



# Could your house sale or purchase be affected by Contaminated land?



## What is Contaminated Land?

The legal definition of Contaminated Land, as provided by Part IIA of the Environmental Protection Act 1990, is: 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 a) significant harm is being caused or there is a significant possibility of such harm being caused or b) pollution of controlled water is being, or is likely to be, caused.

A lot of information has been squeezed into this definition to provide a route to identify Contaminated Land. Three main components must be identified: firstly, a source of contamination must exist (examples discussed later); secondly a receptor, such as a person or the groundwater that we drink; finally and most fundamentally, a pathway, by which the source reaches the receptor. This could be direct contact with garden soil for the person or through the pores in the soil to groundwater. Therefore the mere presence of contamination at a site will not necessarily render it 'Contaminated Land'.

## Why do I need to know about Contaminated Land?

All local councils now have a duty to identify sites that fit the legal definition of contaminated land. The Council has drawn up a strategy to inspect the local area to find the most serious sites first. In preference to using new land for housing in West Norfolk, often old industrial sites are reclaimed for housing and it is important that you know as much as possible about how the site was made suitable for its new use.

In certain cases, if the original polluter of contaminated land cannot be found then the new owner of the land may be liable for cleaning it up.

In January 2020 the Law Society sent a practice note to make sure that solicitors advise their clients of potential liabilities associated with contaminated land. Your solicitor may advise you to undertake an independent site history investigation, e.g. obtaining a site report or environmental search from a commercial company.

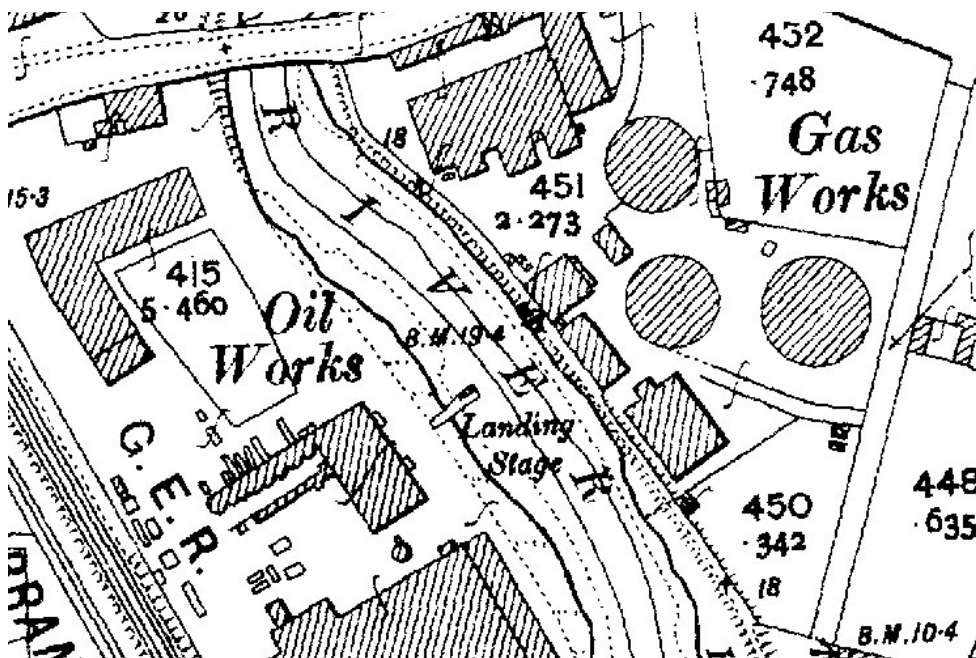


## How does land contamination happen?

Historical land use in the UK includes industrial, mining and waste disposal sites. Various industrial practices have led to substances such as chemicals, oils and tars being present in, on or under the land. Also, in the past, landfilling of waste is known to have taken place without adequate precautions against pollution of surrounding land or above the landfill.

## How can I find out about land contamination?

The Council holds a wide range of information on potential sources of contamination. This department can interrogate Council records to obtain information on historic land use, landfill sites within a 250m radius of a property and any remediation works associated with planning permission(s) for a fee and a written response can be provided. Information and environmental searches are also available from commercial suppliers and these companies may also give a certificate or opinion on the possibility that the land may fit the legal definition of contaminated land.



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## **What happens if I've had a search done and they won't issue a certificate?**

You will need to find out more about the land. Although a certificate is not a requirement, the certificate or professional opinion is intended to help you interpret the findings of your environmental search. Environmental searches from commercial providers often rely on third party information. If you aren't issued with a certificate it doesn't mean that the land is contaminated, just that more detailed information is needed. At this point you may want to formally request some more information from the Council. Your search provider may also advise you on further action to take.



## **Is all past industrial land now contaminated?**

It is important to note that past industrial use does not always indicate contamination is present today. Firstly, if the industry occurred a long time ago, there is a strong possibility that any contaminants present then will have changed to such a degree that they are no longer considered harmful. Secondly, many houses are built with the industrial past of the site in mind and appropriate remediation work is often carried out when the houses are built. Remediation is discussed shortly.

## **What is known about historic Landfills?**

Land is sometimes shown as potentially contaminated if it appears on old landfill records. Officers in Norfolk originally collected details on historic landfill



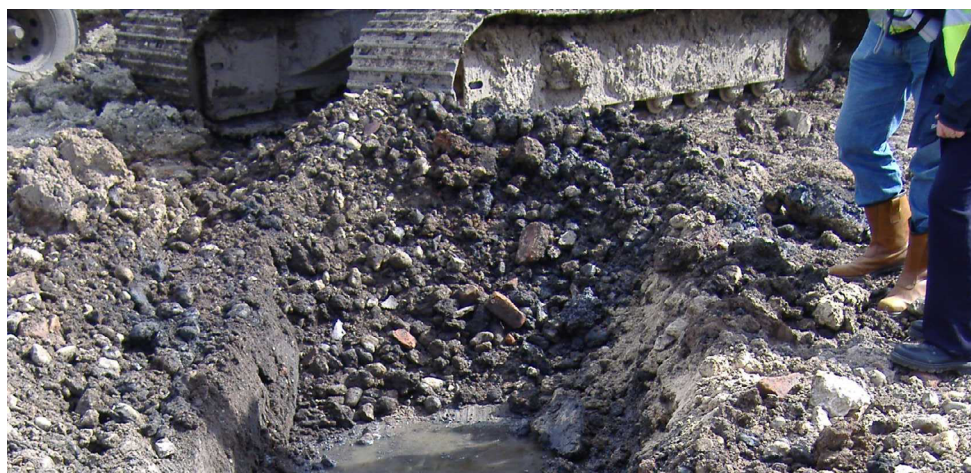
in the 1990s to identify areas which had been filled and assess if landfill gas was an issue. Many sites have been safely redeveloped and will not fit the legal definition of contaminated land. Other sites may have gas control or remediation measures in place and the council can provide more information on these.

## **Is it safe to live on land affected by past use?**

In most cases the risk from living on previously used land is low or negligible. Quite often there is more effect on the value of a property from perceived risk rather than the actual effects to the health of occupiers or the wider environment. For health effects to take place you would usually need to have regular prolonged contact with the source of contamination or the dust or vapours produced by it. When sites are redeveloped, careful consideration is made of what future occupants would be exposed to, especially those most vulnerable such as children.

## **What can be done to make land contamination safe?**

These days, house builders have to routinely consider the past industrial use of a site they propose to build houses on, and carry out appropriate remediation works at the site. 'Remediation' means removing any contamination off site, treating it so that it is safe or creating a barrier so that there is no possible linkage between contamination and the receptor (such future occupiers). This is closely monitored by the local authority and in some cases, the Environment Agency. Conditions put on the planning approval will not be discharged until the council is satisfied that all works have been carried out as necessary.



Where housing is proposed near an old disused landfill site, then the houses are built to a specification that takes account of the small chance of migrating gases. When landfills do close now however, they go through a careful process whereby they are capped to prevent escaping gases, and gases are actively drawn out and burned which makes the gas safe. Usually no houses would be built near such a site until a period of time has passed and the site is viewed as stable.

## **Will I be able to sell my house?**

When a standard land search is made questions are automatically asked as to whether the land has had legal action taken as a result of it being contaminated land. If land is contaminated and has been remediated, then you will know that it has been made suitable for use. If there is no evidence of harm as a result of contamination, it is unlikely that the council would take legal action or define the land as contaminated. If you've made enquiries about the status of the property and received an opinion that it is not contaminated land then you have important documents that will assist in selling your house in the future.



*This leaflet does not aim to set out to provide a detailed statement of the law, and specialist professional advice should always be sought in dealing with specific problems.*

## **How Can I Get Help?**

If you would like more information you can ask your solicitor or call the Environmental Quality team on the number below.

### **Environment & Planning**

Tel: (01553) 616200

Email: [environmental.quality@west-norfolk.gov.uk](mailto:environmental.quality@west-norfolk.gov.uk)

### **Our switchboard operates from:**

8.45am to 5.15pm Monday to Thursday

8.45am to 4.45pm Fridays

### **Alternatively write or call in to:**

#### **Environmental Quality**

Environment & Planning

Borough Council of King's Lynn & West Norfolk

King's Court

Chapel Street

King's Lynn

Norfolk

PE30 1EX

## **Information is available on the internet at:**

### **Borough Council of King's Lynn and West Norfolk**

[www.west-norfolk.gov.uk](http://www.west-norfolk.gov.uk)

### **Contaminated land – Gov.uk**

<https://www.gov.uk/contaminated-land>

### **Law Society**

<https://www.lawsociety.org.uk/topics/property/contaminated-land>

### **Land affected by contamination Gov.uk**

<https://www.gov.uk/guidance/land-affected-by-contamination>



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West Norfolk**

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### **Environment & Planning**

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