

CYNGOR SIR POWYS COUNTY COUNCIL
CABINET MEMBER DELEGATED DECISION
by
COUNTY COUNCILLOR RICHARD CHURCH
CABINET MEMBER FOR A SAFER POWYS
Date: 23rd January 2024

REPORT AUTHOR: Professional Lead Environmental Health (Environmental Protection), Community Safety and Emergency Planning

REPORT TITLE: Revised Contaminated Land Strategy

REPORT FOR: Decision

1. Purpose

- 1.1 In 2001, the Contaminated Land (Wales) Regulations 2001 were introduced which enacted section 57 of the Environmental Protection Act. The Act established a legal framework for dealing with contaminated land known as "Part 2A".
- 1.2 The Act required local authorities to inspect their areas to identify contaminated land in a strategic manner and to set out their approach in a strategy which is formally adopted.
- 1.3 In 2002, the Council published its first Contaminated Land Strategy to meet its statutory requirements and had the simple aim of outlining the new legislation and setting out proposals for future implementation. In 2006, the Strategy was revised to refine the Council's aims priorities and to report on progress with implementation.
- 1.4 In 2016 a third edition was published to reflect changes in legislation and administrative arrangements for the management of closed landfills within the Council.
- 1.5 The purpose of this report is to seek approval for the fourth edition of the Strategy (see Appendix 1) which has been amended to reflect revised policies and provides an update on progress made against the implementation of the strategy.

2. **Background**

- 2.1 Part 2A introduced the legal framework for dealing with contaminated land.

Contaminated Land is defined as:

“Any land which appears to the Local Authority in whose area it is situated to be in such condition, by reasons of the substances in 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 waters is being or is likely to be caused”.

- 2.2 To assist local authorities in implementing the legislation Welsh Government produced guidance, the most current version being Contaminated Land Statutory Guidance-2012 (Statutory Guidance).

- 2.3 The guidance states that the overarching objectives of Welsh Government’s policy on contaminated land and the Part 2A regime are:

(a) To identify and remove unacceptable risks to human health and the environment.

(b) To seek to ensure that contaminated land is made suitable for its current use.

(c) To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principles of sustainable development.

- 2.4 Part 2A requires local authorities to inspect their areas with a view to identifying contaminated land. In doing so they should adopt a structured approach which is rational, ordered and efficient and reflects local circumstances. The Council should set out their approach in a strategy which is formally adopted.

- 2.5 The local authority should include in its strategy:

(a) Its aims, objectives and priorities, taking into account the characteristics of its area.

(b) A description of relevant aspects of its area.

(c) Its approach to strategic inspection of its area or parts of it.

(d) Its approach to the prioritisation of detailed inspection and remediation activity.

(e) How its approach under Part 2A fits with its broader approach to dealing with land contamination.

(f) Broadly, how the authority will seek to minimise unnecessary burdens on the taxpayer, businesses and individuals.

- 2.6 The guidance requires that local authorities keep the strategy under review to ensure that it remains fit for purpose.

The first edition of the Council's Contaminated Land Strategy was published to meet its statutory requirements and had the simple aim of outlining the new legislation and setting out proposals for future implementation.

- 2.7 The second edition was published in order to refine the Council's aims and objectives and to detail the Council's approach with regard to contaminated land. This included reference to historical mapping and a dedicated software system that had enabled some 10,000 potentially contaminated sites being prioritised according to risk.

- 2.8 In 2016 a third edition was published to reflect changes in legislation and guidance namely:

- a) Contaminated Land (Wales) Regulations 2006
- b) Contaminated Land (Wales) (Amendment) Regulations 2012
- c) Welsh Government Contaminated Land Statutory Guidance 2012

- 2.9 This version also referenced the fact that the Environmental Protection Service which is responsible for contaminated land took over the management of closed landfills.

- 2.10 The third edition also set out revised aims and objectives as set out below:

Aim 1 -To fulfil the Council's responsibilities with respect to implementing the Inspection Strategy and environmental legislation

Aim 2 - Reduce environmental liability caused by Council owned land

Aim 3 - Encourage regeneration and redevelopment of contaminated sites

Aim 4 -To achieve environmental improvement with priority on human health

Aim 5 - To raise awareness and promote understanding of land contamination issues.

- 2.11 The Strategy also outlined the Council's approach in dealing with contaminated land going forward.

- 2.12 This the fourth edition of the strategy provides an update on relevant policies and progress made in the implementation of the strategy. The main changes are:

- Referencing a change to the Council’s Corporate strategy “Stronger, Fairer Greener”. (Section 2.2)
- Update on the formally determined Contaminated Land site at Penygarneidd and the publication of a Remediation Declaration. (Section 4.1)
- Referencing to the Powys County Council v Price & Anor [2017] EWCA Civ 1133 case which found that the Council does not have responsibility for any landfills operated prior to the formation of Powys County Council that are in private ownership. (Section 6.4)
- Update on Part 2A inspections carried out on Council owned land. (Section 6.4)

3. Advice

- 3.1 It is recommended that the revised strategy be adopted in order to outline the Council’s approach to contaminated land and to ensure that it complies with current statutory guidance.

4. Resource Implications

- 4.1 There are no additional budget implications to adopting the revised contaminated land strategy.
- 4.2 The Head of Finance (Section 151 Officer) notes the report and can support the recommendation.

5. Legal implications

- 5.1 Legal – The recommendations can be supported from a legal point of view.
- 5.2 The Head of Legal Services and the Monitoring Officer has commented as follows: I note the legal comment and support the recommendation.

6. Climate Change & Nature Implications

- 6.1 The Council’s Corporate strategy ‘Stronger, Fairer Greener’, set out the council’s objective of being carbon neutral by 2030 and enhancing the county’s biodiversity. The management of contaminated land contributes to the council’s corporate objectives by seeking to ensure contamination is managed, contained and where possible remediated to ensure that land can be put to uses which contribute to the county’s economic and environmental sustainability’.

7. Data Protection

7.1 N/A

8. Comment from local member(s)

8.1 N/A

9. Impact Assessment

9.1 The Council's Corporate strategy 'Stronger, Fairer Greener', set out the council's objective of being carbon neutral by 2030 and enhancing the county's biodiversity. The management of contaminated land contributes to the council's corporate objectives by seeking to ensure contamination is managed, contained and where possible remediated to ensure that land can be put to uses which contribute to the county's economic and environmental sustainability'.

10. Recommendation

10.1 It is recommended that the revised strategy in Appendix 1 to the report be adopted in order to outline the Council's approach to contaminated land.

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