



City of Westminster

Contaminated Land Guidance for Developers submitting planning applications in Westminster

Environmental Sciences Team

September 2018

Introduction

This guidance is for property owners, developers, architects and surveyors who want to know what information they should submit to the Planning Department when they apply to re-develop, or significantly change the use of a piece of land, which could potentially be contaminated.

Contamination, in most cases, is likely to arise from a previous use of the site, or an adjacent site, that had an industrial activity on it.

The requirements for remediating land under the planning process are not the same as remediating land under Part IIA of the [Environment Protection Act 1990](#), and this guidance does not cover this however, it should be noted the information that we would request is very similar. For details on Part IIA please see Contaminated Land Statutory Guidance

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223705/pb13735cont-land-guidance.pdf.

This document is only a guide. We are aware that the contents of any site investigation will differ due to site-specific issues, e.g. the past use of the site, the nature and extent of the contamination and the proposed end use of the site.

It is recommended that developers seek the advice of an Environmental Consultant who is a [suitably qualified and experienced person](#) and also the Local Authority if it is suspected that contamination may exist.

The Council's Approach

The potential for land to be contaminated is a material consideration for the purposes of Town and Country Planning, and it places the responsibility on owners and developers to establish the extent of any potentially harmful materials on their sites. It is the Local Authority's duty (as regulators) to ensure that owners and developers carry out the appropriate investigations and formulate proposals for dealing with any contamination in a responsible and effective manner. We have to make sure that land is, or will be made, suitable for any proposed use.

National Planning Policy Framework

Introduced in 2018 the [National Planning Policy Framework](#) (NPPF) replaced numerous forms of guidance including PPG23 (Planning and Pollution Guidance). With regards to contamination the NPPF states in section 11, paragraph 117 and section 15, paragraph 178:

- *Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.*
- *A site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- *After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- *Adequate site investigation information, prepared by a competent person, is available to inform these assessments.*
- *Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.*

The Planning Process

The developer and Environmental Consultant will need to assess the potential risks from contamination on the basis of local circumstances, the historical and current use of a site relative to any proposed change of use. This should normally be done before formal planning permission is given for the development.

In some circumstances planning permission may be granted without the submission of a contaminated land investigation however; the planning permission may stipulate certain conditions that have to be discharged prior to any work taking place.

Our standard Contaminated Land condition (**Appendix 1**), requires you to investigate whether there is any land contamination and, if necessary, devise a strategy to deal with it. If potential risks are identified; **prior to any demolition or excavation works**, you will have to submit to the council for agreement a Phase 1 desk study, Phase 2 Site Investigation and Phase 3 Remediation strategy. The remediation strategy should demonstrate the proposal based on the final end use (i.e., commercial, residential, hardstanding, communal garden, food growing area etc.) is sufficient to mitigate risks to human health and the environment.

Upon completion of the development we require the submission and approval of a validation report confirming the agreed remediation strategy has been implemented and also of any unidentified issues and how those were addressed during the course of the work.

All investigations should be in accordance with relevant guidance including: BS10175:2011+A1:2013 Code of Practice for the Investigation of Potentially Contaminated Sites.

Liaison with the council

Where a developer is looking to develop land that has the potential for contamination, developers can contact the [Environmental Science team](#) prior to submitting a planning application. Westminster City Council provides an Environmental search service. This

service is chargeable see the council's [Contaminated Land web page](#) for more information.

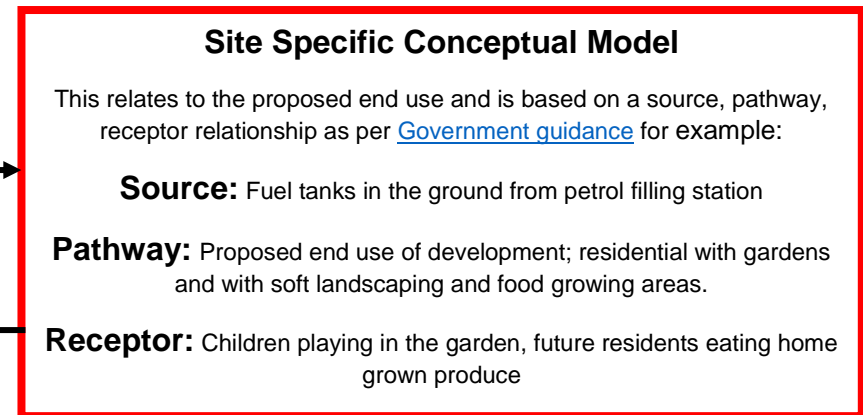
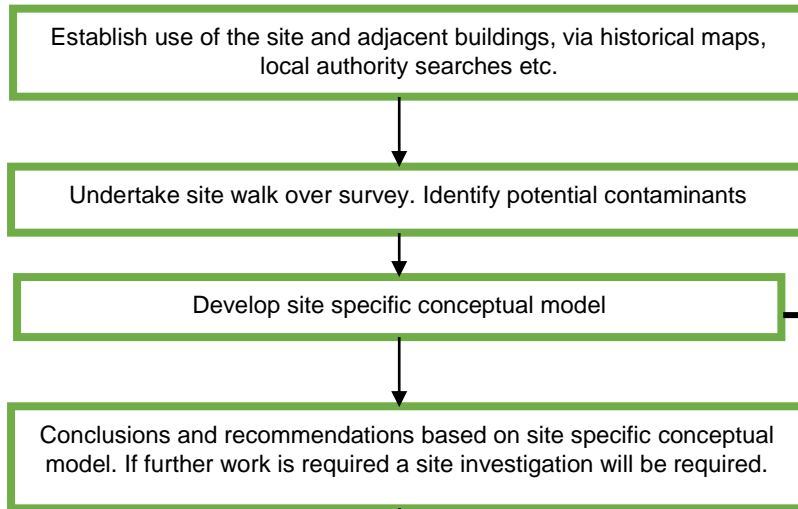
Basement Developments

For basement developments it should be noted that if a site investigation is required it should be in the footprint of the area to be developed, i.e. within the actual area where the basement is to be located.

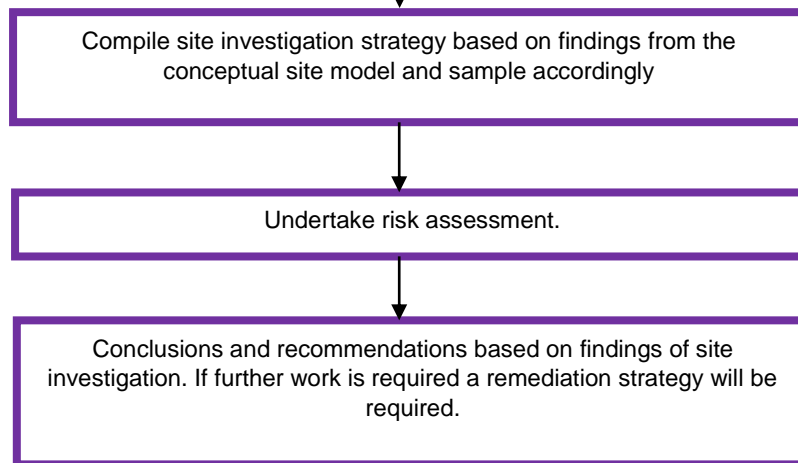
Procedure for dealing with potential land contamination during the planning process

Please note prior to any demolition or excavation work you will have to submit Phase 1 to Phase 3 for approval

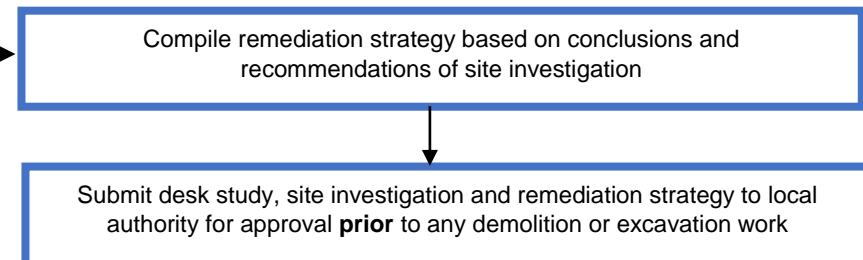
Phase 1 Desk Study



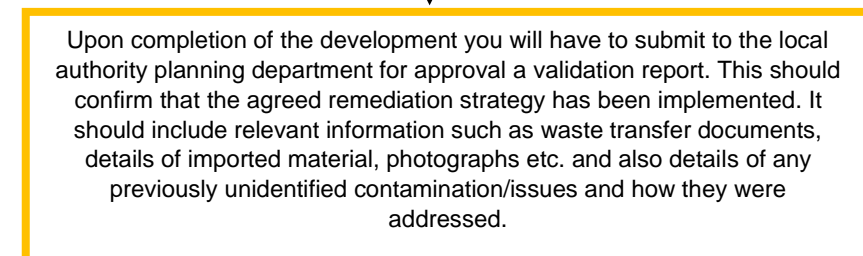
Phase 2 Site investigation



Phase 3 Remediation strategy



Phase 4 Validation Report



Useful Contacts:

Environmental Science environmentalsciences2@westminster.gov.uk

Useful Links/Information:

<https://www.westminster.gov.uk/standard-conditions-and-informatives>

<https://www.westminster.gov.uk/westminsters-city-plan-strategic-policies>

<https://www.westminster.gov.uk/unitary-development-plan-udp>

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223705/pb13735cont-land-guidance.pdf

<https://www.gov.uk/government/collections/land-contamination-technical-guidance>

<https://www.claire.co.uk/information-centre/water-and-land-library-wall/41-water-and-land-library-wall/198-doe-industry-profiles>

<http://apps.environment-agency.gov.uk/wiyby/default.aspx>

BS10175:2011+A1:2013 Code of Practice for the Investigation of Potentially Contaminated Sites

Appendix 1

Westminster City Council Full Contaminated Land Condition (C18AA)

Pre Commencement Condition

You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications in Westminster' dated September 2018.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our approval for phases 1, 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed.

Phase 1: Desktop study - full site history and environmental information from the public records.

Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.
(C18AA)