A of the Environmental Protection Act 1990](http://www.legislation.gov.uk/ukpga/1990/43/part/IIA) (<http://www.legislation.gov.uk/ukpga/1990/43/part/IIA>) (this could include information about sites that have been inspected and not determined to be 'contaminated land' within the terms of the Act but where new development could change the level of risk).
- [River Basin Management Plans](https://www.gov.uk/government/collections/river-basin-management-plans-2015) (<https://www.gov.uk/government/collections/river-basin-management-plans-2015>) published by the Environment Agency, including 'protected areas', which are shown in Annex D of each plan to help understand environmental sensitivity.
- Information about previous land uses contained in the [National Land Use Database](https://www.gov.uk/government/collections/national-land-use-database-of-previously-developed-land-nlud-pdl) (<https://www.gov.uk/government/collections/national-land-use-database-of-previously-developed-land-nlud-pdl>), including commercial databases, land condition records or in records held by the Environment Agency or the British Geological Survey (e.g. the location of 'made ground', the results of broad scale geochemical surveys or radon potential maps).
- Historical ordnance survey maps; data readily available on data.gov.uk relating to historical landfills and other contaminative uses.
- Local planning authority records, including historic environment and relevant Environmental Statements that may include updated baseline assessments.
- Natural England's [MAGIC site](https://magic.defra.gov.uk/) (<https://magic.defra.gov.uk/>) which sets out information about the environmental setting and sensitivity of the development site.

Information on the most common industrial activities and the risk of contamination is in Volume 2, Annex 3 of [Guidance for the safe development of housing on land affected by contamination](http://www.nhbc.co.uk/Builders/ProductsandServices/ConsultancyandTesting/LandQualityEndorsement/Technicaladviceoncontaminatedland/contaminatedlanddevelopment/) (<http://www.nhbc.co.uk/Builders/ProductsandServices/ConsultancyandTesting/LandQualityEndorsement/Technicaladviceoncontaminatedland/contaminatedlanddevelopment/>), published by the Environment Agency, National House Building Council and Chartered Institute of Environmental Health. More information is also available from industry profiles hosted by Contaminated Land: Applications In Real Environments ([CL:AIRE](https://www.claire.co.uk/useful-government-legislation-and-guidance-by-country/76-key-documents/198-doe-industry-profiles) (<https://www.claire.co.uk/useful-government-legislation-and-guidance-by-country/76-key-documents/198-doe-industry-profiles>)).

For applicants for planning permission, early engagement with the local planning and environmental health departments, particularly if the land is determined as contaminated land under The contaminated land regime under [Part 2A of the Environmental Protection Act 1990](http://www.legislation.gov.uk/ukpga/1990/43/part/IIA)

<http://www.legislation.gov.uk/ukpga/1990/43/part/IIA>), will clarify what assessment is needed to support their proposal and issues that need to be considered in its design of a development. For example how land affected by contamination can be made compatible with sustainable drainage.

The Environment Agency will also have an interest in the case of ‘special sites’ designated under Part 2A of the Environmental Protection Act 1990 and all sites where there is a risk of pollution to controlled waters. Remediation will need to meet their requirements. Applicants should also check whether an environmental permit is required before development can start.

Paragraph: 005 Reference ID: 33-005-20190722

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What is the role of plans in considering contamination?

The extent to which plans will need to consider contamination will vary, but it can be helpful to:

- consider a strategic, phased approach to dealing with potential contamination if this is an issue over a wide area, and in doing so, recognise that dealing with land contamination can help contribute to achieving the objectives of EU directives such as the [Water Environment Regulations 2017](http://www.legislation.gov.uk/uksi/2017/407/introduction/made) (<http://www.legislation.gov.uk/uksi/2017/407/introduction/made>);
- use [sustainability appraisal](https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal) (<https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal>) to shape an appropriate strategy, including through work on the ‘baseline’, appropriate objectives for the assessment of impact and proposed monitoring;
- allocate land which is known to be affected by contamination only for appropriate development – and be clear on the approach to remediation;
- have regard to the possible impact of land contamination on neighbouring areas (eg by polluting surface water or groundwater, or the migration of ground gas); and
- be clear on the role of developers and requirements for information and assessments.

Paragraph: 006 Reference ID: 33-006-20190722

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What is a contamination risk assessment and what can it contain?

If there is a reason to believe contamination could be an issue, applicants should provide proportionate but sufficient site investigation information (a risk assessment) prepared by a [competent person](https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary) (<https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary>) to determine the existence or otherwise of contamination, its nature and extent, the risks it may pose and to whom/what (the ‘receptors’) so that these risks can be assessed and satisfactorily reduced to an acceptable level. The [National Quality Mark Scheme](https://www.clare.co.uk/projects-and-initiatives/nqms) (<https://www.clare.co.uk/projects-and-initiatives/nqms>) (NQMS) accredits competent persons with regard to assessing and reporting land contamination issues. The Department for Environment, Food and Rural Affairs has published a policy companion document considering the use of ‘Category 4 Screening Levels’ (<http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=18341>) in providing a simple test for deciding when land is suitable for use and definitely not contaminated land. A risk assessment of land affected by contamination should inform an [Environmental Impact Assessment](https://www.gov.uk/guidance/environmental-impact-assessment) (<https://www.gov.uk/guidance/environmental-impact-assessment>) if one is required.

The risk assessment should also identify the potential sources, pathways and receptors ('pollutant/ contaminant linkages') and evaluate the risks. This information will enable the local planning authority to determine whether more detailed investigation is required, or whether any proposed remediation is satisfactory.

At this stage, an applicant may be required to provide at least the report of a desk study and site walk-over. This may be sufficient to develop a conceptual model of the source of contamination, the pathways by which it might reach vulnerable receptors and options to show how the identified pollutant/ contaminant linkages can be broken.

Unless this initial assessment clearly demonstrates that the risk from contamination can be satisfactorily reduced to an acceptable level, further site investigations and risk assessment will be needed before the application can be determined. Further guidance can be found on [land contamination \(https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks\)](https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks).

Note that remediation or site investigation activities themselves, including field trials, may require planning permission if not carried out as part of a development, and in some cases may also need environmental permits.

Paragraph: 007 Reference ID: 33-007-20190722

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Does an outline application require less information?

The information sought should be proportionate to the decision at the outline stage, but before granting outline planning permission a local planning authority will, among other matters, need to be satisfied that:

- it understands the contaminated condition of the site;
- the proposed development is appropriate as a means of remediating it; and
- it has sufficient information to be confident that it will be able to grant permission in full at a later stage bearing in mind the need for the necessary remediation to be viable and practicable.

Paragraph: 008 Reference ID: 33-008-20190722

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Should planning permission be refused if there are concerns about land contamination?

Responsibility for securing a safe development rests with the developer and/or landowner. However, local planning authorities should be satisfied that a proposed development will be appropriate for its location and not pose an unacceptable risk.

Local planning authorities should work with applicants to find acceptable ways forward if there are concerns about land contamination. For example, establishing or retaining areas of green infrastructure may serve to limit harmful disturbance of the ground. To help secure necessary mitigation, planning permission can be granted subject to [conditions \(https://www.gov.uk/guidance/use-of-planning-conditions\)](https://www.gov.uk/guidance/use-of-planning-conditions) and/or [planning obligations \(https://www.gov.uk/guidance/planning-obligations\)](https://www.gov.uk/guidance/planning-obligations), where the relevant tests are met.

Paragraph: 009 Reference ID: 33-009-20190722

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Using planning conditions

The stages and the factors to consider in framing appropriate planning conditions can include:

- site characterisation;
- submission of the remediation scheme;
- implementation of the approved remediation scheme; and
- monitoring and maintenance.

Model land contamination conditions can be found in [appendix A of circular 95/11](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7715/324923.pdf) (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7715/324923.pdf).

Paragraph: 010 Reference ID: 33-010-20190722

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Using planning obligations

Planning obligations could be used in a number of situations, for example:

- to ensure that any necessary offsite treatment works (e.g. the installation of gas-migration barriers, water treatment or monitoring arrangements) are put in place;
- to restrict the development or future use of the land concerned; or
- for payments to the local planning authority, for example, for on-going monitoring, maintenance, or as a bond to cover the contingency of future action triggered by the monitoring.

Paragraph: 011 Reference ID: 33-011-20190722

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Unacceptable risk

The Department for Environment, Food and Rural Affairs has published [statutory guidance to help identify and deal with land which poses unacceptable levels of risk](https://www.gov.uk/government/publications/contaminated-land-statutory-guidance) (<https://www.gov.uk/government/publications/contaminated-land-statutory-guidance>) under the Part 2A of the Environmental Protection Act 1990 regime for remediating statutorily defined contaminated land. Local planning authorities will want to have regard to this guidance alongside other considerations including the [Water Environment Regulations 2017](http://www.legislation.gov.uk/uksi/2017/407/introduction/made) (<http://www.legislation.gov.uk/uksi/2017/407/introduction/made>) and other matters that could affect the amenity of a site and its future occupants. For example, there could be contaminants present at levels that could cause nausea, headaches, odour/nuisance to people or harm to non-protected species of plants and animals. After remediation, as a minimum, [land should not be capable of being determined as contaminated land under Part 2A](http://www.legislation.gov.uk/ukpga/1990/43/part/IIA) (<http://www.legislation.gov.uk/ukpga/1990/43/part/IIA>).

More stringent standards of remediation than those under Part 2A apply to the management of the risks posed by man-made radioactive substances as a result of redevelopment for a new use. Public Health England has published technical guidance on [recovery from chemical](#)

incidents (<https://www.gov.uk/government/publications/uk-recovery-handbook-for-chemical-incidents-and-associated-publications>) and the Department for Business, Energy and Industrial Strategy has published statutory guidance on [land affected by radioactive contamination](https://www.gov.uk/government/publications/statutory-guidance-covering-radioactive-contaminated-land) (<https://www.gov.uk/government/publications/statutory-guidance-covering-radioactive-contaminated-land>). Public Health England has also published guidance on [areas affected by radon and the control measures available for new development](https://www.gov.uk/government/publications/statutory-guidance-covering-radioactive-contaminated-land) (<https://www.gov.uk/government/publications/statutory-guidance-covering-radioactive-contaminated-land>).

Paragraph: 012 Reference ID: 33-012-20190722

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How is contamination dealt with in the decision-making process?

Flowchart

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819075/land-affected-by-contamination.pdf

PDF, 32.7KB, 1 page

This file may not be suitable for users of assistive technology.

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Paragraph: 013 Reference ID: 33-013-20190722

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Related content

- [Contaminated land statutory guidance \(/government/publications/contaminated-land-statutory-guidance\)](/government/publications/contaminated-land-statutory-guidance)
- [Land contamination: technical guidance \(/government/collections/land-contamination-technical-guidance\)](/government/collections/land-contamination-technical-guidance)
- [Land contamination risk management \(LCRM\) \(/government/publications/land-contamination-risk-management-lcrm\)](/government/publications/land-contamination-risk-management-lcrm)
- [Land contamination: using soil guideline values \(SGVs\) \(/government/publications/contaminated-soil-assessing-risks-on-human-health\)](/government/publications/contaminated-soil-assessing-risks-on-human-health)
- [Contaminated land exposure assessment \(CLEA\) tool \(/government/publications/contaminated-land-exposure-assessment-clea-tool\)](/government/publications/contaminated-land-exposure-assessment-clea-tool)

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