



Borough Contaminated Land **Inspection Strategy**

Part 2A Environmental Protection Act 1990



2022 Update Non-technical summary

Borough Council of
**King's Lynn &
West Norfolk**



Contaminated land Inspection Strategy Update 2022

Non-Technical Summary

1.0 Introduction

Local authorities have the duty to identify contaminated land and to address the risks which arise from it. This document updates our previous Contaminated Land Inspection Strategy Review published in 2016 and the previous versions published since 2000 when Part 2A of the Environmental Protection Act, 1990 (EPA, 1990) was implemented.

All the changes that have taken place in the last three years are additions or improvements, so this concise format strategy update is considered appropriate. This document can be read in conjunction with the full version which sets out further background to the UK contaminated land regime and council policy. Original section numbers have been retained throughout this update for ease of cross-reference with earlier versions of the strategy.

1.1 Main changes to the Strategy

Section	Change
2.1	Naturally elevated Arsenic
3.0	Local Plan and SADMP
3.1	NPPF and technical guidance revisions
3.2	Update on regeneration activities
4.0	Risk Assessment Process updated
4.2	Interaction with other regimes added
4.4	Progress on inspections updated for the period 2016-2021
5.5	Sustainability and climate change added

2.0 The Borough Council Area

Earlier versions of the strategy set out the geographical context of the King's Lynn and West Norfolk administrative area. Historical land use in the borough is dominated by the agricultural sector, food processing and associated infrastructure. Manufacturing and engineering have also formed part of the area's industrial history. Towns, villages and large country houses had coal gasworks and landfills. The area also had several sites used as airfields during World War 2.

2.1 Sources of natural contamination

Arsenic is a metalloid element, which occurs in the earth's upper continental crust. Due to its reputation historically as a poison, the harmful aspects of Arsenic are well known. Topsoil covering half of England and Wales typically contains less than 15 mg/kg Arsenic. Technical Guidance by the British Geological Survey reported 'normal background concentrations' of arsenic at up to 32 mg/kg in soil. There is evidence that some areas of West Norfolk, notably the north-west and along the coastline, which have Carstone¹ and Sandstone geology or underlying ironstones, may have natural Arsenic concentrations higher than 'normal background', compared to other rock types. Arsenic in topsoil and subsoil in these areas could exceed risk assessment criteria.

¹ BGS, Lexicon of Named Rock Units, Carstone, <https://www.bgs.ac.uk/lexicon/lexicon.cfm?pub=CA> (accessed August 2020)

The environmental quality team are consulted on planning applications and may request further human health risk assessment when development is proposed in areas with naturally high arsenic.

2.2 Water Resources

Because of the underlying geology in the borough, there is a clear divide between groundwater resources sensitivity in the east and west of the Borough. In the east, bedrock contains principal aquifers (a rock formation that holds a significant amount of water, which may be used for drinking and agriculture) including the Chalk, Sandringham, Mintlyn and Leziate Sands.

3.0 Wider Approach

The team works with colleagues across the council and within the County to consider land contamination as part of the council's work in development management, vacant & derelict land, economic development, affordable housing, property management, closed landfills, and open spaces.

The analysis of environmental issues formed a key part of constructing the Corporate Strategy. Therefore, many of the underlying corporate objectives are environmentally based. The Borough Council's Environmental Statement presents progress and future plans in the context of these corporate objectives. The Environmental Statement reports the Council's environmental aims and activities and includes progress on Part 2A.

Policies on land use and development reflect the Government's policy of encouraging sustainable development as set out in the National Planning Policy Framework (NPPF). As part of the Local Plan, the Borough Council's Core Strategy sets out the spatial planning framework for the development of the Borough up to 2026 and provides guidance on the scale and location of future development in the Borough. It contains strategic policies on a range of topics that include: the environment, employment, infrastructure, and housing.

In September 2016, the Borough Council adopted the Site Allocations and Development Management Policies (SADMP) plan. This plan supports the Core Strategy by providing detailed policies and guidance and allocating specific areas of land for development. The document also contains area-wide development management policies which are detailed policies for particular issues and types of development. The Environmental Quality Team have had an input on these policies as they can impact on land affected by contamination.

A review of the Local Plan has commenced. This will combine the Core Strategy and SADMP documents to create one plan for the Borough covering the period from 2016 to 2036. The first stage of consultation took place in the Spring of 2019. The new plan is expected to be adopted in 2022.

The Borough Council's Corporate Enforcement Policy explains in general terms the approach adopted by the Council when carrying out its duty to enforce a wide range of legislation. Central to this Enforcement Policy is the aim to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens.

3.1 Development Control

Investigation and remediation of land contamination is predominantly through the planning system. Action is secured by negotiations with the developer and application of planning conditions. The council's approach is guided by the NPPF, national planning practice guidance and Norfolk wide technical guidance to ensure that sites can be suitable for proposed new use.

We take account of ground conditions and pollution arising from previous uses and any proposals for land remediation. The contaminated land team require that adequate site investigation information, prepared by a competent person, is presented.

The Scientific Officer is on the review panel of the YALPAG group producing technical guidance for use in the planning process and which has been adopted for use across Norfolk. The team are also helping to produce guidance with the National Contaminated Land Officers Group on cover systems for remediating contaminated land.

3.2 Regeneration

Working as a consultee on the planning process, we have helped to ensure the safe redevelopment of several former factory sites to provide hundreds of new homes in King's Lynn, Hunstanton and also in some surrounding villages.

King's Lynn was designated Growth Point status in May 2008 to support the housing and jobs required in the town. It is envisaged that up to the period 2021 the population of the urban area of King's Lynn will grow from 41,500 to 50,000 people and will accommodate 7,000 of the 12,000 new houses earmarked for the borough. New development will primarily be located on the previously developed brownfield land. The integrated programme of development is based on the regeneration policy framework called the Urban Development Strategy. The Strategy was adopted in 2006 to guide the overall regeneration of King's Lynn and is part of a family of documents from the Urban Renaissance Strategy.

Our colleagues in Property Management have made good use of our expertise when making decisions about the council's portfolio of land assets and the Projects team has been successful in securing government funding for projects to regenerate disused land.

3.3 Brownfield Register

The Housing and Planning Act 2016 has the objective to increase the number of new build homes. One requirement is for councils to compile a register of brownfield land suitable for housing. This will make it easier for developers to identify and build on brownfield sites. Information from Contaminated Land inspections has been made available to help compile the brownfield register.

4.0 The Risk Assessment Process

The contaminated land team have carried out strategic inspections of sites according to the priority assigned during an earlier round of map-based site screening. This has helped to prioritise sites for more detailed inspection.

The map-based screening and strategic inspections identified the following groups of sites:

- Very High 26
- High 130
- Medium 1757
- Low 1323

Very high sites are predominantly landfills and former military land. The number of medium and low sites will be reduced when the documentary data is reviewed, and duplicate records removed. Sites are being inspected in priority order or when information becomes available on a particular site.

The Statutory Guidance has not changed since the last inspection strategy update, but the number and quality of available risk-assessment tools has. There are a number of useful assessment criteria including 'Suitable for Use Levels' (S4ULs) published by LQM/CIEH in 2015 which, although not intended for use in strategic risk assessment, are a useful additional line of evidence in the risk assessment process for our own strategic investigations and as part of the planning consultation process. 'Category four screening levels' (C4SLs) have been developed as a technical tool to help local authorities when deciding to stop further assessment of a site, on the grounds that there is no risk that land poses a significant possibility of significant harm. New Contaminated Land Risk Management (LCRM) guidance has been published by the Environment Agency based on the Model procedures for the management of land contamination – contaminated land report (CLR11). CLR11 has now been withdrawn.

5.0 Detailed Inspections

A detailed inspection is carried out when there is a reasonable possibility that a contaminant linkage exists because of:

- information or complaints received
- evidence gathered during strategic inspection

If enough is known about likely unacceptable risks and there is a risk of harm, land could be determined as Contaminated Land. The statutory guidance sets out categories of harm and pollution of controlled waters from 1 to 4. Risk summaries will be produced for sites if they fall within the categories 1 and 2 (high overall risk). Written statements (see below) have been produced for land which is not contaminated land and falls into categories 3 and 4 (low overall risk).

Site owners and people with an interest in the land and any other relevant bodies such as Natural England are contacted before a detailed inspection takes place and are provided a copy of the draft report before it is published. All data is stored in line with current data protection laws. The Environment Agency are also consulted regarding groundwater protection. Detailed inspections have provided sufficient data to decide whether further information is needed or if the inspection can be ceased. The statutory guidance states that an inspection may be stopped where there is little or no evidence to suggest the land is contaminated land. In this case, the Borough Council produces a written statement summarising the preliminary risk assessment information, setting out why we have decided not to proceed any further with inspection and what category the site will fall into as defined in the statutory guidance.

Summary of inspections:

Up to December 2020

- 26 sites were prioritised very high priority for detailed inspection
- 25 very high priority sites have had detailed inspections consisting of
 - 18 landfills
 - 1 oil shale extraction site
 - 1 clay pit
 - 1 gasworks
 - 1 fire site
 - 1 chemical/fertiliser works
 - 1 heavy engineering works
 - 1 former airfield
- 25 sites have written statements and 2 of the inspected sites will be kept under review. No sites have been determined as contaminated land.
- In the five years 2016-2021, the environmental quality team provided contaminated land advice on 3924 planning applications and discharge of conditions applications (average of 650 per year).

To date, no sites have been determined as contaminated land. Full details of inspected sites and written statements are published on our webpage: www.west-norfolk.gov.uk/contaminated_land_part_2a . In February 2019 the team lost an experienced team member due to relocation. There have been further staff changes and a new trainee officer in post from October 2021. This meant other work has taken priority for part of this time. Other demands are placed on the team's time such as contributing to major regeneration projects and development plans or responding to critical incidents. However, it is expected that up to 12 sites can be inspected each year over the next five years.

6.0 Cost Recovery

The full version of the contaminated land strategy describes the provisions for establishing liability and cost recovery as set out in Part 2A and how to consider financial hardship. The statutory guidance further sets out what the enforcing authority should consider when making any cost recovery decision.

There is no central government funding for contaminated land capital projects since funding was ceased in 2017. The Borough Council has a small fund available for initial inspections, if limited soil sampling is required. Where there is an immediate risk to public health, a report and business case would be made to consider the resources required.

7.0 Communication

We let landowners and occupiers know when we are investigating a site. We may also direct other interested parties such as neighbours and potential purchasers to the Written Statement if they want to know more about the land. For example, in response to 'failed' environmental searches. Written Statements are published on our webpage unless there are exemptions under the Environmental Information Regulations. The Contaminated Land public register will record regulatory action taken on land determined as contaminated land. The register currently contains no entries.

8.0 Review

Once adopted, this strategy will apply until reviewed in 2026 or if there is a significant change in legislation.

9.0 COVID-19

The borough council has had to reprioritise all its resources to respond to the coronavirus (COVID-19) pandemic. The environmental quality team have helped in the response to maintain essential services and will adapt our work as part of the process of recovery. This strategy may need revision over the period of the plan to reflect changes as recovery takes place.